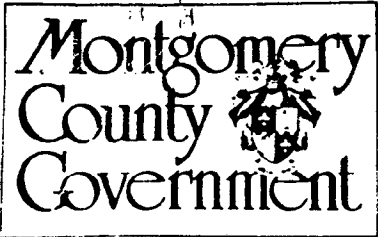


31/6 3929 Prospect St.

31/6-89K



RAPID MEMO

TO: Mr. Patterson
FROM: Alison Vawter, PAA
SUBJECT: Dr. Cantelon's motion

MESSAGE

Enclosed is the body of Dr. Cantelon's motion, as per your request.

Please call if I can assist you further.

SIGNED *Alison*

DATE 8-21-89

REPLY

SIGNED

DATE

THIS COPY FOR PERSON ADDRESSED

IT IS THE PURPOSE OF SECTION 24A OF THE MONTGOMERY COUNTY CODE, "PRESERVATION OF HISTORIC RESOURCES," TO PROVIDE FOR THE IDENTIFICATION, DESIGNATION, AND REGULATION, FOR PURPOSES OF PROTECTION, PRESERVATION, AND CONTINUED USE AND ENHANCEMENT OF THOSE SITES, STRUCTURES WITH THEIR APPURTENANCES AND ENVIRONMENTAL SETTINGS, AND DISTRICTS OF HISTORICAL, ARCHEOLOGICAL, ARCHITECTURAL, OR CULTURAL VALUE IN THAT PORTION OF MONTGOMERY COUNTY WITHIN THE MARYLAND-WASHINGTON REGIONAL DISTRICT. ITS FURTHER PURPOSE IS TO PRESERVE AND ENHANCE THE QUALITY OF LIFE IN THE COUNTY, SAFEGUARD THE HISTORICAL AND CULTURAL HERITAGE OF THE COUNTY, STRENGTHEN THE LOCAL ECONOMY, STABILIZE AND IMPROVE PROPERTY VALUES IN AND AROUND HISTORIC AREAS, FOSTER CIVIC BEAUTY, AND TO PRESERVE SUCH SITES, STRUCTURES, AND DISTRICTS FOR THE EDUCATION, WELFARE, AND CONTINUED UTILIZATION AND PLEASURE OF THE CITIZENS OF THE COUNTY, THE STATE OF MARYLAND, AND THE UNITED STATES OF AMERICA.

IT IS THE RESPONSIBILITY OF THE MONTGOMERY COUNTY HISTORIC PRESERVATION COMMISSION TO PRESERVE DESIGNATED HISTORIC DISTRICTS AND HISTORIC SITES IN THE COUNTY BY MEANS PROVIDED IN THE HISTORIC PRESERVATION ORDINANCE. ONE OF THE PRIMARY METHODS OF FULFILLING THIS RESPONSIBILITY IS THROUGH THE HISTORIC AREA WORK PERMIT PROCESS.

IT IS THE RESPONSIBILITY OF AN APPLICANT FOR AN HISTORIC AREA WORK PERMIT TO PROVIDE "INFORMATION SUFFICIENT TO SUPPORT THE APPLICATION AND THE BURDEN OF PERSUASION ON ALL QUESTIONS OF FACT WHICH ARE TO BE DETERMINED BY THE COMMISSION." [SEC. 24A-7(g)(1)] THE PLAN SUBMITTED MUST MEET AT LEAST ONE OF THE CRITERIA SET FORTH IN SECTION 24A-8(b). "IN THE CASE OF AN APPLICATION FOR WORK ON AN HISTORIC RESOURCE LOCATED WITHIN AN HISTORIC DISTRICT, THE COMMISSION SHALL BE LENIENT IN ITS JUDGMENT OF PLANS FOR STRUCTURES OF LITTLE HISTORICAL OR DESIGN SIGNIFICANCE OR FOR PLANS INVOLVING NEW CONSTRUCTION, UNLESS SUCH PLANS WOULD SERIOUSLY IMPAIR THE HISTORIC OR ARCHITECTURAL VALUE OF SURROUNDING HISTORIC RESOURCES OR WOULD IMPAIR THE CHARACTER OF THE HISTORIC DISTRICT." [SEC. 24A-8(d)]

THE HISTORIC PRESERVATION COMMISSION IS BOUND ONLY BY THE ORDINANCE IN MAKING ITS DETERMINATION AND NOT BY ANY OTHER COUNTY OR ZONING REQUIREMENTS WHICH MAY EXIST.

THE COMMISSION HAS CAREFULLY STUDIED THE MATERIAL PRESENTED BY STAFF, APPLICANT, AND SPEAKERS AND HAS INSPECTED THE PROPERTY IN QUESTION AND OBSERVED THE WAYS IN WHICH IT RELATES TO ITS ENVIRONMENTAL SETTING AND TO THE HISTORIC DISTRICT.

FINDING OF FACT: THE CURRENT KENSINGTON HISTORIC DISTRICT IS PART OF THE TOWN OF KENSINGTON WHICH WAS CREATED IN THE LATE 19TH CENTURY ACCORDING TO THE IDEALS OF THE VICTORIAN SUBURBAN GARDEN COMMUNITY, WITH HOUSES SITED ON AMPLE SIZED LOTS AND A CURVILINEAR STREET PATTERN. THE HISTORIC DISTRICT IS A CONCENTRATION OF LATE 19TH AND EARLY 20TH CENTURY RESIDENTIAL STRUCTURES EXHIBITING A VARIETY OF ARCHITECTURAL STYLES POPULAR DURING THE VICTORIAN PERIOD, INCLUDING QUEEN ANNE, SHINGLE, EASTLAKE, AND COLONIAL REVIVAL. THE HOUSES SIT IN A PARK-LIKE SETTING AND SHARE A UNIFORMITY OF SCALE, SET BACK, AND CONSTRUCTION MATERIALS THAT CONTRIBUTE TO THE COHESIVENESS OF THE DISTRICT'S STREETSAPES. THIS UNIFORMITY, COUPLED WITH THE DOMINANT DESIGN INHERENT IN WARNER'S ORIGINAL PLAN OF SUBDIVISION, CONVEYS A STRONG SENSE OF BOTH TIME AND PLACE, THAT OF A VICTORIAN GARDEN SUBURB.

THE APPLICANT PROPOSES NEW CONSTRUCTION IN AN AREA WHICH HAS SURVIVED AS ONE OF THE MOST INTACT AND UNALTERED STREETSAPES IN THE KENSINGTON HISTORIC DISTRICT. WITH FEW INTRUSIONS, THE NORTH SIDE OF PROSPECT STREET CAN BE CHARACTERIZED AS A "VICTORIAN GARDEN SETTING," WITH MATURE PICTURESQUE TREES AND LARGE, WELL-SPACED RESIDENCES CONSTRUCTED NEAR THE TURN OF THE CENTURY. IT IS THIS GARDEN SETTING AND STREETSAPES THAT EARNED KENSINGTON ITS PLACEMENT ON THE MASTER PLAN FOR HISTORIC PRESERVATION AND THE NATIONAL REGISTER OF HISTORIC PLACES.

THEREFORE, THE COMMISSION BELIEVES THAT UNDER THE CRITERIA IT MUST CONSIDER AS SET FORTH IN SECTION 24A-8(a) OF THE MONTGOMERY COUNTY CODE, THE ALTERATION FOR WHICH THE PERMIT IS SOUGHT WOULD BE INAPPROPRIATE FOR, INCONSISTENT WITH, AND DETRIMENTAL TO THE PRESERVATION, ENHANCEMENT, OR ULTIMATE PROTECTION OF THE HISTORIC DISTRICT AND TO THE PURPOSES OF THE ORDINANCE FOR THE FOLLOWING REASONS:

LOT 13

1. THE PROPOSED STRUCTURE IS OVERSCALED FOR THE EXISTING STREETScape. ITS HEIGHT AND SQUARE FOOTAGE ARE NOT COMPATIBLE WITH AND WOULD SUBSTANTIALLY ALTER THE CHARACTER AND NATURE OF THIS SECTION OF THE HISTORIC DISTRICT.
2. THE LOT COVERAGE OF THE PROPOSED HOUSE ON THE SITE, WHICH IS AN IDENTIFIED HISTORIC RESOURCE, IS SUCH THAT THE RESULTING RELATIONSHIP OF HOUSE TO "YARD" WOULD BE SIGNIFICANTLY DIFFERENT FROM THE EXISTING RELATIONSHIP OF HOUSES TO "YARDS" IN THIS AREA OF THE HISTORIC DISTRICT AND IS THEREFORE INCOMPATIBLE WITH THE CHARACTER OF THE DISTRICT. DEVELOPMENT WHICH WOULD RESULT IN THE COVERAGE OF NO MORE THAN 9% OF LOT 13 WOULD BE MORE IN KEEPING WITH THE EXISTING BALANCE OF THE HISTORIC DISTRICT.
3. THE PLACEMENT OF THE HOUSE ON THE SITE, WHICH IS AN IDENTIFIED HISTORIC RESOURCE, INTRUDES INTO THE EXISTING RHYTHM OF THE STREETScape AND IS THEREFORE INAPPROPRIATE TO AND INCOMPATIBLE WITH THE CHARACTER AND NATURE OF THIS SECTION OF THE HISTORIC DISTRICT.
4. THE WIDTH OF THE PROPOSED HOUSE AND ITS PLACEMENT WITH RESPECT TO THE FRONT PROPERTY LINE IS SUCH THAT IT WOULD CREATE A NEW RHYTHM OF HOUSES TO YARDS, SIGNIFICANTLY ALTERING THE TRADITIONAL RELATIONSHIPS OF THE HISTORIC DISTRICT. IN EFFECT, THE PROPOSAL WOULD CREATE A PRONOUNCED BUILDING "WALL" ALONG THE STREET, THEREBY CREATING AN URBAN SETTING INCOMPATIBLE WITH THE SUBURBAN HISTORICAL FEATURES AND CHARACTER OF THE DISTRICT.
5. THE PROPOSAL WILL DESTROY THE MAJORITY OF MATURE VEGETATION AND DRAMATICALLY ALTER THE SYLVAN SETTING CHARACTERISTIC OF THE HISTORIC DISTRICT AND IS, THEREFORE, INCOMPATIBLE WITH THE HISTORICAL ENVIRONMENTAL SETTING OF THE DISTRICT.
6. THE PROPOSED FENCE IS NOT APPROPRIATE TO THE EXISTING STREETScape.

7. THE PROPOSAL WILL SUBSTANTIALLY ALTER THE GARDEN-LIKE ENVIRONMENTAL SETTINGS OF THE ABUTTING PROPERTIES, 3923 AND 3927 PROSPECT STREET, WHICH ARE IDENTIFIED PRIMARY RESOURCES IN THE DISTRICT AND, THEREFORE, IS INCONSISTENT WITH THE PURPOSE OF THE ORDINANCE.

8. THE LOCATION OF AND MATERIALS USED FOR THE PROPOSED DRIVEWAY IS INAPPROPRIATE TO AND WILL IMPAIR THE ENVIRONMENTAL SETTING OF 3927 PROSPECT STREET, AN IDENTIFIED PRIMARY RESOURCE IN THE HISTORIC DISTRICT, BY REMOVING MATURE VEGETATION AND A PORTION OF THE EXISTING SIDE YARD.

LOT 15

1. THE PROPOSED STRUCTURE IS OVERSCALED FOR THE EXISTING STREETScape. ITS HEIGHT AND SQUARE FOOTAGE ARE NOT COMPATIBLE WITH AND WOULD SUBSTANTIALLY ALTER THE EXTERIOR FEATURES, CHARACTERISTICS, AND NATURE OF THIS SECTION OF THE HISTORIC DISTRICT.
2. THE LOT COVERAGE OF THE PROPOSED HOUSE ON THE SITE, WHICH IS AN IDENTIFIED HISTORIC RESOURCE, IS SUCH THAT THE RELATIONSHIP OF HOUSE TO "YARD" THAT WOULD RESULT WILL SIGNIFICANTLY DIFFER FROM THE EXISTING RELATIONSHIPS OF HOUSES TO "YARDS" WITHIN THIS AREA OF THE HISTORIC DISTRICT. DEVELOPMENT WHICH WILL RESULT IN COVERAGE OF NO MORE THAN 9% OF LOT 15 WOULD BE MORE IN KEEPING WITH THE HISTORICAL ENVIRONMENTAL SETTING OF THE DISTRICT.
3. THE PLACEMENT OF THE HOUSE ON THE SITE INTRUDES INTO THE EXISTING RHYTHM OF THE STREETScape AND IS THEREFORE INAPPROPRIATE TO AND INCOMPATIBLE WITH THE CHARACTER AND NATURE OF THIS SECTION THE HISTORIC DISTRICT.
4. THE WIDTH OF THE PROPOSED HOUSE AND ITS PLACEMENT WITH RESPECT TO THE FRONT PROPERTY LINE IS SUCH THAT IT WILL CREATE A NEW RHYTHM OF HOUSES TO YARDS, THEREBY SIGNIFICANTLY ALTERING THE ENVIRONMENTAL SETTING OF THE DISTRICT. THE PROPOSAL WILL CREATE A "WALL" ALONG THE STREET MORE SUITABLE TO AN URBAN SETTING THAN THE PARK-LIKE SUBURBAN ENVIRONMENT PRESENT IN THIS DISTRICT.
5. THE PROPOSED FENCE IS INAPPROPRIATE TO THE EXISTING STREETScape.
6. THE LOCATION OF TWO GARAGES ON ONE PROPERTY IS INAPPROPRIATE TO THE HISTORIC DISTRICT.
7. THE PROPOSED PAVED DRIVEWAY IS INAPPROPRIATE TO THE SETTING AND THE EXISTING GRAVEL DRIVEWAY SHOULD BE RETAINED.

IN ADDITION, THE APPLICANT HAS ARGUED THAT A DENIAL OF ONE OR BOTH PROPOSALS WILL DENY HIM A REASONABLE USE OF THE PROPERTY AND HE WILL SUFFER UNDUE ECONOMIC HARDSHIP UNDER SECTION 24A-7(g)(1). THIS ARGUMENT IS REJECTED. FIRST, THE COMMISSION NOTES THAT THE APPLICANT BEARS THE BURDEN OF PROOF ON THIS AND ALL QUESTIONS OF FACT. THE APPLICANT HAS FAILED TO PROVIDE CONVINCING EVIDENCE THAT A DENIAL OF THIS APPLICATION WILL CAUSE HIM TO SUFFER UNDUE ECONOMIC HARDSHIP. BOLD ASSERTIONS THAT THE APPLICANT WILL "LOSE MONEY" IF AN APPLICATION OR APPLICATIONS ARE DENIED CANNOT SUBSTITUTE FOR CONVINCING DOCUMENTARY EVIDENCE. THE COMMISSION FINDS THAT THE APPLICANT HAS NOT MET HIS BURDEN OF PROOF OR PERSUASION ON THIS ISSUE.

SECOND, THE COMMISSION'S DECISION DOES NOT DENY ALL REASONABLE USE OF EITHER PROPERTY. THE COMMISSION HAS DETERMINED THAT THESE PARTICULAR PROPOSALS ARE INCOMPATIBLE IN CHARACTER AND NATURE WITH THE SURROUNDING RESOURCES AND THE HISTORIC DISTRICT AND INVITES THE APPLICANT TO SUBMIT OTHER ALTERNATIVE DEVELOPMENT PLANS.

FOR THE ABOVE REASONS, THE COMMISSION HAS DETERMINED THAT THESE PROPOSALS BE DENIED AND THAT THE DEPARTMENT OF ENVIRONMENTAL PROTECTION BE INSTRUCTED NOT TO ISSUE THE PERMITS.

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 209101



June 14, 1989

Chairman and Members
Montgomery County Historic
Preservation Commission
Suite 1001
51 Monroe Street
Rockville, Maryland 20850

RE: The Application for an Historic Work Permit for Lots 13 & 15
on either side of 3927 Prospect Street, Kensington, Maryland

Dear Madams and Sirs:

We understand the above referenced matter is on your agenda for your meeting of June 15, 1989. We wish you to have this written record of our views inasmuch as it may help you understand the strength and depth of the opposition that exists in the Town for the applicant's proposal.

You may recall that we wrote to you in respect to another application of similar nature on Carroll Place back in November of 1988. One of the major concerns expressed at that time, was the "historic resource" you seek to protect and preserve in our Town is clearly much more than just the structures. It also includes the open spaces between the structures, and the environmental settings, in general. This concern is heightened by the present application which again proposes to develop two vacant lots.

Based on our assessment of resident comment and the Local Advisory Committee recommendation, we ask you to take into account that there is serious opposition to the applicant's proposal. The opposition is based on a legitimate concern about the substantial undesired change in character of the Historic district that would occur if the applicant's proposal is approved.

Further, we wish to make you aware that we ourselves are deeply concerned about the applicant's proposal and request that you exercise with courage the judgement you have under the Historic preservation guidelines to preserve our community.

We appreciate the opportunity to comment to you and would appreciate if you would keep us apprised of the status of your deliberations.

Sincerely,

THE MAYOR AND COUNCIL OF
THE TOWN OF KENSINGTON

By: Charles Stuart
Charles Stuart, Mayor

By: James Wagner
James Wagner, Councilmember

By: Anne Korff
Anne Korff, Councilmember

By: Thomas Schruben
Thomas Schruben, Councilmember

By: John Thompson
John Thompson, Councilmember

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 (1866-1945)
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.)

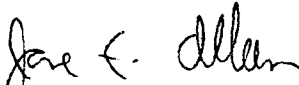
There is a line which can be crossed whereby an historic district loses its integrity. While we are not here proposing to tell the commission where that line is drawn, we would suggest that at least as far as Prospect Street is concerned there is some danger for the future. The north side of Prospect 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 sidelines 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

DEED

THIS DEED, made the 2nd day of August, 1988, by and between Henry W. Jarvinen and Dorothy C. Jarvinen, husband and wife, as Tenants by the Entirety, the Grantors, parties of the first part, and Charles C. Wilkes and Helen C. Wilkes, husband and wife as Tenants by the Entirety, the Grantees, parties of the second part.

WITNESSETH, that in consideration of Four Hundred Thirty-five Thousand and 00/100ths Dollars (\$435,000.00), receipt whereof is hereby acknowledged, said Grantors have granted, exchanged and conveyed, and by these presents do grant, exchange and convey unto said Grantees in fee simple absolute, with special warranty, the following piece or parcel of land, situate, lying and being in the County of Montgomery, State of Maryland and described as follows:

Lot(s) numbered Eleven, Twelve and part of Ten (11, 12 and part of 10) in Block 11 in a subdivision known as KENSINGTON PARK as per plat thereof recorded in Plat Book B at plat 4 among the land records of Montgomery County, Maryland.

The Improvements being known and designated as premises No. 3923 Prospect Street, Kensington, Maryland.

Being property conveyed to Henry W. Jarvinen and Dorothy C. Jarvinen by Deed dated December 5, 1953 and recorded in Liber 1870 at folio 523 among the aforesaid Land Records.

TOGETHER with all and singular the tenements, hereditaments, easements, rights-of-way and appurtenances thereunto belonging or in anywise appertaining, and the reversion or reversions, remainder or remainders, rents, issues and profits thereof; and also all the estate, right, title, interest, property, claim and demand whatsoever of the Grantors, of, in and to the same and of, in and to every part and parcel thereof.

TOGETHER with all right, title and interest of the Grantors, if any, in and to the land lying in the bed of any street, road, avenue, or alley, opened or proposed, in front or adjoining the above-described real estate to the center line thereof.

TO HAVE AND TO HOLD the above granted and described property, with the appurtenances, unto the Grantees, their successor and assigns forever.

Under penalty of perjury, the Grantees hereby certify that they are occupying the property herein conveyed as their principal residence.

AGRICULTURE TRANSFER TAX IN THE
AMOUNT OF \$ N/A
SIGNATURE HS

Charles C. Wilkes
Charles C. Wilkes
Helen C. Wilkes
Helen C. Wilkes

RECEIVED FOR TRANSFER
State Department of
Assessments & Taxation
for Montgomery County

By HS Date 8/10/88

SCULLMAN, BEUCHERT, EGAN & SMITH
1775 Pennsylvania Avenue, N.W., #400
Washington, D.C. 20006

1988 AUG -4 PM 1:15

23500
101A
50

DA

IN WITNESS WHEREOF, Henry W. Jarvinen and Dorothy C. Jarvinen have executed these presents as their act and deed, to acknowledge and deliver this instrument according to law, all as of the day and year first hereinabove written.

Witness:

Grantors:

Samuel S. Markovitz
Samuel S. Markovitz

Henry W. Jarvinen (SEAL)
Henry W. Jarvinen

Samuel S. Markovitz
Samuel S. Markovitz

Dorothy C. Jarvinen (SEAL)
Dorothy C. Jarvinen

DISTRICT OF COLUMBIA, ss:

I, E. DIANE NEUSTRAND, a Notary Public in and for the District of Columbia, do hereby certify that Henry W. Jarvinen, Dorothy C. Jarvinen, Charles C. Wilkes and Helen C. Wilkes personally known (or satisfactorily proven) to me as the parties in the foregoing and annexed Deed bearing date of August 2nd, 1988, personally appeared before me in said District of Columbia, and acknowledged the same to be their act and deed.

GIVEN under my hand and official seal this 2nd day of August, 1988.



E. Diane Neustrand
Notary Public,
District of Columbia

My commission expires:
My Commission Expires August 31, 1991

SEAL:

I hereby certify that I am a member of the Bar of the Court of Appeals of the State of Maryland, and that the written instrument was prepared by me or under my supervision.

Peter T. Meszoly
Peter T. Meszoly

CBE-18 \ PROSPECT. DED
7-28-88

AUG. 4 1988
13-15-1021496

All Taxes on assessments certified to the Collector of Taxes for Montgomery County, Md. by 8/4/88 have been paid Dept. of Finance Montgomery County, Md. This statement is for the purpose of permitting recordation and is not assurance against further taxation even for prior periods, nor does it guarantee satisfaction of outstanding tax sales.

\$ 4,350.00 TRANSFER TAX PAID
MONTGOMERY COUNTY, MARYLAND
BY [Signature]

Douglas D. [Signature]

CLERK'S INDEX SHEET

04/26/89 10:5

Z 202 832 6304 The Williams Company

61

PER 8399 FOLIO 827

Exhibit A

All that property situate in the County of Montgomery,
State of Maryland, more particularly described as follows:

Lot(s) numbered Eleven, Twelve and part of Ten (11,
12 and part of 10) in Block 11 in a subdivision
known as KENSINGTON PARK as per plat thereof
recorded in Plat Book B at plat 4 among the land
records of Montgomery County, Maryland.

The Improvements being known and designated as
premises No. 3923 Prospect Street, Kensington,
Maryland.

Being property conveyed to Henry W. Jarvinen and
Dorothy C. Jarvinen by Deed dated December 5, 1953
and recorded in Liber 1870 at folio 523 among the
aforesaid Land Records.

7-28-88

AGREEMENT AND DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS

THIS AGREEMENT AND DECLARATION, made as of this 2nd
day of August, 1988, by and between Charles C. Wilkes and
Helen C. Wilkes, husband and wife, hereinafter collectively
referred to as "Wilkes" and Henry W. Jarvinen and Dorothy C.
Jarvinen, husband and wife, hereinafter collectively referred
to as "Jarvinen".

W I T N E S S E T H:

WHEREAS, Jarvinen is the owner of the real property
located in the County of Montgomery, State of Maryland being
known as 3923 Prospect Street, Kensington, Maryland and more
particularly described in Exhibit "A" attached hereto and
incorporated herein (hereinafter referred to as the "Subject
Property"); and,

WHEREAS, Wilkes desires to purchase the Subject Property
from Jarvinen and to utilize the Subject Property for
residential and home occupational purposes;

WHEREAS, Jarvinen is the owner of neighboring real
property in the County of Montgomery, State of Maryland, more
particularly described in Exhibit B attached hereto and
incorporated herein (hereinafter referred to as the "Owner's
Property").

WHEREAS, Wilkes desires to assure Jarvinen that he shall
not develop an additional residence on, or sell for the
development of an additional residence on, that portion of the
Subject Property known as Lot 11 or part of Lot 10;

WHEREAS, Jarvinen is not opposed to the erection of a
garage, shed, pool, sauna, tennis court, cabana, gazebo,
study, studio or other ancillary or accessory building or
buildings of similar residential, home occupational or
recreational nature for Wilkes' personal use or the use by
Wilkes' family, guests or invitees;

Return to: Jacques B. DePuy, Esquire
Stohlmán, Beuchert, Egan & Smith, Chartered
1775 Pennsylvania Avenue, N.W., Suite 400
Washington, D.C. 20006
(CBE)

200 AUG -9 PM 1:15

24

NOW THEREFORE, in consideration of the foregoing, the mutual promises of the parties hereto, and for other good and valuable consideration, the mutual receipt of which is hereby acknowledged, Wilkes hereby declares, and Jarvinen hereby agrees, that the Subject Property is and shall be held, transferred, sold, conveyed and occupied subject to the conditions, covenants, and restrictions hereinafter set forth.

CLAUSE I

GENERAL CONDITIONS

The Subject Property shall be conveyed, transferred, occupied and sold subject to the following conditions, covenants, and restrictions:

A. The Subject Property shall be utilized solely for residential, recreational and home occupational uses and ancillary and accessory uses customarily incident to residential, recreational and home occupational uses;

B. There shall be no more than one residence on the Subject Property;

C. No portion of the Subject Property may be sold for the development thereon of more than one separate residence;

D. Wilkes may erect on any portion of the Subject Property, as permitted by applicable law, rule, regulation, order or ordinance, a garage, shed, pool, sauna, tennis court, cabana, gazebo, study, studio or other ancillary or accessory building or buildings of similar residential, recreational or home occupational nature for Wilkes' personal use or the use by Wilkes' family, guests or invitees.

Nothing set forth in this Clause I shall be interpreted to affect the right of Wilkes to enlarge, remodel, extend or otherwise alter any structure now existing or hereafter constructed on the Subject Property.

CLAUSE II

GENERAL APPLICATION

A. These covenants, conditions and restrictions shall become effective as to the Subject Property upon recordation of a deed to the Subject Property from Jarvinen to Wilkes.

B. These covenants, conditions and restrictions are to run with the land of the Subject Property and shall be binding upon Wilkes as well as his successors and assigns, and all parties claiming, by, through, or under Wilkes shall be taken to hold, agree, and covenant with Wilkes, as well as his successors and assigns and Jarvinen as well as his successors and assigns to conform to and preserve said restrictions as to the uses of the Subject Property.

C. Jarvinen as well as his successors and assigns in ownership of any portion of the Owner's Property shall have the right without any showing of special damage to enforce these covenants, conditions, and restrictions, including the right to sue for and obtain an injunction (prohibitive or mandatory) to prevent the breach of said covenants, conditions and restrictions. This Agreement and Declaration shall confer no rights to Jarvinen to sue for damages and Jarvinen hereby covenants not to sue for damages in the event of a breach hereof by Wilkes.

D. These covenants, conditions and restrictions may be amended upon the written consent of Wilkes (or his successors and assigns) and Jarvinen (or his successors and assigns in ownership of any portion of Owner's Property).

IN WITNESS WHEREOF, Charles C. Wilkes, Helen C. Wilkes, Henry W. Jarvinen and Dorothy C. Jarvinen have executed these presents as their act and deed, the same to acknowledge and deliver this instrument according to law, all as of the day and year first hereinabove written.

Witness:

Candace B. Evans
Candace B. Evans

Charles C. Wilkes
Charles C. Wilkes

Candace B. Evans

Candace B. Evans

Helen C. Wilkes

Helen C. Wilkes

Samuel S. Markovitz

Samuel S. Markovitz

Henry W. Jarvinen

Henry W. Jarvinen

Samuel S. Markovitz

Samuel S. Markovitz

Dorothy C. Jarvinen

Dorothy C. Jarvinen

DISTRICT OF COLUMBIA, ss:

I, E. DIANE NEUSTRAND, a Notary Public in and for the District of Columbia, do hereby certify that Charles C. Wilkes personally known (or satisfactorily proven) to me as one of the persons named in the foregoing and annexed Agreement and Declaration of Covenants, Conditions and Restrictions bearing date of August 2, 1988, personally appeared before me in said District of Columbia, and acknowledged the same to be his act and deed.

GIVEN under my hand and official seal this 2nd day of August, 1988.

E. Diane Neustrand
Notary Public,
District of Columbia

My commission expires:

My Commission Expires August 31, 1992

DISTRICT OF COLUMBIA, ss:

I, E. DIANE NEUSTRAND, a Notary Public in and for the District of Columbia, do hereby certify that Helen C. Wilkes personally known (or satisfactorily proven) to me as one of the persons named in the foregoing and annexed Agreement and Declaration of Covenants, Conditions and Restrictions bearing date of August 2, 1988, personally appeared before me in said District of Columbia, and acknowledged the same to be her act and deed.

GIVEN under my hand and official seal this 2nd day of August, 1988.

E. Diane Neustrand
Notary Public,
District of Columbia

My commission expires:

My Commission Expires August 31, 1992

AFFIDAVIT

DISTRICT OF COLUMBIA)

My name is Samuel M. Sipe, Jr. My home address is 4970 Western Avenue, Bethesda, Maryland 20816. I am an attorney in the Washington, D.C. law firm of Steptoe & Johnson and a member of the District of Columbia Bar.

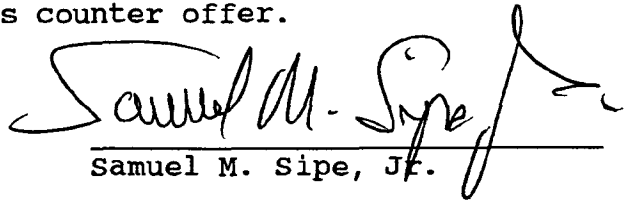
On February 11, 1989, my wife and I made a written offer to purchase a house located at 3927 Prospect Street in Kensington, Maryland. The house, located on lot 14 of Block 11 in the subdivision of Kensington Park, was being offered for sale at an asking price of \$545,000. The side yard to the east of the house, designated as lot 13, was apparently available for purchase from the same seller separately from the house, but we were not informed of any specific asking price for the side yard.

The house was attractive to us with the side yard, but not without it. Accordingly we made a written offer to purchase the house and the side yard for \$635,000. This represented the full asking price of \$545,000 for the house and a premium of \$90,000 for the side yard. We arrived at this offering price after consultation with Anne Emmett of the Bethesda office of Shannon & Luchs realtors with whom we had been working and who had shown us the Prospect Avenue property.

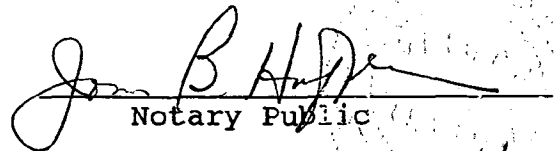
On the morning of Sunday February 12, 1989, Ms. Emmett presented our offer to the owner of the property, whom we were told was a Mr. Frank Murray. According to Ms. Emmett, Mr. Murray indicated that our offering price of \$635,000 was substantially

less than he would accept because he had already had separate offers from builders for the side yard (lot 14) in the area of \$200,000.

Mr. Murray responded to our offer of \$635,000 for the house and the side yard with a counter offer of \$745,000. Given the size of the difference between our offer and Mr. Murray's counter offer, we decided that it would be futile to make any further efforts to purchase the Prospect Avenue property and we did not respond to Mr. Murray's counter offer.


Samuel M. Sipe, Jr.

SWORN AND SUBSCRIBED before me on this 28th day of April, 1989.


Notary Public

My commission expires: 6/30/99

JOANN B. HUFFAKER
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires June 30, 1993

SHANNON & LUCHS

RESALE CONTRACT FOR SINGLE FAMILY HOUSE

THIS CONTRACT OF SALE, made this 11th day of February, 1989, by and between the undersigned Seller(s) (hereinafter referred to as Seller) and Samuel M. Sipe & Marilyn Keest (hereinafter referred to as Purchaser).

1. Deposit has been received from Purchaser with this contract in the form of cash in the amount of \$32,000.00.
2. THE ENTIRE DEPOSIT, RECEIPT OF WHICH IS ACKNOWLEDGED BY AGENT, SHALL BE HELD BY THE AGENT AND DEPOSITED IN AN ESCROW ACCOUNT IN ACCORDANCE WITH THE MARYLAND REAL ESTATE LICENSE LAW (OR WITH THE APPROPRIATE JURISDICTIONAL LAW) UPON RATIFICATION OF THIS CONTRACT BY BOTH PURCHASER AND SELLER.

WITNESSETH, that for and in consideration of the mutual covenants herein, Seller agrees to sell and Purchaser agrees to buy the property, legally described as Lot 14-13, Block 11, Subdivision Pennington Park, located in Prattville County, Maryland, with improvements thereon, including built-in heating plant and air conditioning system, all plumbing and lighting fixtures, kitchen equipment including range, oven, refrigerator, built-in dishwasher and disposal, wall-to-wall carpeting, comices, curtain rods and drapery rods, awnings, screens, storm doors and windows, blinds, shades and indoor plants, trees, shrubs, and plants, all as now installed on the property known as (address) 3927 Prospect Avenue, Pennington, Md. 20845 (street) upon the following terms of sale:

IF THIS CONTRACT IS FOR PROPERTY LOCATED OUTSIDE OF MONTGOMERY COUNTY, A JURISDICTIONAL CLAUSE ADDENDUM SHALL BE ATTACHED, IF APPLICABLE. Jurisdictional Clause Addendum attached Yes No . TOTAL PRICE OF PROPERTY IS Six hundred thirty five thousand dollars (\$ 635,000.00).

PURCHASER AGREES TO PAY cash dollars (\$ 635,000.00) at settlement (by cash or certified, treasurer's or cashier's check) OF WHICH SUM THE DEPOSIT SHALL BE A PART. If the deposit exceeds the down payment, any excess of the deposit shall apply first to settlement costs and the balance shall be refunded to Purchaser at settlement.

2. FINANCING: a) FIRST TRUST (To be placed or assumed). Purchaser is to obtain a conventional first deed of trust in lender's usual form secured by said property of cash dollars (\$ 635,000.00) due in 30 years and bearing interest at the rate of prime + 1 1/2% percent (9.75) per annum, the maximum rate prevailing at the time of settlement, payable at approximately 4295.77 dollars per month, PLUS one-twelfth (1/12) of annual taxes, fire insurance and mortgage insurance, if required by the lender.

b) SECOND TRUST OR SELLER TAKE BACK: If secondary or Seller financing is applicable, MCBR Addendum Form #1331 is attached. Yes No . c) FINANCING APPLICATION. Purchaser placing financing (regardless of type) agrees to make application therefor within ten (10) calendar days of the final ratification of this contract and agrees to promptly file any supplemental information or papers later requested by the lender and agrees that failure to comply with the terms of this provision shall give Seller the right to declare the deposit forfeited or avail himself of any legal or equitable rights as provided in the paragraph labeled "FORFEITURE OF DEPOSIT/LEGAL REMEDIES".

3. CONVENTIONAL LOAN. This contract is contingent on the ability of Purchaser to secure or receive a firm, written commitment for the herein described conventional financing or lender's approval of assumption, if required, and furnish evidence of commitment or approval to the listing and selling Agents within 10 calendar days from the date of final ratification of this contract, which commitment or approval Purchaser agrees to pursue diligently (see Paragraph 2c hereof). Purchaser reserves the right to increase the cash down payment and/or accept a modified commitment for financing and shall so notify Seller and Agent(s) in writing within the term of this contingency. In the event Purchaser does not obtain the specified financing or increase the cash down payment and/or accept a modified commitment for financing within the specified time period, then this contract shall be null and void and Purchaser's deposit shall be refunded pursuant to Paragraph 1b of this contract. By accepting a loan commitment which bears an interest rate or loan amount other than the rate or loan amount designated in Paragraph 2 above, the financing contingency contained herein shall be deemed satisfied and Purchaser hereby waives any rights which Purchaser may have to declare this contract null and void for failure to obtain acceptable financing. TIME IS OF THE ESSENCE WITH REGARD TO THIS PARAGRAPH.

4. LOAN FEES. a) Conventional Loan Fee. If a new loan is to be placed pursuant to this contract, Purchaser agrees to pay a loan origination and/or discount fee of none percent (0) of the principal sum of ANY CONVENTIONAL LOAN. Seller agrees to pay a loan origination and/or discount fee of none percent (0) of the principal sum of said loan. Lender's fees shall be paid by Purchaser including Mortgage Insurance Premiums as required by lender. Purchaser further agrees to accept any reasonable increase or decrease in said loan origination and/or discount fees where applicable.

b) Assumption. If the existing loan is to be assumed, Purchaser agrees to pay any loan assumption fees, charges or expenses required by lender. 5. EXAMINATION OF TITLE AND COSTS. Property is to be conveyed in the name of Samuel M. Sipe & Marilyn Keest. PURCHASER HAS THE RIGHT TO SELECT THE TITLE INSURANCE COMPANY, SETTLEMENT OR ESCROW COMPANY, OR TITLE ATTORNEY. Purchaser hereby authorizes the undersigned Agent to order the examination of title and the preparation of all necessary conveyancing papers through Shannon & Luchs and agrees to pay the settlement charges in connection therewith, tax certificate, conveyancing, notary fees, survey where required, lender's fees and recording charges except those incident to clearing existing encumbrances. Seller hereby agrees to pay any above-mentioned costs incurred if upon examination the title should be found defective and it is not remedied as herein stated. Seller also agrees to pay a reasonable closing fee for services rendered to him. SECTION 14-104 OF THE REAL PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND PROVIDES THAT "UNLESS OTHERWISE NEGOTIATED IN THE CONTRACT OR PROVIDED BY LOCAL LAW, THE COST OF ANY RECORDATION OR ANY STATE OR LOCAL TRANSFER TAX SHALL BE SHARED EQUALLY BETWEEN THE BUYER AND THE SELLER."

6. SETTLEMENT. Seller and Purchaser are required and agree to make full settlement in accordance with the terms hereof on or before the 11th day of March, 1989, or, as soon thereafter, as a report of the title and a survey, if required, can be secured if promptly ordered, and/or an FHA or VA loan, if applicable, can be processed, if applied for immediately. 7. ADDITIONAL PROVISIONS. SPECIAL PROVISIONS IN THE ATTACHED ADDENDUM, BEARING THE SIGNATURES OF ALL PARTIES CONCERNED, ARE HEREBY MADE A PART OF THIS CONTRACT. ADDENDUM (A) ATTACHED Yes No. Seller agrees to pay for the cost of deferred transportation related to the facility charges, if any, are estimated to be none dollars (\$ 0.00) per year as shown on the county tax bill.

8. AGENCY. Seller recognizes Shannon & Luchs as the Agent(s) negotiating this contract and agrees to pay such Agent(s) a brokerage fee for services rendered as specified in a separate Listing Agreement. If not previously paid by Seller, the party making settlement is hereby irrevocably authorized and directed to deduct and pay the aforesaid brokerage fee from the proceeds of the sale. However, should settlement fail to occur within the time hereinafter set forth, the Agent(s) shall still be entitled to the brokerage fee herein provided. Shannon & Luchs Sales Associate (Signature) Emmett Broker or Sales Manager. Office Phone Number 301-229-3300. 9. AGREEMENT OF PRINCIPALS. We, the undersigned, hereby ratify, accept and agree to this contract and acknowledge receipt of a copy hereof. The principals to this contract mutually agree that it shall be binding upon them, their heirs, executors, administrators, personal representatives, successors and assigns; that the provisions hereof shall survive the execution and delivery of the deed herein stated and shall not be merged therein. This contract contains the final and entire agreement between the parties hereto, and neither they nor their Agent(s) shall be bound by any terms, conditions, statements, warranties, or representations, oral or written, not herein contained. This contract, any modification, amendment or addendum hereto, shall be null, void and unenforceable until Seller and Purchaser have (a) signed or, where appropriate, initialed this contract and any modification, amendment or addendum, and/or (b) transmitted assent through a wired or electronic medium which produces a tangible record of the transmission (such as a telegram, mailgram or datagram), and (c) provided to the other party, in accordance with the paragraph labeled "NOTICES", the signed or, where appropriate, initialed contract, modification, amendment or addendum, and/or the transmitted assent. ADDITIONAL PARAGRAPHS NUMBERED 10 THROUGH 28 SET FORTH ON THE REVERSE SIDE HEREOF ARE INCORPORATED HEREIN AND MADE A PART HEREOF OF AND ALL PARTIES ACKNOWLEDGE THAT THEY HAVE READ SAID PARAGRAPHS.

Seller Shannon & Luchs Purchaser Samuel M. Sipe & Marilyn Keest
Date of Signature(s) 2/11/89 Address of Purchaser 3927 Prospect Avenue, Pennington, Md. 20845
Residence Office City State Zip
Seller (Print) Shannon & Luchs Phone 301-229-3300 Office 301-229-3300
Seller (Print) Shannon & Luchs Date of Signature(s) 2/11/89 City Prattville State MD Zip 20845

SELLER OR PURCHASER, WHOEVER PROVIDES FINAL RATIFICATION, IS REQUESTED TO COMPLETE THE FOLLOWING:
Date of Final Ratification: 2/11/89 Time of Final Ratification: 10:00 AM

"Nice People To Do Business With"

SHANNON & LUCHS

REALTORS® • Established 1906



CONTRACT ADDENDUM

Special Provisions attached to and hereby made a part thereof, the contract dated

Feb 11, 1989 on Lot 13, 14 Block 11
Subdivision 4 Munster Place
located at 3927 Prospect
between Mr. Morsan
and Mr. Sipe & Mrs. Perot

Seller agrees to construct new one car garage at end of driveway. Garage to be of comparable architecture with house and to have sufficient space for lawn tools.

This offer is for house located at 3927 Prospect St. + side lot closest to Conn. Ave. (local description to be supplied by seller)

Chris Emmett
Sales Associate

By _____
Broker or Sales Manager

Having read the foregoing, we, the undersigned, hereby ratify, approve, accept, confirm and acknowledge the same to be part of our contract.

Date of Acceptance (Purchaser)

Man S. Perot Purchaser
Chris Emmett Purchaser
Seller

Date of Acceptance (Seller)

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

4-23-89

Historic Preservation Commission
Local Advisory Committee

Dear Sir Or Modone

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, Henry 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 Blanche & Henry Armstrong. With

P.1

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

I should digress here and mention that for many years the Armstrongs 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 Armstrong 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, or
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

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 is 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

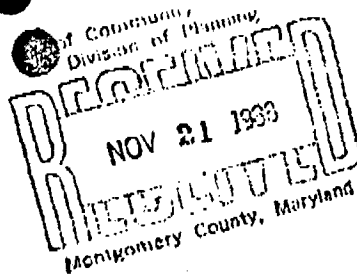
1. Estate frontages on north side (west to east) go from:
Existing: 222.5 feet, 125 feet, 125 feet, 100 feet.
Proposed: 122.5 feet, 50 feet, 50 feet, 125 feet, 125 feet, 100 feet.
2. Open space between houses
 - a. Presently:
 1. 64 feet between Murray/Turner house and Wilkes house.
 2. 140 feet between 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.

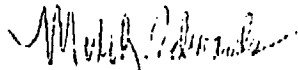
It appears that any new construction on the two lots in question would have some degree of adverse effect on the qualities from which the district derives its historic significance. The setting of the house at 10234 Carroll Place, with its large yard and extensive shrubbery, would be altered by the proximity 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

BALTIMORE ST

2. MAP DIAGRAM
EXISTING DEVELOPMENT
PROSPECT STREET

325

137.0'

29.5'

64.0'

26.25'

140.0'

36.25'

45.75'

27.25'

42.75'

PROSPECT ST

26.0'

28.5'

43.5'

29.75'

31.25'

23.25'

27.8'

25.5'

28.75'

24.25'

71.0'

29.25'

71.0'

27.0'

46.0'

47.5'

28.25'

32.25'

ONE STORY ENCLOSED PORCH

POOL

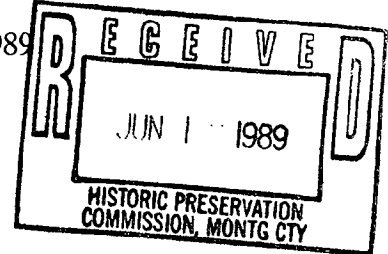
300

WASHINGTON ST

THE TOWN OF KENSINGTON CITIZENS' ASSOCIATION, INC.

3706 Dupont Street
Kensington, MD 20895

May 27, 1989



Mr. Steven Karr, Chair
Montgomery County Historic Preservation Commission
51 Monroe Street
Room 1009
Rockville, MD 20850

Dear Mr Karr:

We are writing to express the association's opposition to a request for a historic area work permit to build on lots 13 and 15 on Prospect Street in the Kensington Historic District.

These lots are an integral part of a streetscape which represents one of the few unspoiled examples of Brainard Warner's suburban garden park streetscape envisioned in his master plan for Kensington. As such, they are an important historical resource and should be kept intact.

The proposed development is not only unsuitable in scale and massing for the space and the street, but will irretrievably change the parklike and cohesive atmosphere of the historic district. The estates on the north side of Prospect Street for the most part have been preserved in their original state and sit on large lots -- the minimum distance between any two houses is 45 feet. The developer proposes to have as little as 16 feet between houses. In addition, he plans to remove most of the large trees and shrubbery on the lots, which will have an adverse impact on the street equalled only by the large scale of the houses he is proposing to build.

In short, the proposed development does not meet the compatibility criteria of the Montgomery County Historic Preservation Ordinance and threatens the historic district designation of the area. The work permits should be denied.

Sincerely,

Ruth Haas
Secretary

VENABLE, BAETJER AND HOWARD

ATTORNEYS AT LAW

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

BALTIMORE OFFICE
1800 MERCANTILE BANK & TRUST BUILDING
2 HOPKINS PLAZA
BALTIMORE, MARYLAND 21201-297B
(301) 244-7400
TELEX 898032

SUITE 502 SOVRAN BANK BUILDING
255 NORTH WASHINGTON STREET
P.O. BOX 1906
ROCKVILLE, MARYLAND 20850
(301) 340-9700

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

RICHARD M. VENABLE (1939-191D)
EDWIN G. BAETJER (1868-1943)
CHARLES MCH. HOWARD (1870-1942)

VIRGINIA OFFICE
SUITE 500
2000 CORPORATE RIDGE
MCLEAN, VIRGINIA 22102-7805
(703) 749-3500

May 10, 1989

Mr. Jared B. Cooper
51 Monroe Street, Suite 1001
Rockville, Maryland 20850

RE: Historic Area Work Permits-Frank P. Murray
Prospect Street, Kensington, Maryland

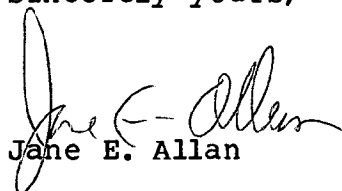
Dear Mr. Cooper:

Our firm represents Charles and Helen Wilkes, the owners of property which adjoin the above-referenced property. As we discussed on the phone yesterday, the attorney for Mr. Murray, William Chen, Esquire, and I had agreed to move the date for the hearing on the Murray applications from May 18, 1989.

We are hereby requesting that the Commission hearing on the Prospect Street applications be set for June 15, since our firm will not be able to be present for the June 1 hearing. I have contacted Mr. Chen about this date and he is agrees to the June 15th hearing date.

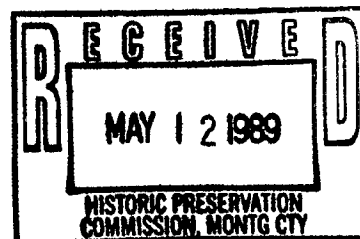
If you have any problems or questions, please do not hesitate to contact me.

Sincerely yours,


Jane E. Allan

JEA/d

cc: William Chen, Esq.



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

4-23-89

Historic Preservation Commission
Local Advisory Committee

Dear Sir Or Modone

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 Blanch & 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 Boinville family who still reside in Kensington

I should digress 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 bought 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 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

To the Mayor and Town Council of Kensington, the Local Advisory Committee, and the Montgomery County Historic Preservation Commission:

We, the undersigned, are profoundly disturbed by the proposed development of two houses on either side of the residence at 3927 Prospect Street. The addition of these houses to the streetscape clearly and quantifiably would alter the environmental setting in this part of the historic district and would have a detrimental effect on the established open character of the streetscape. Further, the proposed development does not meet the compatibility criteria set forth in the Montgomery County Historic Preservation Ordinance. The irreplaceable historic and environmental resource of the existing dwelling and its grounds characterize the unique late-Victorian garden setting which was envisioned in the design of the original town plan. We ask, therefore, that the entire estate be preserved intact and without compromise for present and future generations.

- | | | |
|-----|-------------------------------|--|
| 1. | Youssef A. Youssef | Youssef A. Youssef 3309 Glenway Dr. KENS |
| 2. | House 11151 | 9711 Hillridge Dr. Kensington Md 20895 |
| 3. | Julius H. Tolton | Julius H. Tolton 5209 Aurora Dr. KENS MD 20895 |
| 4. | Carolyn B. Sherrick | CAROLYN B. SHERRICK 4608 SAUL RD KENSINGTON MD 20895 |
| 5. | Margaret C. Dooley | Margaret C. Dooley 10311 Summit Ave KENS. MD 20895 |
| 6. | Gwen Luttrell | Gwen Luttrell 9408 Byeforde Rd KENS. |
| 7. | Anita Jardine | ANITA JARDINE 10543 WHEATLEY ST. KENS. |
| 8. | Gary Edwards | Gary Edwards 3929 Baltimore St., Kensington MD |
| 9. | Karl Lemp | Karl Lemp 3934 " " " " |
| 10. | [scribble] | [scribble] |
| 11. | | |
| 12. | | |
| 13. | | |

To the Mayor and Town Council of Kensington, the Local Advisory Committee, and the Montgomery County Historic Preservation Commission:

We, the undersigned, are profoundly disturbed by the proposed development of two houses on either side of the residence at 3927 Prospect Street. The addition of these houses to the streetscape clearly and quantifiably would alter the environmental setting in this part of the historic district and would have a detrimental effect on the established open character of the streetscape. Further, the proposed development does not meet the compatibility criteria set forth in the Montgomery County Historic Preservation Ordinance. The irreplaceable historic and environmental resource of the existing dwelling and its grounds characterize the unique late-Victorian garden setting which was envisioned in the design of the original town plan. We ask, therefore, that the entire estate be preserved intact and without compromise for present and future generations.

- | | | | |
|-----|-------------------------|---------------------------|--|
| 1. | VICTOR H COHEN | <i>Victor H Cohen</i> | 3932 Prospect St |
| 2. | Raymond L Weisman | <i>Raymond L Weisman</i> | 3926 Prospect St |
| 3. | Lois W Weisman | <i>Lois W Weisman</i> | 3926 Prospect St |
| 4. | India Berkholtz | <i>India Berkholtz</i> | 3912 Prospect St |
| 5. | PETER BERENHORN | <i>Peter Berenhorn</i> | 3912 Prospect |
| 6. | SANDRA ZAVOLTA | <i>Sandra M. Zavolta</i> | 3911 PROSPECT ST. |
| 7. | George Primbs | <i>George Primbs</i> | 3911 Prospect st. |
| 8. | CAROL JONES | <i>Carol J Jones</i> | 3908 Prospect St. |
| 9. | Vivian O'Neill | <i>Vivian O'Neill</i> | 3915 Prospect St |
| 10. | Mrs. Virginia Jachowski | <i>Virginia Jachowski</i> | 4011 Prospect St. |
| 11. | Malcolm Wether | <i>Malcolm Wether</i> | 4010 prospect St. Kensington Md |
| 12. | Lawrence M. Long | <i>Lawrence M. Long</i> | 3904 PROSPECT ST. KENSINGTON MD. 20891 |
| 13. | David Long | <i>David Long</i> | " " " " " " |

To the Mayor and Town Council of Kensington, the Local Advisory Committee, and the Montgomery County Historic Preservation Commission:

We, the undersigned, are profoundly disturbed by the proposed development of two houses on either side of the residence at 3927 Prospect Street. The addition of these houses to the streetscape clearly and quantifiably would alter the environmental setting in this part of the historic district and would have a detrimental effect on the established open character of the streetscape. Further, the proposed development does not meet the compatibility criteria set forth in the Montgomery County Historic Preservation Ordinance. The irreplaceable historic and environmental resource of the existing dwelling and its grounds characterize the unique late-Victorian garden setting which was envisioned in the design of the original town plan. We ask, therefore, that the entire estate be preserved intact and without compromise for present and future generations.

- | | | | |
|-----|-----------------|------------------|-------------------|
| 1. | MARK SULLIVAN | MC Sullivan | 3928 Prospect St. |
| 2. | Mark Sullivan | Mark Sullivan | " " " |
| 3. | MARIE ROSCHÉ | Marie S. Roschie | 3922 Prospect St. |
| 4. | John W. O'Dell | J. W. O'Dell | 3915 Prospect St. |
| 5. | Joanne Klappauf | Joanne Klappauf | 3906 Prospect St. |
| 6. | | | |
| 7. | | | |
| 8. | | | |
| 9. | | | |
| 10. | | | |
| 11. | | | |
| 12. | | | |
| 13. | | | |

To the Mayor and Town Council of Kensington, the Local Advisory Committee, and the Montgomery County Historic Preservation Commission:

We, the undersigned, are profoundly disturbed by the proposed development of two houses on either side of the residence at 3927 Prospect Street. The addition of these houses to the streetscape clearly and quantifiably would alter the environmental setting in this part of the historic district and would have a detrimental effect on the established open character of the streetscape. Further, the proposed development does not meet the compatibility criteria set forth in the Montgomery County Historic Preservation Ordinance. The irreplaceable historic and environmental resource of the existing dwelling and its grounds characterize the unique late-Victorian garden setting which was envisioned in the design of the original town plan. We ask, therefore, that the entire estate be preserved intact and without compromise for present and future generations.

- | | |
|------------------------|---|
| 1. Dorothy Jarvinen | DOROTHY JARVINEN
3947 Washington St. |
| 2. Marlene Cohn | Marlene Cohn
3932 Prospect St. |
| 3. Anne Lemp | Anne Lemp
3934 Baltimore St. |
| 4. Karl Lemp | " " " |
| 5. Elizabeth B. Koontz | Elizabeth B. Koontz
10200 Kensington Av., Kensington Md. 20895 |
| 6. Edith Ray Saul | Edith Ray Saul
10310 Fawcett St., Kensington, Md. 20895 |
| 7. Fiona Morris | FIONA MORRIS
10225 Montgomery Ave Kensington 20895 |
| 8. Irene Shulman | Irene Shulman
10221 Montgomery Ave, Kensington 20895 |
| 9. Marianne G. Velasco | Marianne G. Velasco
10521 St Paul St. Kensington, 20895 |
| 10. Nelson S. Velasco | NELSON S. VELASCO
10521 St. Paul St. Kensington, 20895 |
| 11. Chris Van Hellen | 3514 Farragut Ave. Chris Van Hellen
Kensington, Md. 20895. |
| 12. James J. Wagner | 3915 Baltimore St,
Kensington Md James J. Wagner |
| 13. Jackie Pickard | 3935 Baltimore St
Kensington Md Jackie Pickard |

To the Mayor and Town Council of Kensington, the Local Advisory Committee, and the Montgomery County Historic Preservation Commission:

We, the undersigned, are profoundly disturbed by the proposed development of two houses on either side of the residence at 3927 Prospect Street. The addition of these houses to the streetscape clearly and quantifiably would alter the environmental setting in this part of the historic district and would have a detrimental effect on the established open character of the streetscape. Further, the proposed development does not meet the compatibility criteria set forth in the Montgomery County Historic Preservation Ordinance. The irreplaceable historic and environmental resource of the existing dwelling and its grounds characterize the unique late-Victorian garden setting which was envisioned in the design of the original town plan. We ask, therefore, that the entire estate be preserved intact and without compromise for present and future generations.

- | | |
|-------------------------------|--|
| 1. <u>Mary Cooper</u> | MEL COOPER,
3948 WASHINGTON ST, KENSINGTON, Md. 20895 |
| 2. <u>Ken Salomon</u> | 10547 ST PAUL ST, KENSINGTON, MD 20895 |
| 3. <u>John W. Jones</u> | 10543 ST PAUL ST, Kensington MD 20895
Stephen Lukacs |
| 4. <u>Stephen Jones</u> | 10531 St Paul St. Kensington, Md. 20895 |
| 5. <u>Helen Wilkes</u> | HELEN WILKES
3923 PROSPECT ST.
KENSINGTON, MD 20895 |
| 6. <u>Carol Oades</u> | 2611 DUPONT AVE
KENSINGTON, MD. |
| 7. <u>Dorothy M. Gooding</u> | Dorothy M. Gooding
3607 Dupont Ave. Kensington, Md 20895 |
| 8. <u>Ruth Hon</u> | Ruth B Haas
3706 Dupont Ave Kensington Md. 20895 |
| 9. <u>Doris Kelly</u> | DORIS KELLY
9708 Summit Ave Kensington 20895 |
| 10. <u>Ann Tyler</u> | ANN TYLER
4101 Decatur Ave Kensington, Md. 20895 |
| 11. <u>David de Boynville</u> | DAVID DE BOINVILLE
10416 Fenwick St. Kensington, Md. 20895. |
| 12. <u>Jean A. Pence</u> | JEAN A. PENCE
11231 Waycross Way, Kensington, MD 20895 |
| 13. <u>George Marshall</u> | GEORGE MARSHALL
10202 Parkwood Dr Kensington, MD 20895 |

To the Mayor and Town Council of Kensington, the Local Advisory Committee, and the Montgomery County Historic Preservation Commission:

We, the undersigned, are profoundly disturbed by the proposed development of two houses on either side of the residence at 3927 Prospect Street. The addition of these houses to the streetscape clearly and quantifiably would alter the environmental setting in this part of the historic district and would have a detrimental effect on the established open character of the streetscape. Further, the proposed development does not meet the compatibility criteria set forth in the Montgomery County Historic Preservation Ordinance. The irreplaceable historic and environmental resource of the existing dwelling and its grounds characterize the unique late-Victorian garden setting which was envisioned in the design of the original town plan. We ask, therefore, that the entire estate be preserved intact and without compromise for present and future generations.

- | | |
|--------------------------------|--|
| 1. <i>Dennison E. Mitchell</i> | DENNISON E. MITCHELL
5000 ORLEANS CT. KENS MD. |
| 2. <i>Kathleen C. Carmody</i> | KATHLEEN C. CARMODY
44.5 Westhick Lane
Kensington, MD 20895 |
| 3. <i>John B. Porterfield</i> | JOHN B. PORTERFIELD
5012 DRUID DRIVE
KENSINGTON, MD 20895 |
| 4. <i>Ruth Pietrowicz</i> | Ruth Pietrowicz
10305 MannaKee Place
Kensington MD 20895 |
| 5. <i>João Pietrowicz</i> | JOÃO PIETROWICZ |
| 6. <i>Ann Marie Bishop</i> | ANN MARIE BISHOP
4020 Byrd Rd
Kensington, Md. 20895 |
| 7. <i>Paul Ceruzzi</i> | PAUL CERUZZI
3303 Ferndale St
Kensington Ma 20895 |
| 8. <i>Bettye J. Rhodes</i> | BETTYE J. RHODES
10225 KENSINGTON PKWY,
KENSINGTON, MD 20895 |
| 9. <i>Irene Edwards</i> | 3929 Baltimore St. IRENE EDWARDS
Kensington |
| 10. <i>Barbara Lowery</i> | Barbara Lowery
5002 White Flint Dr.
Kensington, Md. 20895 |
| 11. <i>Daphne J. Currow</i> | DAPHNE J. CURROW
11007 MADISON
Kensington MD 20895 |
| 12. <i>Kathleen Morgan</i> | Kathleen Morgan
3414 Dupont Ave Kensington MD |
| 13. <i>Frances C. Ryan</i> | FRANCES C. RYAN
10302 2 DRUMM AVE KENS MD 20895 |

To the Mayor and Town Council of Kensington, the Local Advisory Committee, and the Montgomery County Historic Preservation Commission:

We, the undersigned, are profoundly disturbed by the proposed development of two houses on either side of the residence at 3927 Prospect Street. The addition of these houses to the streetscape clearly and quantifiably would alter the environmental setting in this part of the historic district and would have a detrimental effect on the established open character of the streetscape. Further, the proposed development does not meet the compatibility criteria set forth in the Montgomery County Historic Preservation Ordinance. The irreplaceable historic and environmental resource of the existing dwelling and its grounds characterize the unique late-Victorian garden setting which was envisioned in the design of the original town plan. We ask, therefore, that the entire estate be preserved intact and without compromise for present and future generations.

- | | | |
|-----|----------------------------|---|
| 1. | <u>Lyman B. Smith</u> | <u>3941 Washington Street, Kensington, Maryland</u> |
| 2. | <u>Francis B. Rector</u> | <u>3951 Baltimore St Kensington Md.</u> |
| 3. | <u>James Omer</u> | <u>39 78 Ballance St</u> |
| 4. | <u>Mary Cooper</u> | <u>3948 Washington St Kensington Md 20895</u> |
| 5. | <u>Elizabeth R. Howard</u> | <u>3941 Baltimore St, Kensington, MD 20895</u> |
| 6. | <u>John L. Elsbree</u> | <u>3936 Washington St, Kensington, MD. 20895</u> |
| 7. | <u>Garnett Elsbree</u> | <u>3936 Washington St., Kensington, MD. 20895</u> |
| 8. | <u>John Schwab</u> | <u>3930 Washington St Kensington MD 20895</u> |
| 9. | <u>W. E. Doe</u> | <u>3947 Baltimore St Kensington MD 20895</u> |
| 10. | <u>[Signature]</u> | <u>3944 Baltimore St. Kensington (Md) 20895</u> |
| 11. | <u>[Signature]</u> | <u>3948 Washington St</u> |
| 12. | | |
| 13. | | |

To the Mayor and Town Council of Kensington, the Local Advisory Committee, and the Montgomery County Historic Preservation Commission:

We, the undersigned, are profoundly disturbed by the proposed development of two houses on either side of the residence at 3927 Prospect Street. The addition of these houses to the streetscape clearly and quantifiably would alter the environmental setting in this part of the historic district and would have a detrimental effect on the established open character of the streetscape. Further, the proposed development does not meet the compatibility criteria set forth in the Montgomery County Historic Preservation Ordinance. The irreplaceable historic and environmental resource of the existing dwelling and its grounds characterize the unique late-Victorian garden setting which was envisioned in the design of the original town plan. We ask, therefore, that the entire estate be preserved intact and without compromise for present and future generations.

1. James L. Foy	3940 Washington St. Kensington, Md.
2. R. Ruyck	3926 Washington St. Kensington, MD
3. E. P. Jurgens	3924 " " " "
4. N. M. Lantz	3922 " " " "
5. C. Jalubek	3916 " " " "
6. C. Platt	3912 Washington St. Kensington, Md.
7. J. Platt	3910 Washington St. Kensington, Md.
8. S. Yin	3909 " "
9. Robert P. Mark Bolton	3911 Wash
10. Bertrude H. Kiedel	3915 Washington St. Kensington, Md.
11. Michael Knecht	3919 Washington St. Kensington, MD
12. Luke Nolan	3927 Washington St. Kensington MD
13. Charles & De Little	3929 Washington St. Kensington MD

To the Mayor and Town Council of Kensington, the Local Advisory Committee, and the Montgomery County Historic Preservation Commission:

We, the undersigned, are profoundly disturbed by the proposed development of two houses on either side of the residence at 3927 Prospect Street. The addition of these houses to the streetscape clearly and quantifiably would alter the environmental setting in this part of the historic district and would have a detrimental effect on the established open character of the streetscape. Further, the proposed development does not meet the compatibility criteria set forth in the Montgomery County Historic Preservation Ordinance. The irreplaceable historic and environmental resource of the existing dwelling and its grounds characterize the unique late-Victorian garden setting which was envisioned in the design of the original town plan. We ask, therefore, that the entire estate be preserved intact and without compromise for present and future generations.

- | | | |
|-----|--------------------------|--|
| 1. | <i>Yvonne P. Duffell</i> | <i>3939 Washington Rd Kensington Md. 20995</i> |
| 2. | | |
| 3. | | |
| 4. | | |
| 5. | | |
| 6. | | |
| 7. | | |
| 8. | | |
| 9. | | |
| 10. | | |
| 11. | | |
| 12. | | |
| 13. | | |

To the Mayor and Town Council of Kensington, the Local Advisory Committee, and the Montgomery County Historic Preservation Commission:

We, the undersigned, are profoundly disturbed by the proposed development of two houses on either side of the residence at 3927 Prospect Street. The addition of these houses to the streetscape clearly and quantifiably would alter the environmental setting in this part of the historic district and would have a detrimental effect on the established open character of the streetscape. Further, the proposed development does not meet the compatibility criteria set forth in the Montgomery County Historic Preservation Ordinance. The irreplaceable historic and environmental resource of the existing dwelling and its grounds characterize the unique late-Victorian garden setting which was envisioned in the design of the original town plan. We ask, therefore, that the entire estate be preserved intact and without compromise for present and future generations.

1. T. J. O'Malley T. J. O'MALLEY, 10019 FREDERICK, KENS.
2. Pat Weikel P. Weikel, 3813 Calvert
3. Michael B. Eisenhart ^{Mildred Behrens Eisenhart} 9629 Crook. Hous. Md
4. Margaret B. Kennedy 3542 Reymon Rd Kensington Md 20895
5. Mary S. Lussier ⁴⁵⁰¹ 3333 University Blvd. Kensington 20895
6. Julith D. Perry 3333 University Blvd W., Kensington MD. 20995
7. Xenda Di Giacomo 9717 Culver St., Kensington, Md. 20895
8. Jean Richards 10106 Wildwood Rd. Kensington, Md. 20895
Julie O'Malley
9. Julie O'Malley 10019 Frederick Ave., Kensington 20895
10. Helen Bachschmid 10208 Carroll Pl. Kensington 20895
3710 Washgton St
11. Dick Simler Kensington, MD - 20895
12. Jan Thompson 10412 Mammakee St. Kensington, MD. 20895
13. Jan Thompson 10412 MAMMAKEE ST KENS. MD 20895

To the Mayor and Town Council of Kensington, the Local Advisory Committee, and the Montgomery County Historic Preservation Commission:

We, the undersigned, are profoundly disturbed by the proposed development of two houses on either side of the residence at 3927 Prospect Street. The addition of these houses to the streetscape clearly and quantifiably would alter the environmental setting in this part of the historic district and would have a detrimental effect on the established open character of the streetscape. Further, the proposed development does not meet the compatibility criteria set forth in the Montgomery County Historic Preservation Ordinance. The irreplaceable historic and environmental resource of the existing dwelling and its grounds characterize the unique late-Victorian garden setting which was envisioned in the design of the original town plan. We ask, therefore, that the entire estate be preserved intact and without compromise for present and future generations.

1. Steve Clyburn Steve CLYBURN
3501 Kensington Ct 20895
2. Arlene Fickel 3501 Kensington Court 20896
3. Abigail Adelman 3200 University Blvd. West 20895
4. John W. Robinson 9616 Old Spring Road Kensington 20895-
5. George H. Bonell 3400 - OBERON-ST, Kensington, Md 20895
6. Jean Gerovich 9915 E Duxhill Dr. Kensington Md. 20895
7. Pet Larimer 9912 Hillridge Dr. - Kensington Md. 20895
8. Pacy Birchby 10314 Fawcett St, Kensington, MD 20895
9. John Morris 10225 Kensington Pkwy. (501), Kensington, Md 20895
10. George Sauerwein 9815 Parkwood Dr. Beltsville Md. 20814
11. Kirkland C. Smith 3710 Wadyto St. Kensington, MD. 20895
12. Francis D. Throckmold, Jr 3114 UNIV BLVD. W., Kensington, Md. 20895
13. Marge J. Nurczyk 3401 Ferndale St Kensington, MD 20895

To the Mayor and Town Council of Kensington, the Local Advisory Committee, and the Montgomery County Historic Preservation Commission:

We, the undersigned, are profoundly disturbed by the proposed development of two houses on either side of the residence at 3927 Prospect Street. The addition of these houses to the streetscape clearly and quantifiably would alter the environmental setting in this part of the historic district and would have a detrimental effect on the established open character of the streetscape. Further, the proposed development does not meet the compatibility criteria set forth in the Montgomery County Historic Preservation Ordinance. The irreplaceable historic and environmental resource of the existing dwelling and its grounds characterize the unique late-Victorian garden setting which was envisioned in the design of the original town plan. We ask, therefore, that the entire estate be preserved intact and without compromise for present and future generations.

1. Constance B. Day 10109 Hadley Place, Kensington, MD 20895
2. Daniel H. Day 10109 Hadley Pl. Kensington, MD 20895
3. Lona Parsons 10206 Carroll Pl Kensington MD 20895
4. WILLIAM T. PARSONS 10206 CARROLL PL. KENSINGTON MD 20895
5. Lila Lubachman 10208 Carroll Pl. Kensington, MD 20895
6. Raymond L. Funnis 10214 Carroll Place Kensington MD 20895
7. Elizabeth Wickens 10302 Fawcett St. Kensington, MD 20895
8. Edith Saul 10310 Fawcett St., Kensington, Md. 20895
9. Angie Sue Sherr 10313 Fawcett St., Kensington, Md 20895
10. Peggy Bridgman 10314 Fawcett St, Kensington, MD 20895
11. Marcia Parocco 3807 Baltimore St., Kensington, MD. 20895
12. Mary Ann Noel Ray 10301 Armory Ave Kensington, MD 20895
13. Ned Miltenberg NED MILTENBERG 10305 ARMORY AVE KENSINGTON, MD 20895

To the Mayor and Town Council of Kensington, the Local Advisory Committee, and the Montgomery County Historic Preservation Commission:

We, the undersigned, are profoundly disturbed by the proposed development of two houses on either side of the residence at 3927 Prospect Street. The addition of these houses to the streetscape clearly and quantifiably would alter the environmental setting in this part of the historic district and would have a detrimental effect on the established open character of the streetscape. Further, the proposed development does not meet the compatibility criteria set forth in the Montgomery County Historic Preservation Ordinance. The irreplaceable historic and environmental resource of the existing dwelling and its grounds characterize the unique late-Victorian garden setting which was envisioned in the design of the original town plan. We ask, therefore, that the entire estate be preserved intact and without compromise for present and future generations.

- | | | |
|-----|-------------------------|--|
| 1. | <u>Asorvane Kennedy</u> | 10303 Montgomery Ave Kensington 20895 |
| 2. | <u>Erill Waters</u> | 9536 - Kensington Pkwy Kes md 20895 |
| 3. | <u>Trisha McPhers</u> | 10213 Montgomery Ave Kensington |
| 4. | <u>John</u> | 10100 HADLEY PLACE |
| 5. | <u>Phm C. Pether</u> | 10308 Montgomery Avenue |
| 6. | <u>Edmund Kelly</u> | 10304 Kensington Pkwy |
| 7. | <u>Catherine Kelly</u> | 10304 Kensington Pkwy, Kensington, 20895 |
| 8. | <u>Paul John</u> | 10210 Kensington Pkwy, Kensington 20895 |
| 9. | <u>Dawn Koub</u> | 10200 Kensington Pkwy, Kensington, 20895 |
| 10. | <u>Stephen Palmer</u> | 10208 Kensington Pkwy., Kensington, Md 20895 |
| 11. | <u>Leben H. Miller</u> | 10211 Montgomery Ave. Kensington, MD. 20895 |
| 12. | <u>Miriam N. Coffin</u> | 10209 Montgomery Ave Kensington, Md. 20895 |
| 13. | <u>John W. Coffin</u> | " " " " " " |

To the Mayor and Town Council of Kensington, the Local Advisory Committee, and the Montgomery County Historic Preservation Commission:

We, the undersigned, are profoundly disturbed by the proposed development of two houses on either side of the residence at 3927 Prospect Street. The addition of these houses to the streetscape clearly and quantifiably would alter the environmental setting in this part of the historic district and would have a detrimental effect on the established open character of the streetscape. Further, the proposed development does not meet the compatibility criteria set forth in the Montgomery County Historic Preservation Ordinance. The irreplaceable historic and environmental resource of the existing dwelling and its grounds characterize the unique late-Victorian garden setting which was envisioned in the design of the original town plan. We ask, therefore, that the entire estate be preserved intact and without compromise for present and future generations.

1. Marjorie Berce 3906 Washington St. Kensington, Md. 20895
2. John R Berce 3906 Washington St Kensington Md 20895
3. Paula S Frohman 10201 Grosvenor Pl #109 Rockville MD 20852
4. Arria McAnnis 10,001 Connecticut Ave, Kensington Md 20895
5. Edith Booth 10309 Army Ave Kensington Md 20895
6. Anne Goodwin 3416 Wake Dr, Kensington, Md 20895
7. John Stent 3705 Dupont Ave, Kensington, MD 20895
8. Martha A. Deal 3501 Oberon Street, Kensington, Md. 20895
9. Carl Deal 3501 Oberon Street, Kensington Md. 20895
10. R. M. Fitzmann 3504 KENT STREET, KENSINGTON, MD 20895
11. J. J. Jansinski 10537 ST Paul ST Kensington MD 20895
12. Scott Han 3706 Dupont Ave. Kensington MD 20895
13. Barbara Wagner 3915 Baltimore St Kensington MD 20895

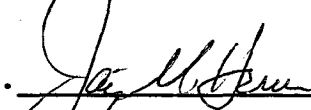
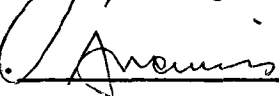
To the Mayor and Town Council of Kensington, the Local Advisory Committee, and the Montgomery County Historic Preservation Commission:

We, the undersigned, are profoundly disturbed by the proposed development of two houses on either side of the residence at 3927 Prospect Street. The addition of these houses to the streetscape clearly and quantifiably would alter the environmental setting in this part of the historic district and would have a detrimental effect on the established open character of the streetscape. Further, the proposed development does not meet the compatibility criteria set forth in the Montgomery County Historic Preservation Ordinance. The irreplaceable historic and environmental resource of the existing dwelling and its grounds characterize the unique late-Victorian garden setting which was envisioned in the design of the original town plan. We ask, therefore, that the entire estate be preserved intact and without compromise for present and future generations.

1. ^{MR} Mrs. Lee A. Brierly | 10307 Armory Ave.
Kensington, MD 20895 Mrs. Brierly
2. Mr + Mrs. Wm. C. Bost | 10309 Armory Ave.
3. Mr & Mrs J. Oppenheimer | 10312 Armory Ave.
4. Mr and Mrs Muckem | 10318 Fawcett St.
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____
11. _____
12. _____
13. _____

To the Mayor and Town Council of Kensington, the Local Advisory Committee, and the Montgomery County Historic Preservation Commission:

We, the undersigned, are profoundly disturbed by the proposed development of two houses on either side of the residence at 3927 Prospect Street. The addition of these houses to the streetscape clearly and quantifiably would alter the environmental setting in this part of the historic district and would have a detrimental effect on the established open character of the streetscape. Further, the proposed development does not meet the compatibility criteria set forth in the Montgomery County Historic Preservation Ordinance. The irreplaceable historic and environmental resource of the existing dwelling and its grounds characterize the unique late-Victorian garden setting which was envisioned in the design of the original town plan. We ask, therefore, that the entire estate be preserved intact and without compromise for present and future generations.

- | | | |
|-----|---|---|
| 1. |  | JAY M. HENN 10234 CARROLL PLACE, KENSINGTON, MD |
| 2. |  | ALUN MORRIS, 10225 MONTGOMERY AVE, KENSINGTON |
| 3. | | |
| 4. | | |
| 5. | | |
| 6. | | |
| 7. | | |
| 8. | | |
| 9. | | |
| 10. | | |
| 11. | | |
| 12. | | |
| 13. | | |

To the Mayor and Town Council of Kensington, the Local Advisory Committee, and the Montgomery County Historic Preservation Commission:

We, the undersigned, are profoundly disturbed by the proposed development of two houses on either side of the residence at 3927 Prospect Street. The addition of these houses to the streetscape clearly and quantifiably would alter the environmental setting in this part of the historic district and would have a detrimental effect on the established open character of the streetscape. Further, the proposed development does not meet the compatibility criteria set forth in the Montgomery County Historic Preservation Ordinance. The irreplaceable historic and environmental resource of the existing dwelling and its grounds characterize the unique late-Victorian garden setting which was envisioned in the design of the original town plan. We ask, therefore, that the entire estate be preserved intact and without compromise for present and future generations.

- | | | |
|-----|-----------------------------------|--|
| 1. | Mary Fennel
<i>Mary Fennel</i> | 4101 Bytowa Court
Kensington, MD. 20845 |
| 2. | <i>Richard W. ...</i> | 2412 Eugene St.
Wheaton, Md. 30902 |
| 3. | | |
| 4. | | |
| 5. | | |
| 6. | | |
| 7. | | |
| 8. | | |
| 9. | | |
| 10. | | |
| 11. | | |
| 12. | | |
| 13. | | |

HISTORIC PRESERVATION COMMISSION STAFF REPORT

PREPARED BY: Jared B. Cooper

DATE: June 8, 1989

CASE NUMBER: #31/6 - 89K

TYPE OF REVIEW: HAWP

SITE/DISTRICT NAME: Kensington

PROPERTY ADDRESS: 3929 Prospect Street
(Lot 15, Block 11)

DISCUSSION:

The applicant is proposing construction of a new residence at 3929 Prospect Street in the Kensington Historic District on a vacant lot near the intersection of Baltimore Street, and adjacent to the existing late 19th century structure located at 3927 Prospect Street. This is one of two proposed residences by the same developer in the same general area (see Case #31/6 - 89J). In this case, the proposed structure is fairly large; however, the lot is much larger than the other lot proposed for new construction (122.5' frontage vs. 50' frontage (see Kensington Park Plat Map and development site plan). Generally, staff feels that some of the grounds for concern do not apply in developing this lot as in the case of Lot 13, which is sandwiched more tightly between two historic resources. In this case, there appears to be room to comfortably add a residence without creating a glaring intrusion in the historic district.

STAFF RECOMMENDATION:

At the recommendation of the LAC, and concurrence by staff, the applicant has downsized the residence from the original proposal. It is still a relatively large structure, though well designed and compatible, in staff's estimation. Based on these revised plans, staff is comfortable with the proposal for construction on Lot 15, but will reserve final recommendation until a completed tree survey is submitted.

ATTACHMENTS:

1. HAWP Application
2. LAC Comments
3. Elevation Drawings (Garage Elevations will be presented at meeting)
4. Photographs
5. Proposed Streetscape
6. 1890 Plat of Kensington Park
7. Tree Survey (has been submitted, but is being improved by the applicant)
8. Plot Plan (Also shows location of House proposed for Lot 13).

JBC:av
1111E

Montgomery
County
Government

Historic Preservation Commission

51 Monroe Street, Rockville, Maryland 20850
~~100 Maryland Avenue, Rockville, Maryland 20850~~
217-3625 279-1327

APPLICATION FOR HISTORIC AREA WORK PERMIT

ACCOUNT # 2400408

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

TRACTOR _____ TELEPHONE NO. 301 711

PREPARED BY Michael Patterson CONTRACTOR REGISTRATION NUMBER 566 TELEPHONE NO. 891-6855
(Include Area Code)

REGISTRATION NUMBER _____

LOCATION OF BUILDING/PREMISE

Parcel Number 3929 Street Prospect Street

City Kensington Election District 13

East Cross Street Baltimore & Washington Streets

15 Block, 11 Subdivision Kensington Park

6456 Folio, 639 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/Raze	<input type="checkbox"/> Move	<input type="checkbox"/> Install	<input type="checkbox"/> Revocable Revision	<input type="checkbox"/> Porch	<input type="checkbox"/> Deck	<input type="checkbox"/> Fireplace
				<input type="checkbox"/> Shed	<input type="checkbox"/> Solar	<input type="checkbox"/> Woodburning Stove
				<input type="checkbox"/> Fence/Wall (complete Section 4) Other _____		

CONSTRUCTION COSTS ESTIMATE \$ 250M to 350M

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

INDICATE NAME OF ELECTRIC UTILITY COMPANY APCO

IS THIS PROPERTY A HISTORICAL SITE? NO

SECTION TWO: COMPLETE FOR NEW CONSTRUCTION AND EXTEND/ADDITIONS

1A. TYPE OF SEWAGE DISPOSAL	2B. TYPE OF WATER SUPPLY
01 () WSSC	01 () WSSC
02 () Septic	02 () Well
03 () Other _____	03 () Other _____

SECTION THREE: COMPLETE ONLY FOR FENCE/RETAINING WALL

HEIGHT 4 feet 0 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 approved by all agencies listed and I hereby acknowledge and accept this to be a condition for the issuance of this permit.

Signature of owner or authorized agent (agent must have signature notarized on back) Frank P. Murray Date 3/27/89

APPROVED _____ For Chairperson, Historic Preservation Commission

APPROVED _____ Signature _____ Date _____

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

DATE FILED: _____ PERMIT FEE: \$ _____

DATE ISSUED: _____ BALANCE \$ _____

REGISTRATION 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 on west side of 3927
Prospect Street (lot 15 Block 11)

d. Property owner's name, address and phone number:

Frank P. Murray

6422 Western Ave., Chevy Chase MD

(h) _____ (w) ~~6422 Western Ave~~ 951-7011

e. Is this property a contributing resource within the historic district? Yes X 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 X No _____.

II. Description of work proposed

a. Briefly describe proposed work:

new construction, removal of trees, driveways, 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. 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 ~~was~~ to recommend disapproval passed; vote was 7-1.

Date on which application received: April 24, 1989

Date of LAC meeting at which application was reviewed: May 1, 1989

Form completed by: Daniel P Jones Title: Chairman

Member of: Kensington LAC

Date: May 2, 1989



Prospect Street

Left



center



right

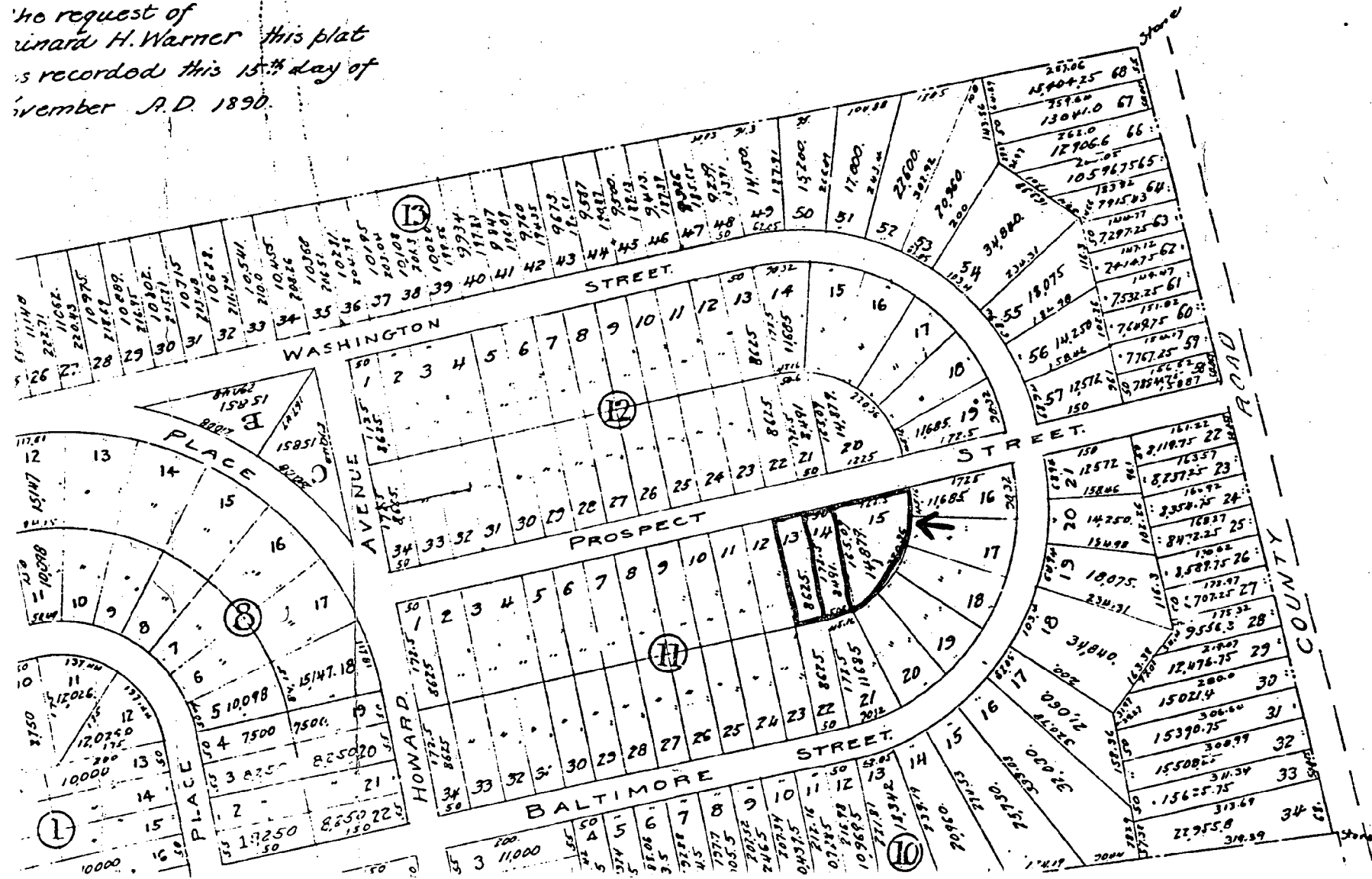


3927 Prospect Street
Lot 14 Block 11
(Neighboring Structure)

KENSINGTON PARK

MONTGOMERY COUNTY MARYLAND.

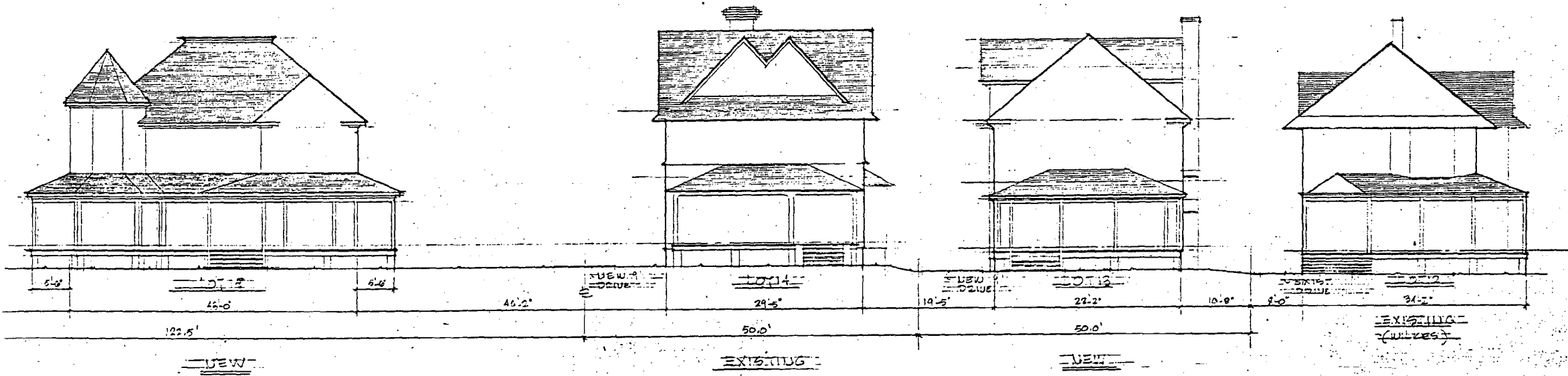
At the request of
Edward H. Warner this plat
is recorded this 15th day of
November A.D. 1890.



PROPOSED - 107% REVISION
THREE (3) LOT 107%
REVISION

MICHAEL B. PATTERSON
ARCHITECT
11620 PARKLAWN DRIVE ROCKVILLE, MD. 20852
(301) 881-8855

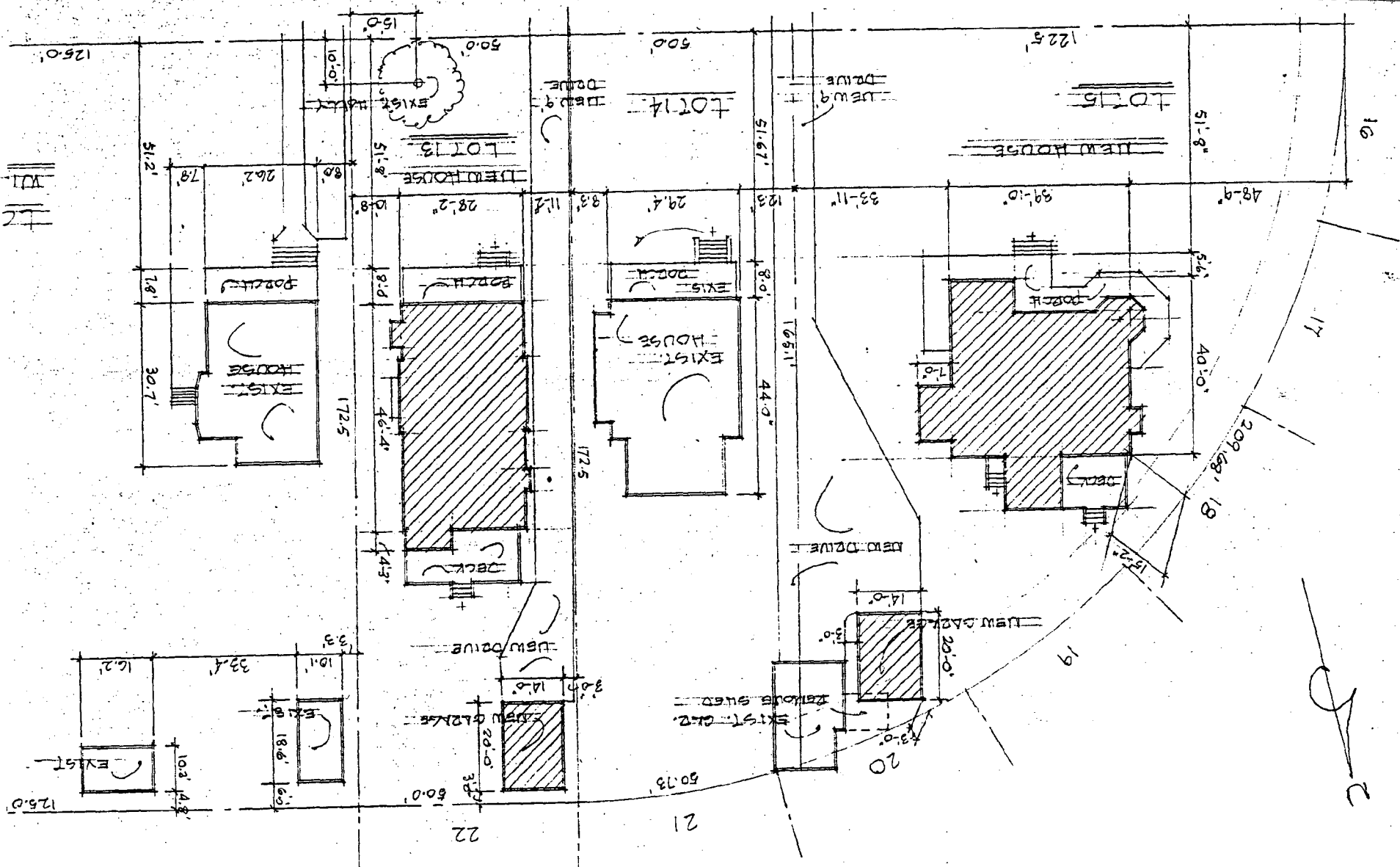
25 MAY 89



FRANK P.M.D.
~~LOTS 13, 14, 15~~
~~REVISION~~

LOT PLAN

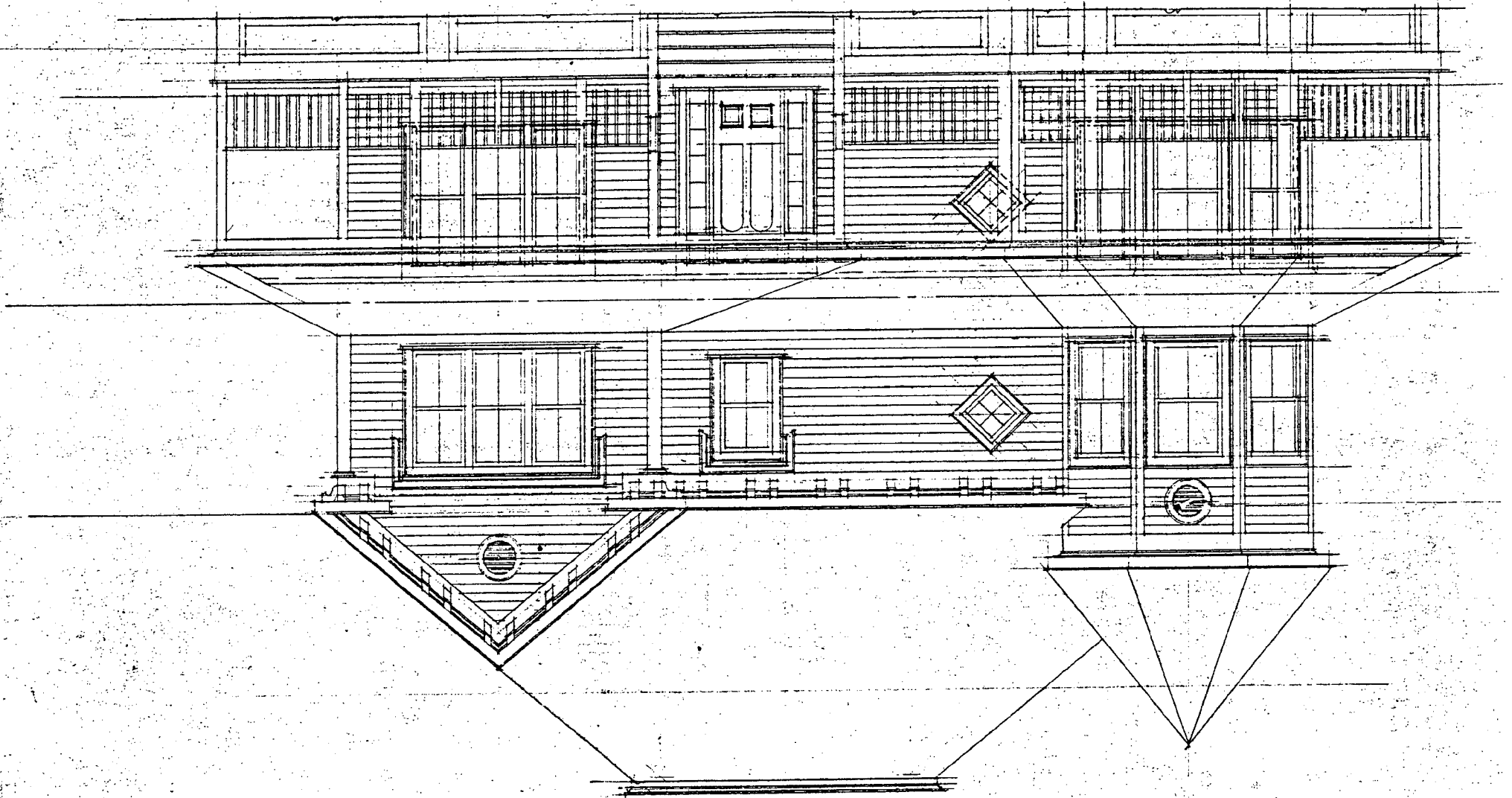
PROSPECT S.



VI
VII



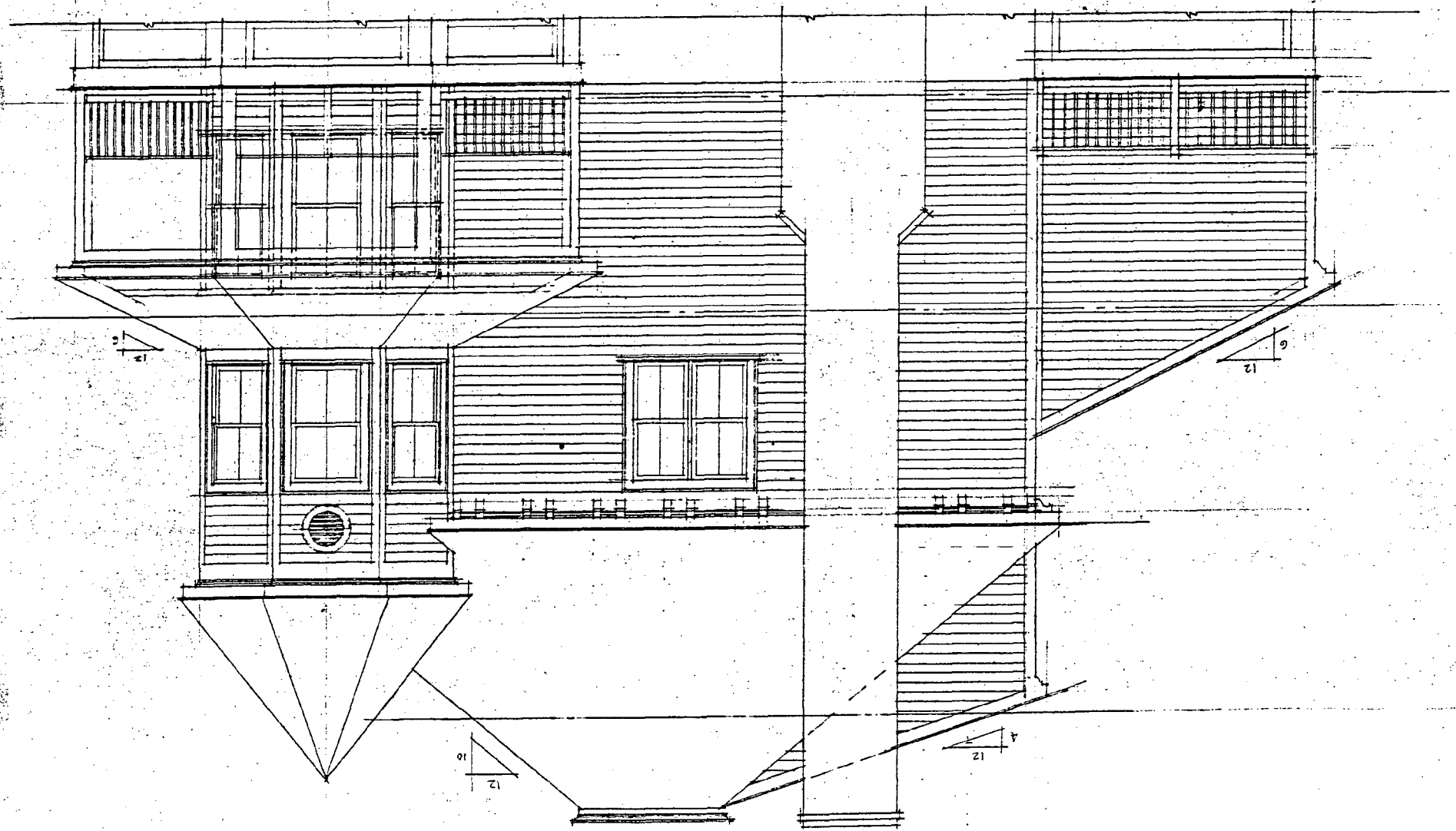
Front



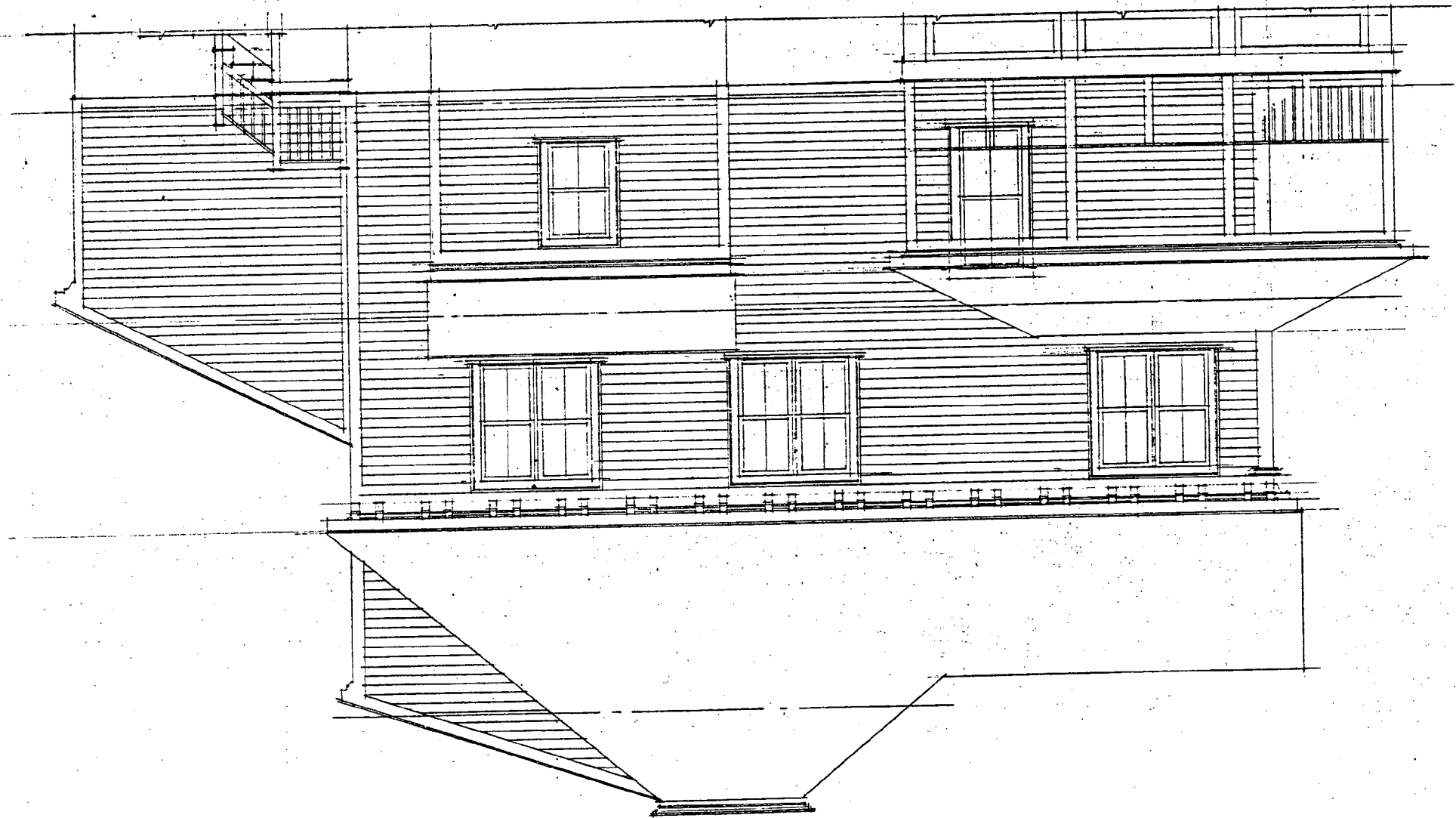
2E.V.2



LEFT SIDE



DIGITAL SIDE



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 on west side of 3927
Prospect Street (lot 15 Block 11)
- d. Property owner's name, address and phone number:
Frank P. Murray
6422 Western Ave., Chevy Chase MD
(h) _____ (w) ~~6422 Western Ave.~~ 7951-7011
- e. Is this property a contributing resource within the historic district? Yes X 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 X No _____.

II. Description of work proposed

- a. Briefly describe proposed work:
new construction, removal of trees, driveways, 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. 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 ~~vote~~ to recommend disapproval passed; vote was 7-1.

Date on which application received: April 24, 1989

Date of LAC meeting at which application was reviewed: May 1, 1989

Form completed by: Daniel P Jones Title: Chairman

Member of: Kensington LAC

Date: May 2, 1989

cont'd.

MINUTES OF LAC MEETING 5-1-89

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

1. The facade width is too great.
2. The front semicircular drive would reduce greenspace and is 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.)

INDEX OF MURRAY EXHIBITS

- A. Letter from Town of Kensington
 - B. Murray Garage Plans
 - C. Approved and Adopted Amendment to the Master Plan - Kensington Historic District
 - D. Elevations - Lot 13
 - E. Elevations - Lot 15
 - F. Plot Plan and Streetscape renderings
 - G. Kensington Park and Planning Area Base Map
 - H. Design Guidelines Handbook For Historic Preservation
 - I. Minutes from December 15, 1988 HPC meeting (Avery-Flaherty applications)
 - J. Graphic of Original Plans for Lots 13 and 15, submitted to Kensington LAC
 - K. Graphic labeled "HPC Approvals" - photos of houses in area of Lots 13 and 15.
 - L. Graphic of Kensington "Horseshoe"
 - M. Graphic - Photos of houses within 1-block radius of 13/15 that sit on 50' lots
 - N. N(a) - Letter from Molly Murray, clarifying her opinion on prices of lots in Kensington
N(b) - Letter from R.A. McClelland, Broker, on fair market value of lots in Kensington
 - O. Resume of Shelly Rentsch, Landscape Architect
 - P. Graphic of Historic Subdivision Plans
 - Q. Graphic of Axonometric Massing Diagram
 - R. Graphic of Site Streetscape
 - S. Graphic of Architectural Inventory
 - T. Graphic of Historic Landscape Character
 - U. Graphic of Site Analysis
 - V. Graphic of Landscape Master Plan
 - W. Historic Landscape Evaluation - EDAW, Inc. (Summary of Rentsch Testimony)
 - X. Graphic of Streetscape Character
 - Y. Resume of John Charles Nohly, Arborist
 - Z. Plot Plan
- | | | |
|--|-----|---|
| | AA. | HAWP of John/Vivian O' Neill |
| | BB. | Letter from John/Evelyn Ullmann urging lots be left classified as buildable |
| | CC. | Transmittal and Draft Amendment to Master Plan: Kensington |
| | DD. | Contract Sipe/Murray for 3927 Prospect Street |
| | EE. | 50 Foot Lot Homes - Kensington Area |
| | FF. | Kensington "Horseshoe" Neighborhood Density Plan |
| | GG. | Larger Lot Homes - Prospect St. Area |

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 for new construction at 3929 Prospect Street, (Lot 15, 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 3925 Prospect Street (Lot 13). 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 15 and 13 are primary resources. Lots 15 and 13 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 15 (3929 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 unmarketable house. In summary, Mr. Patterson stated that he did not believe that Lot 15 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 15 and 13 (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 15 was particularly significant or rare. In summary, she stated that she did not feel that the proposal would impair the historic district in any way but that it would, along with the proposed construction on Lot 13, reinforce the harmony of the streetscape.

An arborist, Mr. John Nohly, also testified on behalf of the applicant. He stated that the Hemlocks on the western portion of Lot 15 were 80 years old and, while they may originally have served as screening for the lot, they had since been substantially trimmed to provide clearance for power lines.

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 15 and 13, they would "lose money", even if they sold Lot 14. She indicated that she thought the fair market value of Lots 15 and 13 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 15 or Lot 13. 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, demonstrated that the footprint (lot coverage) of the structure proposed for Lot 15 was larger than the footprint of all other structures located along Prospect Street. Ms. Wilkes also pointed out that largely because of the size of the proposal for Lot 15, many of the large trees on the lot, and most of the small trees (many of which are flowering Dogwoods) would have to be removed. In summary, the witness testified that the proposed structure was much larger than all 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 15, along with Lot 13, 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 15 would 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 with the introduction of the proposed structure on Lot 15.

The Commission also finds that the proposed structure for Lot 15 is overscaled for the historic district. If built, its height and square footage would make it, not only much larger than the adjoining primary resource at 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.

The proposed construction would also directly impact the natural environment. The Commission finds that the construction will destroy much of the mature vegetation on Lot 15, dramatically altering the sylvan setting of the resource at 3927 (Lot 14) Prospect Street (Exhibit Z). This vegetation contributes 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.

The Commission finds that the proposed fence is inappropriate. The design of the fence is one traditionally found in an agrarian setting. While front yard fences are not commonplace within the historic district, where they do exist their design is generally a small scale picket fence. Finally, the Commission finds that the proposed additional garage is inappropriate. Typically, the houses in the historic district have either one garage or none at all.

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 15 and Lot 13 are each worth \$200,000. The applicant further states that "[t]he cost of Lots 15 and 13 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 15 and 13. 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 3929 Prospect Street (Lot 15, 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
1300E



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

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 3929 Prospect Street, (Lot 15, 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 3925 Prospect Street (Lot 13). 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 3929 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 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)

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 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 15 (3929 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 15 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 15 was particularly significant or rare. 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 13, would reinforce the harmony of the streetscape.

An arborist, Mr. John Nohly, also testified on behalf of the applicant. He indicated that none of the trees on Lot 15 were particularly 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 pattern 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 15 was larger than the footprint of all other structures located along Prospect Street, where the average property coverage observed on the north and south sides of Prospect Street is 8.7 and 8.5 percent, respectively. Ms. Wilkes also pointed out that largely because of the size of the proposal for Lot 15, many of the large trees on the lot, and most of the small trees (many of which are flowering Dogwoods) would have to be removed. In summary, the witness testified that the proposed structure

was much larger than all 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 15 and 13, were historically 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 Kensington Historic 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, a development pattern that emphasizes informally landscaped green space, free of hard, clear edges. 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 proposed structure for Lot 15 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 house at 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.

Thus, the Commission finds that any structure with the height, square footage and massing as that proposed for Lot 15 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 and 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 a structure onto Lot 15 with the height, square footage and massing that has been proposed in this application.

The percent coverage of the proposed house to its site, which has traditionally 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. Development which will result in coverage of no more than nine percent of Lot 15 would be more in keeping with the scale of the historical environmental settings of the district, as shown by Ms. Wilkes in Exhibit 17-D.

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.

The proposed construction would also directly impact the natural environment. The Commission finds that the proposed construction would destroy much of the mature vegetation on Lot 15, dramatically altering the existing sylvan setting of the historic resource at 3927 Prospect Street (Lot 14). (Exhibit Z) This vegetation is an important component of the "Victorian garden" setting which was referenced in the Master Plan.

The Commission finds that the proposed fence is inappropriate. Fenced yards are more of a town/village environment than "classic" garden suburb. The design of the proposed fence is one traditionally found in an agricultural/farming setting. While front yard fences are not commonplace with the historic district, where they do exist their design is generally a small-scale picket fence. The Commission finds that the proposal would substantially alter the garden-like environmental setting of the adjoining property, 3927 Prospect Street, which is an identified primary resource in the District and, therefore, is inconsistent with the purpose of the ordinance.

Finally, the Commission finds the proposed paved driveway is inappropriate to and will impair the environmental setting of 3927 Prospect Street, an identified primary resource in the historic district. Such a large expanse of solid material would disfigure the sylvan setting; the existing gravel driveway should be retained, as it is less obtrusive. Finally, the Commission finds that the location of two garages on one property is inappropriate to the historic district. Typically, houses in the historic district have either one garage or none at all.

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).

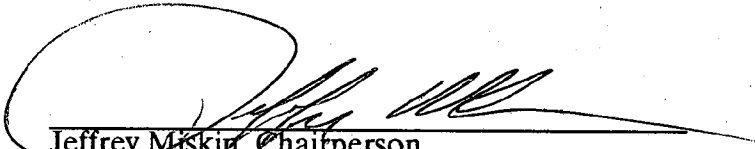
Finally, the applicant has not provided any evidence that the denial of this application will cause him to suffer undue economic hardship. The applicant's attorney stated that Mr. Murray was losing \$6,600 a month, but this figure has been neither explained nor documented. The applicant asserts that 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 N9(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., 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 3929 Prospect Street (Lot 15, 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

NOW THEREFORE, in consideration of the foregoing, the mutual promises of the parties hereto, and for other good and valuable consideration, the mutual receipt of which is hereby acknowledged, Wilkes hereby declares, and Jarvinen hereby agrees, that the Subject Property is and shall be held, transferred, sold, conveyed and occupied subject to the conditions, covenants, and restrictions hereinafter set forth.

CLAUSE I

GENERAL CONDITIONS

The Subject Property shall be conveyed, transferred, occupied and sold subject to the following conditions, covenants, and restrictions:

A. The Subject Property shall be utilized solely for residential, recreational and home occupational uses and ancillary and accessory uses customarily incident to residential, recreational and home occupational uses;

B. There shall be no more than one residence on the Subject Property;

C. No portion of the Subject Property may be sold for the development thereon of more than one separate residence;

D. Wilkes may erect on any portion of the Subject Property, as permitted by applicable law, rule, regulation, order or ordinance, a garage, shed, pool, sauna, tennis court, cabana, gazebo, study, studio or other ancillary or accessory building or buildings of similar residential, recreational or home occupational nature for Wilkes' personal use or the use by Wilkes' family, guests or invitees.

Nothing set forth in this Clause I shall be interpreted to affect the right of Wilkes to enlarge, remodel, extend or otherwise alter any structure now existing or hereafter constructed on the Subject Property.

CLAUSE II

GENERAL APPLICATION

A. These covenants, conditions and restrictions shall become effective as to the Subject Property upon recordation of a deed to the Subject Property from Jarvinen to Wilkes.

B. These covenants, conditions and restrictions are to run with the land of the Subject Property and shall be binding upon Wilkes as well as his successors and assigns, and all parties claiming, by, through, or under Wilkes shall be taken to hold, agree, and covenant with Wilkes, as well as his successors and assigns and Jarvinen as well as his successors and assigns to conform to and preserve said restrictions as to the uses of the Subject Property.

C. Jarvinen as well as his successors and assigns in ownership of any portion of the Owner's Property shall have the right without any showing of special damage to enforce these covenants, conditions, and restrictions, including the right to sue for and obtain an injunction (prohibitive or mandatory) to prevent the breach of said covenants, conditions and restrictions. This Agreement and Declaration shall confer no rights to Jarvinen to sue for damages and Jarvinen hereby covenants not to sue for damages in the event of a breach hereof by Wilkes.

D. These covenants, conditions and restrictions may be amended upon the written consent of Wilkes (or his successors and assigns) and Jarvinen (or his successors and assigns in ownership of any portion of Owner's Property).

IN WITNESS WHEREOF, Charles C. Wilkes, Helen C. Wilkes, Henry W. Jarvinen and Dorothy C. Jarvinen have executed these presents as their act and deed, the same to acknowledge and deliver this instrument according to law, all as of the day and year first hereinabove written.

Witness:

Candace B. Evans
Candace B. Evans

Charles C. Wilkes
Charles C. Wilkes

Candace B. Evans

Candace B. Evans

Helen C. Wilkes

Helen C. Wilkes

Samuel S. Markovitz

Samuel S. Markovitz

Henry W. Jarvinen

Henry W. Jarvinen

Samuel S. Markovitz

Samuel S. Markovitz

Dorothy C. Jarvinen

Dorothy C. Jarvinen

DISTRICT OF COLUMBIA, ss:

I, E. DIANE NEUSTRAND, a Notary Public in and for the District of Columbia, do hereby certify that Charles C. Wilkes personally known (or satisfactorily proven) to me as one of the persons named in the foregoing and annexed Agreement and Declaration of Covenants, Conditions and Restrictions bearing date of August 2, 1988, personally appeared before me in said District of Columbia, and acknowledged the same to be his act and deed.

GIVEN under my hand and official seal this 2nd day of August, 1988.

E. Diane Neustrand

Notary Public,
District of Columbia

My commission expires:

My Commission Expires August 31, 1992

DISTRICT OF COLUMBIA, ss:

I, E. DIANE NEUSTRAND, a Notary Public in and for the District of Columbia, do hereby certify that Helen C. Wilkes personally known (or satisfactorily proven) to me as one of the persons named in the foregoing and annexed Agreement and Declaration of Covenants, Conditions and Restrictions bearing date of August 2, 1988, personally appeared before me in said District of Columbia, and acknowledged the same to be her act and deed.

GIVEN under my hand and official seal this 2nd day of August, 1988.

E. Diane Neustrand

Notary Public,
District of Columbia

My commission expires:

My Commission Expires August 31, 1992

DEED

THIS DEED, made the 2nd day of August, 1988, by and between Henry W. Jarvinen and Dorothy C. Jarvinen, husband and wife, as Tenants by the Entirety, the Grantors, parties of the first part, and Charles C. Wilkes and Helen C. Wilkes, husband and wife as Tenants by the Entirety, the Grantees, parties of the second part.

WITNESSETH, that in consideration of Four Hundred Thirty-five Thousand and 00/100ths Dollars (\$435,000.00), receipt whereof is hereby acknowledged, said Grantors have granted, exchanged and conveyed, and by these presents do grant, exchange and convey unto said Grantees in fee simple absolute, with special warranty, the following piece or parcel of land, situate, lying and being in the County of Montgomery, State of Maryland and described as follows:

Lot(s) numbered Eleven, Twelve and part of Ten (11, 12 and part of 10) in Block 11 in a subdivision known as KENSINGTON PARK as per plat thereof recorded in Plat Book B at plat 4 among the land records of Montgomery County, Maryland.

The Improvements being known and designated as premises No. 3923 Prospect Street, Kensington, Maryland.

Being property conveyed to Henry W. Jarvinen and Dorothy C. Jarvinen by Deed dated December 5, 1953 and recorded in Liber 1870 at folio 523 among the aforesaid Land Records.

TOGETHER with all and singular the tenements, hereditaments, easements, rights-of-way and appurtenances thereunto belonging or in anywise appertaining, and the reversion or reversions, remainder or remainders, rents, issues and profits thereof; and also all the estate, right, title, interest, property, claim and demand whatsoever of the Grantors, of, in and to the same and of, in and to every part and parcel thereof.

TOGETHER with all right, title and interest of the Grantors, if any, in and to the land lying in the bed of any street, road, avenue, or alley, opened or proposed, in front or adjoining the above-described real estate to the center line thereof.

TO HAVE AND TO HOLD the above granted and described property, with the appurtenances, unto the Grantees, their successor and assigns forever.

Under penalty of perjury, the Grantees hereby certify that they are occupying the property herein conveyed as their principal residence.

AGRICULTURE TRANSFER TAX IN THE
AMOUNT OF \$ N/A
SIGNATURE HS

Charles C. Wilkes
Charles C. Wilkes
Helen C. Wilkes
Helen C. Wilkes

RECEIVED FOR TRANSFER
State Department of
Assessments & Taxation
for Montgomery County

By HS Date 8-10-1988

SOULIMANI, BEUCHERT, EGAN & SMITH
1775 Pennsylvania Avenue, N.W., #400
Washington, D.C. 20006

1988 AUG -4 PM 1:15

IN WITNESS WHEREOF, Henry W. Jarvinen and Dorothy C. Jarvinen have executed these presents as their act and deed, to acknowledge and deliver this instrument according to law, all as of the day and year first hereinabove written.

Witness:

Grantors:

Samuel S. Markovitz
Samuel S. Markovitz

Henry W. Jarvinen (SEAL)
Henry W. Jarvinen

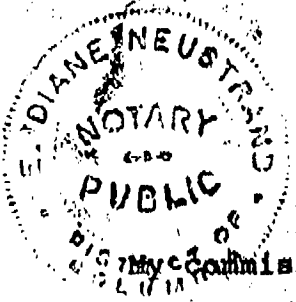
Samuel S. Markovitz
Samuel S. Markovitz

Dorothy C. Jarvinen (SEAL)
Dorothy C. Jarvinen

DISTRICT OF COLUMBIA, ss:

I, E. DIANE NEUSTRAND, a Notary Public in and for the District of Columbia, do hereby certify that Henry W. Jarvinen, Dorothy C. Jarvinen, Charles C. Wilkes and Helen C. Wilkes personally known (or satisfactorily proven) to me as the parties in the foregoing and annexed Deed bearing date of August 2nd, 1988, personally appeared before me in said District of Columbia, and acknowledged the same to be their act and deed.

GIVEN under my hand and official seal this 2nd day of August, 1988.



E. Diane Neustrand
Notary Public,
District of Columbia

My Commission expires:
My Commission Expires August 31, 1991

SEAL:

I hereby certify that I am a member of the Bar of the Court of Appeals of the State of Maryland, and that the written instrument was prepared by me or under my supervision.

Peter T. Meszoly
Peter T. Meszoly

CBE-18 \ PROSPECT. DED
7-28-88

AUG. 4 1988
13-15-1021496

All Taxes on assessments certified to the Collector of Taxes for Montgomery County, Md. by 8/4/88 have been paid Dept. of Finance Montgomery County, Md. This statement is for the purpose of permitting recordation and is not assurance against further taxation even for prior periods, nor does it guarantee satisfaction of outstanding tax sales.

\$ 4,350.00 TRANSFER TAX PAID
MONTGOMERY COUNTY, MARYLAND
BY [Signature]

Douglas D. King

EXHIBIT B

All that property situate in the County of Montgomery, State of Maryland, more particularly described as follows:

Lot numbered 13 in Block numbered 12 in the Subdivision known as Kensington Park as shown in Plat Book E, Plat 1 among the Land Records of the aforesaid Montgomery County, Maryland.

Exhibit A

All that property situate in the County of Montgomery, State of Maryland, more particularly described as follows:

Lot(s) numbered Eleven, Twelve and part of Ten (11, 12 and part of 10) in Block 11 in a subdivision known as KENSINGTON PARK as per plat thereof recorded in Plat Book B at plat 4 among the land records of Montgomery County, Maryland.

The Improvements being known and designated as premises No. 3923 Prospect Street, Kensington, Maryland.

Being property conveyed to Henry W. Jarvinen and Dorothy C. Jarvinen by Deed dated December 5, 1953 and recorded in Liber 1870 at folio 523 among the aforesaid Land Records.

CLERK'S INDEX SHEET
(For the purpose of proper indexing only)

Pursuant to the provisions and requirements of Section 3-501 of Subtitle 5, Real Property Article, Annotated Code of Maryland (1981) Repl. Vol., the following additional information is declared by the parties hereto to be contained within this instrument:

1. TYPE OF INSTRUMENT: Deed
2. GRANTOR'S NAME AND ADDRESS: Henry W. Jarvinen and Dorothy C. Jarvinen
3. GRANTEE'S NAME AND ADDRESS: Charles C. and Helen C. Wilkes, 3923 Prospect Street, Kensington, Maryland 20895
4. CONSIDERATION (APPLIES ONLY TO DEEDS): \$435,000.00
5. PARCEL ID/TAX ACCOUNT NO(S): 13-15-1021496
6. PROPERTY DESCRIPTION: Lots 11, 12 and Part of Lot 10, Block 11, Kensington Park Subdivision
7. STREET ADDRESS OF THE LAND AND PREMISES DESCRIBED IN THIS INSTRUMENT:
3923 Prospect Street
Kensington, Maryland 20895
8. NAME OF TITLE INSURANCE COMPANY: Commonwealth Land Title Insurance Company

Mr. Clerk: After recording please see that the original of the foregoing instrument is:

Mailed (additional \$0.50 cost)
OR
 Held at Clerk's Office

For: Stohlman, Beuchert, Egan & Smith, Chartered
1775 Pennsylvania Avenue, N.W., Suite #400
Washington, D.C. 20006

DO NOT WRITE BELOW THIS LINE
TO BE COMPLETED BY THE CLERK OF THE COURT

Verified by: _____
(Clerk's Office)

Substitute for HMS-200

**AGREEMENT AND DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS**

THIS AGREEMENT AND DECLARATION, made as of this 2nd
day of August, 1988, by and between Charles C. Wilkes and
Helen C. Wilkes, husband and wife, hereinafter collectively
referred to as "Wilkes" and Henry W. Jarvinen and Dorothy C.
Jarvinen, husband and wife, hereinafter collectively referred
to as "Jarvinen".

W I T N E S S E T H:

WHEREAS, Jarvinen is the owner of the real property
located in the County of Montgomery, State of Maryland being
known as 3923 Prospect Street, Kensington, Maryland and more
particularly described in Exhibit "A" attached hereto and
incorporated herein (hereinafter referred to as the "Subject
Property"); and,

WHEREAS, Wilkes desires to purchase the Subject Property
from Jarvinen and to utilize the Subject Property for
residential and home occupational purposes;

WHEREAS, Jarvinen is the owner of neighboring real
property in the County of Montgomery, State of Maryland, more
particularly described in Exhibit B attached hereto and
incorporated herein (hereinafter referred to as the "Owner's
Property").

WHEREAS, Wilkes desires to assure Jarvinen that he shall
not develop an additional residence on, or sell for the
development of an additional residence on, that portion of the
Subject Property known as Lot 11 or part of Lot 10;

WHEREAS, Jarvinen is not opposed to the erection of a
garage, shed, pool, sauna, tennis court, cabana, gazebo,
study, studio or other ancillary or accessory building or
buildings of similar residential, home occupational or
recreational nature for Wilkes' personal use or the use by
Wilkes' family, guests or invitees;

Return to: Jacques B. DePuy, Esquire
Stohlman, Beuchert, Egan & Smith, Chartered
1775 Pennsylvania Avenue, N.W., Suite 400
Washington, D.C. 20006
(CBE)

1988 AUG -8 PM 1:15

DA

AFFIDAVIT

DISTRICT OF COLUMBIA)

My name is Samuel M. Sipe, Jr. My home address is 4970 Western Avenue, Bethesda, Maryland 20816. I am an attorney in the Washington, D.C. law firm of Steptoe & Johnson and a member of the District of Columbia Bar.

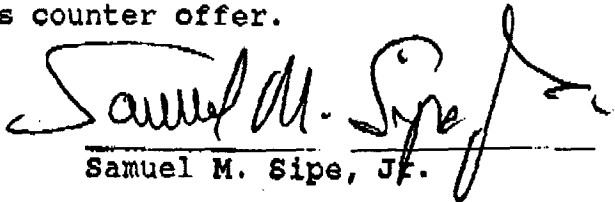
On February 11, 1989, my wife and I made a written offer to purchase a house located at 3927 Prospect Street in Kensington, Maryland. The house, located on lot 14 of Block 11 in the subdivision of Kensington Park, was being offered for sale at an asking price of \$545,000. The side yard to the east of the house, designated as lot 13, was apparently available for purchase from the same seller separately from the house, but we were not informed of any specific asking price for the side yard.

The house was attractive to us with the side yard, but not without it. Accordingly we made a written offer to purchase the house and the side yard for \$635,000. This represented the full asking price of \$545,000 for the house and a premium of \$90,000 for the side yard. We arrived at this offering price after consultation with Anne Emmett of the Bethesda office of Shannon & Luchs realtors with whom we had been working and who had shown us the Prospect Avenue property.

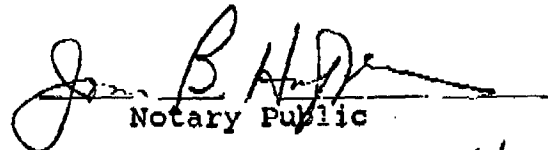
On the morning of Sunday February 12, 1989, Ms. Emmett presented our offer to the owner of the property, whom we were told was a Mr. Frank Murray. According to Ms. Emmett, Mr. Murray indicated that our offering price of \$635,000 was substantially

less than he would accept because he had already had separate offers from builders for the side yard (lot 14) in the area of \$200,000.

Mr. Murray responded to our offer of \$635,000 for the house and the side yard with a counter offer of \$745,000. Given the size of the difference between our offer and Mr. Murray's counter offer, we decided that it would be futile to make any further efforts to purchase the Prospect Avenue property and we did not respond to Mr. Murray's counter offer.


Samuel M. Sipe, Jr.

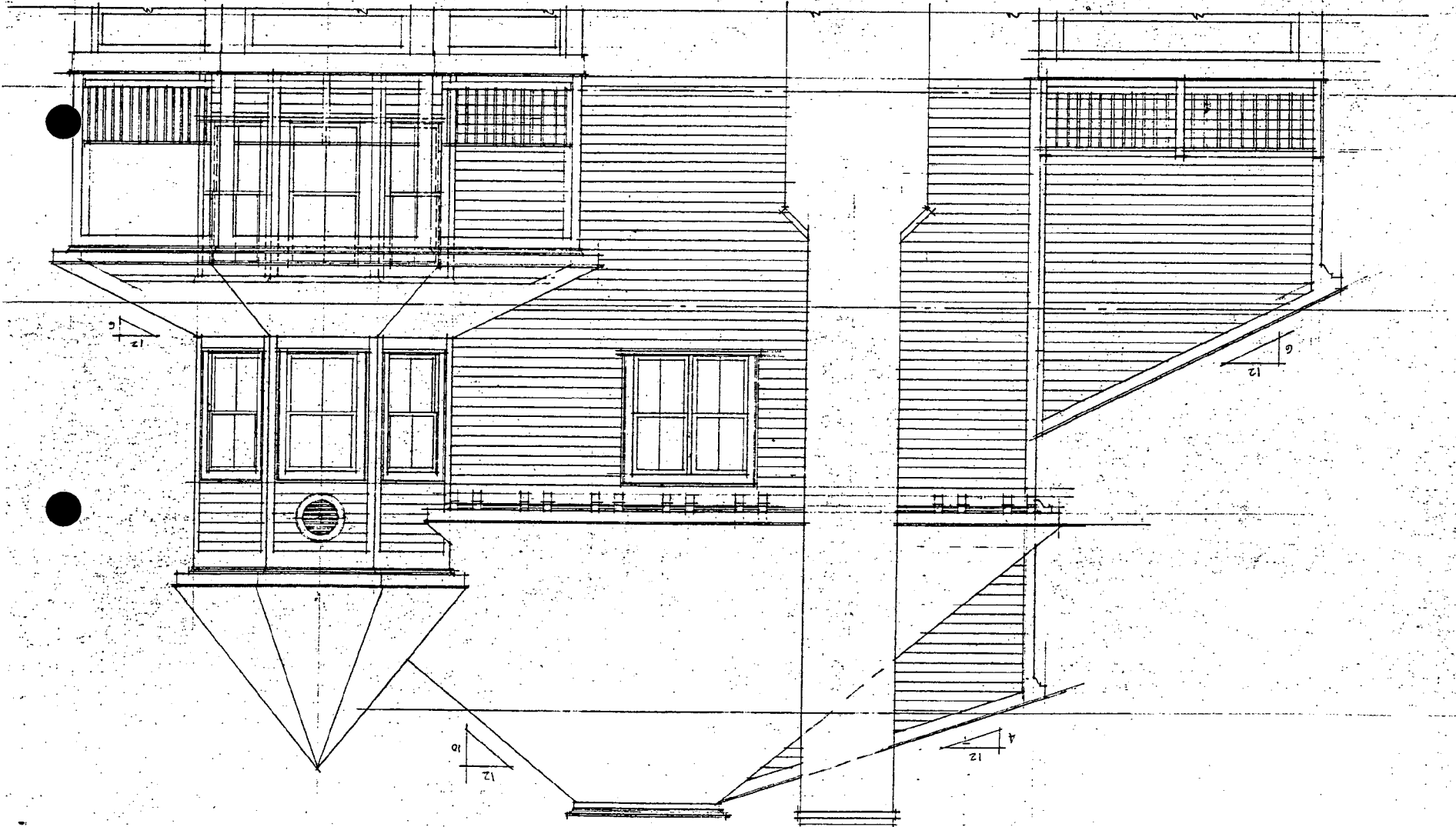
SWORN AND SUBSCRIBED before me on this 28th day of April, 1989.


Notary Public

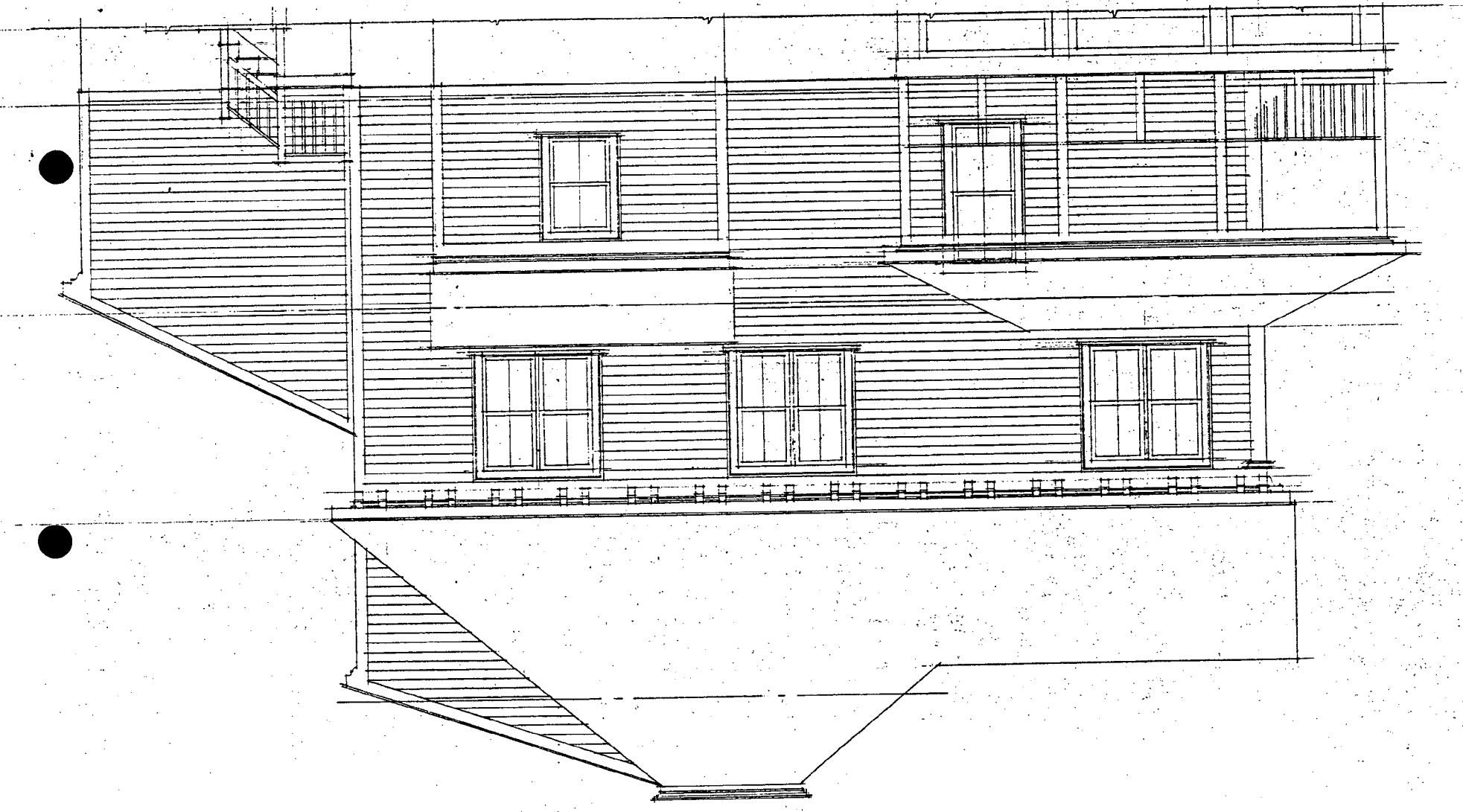
My commission expires: 6/30/99

JOANN B. HUFFAKER
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires June 30, 1993

LEFT SIDE



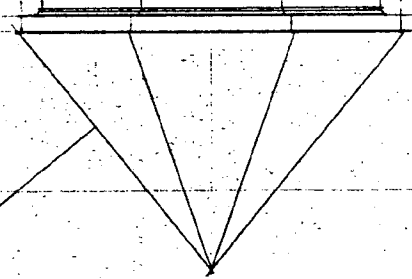
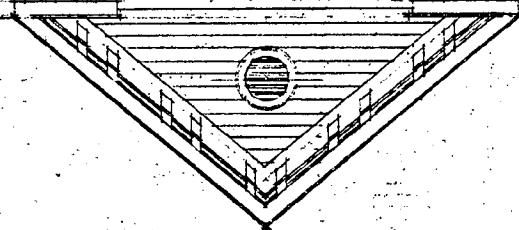
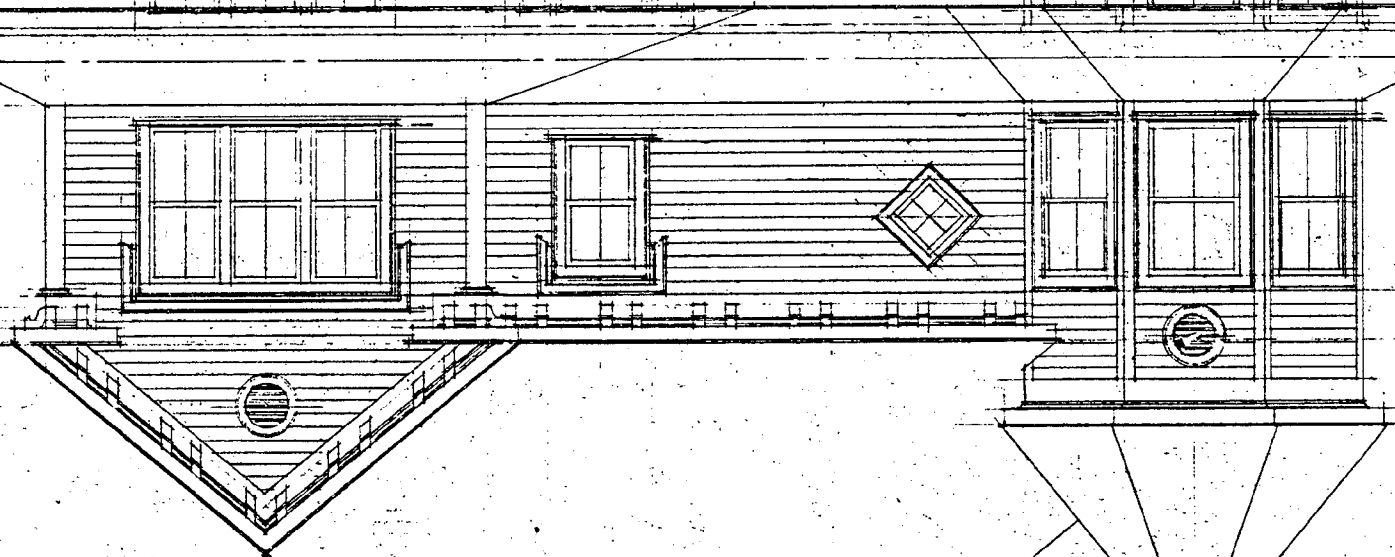
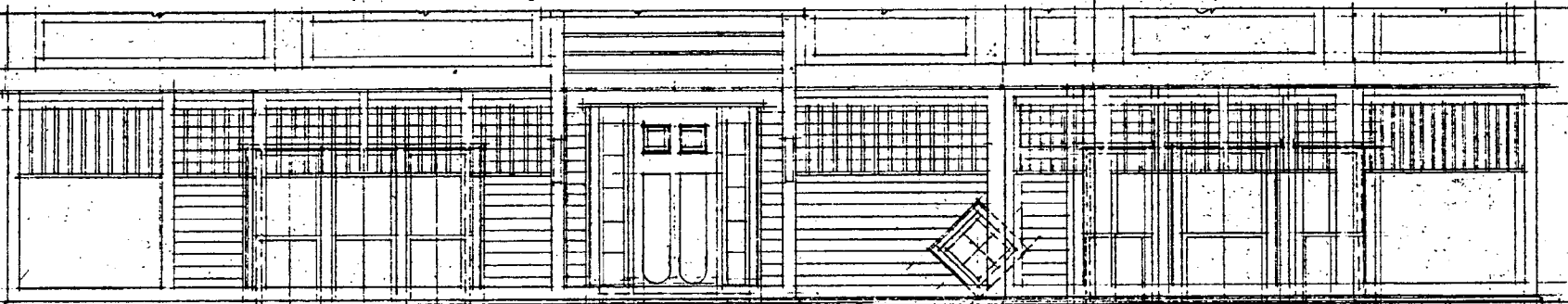
RIGHT SIDE



REAR



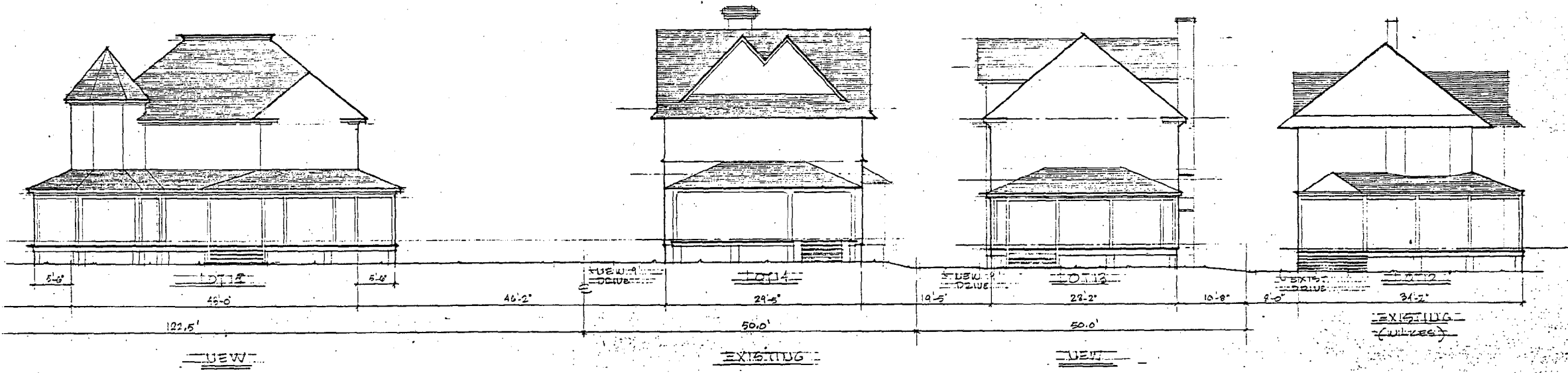
front



MURRAY - LOTS 18, 19, 20
 SUBS E & F 107, 108, 109
 WASHINGTON

MICHAEL B. PATTERSON
 ARCHITECT
 11820 PARKLAWN DRIVE, ROCKVILLE, MD. 20852
 (301) 881-8853

25 MAY '89

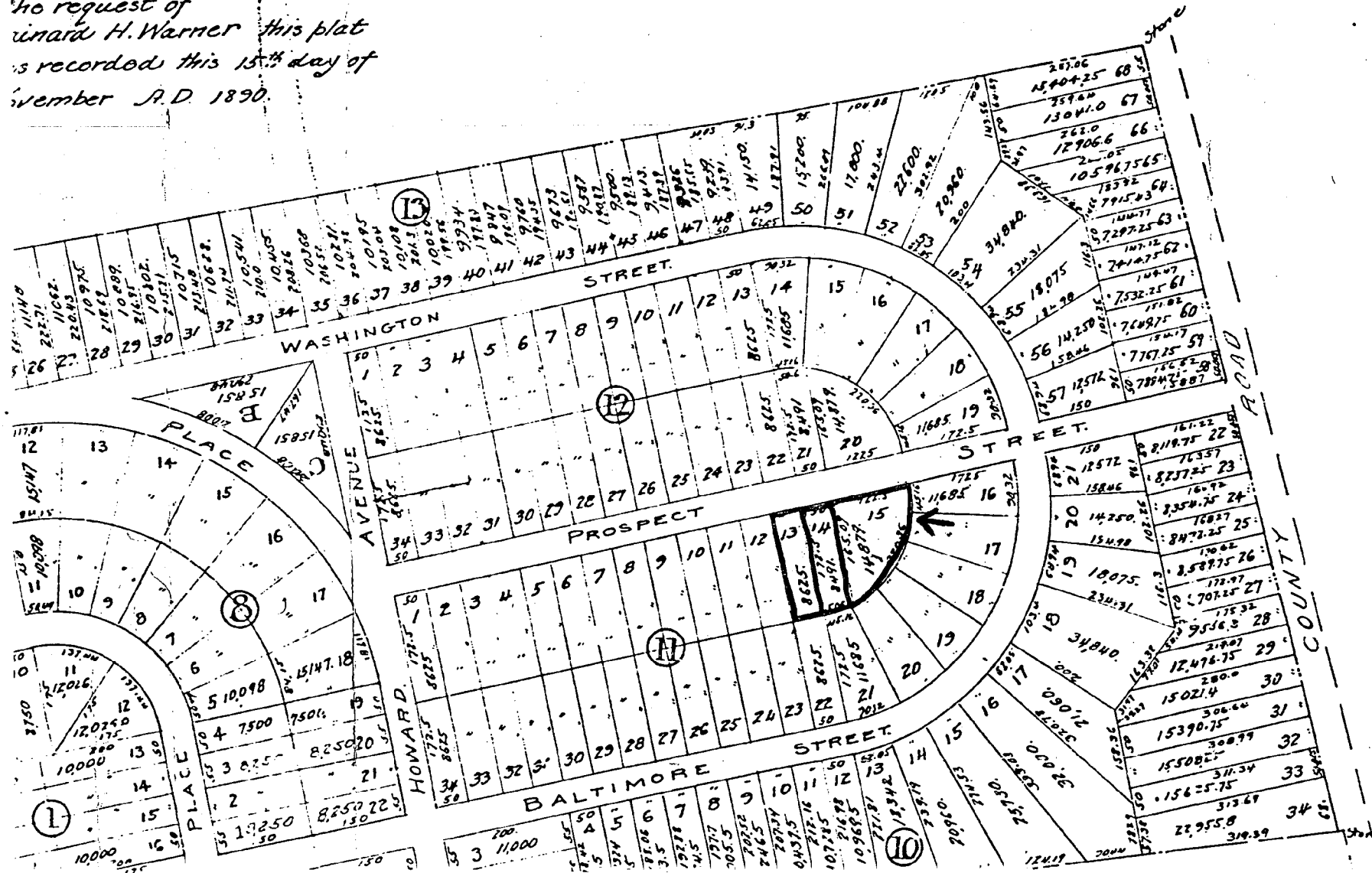


KENSINGTON PARK

MONTGOMERY COUNTY

MARYLAND.

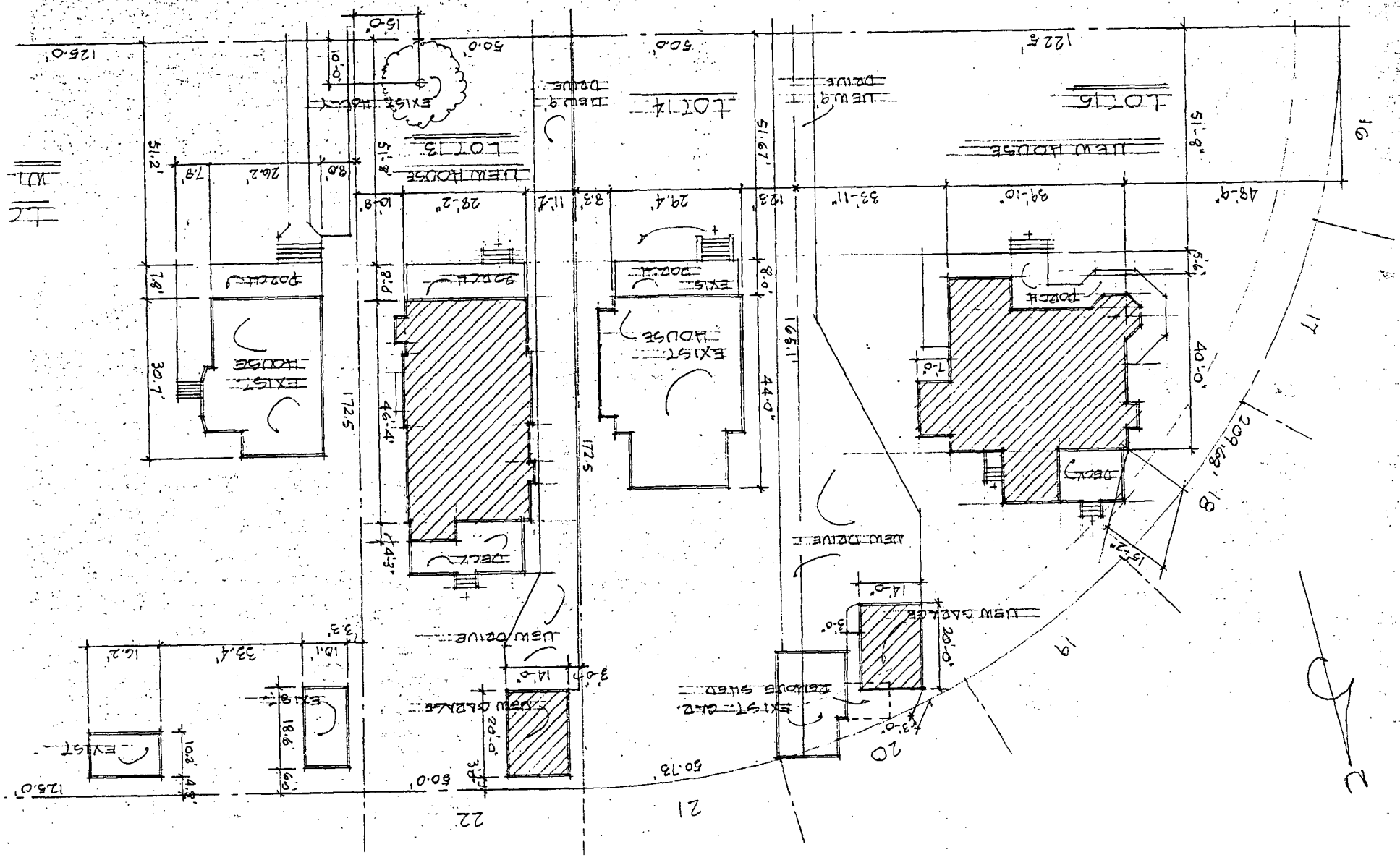
At the request of
Vincent H. Warner this plat
is recorded this 15th day of
November A.D. 1890.



~~FRANK PLAN~~
~~LOT 13 & 14~~
~~REVISION~~

LOT PLAN

PROSPECT ST.



MICHAEL B. PATTERSON
 ARCHITECT
 320 PARKLAWN DRIVE, ROCKVILLE, MD 20852
 5529-118 (108)
 5172-151

FLORIAN W. DODD
 1025 1317 15 2 BLDG
 KENNESAW, MD

PROJECT SITE
 PLOT PLAN
 1" = 20'-0"

- ① SASSAFRAS
- ② SPRUCE
- ③ HOLLY
- ④ HEMLOCK
- ⑤ BOXWOOD
- ⑥ LILAC
- ⑦ WHITE PINE

- ⑧ DOGWOOD
- ⑨ WILD CHERRY
- ⑩ AMERICAN BEECH
- ⑪ HORSEBEAN
- ⑫ ELM

- ⑬ MYRTLE
- ⑭ BLACK WALNUT
- ⑮ RED CEDAR
- ⑯ NORWAY MAPLE
- ⑰ MAPLE
- ⑱ RED BUD
- ⑲ REMOVAL

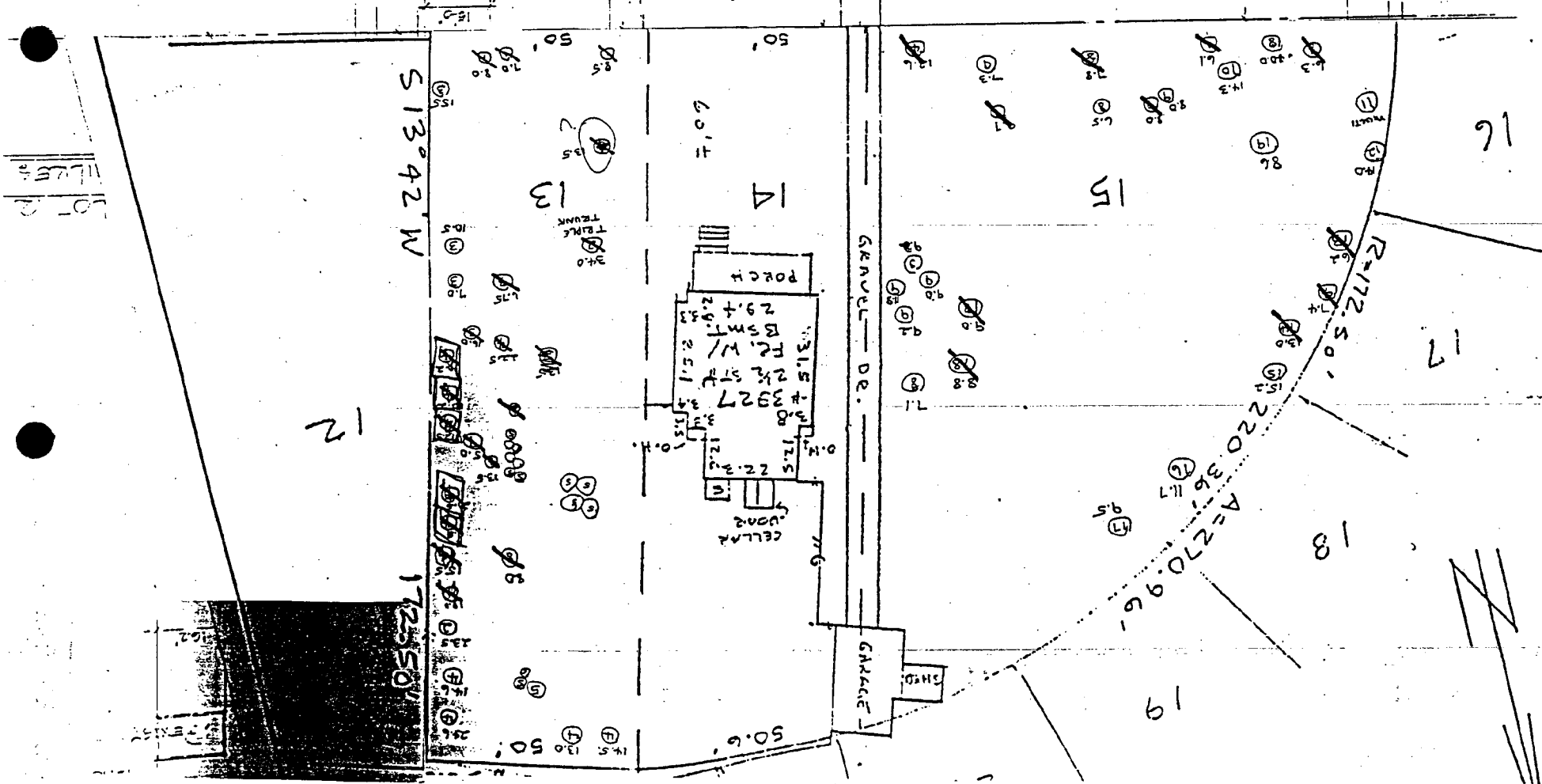


Figure 4

LOCAL KENSINGTON HISTORIC DISTRICT

Primary Resources:

1880-1910
(Revival Styles)



1910-1930



Secondary Resources:



Subarea Excluded from District Regulation:

