

31/6 3925 Prospect St.
31/6-89J

Before The Montgomery County Historic Preservation Commission

Application of Frank P. Murray

Before the Commission is the application of Frank P. Murray for an Historic Area Work Permit (HAWP) for new construction at 3925 Prospect Street, (Lot 13, Block 11), Kensington Park Subdivision, Kensington, Maryland.

PROCEDURE

Prior to the Commission's review of the application, the Kensington Local Advisory Committee (LAC) reviewed the application on May 1, 1989. In response to the LAC's comments, the applicant made revisions to his original plans. The Historic Preservation Commission received the application in May 1989, and a public hearing was held on June 15, 1989. Two additional hearings were necessary (July 6, 1989 and July 21, 1989) so that the applicant and the opposition could present their cases. The application was considered jointly with another application for an Historic Area Work Permit filed by Mr. Murray for new construction at 3929 Prospect Street (Lot 15). The applicant appeared, represented by counsel, and presented several witnesses and many exhibits for the Commission's consideration. A number of Kensington residents appeared in opposition to the application. One opponent, Helen Wilkes of 3923 Prospect Street (Lot 12), Kensington was represented by counsel. At the conclusion of this final hearing (July 21, 1989), the record was closed. All parties agreed that the Commission would issue its decision at its next scheduled meeting on August 17, 1989. Having heard and considered all of the testimony and exhibits found in the record, it is the decision of the Commission to deny the application by Frank P. Murray for an Historic Area Work Permit for new construction at 3925 Prospect Street, pursuant to Section 24A-8(a) of the Montgomery County Code (1984), as amended.

BACKGROUND

It is the purpose of Chapter 24A of the Montgomery County Code, "Preservation of Historic Resources," to provide for the identification, designation, and regulation, for purposes of protection, preservation, and continued use and enhancement of those sites, structures with their appurtenances and environmental settings, and districts of historical, archeological, architectural, or cultural value in that portion of Montgomery County within the Maryland-Washington Regional District. Its further purpose is to preserve and enhance the quality of life in the County, safeguard the historical and cultural heritage of the County, strengthen the local economy, stabilize and improve property values in and around historic area, foster civic beauty, and to preserve such sites, structures, and districts for the education, welfare, and continued utilization and pleasure of the citizens of the County, the State of Maryland and the United States of America.

The following terms are defined in Section 24A-2 of the Code:

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

Historic resource: A district, site, building, structure or object, including its appurtenances and environmental setting, which is significant in national, state or local history, architecture, archaeology or culture.

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

On July 7, 1986, the Montgomery County Council, sitting as the District Council, approved a resolution designating the Kensington Historic District (#31/6), as an amendment to the Master Plan for Historic Preservation. The amendment was adopted by the Maryland-National Capital Park and Planning Commission (M-NCPPC), effective July 8, 1986.

It is the responsibility of the Montgomery County Historic Preservation Commission to preserve designated historic districts and historic sites in the county by means provided in the Historic Preservation Ordinance. One of the primary methods of fulfilling this responsibility is through the historic area work permit process.

It is the responsibility of an applicant for an historic area work permit to provide "information sufficient to support the application and the burden of persuasion on all questions of fact which are to be determined by the Commission." [Sec.24A-7(g)(1)] The plan submitted must meet at least one of the criteria set forth in Section 24A-8(b).

The Kensington Master Plan Amendments states:

According to [Section III of the Commission's Guidelines for Historic District,] a Historic District as identified, and if approved for inclusion in the County's Master Plan for Historic Preservation, shall consist of the entire area represented by all of the historic resources with their appurtenances and environmental setting. Non-historic properties within the boundaries of the Historic District are also subject to regulation, as they are considered appurtenances and part of the environmental setting of the historic resources of the District.

In regard to the properties identified as secondary resources -- that is visually contributing but non-historic structures or vacant land within the Kensington District -- the Ordinance requires the Preservation Commission to be lenient in its

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judgment of plans for contemporary structures or for plans involving new construction unless such plans would seriously impair the historic or architectural value of surrounding resources or impair the character of the District. (Emphasis in original)

EVIDENCE

The Kensington Master Plan Amendment states that four of the five properties on the north side of Prospect Street are designated as primary resources: 3927, 3923, 3915 and 3911. Thus, the north side of Prospect Street is a primary resource area within the district.

The following exhibits and testimony were presented at the hearings:

Mr. Murray testified that he is the owner of a small business (Murray & Sons) and has been building houses for 39 years. He said that he is not a "developer." Rather, he buys lots (usually infill), builds on them and then sells them. He built two houses in each of the following years: 1988, 1987, and 1986. In 1985, he built eight houses. He bought the property at 3927 Prospect Street with the purpose of developing the side yards (lots 13 and 15). Before he purchased the property, Mr. Murray stated that he contacted an official at M-NCPPC, and determined that it was composed of properly subdivided, buildable lots. On questioning, Mr. Murray replied that he had no experience as a builder in historic districts, that he was unfamiliar with historic district regulations, and he had no information or understanding of any limitations in that regard. Later, Ms. Molly Murray, the applicant's daughter, testified, however, that her father was aware of building limitations in historic district. She stated that when the Kensington property was purchased, she informed her father that it was in the historic district and that certain guidelines had to be followed.

Mr. Murray testified that he entered into a contract to sell the house on Lot 14, with settlement expected in mid-August. He refused to reveal his cost for the entire property (Lots 13, 14, and 15), or the price for which the house was being sold. (In his opening statement, Mr. Chen, the applicant's attorney, indicated that Mr. Murray had out-of-pocket expenses of \$800,000 for the property and that he was losing \$6,600 a month, although he did not state specifically what these costs were.)

Mr. Murray testified that a Samuel Sipe, who lives on Western Avenue made him an offer for the house and its side yard (Lots 14 and 13). According to Mr. Murray, Mr. Sipe offered to "trade" his (Mr. Sipe's) house on Western Avenue for Lots 13 and 14. Mr. Murray rejected the offer because of the traffic congestion of Western Avenue and because Mr. Sipe's lot on Western Avenue was not subdivided. Mr. Murray indicated that there was one other offer for Lot 13. According to Mr. Murray, a real estate agent approached Mr. Murray and told him that some neighbors might give him \$100,000 for Lot 13. According to testimony, Mr. Murray stated he made a counter offer of \$200,000 which was rejected by the "neighbors."

Michael Patterson, the applicant's architect, testified that the proposal for Lot 13 (3925 Prospect Street) was designed in the simple "Victorian vernacular" mode, blending well with the adjacent existing historic homes. He explained that it was not his intention to design a "straight copy" of other structures in the district or neighborhood, but rather, to provide compatible designs within the confines of setback and other zoning restrictions. He added that he felt that the width, depth, and scale of the proposed structure was compatible with the existing surrounding structures. He stressed that the plans before the Commission were the product of three revisions, and that he had responded to the LAC's

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concerns by "pulling in" the structure as much as possible without resulting in an uninhabitable house. In addition, Mr. Patterson stated that he did not believe that Lot 13 was a historic resource according to the definition in Section 24A-2 of the Code.

Ms. Shelly Rentsch, a landscape architect retained by the applicant, testified that the proposed construction for Lots 13 and 15 (situated on the north side of Prospect Street) would help to balance the streetscape in that the structures on the south side of Prospect Street were more closely spaced than on the north side of the street. She defined streetscape as the street views created by the interrelationship of structures, appurtenances, and environmental setting. She added that, very often, infill construction is a very useful tool in completing the streetscape. She also stated that in her opinion none of the existing vegetation on Lot 13 was particularly significant or rare. She added that the boxwoods situated on the lot would be moved to Lot 15 in order to preserve them. In summary, she stated that she did not feel that the proposal would impair the historic district in any way, but that it, along with the proposed construction on Lot 15, would reinforce the harmony of the streetscape.

An arborist, Mr. John Nohly, also testified on behalf of the applicant. He stated that the most substantial tree on Lot 13, a triple trunk Hemlock (34" caliper), was proposed to be removed, but that it was not a particularly outstanding specimen, and had suffered limb loss and insect damage. He further testified that the proposed construction would result in the loss of many other trees on the lot. However, he indicated that none of the trees were good specimens.

The applicant's daughter, Ms. Molly Murray, testified that she had been a realtor for three and one-half years and had worked for her father for the past six years. She stated that if the Commission denied the applications for Lots 13 and 15, they would "lose money," even if they sold Lot 14. She indicated that she thought the fair market value of Lots 13 and 15 was \$200,000 each. In support of this opinion, she produced a letter from an R.A. McClelland, a real estate broker (Exhibit N(b)). However, on cross-examination, Ms. Murray admitted that Mr. McClelland's letter was not an appraisal and that he did not use any established appraisal methods in arriving at his determination of the fair market value of either Lot 13 or 15. Upon further examination, Ms. Murray stated that Murray and Sons had paid \$720,000 for the property at 3927 Prospect Street (Lots 13, 14, 15).

The applicant presented many exhibits (A through GG), consisting of various photoboards, maps, designs, and plans, all in support of both applications. Among the exhibits was an excerpt from the testimony of Paul V. Flaherty, Jr. during the hearing on his application for an historic area work permit for new construction at 10232 Carroll Place (Lot 17, Block 2), Kensington Park Subdivision, Kensington, Maryland (Exhibit 1). Mr. Flaherty testified that, in his opinion, the fair market value of Lot 17 (and another nearby lot) was between \$175,000 and \$200,000. The hearing was held December 15, 1988.

Helen Wilkes, an adjoining property owner (3923 Prospect Street), testified as a professional architect (Exhibit 13). She presented a series of exhibits which served to quantitatively analyze the proposals for both Lot 13 and 15 in relation to the existing development patterns in the immediate area, a hitherto unchanged part of the Kensington Historic District (exhibits 17A-E). This analysis, she stated, showed that the proposed construction would result in much narrower spacing between houses than that found elsewhere on Prospect Street where the average distances between houses on the north and south sides are 73.1 and 43.4 feet, respectively. It also demonstrated that the footprint of the structure proposed for Lot 13 was larger than the footprint of the adjoining primary resources where the average property coverage observed on the north and south sides of Prospect street is currently 8.7 and 8.5 percent, respectively. Ms. Wilkes also pointed out

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that the proposed structure for Lot 13 was higher than the primary resource at 3923 Prospect Street and that the proposed structure would dominate the streetscape as a result. She also indicated that the massing of the proposed structure was inappropriate in that it was rectangular and block-like, quite unlike the more unevenly massed structures found elsewhere in the neighborhood. In summary, the witness testified that the proposed structure was larger than others on the street. She testified that, consequently, the proposed construction would change the overall character along the north side of Prospect Street. She submitted copies of period photographs of the Harry Armstrong property (3927 Prospect) documenting that Lots 13 and 15 historically were the side yard gardens for the house at 3927 Prospect Street, and as such were the environmental setting component of the historic resource(s) identified on the Plan in this part of the district.

Don Little, an architect and a member of the Kensington LAC, testified that the applicant was actually proposing infill construction designed for an urban setting (with a high degree of uniformity and lot boundary definition), when in fact the intention always was for Kensington to be a suburban, park-like setting with an emphasis on green space. He testified that the proposed fence was inappropriate in that it contributed to such "definition." He added that Kensington was envisioned as an escape from the urban environment and that the emphasis, in developing the area, always had been as much on the natural environment as on the built environment.

Among the exhibits presented by Ms. Wilkes was the deed for the Lots, 13, 14 and 15 to the applicant and his wife for \$720,000 (Exhibit 1). Also an affidavit from Samuel M. Sipe, Jr., was presented (Exhibit 2). It differs from Mr. Murray's testimony regarding Mr. Sipe's offer to purchase Lots 13 and 14. The affidavit states that the house on Lot 14 was being offered by the applicant for \$545,000. (Exhibit 3 is a copy of an advertisement for the house for \$545,000 listing Molly Murray as the realtor.) According to the affidavit, the Sipes made an offer of \$635,000 to purchase the house and Lot 13 as a side yard. The written offer to purchase Lots 13 and 14 was made on February 11, 1989. According to the affidavit, Mr. Murray responded the following day with a counter offer of \$745,000. According to the affidavit Mr. Murray stated that he had a separate offer from builders for Lot 13 (the side yard) for approximately \$200,000. The Sipes rejected the counter offer.

Exhibit 4, presented by the opposition, is a letter from Ms. Karen Maury, a real estate broker. The letter states that within the last year, there have been two transfers of lots in the Kensington Historic District - one for \$105,000 and the other for \$80,000. Ms. Wilkes also provided the Commission with a copy of the deed (Exhibit 5) and plat (Exhibit 6) relating to the \$105,000 transfer. Finally, Exhibits 7 and 8 are the deeds for the two lots involved in the Flaherty hearing (both sold for \$70,000).

Other witnesses appeared for the opposition presenting both written and verbal testimony. Among the witnesses were representatives of the Town of Kensington, the Kensington Historical Society, the Maryland Historical Trust, and several neighborhood residents, including John O'Neill, an attorney who lives at 3915 Prospect Street. Their testimony was in opposition to the proposals on Lot 13 and Lot 15.

MOTION TO RECUSE

At the start of the third and final hearing, the applicant moved to have Commissioner Wagner recuse herself from any further participation in the hearing or decision of the instant application. As ground for the motion, the applicant noted that Commissioner Wagner lives within the Kensington Historic District. The applicant also felt that the questions Commissioner Wagner asked revealed that she had pre-judged the application.

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The motion is denied. First, the mere fact that a Commissioner lives in or near an area which is the subject of Commission review is, without more, an insufficient basis upon which to base a recusal. In this regard, the Commission notes that Commissioner Wagner has previously obtained the opinion of the Chairman of the Montgomery County Ethics Commission expressing the same view (copy attached). Second, Commissioner Wagner's questions were simply the result of her active participation in the hearings. Some Commissioners are more vocal than others. Commissioner Wagner's questions were prompted by curiosity, not pre-judgment.

FINDINGS

The Kensington Master Plan Amendment details the findings of historical and architectural significance that resulted in the placement of the historic district on the Master Plan.

The town of Kensington began as a small crossroads settlement along the Bladensburg Turnpike, an early market road between the County's major north/south route, Old Georgetown Road, and the port of Bladensburg on the Anacostia River in Prince George's County. When the B&O Railroad was built in 1873, the crossroads settlement became known as Knowles Station, named after the major land holding family in the area.

By 1890, Knowles Station had developed into a village of several hundred people, most of whom were living north of the railroad. In that year, Washington financier, Brainard H. Warner, purchased and subdivided property to the south and southwest of the railroad, naming the area Kensington Park after the famous London suburb. The subdivision was designed in the Victorian manner with ample sized lots and a curvilinear street pattern.

Warner established his own summer residence and invited his friends to join him in this park-like setting away from the heat and congestion of Washington. It is this concentration of Victorian period, residential structures located in the center of the town which constitutes the core of the historic district.

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

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streetscapes. This uniformity, coupled with the dominant design inherent in Warner's original plan of subdivision, conveys a strong sense of both time and place, that of a Victorian garden suburb.(Emphasis Added.)

The proposals will effect all the historic resources located on the north side of Prospect Street, four of which are indicated as primary resources in the historic district, according to the Master Plan. Primary historic resources are those properties which contribute to the historicity of the district and which possess architectural and/or historical significance. The extant structures in this area, 3927 and 3923 Prospect Street were both constructed circa 1904 in the Victorian manner by the Armstrong brothers, Harry and Hugh. The houses exhibit typical features of the Queen Anne architectural substyle, including ample front porches, steeply-pitched roofs, and asymmetrically-arranged gables. The Harry Armstrong resource at 3927 Prospect is further distinguished by an unusual twin gable at the attic level. They are situated in an area which has survived as one of the most intact and unaltered streetscapes in the Kensington Historic District. With few intrusions, the north side of Prospect Street can be characterized as a "Victorian garden setting," with mature picturesque trees, gracious, informal yards, and large well-spaced residences constructed near the turn of the century. It is this Victorian garden setting that earned Kensington its placement on the Master Plan for Historic Preservation, as well as the United States Department of the Interior, National Park Service National Register of Historic Places.

The Commission finds that the structure proposed for Lot 13 would seriously impair the extant streetscape along the north side of Prospect Street. As shown in Exhibit L, there are presently only five structures located on the north side of Prospect Street, four of which are historic. Each sits within a large tree-covered property. The existing streetscape alternates rhythmically between residential structures amid these spacious yards. This existing rhythm on Prospect Street (particularly on the north side) would be significantly altered and virtually destroyed with the introduction of the proposed structure on Lot 13. Also, the views of the existing historic structures and their "gardens" would be partially obscured. They would no longer appear as focal objects in a garden-like setting, but rather as members in a row of urban-like residences.

The Commission finds that the proposed structure for Lot 13 is overscaled for the historic district in general and the existing streetscape of Prospect Street in particular. If built as proposed, its height and square footage would make it, not only much larger than the adjoining houses at 3923 (Lot 12) and 3927 (Lot 14) Prospect Street, but also much larger than other houses in the vicinity. Its height and square footage are not compatible with and would substantially alter the character and nature of this section of the historic district. As a result, the characteristic uniformity and cohesiveness of the streetscape noted in the Master Plan would be seriously impaired.

The coverage of the proposed house on its site, which has historically served as the open space, and environmental setting for the house at 3927 Prospect Street which is an identified historic resource, is such that the resulting relationship of house to "yard" would be significantly different from the existing relationship of houses to "yards" in this area of the historic district and is therefore incompatible with the character of the district.

The placement of the house on the site, which is an identified historic resource, disrupts the existing rhythm of house to yard on this streetscape and is therefore inappropriate to and incompatible with the character and nature of this section of the historic district. The width of the proposed house and its placement with respect to the



front property line is such that it would create a new rhythm of houses to yards, significantly altering the traditional relationship that still exists in this part of the historic district. In effect, the proposal would create a pronounced building "wall" along the street, thereby creating an urban setting incompatible with the historical Victorian garden setting of the district and the character of the district.

Without question, the proposed construction would also directly impact the natural environment. The Commission finds that the proposed construction would destroy a majority of the mature vegetation on Lot 13, dramatically altering the existing sylvan setting of the existing historic resources in this part of the district. As Mr. Nohly pointed out, the few remaining trees on Lot 13 could be irreparably damaged by construction equipment or excavation. These trees and other vegetation are important components of the "Victorian garden" setting which was referenced in the Master Plan. The Commission finds that the proposal would substantially alter the garden-like environmental settings of the adjoining properties, 3923 and 3927 Prospect Street, which are identified primary resources in the District and, therefore, is inconsistent with the purpose of the ordinance.

Finally, the Commission finds the location of the proposed driveway is inappropriate to and would impair the environmental setting of 3927 Prospect Street, an identified primary resource in the historic district, by removing mature vegetation and a portion of the existing side yard.

The applicant has suggested, though not directly argued, that if his application is not favorably acted upon, he will be deprived of reasonable use of the property or suffer undue hardship under Section 24A-8(b)(5). This argument must be rejected. The applicant has failed to prove that the denial of this single proposal will result in a "taking" of his property under the Fifth Amendment to the United States Constitution.

First, the Commission notes that applicant bears the burden of proof on this and all other questions of fact, Section 24A-7(g)(1). Second, the Commission's decision does not deny the applicant all reasonable use of the property. We have simply determined that this particular proposal is incompatible in character and nature with the surrounding resources and the historic district and would seriously impair the architectural value of the surrounding resources, as well as the character of the historic district as a whole. The applicant is free to return to the Commission to discuss possible alternatives for the development of this lot, Section 24A-6(d).

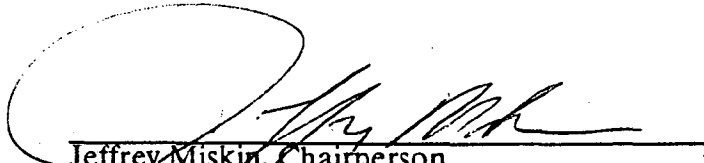
Finally, the applicant has not provided any evidence that the denial of this application will cause him to suffer undue economic hardship. The applicant's attorney stated that Mr. Murray was losing \$6,600 a month, but this figure has been neither explained nor documented. The applicant asserts that Lot 13 and Lot 15 are each worth \$200,000. The applicant further states that "[t]he cost of lots 13 and 15 dictate that a certain level and quality of house be built on them." (Exhibit N(9a)). In support of the \$200,000 figure, the applicant has produced a letter from a real estate broker. (Exhibit N(b)). The letter, however, was not the result of an appraisal conducted in accordance with traditionally accepted appraisal techniques but, rather, merely represents the letter writer's "feeling" as to the fair market value of Lots 13 and 15. The applicant also presented the testimony of Paul V. Flaherty, Jr., a past Historic Area Work Permit applicant. It is difficult to see how Mr. Flaherty's testimony provides any sort of reliable indicator of the price of land in Kensington. Moreover, Mr. Flaherty's estimate of \$175,000 to \$200,000 each for his two lots (15 and 17) is certainly called into question in light of the evidence that he bought each lot for only \$70,000 (Exhibits 7 and 8). Also, there is evidence in the record that during the last year lots in the Kensington Park Subdivision transferred for substantially less than \$200,000 (Exhibit 4).

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Regardless of the true value of the lots, no evidence has been presented to show that if the instant proposals are not approved, the applicant will suffer undue economic hardship. The Commission has been provided with nothing more than bold assertions that the applicant will "lose money" if the application is rejected. The Commission finds that the applicant has not met his burden of proof or persuasion on this issue.

Based on these facts and findings, and having heard and carefully considered all of the testimony and exhibits and having inspected the property in question and the ways in which it relates to its environmental setting and to the historic district, it is the decision of the Montgomery County Historic Preservation Commission that the application by Frank P. Murray for an Historic Area Work Permit for new construction at 3925 Prospect Street (Lot 13, Block 11), Kensington Park Subdivision, is denied and the Department of Environmental Protection is instructed to withhold the permits.

If any party is aggrieved by the decision of the Commission, pursuant to Section 24A-7(h) of the Montgomery County Code, an appeal may be filed with the Circuit Court for Montgomery County, Maryland in the manner prescribed under Chapter 1100, Subtitle B of the Maryland Rules of Procedure.



Jeffrey Miskin, Chairperson
Montgomery County Historic Preservation Commission

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M E M O R A N D U M

August 7, 1989

TO: All Commissioners
Historic Preservation Commission

FROM: Edward B. Lattner *Edward B. Lattner*
Assistant County Attorney

RE: Frank Murray HAWPs; Attorney/Client Confidentiality

Based on the "straw poll" conducted by Jared Cooper and Alison Vawter, I understand that a majority of the Commissioners are of the mind to deny both applications in the Frank Murray case. However, with regard to Lot 13, it appears that a majority of the Commissioners feel that any proposal to build a single-family home would be denied as inconsistent, inappropriate, and detrimental to the preservation of the Kensington Historic District. If, in fact, this is the view of a majority of the Commissioners, I would advise you not to make such a decision.

Those of you who were present at the executive session held in the wake of the Montgomery County Circuit Court's remand in the Avery-Flaherty case had the opportunity to hear from Kathy Hart, the team leader for the land use team in this office, regarding "takings." There was a great deal of discussion regarding the Commission's ability to deny an applicant the right to build a single-family home on a buildable lot. In Avery-Flaherty, the Commission decided that while the two proposals were not acceptable, the Commission would entertain other proposals for construction on the two lots in Kensington. Thus, the Commission was not faced with a denial of the right to build. However, in the Frank Murray case, it appears that the Commission's decision will force it to face that issue.

Both Kathy Hart and I seriously question the Commission's ability to outright deny a landowner's right to build on what is an otherwise buildable subdivided lot, even if the Commission feels that its action is necessary in order to preserve the integrity of the historic district. Assuming that the Commission does possess this ability, its action would very likely constitute a taking for which just compensation would be required. Even if it could be shown that the landowner was

presented with an offer for the lot (an offer which would not frustrate his reasonable distinct investment-backed expectations), we have found little support for the proposition that the mere sale of land is a reasonable use of land.¹

Notwithstanding the above, those who feel that the preservation of the Kensington historic district is threatened by developers seeking to build on each and every lot within the district are not without a remedy. The remedy lies not with the Historic Preservation Commission, but with zoning. At the Avery-Flaherty executive session, I read the following passage from Mayor and Alderman of the City of Annapolis v. Anne Arundel County, 271 Md. 265, 316 A.2d 807 (1974):

[T]raditional zoning is primarily directed at the use of land, as well as the density and the location of buildings on the land. Historic area zoning, on the other hand, is not directed at any of these factors, but only at the preservation of the exterior of buildings historic or architectural merit. . . . Traditional zoning is directed at limited control of land within the framework of the police power; historic area zoning is directed at preservation of the exterior of certain buildings.

Mayor and Alderman of the City of Annapolis, 271 Md. at 291, 316 A.2d at 821 (emphasis in original). If the Commission concludes that no single-family home can be built on Lot 13 in order to preserve the Kensington historic district, it would be regulating the use to which Lot 13 could be put. As noted

¹Evidence was presented at the hearings that Mr. Murray was made at least two offers for Lots 13 and/or 14 -- one offer from Mr. Sipes, and the other from Ms. Wilkes or other neighbors. However, there was no evidence to show that, at the time the offer was made, the offeror was aware that he or she would not be able to build on the lot. Thus, it is difficult to show how Mr. Murray could obtain his distinct reasonable investment-backed expectations if the offers were made for land which the offerors assumed could be built upon.

All Commissioners
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above, the authority to take such action belongs to those agencies charged with zoning in Montgomery County and not with this Commission.

This office will, of course, aggressively defend the Commission, regardless of its decision. However, I wanted to make each Commissioner aware of the likely outcome of his or her present position.

Finally, I have a brief word for those Commissioners who were not present at the third (and thankfully final) Frank Murray hearing. All letters, memoranda, and other verbal or written communication from myself or any other attorney in this office, presenting the Commission with legal advice, is to be considered privileged and confidential. Therefore, while such advice may be discussed amongst yourself, with members of this office, and DHCD staff (such as Jared, Alison, Annette Van Hilst, or Victor Brescia, etc.) it is not to be shared with the public at large.

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cc: Jared B. Cooper, Dept. Housing & Community Development
Annette Van Hilst, Dept. Housing & Community Development
A. Katherine Hart, Senior Assistant County Attorney

MEMORANDUM

TO: Historic Preservation Commission

FROM: Jared B. Cooper
Historic Preservation Specialist

SUBJECT: Draft of Murray Findings

DATE: August 4, 1989

Enclosed please find a staff draft of facts and findings for the Frank Murray applications on Prospect Street in Kensington. These are suggested drafts-a point of beginning. They are based on the "straw vote" which we recently conducted over the phone, although we all realize there was nothing particularly official about it. If you find them useful, please edit them, flesh them out, or whatever, in anticipation of our special meeting next week. The goal of that meeting will be to complete final drafts, as we will have few opportunities to meet again prior to the August 17 meeting.

As a side note, I understand that based on the straw vote, it was not necessarily the implication that the Commission was prepared to deny construction on Lot 15. However, I drafted the findings that way, just in case. In either case, I think the County Attorney's office is going to have a problem with outright denial. Eddie Lathner told me that he will be sending a memo to you which will basically say that his office will not support a "no build" decision.

I would suggest that, in the event of denial, the Commission be prepared to discuss acceptable alternatives with the applicant. For example, on Lot 15, if the proposal is denied because the structure is too large, it might be advisable to establish some outside parameters within which the applicant could work. The language could be something like "the footprint, overall height, depth, and width (respectively) of the proposed structure shall be equal to or less than the average footprint, overall height, depth, and width (respectively) of the other historic resources on the north side of Prospect Street", or "...on Prospect Street".

For Lot 13, the language could be something like: "While a single family residence of conventional design, size, and proportions would not be appropriate on Lot 13, there may be some creative solutions to building on the lot, i.e. :a) a substantially smaller house, placed well back on the lot, which would defer to the adjacent historic resources; and which would preserve the existing street rhythm through retention of trees, additional screening, etc.; b) a low "atrium" style house, with a side or rear entrance, and with a front elevation reminiscent of a garden wall; c) an earth contact, or subterranean home, set well back in order to preserve as many existing trees and root systems as possible".

Although I did not include it in the draft, Eddie Lattner has suggested that language similar to this might be included at the end of the findings. What do you think? These are merely suggestions - you may have other ideas. Obviously, the average builder/speculator would be hesitant to try some of these, but they may be a means for the Commission and the applicant to merge their goals.

Sometime after August 17, it might be appropriate for the Commission to meet with the applicant on a work session basis in order to help direct him.

In order to discuss these findings and relevant matters, a special meeting has been scheduled for Tuesday, August 8, 1989, at 7:00 p.m. It will be held in the 9th Floor Conference room, 1M Building, 51 Monroe Street, Rockville, MD. (where we have met in the past). I will be posted at the ground (parking) level entrance of the building from roughly 6:45 - 7:15 p.m. to ensure that everyone manages to get in the building and up the elevator. We have had some problems with early lock-up. If you arrive late and get trapped at the ground level, there is a payphone in the garage and you can call the 9th floor Conference Room at 217-3747. In the meantime if you have any questions please contact me prior to the meeting at 217-3632.

P.S. Eddie Lattner will not be able to attend the Tuesday meeting, but he is fully aware of what's going on, and will review the final draft.

Also, FYI, Alison will be out of the office for awhile due to illness in the family.

JBC:bc

1281E

14 June 1989

The Montgomery Country Historic
Preservation Commission
51 Monroe Street
Rockville, MD 20850

Dear Commisioners:

As President of the Capitol View Park Historical Society and a long-time member of the Capitol View Park LAC I wish to express my concern about continued in-fill pressure by developers in the older parts of our Historic Districts. It was brought to my attention that a developer wishes to build on two lots in Kensington at 3927 Prospect Street.

Our neighborhood was pleased to have HPC's support several years ago in our neighborhood in denying development on the side lot of the Calloway/Rinek house. As you know the new owners are not only doing a Prize-winning restoration of this lovely Victorian House but also landscaping the lot in question. If you had not taken a stand there our neighborhood would have been diminished by the construction of a house on that lot. We also were heartened that HPC took a stand on the heart of Kensington's Historic district at Carroll Place and bravely denied permits for in-fill.

I would hope that HPC will take into account the lot sizes and streetscape in the new case on Prospect. It seems highly inconsistent to squeeze in large new construction where there is now spacing which allows existing Victorian structures an environmental "breathing space". We all know that in-fill is going to happen but it should only be allowed where it supports the historical integrity of existing Districts.

Cordially,

Carol Ireland.

Carol Ireland, President
Capitol View Park Historical Society
10023 Menlo Avenue
Silver Spring, MD 20910

MR. & MRS. JOHN B. ARMSTRONG
6 ALVARADO RD.
BERKELEY, CA 94705

4-23-89

Historic Preservation Commission
Local Advisory Committee

Dear Sir OrMolone

I wish to present my views on a subject which I understand is now before you, that of the proposed development of a property located at 3927 Prospect St Kensington Md. First a little history, I am the sole descendant of the original builder, my grandfather, Dorney C. Armstrong who moved to Kensington in the 1870's 1st renting a house further down Prospect St near Connecticut Ave where my father BRADFORD Armstrong was born. Then purchasing the three lots located at the top of the hill at 3927.

I have photographs of that barren hill top, all from land then in 1883 - not a tree in sight.

My father grew up in the house as did I, having moved there during the war living with my grandparents Blouch & Dorney Armstrong. With

The passing of the older generations, my father BRADFORD and his wife DELPHINE Ambrose took over the property and rented the House for many years, most recently to the wonderful de Brinville family who still reside in Kensington

I should discuss here and mention that for many years the Ambroses owned virtually the top of Prospect St. For my Great Grandfather William returning from the Civil war brought a large piece of land to the North of 3927 and my Great Uncle Hugh built on the downhill side - (4) building so close to the property line in fact that there was a long standing family feud on the subject.

To return to the subject, I was the fourth Ambrose to own the property but deciding to live on the West Coast I was forced into the sad prospect of selling. I soon came to realize that much of the interest in the house sale came from developers and real estate speculators and resolved that I would not be the one to sell my Grandfather's house down the river.

I turned down all offers presented by developers and tried to locate a buyer intending to maintain

the property
as their residence. I located such a person, as
so I thought, in Richard Turner who assured me
that ^{he} had ~~not~~ no intention of developing and wished
to maintain the house and its' lots as a family residence.
I sold it to Mr. Turner on that basis, having turned
down what would have been more lucrative
arrangements from builders and developers.

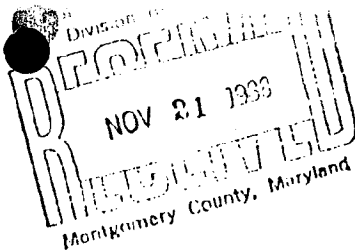
Now, after all this, I understand my grandfather's
property is being considered for building and subdividing.
I wish to be placed with the commission that this not
be permitted to happen - please keep this small slice of
turn of the Century America out of the hands of
developers. Why, with all the available ^{and} easily
developable property around the county would
they need to pick this one historically unique
corner?

Sincerely,
John B. Anderson

MARYLAND
HISTORICAL



TRUST



William Donald Scharfer
Governor

Jacqueline H. Rogers
Secretary, DHCD

November 17, 1988

Mr. Steven Karr, Chairman
Montgomery County Historic
Preservation Commission
51 Monroe Street
Rockville, Maryland 20850

Dear Mr. Karr:

The Maryland Historical Trust, the State's lead agency for historic preservation, has been contacted by a group of Kensington residents representing the Carroll Place Preservation Committee. These residents have requested our agency to provide comments to the Montgomery County Historic Preservation Commission on the proposed development by Avery-Flaherty on Carroll Place in the Kensington Historic District. We understand that information on the issue will be presented at the Commission's meeting on Thursday, November 17.

While the Trust has examined information provided to us by the Committee, we cannot ascertain the completeness of the data provided to us. In particular, we have not had the opportunity to review detailed final architectural and site plans for the proposed new construction. As the case before you appears complex, and demands thoughtful analysis over a longer period, our office cannot offer an informed opinion at this time on the design details of the proposed development.

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

As we understand the proposed development, houses would be built on either side of 10234 Carroll Place, a Queen Anne house which is one of only a few buildings identified as "individually significant," either historically or architecturally, in the National Register nomination for the Kensington Historic District. The house is prominently located on Carroll Place, across from the Noyes Library and the park surrounding the house of Brainard Warner, the original developer of Kensington. The large property at 10234 Carroll Place is visually prominent on the approach to the area from Connecticut Avenue.

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

Maryland

Department of Housing and Community Development
45 Calvert Street, Room 416, Annapolis, Maryland 21401 (301) 974-3644

Steven Karr
September 17, 1988
Page 2

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

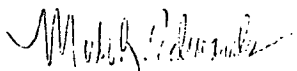
It appears that any new construction on the two lots in question would have some degree of adverse effect on the qualities from which the district derives its historic significance. The setting of the house at 10234 Carroll Place, with its large yard and extensive shrubbery, would be altered by the proximity of new buildings on either side. The historic streetscape of large wooded lots and the sense of time and place conveyed by this district would be changed by the introduction of greater density.

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

In addition to the careful review afforded by your Commission, we encourage continued efforts to secure the donation of historic preservation easements within the district to Montgomery County or the Maryland Historical Trust.

We hope that our comments will be useful to the Commission in your important deliberations.

Sincerely,



Mark R. Edwards
Chief Programs Administrator-
Deputy State Historic Preservation Officer

MRE/nmc

cc: Ms. Patricia McPherson
Ms. Mary Ann Kephart
Ms. Roberta Hahn
Ms. Eileen McGuckian

KENSINGTON LOCAL ADVISORY COMMITTEE
Kensington, Md. 20895

May 28, 1987

Ms. Roberta Hahn,
Director
Historic Preservation Commission
51 Monroe Street
Room 1009
Rockville, Maryland 20850

Dear Ms. Hahn,

The Kensington Local Advisory Committee has reviewed the proposed resubdivision of 3927 Prospect Street to provide lots 15A and 15B and disapproves these requests for the following reasons:

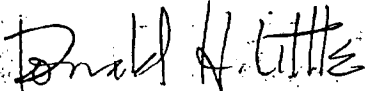
1. The proposed new lot configurations do not comply with Sec. 50-29(b) (2) of the Subdivision Regulations. The proposed plan is not of the same character as to frontage, alignment, shape and width as other lots along this block or within the immediate neighborhood or portion of Kensington west of Connecticut Avenue. These lots have an angular configuration unlike other lots within the block or general neighborhood and do not provide the same perception of spaciousness between residential structures and would not promote a compatible form of development, in harmony with the established character of the area.
2. The predominant number of 60'-0" frontage lots in Kensington have the side lot lines set perpendicular to the front lot line, i.e., the street. This configuration creates a visual spaciousness between adjoining houses as each conforms to its required side and/or rear yard setbacks. Since lot lines are theoretical and not physical, this creates the appearance of spaciousness between houses when one stands at the street at the dividing peg of the property lines. By creating the pie shaped property line as shown in the Preliminary Plan when one stands on Prospect Street at the 60'-0" dividing peg, one's perpendicular view intersects the proposed house. Therefore, even though lot size is shown numerically, the perception of LOT 15A is that the existing house actually overlaps adjoining Lots 16, 17 and 18 and has no rear yard. This situation is clearly at odds with the character of the other lots in Kensington.

May 28, 1987

3. Kensington as well as other suburban communities is facing increased pressures for higher density due to increased land values. However, it is precisely a lower density in Kensington as exists and regulated in the subdivision regulations which contributes to the value of all the properties in the community. By establishing a precedent of adopting lot sizes which, by creative arithmetic, conform to the Building Regulations but which ultimately promote a character of higher density in Kensington, all community members will suffer. Further, by permitting oddly shaped lots in contrast to the predominance of rectangular lots, the Community loses the sense of order and uniformity, which are the original goals of Subdivision and Zoning Regulations.

If you have any further questions regarding any of these findings, I will be most happy to discuss them further.

Respectfully submitted,



Donald H. Little
Kensington Local Advisory Committee

encl. Copy of Subdivision Regulations

Sec. 50-29. Lot Design.

(a) General Provisions.

(1) Lot dimensions. Lot size, width, depth, shape and orientation shall be appropriate for the location of the subdivision and for the type of development or use contemplated and shall be approved by the board.

(2) Lots to abut on public street. Except as otherwise provided in the zoning ordinance, every lot shall abut on a street or road which has been dedicated to public use or which has acquired the status of a public road. In exceptional circumstances, the board may approve not more than two lots on a private driveway or private right-of-way; provided, that proper showing is made that such access is adequate to serve the lots for emergency vehicles, for installation of public utilities, is accessible for other public services, and is not detrimental to future subdivision of adjacent lands. In multi-family and townhouse development, not subdivided into individually recorded lots, the board may approve more than two lots or buildings on private roads or drives, provided there is adequate access from such roads or drives to a public street, as above.

(3) Side lines. Side lines of interior lots shall be perpendicular to the street line, or radial to a curved street line, unless determined by the board that a variation from this rule will result in a better layout.

(4) Double frontage lots. Double frontage lots, meaning a block having only one tier of lots between two streets or roads, shall not be approved except:

(a) Where unusual topography, orientation or the size of the subdivision permit no other feasible way to subdivide; or

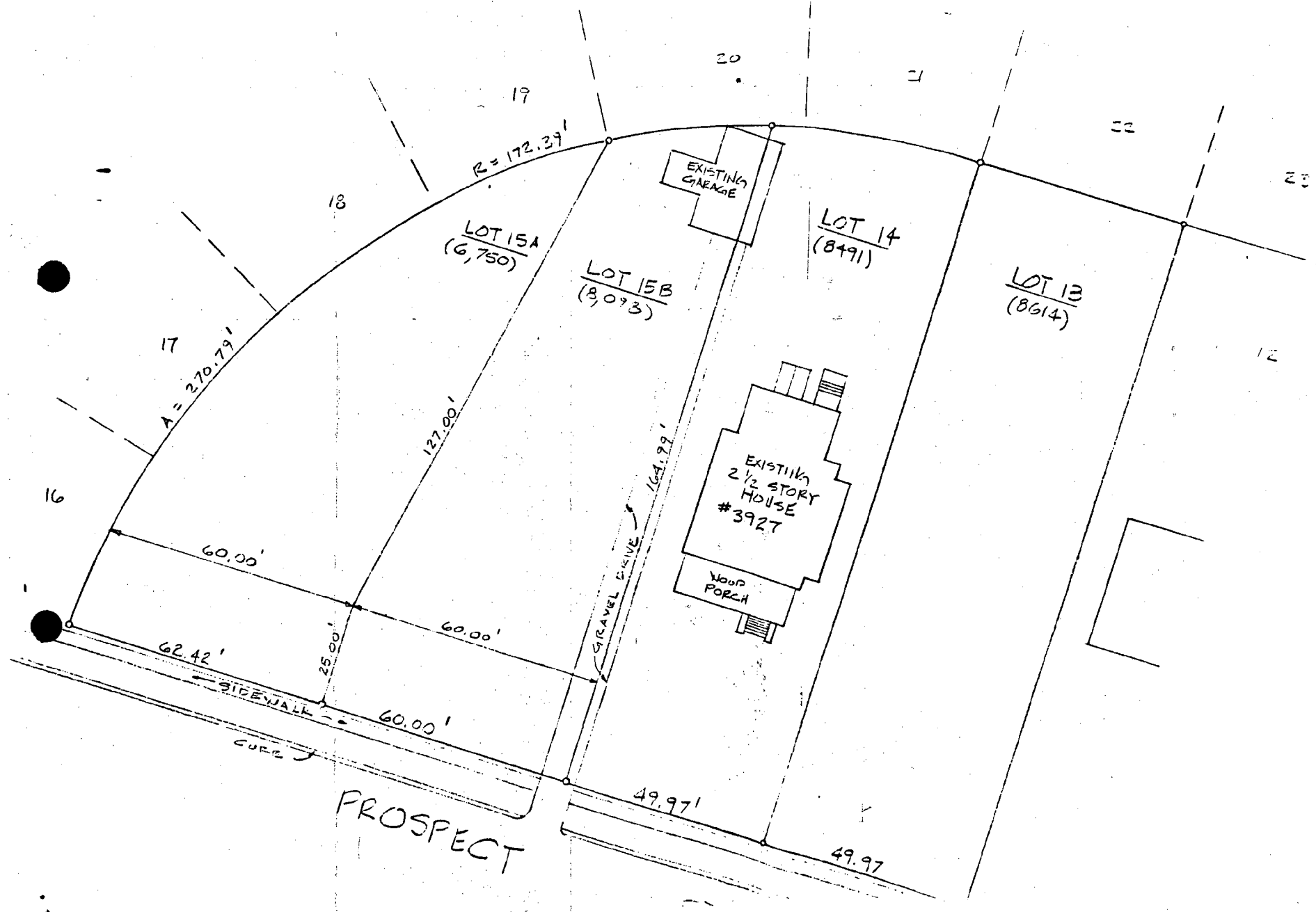
(b) Where access to one of the streets may be controlled by the board as provided in subsection (g) of section 50-25 or paragraph (4) of subsection (a) of section 50-28.

(b) Additional Requirements for Residential Lots.

(1) Midblock crosswalks or alleys. In cases where a midblock crosswalk or alley is provided in a residential subdivision, the lots adjoining such crosswalk or alley shall be increased in width sufficient to provide for a side building restriction line running parallel to such crosswalk or alley and fifteen feet therefrom.

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

(c) Nonresidential Lots. Depth and width of lots reversed or laid out for commercial and industrial purposes shall be adequate for the off-street service and parking requirements needed by the type of use and development proposed. (Mont. Co. Code 1965, sec. 17-18; Ord. No. 6-5; sec. 2; Ord. No. 6-207, sec. 3.)



PROSPECT

LOT 15A
(6,750)

LOT 15B
(8,093)

LOT 14
(8,491)

LOT 13
(8,614)

EXISTING GARAGE

EXISTING
2 1/2 STORY
HOUSE
#3927

WOOD
PORCH

GRAVEL DRIVE

$A = 270.79'$

$R = 172.39'$

SIDEWALK

CURB

17

16

18

19

20

21

22

23

12

60.00'

62.42'

25.00'

60.00'

60.00'

127.00'

49.97'

164.99'

49.97'



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

SUBDIVISION PLAN
TO BE CONSIDERED BY THE
MONTGOMERY COUNTY PLANNING BOARD

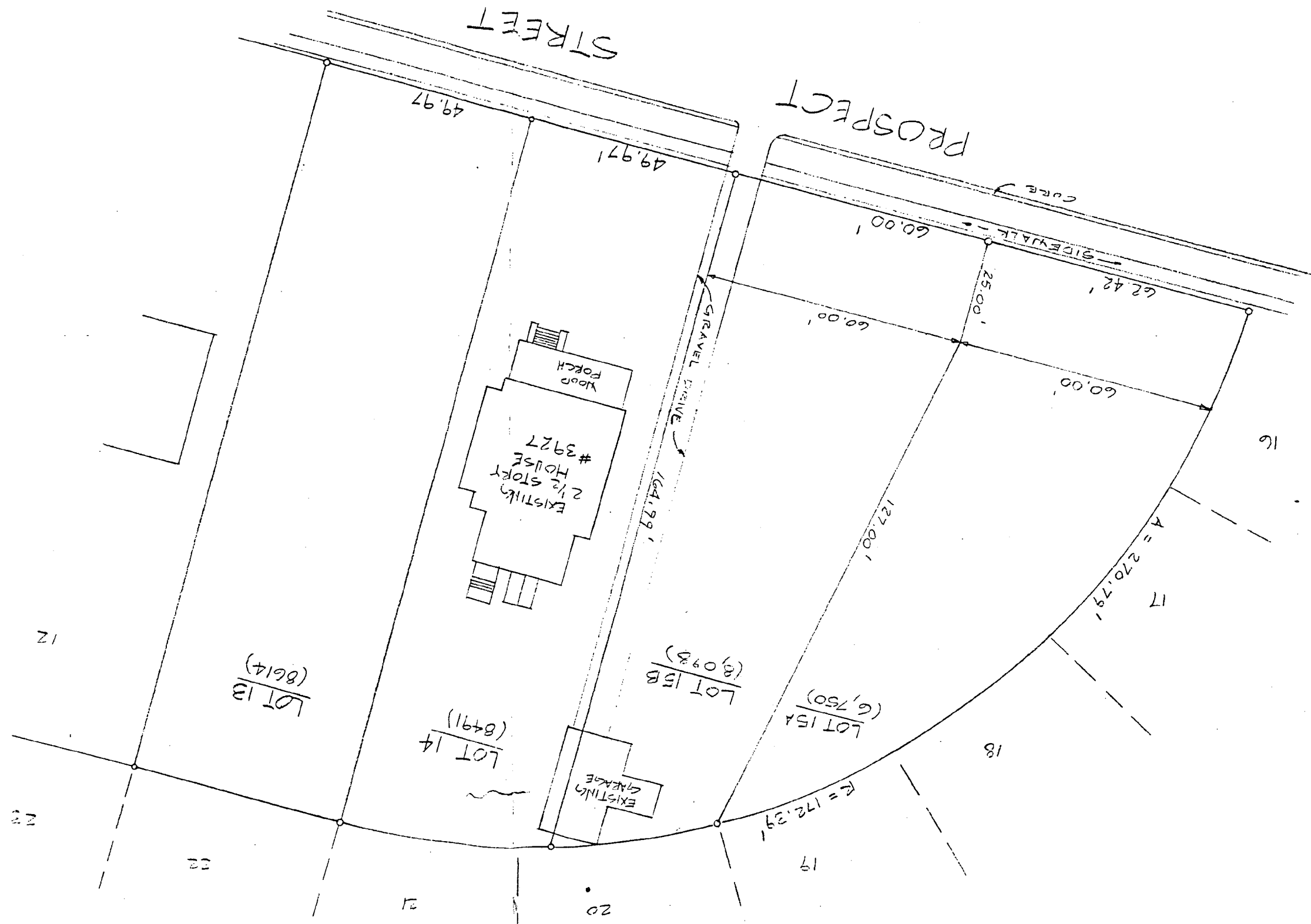
DATE: MAY 22, 1987

NAME OF PLAN: KENSINGTON PARK
FILE NUMBER: 7-87009
CURRENT ZONING: R 60
PROPOSED NUMBER OF LOTS: 2
TYPE OF SUBDIVISION PLAN: PRE-PRELIMINARY
LOCATION: 3927 OF PROSPECT ST.
OF

For your information, the above mentioned plan will be brought before the Montgomery County Planning Board on JUNE 04, 1987. The meeting will be held in the auditorium of the Montgomery County Regional Office at 8787 Georgia Avenue, Silver Spring, Maryland.

For an approximate time schedule for this plan, contact the Community Relations Office at 495-4600 after JUNE 01, 1987

DEVELOPMENT REVIEW DIVISION



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue • Silver Spring, Maryland 20907

FROM: Subdivision Office - M-NCPPC

NAME: Kensington Park
FILE NO.: 7-87009

Enclosed please find the information checked below. This material will be discussed at the Subdivision Review Committee Meeting of April 13, 1987 (no meeting scheduled if blank).

- New preliminary plan application with supporting material as appropriate
- Supporting material for previously reviewed preliminary plan
- Revised preliminary plan drawing
- New pre-preliminary plan application

Map 21
#3116

HISTORIC PRESERVATION COMMISSION STAFF REPORT

PREPARED BY: Jared B. Cooper

DATE: June 8, 1989

CASE NUMBER: #31/6 - 89J

TYPE OF REVIEW: HAWP

SITE/DISTRICT NAME: Kensington

PROPERTY ADDRESS: 3925 Prospect Street
(Lot 13, Block 11)

DISCUSSION:

The applicant is proposing construction of a new residence and garage on a vacant lot on Prospect Street in the Kensington Historic District. The 50' lot is situated between two existing late 19th century dwellings located respectively at 3923 and 3927 Prospect Street. The proposal, and the attendant issues, is similar in some ways to the Avery-Flaherty applications for infill development elsewhere in Kensington. Like the Avery Flaherty application, this proposal has been reviewed with a fairly high degree of scrutiny at the LAC level. As indicated in the attached LAC comments, there was a great deal of concern over the impact of the proposed infill development on the integrity of the neighborhood. Unfortunately, since the Commission is being asked to make a decision on this application prior to any court rulings on the Avery-Flaherty application, the same basic issue of legal buildability vs. preservation issues remains to be resolved. However, until such time as County law deals more specifically with this issue, we must proceed as best we can.

STAFF RECOMMENDATION:

Staff is not particularly concerned over the design of the proposed structure. Staff, however, feels that at least on the North Side of Prospect Street, there exists an open, verdant ambience which could be significantly impacted by infill construction, particularly in a situation like this, where a relatively narrow, tree-filled lot is situated between two pre-existing resources.

At this juncture, staff has not formulated a complete recommendation, and will reserve such. However, staff would like to encourage the Commission to work with the applicant toward a solution which might allow some type of construction on the lot without creating a harsh intrusion. For example, it might be possible to set the house back somewhat on the lot. This would permit retention of some of the front trees, and would also help to preserve the existing spatial rhythm of the streetscape. Staff would further suggest that the applicant be encouraged to concentrate on development of Lot 15 (HPC Case #31/6 - 89K), where potential negative impact on the historic district might be less severe. If the issue of economic hardship should come up, it could be noted that undeveloped lots, particularly in an area like Kensington, often have great value, and evidence shows that very large sums have been offered for this lot and others, with the sole intent of preserving them as open space.

The applicant, LAC, neighborhood residents, and respective legal counsel will be in attendance at Thursday's meeting. In the meantime, please make a special effort to field inspect the site, perhaps with a special view toward comparing this part of the district to other parts where infill construction has been either denied or permitted.

ATTACHMENTS:

1. HAWP Application
2. LAC Comments
3. Elevation Drawings (Garage Elevations to be presented at the meeting)
4. Photos of Lot and Neighboring Structures
5. Proposed Streetscape
6. Original 1890 Kensington Plat
7. Tree Survey(This will be presented at the meeting. Staff requested applicant to provide more details).
8. Letter from Jane Allan (Counsel to residents at 3923 Prospect Street)
(All attachments have not been included in packet)
9. Letter from John B. Armstrong
10. Testimony Presented by Helen Wilkes (neighbor at 3923 Prospect Street)

JBC:av
1110E



Historic Preservation Commission

51 Monroe Street, Rockville, Maryland 20850
100 Maryland Avenue, Rockville, Maryland 20850
217-3625 270-1327

APPLICATION FOR HISTORIC AREA WORK PERMIT

ACCOUNT # 1012215

NAME OF PROPERTY OWNER Frank P. Murray TELEPHONE NO. 301-951-7011
(Contract/Purchaser) (Include Area Code)

ADDRESS 6422 Western Ave Chevy Chase CITY MD STATE MD ZIP 20815

CONTRACTOR Michael Patterson TELEPHONE NO. _____
CONTRACTOR REGISTRATION NUMBER 576

PERMIT PREPARED BY Michael Patterson TELEPHONE NO. 301-6855
(Include Area Code)

REGISTRATION NUMBER _____

LOCATION OF BUILDING/PREMISE

Lot Number 3925 Street Prospect Street

City Kensington Election District 13

East Cross Street Baltimore & Washington streets

Block 11 Subdivision Kensington Park

Folio 641 Parcel 000

TYPE OF PERMIT ACTION: (circle one)

<input checked="" type="checkbox"/> Construct	<input type="checkbox"/> Extend/Add	<input type="checkbox"/> Alter/Renovate	<input type="checkbox"/> Repair	Circle One: <input type="checkbox"/> A/C	<input type="checkbox"/> Slab	<input type="checkbox"/> Room Addition
<input type="checkbox"/> Wreck/Blaze	<input type="checkbox"/> Move	<input type="checkbox"/> Install	<input type="checkbox"/> Revocable	<input type="checkbox"/> Porch	<input type="checkbox"/> Deck	<input type="checkbox"/> Fireplace
			<input type="checkbox"/> Revision	<input type="checkbox"/> Shed		
				<input type="checkbox"/> Solar		
				<input type="checkbox"/> Woodburning Stove		
				<input type="checkbox"/> Fence/Wall (complete Section 4)		
				<input type="checkbox"/> Other _____		

CONSTRUCTION COSTS ESTIMATE \$ 150M to 250M

IF THIS IS A REVISION OF A PREVIOUSLY APPROVED ACTIVE PERMIT SEE PERMIT # _____

INDICATE NAME OF ELECTRIC UTILITY COMPANY PG&E

IS THIS PROPERTY A HISTORICAL SITE? Yes

SECTION TWO: COMPLETE FOR NEW CONSTRUCTION AND EXTEND/ADDITIONS

TYPE OF SEWAGE DISPOSAL		2B. TYPE OF WATER SUPPLY	
01 <input checked="" type="checkbox"/> WSSC	02 <input type="checkbox"/> Septic	01 <input checked="" type="checkbox"/> WSSC	02 <input type="checkbox"/> Well
03 <input type="checkbox"/> Other _____		03 <input type="checkbox"/> Other _____	

SECTION THREE: COMPLETE ONLY FOR FENCE/RETAINING WALL

HEIGHT 4 feet _____ inches

Indicate whether the fence or retaining wall is to be constructed on one of the following locations:

- On party line/Property line _____
- Entirely on land of owner _____
- On public right of way/easement _____ (Revocable Letter Required).

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

Frank P. Murray
Signature of owner or authorized agent (agent must have signature notarized on back) _____ Date _____

APPROVED _____ For Chairperson, Historic Preservation Commission

APPROVED _____ Signature _____ Date _____

APPLICATION/PERMIT NO: _____ FILING FEE: \$ _____

DATE FILED: _____ PERMIT FEE: \$ _____

DATE ISSUED: _____ BALANCE \$ _____

MEMBERSHIP CODE: _____ RECEIPT NO: _____ FEE WAIVED: _____

SEE REVERSE SIDE FOR INSTRUCTIONS

MONTGOMERY COUNTY HISTORIC PRESERVATION COMMISSION

LOCAL ADVISORY COMMITTEE REVIEW FORM

EXTERIOR ALTERATIONS

I. Location of property

- a. Located within the Kensington historic district.
- b. This is a Master Plan Atlas historic district (circle one).
- c. Address of Property: lot one east side of 3927
Prospect Street (lot 13, Block 11)
- d. Property owner's name, address and phone number:
Frank P. Murray
6422 Western Ave, Chery Chase MD
(h) _____ (w) ~~644~~ ~~951~~ 951-7011
- e. Is this property a contributing resource within the historic district? Yes No _____.
- f. On a map of the district locate this property and any adjacent historic resources. Will this work impact other contributing historic resources? Yes No _____.

II. Description of work proposed

- a. Briefly describe proposed work:
new construction, removal of trees, driveway, garage
- b. Is this work on the front, rear, or side of the structure?
n.a.
- c. Is the work visible from the street?
yes
- d. What are the materials to be used?
generally wood construction
- e. Are these materials compatible with existing materials? How? If not, why?
n.a.

III. Recommendation of the Local Advisory Committee

a. Approval of Work

1. Which criteria found in the Ordinance for Historic Preservation (Sec. 24A-8-b of the Montgomery County Code) does this work meet?

~~2~~

2. What conditions, if any, must be met in order for the proposed work to meet the above criteria? (example: the proposed windows should be double hung to conform with existing windows)

b. Disapproval of Work

1. On what grounds is disapproval recommended? Refer to Sec. 24A-8.

(see attached)

2. How could this proposal be altered so as to be approved?

IV. Additional comments

Motion ~~to~~ to recommend disapproval passed; vote was unanimous (8-0)

Date on which application received: April 24, 1989

Date of LAC meeting at which application was reviewed: May 6, 1989

Form completed by: Daniel P. Jones Title: Chairman

Member of: Kensington L.A.C.

Date: May 2, 1989

MINUTES OF LAC MTG. #1.89

12. Mr. Chen and Mr. Patterson presented Mr. Murray's application. The application was complete at this point including the tree survey. It was noted that the new submission resulted in the building on lot 13 being reversed, to save numerous trees. Furthermore, the house on lot 15 was cut down so that it had a front elevation reduced from 64 feet to 53 feet, by removing the garage to the back of the lot.

Points were made from the Audience.

1. Mrs. Allen for The Wilkes. The Wilkes tried to buy the intervening lot, offering them 100,000.
2. Mrs. Wilkes referenced numerous problems in the proposed development including shrinking the space between houses from about 45 feet to as few as 16 to 18 feet.
3. A petition was read to the effect that many neighbors are opposed to any development on the lots. There were 92 signatures.
4. Mr. O'Neil stated that the proposed development would totally disrupt the rhythm of the street and cause a clumping on houses on the north end of the street.

13. General points made by committee members.

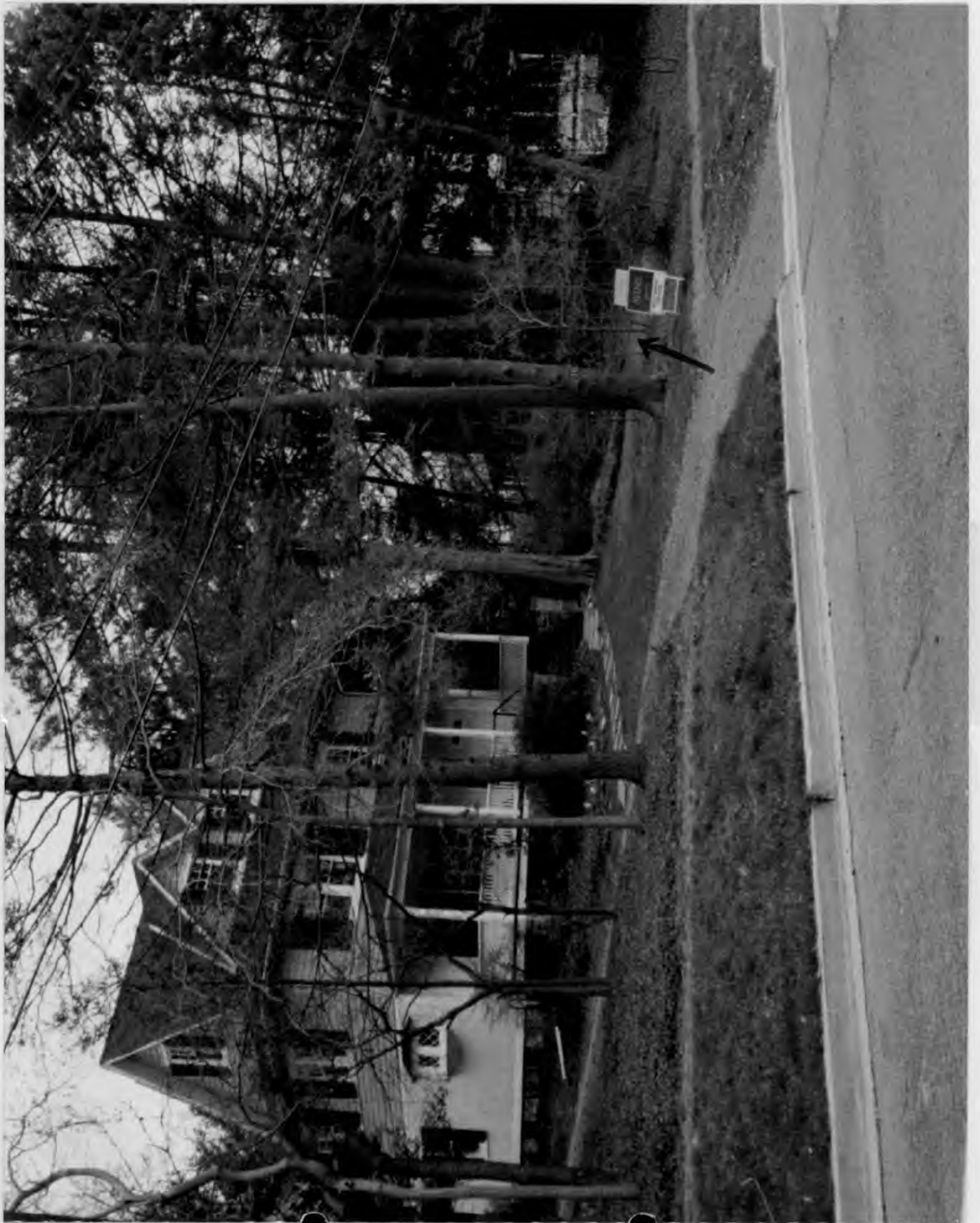
1. The south side of the Prospect St. has more houses, but they are smaller, and with good spacing.
2. The north side of Prospect historically has a open lot spacing between each house.

- 14.

Lot 13 house

1. The facade width is too great.
2. The applicant didn't respond to a prior request to enumerate materials including siding and porch railing detail. It is requested that the porches be screened underneath.
3. The tree survey failed to take into account inevitable damage to root balls with expected death of remaining trees, including four hemlock trees on the south property line. The advice of an arborist should be sought to improve the chances of survival for these trees.
4. The house is too long, and blocks the view up and down the back yards of other houses.
5. The house is shaped like a warehouse with a Victorian-esque treatment of the street elevation.
6. There is a conflict between the bay and the chimney with the proposed driveway.
7. The removal of landscaping materials to lot 15 is not acceptable.
8. The proposed house is too massive compared to the resource houses on the same side of the street.
9. The rhythm of the street scape is altered by the size and massing of the house.

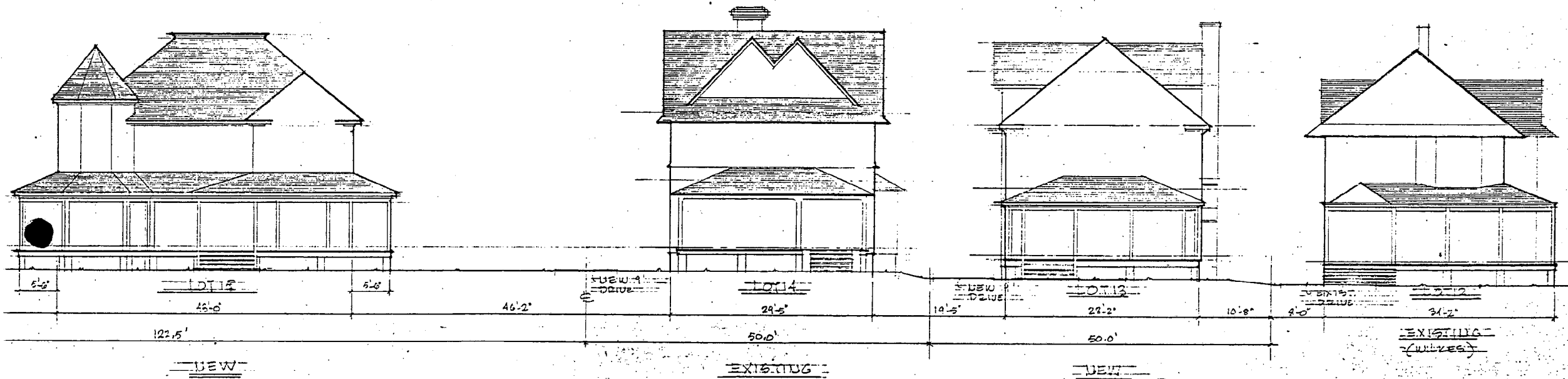




MURRAY - LOTS 15, 14, 13, 12
THROUGH THE LOT 12 LINE
1/2" = 1'-0"

MICHAEL B. PATTERSON
ARCHITECT
11820 PARKLAWN DRIVE, ROCKVILLE, MD. 20852
(301) 881-8855

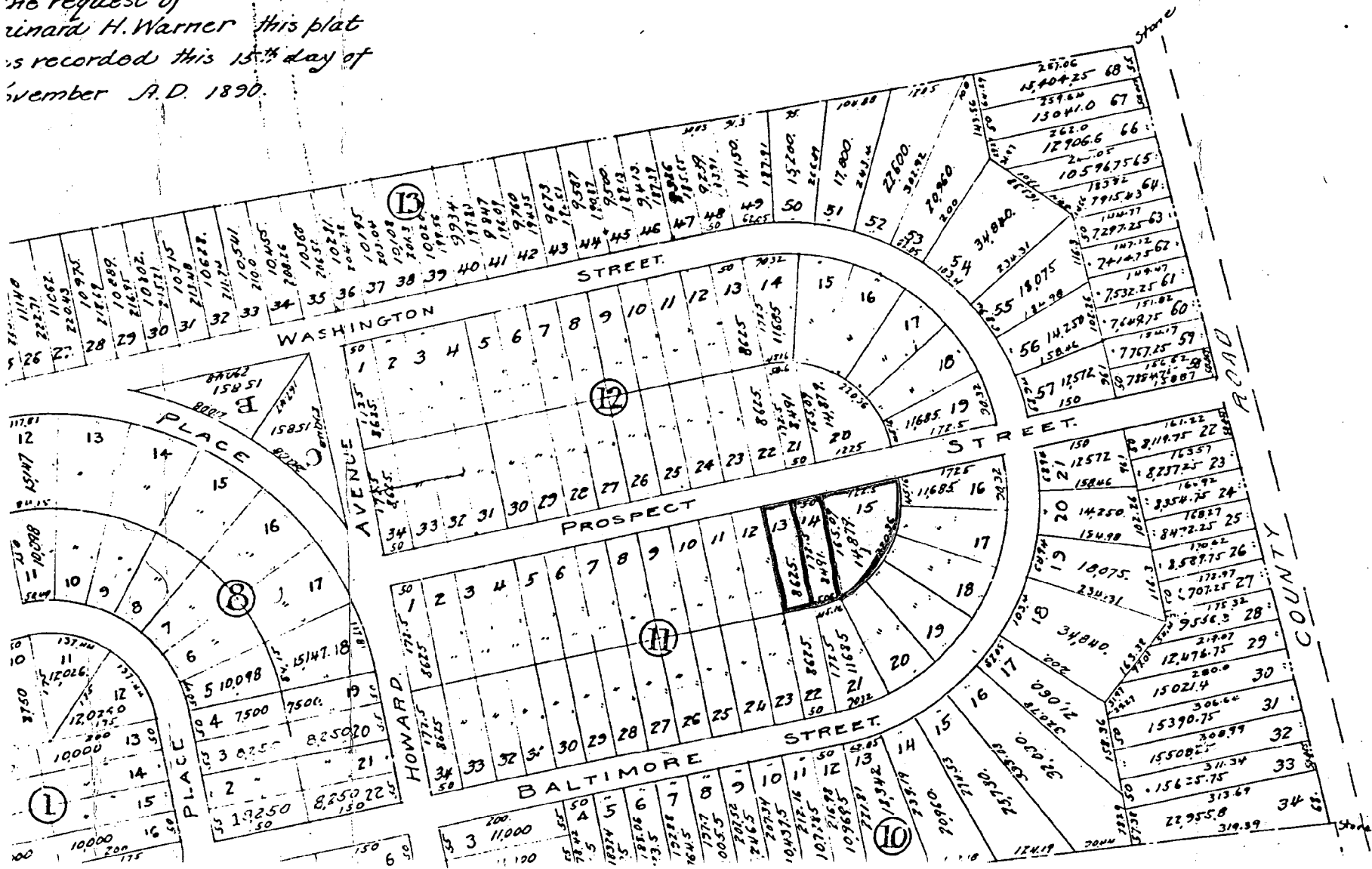
25 MAY '89

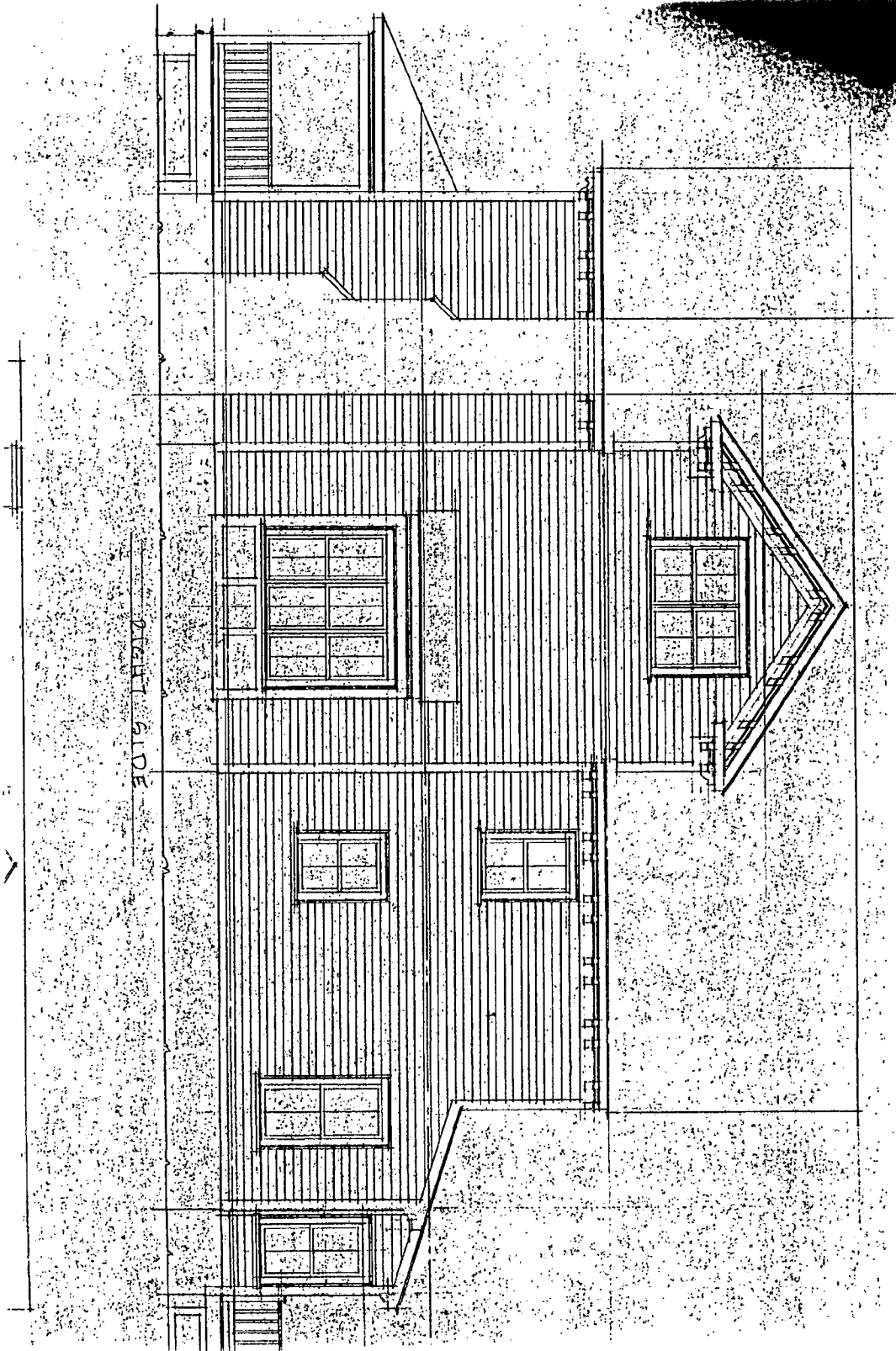


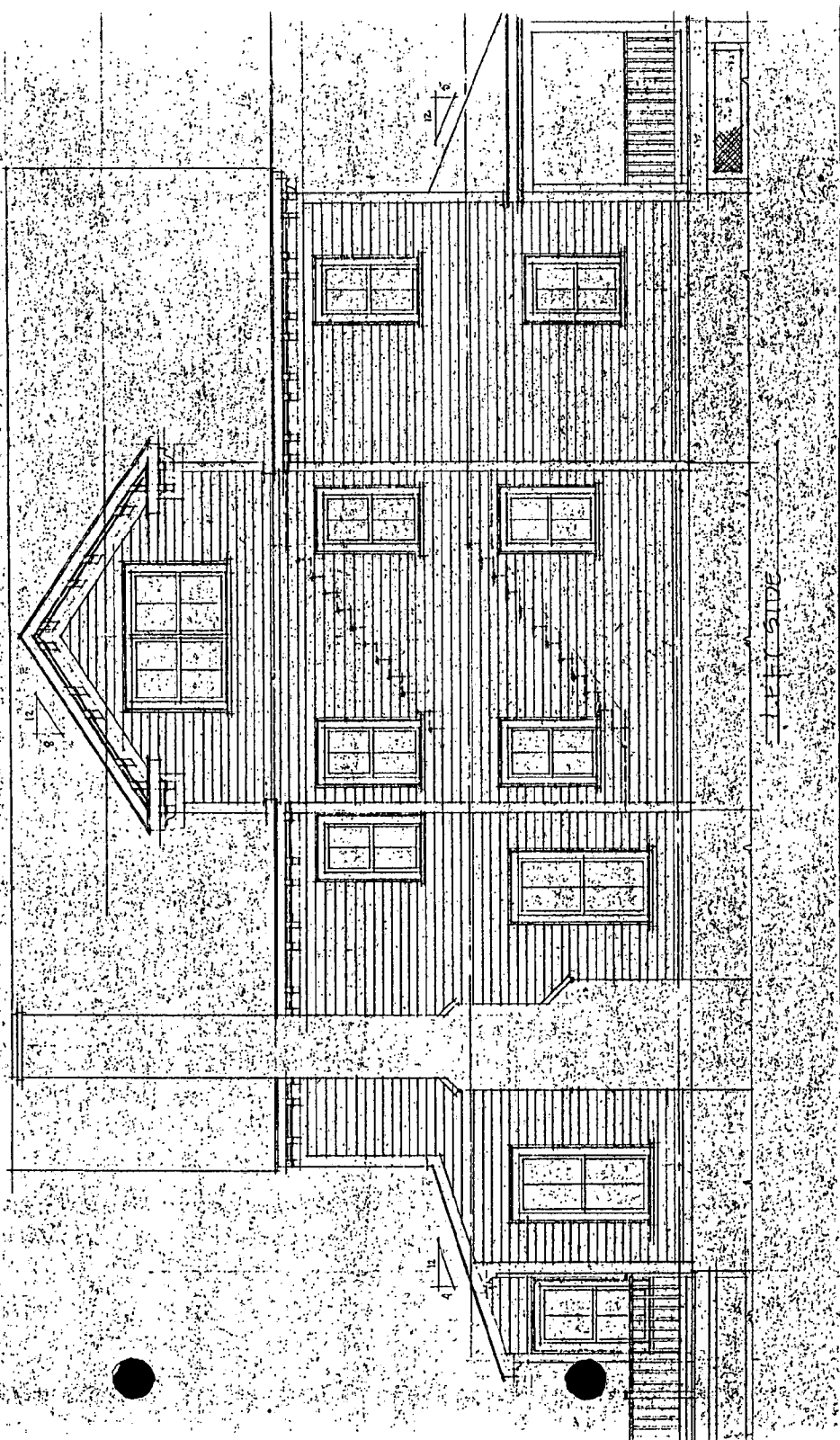
KENSINGTON PARK

MONTGOMERY COUNTY
MARYLAND.

At the request of
Erinard H. Warner this plat
is recorded this 15th day of
November A.D. 1890.









DEAD



DEAD

12

16

8-1

9-4

10-8

FRONT



VENABLE, BAETJER AND HOWARD

ATTORNEYS AT LAW

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

BALTIMORE OFFICE
1800 MERCANTILE BANK & TRUST BUILDING
2 HOPKINS PLAZA
BALTIMORE, MARYLAND 21201-2978
(301) 244-7400
TELEX 898032

RICHARD M. VENABLE (1839-1910)
EDWIN G. BAETJER (1868-1945)
CHARLES MCH. HOWARD (1870-1942)

FIFTH FLOOR
ONE CHURCH STREET
P.O. BOX 1906
ROCKVILLE, MARYLAND 20850-4129
(301) 217-5600

WRITER'S DIRECT NUMBER

WASHINGTON OFFICE
SUITE 1200
1301 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004-1701
(202) 662-4300

VIRGINIA OFFICE
SUITE 400
2010 CORPORATE RIDGE
MCLEAN, VIRGINIA 22102-7805
(703) 749-3500

(301) 217-5634

June 7, 1989

Mr. Steven Karr, Chairman
Montgomery County Historic
Preservation Commission
Suite 1001
51 Monroe Street
Rockville, Maryland 20850

Re: Application for Historic Work Permit, 3925 Prospect Street
(Lots 13 and 15), Kensington, Maryland

Dear Mr. Karr:

This firm represents Helen and Sandy Wilkes, 3923 Prospect Street, Kensington, Maryland, with regard to the above-referenced application for an historic work permit which is the subject of the Historic Preservation Commission's June 15, 1988, public hearing.

Helen and Sandy Wilkes are two persons who have demonstrated commitment to historic preservation. When the Wilkes purchased their property at 3923 Prospect Street in August, 1988, they placed into a covenant on the property which prohibited more than one residence to be located on the property. (See Attachment 1 - Covenant.) The Wilkes were not required to nor requested to place such a covenant on the property, but volunteered to in order to preserve the historic setting in which they live.

In a further effort to preserve the historic resources on Prospect Street, the Wilkes sought to purchase Lot 13 from both the Turners (who sold the property to Mr. Murray) and Mr. Murray himself. Unfortunately, the Wilkes were unsuccessful. Not only were the Wilkes unsuccessful, but Mr. Murray refused several offers to purchase the house located at 3925 Prospect Street along with Lot 13. (See Attachment 2 - Affidavit of Samuel M. Sipe, Jr., with contract of sale attached.) There were a number of persons who were interested in purchasing the house, but only if Lot 13 could be purchased with it. No person was successful, however, in purchasing the house with the lot.

Given their strong personal commitment to the Kensington Historic District, the Wilkes feel strongly that the character and integrity of the historic resources on Prospect Street and on the historic district as a whole, will be seriously impaired by the proposed developed. This letter sets forth the concerns which the Wilkes have with the permit applications for the development of Lots 13 and 15 and why the Wilkes believe that granting such applications would violate the Montgomery County Historic Preservation Ordinance.

The subject applications proposed to construct a single family residence on Lot 13 and on Lot 15, respectively, in the historic district of Kensington, as established by the Approved Adopted Amendment to the Master Plan for Historic Preservation: Kensington Historic District, adopted September 17, 1986 (the 1986 Amendment).

By reviewing the 1986 Amendment, the critical characteristics of the historic district are identified. The 1986 Amendment describes the Kensington historic district as follows:

"[The subdivision was designed in the Victorian manner with ample sized lots and a curvilinear street pattern.

. . . .

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

The significance of these characteristics to the Kensington historic district was discussed in detail during the Carroll Place case. The analysis and review that took place in the Carroll Place proceedings are equally applicable in this case. While Carroll Place has been termed "the core of the historic district," the north side of Prospect Street, which is the location of the subject applications, is equally important to the Kensington Historic District. This side of Prospect Street epitomizes the very characteristics of the Kensington historic district which form the basis for its designation as a district and has remained essentially uncompromised since the original construction of the four primary resources located on the north side. (See Attachment 3 - letter from John Armstrong, grandson of the original owner of the Murray property.) Other than Carroll Place, there is no other area of the historic district which has maintained the park-like

setting, large lot subdivision, the cohesive streetscape in so uncompromised a condition as has the north side of Prospect Street.

As was noted by the Maryland Historical Trust in the Carroll Place case:

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

(See Attachment 4 - Summary of Testimony of Helen Wilkes to which is attached the letter from the Maryland Historic Trust.)

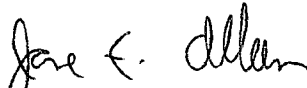
There is a line which can be crossed whereby an historic district loses its integrity. While we are not here proposing to tell the commission where that line is drawn, we would suggest that at least as far as Prospect Street is concerned there is some danger for the future. The north side of Prospect Street currently contains four historic primary resources and one secondary structure, which was built prior to the historic district designation. In addition, there are eight potential sites for new development on the north side. If all eight sites were permitted to develop, there would be a ratio of nine new homes to four primary resources. Such result would have a detrimental impact on the historic resources on Prospect Street. This possible scenario can be found no where else in Kensington, other than the Carroll Place location.

The north side of Prospect Street gives an overriding impression of a turn-of-the-century garden suburb, with widely-spaced houses on large lots among mature trees. This side of Prospect Street is a significant area which is visually intact in its Victorian-era appearance. The proposed applications would create an almost solid massing along the center portion of the north side of Prospect Street, crowding and blocking the sitelines of the existing historic resources as a result of the construction of two proposed large houses, the one on Lot 13 being sandwiched in, approximately 18 feet on either side of the existing historic resources. The development would also destroy a majority of the significant and mature landscaping located on both Lot 13 and Lot 15, not only seriously impairing the adjacent historic resources, but also the streetscape along Prospect Street. The attached testimony from Helen Wilkes (an AIA certified architect who has worked in historic districts) describes in more detail the reasons why the proposed applications would severely impair the primary resources on Prospect Street and the Kensington Historic District as a whole and would be inappropriate, inconsistent with and

Page 4

detrimental to the preservation, enhancement and ultimate protection of the those resources and to the District . The proposed Historic Preservation Area Permit Applications do not satisfy the criteria for granting a permit required by Section 24A-8 of the Historic Preservation Ordinance and the Applications should be denied.

Sincerely yours,


Jane E. Allan

JEA/h
Enclosures

MR. & MRS. JOHN B. ARMSTRONG
6 ALVARADO RD.
BERKELEY, CA 94705

4-23-89

Historic Preservation Commission
Local Advisory Committee

Dear Sir OrMadame

I wish to present my views on a subject which I understand is now before you, that of the proposed development of a property located at 3927 Prospect St Kensington Md.

First a little history, I am the sole descendant of the original builder, my grandfather, Dorney C. Armstrong who moved to Kensington in the 1870's 1st renting a house further down Prospect St near Connecticut Ave where my father BRADFORD Armstrong was born. When purchasing the three lots located at the top of the hill at 3927.

I have photographs of that barren hill top, all from land then in 1883 - not a tree in sight.

My father grew up in the house as did I, having moved there during the war living with my grandparents Blouch & Dorney Armstrong. With

The passing of the older generations, my father BRADFORD and his wife DELPHINE Ambrose took over the property and rented the house for many years, most recently to the wonderful de Brinville family who still reside in Kensington.

I should discuss here and mention that for many years the Ambroses owned virtually the top of Prospect St. For my Great Grandfather William returning from the Civil War brought a large piece of land to the North of 3927 and my Great Uncle Hugh built on the downhill side - building so close to the property line in fact that there was a long standing family feud on the subject.

To return to the subject, I was the fourth Ambrose to own the property but deciding to live on the West Coast I was forced into the sad prospect of selling. I soon came to realize that much of the interest in the house sale came from developers and real estate speculators and realized that I would not be the one to sell my Grandfather's house down the river!

I turned down all offers presented by developers and tried to locate a buyer intending to maintain

the property
✓ as their residence. I located such a person, as
so I thought, in Richard Turner who assured me
that ^{he had} ~~had~~ no intention of developing and wished
to maintain the house and its' lots as a family residence.
I sold it to Mr Turner on that basis, having turned
down what would have been more lucrative
arrangements from builders and developers.

Now, after all this, I understand my grandfather's
property is being considered for building and subdividing.
I wish to express with the commission that this not
be permitted to happen - please keep this small slice of
turn of the Century America out of the hands of
developers. Why, with all the available ^{and} easily
developable property around the county would
they need to pick this one historically unique
corner?

Sincerely,
John B. Anderson

Summary of Testimony re: Proposed Development at
3927 Prospect Street, Kensington, MD
 Helen Crettier Wilkes, AIA

- I. North side of Prospect Street stands as one of the few unspoiled examples of the suburban garden park streetscape envisioned in the design of Brainard Warner's Master Plan for the town of Kensington Park. The Historic District of Kensington is characterized by:
- A. Large lots.
 - B. Uniformity of scale.
 - C. Cohesiveness of streetscapes.
 - D. A park-like setting.
 - E. A strong sense of time and place.

It is these characteristics which have brought Kensington recognition as an area worthy of Historic District status.

II. Analysis

- A. Large lots.
 1. Frontages for existing four Historic Resources (from west to east): 222.5 feet, 125 feet, 125 feet, 100 feet.
 2. There are presently 5 houses on the north side of Prospect Street to 14 platted lots.
 3. If all remaining lots on north side were approved for development, ratio of new homes to Historic Resources would be 9:4. This substantial amount of infill development would inalterably impair the historic character of Prospect Street. At what point is balance upset such that Historic District status is threatened? This important point was made by the Maryland Historic Trust in a letter to the M.C. Historic Preservation Commission during the Carroll Place proceedings (See attachment 1.).
- B. Uniformity of Scale
- C. Cohesiveness of streetscape.
 1. Uniform setbacks (50 ft on north side, 25 feet on south side).
 2. Irregular massing.
 3. Front porches, which provide transition between indoor and outdoor spaces.
 4. Density of houses (solid) to open spaces (void).
 - a. Minimum distance between any two houses on north side is presently 42.75 feet.
 - b. Even on south side of street, where houses are smaller and much closer to the street, minimum distance between houses in 27.5 feet.

- c. Proposed development would produce minimum distances between existing Resources and new houses of 18.0 feet and 18.25 feet.
- D. Park-like setting
 - 1. Produced by large spacing between houses and large front and back yards.
 - 2. Each of the 4 Historic Resources sits in the landscape as in a suburban garden park.
 - 3. Significant mature landscaping has been preserved on each lot, enhancing this park-like characteristic. The proposed development would result in destruction of a substantial amount of this landscaping.
- E. Strong sense of time and place
 - 1. Each historic estate on the north side is for the most part preserved in its original state.
 - 2. Additions and alterations to the houses have not altered significantly the above-listed characteristics.

III. Lot 13 - Analysis

- A. Scale
 - 1. Footprint of proposed house is much larger than those of existing Resources on either side.
 - 2. Footprint is 21 feet longer than Wilkes house (to the east).
 - 3. House is taller than and uphill from Wilkes house, would dominate and possibly hover over.
- B. Massing
 - 1. Rectangular block footprint and massing are uncharacteristic of Queen Anne style emulated by facades.
 - 2. Long, proportionally narrow form reads more like a "shotgun" house than like the irregular, blocky massing of typical period houses in Kensington.
- C. Changes to "appurtenances and environmental setting" as protected by the M.C. Historic Preservation Ordinance would be drastic and irreversible.
 - 1. Removal of majority of large trees and boxwoods necessary for construction.
 - 2. Many of remaining trees may be damaged irreparable or killed by construction excavation or equipment.
 - 3. New houses would dominate rather than defer to existing Resources.
- D. Analysis reveals that no house would be appropriate on Lot 13.

IV. Lot 15 - Analysis

A. Scale

1. House is much larger than any on Prospect Street or than most in Historic Kensington.
2. Scale and formal arrangement might be appropriate for a generous corner lot, but not for an infill lot.

B. Changes to "appurtenances and environmental setting" would be drastic and irreversible.

1. Many large trees and most of small trees (many of which are flowering dogwoods) would have to be removed.
2. Semi-circular driveway inappropriate in Historic Kensington and would cause removal of far more trees and shrubs than is necessary.

V. Changes to Streetscape

A. Rhythm

1. Relationship of open space to built is such that open spaces dominate overwhelmingly on north side.
2. On south side relationship is never less than 1:1, with exception of atypical recent brick house at east end of street.
3. Proposed large concentration of massing on lots 12 - 15 with distances of only 18 feet between some houses, would severely alter and impair the existing streetscape.
4. Proposed development on Lot 13 is a marked aberration from established rhythm on either side of street.

B. Frontages

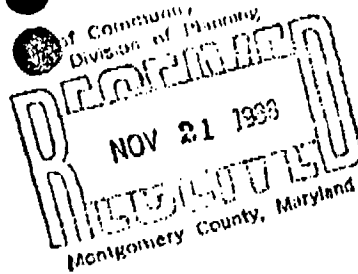
1. Estate frontages on north side (west to east) go from:
Existing: 222.5 feet, 125 feet, 125 feet, 100 feet.
Proposed: 122.5 feet, 50 feet, 50 feet, 125 feet, 125 feet, 100 feet.
2. Open space between houses
 - a. Presently:
 1. 64 feet between Murray/Turner house and Wilkes house.
 2. 140 feet between Wilkes house and house to east (O'Neil house).
 3. 45.75 feet between O'Neil house and house to east.
 - b. Proposed:
 1. 37.75 feet between house on lot 15 and Murray/Turner house.
 2. 18.25 feet between Murray/Turner house and house on Lot 13.
 3. 18 feet between house on Lot 13 and Wilkes house.

VI. Summary

- A. Developer Murray had option to sell at least Lot 13 with existing house, as was desired by so many buyers, but sold house without any of adjoining land instead; Wilkeses made an offer to buy Lot 13 as well.
- B. Proposed construction would be inappropriate, inconsistent with and detrimental to the preservation, enhancement and protection of the Historic District as set forth in the M.C. Historic Preservation Ordinance.
- C. Potential negative impact on Historic District status as cited in Maryland Historic Trust letter is a crucial point of consideration.

Attachments:

- 1. Maryland Historic Trust letter
- 2. Map diagram, "Existing Development"



1. LETTER

William Donald Schaefer
Governor

Jacqueline H. Rogers
Secretary, DHCD

November 17, 1988

Mr. Steven Karr, Chairman
Montgomery County Historic
Preservation Commission
51 Monroe Street
Rockville, Maryland 20850

Dear Mr. Karr:

The Maryland Historical Trust, the State's lead agency for historic preservation, has been contacted by a group of Kensington residents representing the Carroll Place Preservation Committee. These residents have requested our agency to provide comments to the Montgomery County Historic Preservation Commission on the proposed development by Avery-Flaherty on Carroll Place in the Kensington Historic District. We understand that information on the issue will be presented at the Commission's meeting on Thursday, November 17.

While the Trust has examined information provided to us by the Committee, we cannot ascertain the completeness of the data provided to us. In particular, we have not had the opportunity to review detailed final architectural and site plans for the proposed new construction. As the case before you appears complex, and demands thoughtful analysis over a longer period, our office cannot offer an informed opinion at this time on the design details of the proposed development.

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

As we understand the proposed development, houses would be built on either side of 10234 Carroll Place, a Queen Anne house which is one of only a few buildings identified as "individually significant," either historically or architecturally, in the National Register nomination for the Kensington Historic District. The house is prominently located on Carroll Place, across from the Noyes Library and the park surrounding the house of Brainard Warner, the original developer of Kensington. The large property at 10234 Carroll Place is visually prominent on the approach to the area from Connecticut Avenue.

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

Maryland

Steven Karr
 vember 17, 1988
 age 2

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

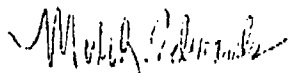
It appears that any new construction on the two lots in question would have some degree of adverse effect on the qualities from which the district derives its historic significance. The setting of the house at 10234 Carroll Place, with its large yard and extensive shrubbery, would be altered by the proximity of new buildings on either side. The historic streetscape of large wooded lots and the sense of time and place conveyed by this district would be changed by the introduction of greater density.

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

In addition to the careful review afforded by your Commission, we encourage continued efforts to secure the donation of historic preservation easements within the district to Montgomery County or the Maryland Historical Trust.

We hope that our comments will be useful to the Commission in your important deliberations.

Sincerely,



Mark R. Edwards
 Chief Programs Administrator-
 Deputy State Historic Preservation Officer

MRE/nmc

cc: Ms. Patricia McPherson
 Ms. Mary Ann Kephart
 Ms. Roberta Hahn
 Ms. Eileen McGuckian

2. MAP DIAGRAM
 EXISTING DEVELOPMENT
 PROSPECT STREET

BALTIMORE ST

PROSPECT ST

WASHINGTON ST

325

137.0'

29.5'

64.0'

26.25'

140.0'

36.25'

45.75'

27.25'

42.75'

26.0' 23.5' 43.5' 29.75' 31.25' 23.25' 27.5' 25.5' 23.75' 24.25' 71.0' 29.25' 71.0' 27.0' 46.0' 47.5' 23.25' 32.25'

ONE STORY ENCLOSED PORCH

POOL

300

HISTORIC PRESERVATION COMMISSION STAFF REPORT

PREPARED BY: Jared B. Cooper

DATE: May 9, 1989

CASE NUMBER: #31/6 - 89J

TYPE OF REVIEW: HAWP

SITE/DISTRICT NAME: Kensington

PROPERTY ADDRESS: 3925 Prospect Street
(Lot 13, Block 11)

DISCUSSION:

The applicant is proposing construction of a new residence and garage on a vacant lot on Prospect Street in the Kensington Historic District. The 50' lot is situated between two existing late 19th century dwellings located respectively at 3923 and 3927 Prospect Street. The proposal, and the attendant issues, is very similar in many ways to the Avery-Flaherty applications for infill development elsewhere in Kensington. Like the Avery Flaherty application, this proposal has been reviewed with a fairly high degree of scrutiny at the LAC level. As indicated in the attached LAC comments, there was a great deal of concern over the impact of the proposed infill development on the integrity of the neighborhood. Unfortunately, since the Commission is being asked to make a decision on this application prior to any court rulings on the Avery-Flaherty application, the same basic issue of legal buildability vs. undesirable infill development remains to be resolved. However, until such time as County law deals more specifically with this issue, we must proceed as best we can.

STAFF RECOMMENDATION:

Staff has no particular concerns regarding the design, massing, or setback of the proposed structure. Staff, however, feels that, much like the Carroll Place neighborhood, there exists a suburban garden-like ambience which could be destroyed to a great extent by infill construction - particularly in a situation like this, where a relatively narrow lot is situated between two pre-existing resources.

At this juncture, having not heard the applicant's complete justification for this development proposal, staff would recommend denial of the application. However, staff would like to encourage the Commission to work with the applicant toward a solution which would minimize economic hardship. Staff would further suggest that the applicant be encouraged to concentrate on development of Lot 15 (HPC Case #31/6 - 89K), where potential negative impact on the historic district would be less severe. In addressing economic hardship, it could also be noted that undeveloped lots, particularly in an area like Kensington, often have great value, and evidence shows that very large sums have been offered for this lot and others, with the sole intent of preserving them as open space.

The applicant will be in attendance at Thursday's meeting. In the meantime, please make a special effort to view the site, in order to make some of your own judgements.

ATTACHMENTS:

- | | |
|---|-------------------------|
| 1. HAWP Application | 2. LAC Comments |
| 3. Elevation Drawings | 4. Garage Elevations |
| 5. Photos of Lot and Neighboring Structures | 6. Proposed Streetscape |
| 7. Original 1890 Kensington Plat | 8. Tree Survey |

COMMISSION ACTION:

JBC:av
1110E

Wilkes Numbered Exhibits:

1. Deed transferring lots from Turners to Murrays
2. Affidavit of Samuel M. Sipe, Jr.
3. Advertisement for 3927 Prospect Street
4. Letter from Karen Maury, attesting to fair market value of lots in Kensington
5. Deed transferring lot from Galvin to Carter, Inc.
6. Site Plan of Lot 18, Block 13, Kensington Park Subdivision (see deed for same, above)
7. Deed transferring lots from Jones to Avery-Flaherty Properties, Inc. (Lot 15, Block 2)
8. Deed transferring lots from Jones to Paul V. Flaherty (Lot 17, Block 2)
9. Kensington Park Original Subdivisio Plan (Horseshoe)
10. HPC Minutes from October 4, 1984 (Enders Application)
11. Enders Findings
12. HPC Minutes from May 17, 1984 (Kensington Evaluation)
13. Resume of Helen C. Wilkes
14. Graphic, Streetscape, North side of Prospect Street
15. Graphic - Streetscape, South sidie of Prospect Street
16. Small Graphic - Hugh Armstrong/Wilkes Rear Yardscape
17. Density Analysis
18. 18(a) - Small Graphic - Harry Armstrong Residence - View west from Lot 13 to rear
- 18(b) - Small Graphic - Harry Armstrong Residence - View east from rear, across Lot 13 Garden, Looking Toward Rear of Armstrong Residence
- 18(c) - Small Graphic - Harry Armstrong Residence - noting natrualistic landscape
19. Small Graphic - Harry Armstrong Residence, 1989 naturalistic landscape still remains
20. Small Graphic - Wilkes Residence in relation to Lot 13

Before The Montgomery County Historic Preservation Commission

Application of Frank P. Murray

Before the Commission is the application of Frank P. Murray for an Historic Area Work Permit (HAWP) for new construction at 3925 Prospect Street, (Lot 13, Block 11), Kensington Park Subdivision, Kensington, Maryland.

PROCEDURE

Prior to the Commission's review of the application, the Kensington Local Advisory Committee (LAC) reviewed the application on May 1, 1989. In response to the LAC's comments, the applicant made revisions to his original plans. The Historic Preservation Commission received the application in May 1989, and a public hearing was held on June 15, 1989. Two additional hearings were necessary (July 6, 1989 and July 21, 1989) so that the applicant and the opposition could present their cases. The application was considered jointly with another application for an Historic Area Work Permit filed by Mr. Murray for new construction at 3929 Prospect Street (Lot 15). The applicant appeared, represented by counsel, and presented several witnesses and many exhibits for the Commission's consideration. A number of Kensington residents appeared in opposition to the application. One opponent, Helen Wilkes of 3923 Prospect Street (Lot 12), Kensington was represented by counsel. At the conclusion of this final hearing (July 21, 1989), the record was closed. All parties agreed that the Commission would issue its decision at its next scheduled meeting on August 17, 1989. Having heard and considered all of the testimony and exhibits found in the record, it is the decision of the Commission to deny the application by Frank P. Murray for an Historic Area Work Permit for new construction at 3925 Prospect Street, pursuant to Section 24A-8(a) of the Montgomery County Code (1984), as amended.

BACKGROUND

It is the purpose of Chapter 24A of the Montgomery County Code, "Preservation of Historic Resources," to provide for the identification, designation, and regulation, for purposes of protection, preservation, and continued use and enhancement of those sites, structures with their appurtenances and environmental settings, and districts of historical, archeological, architectural, or cultural value in that portion of Montgomery County within the Maryland-Washington Regional District. Its further purpose is to preserve and enhance the quality of life in the County, safeguard the historical and cultural heritage of the County, strengthen the local economy, stabilize and improve property values in and around historic area, foster civic beauty, and to preserve such sites, structures, and districts for the education, welfare, and continued utilization and pleasure of the citizens of the County, the State of Maryland and the United States of America.

The following terms are defined in Section 24A-2 of the Code:

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

Historic resource: A district, site, building, structure or object, including its appurtenances and environmental setting, which is significant in national, state or local history, architecture, archaeology or culture.

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

On July 7, 1986, the Montgomery County Council, sitting as the District Council, approved a resolution designating the Kensington Historic District (#31/6), as an amendment to the Master Plan for Historic Preservation. The amendment was adopted by the Maryland-National Capital Park and Planning Commission (M-NCPPC), effective July 8, 1986.

It is the responsibility of the Montgomery County Historic Preservation Commission to preserve designated historic districts and historic sites in the county by means provided in the Historic Preservation Ordinance. One of the primary methods of fulfilling this responsibility is through the historic area work permit process.

It is the responsibility of an applicant for an historic area work permit to provide "information sufficient to support the application and the burden of persuasion on all questions of fact which are to be determined by the Commission." [Sec.24A-7(g)(1)] The plan submitted must meet at least one of the criteria set forth in Section 24A-8(b).

The Kensington Master Plan Amendments states:

According to [Section III of the Commission's Guidelines for Historic District,] a Historic District as identified, and if approved for inclusion in the County's Master Plan for Historic Preservation, shall consist of the entire area represented by all of the historic resources with their appurtenances and environmental setting. Non-historic properties within the boundaries of the Historic District are also subject to regulation, as they are considered appurtenances and part of the environmental setting of the historic resources of the District.

In regard to the properties identified as secondary resources -- that is visually contributing but non-historic structures or vacant land within the Kensington District -- the Ordinance requires the Preservation Commission to be lenient in its

judgment of plans for contemporary structures or for plans involving new construction unless such plans would seriously impair the historic or architectural value of surrounding resources or impair the character of the District. (Emphasis in original)

EVIDENCE

The Kensington Master Plan Amendment states that four of the five properties on the north side of Prospect Street are designated as primary resources: 3927, 3923, 3915 and 3911. Thus, the north side of Prospect Street is a primary resource area within the district.

The following exhibits and testimony were presented at the hearings:

Mr. Murray testified that he is the owner of a small business (Murray & Sons) and has been building houses for 39 years. He said that he is not a "developer." Rather, he buys lots (usually infill), builds on them and then sells them. He built two houses in each of the following years: 1988, 1987, and 1986. In 1985, he built eight houses. He bought the property at 3927 Prospect Street with the purpose of developing the side yards (lots 13 and 15). Before he purchased the property, Mr. Murray stated that he contacted an official at M-NCPPC, and determined that it was composed of properly subdivided, buildable lots. On questioning, Mr. Murray replied that he had no experience as a builder in historic districts, that he was unfamiliar with historic district regulations, and he had no information or understanding of any limitations in that regard. Later, Ms. Molly Murray, the applicant's daughter, testified, however, that her father was aware of building limitations in historic district. She stated that when the Kensington property was purchased, she informed her father that it was in the historic district and that certain guidelines had to be followed.

Mr. Murray testified that he entered into a contract to sell the house on Lot 14, with settlement expected in mid-August. He refused to reveal his cost for the entire property (Lots 13, 14, and 15), or the price for which the house was being sold. (In his opening statement, Mr. Chen, the applicant's attorney, indicated that Mr. Murray had out-of-pocket expenses of \$800,000 for the property and that he was losing \$6,600 a month, although he did not state specifically what these costs were.)

Mr. Murray testified that a Samuel Sipe, who lives on Western Avenue made him an offer for the house and its side yard (Lots 14 and 13). According to Mr. Murray, Mr. Sipe offered to "trade" his (Mr. Sipe's) house on Western Avenue for Lots 13 and 14. Mr. Murray rejected the offer because of the traffic congestion of Western Avenue and because Mr. Sipe's lot on Western Avenue was not subdivided. Mr. Murray indicated that there was one other offer for Lot 13. According to Mr. Murray, a real estate agent approached Mr. Murray and told him that some neighbors might give him \$100,000 for Lot 13. According to testimony, Mr. Murray stated he made a counter offer of \$200,000 which was rejected by the "neighbors."

Michael Patterson, the applicant's architect, testified that the proposal for Lot 13 (3925 Prospect Street) was designed in the simple "Victorian vernacular" mode, blending well with the adjacent existing historic homes. He explained that it was not his intention to design a "straight copy" of other structures in the district or neighborhood, but rather, to provide compatible designs within the confines of setback and other zoning restrictions. He added that he felt that the width, depth, and scale of the proposed structure was compatible with the existing surrounding structures. He stressed that the plans before the Commission were the product of three revisions, and that he had responded to the LAC's

concerns by "pulling in" the structure as much as possible without resulting in an uninhabitable house. In addition, Mr. Patterson stated that he did not believe that Lot 13 was a historic resource according to the definition in Section 24A-2 of the Code.

Ms. Shelly Rentsch, a landscape architect retained by the applicant, testified that the proposed construction for Lots 13 and 15 (situated on the north side of Prospect Street) would help to balance the streetscape in that the structures on the south side of Prospect Street were more closely spaced than on the north side of the street. She defined streetscape as the street views created by the interrelationship of structures, appurtenances, and environmental setting. She added that, very often, infill construction is a very useful tool in completing the streetscape. She also stated that in her opinion none of the existing vegetation on Lot 13 was particularly significant or rare. She added that the boxwoods situated on the lot would be moved to Lot 15 in order to preserve them. In summary, she stated that she did not feel that the proposal would impair the historic district in any way, but that it, along with the proposed construction on Lot 15, would reinforce the harmony of the streetscape.

An arborist, Mr. John Nohly, also testified on behalf of the applicant. He stated that the most substantial tree on Lot 13, a triple trunk Hemlock (34" caliper), was proposed to be removed, but that it was not a particularly outstanding specimen, and had suffered limb loss and insect damage. He further testified that the proposed construction would result in the loss of many other trees on the lot. However, he indicated that none of the trees were good specimens.

The applicant's daughter, Ms. Molly Murray, testified that she had been a realtor for three and one-half years and had worked for her father for the past six years. She stated that if the Commission denied the applications for Lots 13 and 15, they would "lose money," even if they sold Lot 14. She indicated that she thought the fair market value of Lots 13 and 15 was \$200,000 each. In support of this opinion, she produced a letter from an R.A. McClelland, a real estate broker (Exhibit N(b)). However, on cross-examination, Ms. Murray admitted that Mr. McClelland's letter was not an appraisal and that he did not use any established appraisal methods in arriving at his determination of the fair market value of either Lot 13 or 15. Upon further examination, Ms. Murray stated that Murray and Sons had paid \$720,000 for the property at 3927 Prospect Street (Lots 13, 14, 15).

The applicant presented many exhibits (A through GG), consisting of various photoboards, maps, designs, and plans, all in support of both applications. Among the exhibits was an excerpt from the testimony of Paul V. Flaherty, Jr. during the hearing on his application for an historic area work permit for new construction at 10232 Carroll Place (Lot 17, Block 2), Kensington Park Subdivision, Kensington, Maryland (Exhibit 1). Mr. Flaherty testified that, in his opinion, the fair market value of Lot 17 (and another nearby lot) was between \$175,000 and \$200,000. The hearing was held December 15, 1988.

Helen Wilkes, an adjoining property owner (3923 Prospect Street), testified as a professional architect (Exhibit 13). She presented a series of exhibits which served to quantitatively analyze the proposals for both Lot 13 and 15 in relation to the existing development patterns in the immediate area, a hitherto unchanged part of the Kensington Historic District (exhibits 17A-E). This analysis, she stated, showed that the proposed construction would result in much narrower spacing between houses than that found elsewhere on Prospect Street where the average distances between houses on the north and south sides are 73.1 and 43.4 feet, respectively. It also demonstrated that the footprint of the structure proposed for Lot 13 was larger than the footprint of the adjoining primary resources where the average property coverage observed on the north and south sides of Prospect street is currently 8.7 and 8.5 percent, respectively. Ms. Wilkes also pointed out

that the proposed structure for Lot 13 was higher than the primary resource at 3923 Prospect Street and that the proposed structure would dominate the streetscape as a result. She also indicated that the massing of the proposed structure was inappropriate in that it was rectangular and block-like, quite unlike the more unevenly massed structures found elsewhere in the neighborhood. In summary, the witness testified that the proposed structure was larger than others on the street. She testified that, consequently, the proposed construction would change the overall character along the north side of Prospect Street. She submitted copies of period photographs of the Harry Armstrong property (3927 Prospect) documenting that Lots 13 and 15 historically were the side yard gardens for the house at 3927 Prospect Street, and as such were the environmental setting component of the historic resource(s) identified on the Plan in this part of the district.

Don Little, an architect and a member of the Kensington LAC, testified that the applicant was actually proposing infill construction designed for an urban setting (with a high degree of uniformity and lot boundary definition), when in fact the intention always was for Kensington to be a suburban, park-like setting with an emphasis on green space. He testified that the proposed fence was inappropriate in that it contributed to such "definition." He added that Kensington was envisioned as an escape from the urban environment and that the emphasis, in developing the area, always had been as much on the natural environment as on the built environment.

Among the exhibits presented by Ms. Wilkes was the deed for the Lots, 13, 14 and 15 to the applicant and his wife for \$720,000 (Exhibit 1). Also an affidavit from Samuel M. Sipe, Jr., was presented (Exhibit 2). It differs from Mr. Murray's testimony regarding Mr. Sipe's offer to purchase Lots 13 and 14. The affidavit states that the house on Lot 14 was being offered by the applicant for \$545,000. (Exhibit 3 is a copy of an advertisement for the house for \$545,000 listing Molly Murray as the realtor.) According to the affidavit, the Sipes made an offer of \$635,000 to purchase the house and Lot 13 as a side yard. The written offer to purchase Lots 13 and 14 was made on February 11, 1989. According to the affidavit, Mr. Murray responded the following day with a counter offer of \$745,000. According to the affidavit Mr. Murray stated that he had a separate offer from builders for Lot 13 (the side yard) for approximately \$200,000. The Sipes rejected the counter offer.

Exhibit 4, presented by the opposition, is a letter from Ms. Karen Maury, a real estate broker. The letter states that within the last year, there have been two transfers of lots in the Kensington Historic District - one for \$105,000 and the other for \$80,000. Ms. Wilkes also provided the Commission with a copy of the deed (Exhibit 5) and plat (Exhibit 6) relating to the \$105,000 transfer. Finally, Exhibits 7 and 8 are the deeds for the two lots involved in the Flaherty hearing (both sold for \$70,000).

Other witnesses appeared for the opposition presenting both written and verbal testimony. Among the witnesses were representatives of the Town of Kensington, the Kensington Historical Society, the Maryland Historical Trust, and several neighborhood residents, including John O'Neill, an attorney who lives at 3915 Prospect Street. Their testimony was in opposition to the proposals on Lot 13 and Lot 15.

MOTION TO RECUSE

At the start of the third and final hearing, the applicant moved to have Commissioner Wagner recuse herself from any further participation in the hearing or decision of the instant application. As ground for the motion, the applicant noted that Commissioner Wagner lives within the Kensington Historic District. The applicant also felt that the questions Commissioner Wagner asked revealed that she had pre-judged the application.

The motion is denied. First, the mere fact that a Commissioner lives in or near an area which is the subject of Commission review is, without more, an insufficient basis upon which to base a recusal. In this regard, the Commission notes that Commissioner Wagner has previously obtained the opinion of the Chairman of the Montgomery County Ethics Commission expressing the same view (copy attached). Second, Commissioner Wagner's questions were simply the result of her active participation in the hearings. Some Commissioners are more vocal than others. Commissioner Wagner's questions were prompted by curiosity, not pre-judgment.

FINDINGS

The Kensington Master Plan Amendment details the findings of historical and architectural significance that resulted in the placement of the historic district on the Master Plan.

The town of Kensington began as a small crossroads settlement along the Bladensburg Turnpike, an early market road between the County's major north/south route, Old Georgetown Road, and the port of Bladensburg on the Anacostia River in Prince George's County. When the B&O Railroad was built in 1873, the crossroads settlement became known as Knowles Station, named after the major land holding family in the area.

By 1890, Knowles Station had developed into a village of several hundred people, most of whom were living north of the railroad. In that year, Washington financier, Brainard H. Warner, purchased and subdivided property to the south and southwest of the railroad, naming the area Kensington Park after the famous London suburb. The subdivision was designed in the Victorian manner with ample sized lots and a curvilinear street pattern.

Warner established his own summer residence and invited his friends to join him in this park-like setting away from the heat and congestion of Washington. It is this concentration of Victorian period, residential structures located in the center of the town which constitutes the core of the historic district.

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

streetscapes. This uniformity, coupled with the dominant design inherent in Warner's original plan of subdivision, conveys a strong sense of both time and place, that of a Victorian garden suburb.(Emphasis Added.)

The proposals will effect all the historic resources located on the north side of Prospect Street, four of which are indicated as primary resources in the historic district, according to the Master Plan. Primary historic resources are those properties which contribute to the historicity of the district and which possess architectural and/or historical significance. The extant structures in this area, 3927 and 3923 Prospect Street were both constructed circa 1904 in the Victorian manner by the Armstrong brothers, Harry and Hugh. The houses exhibit typical features of the Queen Anne architectural substyle, including ample front porches, steeply-pitched roofs, and asymmetrically-arranged gables. The Harry Armstrong resource at 3927 Prospect is further distinguished by an unusual twin gable at the attic level. They are situated in an area which has survived as one of the most intact and unaltered streetscapes in the Kensington Historic District. With few intrusions, the north side of Prospect Street can be characterized as a "Victorian garden setting," with mature picturesque trees, gracious, informal yards, and large well-spaced residences constructed near the turn of the century. It is this Victorian garden setting that earned Kensington its placement on the Master Plan for Historic Preservation, as well as the United States Department of the Interior, National Park Service National Register of Historic Places.

The Commission finds that the structure proposed for Lot 13 would seriously impair the extant streetscape along the north side of Prospect Street. As shown in Exhibit L, there are presently only five structures located on the north side of Prospect Street, four of which are historic. Each sits within a large tree-covered property. The existing streetscape alternates rhythmically between residential structures amid these spacious yards. This existing rhythm on Prospect Street (particularly on the north side) would be significantly altered and virtually destroyed with the introduction of the proposed structure on Lot 13. Also, the views of the existing historic structures and their "gardens" would be partially obscured. They would no longer appear as focal objects in a garden-like setting, but rather as members in a row of urban-like residences.

The Commission finds that the proposed structure for Lot 13 is overscaled for the historic district in general and the existing streetscape of Prospect Street in particular. If built as proposed, its height and square footage would make it, not only much larger than the adjoining houses at 3923 (Lot 12) and 3927 (Lot 14) Prospect Street, but also much larger than other houses in the vicinity. Its height and square footage are not compatible with and would substantially alter the character and nature of this section of the historic district. As a result, the characteristic uniformity and cohesiveness of the streetscape noted in the Master Plan would be seriously impaired.

The coverage of the proposed house on its site, which has historically served as the open space, and environmental setting for the house at 3927 Prospect Street which is an identified historic resource, is such that the resulting relationship of house to "yard" would be significantly different from the existing relationship of houses to "yards" in this area of the historic district and is therefore incompatible with the character of the district.

The placement of the house on the site, which is an identified historic resource, disrupts the existing rhythm of house to yard on this streetscape and is therefore inappropriate to and incompatible with the character and nature of this section of the historic district. The width of the proposed house and its placement with respect to the

front property line is such that it would create a new rhythm of houses to yards, significantly altering the traditional relationship that still exists in this part of the historic district. In effect, the proposal would create a pronounced building "wall" along the street, thereby creating an urban setting incompatible with the historical Victorian garden setting of the district and the character of the district.

Without question, the proposed construction would also directly impact the natural environment. The Commission finds that the proposed construction would destroy a majority of the mature vegetation on Lot 13, dramatically altering the existing sylvan setting of the existing historic resources in this part of the district. As Mr. Nohly pointed out, the few remaining trees on Lot 13 could be irreparably damaged by construction equipment or excavation. These trees and other vegetation are important components of the "Victorian garden" setting which was referenced in the Master Plan. The Commission finds that the proposal would substantially alter the garden-like environmental settings of the adjoining properties, 3923 and 3927 Prospect Street, which are identified primary resources in the District and, therefore, is inconsistent with the purpose of the ordinance.

Finally, the Commission finds the location of the proposed driveway is inappropriate to and would impair the environmental setting of 3927 Prospect Street, an identified primary resource in the historic district, by removing mature vegetation and a portion of the existing side yard.

The applicant has suggested, though not directly argued, that if his application is not favorably acted upon, he will be deprived of reasonable use of the property or suffer undue hardship under Section 24A-8(b)(5). This argument must be rejected. The applicant has failed to prove that the denial of this single proposal will result in a "taking" of his property under the Fifth Amendment to the United States Constitution.

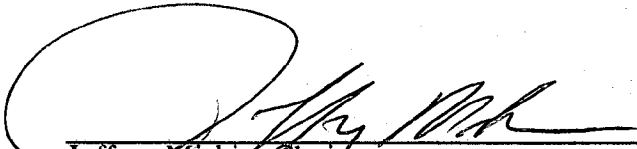
First, the Commission notes that applicant bears the burden of proof on this and all other questions of fact, Section 24A-7(g)(1). Second, the Commission's decision does not deny the applicant all reasonable use of the property. We have simply determined that this particular proposal is incompatible in character and nature with the surrounding resources and the historic district and would seriously impair the architectural value of the surrounding resources, as well as the character of the historic district as a whole. The applicant is free to return to the Commission to discuss possible alternatives for the development of this lot, Section 24A-6(d).

Finally, the applicant has not provided any evidence that the denial of this application will cause him to suffer undue economic hardship. The applicant's attorney stated that Mr. Murray was losing \$6,600 a month, but this figure has been neither explained nor documented. The applicant asserts that Lot 13 and Lot 15 are each worth \$200,000. The applicant further states that "[t]he cost of lots 13 and 15 dictate that a certain level and quality of house be built on them." (Exhibit N(9a)). In support of the \$200,000 figure, the applicant has produced a letter from a real estate broker. (Exhibit N(b)). The letter, however, was not the result of an appraisal conducted in accordance with traditionally accepted appraisal techniques but, rather, merely represents the letter writer's "feeling" as to the fair market value of Lots 13 and 15. The applicant also presented the testimony of Paul V. Flaherty, Jr., a past Historic Area Work Permit applicant. It is difficult to see how Mr. Flaherty's testimony provides any sort of reliable indicator of the price of land in Kensington. Moreover, Mr. Flaherty's estimate of \$175,000 to \$200,000 each for his two lots (15 and 17) is certainly called into question in light of the evidence that he bought each lot for only \$70,000 (Exhibits 7 and 8). Also, there is evidence in the record that during the last year lots in the Kensington Park Subdivision transferred for substantially less than \$200,000 (Exhibit 4).

Regardless of the true value of the lots, no evidence has been presented to show that if the instant proposals are not approved, the applicant will suffer undue economic hardship. The Commission has been provided with nothing more than bold assertions that the applicant will "lose money" if the application is rejected. The Commission finds that the applicant has not met his burden of proof or persuasion on this issue.

Based on these facts and findings, and having heard and carefully considered all of the testimony and exhibits and having inspected the property in question and the ways in which it relates to its environmental setting and to the historic district, it is the decision of the Montgomery County Historic Preservation Commission that the application by Frank P. Murray for an Historic Area Work Permit for new construction at 3925 Prospect Street (Lot 13, Block 11), Kensington Park Subdivision, is denied and the Department of Environmental Protection is instructed to withhold the permits.

If any party is aggrieved by the decision of the Commission, pursuant to Section 24A-7(h) of the Montgomery County Code, an appeal may be filed with the Circuit Court for Montgomery County, Maryland in the manner prescribed under Chapter 1100, Subtitle B of the Maryland Rules of Procedure.



Jeffrey Miskin, Chairperson
Montgomery County Historic Preservation Commission

Before the Montgomery County Historic Preservation Commission

Application of Frank P. Murray

Before the Commission is the application of Frank P. Murray for an Historic Area Work Permit for new construction at 3925 Prospect Street, (Lot 13, Block 11), Kensington Park Subdivision, Kensington, Maryland.

Prior to the Commission's review of the application, the Kensington Local Advisory Committee (LAC) reviewed the application on May 1, 1989. In response to the LAC's comments, the applicant made revisions to his original plans. The Historic Preservation Commission received the application in May, 1989, and a public hearing was held on June 15, 1989. Two additional hearings were necessary (July 6, 1989 and July 21, 1989) so that the applicant could present his case. The application was considered jointly with another application for an Historic Area Work Permit filed by Mr. Murray for new construction at 3929 Prospect Street (Lot 15). The applicant appeared, represented by counsel, and presented several witnesses and many exhibits for the Commission's consideration. A number of Kensington residents appeared in opposition to the application. One opponent, Helen Wilkes of 3923 Prospect Street (Lot 12), Kensington, enlisted the services of an attorney. At the conclusion of the final hearing (July 21, 1989), the record was closed. All parties agreed that the Commission would issue its decision at its next scheduled meeting on August 17, 1989. Having heard and considered all of the testimony and exhibits found in the record, it is the decision of the Commission to deny the application by Frank P. Murray for an Historic Area Work Permit for new construction at 3925 Prospect Street, pursuant to Section 24A-8(a) of the Montgomery County Code (1984), as amended.

The following terms are defined in Section 24A-2 of the Code:

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

Historic resource: A district, site, building, structure or object, including its appurtenances and environmental setting, which is significant in national, state or local history, architecture, archeology or culture.

Appurtenances and environmental setting: The entire parcel, as of the date on which the historic resource is designated on the master plan, and structures thereon, on which is located an historic resource, unless reduced by

the commission, and to which it relates physically and/or visually. Appurtenances and environmental settings shall include, but not be limited to, walkways and driveways (whether paved or not), vegetation (including trees, gardens, lawns), rocks, pasture, cropland and waterways.

On July 7, 1986, the Montgomery County Council, sitting as the District Council, approved a resolution designating the Kensington Historic District (#31/6), as an amendment to the Master Plan for Historic Preservation. The amendment was adopted by the Maryland-National Capital Park and Planning Commission (M-NCPPC), effective July 8, 1986. The Kensington Master Plan Amendment states:

According to [Section III of the Commission's Guidelines for Historic Districts,] a Historic District as identified, and if approved for inclusion in the County's Master Plan for Historic Preservation, shall consist of the entire area represented by all of the historic resources with their appurtenances and environmental setting. Non-historic properties within the boundaries of the Historic District are also subject to regulation, as they are considered appurtenances and part of the environmental setting of the historic resources of the District.

In regard to the properties identified as secondary resources -- that is visually contributing but non-historic structures or vacant land within the Kensington District -- the Ordinance requires the Preservation Commission to be lenient in its judgment of plans for contemporary structures or for plans involving new construction unless such plans would seriously impair the historic or architectural value of surrounding resources or impair the character of the District. (Emphasis in original)

The Kensington Master Plan Amendment reveals that the existing resources on Lots 12 and 14 are both primary resources within the district. The Plan also shows that Lots 13 and 15 are primary resources. Lots 13 and 15 were vacant at the time of the Master Plan amendment.

The following exhibits and testimony were presented at the hearings:

Mr. Murray testified that he is the owner of a small business (Murray & Sons) and had been building houses for 39 years. He said that he is not a "developer". Rather, he buys lots (usually infill), builds on them, and then sells them. He built two houses in each of the following years: 1988, 1987,

and 1986. In 1985, he built eight houses. He bought Lots 13, 14 and 15 with the purpose of developing the vacant lots (13 and 15). Before he purchased the lots, he contacted an official at M-NCPPC, and determined that they were properly subdivided, buildable lots. Mr. Murray testified that he entered into a contract to sell the house on Lot 14, with settlement expected in mid-August. He refused to reveal his cost for all three lots, or the price that Lot 14 was being sold for. (In his opening statement, Mr. Chen, the applicant's attorney, indicated that Mr. Murray had out-of-pocket expenses of \$800,000 for all three lots and that he was losing \$6,600 a month).

Mr. Murray testified that a Samuel Sipe, who lives on Western Avenue, made him an offer for Lots 13 and 14. According to Mr. Murray, Mr. Sipe offered to "trade" his (Mr. Sipe's) house on Western Avenue for Lots 13 and 14. Mr. Murray rejected the offer because of the traffic congestion of Western Avenue and because Mr. Sipe's lot on Western Avenue was not subdivided. Mr. Murray indicated that there was one other offer for Lot 13. A real estate agent approached Mr. Murray and told him that some neighbors might give him \$100,000 for Lot 13. Mr. Murray made a counter offer of \$200,000 which, apparently, was rejected by the "neighbors".

Michael Patterson, the applicant's architect, testified that the proposal for Lot 13 (3925 Prospect Street) was designed in the "simple Victorian vernacular" mode, blending well with the adjacent existing historic resources. He explained that it was not his intention to design a "straight copy" of other structures in the district or neighborhood, but rather, to provide compatible designs within the confines of setback and other zoning restrictions. He added that he felt that the width, depth, and scale of the proposed structure was compatible with the existing surrounding structures. He stressed that the plans before the Commission were the product of three revisions, and that he had responded to the LAC's concerns by "pulling in" the structure as much as possible without resulting in an uninhabitable house. In summary, Mr. Patterson stated that he did not believe that Lot 13 was a historic resource, according to the definition in Section 24A-2 of the Code.

Ms. Shelly Rentsch, a landscape architect retained by the applicant, testified that the proposed construction for Lots 13 and 15 (situated on the north side of Prospect Street) would help to balance the streetscape, in that the structures on the south side of Prospect Street were more closely spaced than on the north side of the street. Streetscape is defined as the street views created by the interrelationship of structures, appurtenances, and environmental setting. She added that, very often, infill construction is a very useful tool in completing the streetscape. She also stated that in her opinion none of the existing vegetation on Lot 13 was particularly significant or rare. She added that the Boxwoods situated on the lot would be moved to Lot 15 in order to preserve them. In summary, she stated that she did not feel that the proposal would impair the historic district in any way, but that it, along with the proposed construction on Lot 15, would reinforce the harmony of the streetscape.

An arborist, Mr. John Nohly, also testified on behalf of the applicant. He stated that the most substantial tree on Lot 13, a triple trunk Hemlock (34" caliper), was proposed to be removed, but that it was not a particularly outstanding specimen, and had suffered limb loss and insect damage. He further testified that the proposed construction would result in the loss of many other trees on the lot. However, he indicated that none of the trees were good specimens.

The applicant's daughter, Ms. Molly Murray, testified that she had been a realtor for 3 1/2 years and had worked for her father for the past six years. She stated that if the Commission denied the applications for Lots 13 and 15, they would "lose money", even if they sold Lot 14. She indicated that she thought the fair market value of Lots 13 and 15 was \$200,000 each. In support of this opinion, she produced a letter from an R.A. McClelland, a real estate broker (Exhibit N(b)). However, on cross-examination, Ms. Murray admitted that Mr. McClelland's letter was not an appraisal and that he did not use any established appraisal methods in arriving at his determination of the fair market value of either Lot 13 or Lot 15. Upon further examination, Ms. Murray stated that Lots 13, 14, and 15 were purchased for \$720,000.

The applicant presented many exhibits (A through GG), consisting of various photoboards, maps, designs, and plans, all in support of both applications. Among the exhibits was an excerpt from the testimony of Paul V. Flaherty, Jr. during the hearing on his application for an Historic Area Work Permit for new construction at 10232 Carroll Place (Lot 17, Block 2), Kensington Park Subdivision, Kensington, Maryland (Exhibit I). Mr. Flaherty testified that, in his opinion, the fair market value of Lot 17 (and another nearby vacant lot) was between \$175,000 and \$200,000. The hearing was held December 15, 1988.

Helen Wilkes, an adjoining property owner (Lot 12), testified as a professional architect (Exhibit 13). She presented a series of exhibits which served to quantitatively analyze the proposals for both Lot 13 and 15 in relation to existing structures and lot sizes in the district (Exhibits 17A - 17E). This analysis, she contended, showed that the proposed construction would result in much narrower spaces between houses than that found elsewhere on Prospect Street. It also demonstrated that the footprint (lot coverage) of the structure proposed for Lot 13 was larger than the footprint of the structures located on Lots 12 and 14. Ms. Wilkes also pointed out that the proposed structure for Lot 13 was higher than the existing structure on Lot 12, and that it would dominate the streetscape as a result. She also indicated that the massing of the proposed structure was inappropriate in that it was rectangular and block-like, quite unlike the more unevenly massed structures found elsewhere in the neighborhood. In summary, the witness testified that the proposed structure was larger than others on the street. She testified that, consequently, the proposed construction would impair the overall character along the north side of Prospect Street (large lots and a park-like setting), and that the existing structures should be viewed as objects in the landscape. She submitted copies of period photographs of the structure on Lot 14, showing that Lot 13, along with Lot 15, was historically used as a garden for Lot 14.

Don Little, an architect and a member of the Kensington LAC, testified that the applicant was actually proposing infill construction designed for an urban setting (with a high degree of uniformity and lot boundary definition), when in fact the intention always was for Kensington to be a suburban park-like setting with an emphasis on green space. He testified that the proposed fence was inappropriate in that it contributed to such "definition." He added that Kensington was envisioned as an escape from the urban environment and that the emphasis, in developing the area, always had been as much on the natural environment as on the built environment.

Among the exhibits presented by Ms. Wilkes was the deed for Lots 13, 14, and 15 to the applicant and his wife for \$720,000 (Exhibit 1). Also, an affidavit from Samuel M. Sipe, Jr. was presented (Exhibit 2). It differs from Mr. Murray's testimony regarding Mr. Sipe's offer to purchase Lots 13 and 14. The affidavit states that the house on Lot 14 was being offered by the applicant for \$545,000 (exhibit 3 is a copy of an advertisement for the house on Lot 14 for \$545,000, listing Molly Murray as the realtor), but the Sipes made an offer of \$635,000 for the house and Lot 13, as a side yard. The written offer to purchase Lots 13 and 14 was made on February 11, 1989. The following day, Mr. Murray responded with a counter offer of \$745,000. Apparently, Mr. Murray already had a separate offer from builders for Lot 13 (the side yard) for approximately \$200,000. The Sipes rejected the counter offer.

Exhibit 4 is a letter from Ms. Karen Maury, a real estate broker. The letter states that within the last year, there have been two transfers of vacant land in Kensington - one for \$105,000 and the other for \$80,000. Ms. Wilkes also provided the Commission with a copy of the deed (Exhibit 5) and plat (Exhibit 6) relating to the \$105,000 transfer. Finally, Exhibits 7 and 8 are the deeds for the two vacant lots involved in the Flaherty hearing (both sold for \$70,000).

Other witnesses appeared for the opposition presenting both written and verbal testimony. Among them were the Town of Kensington, the Kensington Historical Society, the Maryland Historical Trust, and several neighborhood residents, including John O'Neill, an attorney who lives at 3915 Prospect Street. Their testimony was in opposition to the proposals on Lot 13 and Lot 15 although, since Lot 15 is larger, there was a tendency to be more concerned about the proposal for Lot 13.

Motion to Recuse

At the start of the third and final hearing, the applicant moved to have Commissioner Wagner recuse herself from any further participation in the hearing or decision of the instant application. As grounds for the motion, the applicant noted that Commissioner Wagner lives within the Kensington Historic District. The applicant also felt that the questions Commissioner Wagner asked revealed that she had pre-judged the application.

The motion is denied. First, the mere fact that a Commissioner lives in or near an area which is the subject of Commission review is, without more, an insufficient basis upon which to base a recusal. In this regard, the Commission notes that Commissioner Wagner has previously obtained the opinion of the Chairman of the Montgomery County Ethics Commission expressing the same view (copy attached). Second, Commissioner Wagner's questions were simply the result of her active participation in the hearings. Some Commissioners are more vocal than others. Commissioner Wagner's questions were prompted by curiosity, not pre-judgment.

Findings

The Kensington Master Plan Amendment details the findings of historical and architectural significance that resulted in the placement of the historic district on the Master Plan.

The town of Kensington began as a small crossroads settlement along the Bladensburg Turnpike, an early market road between the County's major north/south route, Old Georgetown Road, and the port of Bladensburg on the Anacostia River in Prince George's County. When the B&O Railroad was built in 1873, the crossroads settlement became known as Knowles Station, named after the major land holding family in the area.

By 1890, Knowles Station had developed into a village of several hundred people, most of whom were living north of the railroad. In that year, Washington financier, Brainard H. Warner, purchased and subdivided property to the south and southwest of the railroad, naming the area Kensington Park after the famous London suburb. The subdivision was designed in the Victorian manner with ample sized lots and a curvilinear street pattern.

Warner established his own summer residence and invited his friends to join him in this park-like setting away from the heat and congestion of Washington. It is this concentration of Victorian period, residential structures located in the center of the town which constitutes the core of the historic district.

The district is architecturally significant as a collection of late 19th and early 20th century houses exhibiting a variety of architectural styles popular during the Victorian period, including Queen Anne, Shingle, Eastlake and Colonial Revival. The houses share a uniformity of scale, set backs and construction materials that contribute to the cohesiveness of the district's streetscapes. This uniformity, coupled with the dominant design inherent in Warner's original plan of subdivision, conveys a strong sense of both time and place, that of a Victorian garden suburb (Emphasis added).

The affected historic resources located on Lots 12 and 14 are primary resources in the historic district, according to the Master Plan. Primary historic resources are those which contribute to the historicity of the district and which possess architectural and/or historical significance. The structures on these two lots were both constructed circa 1904 in the Victorian manner. They exhibit typical features of the Queen Anne substyle, including large decorative porches, steeply pitched roofs, and asymmetrically arranged gables. They are situated in an area which has survived as one of the most intact and unaltered streetscapes in the Kensington Historic District. With few intrusions, the north side of Prospect Street can be characterized as a "Victorian garden setting", with mature picturesque trees and large well-spaced residences constructed near the turn of the century. It is this Victorian garden setting that earned Kensington its placement on the Master Plan for Historic Preservation, as well as the National Register of Historic Places.

The Commission finds that the structure proposed for Lot 13 would seriously impair this existing streetscape along the north side of Prospect Street. As shown in Exhibit L, there are presently only four historic resources located on the north side of Prospect Street and they are separated by large tree-covered yards. The existing streetscape alternates rhythmically between residential structures and spacious yards. This existing rhythm on Prospect Street (particularly on the north side) would be significantly altered and virtually destroyed with the introduction of the proposed structure on Lot 13. Also, the views of the existing structures on Lots 12 and 14 from the street would be partially obscured. They would no longer appear as focal objects in a garden-like setting, but as a less significant link in a row of urban-like residences.

The Commission finds that the proposed structure for Lot 13 is overscaled for the historic district. If built, its height and square footage would make it, not only much larger than the adjoining primary resources at 3923 (Lot 12) and 3927 (Lot 14) Prospect Street, but also much larger than other resources in the vicinity. As a result, the characteristic uniformity and cohesiveness of the streetscape noted in the Master Plan would be seriously impaired.

Without question, the proposed construction would also directly impact the natural environment. The Commission finds that the construction will destroy a majority of the mature vegetation on Lot 13, dramatically altering the sylvan setting of the resources at 3923 (Lot 12) and 3927 (Lot 14) Prospect Street (Exhibit Z). As Mr. Nohly pointed out, the few remaining trees on Lot 13 could be irreparably damaged by construction equipment or excavation. These trees and other vegetation contribute to the "Victorian garden" setting which was referenced in the Master Plan. Furthermore, this wooded area constitutes a significant part of the environmental setting for the historic resource on Lot 14.

Finally, the Commission finds that the proposed driveway will impair the environmental setting of the primary resource at 3927 Prospect Street (Lot 14) by removing trees and a portion of the existing side yard.

The applicant has suggested, though not directly argued, that if his application is not favorably acted upon, he will be deprived of reasonable use of the property or suffer undue hardship under Section 24A-8(b)(5). This argument must be rejected. The applicant has failed to prove that the denial of this single proposal will result in a "taking" of his property under the fifth amendment to the United States Constitution.

First, the Commission notes that applicant bears the burden of proof on this and all other questions of fact, Section 24A-7(g)(1). Second, the Commission's decision does not deny the applicant all reasonable use of the property. We have simply determined that this particular proposal would seriously impair the architectural value of the surrounding resources, as well as the character of the historic district as a whole. The Commission invites the applicant to return to us to discuss possible alternatives for the development of this lot, Section 24A-6(d).

Finally, the applicant has not provided any evidence that the denial of this application will cause him to suffer undue economic hardship. The applicant's attorney cryptically stated that Mr. Murray was losing \$6,600 a month, but this figure has been neither explained nor documented. The applicant asserts that Lot 13 and Lot 15 are each worth \$200,000. The applicant further states that "[t]he cost of lots 13 and 15 dictate that a certain level and quality of house be built on them." (Exhibit N(a)). In support of the \$200,000 figure, the applicant has produced a letter from a real estate broker. (Exhibit N(b)). The letter, however, was not the result of an appraisal conducted in accordance with traditionally accepted appraisal techniques but, rather, merely represents the letter writer's "feeling" as to the fair market value of Lots 13 and 15. The applicant also presented the testimony of Paul V. Flaherty, Jr., another past Historic Area Work Permit applicant. It is difficult to see how Mr. Flaherty's obviously self-serving testimony provides any sort of reliable indicator of the price of land in Kensington. Moreover, Mr. Flaherty's estimate of \$175,000 to \$200,000 each for his two lots (15 and 17) is certainly called into question when one realizes that he bought each lot for only \$70,000 (Exhibits 7 and 8). Also, there is evidence in the record that during the last year vacant lots were transferred for substantially less than \$200,000 (Exhibit 4).

Regardless of the true value of the vacant lots, no evidence has been presented to show that if the instant proposals are not approved, the applicant will suffer undue economic hardship. The Commission has been provided with nothing more than bold assertions that the applicant will "lose money" if the application is rejected. The Commission finds that the applicant has not met his burden of proof or persuasion on this issue.

Based on these facts and findings, and having heard and carefully considered all of the testimony and exhibits contained in the record, it is the decision of the Montgomery County Historic Preservation Commission that the application by Frank P. Murray for an Historic Area Work Permit for new construction at 3925 Prospect Street (Lot 13, Block 11), Kensington Park Subdivision, is denied.

If any party is aggrieved by the decision of the Commission, pursuant to Section 24A - 7(h) of the Montgomery County Code, an appeal may be filed with the Circuit Court for Montgomery County, Maryland in the manner prescribed under Chapter 1100, Subtitle B of the Maryland Rules of Procedure.

Jeffrey Miskin, Chairperson
Montgomery County Historic Preservation Commission

JBC:EL:av
1278E



Montgomery County Government

May 11, 1989

Ms. Barbara H. Wagner
3915 Baltimore Street
Kensington, Maryland 20895

Dear Ms. Wagner:

The Ethics Commission has reviewed your request for guidance regarding your membership on the Historic Preservation Commission and voting on matters regarding the Kensington Historic District as you are an owner/restorer of a property in Kensington.

Your interest in a property in the Kensington Historic District was known by the appointing authority prior to your appointment to the Commission. Due to this disclosure, you are not precluded from discussing or voting on matters regarding properties in the Kensington Historic District in fulfillment of your duties on the Commission. However, in matters regarding any properties you own or in which you have a personal financial interest, you must refrain from any discussions and voting. Such activity would, of course, be a conflict of interest and a violation of the Ethics law.

The Commission trusts that this guidance will be helpful to you in carrying out your responsibilities on the Historic Preservation Commission. Please feel free to contact us for further assistance if it should be needed.

Sincerely,

A handwritten signature in cursive script, appearing to read "Donald E. Jefferson".

Donald E. Jefferson
Chairman

DEJ:BMM:bmm

FINAL

Minutes of the Kensington Local Advisory Committee
Town Hall May 1, 1989 8:00 P.M.

Attendance Present: Dempster, Little, Jones, Lossing, Mattingly,
Canning-Schruben, Hanks-Henn, Schulman

28 people were in the audience.

1. The minutes of the last meeting were approved.
2. Tree Committee. The town requested a death certificate on trees located at 3918 Prospect St, 3934 and 3924 Baltimore St. Dr. Lossing examined the trees and notified the town that they were dead.

Dr. Lossing stated that Mr. Donald Jackson, arborist and owner of Treemasters would be willing to provide informal consultation to the Tree Committee regarding whether trees were dead or rehabilitatable.

A Work Permit Application was received for some trees at 10216 Kensington Parkway.

3. Treasurers Report. \$739 balance in the account.
4. Tuesday, May 16th from 6-8 PM
Champagne Reception and Awards Ceremony for Best Historic Preservation Project. Strathmoor Hall.
5. HPC "Expedited" Historical Area Work Permits. A case of a chimney replacement and a case of a County Permit given without notification that he needed a Historic Work Permit. (Item 1)
6. The L.A.C. reviewed the schematic chart proposed by the Historic Preservation Commission for handling Historic Area Work Permits. (Item 2).
7. A mailing is to be developed to be sent to the residents of the town explaining the HPC and the IAC, and how to get a permit for repairs, construction and tree removal. (
8. Approved Minutes should be sent to the Chairman (2 copies). To the town (one copy).
9. Montgomery Preservation Seminar will be held May 11 in Takoma Park.
10. Letter to County Council regarding amendment to Hist Pres. Ordinance which would shift the appeals process from the circuit court to the board of appeals. The IAC went on record against this virtual downgrading of the entire ordinance. (Item 3).

11. 3824 Warner St. Proposed deck at the rear of the property. MOTION: TO APPROVE THE CONSTRUCTION OF A DECK WITH RAILING. Carried.

12. Mr. Chen and Mr. Patterson presented Mr. Murray's application. The application was complete at this point including the tree survey. It was noted that the new submission resulted in the building on lot 13 being reversed, to save numerous trees. Furthermore, the house on lot 15 was cut down so that it had a front elevation reduced from 64 feet to 53 feet, by removing the garage to the back of the lot.

Points were made from the Audience.

1. Mrs. Allen for The Wilkes. The Wilkes tried to buy the intervening lot, offering them 100,000.
2. Mrs. Wilkes referenced numerous problems in the proposed development including shrinking the space between houses from about 45 feet to as few as 16 to 18 feet.
3. A petition was read to the effect that many neighbors are opposed to any development on the lots. There were 92 signatures.
4. Mr. O'Neil stated that the proposed development would totally disrupt the rhythm of the street and cause a clumping on houses on the north end of the street.

13. General points made by committee members.

1. The south side of the Prospect St. has more houses, but they are smaller, and with good spacing.
2. The north side of Prospect historically has a open lot spacing between each house.

14. Lot 13 house: Remarks

1. The facade width is too great. The roof line is too tall.
2. The applicant didn't respond to a prior request to enumerate materials including siding and porch railing detail. It is requested that the porches be screened underneath.
3. The tree survey failed to take into account inevitable damage to root balls with expected death of remaining trees, including four hemlock trees on the south property line. The advice of an arborist should be sought to improve the chances of survival for these trees. Drip lines are needed on the tree survey.
4. The house is too long, and blocks the view up and down the back yards of other houses.
5. The house is shaped like a warehouse with a Victorian-esque treatment of the street elevation.
6. There is a size conflict between the bay and the chimney with the proposed driveway.

7. The removal of landscaping materials to lot 15 is not acceptable.
8. The proposed house is too massive compared to the resource houses on the same side of the street.
9. The rhythm of the street scape is altered by the size and massing of the house.
10. The proposed asphalt driveway is inconsistent with resource properties and the town in general.

MOTION: TO DISAPPROVE THE APPLICATION, ON THE GROUNDS STATED IN THE HISTORIC PRESERVATION ORDINANCE SECTION 24 A-8 on the grounds mentioned above. Carried 8 TO 0.

15. Lot 15 house: Remarks

1. The facade width is too great.
2. The front semicircular drive would reduce greenspace and in inconsistent with the streetscape and site context with regard to street edges.
3. The proposed house is too massive compared to the resource houses on the same side of the street.

MOTION: TO DISAPPROVE THE APPLICATION, ON THE GROUNDS STATED IN THE HISTORIC PRESERVATION ORDINANCE SECTION 24 A-8 on the grounds mentioned above. Carried 7 TO 1.

16. 3915 Baltimore St. Fence.

MOTION: TO APPROVE THE APPLICATION. Failed 3 to 5.

MOTION: TO APPROVE THE APPLICATION, WITH THE MODIFICATION THAT THE FENCE BE TRANSPARENT (WOOD OR GARDEN WIRE) TOWARDS LOT 9, AND ALSO WHERE THE FENCE JOGS BACK, PARALLEL TO BALTIMORE STREET, TO JOIN THE HOUSE. 8 TO 0.

17. 10320 Fawcett St. Questions were asked regarding the application procedure, and the owner mentioned an alteration of an addition, an building of a picket fence, and the covering of a poured concrete foundation with brick.

18. MOTION TO ADJOURN (AT 12:52.)

Respectfully submitted,

John H. Lossing
Recording Secretary

- I. The north side of Prospect St. stands as one of the few unspoiled examples of the suburban garden park streetscape envisioned in the design of Brainard Warner's Master Plan for the town of Kens. Park. The hist. dist. of Kens. is characterized by
- (1) LARGE LOTS
 - (2) UNIFORMITY OF SCALE,
 - (3) COHESIVENESS OF STREETSCAPES
 - (4) A PARK-LIKE SETTING
 - (5) A STRONG SENSE OF TIME & PLACE.

It is these characteristics which have ~~caused~~ ^{brought} Kens. ^{recognition} ~~to be recognized~~ ^{an area} as worthy of hist. dist. status.

II. (Refer to photos)

A. LG. LOTS (225', 125', 125', 100' frontages)

B. UNIFORMITY OF SCALE

C. COHESIVENESS OF STREETSCAPE

- uniform setbacks

- irregular massing

- front porches (which provide transition... ^{bet. indoor & outdoor spaces})

- density of houses rel. to open spaces
(min. distance bet. any 2 houses on ~~the~~ ^{north} side.. is 45')

D. PARK-LIKE SETTING (addressed by lg. spacing bet. houses and lg. front + backyards) which allows each of 4 historic houses to sit in its landscape as in a suburban garden park)

E. STRONG SENSE OF TIME & PLACE

(houses for most part preserved in orig. state)

III. LOT 13

A. SCALE

- footprint ^{much} larger than that of ~~the~~ ^{the existing} hist. resources on either side
- 21' longer than Wilkes house
- taller than + uphill from Wilkes house

B. MASSING

- rect. block vs. irregular massing

C. CHANGE TO "APPURTENANCES + ENVIRONMENTAL SETTING"
as protected by M.C.H.P.O., are irreparably
changed, altered + destroyed by removal
of majority of lg. trees on site

IV. Lot 15

A. SCALE

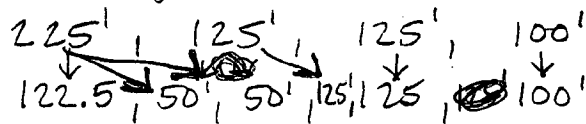
B. CHANGE TO "APP. & ENV. SET."

V. CHANGE ^{OF} STREETScape

A. RHYTHM

B. FRONTAGES

1. ^{Frontages} ~~lot~~ go from



2. Open space bet. houses

a. Presently:

64' bet. T + W

140' bet. W + O'N

45' bet. O'N + Greenhouse

T = Turner
W = Wilkes
O'N = O'Neil

b. Proposed:

40' bet. lot 15 + T

16' bet. T + lot 13

18' bet. lot 13 + W

VI. CLOSING

- Proposed const. would be INAPPROPRIATE, INCONSISTENT
WITH & DETRIMENTAL TO the preservation, enhancement
& protection of the historic district as set forth in
the M.C.H.P.O.

Summary of Testimony re: Proposed Development at
3927 Prospect Street, Kensington, MD
 Helen Crettier Wilkes, AIA

- I. North side of Prospect Street stands as one of the few unspoiled examples of the suburban garden park streetscape envisioned in the design of Brainard Warner's Master Plan for the town of Kensington Park. The Historic District of Kensington is characterized by:
- A. Large lots.
 - B. Uniformity of scale.
 - C. Cohesiveness of streetscapes.
 - D. A park-like setting.
 - E. A strong sense of time and place.

It is these characteristics which have brought Kensington recognition as an area worthy of Historic District status.

II. Analysis

- A. Large lots.
 1. Frontages for existing four Historic Resources (from west to east): 222.5 feet, 125 feet, 125 feet, 100 feet.
 2. There are presently 5 houses on the north side of Prospect Street to 14 platted lots.
 3. If all remaining lots on north side were approved for development, ratio of new homes to Historic Resources would be 9:4. This substantial amount of infill development would inalterably impair the historic character of Prospect Street. At what point is balance upset such that Historic District status is threatened? This important point was made by the Maryland Historic Trust in a letter to the M.C. Historic Preservation Commission during the Carroll Place proceedings (See attachment 1.).
- B. Uniformity of Scale
- C. Cohesiveness of streetscape.
 1. Uniform setbacks (50 ft on north side, 25 feet on south side).
 2. Irregular massing.
 3. Front porches, which provide transition between indoor and outdoor spaces.
 4. Density of houses (solid) to open spaces (void).
 - a. Minimum distance between any two houses on north side is presently 42.75 feet.
 - b. Even on south side of street, where houses are smaller and much closer to the street, minimum distance between houses in 27.5 feet.

- c. Proposed development would produce minimum distances between existing Resources and new houses of 18.0 feet and 18.25 feet.
- D. Park-like setting
 - 1. Produced by large spacing between houses and large front and back yards.
 - 2. Each of the 4 Historic Resources sits in the landscape as in a suburban garden park.
 - 3. Significant mature landscaping has been preserved on each lot, enhancing this park-like characteristic. The proposed development would result in destruction of a substantial amount of this landscaping.
- E. Strong sense of time and place
 - 1. Each historic estate on the north side is for the most part preserved in its original state.
 - 2. Additions and alterations to the houses have not altered significantly the above-listed characteristics.

III. Lot 13 - Analysis

- A. Scale
 - 1. Footprint of proposed house is much larger than those of existing Resources on either side.
 - 2. Footprint is 21 feet longer than Wilkes house (to the east).
 - 3. House is taller than and uphill from Wilkes house, would dominate and possibly hover over.
- B. Massing
 - 1. Rectangular block footprint and massing are uncharacteristic of Queen Anne style emulated by facades.
 - 2. Long, proportionally narrow form reads more like a "shotgun" house than like the irregular, blocky massing of typical period houses in Kensington.
- C. Changes to "appurtenances and environmental setting" as protected by the M.C. Historic Preservation Ordinance would be drastic and irreversible.
 - 1. Removal of majority of large trees and boxwoods necessary for construction.
 - 2. Many of remaining trees may be damaged irreparable or killed by construction excavation or equipment.
 - 3. New houses would dominate rather than defer to existing Resources.
- D. Analysis reveals that no house would be appropriate on Lot 13.

IV. Lot 15 - Analysis

A. Scale

1. House is much larger than any on Prospect Street or than most in Historic Kensington.
2. Scale and formal arrangement might be appropriate for a generous corner lot, but not for an infill lot.

B. Changes to "appurtenances and environmental setting" would be drastic and irreversible.

1. Many large trees and most of small trees (many of which are flowering dogwoods) would have to be removed.
2. Semi-circular driveway inappropriate in Historic Kensington and would cause removal of far more trees and shrubs than is necessary.

V. Changes to Streetscape

A. Rhythm

1. Relationship of open space to built is such that open spaces dominate overwhelmingly on north side.
2. On south side relationship is never less than 1:1, with exception of atypical recent brick house at east end of street.
3. Proposed large concentration of massing on lots 12 - 15 with distances of only 18 feet between some houses, would severely alter and impair the existing streetscape.
4. Proposed development on Lot 13 is a marked aberration from established rhythm on either side of street.

B. Frontages

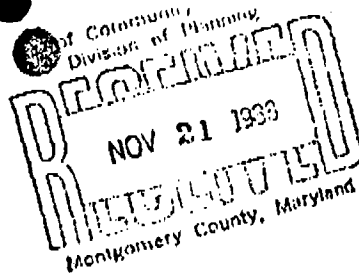
1. Estate frontages on north side (west to east) go from:
Existing: 222.5 feet, 125 feet, 125 feet, 100 feet.
Proposed: 122.5 feet, 50 feet, 50 feet, 125 feet, 125 feet, 100 feet.
2. Open space between houses
 - a. Presently:
 1. 64 feet between Murray/Turner house and Wilkes house.
 2. 140 feet between Wilkes house and house to east (O'Neil house).
 3. 45.75 feet between O'Neil house and house to east.
 - b. Proposed:
 1. 37.75 feet between house on lot 15 and Murray/Turner house.
 2. 18.25 feet between Murray/Turner house and house on Lot 13.
 3. 18 feet between house on Lot 13 and Wilkes house.

VI. Summary

- A. Developer Murray had option to sell at least Lot 13 with existing house, as was desired by so many buyers, but sold house without any of adjoining land instead; Wilkeses made an offer to buy Lot 13 as well.
- B. Proposed construction would be inappropriate, inconsistent with and detrimental to the preservation, enhancement and protection of the Historic District as set forth in the M.C. Historic Preservation Ordinance.
- C. Potential negative impact on Historic District status as cited in Maryland Historic Trust letter is a crucial point of consideration.

Attachments:

- 1. Maryland Historic Trust letter
- 2. Map diagram, "Existing Development"



1. LETTER

William Donald Schaefer
Governor

Jacqueline H. Rogers
Secretary, DHCD

November 17, 1988

Mr. Steven Karr, Chairman
Montgomery County Historic
Preservation Commission
51 Monroe Street
Rockville, Maryland 20850

Dear Mr. Karr:

The Maryland Historical Trust, the State's lead agency for historic preservation, has been contacted by a group of Kensington residents representing the Carroll Place Preservation Committee. These residents have requested our agency to provide comments to the Montgomery County Historic Preservation Commission on the proposed development by Avery-Flaherty on Carroll Place in the Kensington Historic District. We understand that information on the issue will be presented at the Commission's meeting on Thursday, November 17.

While the Trust has examined information provided to us by the Committee, we cannot ascertain the completeness of the data provided to us. In particular, we have not had the opportunity to review detailed final architectural and site plans for the proposed new construction. As the case before you appears complex, and demands thoughtful analysis over a longer period, our office cannot offer an informed opinion at this time on the design details of the proposed development.

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

As we understand the proposed development, houses would be built on either side of 10234 Carroll Place, a Queen Anne house which is one of only a few buildings identified as "individually significant," either historically or architecturally, in the National Register nomination for the Kensington Historic District. The house is prominently located on Carroll Place, across from the Noyes Library and the park surrounding the house of Brainard Warner, the original developer of Kensington. The large property at 10234 Carroll Place is visually prominent on the approach to the area from Connecticut Avenue.

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

Maryland

Steven Karr
 November 17, 1988
 Page 2

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

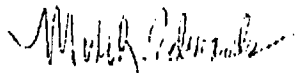
It appears that any new construction on the two lots in question would have some degree of adverse effect on the qualities from which the district derives its historic significance. The setting of the house at 10234 Carroll Place, with its large yard and extensive shrubbery, would be altered by the proximity of new buildings on either side. The historic streetscape of large wooded lots and the sense of time and place conveyed by this district would be changed by the introduction of greater density.

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

In addition to the careful review afforded by your Commission, we encourage continued efforts to secure the donation of historic preservation easements within the district to Montgomery County or the Maryland Historical Trust.

We hope that our comments will be useful to the Commission in your important deliberations.

Sincerely,

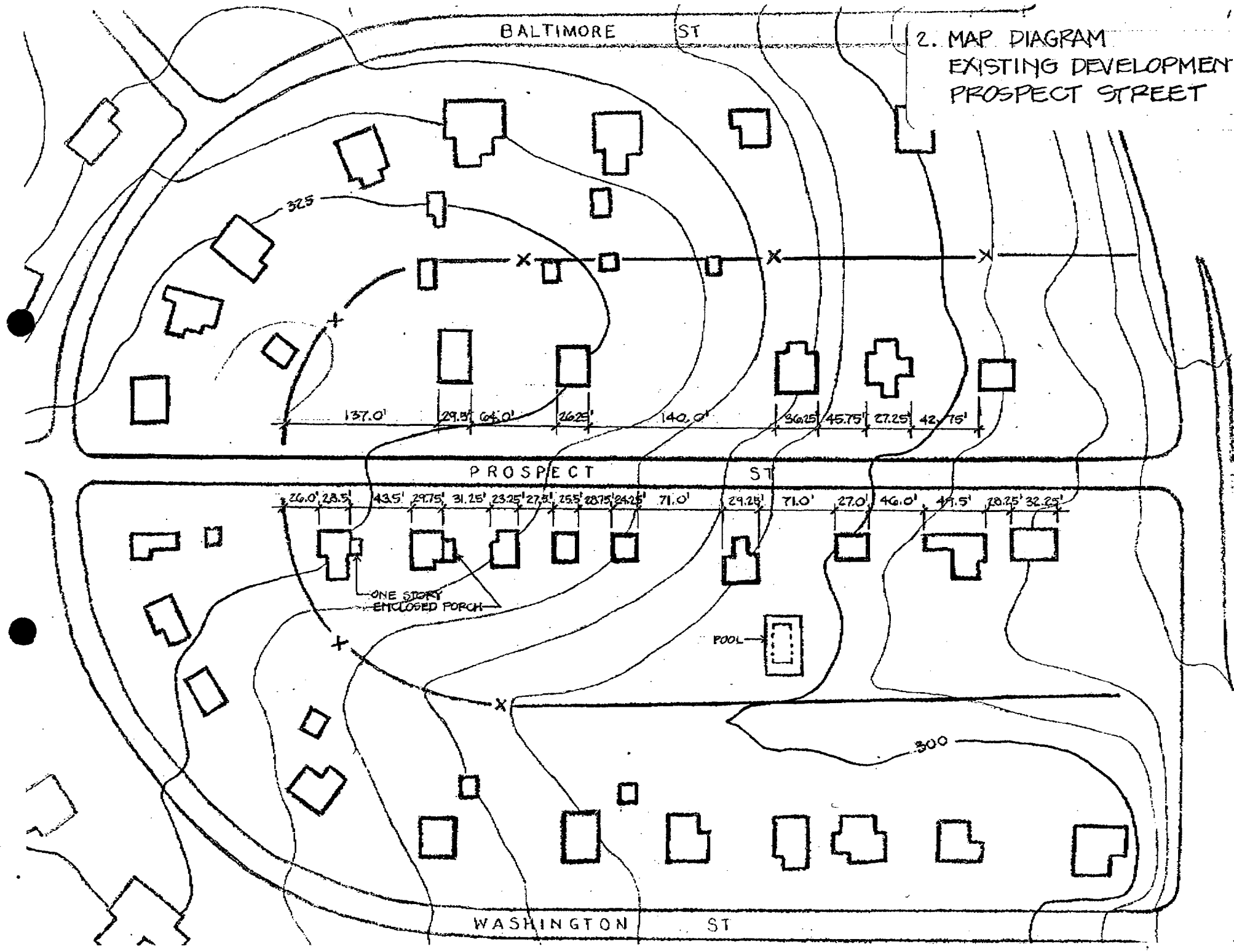


Mark R. Edwards
 Chief Programs Administrator-
 Deputy State Historic Preservation Officer

MRE/nmc

cc: Ms. Patricia McPherson
 Ms. Mary Ann Kephart
 Ms. Roberta Hahn
 Ms. Eileen McGuckian

2. MAP DIAGRAM
 EXISTING DEVELOPMENT
 PROSPECT STREET



MARYLAND HISTORICAL TRUST WORKSHEET

NOMINATION FORM for the NATIONAL REGISTER OF HISTORIC PLACES, NATIONAL PARKS SERVICE

SEE INSTRUCTIONS

1. NAME

COMMON: Kensington Historic District

AND/OR HISTORIC: Same

2. LOCATION

STREET AND NUMBER: Bounded on the north by Wheaton, on the northwest by Ken-Gar, on the

CITY OR TOWN: northeast by Forest Glen, on the south by North Chevy Chase, on the

STATE: southwest by Chevy Chase View. COUNTY: Montgomery

3. CLASSIFICATION

CATEGORY (Check One)	OWNERSHIP	STATUS	ACCESSIBLE TO THE PUBLIC
<input checked="" type="checkbox"/> District <input type="checkbox"/> Building <input type="checkbox"/> Site <input type="checkbox"/> Structure <input type="checkbox"/> Object	<input type="checkbox"/> Public <input type="checkbox"/> Private <input checked="" type="checkbox"/> Both	Public Acquisitions: <input type="checkbox"/> In Process <input type="checkbox"/> Being Considered	<input checked="" type="checkbox"/> Occupied <input type="checkbox"/> Unoccupied <input checked="" type="checkbox"/> Preservation work in progress
PRESENT USE (Check One or More as Appropriate)			
<input type="checkbox"/> Agricultural <input checked="" type="checkbox"/> Commercial <input checked="" type="checkbox"/> Educational <input checked="" type="checkbox"/> Entertainment	<input checked="" type="checkbox"/> Government <input type="checkbox"/> Industrial <input type="checkbox"/> Military <input checked="" type="checkbox"/> Museum	<input type="checkbox"/> Park <input checked="" type="checkbox"/> Private Residence <input checked="" type="checkbox"/> Religious <input checked="" type="checkbox"/> Scientific	<input checked="" type="checkbox"/> Transportation <input checked="" type="checkbox"/> Other (Specify) Cultural <input type="checkbox"/> Comments

4. OWNER OF PROPERTY

OWNER'S NAME: Multiple Public and Private Ownership

STREET AND NUMBER: Town of Kensington

CITY OR TOWN: Kensington STATE: Maryland 20795

5. LOCATION OF LEGAL DESCRIPTION

COURTHOUSE, REGISTRY OF DEEDS, ETC: Montgomery County Courthouse

STREET AND NUMBER: South Washington Street

CITY OR TOWN: Rockville STATE: Maryland 20850

Title Reference of Current Deed (Book & Pg. #): Plat Book B, Plat #4, Liber JA 23

6. REPRESENTATION IN EXISTING SURVEYS

TITLE OF SURVEY: Locational Atlas & Index of Historic Sites in Montgomery County, Maryland

DATE OF SURVEY: October 1976 Federal State County Local

DEPOSITORY FOR SURVEY RECORDS: Maryland National Capital Park & Planning Commission

STREET AND NUMBER: 8787 Georgia Avenue

CITY OR TOWN: Silver Spring STATE: Maryland 20910

Folio #2.

7. DESCRIPTION

CONDITION	(Check One)					
	<input checked="" type="checkbox"/> Excellent	<input type="checkbox"/> Good	<input type="checkbox"/> Fair	<input type="checkbox"/> Deteriorated	<input type="checkbox"/> Ruins	<input type="checkbox"/> Unreposed
	(Check One)			(Check One)		
	<input checked="" type="checkbox"/> Altered	<input type="checkbox"/> Unaltered	<input type="checkbox"/> Moved	<input type="checkbox"/> Original Site		

DESCRIBE THE PRESENT AND ORIGINAL (If known) PHYSICAL APPEARANCE

Kensington originated as an agricultural community alongside the Bladensburg Turnpike. The turnpike was a market road between Old Georgetown Road (the north/south route through Montgomery County) and Bladensburg, a port on the Anacostia River in neighboring Prince George's County. The farmers in Kensington and surrounding areas carried their tobacco to Bladensburg where it would be exchanged for goods arriving on British ships.

When the railroad line was built in 1873 from Washington D. C. to Western Maryland, it crossed the market road. The little crossroads settlement then became known as Knowles Station, after the Knowles family who conveyed land to the railroad company. In 1890, Brainard Warner, a government clerk in Washington, D. C. during the Civil War, invested in real estate at Knowles Station and developed the community into a Gay Nineties summer retreat. He changed the name to Kensington after visiting the Kensington in England. In 1894, the town became incorporated, with a mayor and council.

Connecticut Avenue divides the town. The main businesses lie south of the railroad, with small industries on the north. Kensington is comprised of the first public library in Montgomery County and a 1927 Armory which now serves as municipal offices and meeting hall. Two museums (a Victorian parlor and a toy museum) are also in the Armory. A World War II memorial, and the railroad station, built in 1893, are other historical attractions. The town consists of 304 acres. The population is approximately 2,200. Very little land has been annexed to the town since 1890. The architecture is a mixture, ranging from the altered farmhouses, to country Victorian, to modern.

The Warner home, now the Carroll Manor Nursing Home is sited on a circular lot near the southern border of the town. Its style was Queen Anne with subdued interior trim. An owl motif in the mantel and door trim is still visible and is of interest as it is the motif of the library which Mr. Warner built and donated to the town. A large barn with twin cupolas is extant. This property is at 10231 Carroll Place.

10226 Carroll Place, built ca. 1894, is also a Queen Anne design. It has a three-sided porch with a corner entrance. Seven steps lead to a triangular pediment, which has moulding of a foliate design in its tympanum. A balustrade, with turned balusters, runs the entire length of the porch. The newel posts are capped with carved wooden spheres. The architrave at the porch roof is comprised of curved brackets supported by colonettes. At the entry are double doors with double lights.

There is a turret on the southeast side of the house. It is decorated with scalloped shingles, which cover the space between the second and third floor windows. This large turret has a hexagonal pyramidal roof which is topped with a weathervane. Adjacent to the turret is a dormer with double windows and a triangular pediment with the foliate motif in the tympanum. A smaller turret is located midway on the east side of the

S E L I N S T R U C T I O N S

7. Description - Con't.

house; it has three twelve-pane windows.

Most of the windows, with lightly turned lintels are double-hung, sash, with single panes in the upper and lower sections. The west side of the house contains unique verticle windows; three on the second floor are stained glass, while the three directly below on the first floor are plain glass. There are three roundels on the east, west and north ends, with a spoke pattern. The east end also contains one arched verticle window. Two other gable dormers are duplicates of the one on the south side of the house. Gutters are built into the wood eaves on both floors. On the west side there is a two-story bay window. A hip roof and two chimneys, with rows of brick forming a molded cornice at the top, are additional features of this house. Another striking feature is the second-story window treatment on the south side; double windows project as a semi-rhombic bay. The original carriage house is on the grounds.

On the interior, a large entry hall is off a vestibule. There are front and back stairs, the former being paneled, with large and elaborately turned newel posts (which were stored away, but are presently being re-installed). Three sets of over-sized, sliding doors are to be found at the living room, dining room, and the library entry. Ornamental medallions surround the ceiling light-fixtures and the cornice mouldings have a foliate motif. There are four fireplaces with decorative trim in the form of flowers, leaves, cherubs, and animals. The hearths contain ceramic tile.

10304 Kensington Parkway is another good example of the Queen Anne style. This house has a brick ground story and timber and shingle, first through third floors. A large porch surrounds most of the three sides of the first floor with a stick style balustrade and newel posts, and a straight entablature above slightly turned colonettes. A pediment, with a foliate motif in the tympanum, is over the porch door. There is a three-story turret on the northwest corner, the top story having recessed rectangular windows. The turret has a hexagonal pyramidal roof topped by a finial.

The house has a hip roof with three dormers, each containing two small rectangular windows. The front dormer has a stick style tympanum over a small two-story bay, broken by the porch roof. The other two have tympanums of shingle siding, and rest over a two-story bay.

The windows have plain lintels, are double hung, single-pane with glazing in the upper and lower parts on the first and second floors.

The facade composition is simple and well balanced. Clapboard siding, other than scalloped shingles at the second floor base and on the third floor turret, gives the house a horizontal scale. All first and second story windows have shutters. One chimney has a molded brick cornice at the top and the other is straight-topped. The first-floor gutters are built into the wood eaves. It is believed that this house was a "catalog" house, and has a twin at 10400 Montgomery Avenue.

7. Description - Con't.

10213 Montgomery Avenue is a typical Georgian Revival style. This symmetrical house, with two chimneys on each side, has a rectangular plan. The main, or west entrance, has a central, trabeated door with two side lights and a glass transom. Over the entry, supported by two fluted pilasters, is a swan's neck pediment with a rosette in the center of each volute. Miniature rosettes are also in the capitals of the pilasters. An acorn motif is at the center. Further ornamentation is a row of dentils in the entablature.

The house, of clapboard, with a brick basement wall, has a hip roof and four dormers, the largest being on the west front. There are three separate porches, the side porches having tapering Tuscan columns set on square wooden plinths. The house also has two, two-story bay windows on either side. The windows are double-hung sash with six-over-six lights, and have plain lintels. The eaves have classic cornices.

The interior of the house has its original pine flooring, and both a front and back stairs. The coping of the front stairs is curved around the newel post. A motif of bull's eye molding is carried out on the window and door cornices. The fireplace mantel in the living room is supported by fluted pilasters with plain capitals; the library fireplace is paneled; and the dining room fireplace, which is the most decorative, has dentils in the mantel trim, with supports of detached Ionic colonettes. The hearths contain ceramic tile. The house was built ca. 1892; the architect was Edward Woltz of Washington, D. C.

3924 Baltimore Street was in the same family from its erection in 1901 until 1977, when it was purchased by its second owner. The eldest daughter was a doctor and had her office built on the right portion of the wrap-around porch. The house was designed by T. M. Medford of Washington, D. C., and built by A. C. Warthen of Kensington.

Exterior details are simple on this Victorian Georgian style. The first-story porch has square columns, stick balustrade and wooden modillions in the cornice. The house was stuccoed over its original clapboard ca. 1924. Giving the house a country villa appearance was a second-story porch, a duplicate of the first-story porch. (A portion remains, above the doctor's former office.) The back wing is original and contains a pantry and kitchen designed to accommodate a wood-burning stove for cooking.

Three dormers are built into the hip roof. The dormers, with jerkin head roofs, contain double windows. A chimney, containing a molded cornice, is at the very center of the roof. The back, two-story section has a rather plain chimney. All windows, other than the dormer windows, are double-hung, sash, with single pane, top and bottom; some windows have six lights over four. The second floor windows are shuttered. The transomed, front double door is symmetrically located and has glass in its upper portion.

The details on the interior of this house belie the simple exterior. The molding and carved woodwork have not been altered or painted. Four fireplaces, also unaltered, are grouped around the great center chimney. The two, in the entry hall and back parlor, have rather plain mantels, but the other two, in the dining room and front parlor, have ceramic tile hearths and lavishly ornate mantels and overmantels. The decorative trim consists of astragal, egg and dart, shell and foliate carvings; and pilasters with Ionic capitals, and colonettes, also with the Ionic order.

7. Description - Con't.

Set high into the tall and wide trabeated entry into the parlor and dining room are hand-carved screens with a rising sun as the basic motif. This is repeated over a former window (now a door leading into the former medical office). There are both back and front stairs, the latter having fluted newel posts, one serving as a support member, and extending upward to the second story.

The second floor has four rooms, one being a cedar-paneled darkroom with a red stained glass window (the original owner was an amateur turn-of-the-century photographer who captured many of the Kensington structures on film). Another room on the second floor, one with a southern exposure, has a wall comprised primarily of windows, which were formerly part of ceiling skylights, replaced by a roof. The third floor contains three rooms. Three-quarter round, turned beading, to protect some of the plaster corners is extant in the house.

10320 Fawcett Street is believed to have been built in the 1880's, and is probably typical of the town's "farm" type architecture before Warner's development. The house is "T" shaped in plan; the three ends of the "T" are gables. There are two chimneys, one located at the central intersection of the two gables, and the other located to the far right side of the facade. The latter chimney is diagonally placed. Except for shingles in each of the large pedimented gables, the house is of German clapboard. In the pediment of each gable is a strip of subdued trim, surrounding the shingles, with small rosettes at each end and at the apex.

The windows are double hung sash with two lights over two. They are separated by a large verticle mullion, and there are shutters by each window. The lintels are lightly carved, and the sills have small wooden consoles. A porch runs around the front and down to one-half of each side. On the right portion only is a balustrade with sawn art balusters. The porch posts are plain, square stock with slightly ornate brackets at the cornice, which also has wooden modillions. A shed addition is at the rear of the house.

A former side porch is now a bathroom which is entered by the old exterior door, the window in the upper portion of the door having been painted over.

The rooms in this house have tall ceilings. The diagonally-placed fireplace in the former parlor has fluted pilasters with plain capitals and mantel. A small carved ornament on the entablature resembles a Victorian stencil design in that the leaves on the foliate are heart-shaped. The entry into the parlor and from the parlor to an adjoining room is very wide post and lintel, and both show evidence of having wide double doors. Bull's eye molding is apparent throughout on both doors and windows, and this motif is on the second fireplace, which has paneled pilasters. A single turn stairway has a carved newel post and on the stairway wall is a stained glass window - with twelve small sections surrounding a large square.

10314 Fawcett Street is a New England Dutch Colonial gambrel roof architectural style. The unique aspect of this house is that it is a cross-gambrel, with gambrels protruding from each side of the ridge line.

7. Description - Con't.

The northern gambrel facade contains a vent port and double windows (double hung, sash, one-over-one) and a stained glass window. The southern gambrel section contains a vent port and two windows; the lower story contains French doors leading to a garden.

The front facade has the entry right of center, and to the left, two windows (double-hung, nine-over-nine), are at first-story level. Two windows (double-hung, six-over-six) and a vent port are in the second story.

The house is of clapboard, with a huge foundation/basement wall of ashlar. For many years, the basement floor was of soil. Formerly, the house contained two kitchens, but the main kitchen has been remodeled as a dining room, with the former summer kitchen utilized as the present kitchen. The pantry is still used as a pantry. However, the wall between the former dining room and parlor was removed, making one large living room.

The entrance hall has a double-turn stairway with newel posts containing egg and dart carving and capped with wooden-shaped urns. The cornices of the doors and windows throughout the house have a carved circular molding in the corners. Two plaster corners in the second story hall are protected by a three-quarter round bead. In the attic, the wooden water tank, which was once serviced by a windmill, is intact.

There are two chimneys; one is a new addition on the south living room wall, replacing a former window. The other is the original, centrally placed, with the fireplace in the library. It has a small Klimsch type flower/foliate decoration, two carved consoles under the mantel, and pilasters with plain capitals.

8. SIGNIFICANCE

PERIOD (Check One or More as Appropriate)

- | | | | |
|--|---------------------------------------|--|--|
| <input type="checkbox"/> Pre-Columbian | <input type="checkbox"/> 16th Century | <input type="checkbox"/> 18th Century | <input checked="" type="checkbox"/> 20th Century |
| <input type="checkbox"/> 15th Century | <input type="checkbox"/> 17th Century | <input checked="" type="checkbox"/> 19th Century | |

SPECIFIC DATE(S) (If Applicable and Known)

AREAS OF SIGNIFICANCE (Check One or More as Appropriate)

- | | | | |
|--|--------------------------------------|--|---|
| <input type="checkbox"/> Aboriginal | <input type="checkbox"/> Education | <input type="checkbox"/> Political | <input checked="" type="checkbox"/> Urban Planning |
| <input type="checkbox"/> Prehistoric | <input type="checkbox"/> Engineering | <input type="checkbox"/> Religion/Phi- | <input checked="" type="checkbox"/> Other (Specify) |
| <input type="checkbox"/> Historic | <input type="checkbox"/> Industry | Josephy | <u>Local History</u> |
| <input type="checkbox"/> Agriculture | <input type="checkbox"/> Invention | <input type="checkbox"/> Science | _____ |
| <input checked="" type="checkbox"/> Architecture | <input type="checkbox"/> Landscape | <input type="checkbox"/> Sculpture | _____ |
| <input type="checkbox"/> Art | Architecture | <input type="checkbox"/> Social/Human- | _____ |
| <input checked="" type="checkbox"/> Commerce | <input type="checkbox"/> Literature | itarian | _____ |
| <input type="checkbox"/> Communications | <input type="checkbox"/> Military | <input type="checkbox"/> Theater | _____ |
| <input type="checkbox"/> Conservation | <input type="checkbox"/> Music | <input checked="" type="checkbox"/> Transportation | _____ |

STATEMENT OF SIGNIFICANCE

Despite the threats of urban sprawl, the town of Kensington has maintained its small town atmosphere and character. Also, despite the architectural changes by modernization, the town still has its small late-Victorian era enclave which was grouped around the first public library in the Greater Washington Area.

Although pre-1890's and modern styles of architecture are represented in the residential and older commercial sections of the town, the predominant impression is one of the turn-of-the-century—large homes with porches, towers, turrets, subdued Gingerbread trim, brick sidewalks, and picket fences.

Many of the social organizations in Kensington date back to its early years and have provided a continuity and stability. The library, a social center along with the churches, is now a children's library. The first co-op nursery school was formed in Kensington and still exists. The Woman's Club, founded in 1899, was one of the first in Maryland, and has remained a strong force and consciousness-raiser. The town government, formed in 1894, contributes to the cohesiveness of the residential body and allows participation by the citizens.

Several of the commercial buildings predate the incorporation of the town, and Kensington is presently known for its "Antique Row." Architectural reminders of yesteryear are present—the old ice cream parlor now a boutique, an old press building/newspaper office now a physician's office, a former general store currently a small department store; and one of Montgomery County's five remaining railroad stations is in Kensington. Other buildings, ranging from a 1927 National Guard Armory to an outgrown modern post office, have undergone adaptive use. The Kensington townspeople take pride in their past. The town has a photographic record, second only to that of the county seat. The Woman's Club matched a grant, given by the Maryland Bicentennial Commission, to the county historical society to initiate an oral history program. Thus, many Kensington residents have been orally taped for their memories of life in the past.

Originally, Kensington was part of a land grant conveyed to Col. William Joseph in 1689. Col. Joseph was a state official, and land records show the grant was called "Joseph's Park" for years. Then, Daniel Carroll of the famous Maryland Carroll family, just before his

SEE INSTRUCTIONS

8. Statement of Significance - Con't.

death in 1751, acquired about half of "Joseph's Park" due to a mortgage foreclosure.

An 1865 cadastral map shows about five landholders, the Knowles family being a prominent one. At the time of the Centennial of America, Kensington had a population of seventy. However, with the advent of the railroad, in 1873, which provided a north-south transportation line, and the Bladensburg Turnpike, a market road which provided an east-west linkage, the little crossroads became known as Knowles Station. An 1879 cadastral map shows the railroad track running through the Knowles farm, and the map also shows a post office.

By 1880, the town had two general stores, both of which are extant. Both the post office and the waiting room for train travelers were probably housed in one of the stores. The Knowles property, part of which had already been sold to the railroad company, was sold for development, with a resubdivision occurring eleven years later. A second development was recorded in 1888, north of the railroad, so that by 1890, the portion south of the rail line was not as developed as that on the north. At this point, Brainard H. Warner came on the scene.

Brainard Warner came to Washington, D. C., in 1863 to work as a clerk in a Civil War hospital. Constance Green, in her history of Washington, describes Warner as "an unknown country boy who came to work as a government clerk and who found undreamed-of riches in real estate." He was only sixteen, but letters written to his father back in Pennsylvania show a keen power of observation and maturity. When he set his sights on Knowles Station in 1890, he was wealthy and had also invested in real estate enterprises in Takoma Park, Forest Glen, and in the Chautauqua at Glen Echo.

At Knowles Station, Warner purchased about 125 acres which included the site for his own home. He then acquired additional land which allowed him access to the railroad, and in November 1890, he filed a plat map under the name of Kensington Park, allegedly because he was so impressed with the Kensington in England after a trip abroad. He then invited his friends to build homes, as a summer retreat. For his own home, he purchased an old farm house from Spencer Jones, remodeled it, and landscaped the grounds to blend with the circular siting. At that time, the two large turrets were probably added. Warner's main home was a red brick mansion at 2100 Massachusetts Avenue in the "millionaire" section, near DuPont Circle in Washington, D. C., but he summered in Kensington, and for years his Queen Anne style country home was the scene of much social and political activity. Warner was President of the powerful D. C. Board of Trade, founder and first President of the Washington Loan and Trust Co. and founder of the first Republican newspaper, published in Kensington. He had many friends in Washington, D. C., one being the Editor of the Washington Star, Crosby Noyes. Noyes and Warner conceived the idea of the library, with Warner donating the land and Noyes stocking the shelves with books left over from the Star's book review section. Mr. Warner also donated the land for the Presbyterian Church. Today the church, called the Warner Memorial Presbyterian, and the library, known as the Noyes Library, commemorate the memory of Warner's father and his friend,

8. Statement of Significance - Con't.

Crosby Noyes. Another contribution to the town by Mr. Warner was the Town Hall; however, it was destroyed by fire in 1899.

Kensington was also known as the "windmill village." A visitor described the town as follows:

"I recall very vividly my first visit to Kensington in 1892. The Town impressed me as looking like a cemetery, white-washed tree-boxes all over the place and board walks running up and down the hills. The B. & O. R.R. had at that time only a single track and there were very few houses -- few and far between and they stood in the blazing sun. The so-called streets were dirt roads. The only lights were coal oil lamps, as there was no gas, electricity, telephones, water, or sewers. Every house had its own well and water was pumped into the houses by windmills, whose tall towers gave the impression of a town in the oil regions of the west."

In 1893, Kensington received its railroad station. In 1895, the street car line was extended from Chevy Chase. Thus, even before the advent of the automobile, Kensington became a year-round residential area with its excellent commuting routes. In the early 1900's, a promotional brochure stated:

Kensington forms the terminus of one of the most charming automobile trips out of Washington. The autoist can traverse the entire length of Connecticut Ave. which ends in the heart of Kensington and can then take the splendid road to Wheaton, Maryland.

President Wilson is said to have driven out to enjoy the country air. Mrs. Calvin Coolidge and Alexander Graham Bell were visitors at the Anna Rhinehart School for the Deaf, which occupied one of the large Victorian homes, and which pioneered in lip-reading methods.

Between 1908 and 1920, a large portion of the remaining undeveloped land in Kensington was converted to new residences. The architecture became a mixture, as Frank Lloyd Wright's "prairie school" design and bungalows were the rage in America. The larger homes were of the Georgian style with Cape Cods scattered about.

Prior to World War II, Kensington's emphasis on education resulted in a new Junior High School, after a hotly debated lower county contest. A two-story brick elementary school had been erected in 1917. In 1927, the state placed an Armory in Kensington on land which was the site of two frame schools.

A World War II memorial can be seen at one of the main entrances to Kensington. Despite the post war development and the building of communities adjacent to the Kensington border, the town has retained its cultural ties to the past. The town center is the present Town Hall (the old Armory) which houses the mayor's office, meeting rooms, a Victorian parlor, a children's museum and a large hall for exhibitions and activities. The Kensington Historical Society was formed in 1977 with historic preservation as one of its main goals.

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 Townsend, Wilson L. The Montgomery County Story, "Knowles Station and the Town of Kensington." (Montgomery Co. Historical Soc., 1963).

10. GEOGRAPHICAL DATA

LATITUDE AND LONGITUDE COORDINATES DEFINING A RECTANGLE LOCATING THE PROPERTY			O R	LATITUDE AND LONGITUDE COORDINATES DEFINING THE CENTER POINT OF A PROPERTY OF LESS THAN TEN ACRES		
CORNER	LATITUDE	LONGITUDE		LATITUDE	LONGITUDE	
	Degrees Minutes Seconds	Degrees Minutes Seconds		Degrees Minutes Seconds	Degrees Minutes Seconds	
NW	•	•		•	•	
NE	•	•		•	•	
SE	•	•		•	•	
SW	•	•		•	•	

APPROXIMATE ACREAGE OF NOMINATED PROPERTY:

Acreeage Justification:

304

SEE INSTRUCTIONS

11. FORM PREPARED BY

NAME AND TITLE:

Preservation Committee

ORGANIZATION

Kensington Historical Society, Inc.

DATE

July 1, 1978

STREET AND NUMBER:

Post Office Box 425

CITY OR TOWN:

Kensington

STATE

Maryland 20795

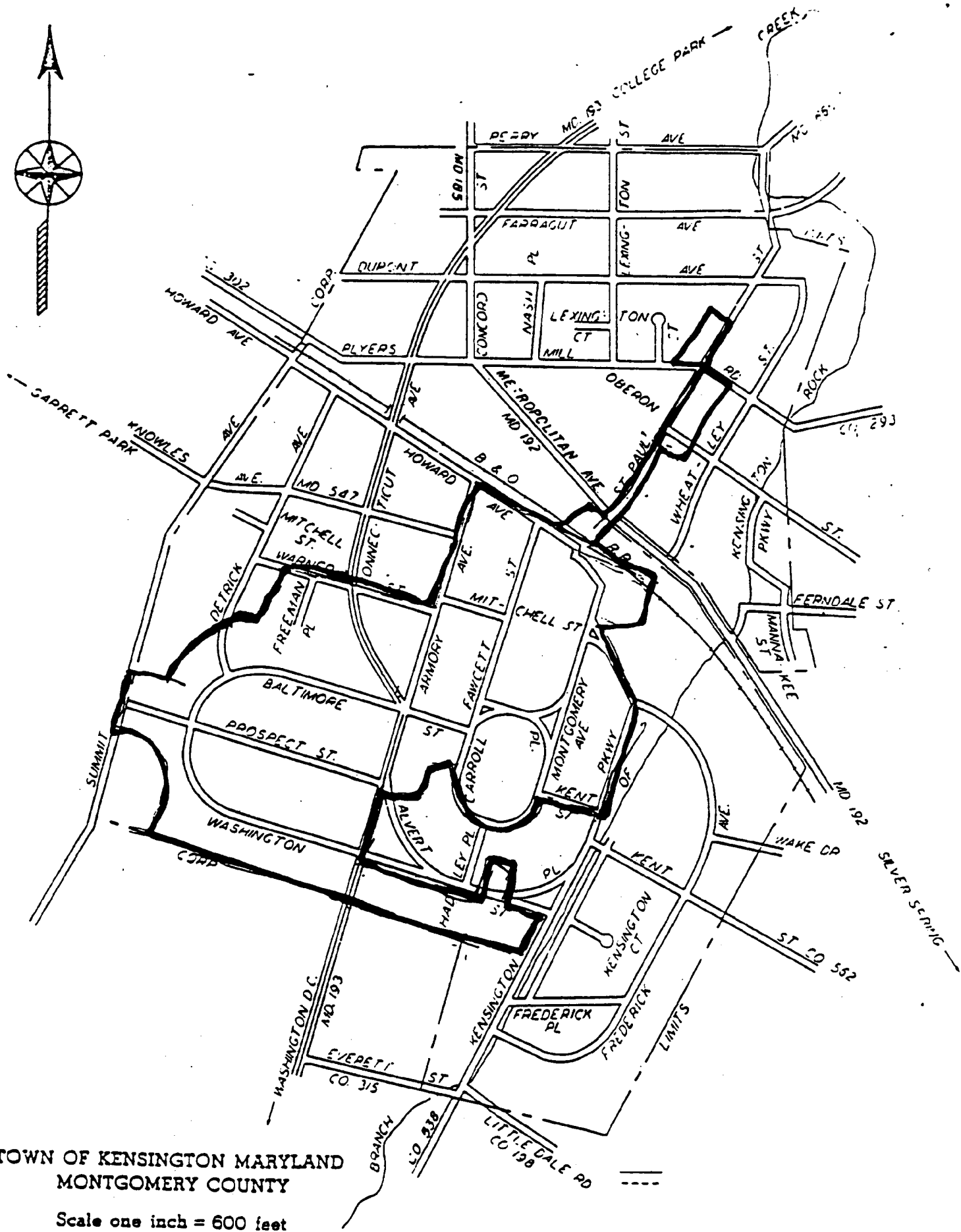
12.

State Liaison Officer Review: (Office Use Only)

Significance of this property is:

National State Local

Signature _____



**TOWN OF KENSINGTON MARYLAND
MONTGOMERY COUNTY**

Scale one inch = 600 feet

APPENDIX IV

Listing of Properties Within the
Proposed Kensington Master Plan Historic District

<u>Street Name</u>	<u>Street Numbers</u>
Armory Avenue	10301 - 10421
Baltimore Street	3806 - 3951
Calvert Place	3709 & 3819
Carroll Place	10216 - 10231
Connecticut Avenue	10205 - 10211, 10308
Fawcett Street	10300 - 10426
Freeman Place	10310 - 10316
Howard Avenue	3716 - 3794
Kensington Parkway	10200 - 10312 - even house numbers only
Mitchell Street	3710
Montgomery Avenue	10213 - 10420
Prospect Street	3906 - 4011
St. Paul Street	10500 & 10531 - 10549, 10600, 10606, and 10608
Warner Street	3810, 3812, 3820 and 3924
Washington Street	3948 - 3904, 3820 - 3708

APPROVED AND ADOPTED AMENDMENT
TO THE
MASTER PLAN FOR HISTORIC PRESERVATION:
KENSINGTON HISTORIC DISTRICT
ATLAS #31/6

October 1986

An amendment to the Sector Plan for the Town of Kensington and Vicinity, May 1978; being also an amendment to the General Plan for the Physical Development of the Maryland-Washington Regional District and to the Master Plan of Highways within Montgomery County, Maryland.

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, MD 20907

1741 Governor Oden Bowie Drive
Upper Marlboro, MD 20772-3090

ABSTRACT

TITLE: Approved and Adopted Amendment to the Master Plan for
Historic Preservation: Kensington Historic District

AUTHOR: The Maryland-National Capital Park and Planning
Commission

SUBJECT: Approved and Adopted Amendment to the Master Plan for
Historic Preservation: Kensington Historic District

DATE OF ADOPTION: September 17, 1986

PLANNING AGENCY: The Maryland-National Capital Park and
Planning Commission

SOURCE OF COPIES: The Maryland-National Capital Park and
Planning Commission
8787 Georgia Avenue, Silver Spring, MD 20907

SERIES NUMBER: 8069862506

NUMBER OF PAGES: 16

ABSTRACT: This document contains the text, with supporting
maps, for an amendment to the Master Plan for
Historic Preservation and to the 1978 Sector Plan
for the Town of Kensington and Vicinity designating
a historic district in Kensington, Maryland to be
protected under the County's Historic Preservation
Ordinance, Chapter 24A of the County's Code.

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

The Maryland-National Capital Park and Planning Commission is a bi-county agency created by the General Assembly of Maryland in 1927. The Commission's geographic authority extends to the great majority of Montgomery and Prince George's Counties; the Maryland-Washington Regional District (M-NCPPC planning jurisdiction) comprises 1,001 square miles, while the Metropolitan District (parks) comprises 919 square miles, in the two Counties.

The Commission has three major functions:

- (1) The preparation, adoption, and from time to time amendment or extension of the General Plan for the physical development of the Maryland-Washington Regional District;
- (2) The acquisition, development, operation, and maintenance of a public park system; and
- (3) In Prince George's County only, the operation of the entire County public recreation program.

The Commission operates in each county through a Planning Board appointed by and responsible to the county government. All local plans, recommendations on zoning amendments, administration of subdivision regulations, and general administration of parks are responsibilities of the Planning Boards.

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

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INTRODUCTION

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

The Montgomery County Historic Preservation Commission was created with the enactment of the County's Historic Preservation Ordinance and was charged with the responsibility of researching and evaluating historic resources according to criteria specified in the Ordinance. The Preservation Commission then recommends those worthy of preservation to the Montgomery County Planning Board for inclusion in the Master Plan for Historic Preservation and protection under the Ordinance.

THE AMENDMENT PROCESS

Upon receiving a recommendation from the Historic Preservation Commission, the Planning Board holds a public hearing to make its determination using the same criteria, considering the purposes of the Ordinance, and balancing the importance of the historic resource with other public interests.

Like the Master Plan itself, these amendments would not attempt to specifically delineate the appurtenances and environmental setting for each resource. As a general rule, the resource would be recommended for placement with its original or existing property boundaries or, in the event of subdivision, at least the minimum size lot permitted by the zone in which the resource occurs, unless the Planning Board, upon the advice of the Historic Preservation Commission, finds that a larger area is essential to preserve the integrity of the site. The Master Plan Amendment will, however, indicate where the environmental setting is subject to refinement in the event of development. Where applicable, the amendment will describe an appropriate setting and specify those features of the site and their location relative to the resource that the setting is intended to protect. It is anticipated that for a majority of the sites designated, the appropriate point at which to refine the environmental setting will be when the property is subdivided. Designation of the entire parcel at the time of placement on the Master Plan will therefore allow the maximum flexibility to preserve the site while retaining the ability to be responsive to development plans which recognize important features of the resource.

Once designated on the Master Plan for Historic Preservation, any substantial changes to the exterior of a resource or its environmental setting must be reviewed by the Historic Preservation Commission and a historic area work permit issued. The Ordinance also empowers the County's Department of Environmental Protection and the Historic Preservation Commission to prevent the demolition of historic buildings through neglect.

It is the intent of the Master Plan and Ordinance to provide a system for evaluating, protecting and enhancing Montgomery County's heritage for the benefit of present and future residents. The accompanying challenge is to weave protection of this heritage into the County's planning program so as to maximize community support for preservation and minimize infringement on private property rights.

THE AMENDMENT
KENSINGTON HISTORIC DISTRICT
Atlas #31/6

The purpose of the following amendment is to designate the Kensington Historic District as delineated in Figure 3 on the Master Plan for Historic Preservation thereby extending to the area the protection of the Historic Preservation Ordinance, Chapter 24A of the Montgomery County Code.

Finding of Historical & Architectural Significance

The town of Kensington began as a small crossroads settlement along the Bladensburg Turnpike, an early market road between the County's major north/south route, Old Georgetown Road, and the port of Bladensburg on the Anacostia River in Prince George's County. When the B&O Railroad was built in 1873, the crossroads settlement became known as Knowles Station, named after the major land holding family in the area.

By 1890, Knowles Station had developed into a village of several hundred people most of whom were living north of the railroad. In that year, Washington financier, Brainard H. Warner purchased and subdivided property to the south and southwest of the railroad, naming the area Kensington Park after the famous London suburb. The subdivision was designed in the Victorian manner with ample sized lots and a curvilinear street pattern.

Warner established his own summer residence and invited his friends to join him in this park-like setting away from the heat and congestion of Washington. It is this concentration of Victorian period, residential structures located in the center of the town which constitutes the core of the historic district.

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

Ordinance Criteria & District Guideline Values

The Kensington Historic District specifically meets criteria: 1a and 2a of the Ordinance which states:

"1. Historical and Cultural Significance:

The historic resource:

- a. has character, interest or value as part of the development, heritage or cultural characteristics of the County, State or nation.

2. Architectural and Design Significance:

The historic resource:

- a. embodies the distinctive characteristics of a type, period or method of construction."

District Boundaries

The Kensington Historic District is wholly located within the Town of Kensington. The district includes residential sections along both sides of Connecticut Avenue, the commercial area along Howard Avenue, and also incorporates a northern annex of period structures along the east side of St. Paul Street. The general outline of the district is shown in Figure 3. However, the district also specifically excludes properties within a sub-area as shown in Figure 4, leaving only the right-of-ways in that subarea as part of the Kensington Historic District.

IMPLEMENTATION

Historic Area Work Permit Process

As noted earlier, once designated on the Master Plan, significant changes to resources within a historic district must be reviewed by the Historic Preservation Commission and a historic area work permit issued under Sections 24A-6, 7, and 8 of the Historic Preservation Ordinance.

The Historic Preservation Commission has developed Guidelines to assist individuals wishing to nominate potential Districts and individual property owners within designated Districts. The general philosophy of these Guidelines is that Historic Districts are living and working areas where special attention is paid to protecting those qualities which make them significant resources for the County. They must not become areas where protective concerns override all other activities. For example, in rural districts, not only can vernacular architecture and important settings be protected, but working farms can be sustained to

provide close to market produce, and rural villages retained to provide local small-scale goods and services.

According to the Guidelines, a Historic District as identified, and if approved for inclusion in the County's Master Plan for Historic Preservation, shall consist of the entire area represented by all of the historic resources with their appurtenances and environmental setting. Non-historic properties within the boundaries of the Historic District are also subject to regulation, as they are considered appurtenances and part of the environmental setting of the historic resources of the District.

In regard to the properties identified as secondary resources--that is visually contributing but non-historic structures or vacant land within the Kensington District--the Ordinance requires the Preservation Commission to be lenient in its judgment of plans for contemporary structures or for plans involving new construction unless such plans would seriously impair the historic or architectural value of surrounding resources or impair the character of the District.

Local Advisory Committees

The Guidelines encourage the establishment of local advisory committees for District supervision where appropriate, e.g., local municipalities may wish to appoint such committees for Historic Districts lying within their jurisdiction. The committees' work can include development of local design review guidelines which set a standard for physical changes which can be made in the District. They also monitor design activities in their Districts for the County Commission. Local guidelines may be based on the Design Guidelines Handbook, and are subject to the approval of the Commission.

Preservation Incentives

Appendix A of the Master Plan for Historic Preservation outlines a number of federal and state incentives for designated historic properties including tax credits, tax benefits possible through the granting of easements on historic properties and outright grant or low interest loan programs.

In addition to these federal and state incentives, the Montgomery County Council passed legislation in September 1984 to provide for a tax credit against County real property taxes in order to encourage the restoration and preservation of privately owned structures located in the County. The credit applies to properties designated on the Master Plan for Historic Preservation either individually or as recognized resources within a designated Historic District. (Chapter 52, Art. VI.)

The Montgomery County Historic Preservation Commission, together with the County's Department of Finance, administers the tax credit. Information concerning the eligibility requirements and application procedures for the credit is available through the Preservation Commission at 251-2799.

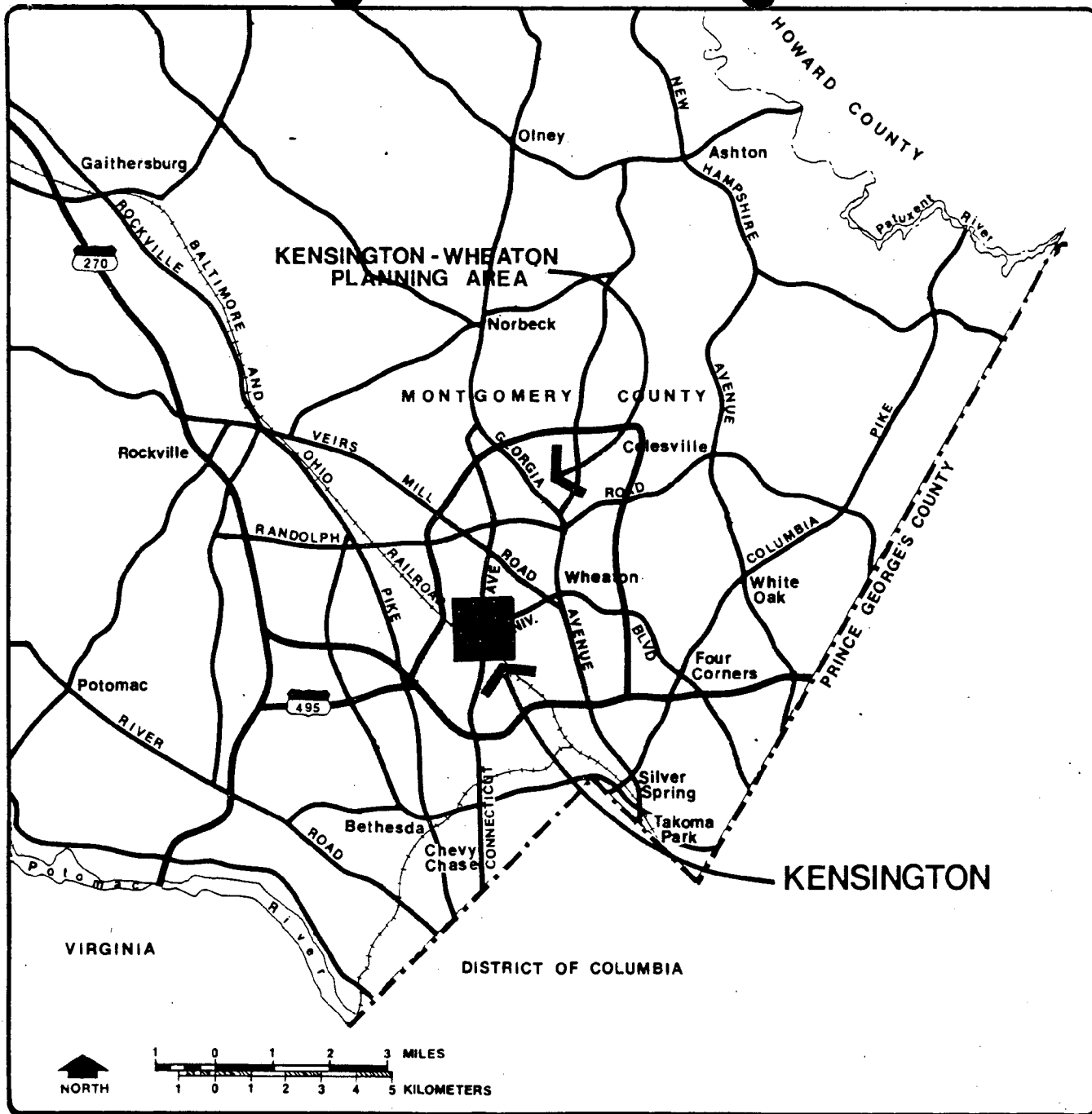
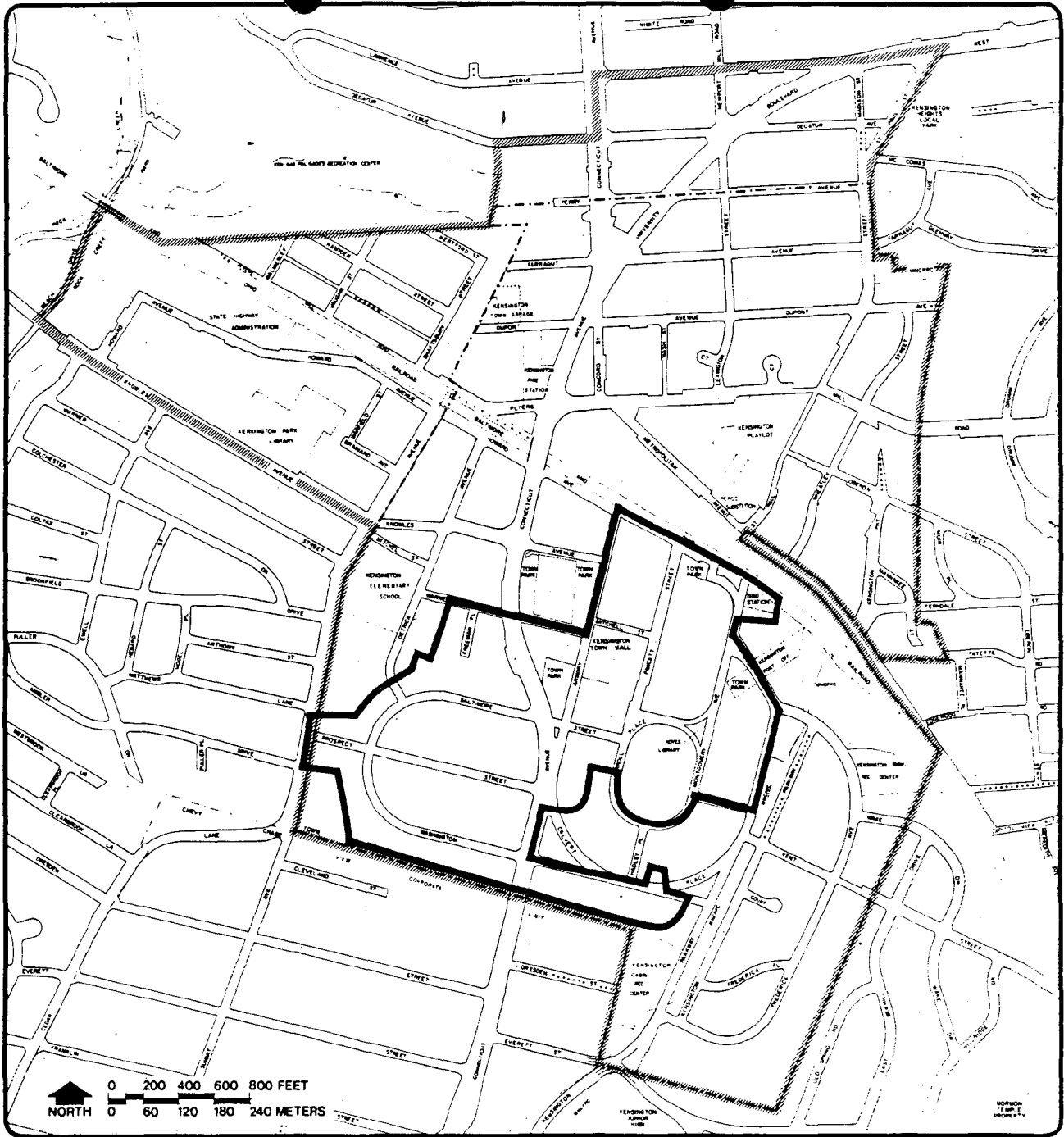


Figure 1

KENSINGTON VICINITY MAP



- NATIONAL REGISTER HISTORIC DISTRICT BOUNDARY
- ▨ SECTOR PLAN BOUNDARY
- - - TOWN OF KENSINGTON BOUNDARY

Figure 2

KENSINGTON

Figure 3

LOCAL KENSINGTON HISTORIC DISTRICT

Primary Resources:

1880-1910
(Revival Styles)



1910-1930



Secondary Resources:

Source: Montgomery County Historic Preservation Commission

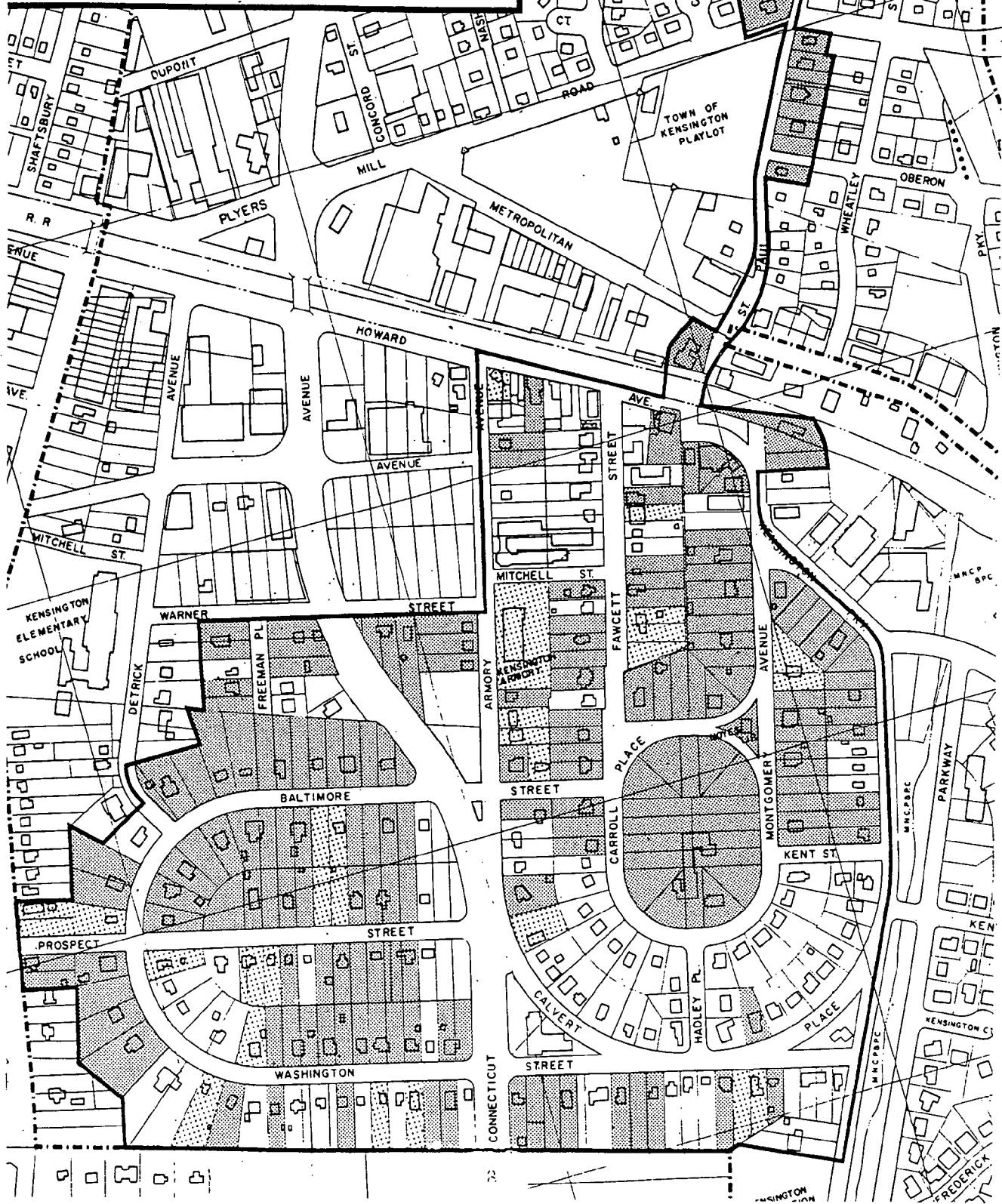
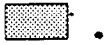


Figure 4

LOCAL KENSINGTON HISTORIC DISTRICT

Primary Resources:

1880-1910
(Revival Styles)



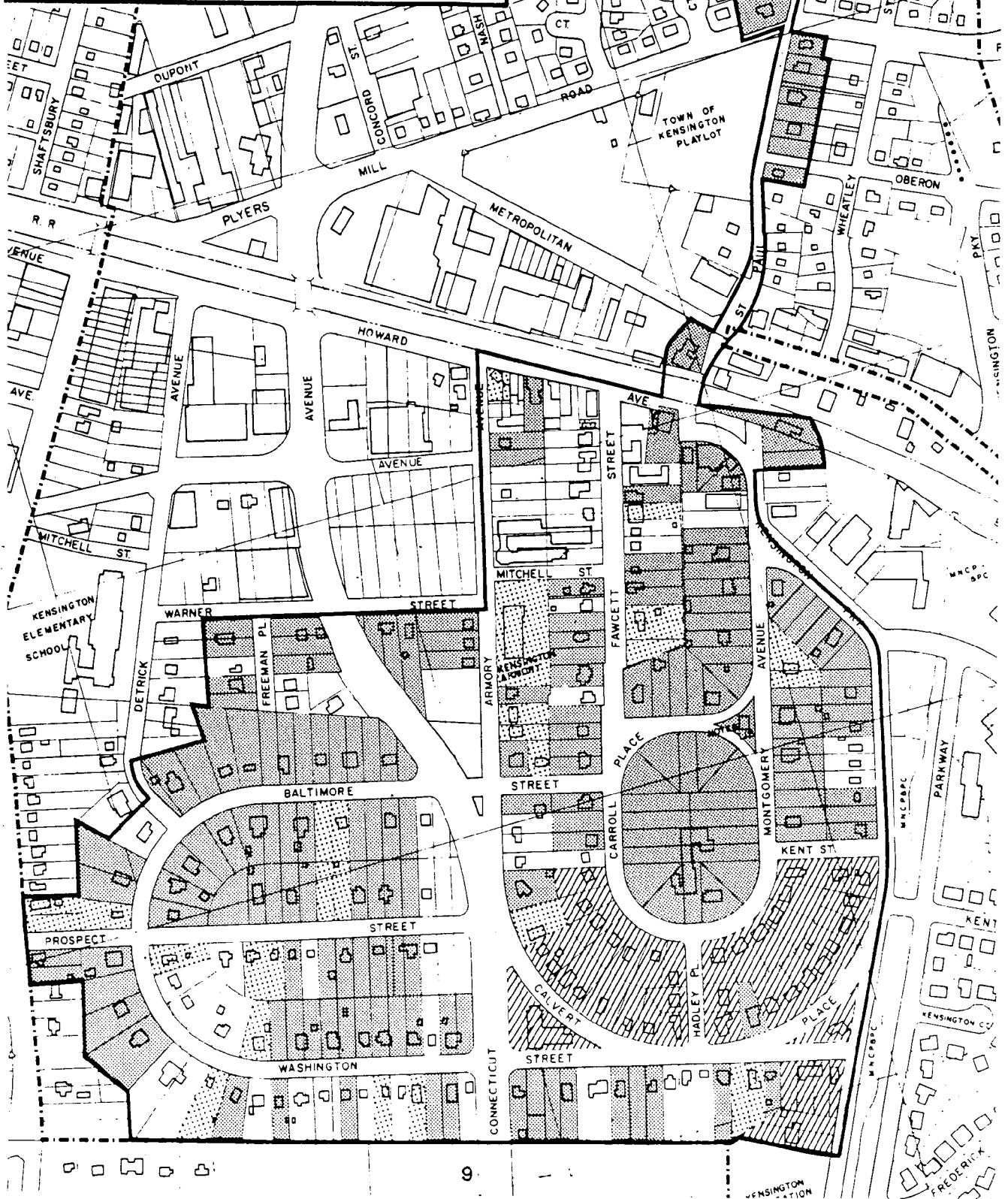
1910-1930



Secondary Resources:



Subarea Excluded from District Regulation:



Listing of Properties Within the
Proposed Kensington Master Plan Historic District

<u>Street Name</u>	<u>Street Numbers</u>
Armory Avenue	10301 - 10421
Baltimore Street	3806 - 3951
Calvert Place	3709 & 3819
Carroll Place	10216 - 10234
Connecticut Avenue	10205 - 10211, 10308
Fawcett Street	10300 - 10426
Freeman Place	10310 - 10316
Howard Avenue	3716 - 3794
Kensington Parkway	10200 - 10312 - even house numbers only
Mitchell Street	3710
Montgomery Avenue	10213 - 10420
Prospect Street	3906 - 4011
St. Paul Street	10500 & 10531 - 10549, 10600, 10606, and 10608
Warner Street	3810, 3812, 3820 and 3824
Washington Street	3948 - 3904, 3820 - 3708

Resolution No. 10-2064
Introduced: July 7, 1986
Adopted: July 7, 1986

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
WITHIN MONTGOMERY COUNTY, MARYLAND

By: District Council

SUBJECT: Amendment to the Approved and Adopted Master Plan for Historic Preservation in Montgomery County, Maryland re: Kensington Historic District

Background

1. On February 11, 1986, the Montgomery County Planning Board transmitted to the Montgomery County Council a Final Draft Amendment to the Historic Preservation Master Plan to designate an Historic District in Kensington.
2. On April 18, 1986, the Montgomery County Council held a public hearing regarding the Final Draft Amendment to the Master Plan for Historic Preservation for a Kensington Historic District.
3. On June 24, 1986, the Planning, Housing and Economic Development Committee reviewed the Final Draft Master Plan Amendment and the testimony given at the public hearing.
4. It was the position of the Planning, Housing and Economic Development Committee that part of Kensington should be designated a historic district.
5. On July 7, 1986, the Montgomery County Council reviewed the Final Draft Amendment to the Historic Preservation Master Plan, and the recommendations of the Planning, Housing and Economic Development Committee.

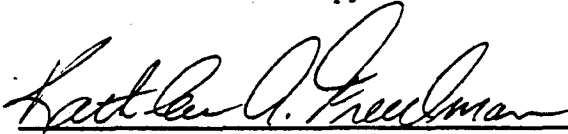
Action

For these reasons, the County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following resolution:

The Final Draft Amendment to the Historic Preservation Master Plan, dated August 1985, is approved designating a Kensington Historic District (#31/6).

The Kensington Historic District is wholly located within the Town of Kensington. The district includes residential sections along both sides of Connecticut Avenue, the commercial area along Howard Avenue, and also incorporates a northern annex of period structures along the east side of St. Paul Street. The general outline of the District is shown in Figure A. However, the district also specifically excludes the properties within the heavy outlines in Figure B, leaving only the right-of-ways in that sub-area as part of the Kensington Historic District.

This is a correct copy of Council Action.



Kathleen A. Freedman
Kathleen A. Freedman, Secretary
County Council

Attachments: Figures A and B

B738/5

LOCAL KENSINGTON HISTORIC DISTRICT

Primary Resources:

1880-1910
(Revival Styles)

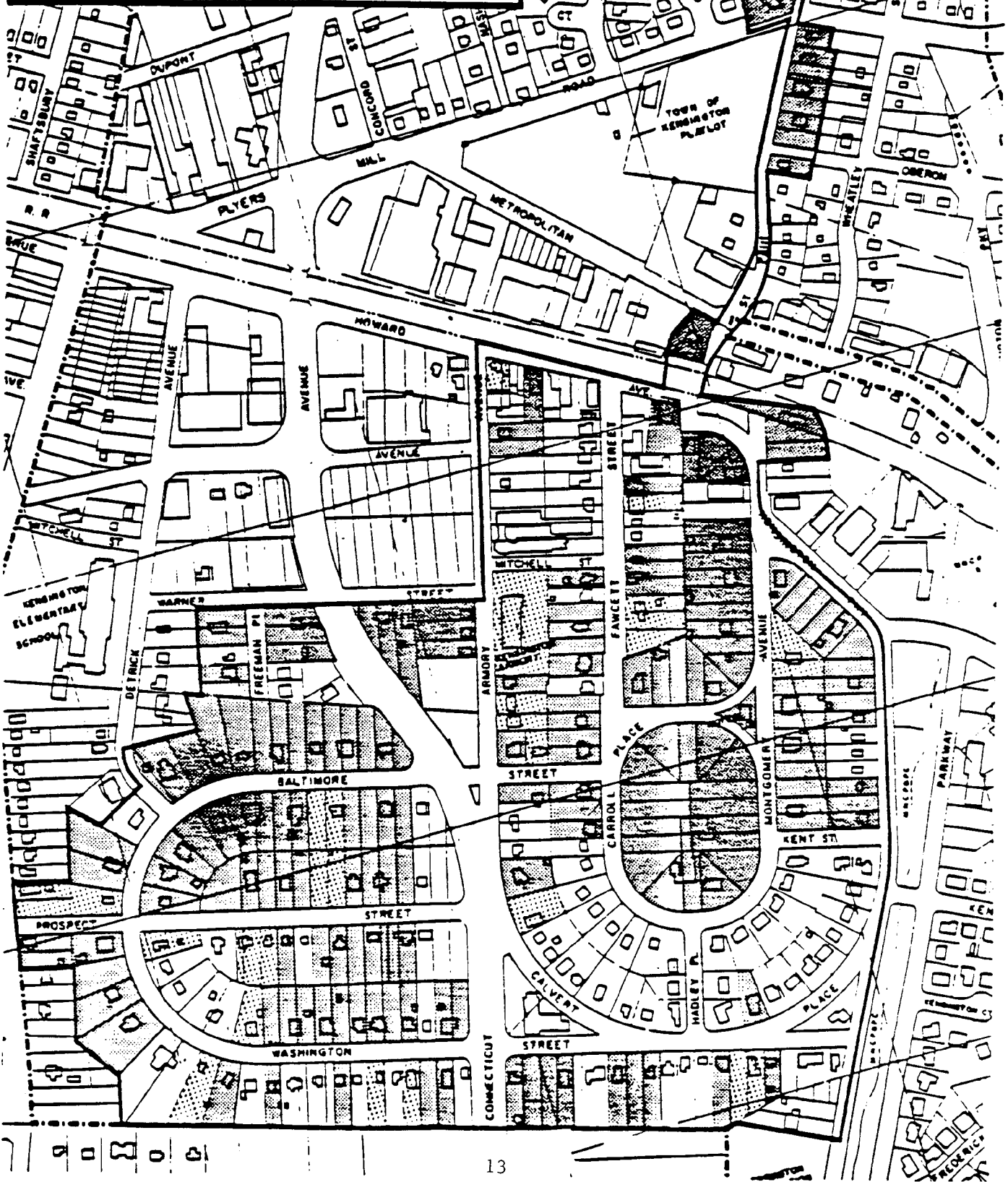


1910-1930



Secondary Resources: 

Source: Montgomery County Historic Preservation Commission



13
FIGURE A

LOCAL KENSINGTON HISTORIC DISTRICT

Primary Resources:

1880-1910
(Revival Styles)



1910-1930



Secondary Resources:



Source: Montgomery County Historic Preservation Commission

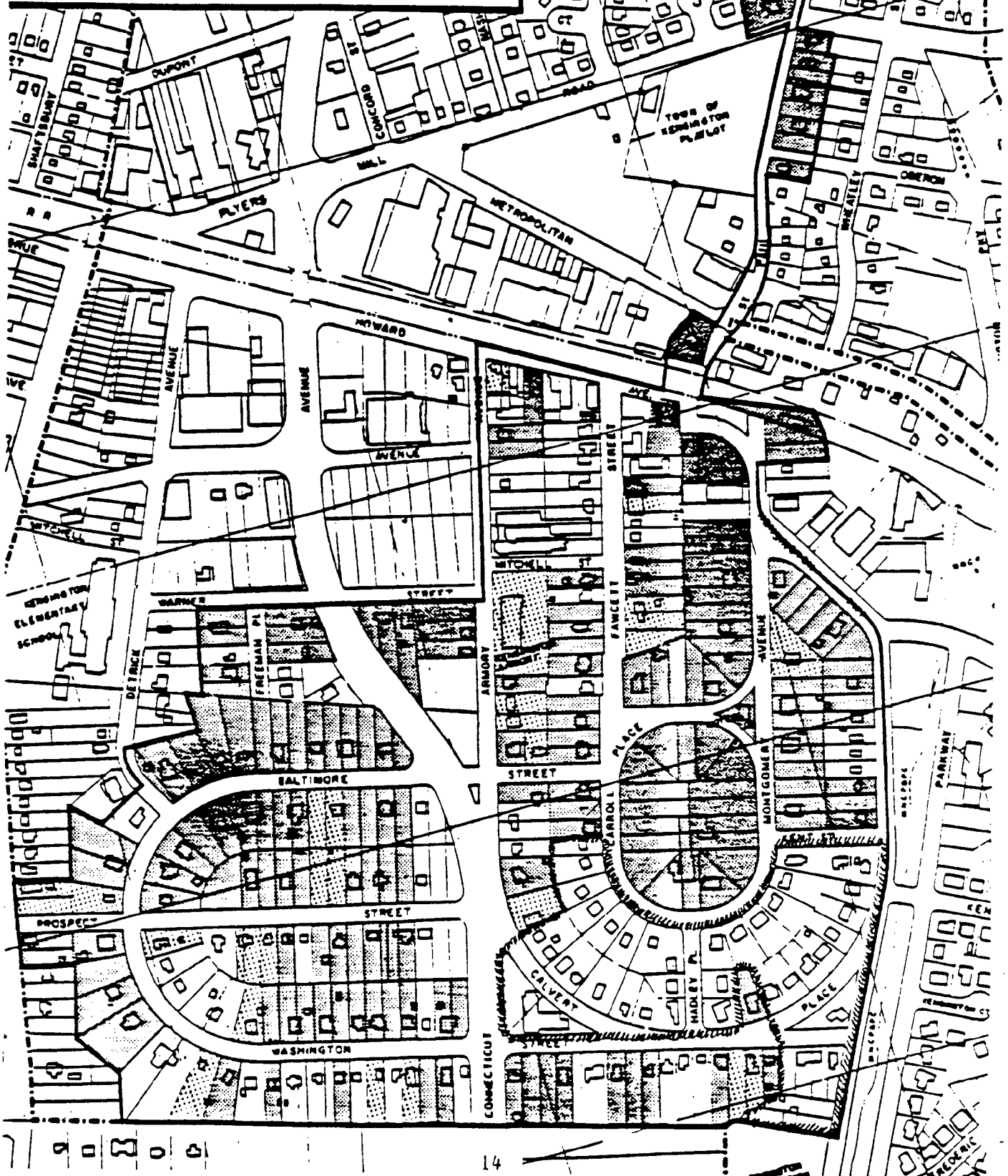


FIGURE B



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

MCPB No: 86-42
M-NCPPC No: 86-27

RESOLUTION

WHEREAS, The Maryland-National Capital Park and Planning Commission, by virtue of Article 28 of the Annotated Code of Maryland, is authorized and empowered, from time to time, to make and adopt, amend, extend, and add to a General Plan for the Physical Development of the Maryland-Washington Regional District; and

WHEREAS, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission held a public hearing on December 2, 1985, on a preliminary draft amendment to the Master Plan for Historic Preservation, being also a proposed amendment to the General Plan for the Physical Development of the Maryland-Washington Regional District and Master Plan of Highways; and

WHEREAS, the Montgomery County Planning Board, after said public hearing and due deliberation and consideration, at a meeting held December 2, 1985, approved and forwarded to the Montgomery County Council the Final Draft Amendment: Bethesda CBD Historic Sites, and recommended that said amendment be approved by the County Council; and

WHEREAS, the Montgomery County Council, sitting as the District Council for that portion of the Maryland-Washington Regional District lying within Montgomery County, on July 7, 1986, approved the designation of the Kensington Historic District, #31/6 as identified in the amendment, attached hereto and made a part of, for inclusion in the Master plan for Historic Preservation;

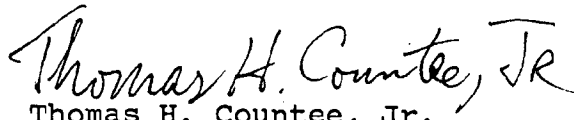
NOW, THEREFORE, BE IT RESOLVED, that the Montgomery County Planning Board and The Maryland-National Capital Park and Planning Commission do hereby adopt said amendment to the Master Plan for Historic Preservation, together with the General Plan for the Physical Development of the Maryland-Washington Regional District and the Master Plan of Highways as approved by the Montgomery County Council in Resolution 10-2064, and

BE IT FURTHER RESOLVED that as to Resolution NO. 10-2064, this adoption be effective July 8, 1986 nunc pro tunc, and

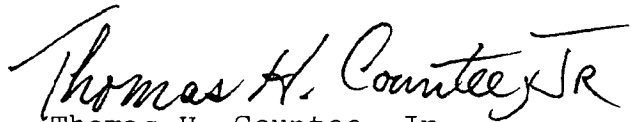
BE IT FURTHER RESOLVED, that this amendment be reflected on copies of the aforesaid plan and that such amendment shall be certified by The Maryland-National Capital Park and Planning Commission, and filed with the Clerk of the Circuit Court of each of Montgomery and Prince George's Counties, as required by law.

* * * * *

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Krahnke, seconded by Commissioner Heimann, with Commissioners Keeney, Krahnke, Heimann, and Christeller voting in favor of the motion at a regular meeting held on Monday, August 11, 1986, in Silver Spring, Maryland. Commissioner Granke was temporarily absent.


Thomas H. Countee, Jr.
Executive Director

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Maryland-National Capital Park and Planning Commission on motion of Commissioner Granke, seconded by Commissioner Krahnke, with Commissioners Rhoads, Botts, Dabney, Jr., Yewell, Christeller, and Heimann voting unanimously in favor, and Commissioners Keeney and Keller, Jr., being absent, at its regular meeting held September 17, 1986, in Silver Spring, Maryland.


Thomas H. Countee, Jr.
Executive Director

Kensington Historic District

Primary Resources

1880-1910 /// Revival Styles

1910-1930 ☉

Secondary Resources

Post 1930 □

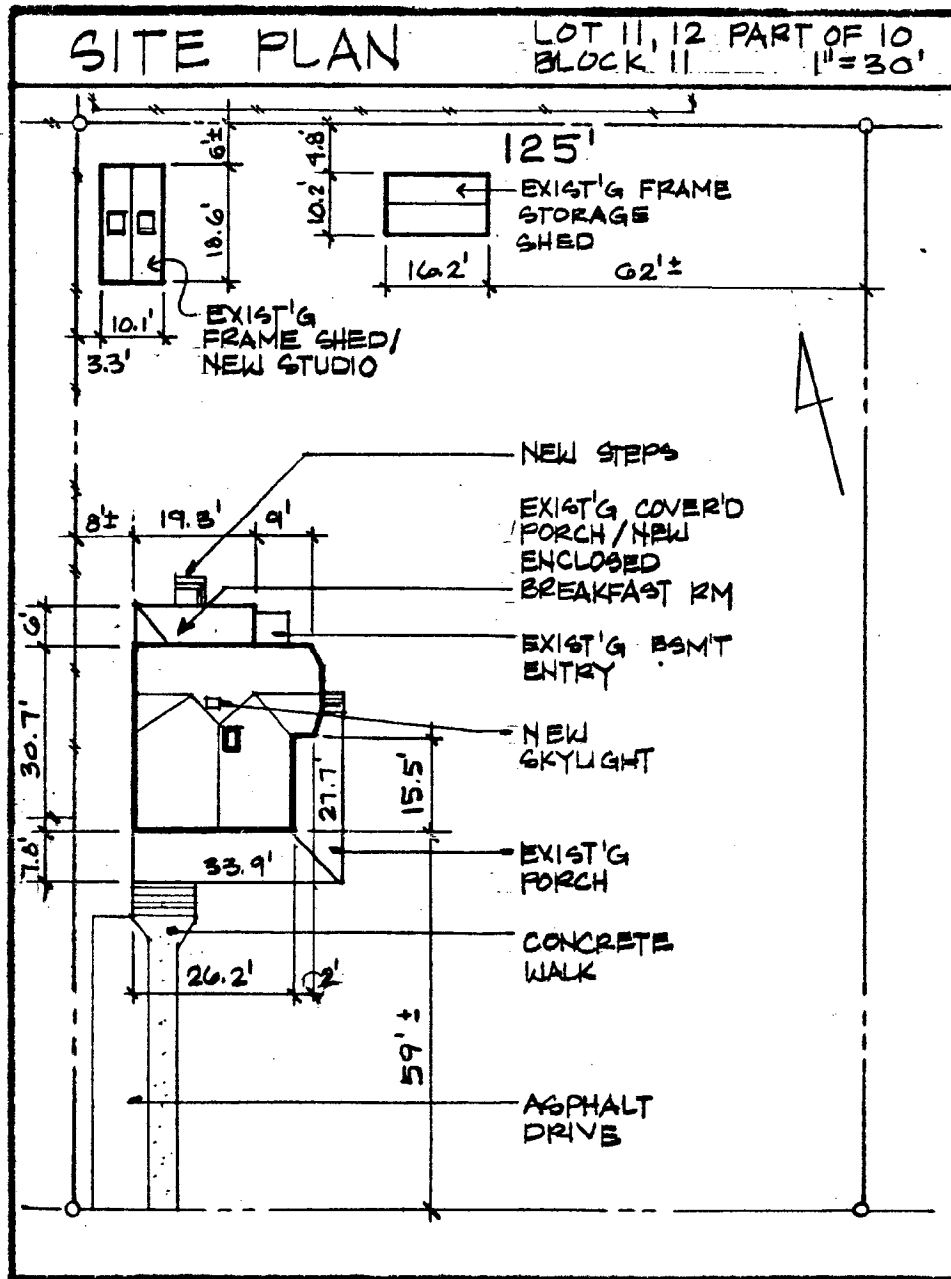


lot 13 Block 11

E / SKYLIGHTS

	LOCATION	REMARKS / HARDWARE
EMENT 1656-6	BREAKFAST	ADD 1" TO STANDARD FRAME WALL SUBSILL DEPTH
EMENT 1656-4	BREAKFAST	" " " " " " " "
Z TILT 28x18	KITCHEN	TO FIT EXIST'G ALTERED OPENING
	FOYER	TRUE MUNTINS
HUNG	FRONT BEDRM	TO MATCH EXIST'G
CUSTOM	STUDIO	TRUE MUNTINS
WINING 2820	STUDIO	CENTER IN EXIST'G OPENING
OF WINDOW VSHH1	STUDIO	
OF WINDOW TPSHH-1	ATTIC BATH	

REMARKS
PAINT & REPAIR ALL EXIST'G BASES, WALLS, CEIL'G
↓
↓
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↓
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↓
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↓



DRAWING

ARCHITECTURAL	A.0	GE SI
	A.1	DE
	A.2	FI PL
	A.3	SE IN
	A.4	AI IN
	A.5	EX ST
	A.6	EX
MECHANICAL PLUMB'G	MP.1	FI PL
	MP.2	SE PL
	MP.3	AT
ELECTRICAL	E.1	FI PL
	E.2	GE
	E.3	AT

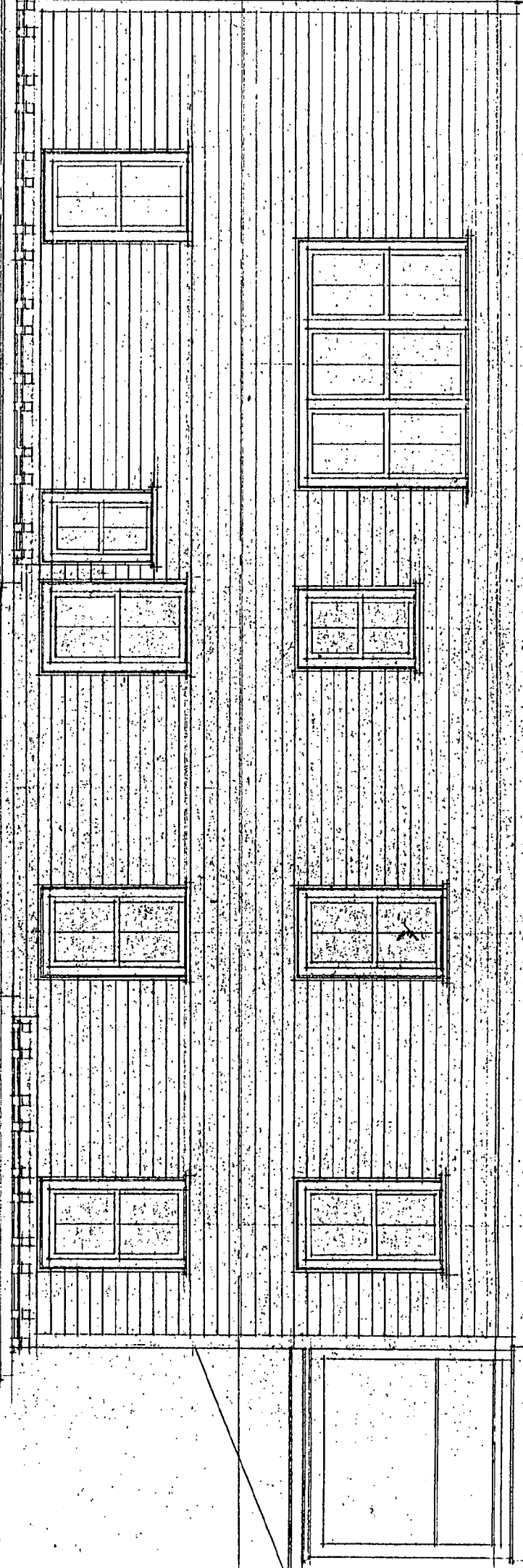
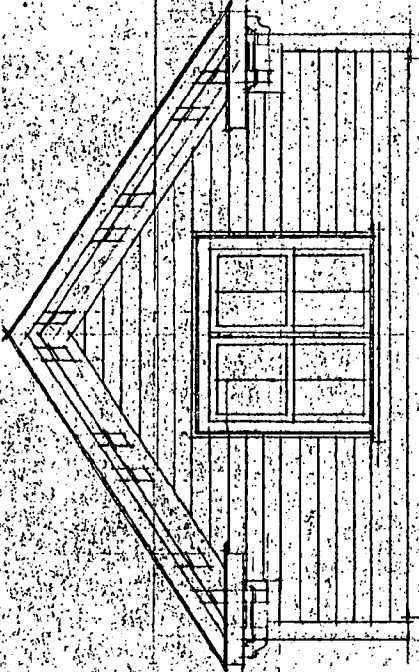
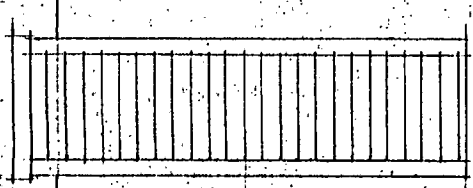


FRONT

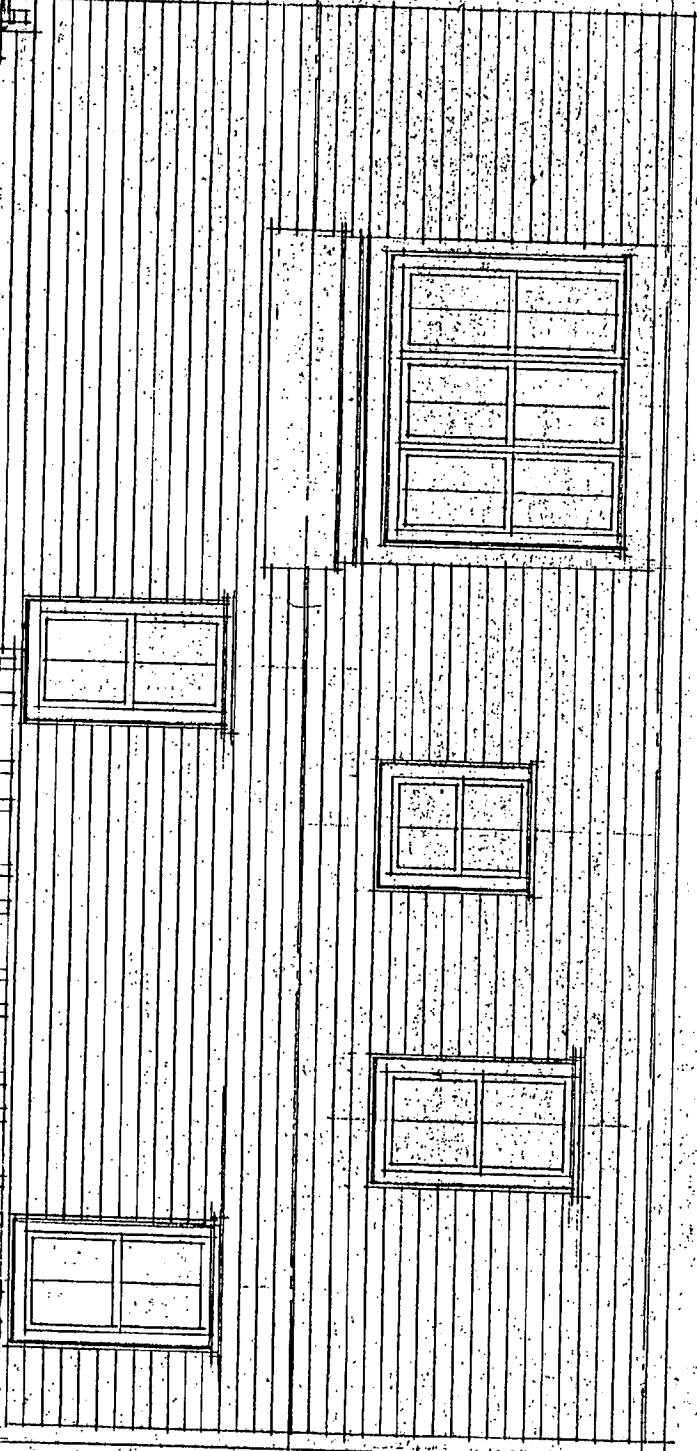
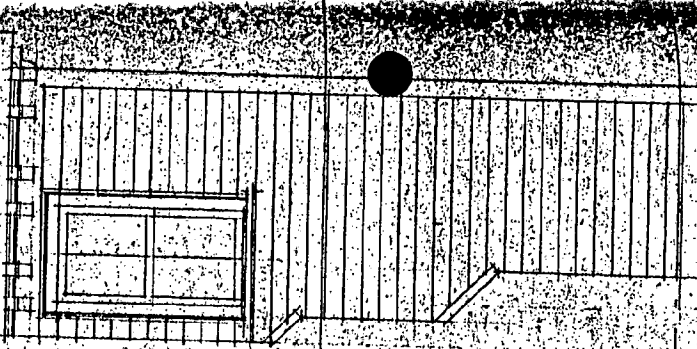
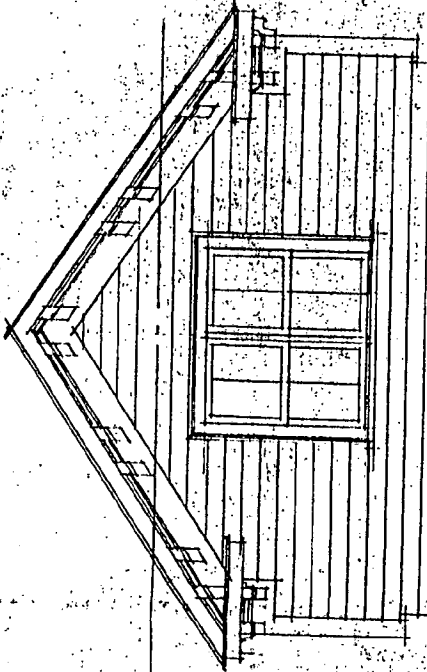
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10-0



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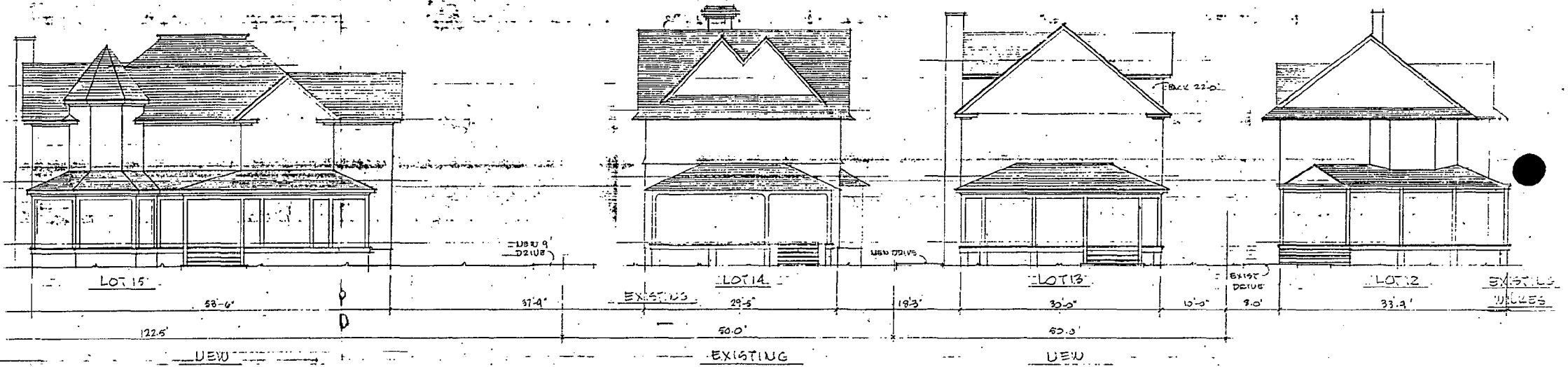


LEFT SIDE



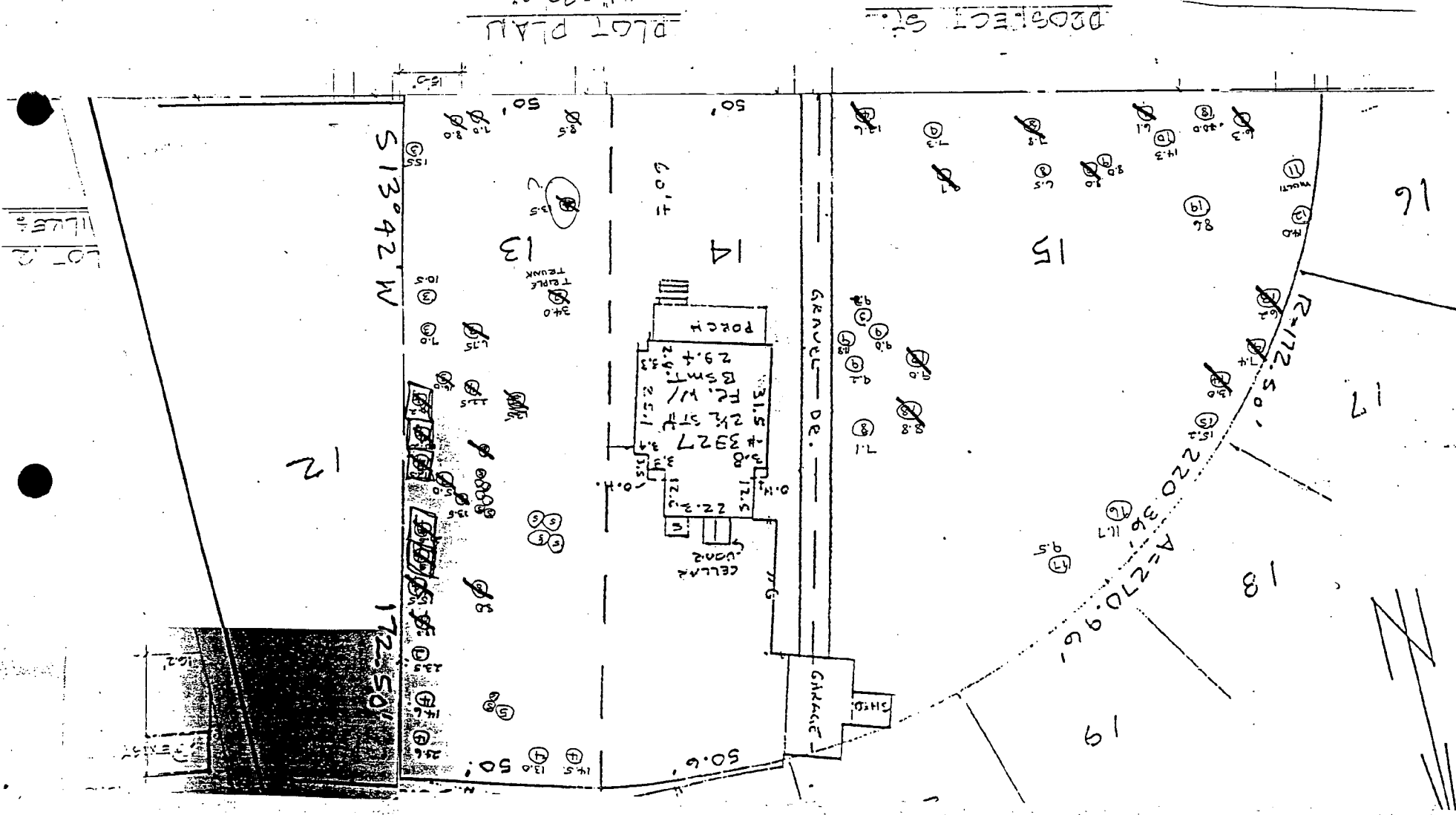
READ

MICHAEL S. PATTERSON
ARCHITECT
11820 PARKDAVE CIRCLE, ROCKVILLE, MD 20852
(301) 681-6055



MICHAEL B. PATTERSON
 ARCHITECT
 320 PARKLAWN DRIVE, ROCKVILLE, MD 20852
 552-9113 (103)

FLORIAN M. JEDRY
 LOTS 13, 14, 15 & 16
 KENNESAW, MD



PROSPECT ST.
 1" = 20'-0"
 PLOT PLAN

- ① SASSAFRAS
- ② SPRUCE
- ③ HOLLY
- ④ HEMLOCK
- ⑤ BOXWOOD
- ⑥ LILAC
- ⑦ WHITE PINE
- ⑧ DOGWOOD
- ⑨ WILD CHERRY
- ⑩ AMERICAN BEECH
- ⑪ HORSEBARN
- ⑫ ELM
- ⑬ MULBERRY
- ⑭ BLACK WALNUT
- ⑮ RED CEDAR
- ⑯ NORWAY MAPLE
- ⑰ MAPLE
- ⑱ RED BUD
- ⑲ PERM. = REMOVAL



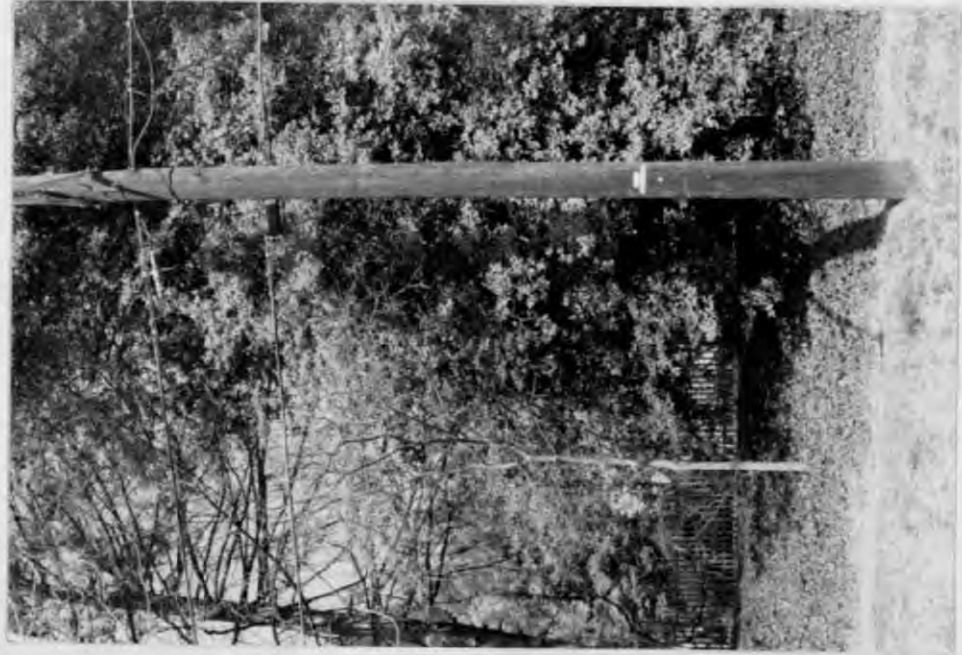
LOT 13 Block 11
Prospect Street



Left



center



Right

MR. DAV JONES

from Wilkes

3923 Prospect

REMOVE EXIST'G A.C. UNIT; PATCH & REPAIR WALL INSIDE & OUT TO MATCH EXIST'G

NEW WOOD SHUTTERS TO MATCH ORIGINALS (TYP.)

NEW WINDOW IN EXIST'G BLOCKED WINDOW LOCATION

DBL. HINGED SHUTTERS

NEW WOOD & GLASS DRs.

REPLACE EXIST'G MTL RAIL W/ REMOVED RAIL FROM BACK PORCH TO MATCH EXIST'G FRONT PORCH RAIL

REMOVE BOT. CONG. STEP & REBUILD TO MATCH WOOD STEPS

PATCH & REPAIR OR REPLACE LATTICE AS NEC. TYP.

1 SOUTH ELEVATION
A-5 1/4" = 1'-0"

To MR. MICHAEL PATTERSON, ARCH. From HELEN WILKES
11820 PARKLAWN DR. 3923 PROSPECT ST.
ROCKVILLE, MD 20852 KENSINGTON, MD 20895
933-0859

Subject PROSPECT ST., KENSINGTON Date
4/4/89

Message MR. PATTERSON,
I HAVE ENCLOSED, FOR YOUR USE, ONE
COPY EACH OF THE PLAT AND THE FRONT ELEVATION
OF OUR HOME AT 3923 PROSPECT STREET,
PLEASE CALL IF THERE IS ANY NEED FOR EXPLANATION
OR CLARIFICATION.

SIGNED

Helen Wilkes

DATE

~~Reply~~ COPY TO MR. DAN JONES
HEAD, KENSINGTON L.A.C.
RE: 3927 PROSPECT ST. & ADJOINING LOTS

SIGNED