

31/6-prelim lot 13, Prospect Street  
Kensington Historic District (3925)

**Comments of the Kensington Local Advisory Panel  
before the  
HISTORIC PRESERVATION COMMISSION  
regarding  
Prospect Street, Lot 13, Kensington**

**November 20, 1991**

The Kensington Local Advisory Panel appreciates the opportunity to comment on the preliminary proposal for new construction on Lot 13, Prospect Street. We would like to begin with a general observation, and then proceed to specific comments regarding the proposal.

As the Commission is well aware from its prior work, there are a substantial number of such lots within the Kensington Historic District. The LAP believes that each and every such lot is important, and is confident that the Commission will address any proposals for change - be it new construction or otherwise - with a careful and considered examination within the bounds of the Historic Preservation ordinance.

While every lot is important, however, the LAP would also submit that some lots - as a result of location, historical importance, or some other similar characteristic - warrant an especially close scrutiny. The LAP believes that Lot 13 is such a lot for the following two reasons:

- First, the lot itself is situated immediately between two primary resources. Any alteration in Lot 13 has the potential for a significant degree of impact upon these important structures and their associated settings.
- Second, proposals for Lot 13 must be viewed in a broader context. New construction has already been approved for Lot 15. The LAP believes that we now must be aware of the risk that new construction on Prospect Street, however appropriate in each individual instance, might overwhelm the historic character in the aggregate. That balance is in jeopardy.

Given the preliminary nature of this hearing, we have attempted to limit our more specific comments to those that we believe will assist the applicant and the Commission in moving toward a potential application for an Historic Area Work Permit.

Previous statements and findings by the Commission have suggested that the construction of a "background" or "accessory" building might be appropriate for Lot 13, and the LAP would like to recognize the applicant's responsiveness in moving toward such a proposal. In the opinion of the LAP, however, there are still several elements of the current proposal that would need further refinement before it would qualify as such an accessory structure.

The first such element is the overall scale of the proposed structure. From the street, both of the adjacent primary resources read as essentially two-and-a-half to three story structures, and one would expect that any structure that is expected to defer to these resources would read much smaller. Instead, it is our opinion that the proposed structure also reads as essentially a two-and-a-half to three story structure, and that the additional setback - while commendable in its own right - will not offset this impression. As an alternative, the LAP suggests that a one-and-a-half or two story structure would be more appropriate as an accessory building, and could perhaps echo (in size at least) the one-and-a-half story bungalow located immediately across Prospect Street.

A similar situation exists with the width of the proposed structure. While the width is roughly equal to or somewhat less than the adjacent primary resources, depending on how you read the porch, it is still significantly larger than one would expect from an accessory building.

The size of the proposed structure also impacts the overall density and general streetscape rhythm in the area. With respect to density, as measured by house-to-yard ratios, the LAP has not been able to duplicate all of the numbers presented by the applicant, in part due to differences in definition. Rather than quibble over specific numbers, however, we would like to reiterate a statement made by staff in their report, and we quote: "The footprint of the house would occupy...slightly less than the average lot coverage for the North Side of Prospect Street." It is our opinion that, as an accessory building, such coverage should be substantially less than that of primary structures in the area - not just slightly less.

At its present size, the proposed structure also does not adequately address the Commission's prior findings regarding the disruption of the streetscape rhythm and blockage of sylvan vistas. Again, the increased setback helps mitigate such negative impact, but the overall size - both height and width - conveys a substantial presence. The inclusion of the east-facing porch is a step in the right direction as far as transparency goes, but even this element is somewhat offset by the existence of a full second story porch and third-floor roof line, decreasing the intended "see-through" quality.

In addition, the LAP questions the appropriateness of a porch from a stylistic standpoint. We are currently unaware of any other accessory structures in the Historic District that have such a porch element. We also find the proposed materials usage to be fairly unusual, specifically the combination of wood and brick and what we read from the plans to be a metal roof. At this stage, however, we believe that such considerations are secondary to the issue of overall size.

With respect to siting, we have twice alluded to the proposed setback, and would like to explicitly acknowledge the applicant's responsiveness in this area. This siting, in addition to somewhat reducing the visual impact of the structure upon the surrounding area, would have the benefit of resulting in greater amounts of vegetation located in front of the house relative to previous proposals. More of a park-like quality would be maintained, and the screening provided by this vegetation might help reinforce the "accessory" nature of the proposed structure.

The LAP does have some concerns about the ability of the vegetation to survive construction, and about the impact of the driveway on vegetation both in the path of, and adjacent to, the drive.

It has been our experience that construction on 50-foot lots, especially lots bounded on both sides by existing homes and yards, impacts almost every square foot of the lot through storage of excavated earth and materials, through trespass of construction machinery, or through actual construction. We applaud the applicant's stated intention to preserve the degree of existing vegetation indicated on the submission, but we would encourage the Commission to request additional information about construction sequencing and methodology to ascertain the actual risk to existing vegetation.

Of particular concern is the triple-trunked hemlock located in the front yard, immediately adjacent to the proposed driveway. Preserving this tall tree, as intended by the applicant, would do much to screen the new construction and perhaps provide somewhat of an offsetting focal to any new building. Given its location, however, it is highly susceptible not only to construction damage, but also to subsequent damage resulting from the close proximity of an asphalt drive. In addition to a construction plan, the LAP recommends that the applicant consider the substitution of a low-impact gravel drive, or perhaps no driveway at all. While substitution of a low-impact gravel drive would not decrease the overall impact of a driveway on lot coverage and amount of vegetation to be removed, it would help increase the chances that near-by vegetation would survive long-term.

In summary, the LAP believes that the applicant has made definite steps in the right direction, but has further to go. As we mentioned before, this is a particularly sensitive lot and as such requires careful examination. We recommend that additional consideration be given to reducing the overall scale of the proposed structure, through reductions in both height and width, with the intent of achieving the "accessory building" feel required to minimize the negative impact of new construction on the character of the Historic District. Further, we recommend that the applicant consider rethinking the proposed asphalt driveway, and develop a detailed construction staging plan to gauge and ensure the retention of the maximum possible amount of vegetation.

MONTGOMERY COUNTY HISTORIC PRESERVATION COMMISSION

M I N U T E S

November 20, 1991

Present

Walter Booth  
Joseph Brenneman  
Gregg Clemmer  
Ellen Pratt Harris  
George Kousoulas  
Martha Lanigan  
Kenneth Norkin  
Barbara Wagner

Guests

Thomas Bucci  
Peter Burkholt  
Jay M. Henn  
Don Little  
T.J. O'Malley  
Paul McGee  
Molly Murray  
Marshall Presser  
Nancy Sherman  
Pat Weikel  
Dick Witmer

Absent

Albert Randall

Staff

Carol Kennedy  
Gwen Marcus  
Rose McGuire  
Mary Ann Rolland  
Nancy Witherell

Counsel

Christopher Hitchens (absent)

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The November 20, 1991 meeting of the Historic Preservation Commission convened at 7:40 p.m., Chairperson Barbara Wagner presiding.

I. HISTORIC AREA WORK PERMITS

- A. Peter and Cyndie Rinek at 9829 Capitol View Avenue, Silver Spring (HPC Case No. 31/7-910) (Capitol View Park Historic District)

The Chairperson opened the public record on this case. She confirmed with staff that the case was duly advertised. The applicants' proposal is to extend an existing section of picket fence which will be 3'6" in height, and will enclose their front and side yards. On the property, a corner lot located at Capitol View Avenue and Leafy Road, is a Queen Ann Victorian-style house.

The Chairperson stated that Commissioner Brenneman had requested an expedited review and approval of this application based on Historic Preservation Criteria 24A-8(b)2, and in accordance with the staff report. She asked if there was anybody in the audience who objects to expedited review and approval of the application of Peter and Cyndie Rinek of the Capitol View Park Historic District. There being no objection, the Chairperson closed the public record and called for a vote on approval of the application. Following the vote, approval of the application passed unanimously.

II. PRELIMINARY CONSULTATION

- A. Molly Murray for construction of a new house on Lot 13 on Prospect Street, Kensington (Kensington Historic District)

The Chairperson opened the public record on this preliminary consultation. In summary, in 1989, the applicant's proposal for construction of a new house on this lot in the Kensington Historic District was reviewed and denied because the scale, massing, and footprint of the proposed house were determined inappropriate for the rhythm, scale, streetscape, and environmental setting of the lot and neighborhood as a whole. In May, 1991, a potential purchaser of the lot requested a preliminary consultation for construction of a new house. No HAWP was ever filed by this individual. The applicant now requests a preliminary consultation on a revised proposal for construction of a new house on Lot 13.

Nancy Witherell presented the slides, staff report and recommendations. The Chairperson noted that several neighboring property owners were present and wanted to testify with respect to the proposal. She set forth a time frame of 3 minutes per individual presentation in order to provide an opportunity for all present to speak. Ms. Witherell stated that, at the May 1991 preliminary consultation on the proposal for a new house on Lot 13, there was a recommendation for a small house designed as a background building - such as a carriage house - set back substantially from the building line which could be read as an accessory building, as a possible alternative to the neo-Victori-

an house proposed by the potential purchaser. The applicant's current proposal is designed to respond to those recommendations. In addition, Ms. Witherell stated that staff commends the applicant for responding to recommendations; however staff remains concerned with the size of the footprint of the proposed house and recommends that it be reduced by approximately 100 square feet, the result of which would be a smaller house that will be more compatible with the setting, the adjacent houses, and the architectural and streetscape character of the Kensington District. Further, the applicants propose the construction of a separate garage which would be situated behind the house. To reduce the massing and lot coverage, staff recommends that the applicant not build a garage, and use gravel for the driveway.

The Chairperson requested that the property owner, Molly Murray, to come forth and testify regarding her application. Ms. Murray addressed previous HPC concerns about the property. She stated that the current proposal minimizes the removal of vegetation with only 1 to 4 trees being removed. The original plan showed one tree that does not actually exist; it may have fell down during a storm. Two trees which were shown as being removed are dead. She intends to enhance the existing vegetation through extensive landscaping. The house will be setback 90 feet from the side walk and 38 feet from the building restriction line, hence, the park-like setting will remain intact between the two existing houses. Boxwoods will be transplanted to other areas as part of the landscaping plan.

Further, Ms. Murray addressed HPC concerns with respect to the massing and height and lot coverage of the proposed house, and the rhythm and streetscape of the neighborhood. She explained that, in her view, the height, square footage and massing of the proposed house defer to the primary resources on the other side; the height is lower than each of the adjacent homes. The net square footage is 667, which is substantially less than the two neighboring homes. The proposed house will be set to the rear of the lot, and the apparent scale is further reduced. The proposal will not interrupt the rhythm of structures along the north side of Prospect Street because the house is set back 90 feet from the sidewalk; as a result there will be no apparent increase in density. The view of the original Armstrong houses will remain unaltered as the proposed house will be largely obscured from the street by its distance and coverage of vegetation. The proposed house will occupy 8.4% of the lot. Ms. Murray noted that Tom Bucci, the architect in her employ, was present and available to answer any question the HPC may have about the house and property.

With respect to conformity of the proposed house to the lot, neighborhood and historic district, the Chairperson asked the applicant how many carriage houses are on the west side of Connecticut Avenue. The applicant responded that one carriage house exists in the center of the Town of Kensington; the proposed house is patterned after that structure. A few other carriage houses are located in Garrett Park. According to Ms. Murray,

having examined various carriage houses in the area in terms of width, height and depth, they all measure at least 30 feet wide. Commissioner Kousoulas inquired how the plan would work if the narrow dimension of the house could face toward the street. Mr. Bucci responded that reorientation of the house would significantly alter the plan, and would require redesign. Further, he stated that all of the carriage houses that he looked at in the Kensington and Garrett Park areas are broad rather than narrow. The Chairperson asked about the width and presentation of other outbuildings in the neighborhood. Ms. Murray's response was that at least two houses in the neighborhood have very wide attached structures. There are other outbuildings all along the street.

Following Ms. Murray's presentation, the Chairperson invited other interested persons to testify regarding Ms. Murray's application.

Ms. Pat Weikel, speaking for the Mayor of Kensington who was unable to attend tonight's meeting, stated that the Mayor feels that the massive design of Ms. Murray's proposal is inappropriate for the lot size and is not in keeping with the streetscape of Prospect Street. Prior to purchase, the owner of the property was made aware by the town that it places a high priority on preserving the town's open space and historic garden-like setting. The Mayor concurs with the efforts, past and present, by the community and by the HPC to ensure that the features which characterize Kensington are not compromised.

Mr. Jay Henn, speaking on behalf of the Kensington Local Advisory Panel, stated that none of the LAP members were able to attend tonight's meeting. He stated that he would like to read the LAP's comments into the record. Mr. Henn presented a comprehensive analysis of the applicant's proposal and its potential impact on Prospect Street and the Kensington Historic District. He stated that the Kensington LAP believes that the applicant has made definite steps in the right direction to address HPC and LAP concerns, but has further to go. Of particular concern he stated, is the triple trunk hemlock located in the front yard immediately adjacent the proposed driveway. Preserving the tree as intended by the applicant would do much to screen the new construction. In summary, Mr. Henn offered the following recommendations for the applicant's consideration:

- o consider the substitution of a low impact gravel drive or perhaps no driveway at all, which would help increase the long term survival chances of nearby vegetation.
- o develop a detailed construction staging plan to gauge and ensure the retention of the maximum possible amount of vegetation.
- o give additional consideration to reducing the overall scale of the proposed structure with reductions in both height and width. The ultimate goal is to achieve the



accessory building "feel" required to minimized the negative impact of construction on the character of the historic district.

T.J. O'Malley, President of the Kensington Historical Society, stated that one of its purposes is to encourage the preservation of Kensington's historic character. The Society is concerned about the impact of the proposed structure. Due to the mass of the proposed structure, it simply is not believable as an auxiliary building. In addition, he expressed that the Kensington Historical Society's great concern is that the Victorian garden streetscape which is now typical of that part of Kensington will be changed. An historic area work permit has already been granted for lot 15, the result of which will create a pattern and character, from east to west of "big new house -- historic resource." This will completely destroy the open views of the historic resources and garden settings. In conclusion, Mr. O'Malley requested that HPC reject the proposal.

Ms. Helen Wilkes, a neighbor of the property in question, presented certain facts about the character of Kensington for the HPC's consideration. She stated that uniformity of scale, environmental setting, and cohesiveness of the streetscape are all extremely critical considerations in Kensington. Cohesiveness of the streetscape is influenced by the uniform setbacks along the street and the front porches which provide the transitional spaces. The proposed development would result in substantial destruction to the characteristic flow of space between house and parklike setting. The proposed house sits as a competing mass rather than giving the reading of an accessory building. This is extremely problematic. Other accessory buildings in Kensington are pushed very far back on the site, usually to the very back. In addition, Ms. Wilkes stated that she also has concerns about the physical damage to the plants that could result from the proposed construction.

Mr. Don Little, an architect and Kensington resident, expressed concern that the applicant proposes to build a "secondary" structure in the form a carriage house. He asserted that, if a structure is to be a secondary structure, then the structure should really be secondary to the adjoining primary resources. However, the height of the proposed house is similar to the houses on both sides, which are primary resources; it is taller than one of the houses and about one foot shorter than the other. In addition, he stated the massing of the proposed house is quite large with respect to the adjoining resources. While the proposed house is meant to be secondary in nature, it is not functionally secondary and does not meet the standards of a carriage house. Further, Mr. Little stated that in the past, a carriage house was functionally a secondary structure. It was not where a family lived and did not pretend to be a house; therefore, he questions the notion of calling something a carriage house, and calling it secondary when in reality it is primary in its functional usage. Moreover, he stated that the two adjoining struc-

tures are Victorian farm houses and are quite plain and vernacular. The proposed structure is much more ornate and exuberant; its detailing is, in fact, not background at all and not secondary. Traditionally, a carriage house is set back from the primary house. The set back of the proposed structure would be essentially in the rear yard of the adjoining structures, thereby destroying the privacy of those rear yards. In conclusion, Mr. Little stated that the question to consider is whether or not Kensington will continue those things which initially contributed to it being designated as a historic district.

Noting Mr. Little's objection to the use of the words "carriage house" and its proposed location on the lot, Commissioner Booth asked him if he would rather have a more regular, standard house siting on the lot. Mr. Little responded that he would object to a regular, more standard house sitting on that lot. Essentially, his argument is that if the proposed structure is to be a carriage house, then it must be a carriage house with all of the carriage house forms and traits, taking into consideration the true setting. If the proposed structure is to be secondary to the primary resources, then it must be truly secondary and truly smaller.

Commissioner Brenneman noted that several times at tonight's meeting, he heard the proposed structure referred to as massive. However, in reality, the structure is not massive and the footprint is only the size of a three car garage. In addition, he stated that in May, 1991, the HPC more or less directed the applicants to design something like a carriage house that would be set back from the primary resources. Further, he stated that the applicant is to be commended on revising the plan to address what the HPC asked for at that time.

Addressing Mr. Little, Commissioner Kousoulas stated that Mr. Little made a very good argument that a carriage house really should contain carriages or automobiles. Also taking into consideration that the proposed setback of the house hurts the adjoining houses, and that a new structure with a building line comparable to the primary resources is unacceptable, he inquired of Mr. Little where a house, if any house, would fit on the lot. Mr. Little stated that in a historic district, the environmental setting demands considerations that go beyond strict issues of buildability.

Commissioner Norkin noted that others had come forth and stated problems with the mass and width of the proposed structure. He would prefer to hear some specific recommendation with respect to the structure's mass and width. All of the burden is upon the applicant. It would be helpful to get some idea what the acceptable mass and width is. The Chairperson suggested that the applicant compare the proposed house and its size in relation to the existing primary resources, then do the same with the carriage house that belongs to Manor Circle Nursing Home.

Mr. Marshall Presser of Prospect Street, whose house is

located on lot 14, stated that, while the application is a step in the right direction, it does not satisfy any of the objections that the Commission raised in its reports on the previous two proposals on this lot. In considering this proposal, it should be realized that large detrimental alterations to the traditional garden setting of the neighborhood will take place when construction occurs. He noted that lot coverage for lot 14 is 15.2 percent, and not 17.6 percent as indicated in the proposal. In addition, he stated that the Commission raised the following objections to previous proposals on this lot: driveway considerations; negative impact on natural and suburban garden setting; destruction of house to yard relationship in the area; overscaled proposed building; and impairment of the streetscape on the north side of Prospect Street. Mr. Presser elaborated on why he believes these objections were not satisfied. Further, he stated that in an attempt to save open space and preserve the Victorian garden setting, he and Ms. Wilkes offered to purchase the property from the applicant. The offer was turned down.

Nancy Sherman, Mr. Presser's wife, stated that she is concerned that the extensive root structure for the boxwood bushes on Lot 13 seems to sit on their property; other trees also overhang on their property. She is uncertain what will happen to the boxwoods and what their ultimate location is. Further, she stated that the HPC should understand the importance of the particular environmental setting of Kensington; it was a suburban garden park setting. That setting is important to preserve.

Peter Burkholt, who lives on Prospect Street to the east of the property in question, stated that some comments at tonight's meeting bothered him a bit, specifically those comments that seem to indicate that because the lot is there, one has a right to put something up on it. In addition, he urged the Commission members that have not walked down Prospect Street to do so. He expressed that when he purchased his home, he was not just buying a house, he was buying a neighborhood in a historic district with an implied contract that everyone would do their best to keep the neighborhood the way it looked.

Commissioner Harris pointed out that there are two basic issues with respect to the proposal: (1) Will HPC allow Lot 13 to be build upon; and, (2) If HPC does allow a a structure to be built on the lot, what will it look like, what will its massing be, and what will its character be. Further, she expressed that while she can appreciate the residents' feelings about the streetscape and not wanting to build on open space, she is not totally comfortable with telling someone that owns a piece of property that they cannot build on that property. In addition, she stated that she wanted to comment about the design of the proposal. It is a very handsome building, and very well designed, but it is not necessarily the best building for the lot. In addition, Commissioner Harris expressed that she is concerned about certain aspects of the proposed house: its height, the proposed side porch, the lack of a front door for the house, and the fact that there are plans to put a garage behind the struc-

ture. Commissioner Harris urged all of the Commissioners to express their opinions about the proposed structure.

Commissioner Kousoulas stated that, with respect to the design of the house, he wonders how far the applicant will pursue the carriage house analogy. Also, the proposed Charleston porch provides a side porch and side entry. It has caused concern for others as well as himself. One cannot see a front door. By using the same footprint, the porch could be turned toward the street. This would result in a more successful massing with respect to the other houses.

Commissioner Norkin expressed that he does not think there is a compelling need to make the proposed structure a carriage house; to do so would contradict the Secretary of the Interior's Standards by trying to create false history on the lot. He agrees with some of the recommendations from the LAP that perhaps a structure of 1 1/2 to 2 stories might be more appropriate. Perhaps a bungalow style would be more acceptable. Further, he stated that a garage on the lot is inappropriate.

Commissioner Lanigan stated that to maintain the most important element of the historic district, one should not build anything on the lot. A small secondary building on the lot in that neighborhood does not seem economically viable.

Commissioner Wagner expressed that she agrees with many of the LAP comments. Kensington Historic District is more than an architectural district; it is a garden suburb. The HPC should respect the cultural significance of the district and the views of the residents of the district.

Commissioner Booth expressed that he is not so sure that a carriage house is the most critical element with respect to fitting appropriately into the lot and neighborhood. In addition, he stated that the third floor extension over the porch is not appropriate. A two story porch would be more suitable. The cupola should be taken off. A gravel driveway would be appropriate. The footprint of the building should be reduced. Further, a garage on the same lot with a building that is already designed to be a carriage house would be a bit redundant. He also suggested the applicant reduce the building footprint.

Commissioner Brenneman stated that, overall he likes the plan, but agrees with others that the height of the building is a problem; the applicant could delete the third floor from the plan and make the house 1 1/2 to two stories.

Commissioner Clemmer expressed that, while the applicants do have a right to build on the lot, he has a problem reconciling inclusion of the building in the neighborhood, as the entire historic district is characterized by its openness. The fact that the applicant is having a problem trying to get something to fit on the lot indicates to him that perhaps that particular lot is not the best place for the applicant's home.

Ms. Murray stated that, if she could get a fair offer, she would very much like to sell the lot to certain neighbors who have mentioned an interest in purchasing the lot. If she cannot sell the lot, however, she would like to be able to build a house on the lot. However, she does not think that the neighbors want anything to be built on the lot. In the meantime, she will try to revise the plan to address HPC comments, as well as those of the LAP and neighbors.

The meeting adjourned at 9:35 p.m. for a short break, and reconvened at 9:50 p.m.

### III. HISTORIC PRESERVATION MASTER PLAN EVALUATIONS

#### A. Update on staff recommendations re: historic designation of Garrett Park Historic District (Locational Atlas Resource #30/13)

The Chairperson opened the discussion of this Master Plan evaluation discussion. Carol Kennedy presented a video of resources in Garrett Park, as well as the staff report and recommendations. As background, Ms. Kennedy stated that the Town of Garrett Park is a Locational Atlas and National Register historic district which was recommended by the HPC in its entirety to be designated as a Master Plan district. Staff has been working over the past year with citizens, the Mayor and Town Council in Garrett Park, and the town's preservation committee to discuss various aspects of historic designation for Garrett Park. She stated that the survey technique utilized in formulating recommendations for Garrett Park is basically the same survey technique utilized for Takoma Park. In addition, Ms. Kennedy explained the maps and graphs, which are visual aids she used in her presentation to represent the classification of resources, their periods of construction, etc. Further, Ms. Kennedy explained that staff identified the resources in the town which it felt were most outstanding in terms of their representation of different historic and architectural periods. Staff then looked at what would be the most appropriate boundary for a historic district. Staff's recommendation for designation includes quite a number of outstanding resources and well as others from different historical periods. Staff is also recommending six individual resources within Garrett Park to be designated individually on the Master Plan.

The Chairperson expressed concern that the staff recommendation did not take into consideration all of the cultural and historical significance of Garrett Park. The HPC had recommended designation for the whole town because, although there is a mixture of architectural styles, the whole town represents the continuum of development in Garrett Park over 100 years. In addition, the National Register historic district boundaries include the entire town.

Ms. Kennedy mentioned that another issue that came up in the

HISTORIC PRESERVATION COMMISSION STAFF REPORT

PREPARED BY: Nancy Witherell

DATE: November 13, 1991

CASE NUMBER: N/A

TYPE OF REVIEW: Preliminary  
Consultation

SITE/DISTRICT NAME: Kensington

PROPERTY ADDRESS: Lot 13,  
Prospect Street

TAX CREDIT ELIGIBLE: N/A

DISCUSSION:

A proposal for construction on this lot by the current applicant (the Murray family) was reviewed and denied by the Commission in 1989. On May 22, 1991, a potential purchaser of this lot came before the HPC for a preliminary consultation, although no HAWP was filed by this potential purchaser. The owners of this lot have now requested a preliminary consultation with the Commission on a revised proposal for new construction on Lot 13 at 3925 Prospect Street. Copies of the 1989 denial decision and the May, 1991 staff report on this property are attached.

The lot is located in the Kensington Historic District. It measures 50' x 172' and is situated between two primary contributing historic structures built in 1904 in the Queen Anne style. The north side of the street is characterized by large houses with porches, and open side yards in a park-like setting. In this instance, the apparent side yard between the adjacent houses on Lot 14 (to the west) and Lot 12 (to the east) is the subject buildable lot. The south side of the street is characterized by smaller, more closely built houses, in some instances of a later date.

The Commission denied the 1989 proposal for new construction on Lot 13 because the scale, massing, and footprint of the new house would have adversely affected the rhythm and scale of the streetscape, as well as the wooded, garden-like quality of the lot.

At the May, 1991 meeting on a proposed house for this lot, the staff recommended as a possible alternative to the neo-Victorian house proposed by the potential purchaser a small house designed as a "background" building. The house would be set back substantially from the building line and would read as an accessory building, such as a carriage house to the Queen Anne-style houses on either side. The Chairperson responded by telling the applicant that the Commission had not found that no structure could be built on the lot, but that the 1989 decision should be studied closely.

The owner's current proposal is designed to respond to those comments. It is set back 38 feet behind the building line (the front line of the porches of the adjacent houses). It's footprint is 730 square feet (841 square feet including the porch). The dimensions of the proposed house are 27.2 feet across the front facade, and 30.7 feet from front to rear, although a portion of the rear section of the house is reduced in width to 18.6 feet. The width of the proposed facade is similar to that of the adjacent houses; the depth and height are much reduced.

The footprint of the house would occupy 8.46% of the lot, less than the lot coverage of the adjacent houses and slightly less than the average lot coverage for the north side of Prospect Street as stated in testimony in opposition to the construction during the 1989 deliberations.

The house is designed in a style reminiscent of a carriage house: board and batten siding, a standing seam roof, a cupola on the roof ridge, and dormers and a fenestration pattern meant to reflect the character of an ancillary building. The rear section, of brick, is designed with an articulated chimney but is otherwise meant to be a subsidiary element of the new house. This rear section would not be visible from public view.

The house is sited to avoid the removal of the row of trees along the property line to the east (Lot 12). The porch would have a shallow foundation so as to minimize the possibility of damage to the tree roots. The property owner should elaborate on the proposed method for protection of the trees. However, the removal of several trees on the site is anticipated, including two in the area of the proposed porch that measure 13.5" and 15" in caliper. In addition, many of the smaller trees and bushes at the front of the lot would be removed for the construction phase and should be replaced following completion of the house. The boxwoods on the proposed site of the house would be transplanted elsewhere on the site.

The applicant proposes a separate garage, approached by an asphalt driveway, to be constructed at the rear of the lot, behind the house. Although not drawn on these preliminary plans, it would be designed to appear as much as possible as a garden structure. The footprint of the proposed garage is an additional 200 square feet.

STAFF RECOMMENDATION:

Staff commends the applicant for responding to the suggested alternative scheme proposed by staff during the May, 1991 meeting. However, given the small size of the lot, staff remains concerned with the size of the footprint of the proposed house, believing a smaller house would be more compatible with the setting, the adjacent houses, and the architectural and streetscape character of the Kensington Historic District. The house on Lot 14 is only five feet from the side property line; the house on Lot 12 is eight feet from the side property line. The proposed 38-foot setback of the new house is designed to minimize the close proximity of the house on Lot 14; nevertheless the new driveway would emphasize that proximity. Staff recommends that the applicant again revise the design with an eye toward further reducing the size of the footprint by approximately 100 square feet. Staff proposes that the reduction in footprint come from the width rather than the depth of the proposed house.

Staff finds the placement of the house on the site to be well considered. Set back ninety feet from the sidewalk, the house would not appear intrusive from the street and would not, in staff's judgment, adversely affect the environmental and architectural character of the Kensington Historic District. The house would be sited appropriately among the large trees on the lot. Staff recommends that the applicant consider alternatives to the garage; the construction of a more open structure for parking would contribute to the reduction of massing and lot coverage on this lot.

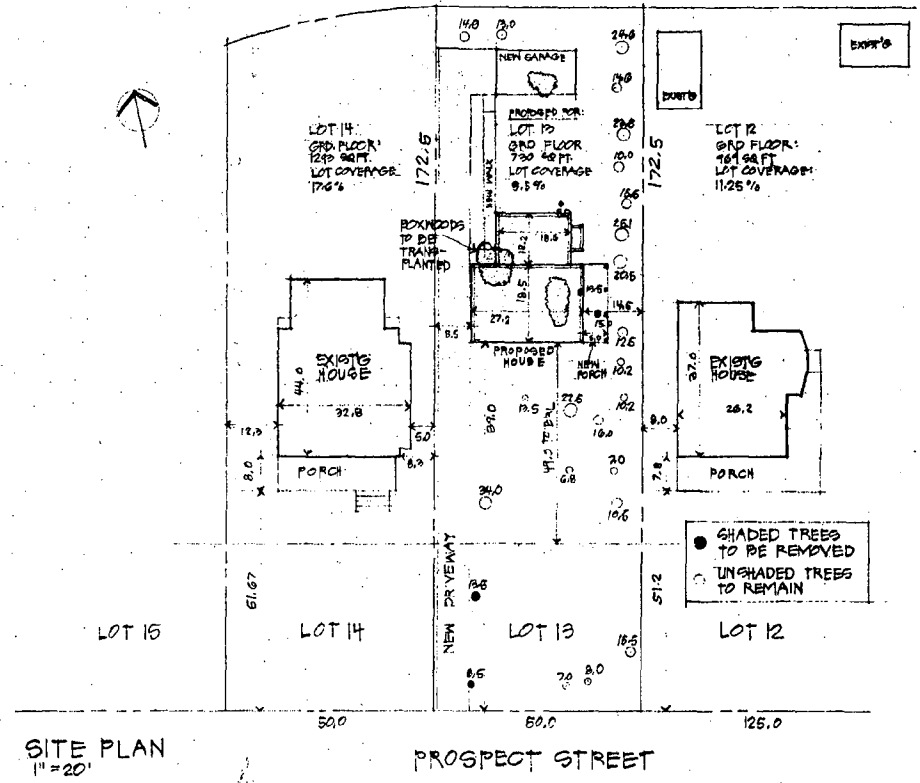
SENT TO LAP: November 4 and 13, 1991  
SENT TO APPLICANT: November 13, 1991

LAP COMMENTS RECEIVED: No

ATTACHMENTS:

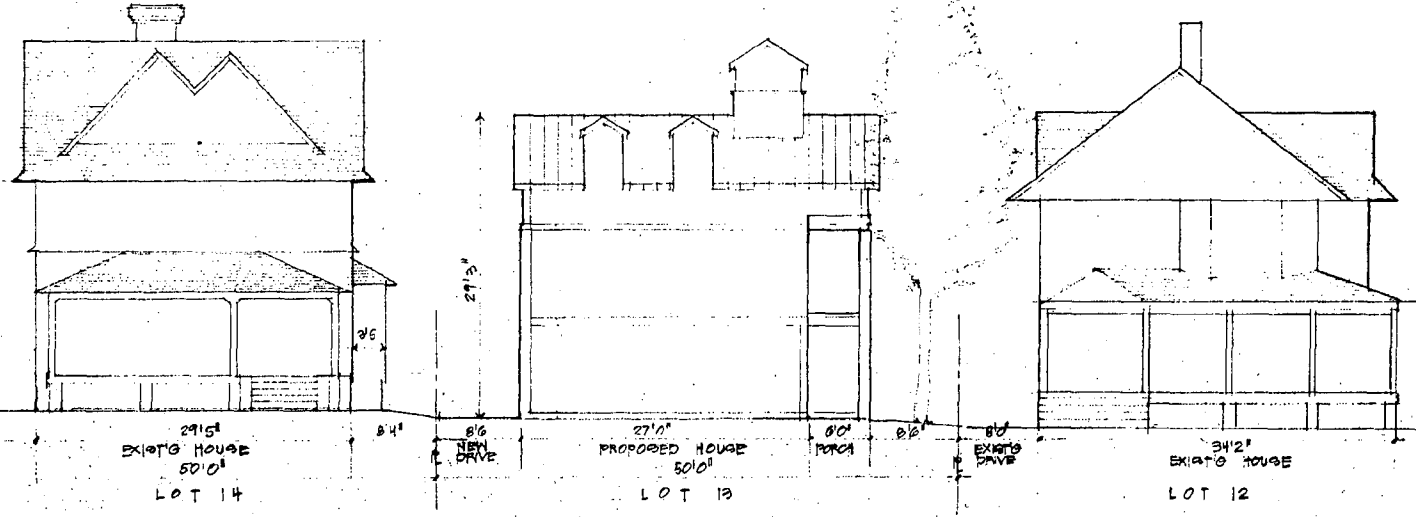
1. Proposed elevations and site plan
2. Photographs
3. May 1991 staff report
4. 1989 Commission decision





SITE PLAN  
1" = 20'

PROSPECT ST. ELEVATION STUDY  
1/8" = 1'0"



The Planning Board  
Washington, D.C. 20000  
(202) 547-6000

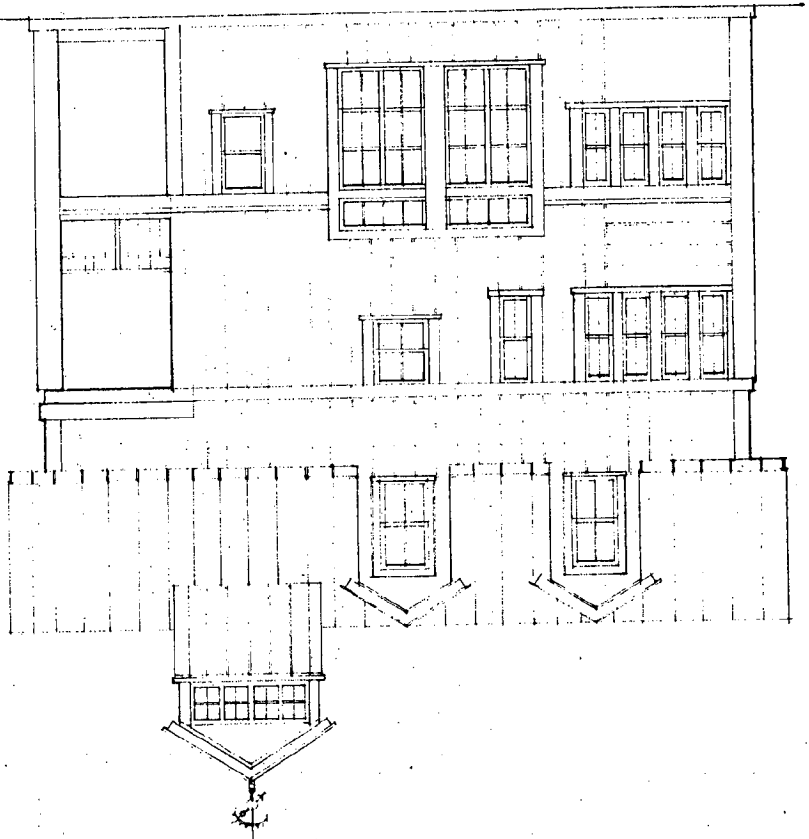
10-21-91

MURRAY AND ASSOC.  
PROPOSAL FOR LOT 13 PROSPECT  
KEENINGSTON, MD

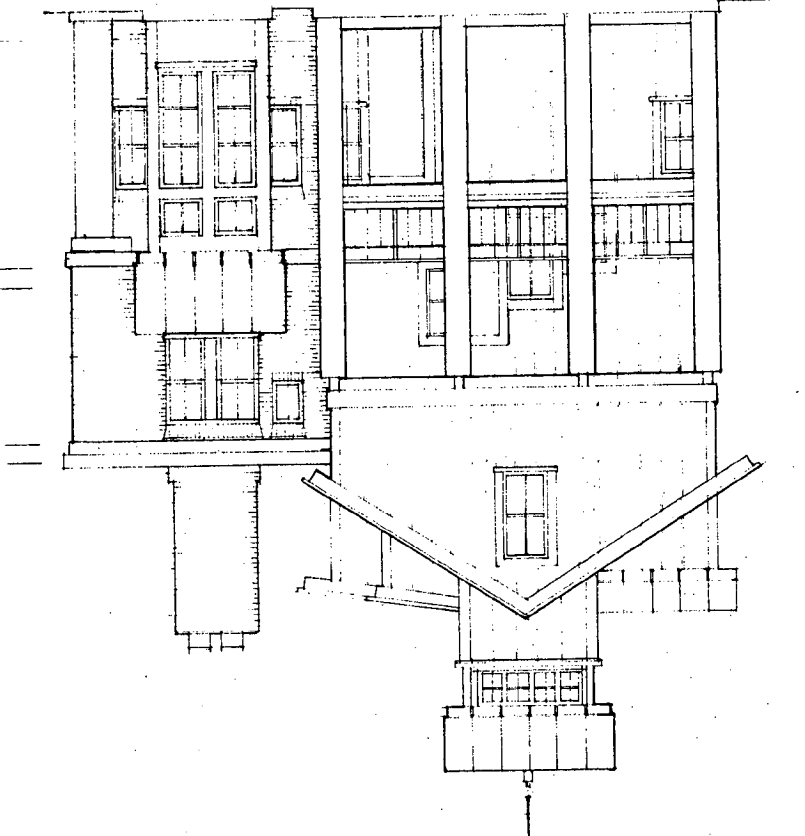
SITE PLAN  
PROSPECT ST. ELEVATION

1 SHEET

1/4" = 1' 0" SOUTH ELEVATION



1/4" = 1' 0" EAST ELEVATION



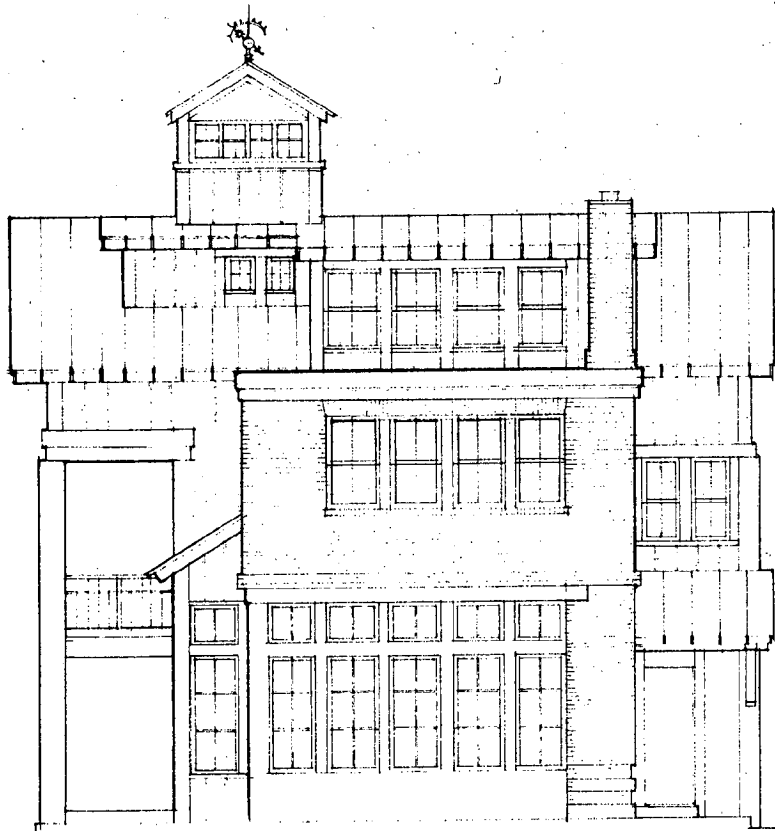
ELEVATIONS

2 SHEET

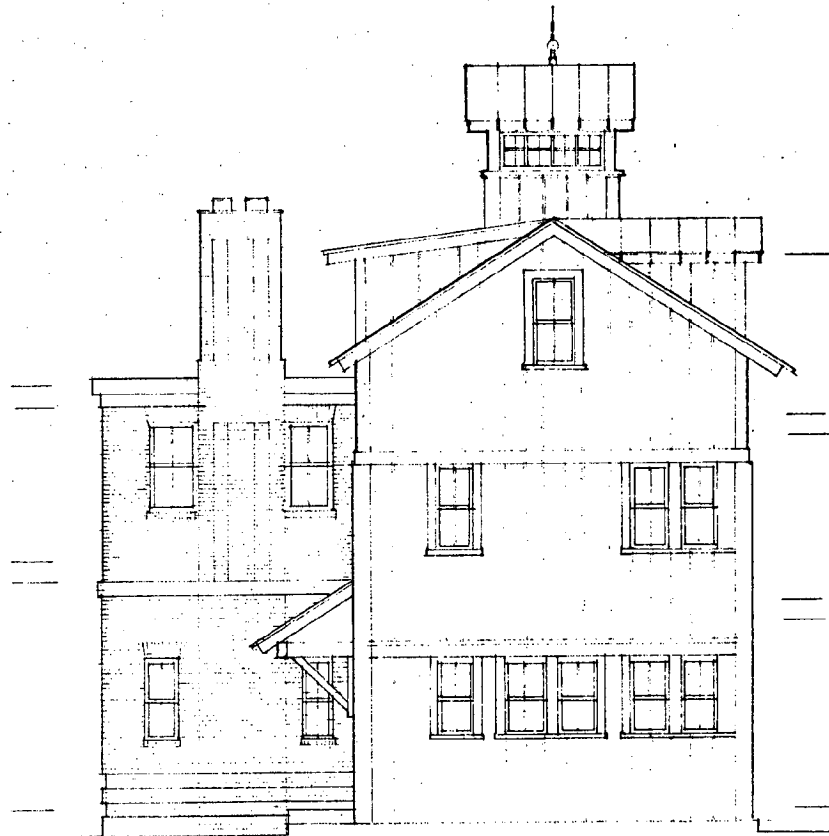
MURRAY AND ASSOCIATES  
PROPOSAL FOR THE  
RENOVATION OF

11-12-91

Thomas John Board  
3111 UNIVERSITY ST. #4  
DUNELLS, MD 21048



○ NORTH ELEVATION  
1/4" = 10'



○ WEST ELEVATION  
1/4" = 10'

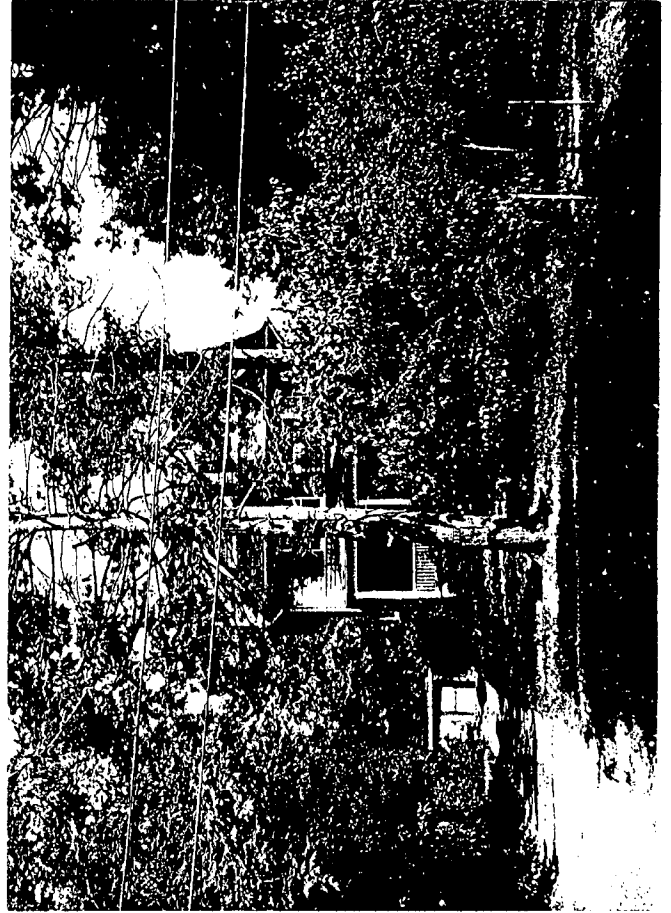
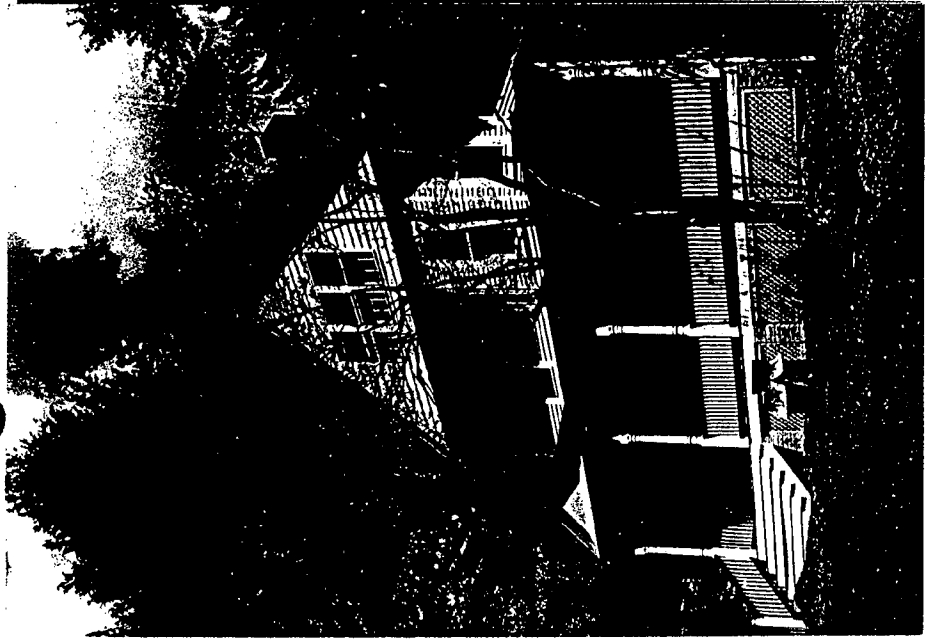
Thomas John Reed  
201 No. South St. #4  
Kensington, MD 20757  
(301) 271-0201

11.12.11

MURRAY AND ASSOCIATES  
PROPOSAL FOR LOT 19 PROSPECT ST.  
KENSINGTON, MD

ELEVATIONS

SHEET  
3





# LOCAL KENSINGTON HISTORIC DISTRICT

## Primary Resources:

1880-1910  
(Revival Styles)

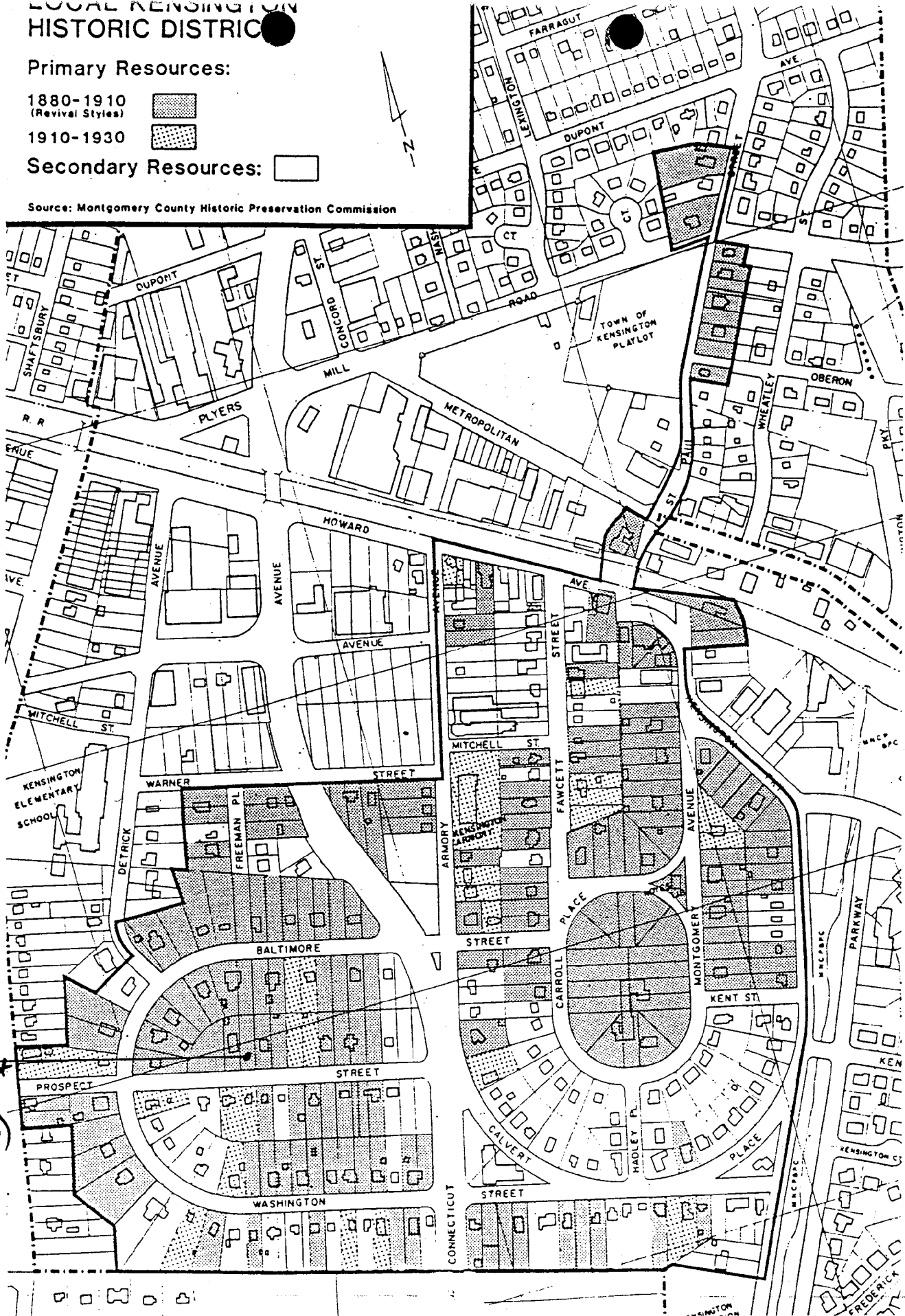


1910-1930



Secondary Resources:

Source: Montgomery County Historic Preservation Commission



3925  
Prospect  
St.  
(Lot 13)

1

HISTORIC PRESERVATION COMMISSION STAFF REPORT

PREPARED BY: Laura McGrath

DATE: May 15, 1991

CASE NUMBER: N/A

TYPE OF REVIEW: Preliminary  
Consultation

SITE/DISTRICT NAME: Kensington

PROPERTY ADDRESS: 3925 Prospect Street

TAX CREDIT ELIGIBLE: N/A

DISCUSSION:

The applicant is purchaser of 3925 Prospect Street (Lot 13) (contingent on HPC approval of an application) and is interested in exploring with the Commission alternatives for new construction here. The lot has been identified as a first-tier primary resource (1880-1910) in the Master Plan.

The applicant has submitted the attached house plan for the Commission's consideration and comment. It is a neo-Victorian, 2-story house with a front turret and garage. The house measures 35'8" wide by 45' long and is approximately 32' in height. The lot itself measures 50' X 172'. The applicant has also submitted a possible site plan showing the footprint of the house with a setback equal to that of 3927 Prospect Street (Lot 14).

Lot 13 is in between 3927 and 3923 Prospect Street. Both of these houses are primary resources, built in 1904 in the Queen Anne style. The entire north side of Prospect Street is considered one of the most intact and unaltered streetscapes in the historic district. There is a definite rhythm established through the alternation of house and green space. This green space, although defined as legally separate lots, has been viewed and characterized by the community and the Commission as side "yard" space to each house. In fact, the Master Plan Amendment for the Kensington Historic District specifically refers to its significance as a Victorian garden suburb with a park-like setting. Directly across the street from the property is a 1 1/2-story Bungalow.

As background, a proposal for new construction on this lot was denied by the Commission in 1989. A copy of this decision and elevations of the original house proposed are attached. Commissioners, especially new Commissioners, are encouraged to read this decision and visit the site. In summary, the proposed house was denied for the following reasons:

- The proposed structure would have seriously impaired the extant streetscape along the north side of Prospect Street through intrusion on the rhythm of the streetscape and by obscuring the views of the existing historic structures and their "gardens".
- The proposed structure was overscaled for the district, and Prospect Street in particular. Its proposed height and square footage would have substantially altered the character and nature of this section of the Historic District.

- The coverage of the proposed house on its site, which traditionally served as open space, was such that the resulting relationship of house to "yard" would have been significantly different from the existing relationships of houses to "yards" in the district.
- The placement of the house on the site would have disrupted the existing rhythm of house to yard on this streetscape. The width and front setback would have combined to create a pronounced building "wall" along the street, creating an urban setting.
- The proposed construction would have had a direct, negative impact on the natural environment, dramatically altering the existing sylvan setting.

STAFF RECOMMENDATION:

As the consideration of new construction on this lot consumed much of the Commission's time in 1989, it is important that the applicant understand the many issues involved. To that end, the Kensington LAP, as well as individuals interested in this case, have been invited to participate in the discussion of this preliminary proposal.

Staff finds that the proposed house is similar in size, scale, and massing to that which was denied by the Commission in 1989. Its proposed siting on the lot is also comparable. Staff recommends, therefore, that the applicant review the Commission's 1989 decision and, after hearing comments from the Commission and other participants at the May 22 meeting, consider alternatives that preserve and enhance the significant characteristics of the property and of this part of the Historic District.

One alternative would be a house that appears as a "background" building. It could resemble a garden or carriage house, sited in a way to make it appear as an accessory building to adjacent properties. This siting would include pushing it further to the rear of the lot and preserving its natural features, especially at the front of the lot.

SENT TO LAP: May 6, 1991                      COMMENTS RECEIVED? NO  
 SENT TO APPLICANT: May 15, 1991

ATTACHMENTS:

1. Proposed Elevations and Site Plan
2. Photos
3. 1989 Commission Decision



Before The Montgomery County Historic Preservation Commission

Application of Frank P. Murray

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

PROCEDURE

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

BACKGROUND

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

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

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

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

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

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

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

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

The Kensington Master Plan Amendments states:

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

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

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

### EVIDENCE

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

The following exhibits and testimony were presented at the hearings:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### MOTION TO RECUSE

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

(15)

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

FINDINGS

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

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

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

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

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

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

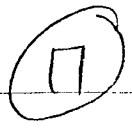
The proposals will effect all the historic resources located on the north side of Prospect Street, four of which are indicated as primary resources in the historic district, according to the Master Plan. Primary historic resources are those properties which contribute to the historicity of the district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

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

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

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

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



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

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

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

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

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

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

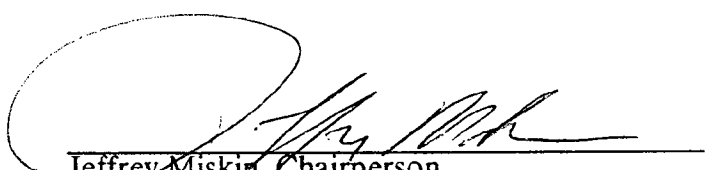
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Regardless of the true value of the lots, no evidence has been presented to show that if the instant proposals are not approved, the applicant will suffer undue economic hardship. The Commission has been provided with nothing more than bold assertions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

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

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



Jeffrey Miskin, Chairperson  
Montgomery County Historic Preservation Commission

(9)

DEAD

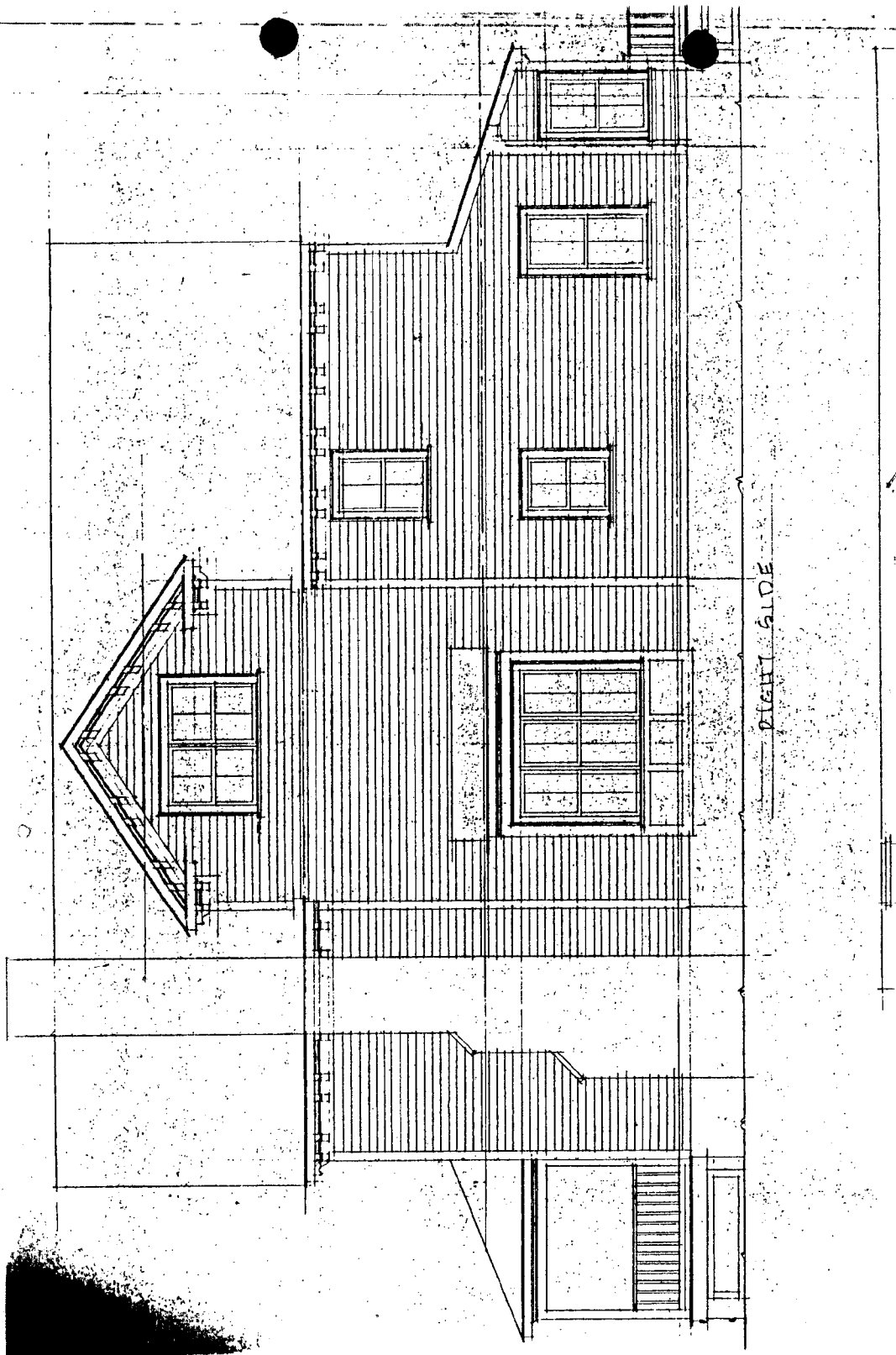


FRONT

20

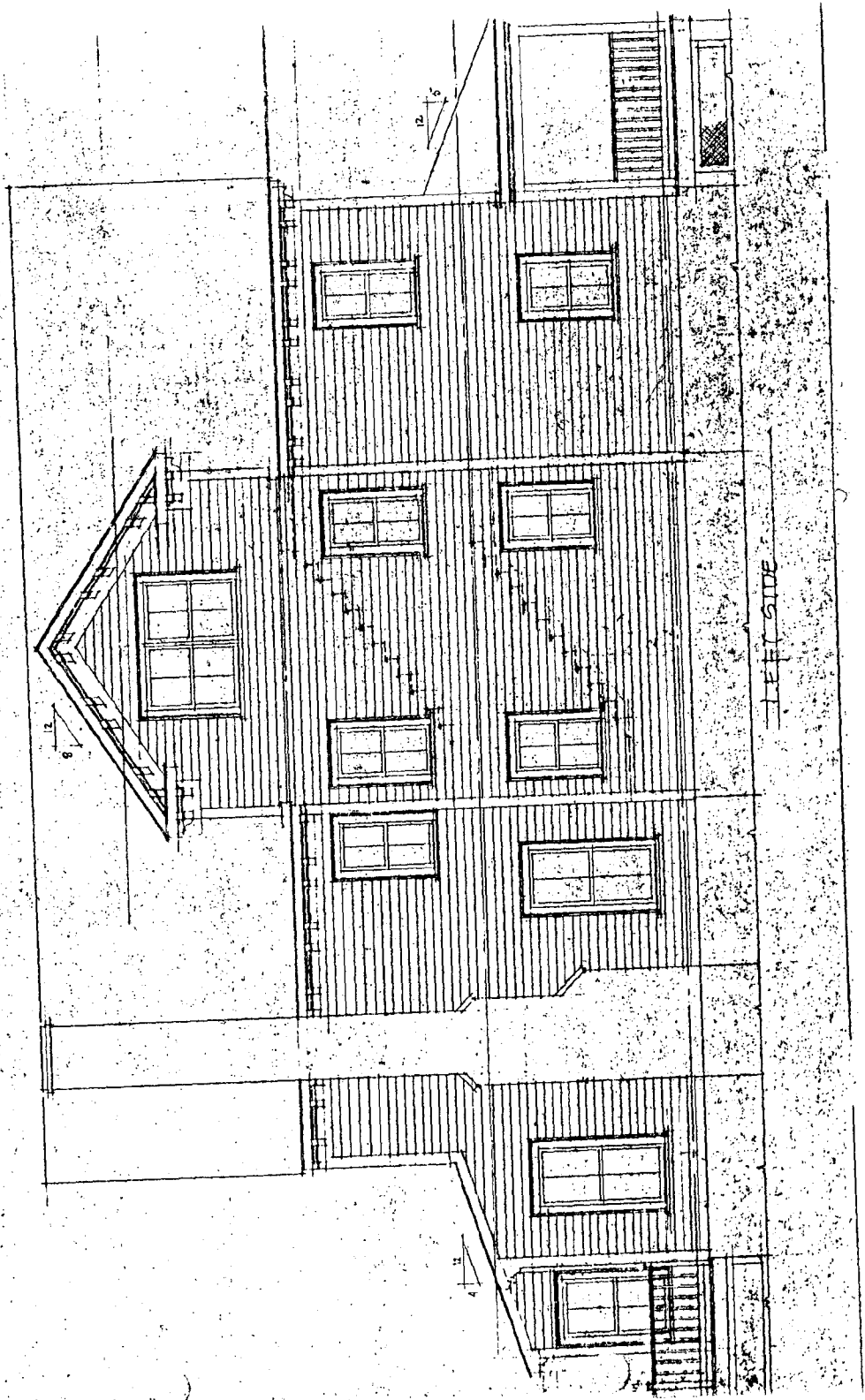
R-1

Q-1



RIGHT SIDE

21



22



DEAD

23



Montgomery County Government

MEMORANDUM

TO: Ray Shuelman, Chairman  
Kenington Local Advisory Panel

FROM: Laura McGrath, Planning Specialist  
 Department of Housing and Community Development  
 Division of Community Planning and Development

SUBJECT: Historic Area Work Permit Application \* Preliminary Consultation

DATE: 5-6, 1991

The attached application by Benny Weisman for an Historic Area Work Permit at Lot 13, Prospect Street is being forwarded for review and comment by the Local Advisory Panel. If the Panel would like written comments to be included in the Historic Preservation Commission's pre-meeting packet, they should be received at our office by no later than 5-14-91, at 5:00 p.m. Otherwise, verbal and/or written comments may be presented at the Commission meeting scheduled for 5-22, 1991.

\* Preliminary Consultation for new construction at Lot 13, Prospect Street, adjacent to 3927 Prospect Street.

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