

31/07-06K 9723 CAPITOL VIEW AVE
Capitol View Park Historic District

31/07-06K 9723 CAPITOL VIEW AVE
Capitol View Park Historic District

9-11-07 District Ct
- front door on order
He has planted 13?

trees incl.:

1 pin oak

2 Amer. Elm

1 weeping willow

1 willow oak

- not planning to grade

- will remain shed when he
has garage plans

Fothergill, Anne

From: Fothergill, Anne
Sent: Thursday, June 28, 2007 10:13 AM
To: 'Curtis Rodney'
Cc: 'Martin, James'
Subject: 9723 Capitol View Avenue

Mr. Rodney:

The Montgomery County Historic Preservation Commission (HPC) has agreed to reduce the caliper of the deciduous overstory trees that you are required to plant as part of your Historic Area Work Permit conditional approval from 3 inches to **2 inches**. The other three conditions of approval remain the same and first condition has been revised to reflect this change.

Thanks,
Anne

Anne Fothergill
Historic Preservation Planner
Montgomery County Planning Department
Countywide Planning--Historic Preservation Section
1109 Spring Street, Suite 801
Silver Spring, MD 20910
301-563-3400 phone
301-563-3412 fax
<http://www.mc-mncppc.org/historic/>

STAFF ITEM
Re: 9723 Capitol View Avenue

June 27, 2007

The HPC approved a HAWP for this property on May 23, 2007 with 4 conditions (over). At District Court yesterday, the owner told the judge that he would like to have condition #1 changed so that the 10 replacement overstory trees could be 1 ½" or 2" caliper, not 3". The Judge stated that the request must go to the HPC.

In the interest of getting trees planted on the site relatively soon, staff is requesting that the HPC allow this change to be made at the staff level.



HISTORIC PRESERVATION COMMISSION


Isiah Leggett
County Executive

Jef Fuller
Chairperson

Date: May 24, 2007

MEMORANDUM

TO: Carla Reid Joyner, Director
Department of Permitting Services

FROM: Anne Fothergill, Senior Planner 
Historic Preservation Section
Maryland-National Capital Park & Planning Commission

SUBJECT: Historic Area Work Permit #450319, tree replacement plan, trash removal and grading, and front door replacement

The Montgomery County Historic Preservation Commission (HPC) has reviewed the attached application for a Historic Area Work Permit (HAWP). This application was **Approved with Conditions** at the May 23, 2007 meeting.

1. The 17 replacement trees will be a combination of evergreen and deciduous trees and will include at least 10 overstory trees of 3" caliper at the time of installation and a species that achieves a mature height of at least 45 feet; final tree reforestation plan showing where trees will be planted, what species of trees, and what size (at time of planting and maturity) must be submitted to staff for final approval.
2. The shed that is currently on the property will be removed and any proposed shed or garage will be reviewed by the HPC as a separate HAWP application.
3. The applicant will submit a site plan showing the location of the trash to be removed and existing trees and a proposed post-excavation landscape plan. The applicant will submit a tree protection plan to be reviewed and approved by staff before trash removal can begin.
4. Replacement trees will be planted before September 30, 2007.

THE BUILDING PERMIT FOR THIS PROJECT SHALL BE ISSUED CONDITIONAL UPON ADHERENCE TO THE ABOVE APPROVED HAWP CONDITIONS AND MAY REQUIRE APPROVAL BY DPS OR ANOTHER LOCAL OFFICE BEFORE WORK CAN BEGIN.

Applicant: Curtis Rodney

Address: 9723 Capitol View Ave, Silver Spring

This HAWP approval is subject to the general condition that the applicant will obtain all other applicable Montgomery County or local government agency permits. After the issuance of these permits, the applicant must contact this Historic Preservation Office if any changes to the approved plan are made.



June 26, 2007

Judge Stephen Johnson

new date: September 11, 2007

Curtis Rodney requested smaller
trees than 3" caliper.

Judge said go to FPC
on July 25, 2007.

for owner at
stamping



HISTORIC PRESERVATION COMMISSION

Isiah Leggett
County Executive

Jef Fuller
Chairperson

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RETURN TO: DEPARTMENT OF PERMITTING SERVICES
255 ROCKVILLE PIKE, 2nd FLOOR, ROCKVILLE, MD 20850
240/777-6370

DPS - #8

HISTORIC PRESERVATION COMMISSION
301/563-3400

APPLICATION FOR HISTORIC AREA WORK PERMIT

Contact Person: _____

Daytime Phone No.: _____

Tax Account No.: _____

Name of Property Owner: CURTIS RODNEY Daytime Phone No.: 240-508-4195

Address: 9723 CAPITOL VIEW AV SILVER SPRING MD 20910
Street Number City State Zip Code

Contractor: HOME OWNER Phone No.: 240-508-4195

Contractor Registration No.: N/A

Agent for Owner: N/A Daytime Phone No.: N/A

LOCATION OF BUILDING/PREMISE

House Number: 9723 CAPITOL VIEW Street: CAPITOL VIEW

Town/City: SILVER SPRING Nearest Cross Street: FOREST GLEN RD

Lot: 72841042 Block: 36234 Subdivision: KENSINGTON FOREST GLEN

Liber: 30631 Folio: 761 Parcel: _____

PART ONE: TYPE OF PERMIT ACTION AND USE

1A. CHECK ALL APPLICABLE:

- Construct
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- Install
- Wreck/Raze
- Revision
- Repair
- Revocable

CHECK ALL APPLICABLE:

- A/C
- Slab
- Room Addition
- Porch
- Deck
- Shed
- Solar
- Fireplace
- Woodburning Stove
- Single Family
- Fence/Wall (complete Section 4)
- Other: CLEAN UP

1B. Construction cost estimate: \$ _____

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

PART TWO: COMPLETE FOR NEW CONSTRUCTION AND EXTEND/ADDITIONS

2A. Type of sewage disposal: 01 WSSC 02 Septic 03 Other: N/A

2B. Type of water supply: 01 WSSC 02 Well 03 Other: N/A

PART THREE: COMPLETE ONLY FOR FENCE/RETAINING WALL

3A. Height feet inches

3B. Indicate whether the fence or retaining wall is to be constructed on one of the following locations:

- On party line/property line
- Entirely on land of owner
- On public right of way/easement

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

[Signature]
Signature of owner or authorized agent

4/11/07
Date

Approved: ✓ with far conditions For Chairperson, Historic Preservation Commission

Disapproved: _____ Signature: [Signature] Date: 5/24/07

Application/Permit No.: 450319 Date Filed: _____ Date Issued: _____

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

1. WRITTEN DESCRIPTION OF PROJECT

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

THE GROUNDS OF THE PROPERTY WERE ONCE USED FOR ILLEGAL DUMPING. HENCE THERE IS A MOUND OF TRASH WHEREON WEEDS HAVE ROOTED AND GROWN. THE TRASH INCLUDES OLD CARPET, BED FRAMES, BRICKS, CHAIN LINK FENCING, BROKEN GLASS. AS THE CURRENT OWNER I WOULD LIKE TO CLEAN OUT THE TRASH, GRADE THE GROUND, LAY TOP SOIL AND PLANT TREES AND GRASS.

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

REPLACE FRONT DOOR WITH HPC ACCEPTABLE DOOR TO MAINTAIN THE HISTORIC CHARACTER OF THE BUILDING AND CONFORM TO THE HPC REQUIREMENTS FOR THE NEIGHBORHOOD. SEE ATTACHED PHOTO COPY.

2. SITE PLAN

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

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

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

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4. MATERIALS SPECIFICATIONS

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

5. PHOTOGRAPHS

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

6. TREE SURVEY

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

7. ADDRESSES OF ADJACENT AND CONFRONTING PROPERTY OWNERS

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

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HISTORIC PRESERVATION COMMISSION


Isiah Leggett
County Executive

Jef Fuller
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Date: May 24, 2007

MEMORANDUM

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Department of Permitting Services

FROM: Anne Fothergill, Senior Planner 
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SUBJECT: Historic Area Work Permit #450319, tree replacement plan, trash removal and grading, and front door replacement

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DPS - #8

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301/563-3400

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HISTORIC AREA WORK PERMIT

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- Other: CLEAN UP

1B. Construction cost estimate: \$ _____

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2A. Type of sewage disposal: 01 WSSC 02 Septic 03 Other: N/A

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

[Signature]
Signature of owner or authorized agent

4/11/07
Date

Approved: with four conditions For Chairperson, Historic Preservation Commission

Disapproved: _____ Signature: [Signature] Date: 5/24/07

Application/Permit No.: 450310 Date Filed: _____ Date Issued: _____

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MONTGOMERY COUNTY HISTORIC PRESERVATION COMMISSION
STAFF REPORT

Address: 9723 Capitol View Avenue, Silver Spring **Meeting Date:** ~~5/9/2007~~ **5/23/07**
Resource: Contributing Resource **Report Date:** 5/2/2007
Capitol View Park Historic District
Applicant: Curtis Rodney **Public Notice:** 4/25/2007
Review: HAWP **Tax Credit:** None
Case Number: 31/07-07A **Staff:** Anne Fothergill

PROPOSAL: Tree replacement, trash removal and grading, and front door replacement

RECOMMENDATION: Approve with Three Conditions

LAP comments in circle 41.

STAFF RECOMMENDATION

Staff is recommending that the HPC approve this HAWP application with the following conditions:

1. The 17 replacement trees will be a combination of evergreen and deciduous trees and will include at least 10 overstory trees of 3" caliper at the time of installation and a species that achieves a mature height of at least 45 feet; final tree reforestation plan showing where trees will be planted, what species of trees, and what size (at time of planting and maturity) must be submitted to staff for final approval.
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3. The applicant will submit a site plan showing the location of the trash to be removed and existing trees and a proposed post-excavation landscape plan. The applicant will submit a tree protection plan to be reviewed and approved by staff before trash removal can begin.

PROPERTY DESCRIPTION

SIGNIFICANCE: Contributing Resource within the Capitol View Park Historic District
STYLE: Cottage
DATE: c. 1917-1935

BACKGROUND

December 2005 through August 2006: The applicant made changes to the house and property without an approved Historic Area Work Permit (HAWP). Notices of Violation were issued by Montgomery County inspectors. The applicant:

- removed 13 trees 6" dbh or larger
- replaced the original front door with a fiberglass door
- installed fencing attached to the front of the house (in March 2007 the fencing was removed)
- installed a plastic shed behind the house (visible from the street)

October 2006: The HPC denied the retroactive HAWP application (transcript in Circles 20-25 and written denial in Circles 13-19).

May 2006, December 2006, March 2007, and May 2007: Two Judges at District Court ordered the applicant to comply with the Historic Preservation Commission's requirements to submit an Historic Area Work Permit (HAWP) application and receive HPC approval of the HAWP.

PROPOSAL

The applicant has submitted a HAWP application that includes a proposal for:

- 1) A replacement front door that is a wood nine-lite, two panel door.
- 2) A tree replacement plan showing 17 replacement trees, a combination of deciduous flowering and fruit trees and evergreen trees, to be planted by September 30, 2007. See list in Circle 9.
- 3) A site plan showing the existing shed that was previously denied by the HPC.
- 4) A plan to excavate a trash mound and then plant trees and grass in that area.

Photos of the property are in Circles 30-40.

APPLICABLE GUIDELINES

When reviewing alterations and new construction within the Capitol View Park Historic District several documents are to be utilized as guidelines to assist the Commission in developing their decision. These documents include *Montgomery County Code Chapter 24A (Chapter 24A)* and the *Secretary of the Interior's Standards for Rehabilitation (Standards)*. The pertinent information in these documents is outlined below.

Montgomery County Code; Chapter 24A

A HAWP permit should be issued if the Commission finds that:

1. The proposal will not substantially alter the exterior features of a historic site or historic resource within a historic district.
2. The proposal is compatible in character and nature with the historical archaeological, architectural or cultural features of the historic site or the historic district in which a historic resource is located and would not be detrimental thereto of to the achievement of the purposes of this chapter.

In the case of an application for work on a historic resource located within a 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 surrounding historic resources or would impair the character of the historic district.

Secretary of the Interior's Standards for Rehabilitation:

Standard #2: The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.

Standard #9: New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible

with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

STAFF DISCUSSION

Although this application is incomplete, in the interest of moving this long-standing violation toward resolution, staff is recommending conditional approval. The recommended conditions of approval are listed below.

FENCING: The applicant complied with the HPC's requirement and the inappropriate fencing has been removed. Staff has advised the applicant that fencing on this property may be approvable but would require a separate HAWP application.

FRONT DOOR: Ideally the original front door should have been retained, but the proposed replacement wood front door is more compatible with the house than the existing door and staff supports it.

SHED: The HPC stated at the October 2006 meeting that the shed that was installed without a HAWP was not approvable and the applicant must remove the existing shed, but the shed remains on the property. The concerns are that it is an incompatible material and that is very visible from the street. Like fencing, a shed may be approvable but would require a separate application that would need to include all details including photos, specifications, dimensions, materials, and its location on a site plan.

TREE REPLACEMENT: The HPC advised the applicant that the reforestation plan should include trees that would enhance the naturalistic character of the lot and the historic district. The applicant has submitted a written description of a plan to plant 17 trees including 5 evergreens and 9 flowering and fruit trees. Staff is recommending that the proposed tree replacement plan be modified so that at least ten of the replacement trees are native species, deciduous, overstory trees to replace the White Ash, Box Elder Maple, American Elm and Siberian Elm that were removed. These ten overstory trees should be 3" caliper minimum at the time of installation and a species that achieves a mature height of at least 45 feet. The applicant has not submitted a site plan showing where the trees would be planted. Staff is recommending that the applicant submit a complete landscape plan showing where the trees will be planted, what species of trees, and what size at the time of planting and maturity.

TRASH REMOVAL: The application does not include sufficient information to review the proposed trash removal. The applicant will need to submit supplemental information including a site plan showing the location of the trash mound to be removed and its proximity to existing trees as well as details of the proposed grading and landscape plan. According to a site plan and an arborist's report that were submitted in the previous HAWP, there are seven large trees on the property and these would need to be protected during any excavation and grading (see Circles 27-29). The applicant will need to submit a tree protection plan that will be reviewed and approved by staff before any excavation can begin.

Many members of the Capitol View Park community are concerned about this case and have been in contact with staff frequently over the past few years to express their concerns and dismay. Once the case is resolved with the HPC the applicant will return to District Court for final resolution of the outstanding violations and citations.

Staff is recommending that this application be approved with conditions.

STAFF RECOMMENDATION

Staff recommends that the Commission **approve** the HAWP application **with the conditions specified on Circle 1** as being consistent with Chapter 24A-8(b)(1) & (2);

and with the *Secretary of the Interior's Standards for Rehabilitation*;

and with the general condition that the applicant shall present the **3 permit sets of drawings, if applicable, to Historic Preservation Commission (HPC) staff for review and stamping** prior to submission for the Montgomery County Department of Permitting Services (DPS) building permits;

and with the general condition that the applicant shall notify the Historic Preservation Staff if they propose to make **any alterations** to the approved plans.



RETURN TO: DEPARTMENT OF PERMITTING SERVICES
255 ROCKVILLE PIKE, 2nd FLOOR, ROCKVILLE, MD 20850
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- On public right of way/easement

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

[Signature] Signature of owner or authorized agent
4/11/07 Date

Approved: _____ For Chairperson, Historic Preservation Commission

Disapproved: _____ Signature: _____ Date: _____

Application/Permit No.: 450319 Date Filed: _____ Date Issued: _____

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

1. **WRITTEN DESCRIPTION OF PROJECT**

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

THE GROUNDS OF THE PROPERTY WERE ONCE USED FOR ILLEGAL DUMPING. HENCE THERE IS A MOUND OF TRASH WHEREON WEEDS HAVE ROOTED AND GROWN. THE TRASH INCLUDES OLD CARPET BED FRAMES, BRICKS, CHAIN LINK FENCING, BROKEN GLASS. AS THE CURRENT OWNER I WOULD LIKE TO CLEAN OUT THE TRASH GRADE THE GROUND LAY TOP SOIL AND PLANT TREES AND GRASS.

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

REPLACE FRONT DOOR WITH HPC ACCEPTABLE DOOR TO MAINTAIN THE HISTORIC CHARACTER OF THE BUILDING AND CONFORM TO THE HPC REQUIREMENTS FOR THE NEIGHBORHOOD SEE ATTACHED PHOTO COPY.

2. **SITE PLAN**

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

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

3. **PLANS AND ELEVATIONS**

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

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

4. **MATERIALS SPECIFICATIONS**

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

5. **PHOTOGRAPHS**

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

6. **TREE SURVEY**

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

7. **ADDRESSES OF ADJACENT AND CONFRONTING PROPERTY OWNERS**

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

ADJACENT PROPERTY:

MS. SCALA 9717 CAPITOL VIEW AVE

SILVER SPRING MD 20910

ACROSS THE STREET

9722 CAPITOL VIEW AV

SILVER SPRING MD 20910



4723

Capitol View Avenue

8

TREE REPLACEMENT PLAN FOR 9723 Capitol View Ave. Sliver Spring, MD 20910

The Following is submitted as a plan of action for the reforestation of Grounds at 9723 Capitol View Ave.

The Home Owner Proposes to plant a combination of Deciduous Flowering and Fruit as well as Evergreen Trees to Total 17 trees in approximately the vicinity of the trees which were removed.

Deciduous :

- 2 Kwanzan Flowering Cherry Trees
- 2 Cleveland select Flowering Pear trees
- 2 Purple Leaf Plum Tree
- 2 Granny Smith (Green Apple) trees
- 2 Cherry Trees (Fruit Bearing)
- 2 Pear Trees (Fruit Bearing)
- 5 Cypress Pines

Total # of Trees Planted : 17

Term: Between and fall 2007

Planting to be completed by or before September 30th, 2007.

At date of purchase the trees will be at least 3 years old and measure at least 5 feet after planting. Rate of growth is projected to be 6" to 10" inches per annum and, 3-5 cm of caliper growth.

1
36" X 80" X 1-3/4"
3/0 9-LITE 2 PANEL EXTERIOR FIR



Masonite



Mixed Sources
Product group from well-managed
forests and other controlled sources

Cert no. SCS-COC-00591
www.fsc.org
© 1996 Forest Stewardship Council



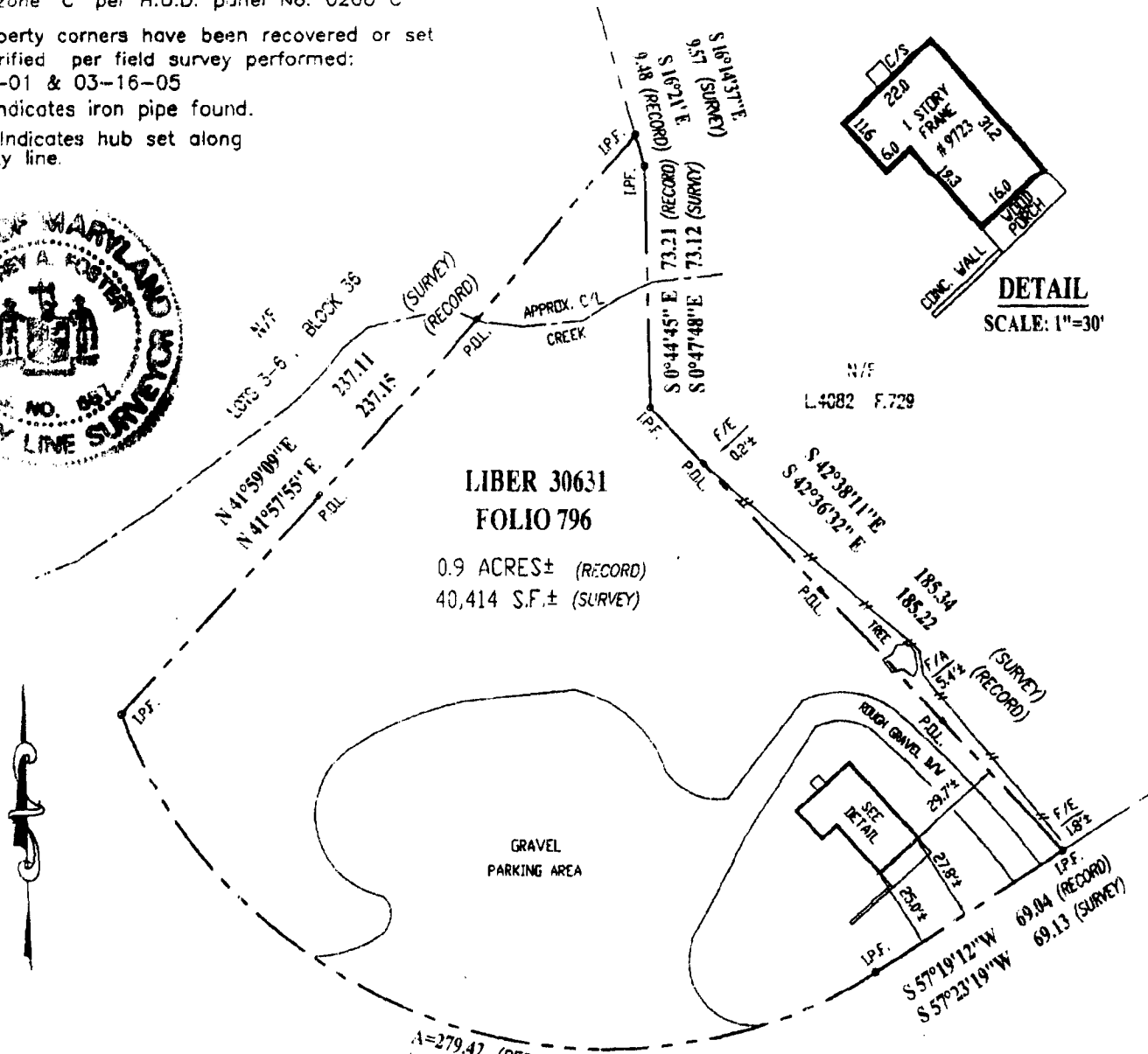
9-Lite, 2 Panel

- FSC certified wood
- Engineered stiles & rails helps prevent warping
- Door supplied unfinished, ready-to-paint or stain
- 1 year limited warranty

The information shown hereon has been prepared without benefit of a Title Report, therefore, may not reflect all easements or encumbrances which may affect subject property.

Notes:

- 1) Flood zone "C" per H.U.D. panel No. 0200 C
- 2) All property corners have been recovered or set and verified per field survey performed: 07-19-01 & 03-16-05
- 3) I.P.F. indicates iron pipe found.
P.O.L. indicates hub set along property line.



A=279.42 (RECORD)
A=279.03 (SURVEY)
R=154.44 (COMP.)

PLAT OF SURVEY
PARTS OF LOTS 7 & 8, BLOCK 36
AND
PARTS OF LOTS 41 & 42, BLOCK 34
CAPITOL VIEW PARK
MONTGOMERY COUNTY, MARYLAND
CAPITOL VIEW AVENUE
(KENSINGTON FOREST GLEN ROAD-PER DEED)

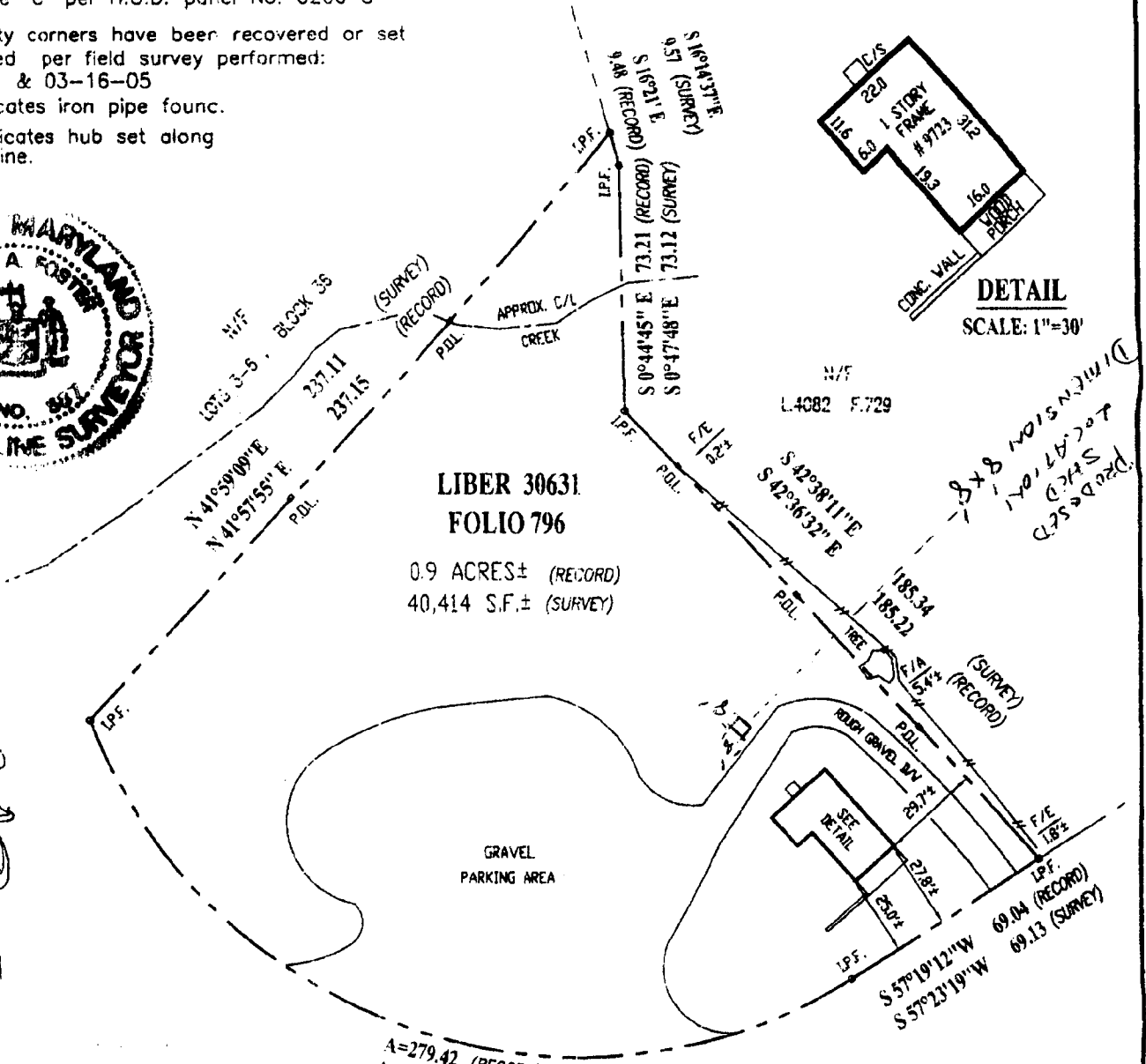
SURVEYOR'S CERTIFICATE I HEREBY CERTIFY THAT THE INFORMATION SHOWN HEREON HAS BEEN BASED UPON THE RESULTS OF A FIELD SURVEY PURSUANT TO THE DEED OR PLAT OF RECORD. PROPERTY MARKERS HAVE BEEN RECOVERED OR PLACED IN ACCORDANCE WITH THE INFORMATION SHOWN.	REFERENCES PLAT BK. A PLAT NO. 9		SNIDER & ASSOCIATES SURVEYORS - ENGINEERS LAND PLANNING CONSULTANTS 2 Professional Drive, Suite 218 Gaithersburg, Maryland 20879 301/948-5100, Fax 301/948-1286	
	LIBER 30631 FOLIO 761		DATE OF LOCATIONS WALL CHECK: HSE. LOC.: 07-19-01 PROP. CORS.: 03-16-06	SCALE: 1" = 50' DRAWN BY: E.M.G. JOB NO.: 01-3631B 06-1415

Jeffrey A. Foster
 MARYLAND PROPERTY LINE SURVEYOR REG. NO. 527

The information shown hereon has been prepared without benefit of a Title Report, therefore, may not reflect all easements or encumbrances which may affect subject property.

Notes:

- 1) Flood zone "C" per H.U.D. panel No. 0200 C
- 2) All property corners have been recovered or set and verified per field survey performed: 07-19-01 & 03-16-05
- 3) I.P.F. Indicates iron pipe found.
P.O.L. Indicates hub set along property line.



**LIBER 30631
FOLIO 796**

0.9 ACRES± (RECORD)
40,414 S.F.± (SURVEY)

PLAT OF SURVEY

PARTS OF LOTS 7 & 8, BLOCK 36
AND

PARTS OF LOTS 41 & 42, BLOCK 34

CAPITOL VIEW PARK

MONTGOMERY COUNTY, MARYLAND

CAPITOL VIEW AVENUE

(KENSINGTON FOREST GLEN ROAD-PER DEED)

Building Line and/or Flood Zone Information is taken from Available Sources and is Subject to Interpretation of Originator.

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE INFORMATION SHOWN HEREON HAS BEEN BASED UPON THE RESULTS OF A FIELD SURVEY PURSUANT TO THE DEED OR PLAT OF RECORD. PROPERTY MARKERS HAVE BEEN RECOVERED OR PLACED IN ACCORDANCE WITH THE INFORMATION SHOWN.

Jeffrey A. Foster
MARYLAND PROPERTY LINE SURVEYOR REG. NO. 527

REFERENCES

PLAT BK. A
PLAT NO. 9

LIBER 30631
FOLIO 781



SNIDER & ASSOCIATES
SURVEYORS - ENGINEERS
LAND PLANNING CONSULTANTS
2 Professional Drive, Suite 216
Gaithersburg, Maryland 20879
301/948-5100, Fax 301/948-1286

DATE OF LOCATIONS
WALL CHECK:
HSE. LOC.: 07-19-01
PROP. CORS.: 03-16-06

SCALE: 1" = 50'
DRAWN BY: E.M.G.
JOB NO.: 01-3831B
08-1415

HISTORIC PRESERVATION COMMISSION

of

MONTGOMERY COUNTY

**8787 Georgia Avenue
Silver Spring, Maryland 20910**

301-563-3400

Case No. 31/07-06K Received August 24, 2006

Public Appearance September 13, 2006 and October 25, 2006

Before the Montgomery County Historic Preservation Commission

Application of Curtis Rodney
9723 Capitol View Avenue, Silver Spring

DECISION AND OPINION OF THE COMMISSION

Decision of the Commission: DENY the Applicant's application for retroactive approval of alterations to the building and property.

Commission Motion: At the October 25, 2006 meeting of the Historic Preservation Commission (HPC), Commissioner Alderson presented a motion to deny the retroactive application to remove 13 trees, replace the front door, install fencing, and install a shed. Commissioner Duffy seconded the motion. Commissioners Fuller, Rotenstein, Alderson, Duffy, Anahtar and Fleming voted in favor of the motion. Commissioners O'Malley, Jester, and Burstyn were absent. The motion passed 6-0.

BACKGROUND AND CHRONOLOGY:

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

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 a historic resource, unless reduced by the District Council or 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.

Commission: The historic preservation commission of Montgomery County, Maryland.

Director: The director of the department of permitting services of Montgomery County, Maryland or his designee.

Exterior features: The architectural style, design and general arrangement of the exterior of an historic resource, including the color, nature and texture of building materials, and the type and style of all windows, doors, light fixtures, signs or other similar items found on or related to the exterior of an historic resource.

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.

On December 27 2005, Historic Preservation staff were notified by residents of work taking place at 9723 Capitol View Avenue. A Department of Permitting Services (DPS) inspector was sent to investigate and found that the property owner, Mr. Curtis Rodney, had cut down 13 trees 6" dbh or larger without an approved Historic Area Work Permit (HAWP). DPS issued a stop work order. After a staff site visit it was determined that 6' tall privacy fencing also had been installed without HPC approval.

In January 2006, two Historic Preservation staff members met with Mr. Rodney and discussed what alterations to the house and the property require HPC approval and how to apply for a HAWP.

In March 2006, Mr. Rodney replaced the front door without a Historic Area Work Permit. A DPS inspector issued a notice of violation.

On May 16, 2006, the tree removal and door replacement violations cases were heard in District Court. At the hearing, Judge Stephen Johnson, County Attorney Jim Savage, DPS inspector Jim Martin, Mr. Rodney and HPC staff discussed the details of these violations. Judge Johnson ordered that Mr. Rodney must submit all required paperwork for a HAWP within 45 days of that date and then must comply with HPC requirements in order to have an approved HAWP within 30 days after the HPC hearing.

In July or August 2006, Mr. Rodney installed a shed on the property without an approved HAWP.

On August 24, 2006, Curtis Rodney submitted a retroactive application for a HAWP to remove trees, replace the front door, install fencing, and install a shed.

The tree removal, front door replacement, and fencing and shed installation were completed prior to August 24, 2006 and before being reviewed by the Commission.

9723 Capitol View Avenue is designated a Contributing Resource in the Capitol View Park Historic District, which was added to the Master Plan For Historic Preservation in Montgomery County in 1982. The house at 9723 Capitol View Avenue was built c. 1935.

EVIDENCE IN THE RECORD:

The Historic Preservation office received the Historic Area Work Permit (HAWP) application on August 24, 2006. A written staff recommendation on this case was prepared and sent to the Commission on September 6, 2006. At the September 13, 2006 HPC meeting, staff person Anne Fothergill showed digital photos of the site and presented an oral report with staff recommendations. Mr. Rodney did not attend the September 13, 2006 meeting.

Staff recommended that the HAWP application be continued to allow the applicant more time to provide the required information for a complete application.

The HPC concurred with staff and continued the application with four conditions. Specifically, the HPC required that the applicant:

1. Submit a proposed tree replacement plan to staff by October 4, 2006. The plan must be completed by a certified arborist and include species, size, and location of trees to be planted.
2. Submit specifications for a proposed replacement front door including material, design, and photo to staff by October 4, 2006 (door to match original door as close as possible).
3. Submit proposed shed details including design, materials, location, and photos to staff by October 4, 2006.
4. Remove the fencing at front right of the house by October 4, 2006 and submit photos showing area where fence was removed to staff by October 4, 2006.

The case was continued to October 25, 2006. At the October 25, 2006 HPC meeting, staff person Anne Fothergill showed digital photos of the site and presented an oral report with a staff recommendation. Staff recommended that the HAWP application be denied as it is not consistent with Chapter 24A or the *Secretary of the Interior's Standards for Rehabilitation* ("Standards").

Staff's specific concerns that constituted reasons for the denial recommendation were:

1. The *Standards* state, "the historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided."
2. The *Standards* state, "deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence."
3. The *Standards* state, "new additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with

the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment;”

4. The tree removal adversely impacts the environmental setting of this property and the overall wooded, naturalistic character of the historic district.
5. Fiberglass is not an appropriate replacement material for an original wood front door on a Contributing Resource and the installation of the door lessens the integrity of the historic resource.
6. Tall privacy fencing installed adjacent to the front plane of the historic house detracts from the open sight lines of the historic district; the fencing is incompatible with the historic house in its design and location.
7. Plastic is not an appropriate material for a shed in the historic district and the shed location is too prominent and visible for the historic resource and district.

The applicant, Curtis Rodney, did not attend the September 13, 2006 meeting but was present at the October 25, 2006 meeting when the motion to deny the application was made and approved.

Curtis Rodney stated that he was told by Montgomery County that he did not need a permit for the shed. He also said he could move the shed back on the lot. Mr. Rodney stated that he reduced the fencing from the original six feet tall to less than three feet tall and was told by Montgomery County that he did not need a fence permit if it was under three feet tall. He stated he replaced the front door because the door was not secure and his security was compromised. Mr. Rodney stated he has planted some Cypress pines in front of the house and that he intends to plant more trees but he does not have a tree replacement plan.

The Local Advisory Panel submitted a written statement concurring with staff's recommendation for denial and stating: "it is our duty to request redress from HPC regarding these violations and for the County to be enabled to respond faster when violations are observed." They expressed concern "that this would set a precedent for other residents of Historic Districts."

Commissioner Alderson concurred with staff that "none of these alterations are consistent with the guidelines for the historic district, nor would any of them be approved. The concern is that if you ask the general question of Montgomery County about the County guidelines that was not the same as seeking out what would be permitted in the historic district. And you would expect that you would have known that your house was located in a historic district."

Mr. Rodney stated that he is now fully aware of what it means to be in a historic district.

Commissioner Alderson made the motion to deny the application and Commissioner Duffy seconded it. Commissioners Fuller, Rotenstein, Alderson, Duffy, Anahtar and Fleming voted in favor of the motion and the vote for denial was unanimous.

Commissioner Fleming and Anahtar discussed with Mr. Rodney how he can rectify the existing conditions and they stated that he can submit a new HAWP application.

Commissioner Fuller informed Mr. Rodney that he “should be removing and replacing the front door back to its original condition, removing the fence and removing the shed because none of those items are permitted items at the present time.” Commissioner Fuller also stated that Mr. Rodney must submit a tree replacement plan.

Commissioner Alderson stated that “the tree replacement plan is not simply a numeric trade of existing trees for new trees... You need to make a plan that simulates the general character that existed before the trees were removed, which is a naturalistic character, a wooded character consistent with the historic district.”

Commissioner Rotenstein recommended that Mr. Rodney “work very closely with staff to ensure that the steps you take are in compliance and that you are in a better position to come back before this Commission with a Historic Area Work Permit that will get you to the point that you need to be.”

CRITERIA FOR APPROVAL AND FINDINGS OF THE COMMISSION:

The criteria, which the Commission must evaluate in determining whether to deny a Historic Area Work Permit application, are found in Section 24A-8(a) of the Montgomery County Code, 1984, as amended.

Section 24A-8(a) provides that:

The Commission shall instruct the director to deny a permit if it finds, based on the evidence and information presented to or before the commission that the alteration for which the permit is sought would be inappropriate, inconsistent with or detrimental to the preservation enhancement or ultimate protection of the historic site or historic resource within an historic district, and to the purposes of this chapter.

Section 24A-6(a) provides that:

Required An historic area work permit for work on public or private property containing an historic resource must be issued pursuant to the provisions of this chapter before:

(1) Constructing, reconstructing, moving, relocating, demolishing or in any manner modifying, changing or altering the exterior features of any historic site or any historic resource located within any historic district.

(2) Performing any grading, excavating, construction or substantially modifying, changing or altering the environmental setting of a historic site or a historic resource located within a historic district.

Section 24A-6(c)2 provides that:

Any person who shall undertake any work as stated in subsection (a) of this section without first obtaining a historic area work permit shall be subject to the penalties established in section 24A-11.

Section 24A-11 provides that:

Any person who violates a provision of this chapter, or fails to comply with any of the requirements thereof, or disobeys or disregards a decision of the Commission, or fails to abide by the conditions of a permit, shall be subject to punishment for a class A violation as set forth in section 1-19 of chapter 1 of the County Code. Each day a violation continues to exist shall constitute a separate offense. (Ord. No. 9-4, 1; 1983 L.M.C., ch. 22 28; Ord. No. 11-59.)

In analyzing whether the criteria for issuance of a Historic Area Work Permit have been met, the Commission also evaluates the evidence in the record in light of the guidelines for the historic district that are included as part of the Amendment to the Approved and Adopted Master Plan for Historic Preservation in Montgomery County Maryland – Capitol View Park Historic District.

The Commission also evaluates the evidence in light of generally accepted principles of historic preservation, including the *Secretary of the Interior's Standards for Rehabilitation*, adopted in the HPC Executive Regulations in November 1997. In particular, *Standards #1, #2, #6 and #9* are applicable in this case.

- Standard 1: A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.
- Standard 2: The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.
- Standard 6: Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.”
- Standard 9: New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

Based on all the information presented in this case, the Commission finds that:

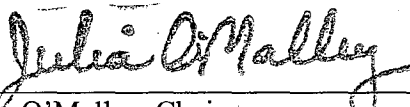
1. 9723 Capitol View Avenue is a Contributing Resource in the Capitol View Park Historic District.
2. The proposal for tree removal, front door replacement, and shed and fencing installation is not in keeping with the *Secretary of the Interior's Standards for Rehabilitation* and constitutes changes to the Contributing Resource and its environmental setting that adversely affect the historic resource and the historic district.

CONCLUSION:

The Commission was guided in its decision by Chapter 24A, by the Amendment to the Approved and Adopted Master Plan for Historic Preservation in Montgomery County Maryland – Capitol View Park Historic District, and by the *Secretary of the Interior's Standards for Rehabilitation*.

Based on the evidence in the record and the Commission's findings, as required by Section 24A-8(a) of the Montgomery County Code, 1984, as amended, the Commission must **deny** the application of Curtis Rodney for a retroactive Historic Area Work Permit (HAWP) for alterations to the building and property at 9723 Capitol View Avenue in the Capitol View Park Historic District. The changes for which this application is made are in violation of Section 24A-11.

If any party is aggrieved by the decision of the Commission, pursuant to Section 24A-70(h) of the Montgomery County Code, an appeal may be filed within thirty (30) days with the Board of Appeals, which will review the Commission's decision de novo. The Board of Appeals has full and exclusive authority to hear and decide all appeals taken from the decision of the Commission. The Board of Appeals has the authority to affirm, modify, or reverse the order or decision of the Commission.



 Julia O'Malley, Chairperson
 Montgomery County
 Historic Preservation Commission

November 8, 2006

 Date

October 25, 2006 HPC transcript

Next case this evening is Case K at 9723 Capitol View Avenue. Do we have a staff report?

MS. FOTHERGILL: We do. As you'll recall, we had a staff report the last meeting, September 13th meeting, sorry, not the last meeting. And the case was continued because the applicant was not present. So there was a staff report and some comments from the Commissioners. And those are in your packet, circles 25 through 30.

This is a retroactive case for 9723 Capitol View Avenue which is a contributing resource in the Capitol View Park Historic District. And the applicant has made some alterations to the property and the house without the approval from the HPC and historic area work permit. And violations have been issued and so now we are looking at a retroactive approval request for background. This is the house at 9723 Capitol View. And in December of last year, the applicant down 13 trees and neighbors did call it in and the Department of Permitting Services issued a stop work order. At that time it was determined that fencing also had been installed which you can see in this slide.

At that time staff met with the applicant and Discussed what the requirements were in the historic district were and how to apply for a retroactive historic area work permit for the alterations that had been made. In March 2006 the applicant replaced a front door without a historic area work permit and at that time the Department of Permitting Services issued an additional notice of violation. In may of this year these violations were heard in District Court and at that hearing the judge required that the applicant submit the necessary paperwork to the Historic Preservation Commission and do whatever was needed to receive approval within 30 days of that.

In July or August of this year the applicant installed a shed on the property without an approved historic area work permit and then as I mentioned September 13th the Commission reviewed this case. And at that time the Commission voted to extend the case to give the applicant more time to complete the application. The application as submitted is not complete and the Commission required a proposed tree replacement plan that would be prepared by a certified arborist, a proposed replacement front door that would be more appropriate compatible with his house and suggestions were made by staff at that time.

Information about the shed including design, materials, location on the site plan and photos that have never been submitted and to remove the fencing on the front right of the house. So, the, I'm going to show you on the site with a retroactive application what staff tends to do when they look at what's in front of them and say would staff recommend approval if this was a proposal, not the changes have already been made, but that this came in as a proposal. Would it meet the guidelines and be approvable and that kind of approval from the Commission.

So there is the fencing that was installed. You'll see in another slide that since the September 13th Commission hearing that the applicant has cut the fence down. So you can see it there. The fencing remains but it is lower. The, this is the back of the house and then you will see the 13 trees, six inches further that were removed without approved historic area work permit. And the applicant has stated that no proposed tree replacement plan was submitted because he doesn't not intend to plant replacement trees. So that's why nothing was submitted.

It is as you can see in circle 6 a large lot. You can see and so there is a lot of room for tree replacement. This is the shed that was recently installed and again you don't have permission on the shed, materials or any sort of application submission. The staff has recommended denial of this application based on generally the Commission would not allow removal of 13 substantial size trees without a compelling reason, without a proposed tree replacement plan. Oh, I didn't point out the front door, I apologize. You can see in your packet in circle 12 or circle 11 is the original front door and circle 12 is the replacement front door which the applicant has stated is a fiber glass fabric door. And that if the applicant came to Commission and requested approval, approval of original wood door and replaced it with that door that would not be approved. And the staff feels that the judge and the Commission have been very clear about what the applicant needed to do to comply with the requirements of the Commission and that those requirements have not been met. And the applicant is here tonight and will answer any of your questions.

MR. FULLER: Are there questions for staff? Would the applicant please come forward. Good evening. If you would state your name for the record and any comments regarding the staff presentation.

MR. RODNEY: Good evening. My name is Curtis Rodney.

MR. FULLER: Do you have any comments regarding the staff report?

MR. RODNEY: Yeah. The shed is, can I move backwards. The shed meets, falls within the County regulations for not requiring a permit. That is it is 8 by 8. It does not meet the 120 square feet requirement for permit. That I was informed by the Montgomery County so I did not seek the permit for that. It is a box purchased, bought in a three box container and erected in one day. It's plastic. It was erected in an emergency manner for saving some stuff that I had on the ground previously.

With regard to the fence, I was told the fence did not exceed 3 feet in height. It also did not require a permit. Relative to the door the security in my home was compromised. Therefore I replaced a door that was broken and my house was not secure so I had to reestablish that security. Learning after that that I had replaced the door I had to receive a permit seemed kind of redundant in my mind to seek a permit for something that was already up.

The trees I was also informed by your staff that anything 6 inches or less did not require approval. The trees that were in fact removed that were above 6 inches were replaced by Cypress pines and those pines were planted to the front of the house.

MR. FULLER: Is that it? Questions of the applicant? Is there any discussion?

MS. ALDERSON: Only to concur with the staff recommendation that none of these alterations are consistent with the guidelines for the historic district. Nor would any of them be approved. The concern is that if you ask the general question of Montgomery County about County guidelines that was not the same as seeking us about what would be permitted in the historic district. And you would expect that you would have known that your house was located in a historic district.

MR. RODNEY: I was made aware of that. I was not completely, totally knowledgeable of what that meant. I am however, now fully aware of that. But, that is as it is.

MR. FULLER: Do we have a motion?

MS. ALDERSON: I'd like to make a motion that based on the staff recommendations and our history of reviewing decisions that this application be denied.

MR. DUFFY: I second.

MR. FULLER: Any further discussion?

MR. FLEMING: I have a question. Now that you're aware of the rules and regulations of the Historic Preservation, do you see that you can maybe go back and rectify these conditions?

MR. RODNEY: You say rectify, I don't understand what you mean.

MR. FLEMING: The cutting of the trees and the fence and the door that was not inside the regulation. I understand why you did it. We understand why you did it, but not knowing the rules of the historic preservation you can't do it. So now that these are enlightened to you, do you see that you can go back and fix it to where it could meet the rules so we can get this approved for you?

MR. RODNEY: Yeah, I didn't, I mean at this time, it was suggested that I change the door. Okay. I thought before I did anything I would come here and at least get this out of the way before I did anything else. There's nothing which, except for the trees that were cut down, I mean I can, I don't know that I would put them back in the same place because there's such a bunch of stumps there that haven't been removed. Okay. But I can, I do intend to plant trees on the property, just haven't decided exactly where at this point. The door can be done. The fence I think has been corrected. The shed I can provide a site plan showing where that is.

There's nothing that can't be done. I just needed to get an understanding where we were as far as this was concerned. I want to get this out of the way.

MR. FULLER: Can we go ahead and finish the vote? All in favor? Motion on the table is for denial. All in favor please raise your right hand? All opposed? Those who abstain?

MS. ANAHTAR: I have a question. I think we were still asking him whether he agrees to some of the, what do you call it --

MR. FULLER: Well --

MS. ANAHTAR: -- changes like replacing --

MR. DUFFY: Well, we're voting on the application before us.

MS. FOTHERGILL: The applicant can submit a new historic area work permit application with --

MR. DUFFY: Precisely. That's what we would very much hope to see in the future.

MS. ANAHTAR: So we cannot continue with this one?

MR. DUFFY: No, because what we have --

MS. ANAHTAR: That's what I'm trying to --

MR. DUFFY: What we have in this is a retroactive of things that we simply cannot approve. And what the applicant needs to do is come up with remediation to the problems in a new application that would be compliant with our regulations approvable working with staff, I think. So I think there are two different, I think that's a future application, a future vote.

MR. FULLER: And I believe what has just transpired is we had a motion on the table. It was seconded and it was passed by a vote of 6. And I'm not sure what, okay, it was unanimously passed.

MS. ALDERSON: For the record, I was thinking I could offer is that all of the use that you had expressed can be met through alternative design that would be more sympathetic with the historic district.

MR. FULLER: But I think we should also correct the misunderstanding that a fence that meets the County guidelines for a fence does not mean that it can be approved or is approved by this Commission. It still does need to have approval of this Commission before you can have a fence there. So, the present time none of the items that are listed here are approved. So, the only thing you can do and should be doing is removing and replacing the front door back to its original condition, removing the fence and removing the shed. Because none of those are permitted items at the present time. You cannot simply replace trees on your own accord. You need to submit a new plan to identify where the trees are coming and submit that to us in a retroactive HAWP. If you want to leave them where they are, well you have to show them where you would like to have them placed.

So, at the present time nothing that is there is in compliance with this Commission and needs to be removed.

MR. RODNEY: Say that again. I'm sorry, I missed it. You said nothing, the trees that I planted need to be removed. Is that what you said?

MR. FULLER: That's correct.

MR. RODNEY: There's no guide relative to planting trees as far as I understand. That I got from your staff.

MR. FULLER: You need to submit a plan to us for approval before you plant those trees.

MR. RODNEY: Staff didn't know that. They didn't tell me that.

MS. WRIGHT: I think the point being that we don't review folks planting new trees and shrubs on their property. So if he's planted new trees and shrubs, that's all well and good. But they don't count towards the mitigation for the trees that were removed. We're not saying take out the trees you planted, but they aren't going to count towards mitigation.

MS. ALDERSON: To clarify that, the tree replacement plan is not simply a numeric trade of existing trees for new trees. It works as the character, the replacement of the trees as they replace to the character of the historic district. So, you can't simply line with the same number of trees that were once within your property. You need to make a plan that simulates the general character that existed before the trees were removed. Which is a naturalistic character, a wooded character consistent with this historic district.

MR. ROTENSTEIN: In light of the comments and recommendations from my fellow Commissioners, I'd like to also add that before you incur any additional costs and make additional changes that you think might comply with what we've said here and what's in the staff report, that you work very closely with staff to ensure that the steps you take are in compliance and that you are in a better position to come back before this Commission with a historic area work permit that will get you to the point that you need to be.

MS. FOTHERGILL: For the record, the applicant will receive a written denial within 15 days of this hearing.

MR. FULLER: Thank you.

MR. RODNEY: Thank you. Good night.

trees that were
removed



10526 St. Paul Street, Kensington, MD 20895
301-942-6700 Fax 301-942-6734

January 24, 2006

C & R Contracting, LLC
9723 Capital View Avenue
Silver Spring, MD 20910
Attn: Curtis

Dear Curtis:

Per your request, I have visited the property located at 9723 Capital View Avenue, Silver Spring, Maryland and inspected the remaining stubs resulting from the removal of several trees. The following is a list of genus, species and sizes of the trees that were cut down:

6" Black Walnut
10" American Elm
5" American Elm
13" Black Locust
13" American Elm
7" White Ash
7" Black Locust
6" Black Locust
8" Black Locust
5" Boxelder Maple
7" Black Locust
13" White Ash
11" Siberian Elm
Double Leader Boxelder Maple (1 lead is 7" the other is 5")
Four Leader Mulberry (leads were 13", 9", 8" and 8")

If you have any questions or need any more information, please feel free to give us a call.

Sincerely,

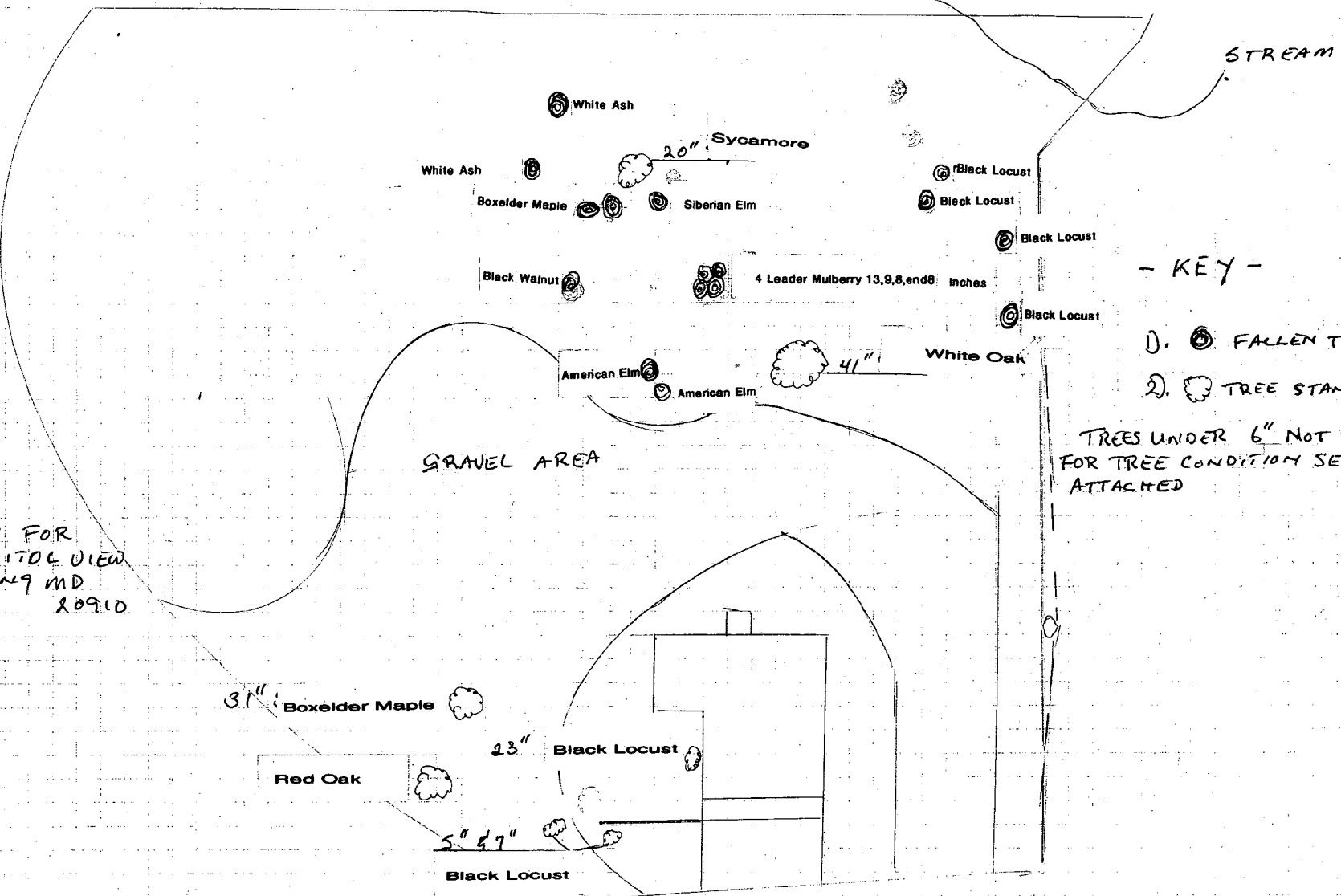
Edward S. Mulheron
ISA Certified Arborist



MD TREE EXPERT
INC. 001.001

26

SITE PLAN FOR
 9723 CAPITOL VIEW
 SILVER SPRING MD.
 20910



- KEY -

- 1. FALLEN TREE
- 2. TREE STANDING

TREES UNDER 6" NOT SHOWN
 FOR TREE CONDITION SEE
 ATTACHED

Trees that remain



10526 St. Paul Street, Kensington, MD 20895
301-942-6700 Fax 301-942-6734

January 24, 2006

C & R Contracting, LLC
9723 Capital View Avenue
Silver Spring, MD 20910
Attn: Curtis

Dear Curtis:

Per your request, I have visited the property located at 9723 Capital View Avenue, Silver Spring, Maryland and inspected the remaining trees still standing at the property to determine the genus, species and sizes of the trees to be removed:

1. 20" Sycamore – the tree is in good health, and has a 95% live crown ratio. There are some soil compaction issues due to gravel driveways that exist within 15' of the base of this tree.
2. 41" White Oak – this tree is in moderate to good health with an 85% live crown ratio. As this tree has not been maintained in over 10 years the live crown ratio is consistent with a tree of its size. It is lacking a developed root flair at the base of the tree, and has significant soil compaction around 70% of the root zone of the tree due to an existing gravel driveway.
3. 31" Boxelder Maple – this tree is in good health, and has a 95% live crown ratio. The only issue of concern with this tree is that 70% of the crown leans over the house.
4. 23" Black Locust – this tree is in moderate health, and has an 80% live crown ratio. The tree is completely covered in ivy and euonymous vines making it difficult to determine if there are any structural faults within the main stem. The tree stands within 2 feet of the foundation of the house, which could potentially affect the structural soundness of the tree due to its limited root zone. There is also leaking the basement of the home in close proximity to this tree which would indicate foundation damage from the roots of the tree.
5. 7.5" Black Locust – this tree is in good health and has no issues of concern.
6. 5" Black Locust – this tree is in good health and has no issues of concern.



C & R Contracting, LLC

January 24, 2006

Page 2

7. 31" Red Oak – this tree is in moderate health with a live crown ratio of 90%. The tree has an exposed wound at its base on the street side, and the crown is uneven.
8. 16" Tulip Poplar – this tree is in good health with a 95% live crown ratio and has no issues of concern.

If you have any questions or need any more information, please feel free to give us a call.

Sincerely,



Edward S. Mulheron
ISA Certified Arborist

9723 capital view (prior to tree removal)





front door that was removed



replacement front door



22
14





34
~~15~~

35
16





36
17

37
~~18~~





connexes have been removed

17 38

39
20





shed installed
without a
HAMP



Case II - C

Historic Preservation Commission
9 May 2007
Re: 9723 Capitol View Avenue
HAWP 31/07/07A

Anne Fothergill

The Historic Review Committee of the Capitol View Park Citizens Association compliments and agrees with the HPC staff report concerning the violations at this historic property at the north entrance to our District.

We agree with staff's recommendation of approval with conditions. It is our hope that because of HPC's ongoing help this eye-sore in our Historic District will be corrected.

Betsy Tebow, President
Capitol View Park Citizens Association

Carol Ireland and Duncan Tebow, Co-chairmen
Historic Review Committee
Capitol View Park Citizens Association

continued to may 23 mtg

I.C

MONTGOMERY COUNTY HISTORIC PRESERVATION COMMISSION
STAFF REPORT

Address: 9723 Capitol View Avenue, Silver Spring **Meeting Date:** 5/9/2007
Resource: Contributing Resource **Report Date:** 5/2/2007
Capitol View Park Historic District
Applicant: Curtis Rodney **Public Notice:** 4/25/2007
Review: HAWP **Tax Credit:** None
Case Number: 31/07-07A **Staff:** Anne Fothergill

PROPOSAL: Tree replacement, trash removal and grading, and front door replacement

RECOMMENDATION: Approve with Three Conditions

STAFF RECOMMENDATION

Staff is recommending that the HPC approve this HAWP application with the following conditions:

1. The 17 replacement trees will be a combination of evergreen and deciduous trees and will include at least 10 overstory trees of 3" caliper at the time of installation and a species that achieves a mature height of at least 45 feet; final tree reforestation plan showing where trees will be planted, what species of trees, and what size (at time of planting and maturity) must be submitted to staff for final approval.
2. The shed that is currently on the property will be removed and any proposed shed or garage will be reviewed by the HPC as a separate HAWP application.
3. The applicant will submit a site plan showing the location of the trash to be removed and existing trees and a proposed post-excavation landscape plan. The applicant will submit a tree protection plan to be reviewed and approved by staff before trash removal can begin.

PROPERTY DESCRIPTION

SIGNIFICANCE: Contributing Resource within the Capitol View Park Historic District
STYLE: Cottage
DATE: c. 1917-1935

BACKGROUND

December 2005 through August 2006: The applicant made changes to the house and property without an approved Historic Area Work Permit (HAWP). Notices of Violation were issued by Montgomery County inspectors. The applicant:

- removed 13 trees 6" dbh or larger
- replaced the original front door with a fiberglass door
- installed fencing attached to the front of the house (in March 2007 the fencing was removed)
- installed a plastic shed behind the house (visible from the street)

October 2006: The HPC denied the retroactive HAWP application (transcript in Circles 20-25 and written denial in Circles 13-19).

May 2006, December 2006, March 2007, and May 2007: Two Judges at District Court ordered the applicant to comply with the Historic Preservation Commission's requirements to submit an Historic Area Work Permit (HAWP) application and receive HPC approval of the HAWP.

PROPOSAL

The applicant has submitted a HAWP application that includes a proposal for:

- 1) A replacement front door that is a wood nine-lite, two panel door.
- 2) A tree replacement plan showing 17 replacement trees, a combination of deciduous flowering and fruit trees and evergreen trees, to be planted by September 30, 2007. See list in Circle 9 .
- 3) A site plan showing the existing shed that was previously denied by the HPC.
- 4) A plan to excavate a trash mound and then plant trees and grass in that area.

Photos of the property are in Circles 30-40 .

APPLICABLE GUIDELINES

When reviewing alterations and new construction within the Capitol View Park Historic District several documents are to be utilized as guidelines to assist the Commission in developing their decision. These documents include *Montgomery County Code Chapter 24A (Chapter 24A)* and the *Secretary of the Interior's Standards for Rehabilitation (Standards)*. The pertinent information in these documents is outlined below.

Montgomery County Code; Chapter 24A

A HAWP permit should be issued if the Commission finds that:

1. The proposal will not substantially alter the exterior features of a historic site or historic resource within a historic district.
2. The proposal is compatible in character and nature with the historical archaeological, architectural or cultural features of the historic site or the historic district in which a historic resource is located and would not be detrimental thereto or to the achievement of the purposes of this chapter.

In the case of an application for work on a historic resource located within a 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 surrounding historic resources or would impair the character of the historic district.

Secretary of the Interior's Standards for Rehabilitation:

Standard #2: The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.

Standard #9: New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible

with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

STAFF DISCUSSION

Although this application is incomplete, in the interest of moving this long-standing violation toward resolution, staff is recommending conditional approval. The recommended conditions of approval are listed below.

FENCING: The applicant complied with the HPC's requirement and the inappropriate fencing has been removed. Staff has advised the applicant that fencing on this property may be approvable but would require a separate HAWP application.

FRONT DOOR: Ideally the original front door should have been retained, but the proposed replacement wood front door is more compatible with the house than the existing door and staff supports it.

SHED: The HPC stated at the October 2006 meeting that the shed that was installed without a HAWP was not approvable and the applicant must remove the existing shed, but the shed remains on the property. The concerns are that it is an incompatible material and that is very visible from the street. Like fencing, a shed may be approvable but would require a separate application that would need to include all details including photos, specifications, dimensions, materials, and its location on a site plan.

TREE REPLACEMENT: The HPC advised the applicant that the reforestation plan should include trees that would enhance the naturalistic character of the lot and the historic district. The applicant has submitted a written description of a plan to plant 17 trees including 5 evergreens and 9 flowering and fruit trees. Staff is recommending that the proposed tree replacement plan be modified so that at least ten of the replacement trees are native species, deciduous, overstory trees to replace the White Ash, Box Elder Maple, American Elm and Siberian Elm that were removed. These ten overstory trees should be 3" caliper minimum at the time of installation and a species that achieves a mature height of at least 45 feet. The applicant has not submitted a site plan showing where the trees would be planted. Staff is recommending that the applicant submit a complete landscape plan showing where the trees will be planted, what species of trees, and what size at the time of planting and maturity.

TRASH REMOVAL: The application does not include sufficient information to review the proposed trash removal. The applicant will need to submit supplemental information including a site plan showing the location of the trash mound to be removed and its proximity to existing trees as well as details of the proposed grading and landscape plan. According to a site plan and an arborist's report that were submitted in the previous HAWP, there are seven large trees on the property and these would need to be protected during any excavation and grading (see Circles 27-29). The applicant will need to submit a tree protection plan that will be reviewed and approved by staff before any excavation can begin.

Many members of the Capitol View Park community are concerned about this case and have been in contact with staff frequently over the past few years to express their concerns and dismay. Once the case is resolved with the HPC the applicant will return to District Court for final resolution of the outstanding violations and citations.

Staff is recommending that this application be approved with conditions.

STAFF RECOMMENDATION

Staff recommends that the Commission **approve** the HAWP application **with the conditions specified on Circle 1** as being consistent with Chapter 24A-8(b)(1) & (2);

and with the *Secretary of the Interior's Standards for Rehabilitation*;

and with the general condition that the applicant shall present the **3 permit sets of drawings, if applicable, to Historic Preservation Commission (HPC) staff for review and stamping** prior to submission for the Montgomery County Department of Permitting Services (DPS) building permits;

and with the general condition that the applicant shall notify the Historic Preservation Staff if they propose to make **any alterations** to the approved plans.



RETURN TO: DEPARTMENT OF PERMITTING SERVICES
255 ROCKVILLE PIKE, 2nd FLOOR, ROCKVILLE, MD 20850
240-777-6370

A

DPS - #8

HISTORIC PRESERVATION COMMISSION
301/563-3400

**APPLICATION FOR
HISTORIC AREA WORK PERMIT**

Contact Person: _____

Daytime Phone No.: _____

Tax Account No.: _____

Name of Property Owner: CURTIS RODNEY Daytime Phone No.: 240-508-4195

Address: 9723 CAPITOL VIEW AV SILVER SPRING MD 20910
Street Number City State Zip Code

Contractor: HOME OWNER Phone No.: 240-508-4195

Contractor Registration No.: N/A

Agent for Owner: N/A Daytime Phone No.: N/A

LOCATION OF BUILDING/PREMISE

House Number: 9723 CAPITOL VIEW Street: CAPITOL VIEW

Town/City: SILVER SPRING Nearest Cross Street: FOREST GLEN RD

Lot: 7x8,410⁴² Block: 36x34 Subdivision: KENSINGTON FOREST GLEN

Liber: 30631 Folio: 761 Parcel: _____

PART ONE: TYPE OF PERMIT ACTION AND USE

1A. CHECK ALL APPLICABLE:

- Construct
- Extend
- Alter/Renovate
- Move
- Install
- Wreck/Raze
- Revision
- Repair
- Revocable

CHECK ALL APPLICABLE:

- A/C
- Slab
- Room Addition
- Porch
- Deck
- Shed
- Solar
- Fireplace
- Woodburning Stove
- Single Family
- Fence/Wall (complete Section 4)
- Other: CLEAN UP

1B. Construction cost estimate: \$ _____

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

PART TWO: COMPLETE FOR NEW CONSTRUCTION AND EXTEND/ADDITIONS

2A. Type of sewage disposal: 01 WSSC 02 Septic 03 Other: N/A

2B. Type of water supply: 01 WSSC 02 Well 03 Other: N/A

PART THREE: COMPLETE ONLY FOR FENCE/RETAINING WALL

3A. Height feet inches

3B. Indicate whether the fence or retaining wall is to be constructed on one of the following locations:

- On party line/property line
- Entirely on land of owner
- On public right of way/easement

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

[Signature]
Signature of owner or authorized agent

4/11/07
Date

Approved: _____ For Chairperson, Historic Preservation Commission

Disapproved: _____ Signature: _____ Date: _____

Application/Permit No.: 450319 Date Filed: _____ Date Issued: _____

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

1. WRITTEN DESCRIPTION OF PROJECT

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

THE GROUNDS OF THE PROPERTY WERE ONCE USED FOR ILLEGAL DUMPING. HENCE THERE IS A MOUND OF TRASH WHEREON WEEDS HAVE ROOTED AND GROWN. THE TRASH INCLUDES OLD CARPET BED FRAMES, BRICKS, CHAIN LINK FENCING, BROKEN GLASS. AS THE CURRENT OWNER I WOULD LIKE TO CLEAN OUT THE TRASH GRADE THE GROUND LAY TOP SOIL AND PLANT TREES AND GRASS.

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

REPLACE FRONT DOOR WITH HPC ACCEPTABLE DOOR TO MAINTAIN THE HISTORIC CHARACTER OF THE BUILDING AND CONFORM TO THE HPC REQUIREMENTS FOR THE NEIGHBORHOOD SEE ATTACHED PHOTO COPY.

2. SITE PLAN

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

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

3. PLANS AND ELEVATIONS

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

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

4. MATERIALS SPECIFICATIONS

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

5. PHOTOGRAPHS

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

6. TREE SURVEY

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

7. ADDRESSES OF ADJACENT AND CONFRONTING PROPERTY OWNERS

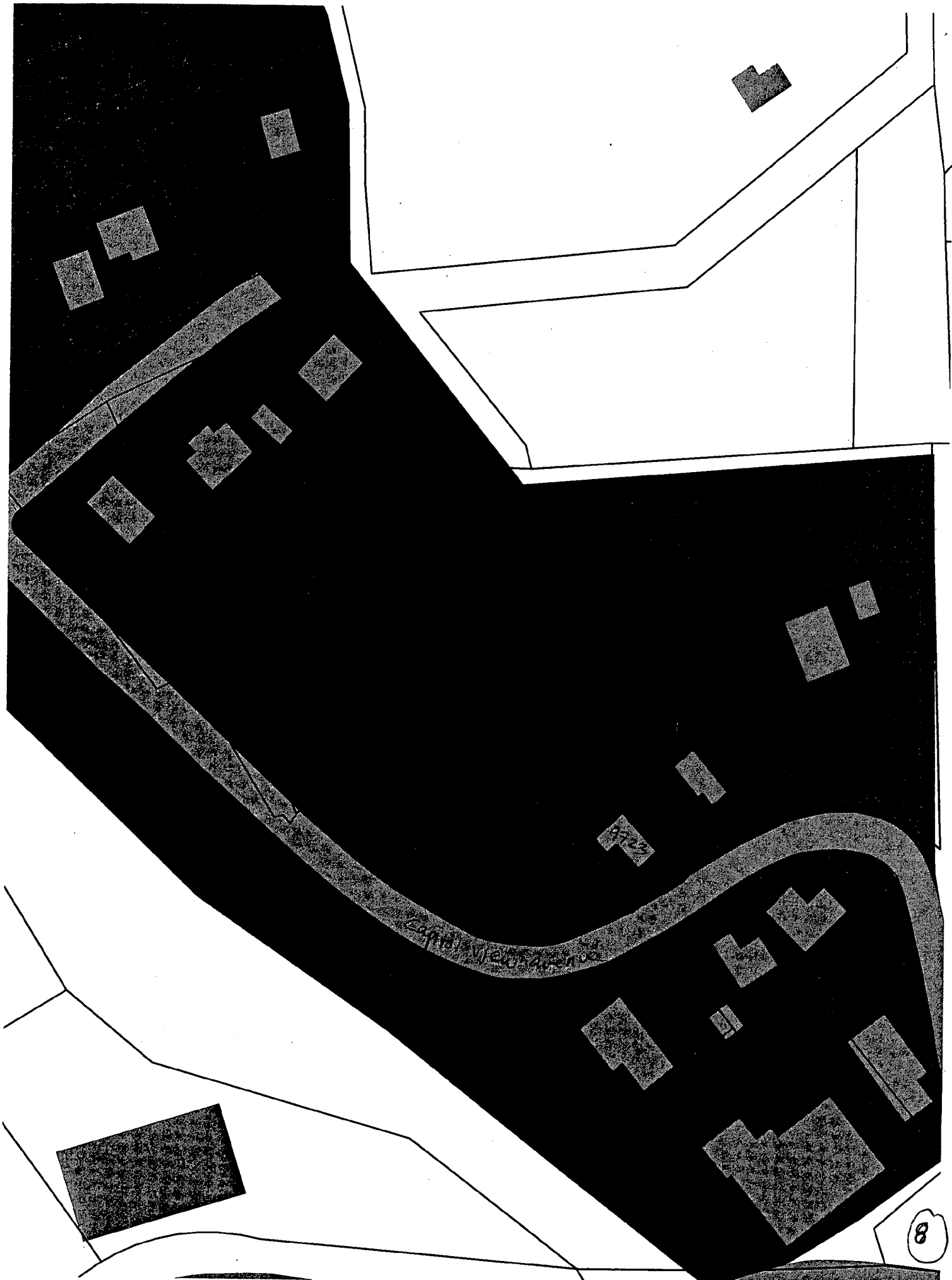
For ALL projects, provide an accurate list of adjacent and confronting property owners (not tenants), including names, addresses, and zip codes. This list should include the owners of all lots or parcels which adjoin the parcel in question, as well as the owner(s) of lot(s) or parcel(s) which lie directly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

ADJACENT PROPERTY:

MS. SCALA 9717 CAPITOL VIEW AVE
SILVER SPRING MD 20910

ACROSS THE STREET

9722 CAPITOL VIEW AV
SILVER SPRING MD 20910



Capitol View Apartments

TREE REPLACEMENT PLAN FOR 9723 Capitol View Ave. Sliver Spring, MD 20910

The Following is submitted as a plan of action for the reforestation of Grounds at 9723 Capitol View Ave.

The Home Owner Proposes to plant a combination of Deciduous Flowering and Fruit as well as Evergreen Trees to Total 17 trees in approximately the vicinity of the trees which were removed.

Deciduous :

- 2 Kwanzan Flowering Cherry Trees
- 2 Cleveland select Flowering Pear trees
- 2 Purple Leaf Plum Tree
- 2 Granny Smith (Green Apple) trees
- 2 Cherry Trees (Fruit Bearing)
- 2 Pear Trees (Fruit Bearing)
- 5 Cypress Pines

Total # of Trees Planted : 17

Term: Between and fall 2007

Planting to be completed by or before September 30th, 2007.

At date of purchase the trees will be at least 3 years old and measure at least 5 feet after planting. Rate of growth is projected to be 6" to 10" inches per annum and, 3-5 cm of caliper growth.

1
36" X 80" X 1-3/4"
3/0 9-LITE 2 PANEL EXTERIOR FIR

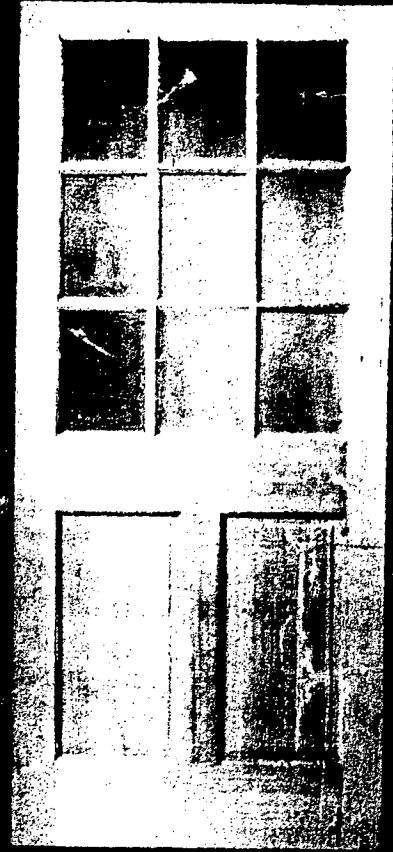


Masonite



Mixed Sources
Product group from well-managed
forests and other controlled sources

Cert no. SCS-COC-00591
www.fsc.org
© 1996 Forest Stewardship Council



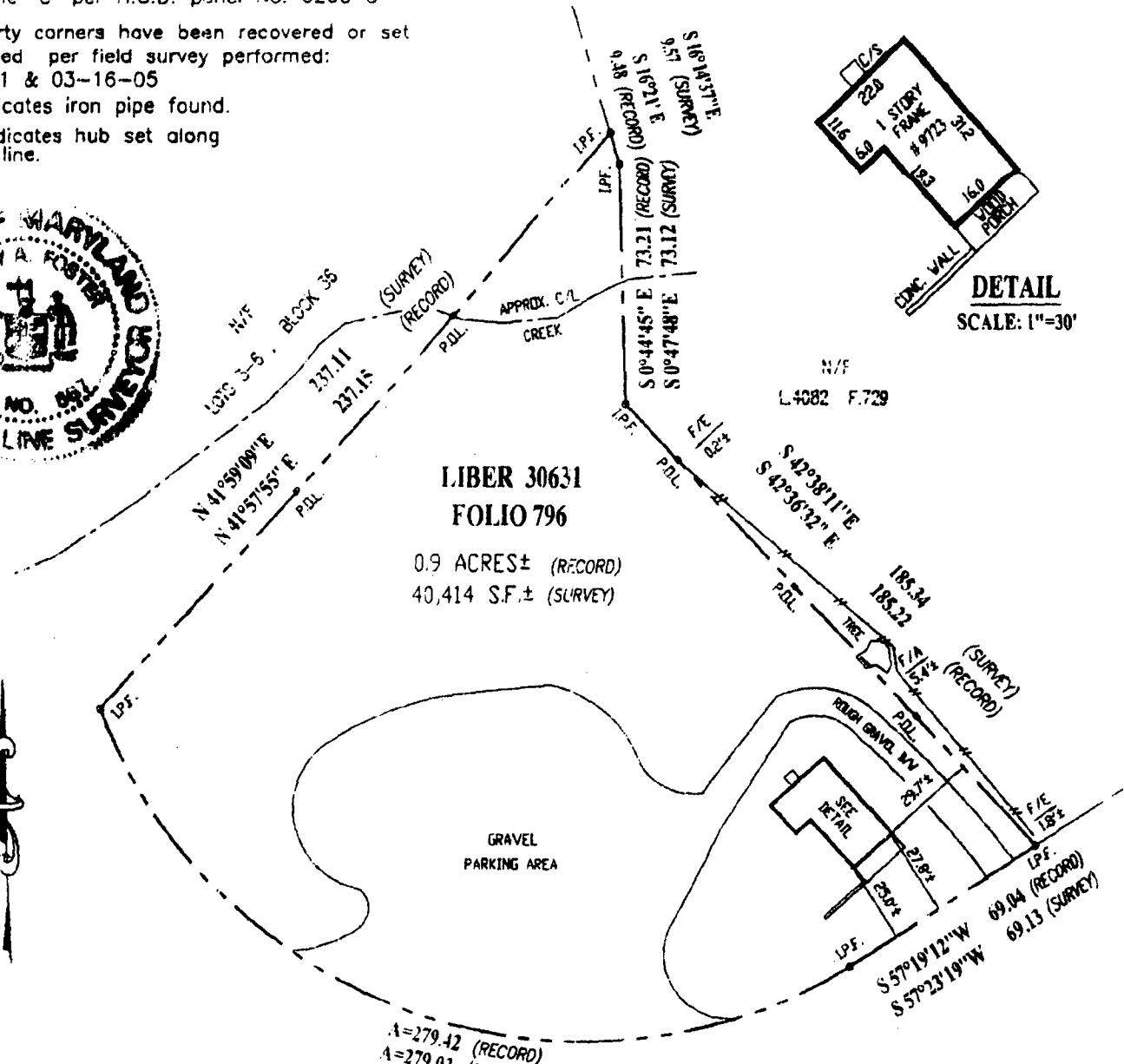
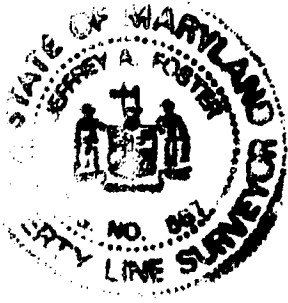
9-Lite, 2 Panel

- FSC certified wood
- Engineered stiles & rails helps prevent warping
- Door supplied unfinished, ready-to-paint or stain
- 1 year limited warranty

The information shown hereon has been prepared without benefit of a Title Report, therefore, may not reflect all easements or encumbrances which may affect subject property.

Notes:

- 1) Flood zone "C" per H.U.D. panel No. 0200 C
- 2) All property corners have been recovered or set and verified per field survey performed: 07-19-01 & 03-16-05
- 3) I.P.F. Indicates iron pipe found.
P.O.L. Indicates hub set along property line.



**LIBER 30631
FOLIO 796**

0.9 ACRES± (RECORD)
40,414 S.F.± (SURVEY)

A=279.42 (RECORD)
A=279.03 (SURVEY)
R=154.44 (COMP.)

PLAT OF SURVEY

**PARTS OF LOTS 7 & 8, BLOCK 36
AND
PARTS OF LOTS 41 & 42, BLOCK 34
CAPITOL VIEW PARK
MONTGOMERY COUNTY, MARYLAND**

**CAPITOL VIEW AVENUE
(KENSINGTON FOREST GLEN ROAD-PER DEED)**

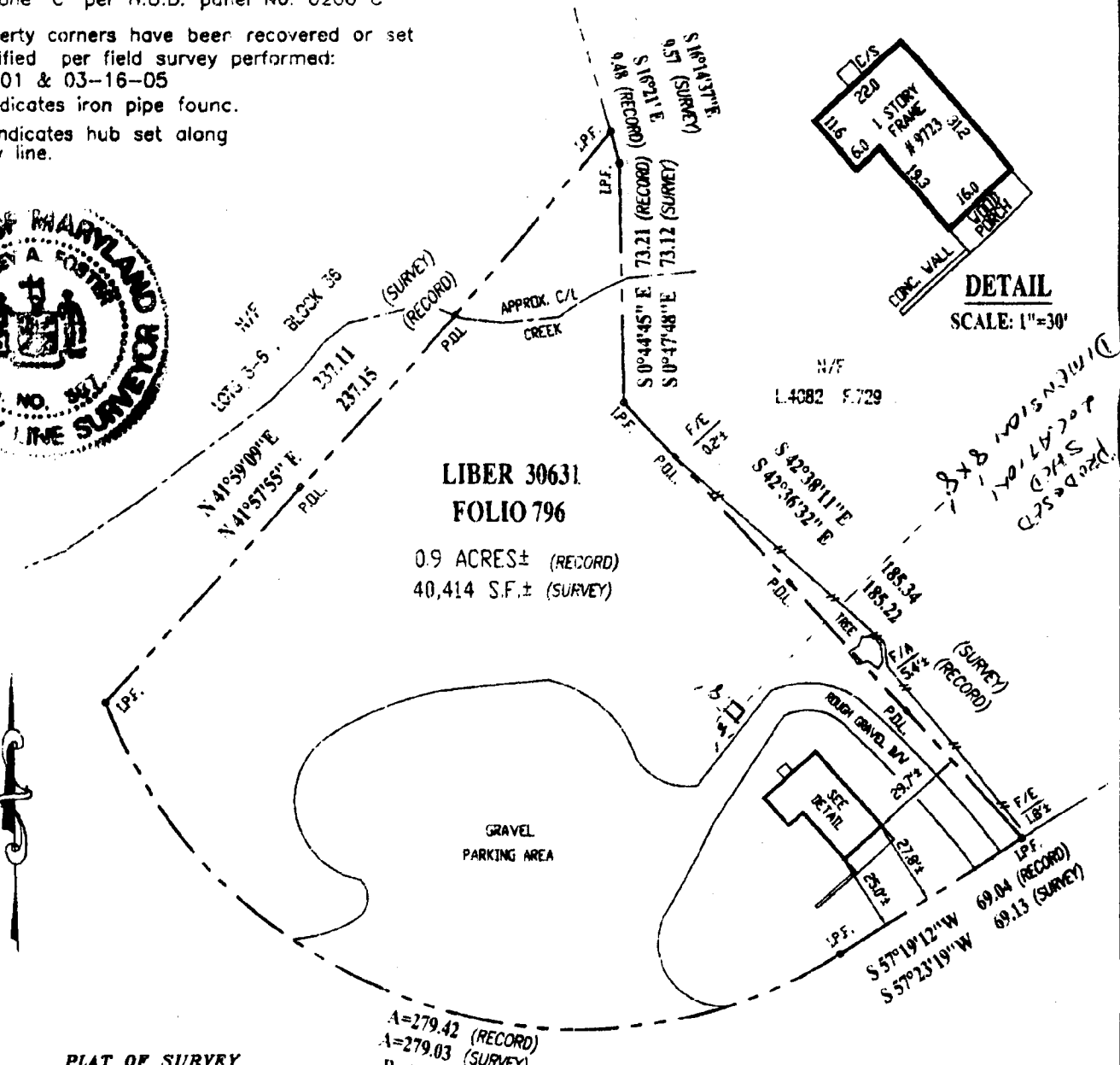
Building Line and/or Flood Zone Information is taken from Available Sources and is Subject to Interpretation of Originator.

<p>SURVEYOR'S CERTIFICATE</p> <p>I HEREBY CERTIFY THAT THE INFORMATION SHOWN HEREON HAS BEEN BASED UPON THE RESULTS OF A FIELD SURVEY PURSUANT TO THE DEED OR PLAT OF RECORD. PROPERTY MARKERS HAVE BEEN RECOVERED OR PLACED IN ACCORDANCE WITH THE INFORMATION SHOWN.</p> <p><i>Jeffrey A. Foster</i> 527 MARYLAND PROPERTY LINE SURVEYOR REG. NO.</p>	<p>REFERENCES</p> <p>PLAT BK. A PLAT NO. 9</p>	<p>SNIDER & ASSOCIATES SURVEYORS - ENGINEERS LAND PLANNING CONSULTANTS 2 Professional Drive, Suite 210 Gaithersburg, Maryland 20879 301/948-5100, Fax 301/948-1286</p>							
	<p>LIBER 30631 FOLIO 781</p>		<table border="1"> <tr> <td>DATE OF LOCATIONS</td> <td>SCALE: 1" = 50'</td> </tr> <tr> <td>WALL CHECK:</td> <td>DRAWN BY: E.M.G.</td> </tr> <tr> <td>HSE. LOC.: 07-19-01</td> <td>JOB NO.: 01-3831B</td> </tr> <tr> <td>PROP. CORS.: 03-18-08</td> <td>06-1415</td> </tr> </table>	DATE OF LOCATIONS	SCALE: 1" = 50'	WALL CHECK:	DRAWN BY: E.M.G.	HSE. LOC.: 07-19-01	JOB NO.: 01-3831B
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P.O.L. Indicates hub set along property line.



**LIBER 30631
FOLIO 796**

0.9 ACRES± (RECORD)
40,414 S.F.± (SURVEY)

PLAT OF SURVEY

**PARTS OF LOTS 7 & 8, BLOCK 36
AND**

PARTS OF LOTS 41 & 42, BLOCK 34

CAPITOL VIEW PARK

MONTGOMERY COUNTY, MARYLAND

CAPITOL VIEW AVENUE

(KENSINGTON FOREST GLEN ROAD-PER DEED)

Building Line and/or Flood Zone Information is taken from Available Sources and is Subject to Interpretation of Originator.

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE INFORMATION SHOWN HEREON HAS BEEN BASED UPON THE RESULTS OF A FIELD SURVEY PURSUANT TO THE DEED OR PLAT OF RECORD. PROPERTY MARKERS HAVE BEEN RECOVERED OR PLACED IN ACCORDANCE WITH THE INFORMATION SHOWN.

Jeffrey A. Foster 527
MARYLAND PROPERTY LINE SURVEYOR REG. NO.

REFERENCES

PLAT BK. A
PLAT NO 9

LIBER 30631
FOLIO 761



SNIDER & ASSOCIATES
SURVEYORS - ENGINEERS
LAND PLANNING CONSULTANTS

2 Professional Drive, Suite 210
Gaithersburg, Maryland 20879
301/948-5100, Fax 301/948-1286

DATE OF LOCATIONS

SCALE: 1" = 50'

WALL CHECK:

DRAWN BY: E.M.G.

HSE. LOC.: 07-19-01

JOB NO.: 01-3831B

PROP. CORS.: 03-16-08

06-1415

HISTORIC PRESERVATION COMMISSION

of

MONTGOMERY COUNTY

**8787 Georgia Avenue
Silver Spring, Maryland 20910**

301-563-3400

Case No. 31/07-06K Received August 24, 2006

Public Appearance September 13, 2006 and October 25, 2006

Before the Montgomery County Historic Preservation Commission

Application of Curtis Rodney
9723 Capitol View Avenue, Silver Spring

DECISION AND OPINION OF THE COMMISSION

Decision of the Commission: DENY the Applicant's application for retroactive approval of alterations to the building and property.

Commission Motion: At the October 25, 2006 meeting of the Historic Preservation Commission (HPC), Commissioner Alderson presented a motion to deny the retroactive application to remove 13 trees, replace the front door, install fencing, and install a shed. Commissioner Duffy seconded the motion. Commissioners Fuller, Rotenstein, Alderson, Duffy, Anahtar and Fleming voted in favor of the motion. Commissioners O'Malley, Jester, and Burstyn were absent. The motion passed 6-0.

BACKGROUND AND CHRONOLOGY:

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

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 a historic resource, unless reduced by the District Council or 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.

Commission: The historic preservation commission of Montgomery County, Maryland.

Director: The director of the department of permitting services of Montgomery County, Maryland or his designee.

Exterior features: The architectural style, design and general arrangement of the exterior of an historic resource, including the color, nature and texture of building materials, and the type and style of all windows, doors, light fixtures, signs or other similar items found on or related to the exterior of an historic resource.

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.

On December 27 2005, Historic Preservation staff were notified by residents of work taking place at 9723 Capitol View Avenue. A Department of Permitting Services (DPS) inspector was sent to investigate and found that the property owner, Mr. Curtis Rodney, had cut down 13 trees 6" dbh or larger without an approved Historic Area Work Permit (HAWP). DPS issued a stop work order. After a staff site visit it was determined that 6' tall privacy fencing also had been installed without HPC approval.

In January 2006, two Historic Preservation staff members met with Mr. Rodney and discussed what alterations to the house and the property require HPC approval and how to apply for a HAWP.

In March 2006, Mr. Rodney replaced the front door without a Historic Area Work Permit. A DPS inspector issued a notice of violation.

On May 16, 2006, the tree removal and door replacement violations cases were heard in District Court. At the hearing, Judge Stephen Johnson, County Attorney Jim Savage, DPS inspector Jim Martin, Mr. Rodney and HPC staff discussed the details of these violations. Judge Johnson ordered that Mr. Rodney must submit all required paperwork for a HAWP within 45 days of that date and then must comply with HPC requirements in order to have an approved HAWP within 30 days after the HPC hearing.

In July or August 2006, Mr. Rodney installed a shed on the property without an approved HAWP.

On August 24, 2006, Curtis Rodney submitted a retroactive application for a HAWP to remove trees, replace the front door, install fencing, and install a shed.

The tree removal, front door replacement, and fencing and shed installation were completed prior to August 24, 2006 and before being reviewed by the Commission.

9723 Capitol View Avenue is designated a Contributing Resource in the Capitol View Park Historic District, which was added to the Master Plan For Historic Preservation in Montgomery County in 1982. The house at 9723 Capitol View Avenue was built c. 1935.

EVIDENCE IN THE RECORD:

The Historic Preservation office received the Historic Area Work Permit (HAWP) application on August 24, 2006. A written staff recommendation on this case was prepared and sent to the Commission on September 6, 2006. At the September 13, 2006 HPC meeting, staff person Anne Fothergill showed digital photos of the site and presented an oral report with staff recommendations. Mr. Rodney did not attend the September 13, 2006 meeting.

Staff recommended that the HAWP application be continued to allow the applicant more time to provide the required information for a complete application.

The HPC concurred with staff and continued the application with four conditions. Specifically, the HPC required that the applicant:

1. Submit a proposed tree replacement plan to staff by October 4, 2006. The plan must be completed by a certified arborist and include species, size, and location of trees to be planted.
2. Submit specifications for a proposed replacement front door including material, design, and photo to staff by October 4, 2006 (door to match original door as close as possible).
3. Submit proposed shed details including design, materials, location, and photos to staff by October 4, 2006.
4. Remove the fencing at front right of the house by October 4, 2006 and submit photos showing area where fence was removed to staff by October 4, 2006.

The case was continued to October 25, 2006. At the October 25, 2006 HPC meeting, staff person Anne Fothergill showed digital photos of the site and presented an oral report with a staff recommendation. Staff recommended that the HAWP application be denied as it is not consistent with Chapter 24A or the *Secretary of the Interior's Standards for Rehabilitation* ("Standards").

Staff's specific concerns that constituted reasons for the denial recommendation were:

1. The *Standards* state, "the historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided."
2. The *Standards* state, "deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence."
3. The *Standards* state, "new additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with

the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment;”

4. The tree removal adversely impacts the environmental setting of this property and the overall wooded, naturalistic character of the historic district.
5. Fiberglass is not an appropriate replacement material for an original wood front door on a Contributing Resource and the installation of the door lessens the integrity of the historic resource.
6. Tall privacy fencing installed adjacent to the front plane of the historic house detracts from the open sight lines of the historic district; the fencing is incompatible with the historic house in its design and location.
7. Plastic is not an appropriate material for a shed in the historic district and the shed location is too prominent and visible for the historic resource and district.

The applicant, Curtis Rodney, did not attend the September 13, 2006 meeting but was present at the October 25, 2006 meeting when the motion to deny the application was made and approved.

Curtis Rodney stated that he was told by Montgomery County that he did not need a permit for the shed. He also said he could move the shed back on the lot. Mr. Rodney stated that he reduced the fencing from the original six feet tall to less than three feet tall and was told by Montgomery County that he did not need a fence permit if it was under three feet tall. He stated he replaced the front door because the door was not secure and his security was compromised. Mr. Rodney stated he has planted some Cypress pines in front of the house and that he intends to plant more trees but he does not have a tree replacement plan.

The Local Advisory Panel submitted a written statement concurring with staff's recommendation for denial and stating: "it is our duty to request redress from HPC regarding these violations and for the County to be enabled to respond faster when violations are observed." They expressed concern "that this would set a precedent for other residents of Historic Districts."

Commissioner Alderson concurred with staff that "none of these alterations are consistent with the guidelines for the historic district, nor would any of them be approved. The concern is that if you ask the general question of Montgomery County about the County guidelines that was not the same as seeking out what would be permitted in the historic district. And you would expect that you would have known that your house was located in a historic district."

Mr. Rodney stated that he is now fully aware of what it means to be in a historic district.

Commissioner Alderson made the motion to deny the application and Commissioner Duffy seconded it. Commissioners Fuller, Rotenstein, Alderson, Duffy, Anahtar and Fleming voted in favor of the motion and the vote for denial was unanimous.

Commissioner Fleming and Anahtar discussed with Mr. Rodney how he can rectify the existing conditions and they stated that he can submit a new HAWP application.

Commissioner Fuller informed Mr. Rodney that he “should be removing and replacing the front door back to its original condition, removing the fence and removing the shed because none of those items are permitted items at the present time.” Commissioner Fuller also stated that Mr. Rodney must submit a tree replacement plan.

Commissioner Alderson stated that “the tree replacement plan is not simply a numeric trade of existing trees for new trees... You need to make a plan that simulates the general character that existed before the trees were removed, which is a naturalistic character, a wooded character consistent with the historic district.”

Commissioner Rotenstein recommended that Mr. Rodney “work very closely with staff to ensure that the steps you take are in compliance and that you are in a better position to come back before this Commission with a Historic Area Work Permit that will get you to the point that you need to be.”

CRITERIA FOR APPROVAL AND FINDINGS OF THE COMMISSION:

The criteria, which the Commission must evaluate in determining whether to deny a Historic Area Work Permit application, are found in Section 24A-8(a) of the Montgomery County Code, 1984, as amended.

Section 24A-8(a) provides that:

The Commission shall instruct the director to deny a permit if it finds, based on the evidence and information presented to or before the commission that the alteration for which the permit is sought would be inappropriate, inconsistent with or detrimental to the preservation enhancement or ultimate protection of the historic site or historic resource within an historic district, and to the purposes of this chapter.

Section 24A-6(a) provides that:

Required An historic area work permit for work on public or private property containing an historic resource must be issued pursuant to the provisions of this chapter before:

(1) Constructing, reconstructing, moving, relocating, demolishing or in any manner modifying, changing or altering the exterior features of any historic site or any historic resource located within any historic district.

(2) Performing any grading, excavating, construction or substantially modifying, changing or altering the environmental setting of a historic site or a historic resource located within a historic district.

Section 24A-6(c)2 provides that:

Any person who shall undertake any work as stated in subsection (a) of this section without first obtaining a historic area work permit shall be subject to the penalties established in section 24A-11.

Section 24A-11 provides that:

Any person who violates a provision of this chapter, or fails to comply with any of the requirements thereof, or disobeys or disregards a decision of the Commission, or fails to abide by the conditions of a permit, shall be subject to punishment for a class A violation as set forth in section 1-19 of chapter 1 of the County Code. Each day a violation continues to exist shall constitute a separate offense. (Ord. No. 9-4, 1; 1983 L.M.C., ch. 22 28; Ord. No. 11-59.)

In analyzing whether the criteria for issuance of a Historic Area Work Permit have been met, the Commission also evaluates the evidence in the record in light of the guidelines for the historic district that are included as part of the Amendment to the Approved and Adopted Master Plan for Historic Preservation in Montgomery County Maryland – Capitol View Park Historic District.

The Commission also evaluates the evidence in light of generally accepted principles of historic preservation, including the *Secretary of the Interior's Standards for Rehabilitation*, adopted in the HPC Executive Regulations in November 1997. In particular, *Standards #1, #2, #6 and #9* are applicable in this case.

- Standard 1: A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.
- Standard 2: The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.
- Standard 6: Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.”
- Standard 9: New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

Based on all the information presented in this case, the Commission finds that:

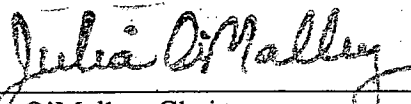
1. 9723 Capitol View Avenue is a Contributing Resource in the Capitol View Park Historic District.
2. The proposal for tree removal, front door replacement, and shed and fencing installation is not in keeping with the *Secretary of the Interior's Standards for Rehabilitation* and constitutes changes to the Contributing Resource and its environmental setting that adversely affect the historic resource and the historic district.

CONCLUSION:

The Commission was guided in its decision by Chapter 24A, by the Amendment to the Approved and Adopted Master Plan for Historic Preservation in Montgomery County Maryland – Capitol View Park Historic District, and by the *Secretary of the Interior's Standards for Rehabilitation*.

Based on the evidence in the record and the Commission's findings, as required by Section 24A-8(a) of the Montgomery County Code, 1984, as amended, the Commission must **deny** the application of Curtis Rodney for a retroactive Historic Area Work Permit (HAWP) for alterations to the building and property at 9723 Capitol View Avenue in the Capitol View Park Historic District. The changes for which this application is made are in violation of Section 24A-11.

If any party is aggrieved by the decision of the Commission, pursuant to Section 24A-70(h) of the Montgomery County Code, an appeal may be filed within thirty (30) days with the Board of Appeals, which will review the Commission's decision de novo. The Board of Appeals has full and exclusive authority to hear and decide all appeals taken from the decision of the Commission. The Board of Appeals has the authority to affirm, modify, or reverse the order or decision of the Commission.



Julia O'Malley, Chairperson
Montgomery County
Historic Preservation Commission

November 8, 2006
Date

October 25, 2006 HPC transcript

Next case this evening is Case K at 9723 Capitol View Avenue. Do we have a staff report?

MS. FOTHERGILL: We do. As you'll recall, we had a staff report the last meeting, September 13th meeting, sorry, not the last meeting. And the case was continued because the applicant was not present. So there was a staff report and some comments from the Commissioners. And those are in your packet, circles 25 through 30.

This is a retroactive case for 9723 Capitol View Avenue which is a contributing resource in the Capitol View Park Historic District. And the applicant has made some alterations to the property and the house without the approval from the HPC and historic area work permit. And violations have been issued and so now we are looking at a retroactive approval request for background. This is the house at 9723 Capitol View. And in December of last year, the applicant down 13 trees and neighbors did call it in and the Department of Permitting Services issued a stop work order. At that time it was determined that fencing also had been installed which you can see in this slide.

At that time staff met with the applicant and Discussed what the requirements were in the historic district were and how to apply for a retroactive historic area work permit for the alterations that had been made. In March 2006 the applicant replaced a front door without a historic area work permit and at that time the Department of Permitting Services issued an additional notice of violation. In may of this year these violations were heard in District Court and at that hearing the judge required that the applicant submit the necessary paperwork to the Historic Preservation Commission and do whatever was needed to receive approval within 30 days of that.

In July or August of this year the applicant installed a shed on the property without an approved historic area work permit and then as I mentioned September 13th the Commission reviewed this case. And at that time the Commission voted to extend the case to give the applicant more time to complete the application. The application as submitted is not complete and the Commission required a proposed tree replacement plan that would be prepared by a certified arborist, a proposed replacement front door that would be more appropriate compatible with his house and suggestions were made by staff at that time.

Information about the shed including design, materials, location on the site plan and photos that have never been submitted and to remove the fencing on the front right of the house. So, the, I'm going to show you on the site with a retroactive application what staff tends to do when they look at what's in front of them and say would staff recommend approval if this was a proposal, not the changes have already been made, but that this came in as a proposal. Would it meet the guidelines and be approvable and that kind of approval from the Commission.

So there is the fencing that was installed. You'll see in another slide that since the September 13th Commission hearing that the applicant has cut the fence down. So you can see it there. The fencing remains but it is lower. The, this is the back of the house and then you will see the 13 trees, six inches further that were removed without approved historic area work permit. And the applicant has stated that no proposed tree replacement plan was submitted because he doesn't not intend to plant replacement trees. So that's why nothing was submitted.

It is as you can see in circle 6 a large lot. You can see and so there is a lot of room for tree replacement. This is the shed that was recently installed and again you don't have permission on the shed, materials or any sort of application submission. The staff has recommended denial of this application based on generally the Commission would not allow removal of 13 substantial size trees without a compelling reason, without a proposed tree replacement plan. Oh, I didn't point out the front door, I apologize. You can see in your packet in circle 12 or circle 11 is the original front door and circle 12 is the replacement front door which the applicant has stated is a fiber glass fabric door. And that if the applicant came to Commission and requested approval, approval of original wood door and replaced it with that door that would not be approved. And the staff feels that the judge and the Commission have been very clear about what the applicant needed to do to comply with the requirements of the Commission and that those requirements have not been met. And the applicant is here tonight and will answer any of your questions.

MR. FULLER: Are there questions for staff? Would the applicant please come forward. Good evening. If you would state your name for the record and any comments regarding the staff presentation.

MR. RODNEY: Good evening. My name is Curtis Rodney.

MR. FULLER: Do you have any comments regarding the staff report?

MR. RODNEY: Yeah. The shed is, can I move backwards. The shed meets, falls within the County regulations for not requiring a permit. That is it is 8 by 8. It does not meet the 120 square feet requirement for permit. That I was informed by the Montgomery County so I did not seek the permit for that. It is a box purchased, bought in a three box container and erected in one day. It's plastic. It was erected in an emergency manner for saving some stuff that I had on the ground previously.

With regard to the fence, I was told the fence did not exceed 3 feet in height. It also did not require a permit. Relative to the door the security in my home was compromised. Therefore I replaced a door that was broken and my house was not secure so I had to reestablish that security. Learning after that that I had replaced the door I had to receive a permit seemed kind of redundant in my mind to seek a permit for something that was already up.

The trees I was also informed by your staff that anything 6 inches or less did not require approval. The trees that were in fact removed that were above 6 inches were replaced by Cypress pines and those pines were planted to the front of the house.

MR. FULLER: Is that it? Questions of the applicant? Is there any discussion?

MS. ALDERSON: Only to concur with the staff recommendation that none of these alterations are consistent with the guidelines for the historic district. Nor would any of them be approved. The concern is that if you ask the general question of Montgomery County about County guidelines that was not the same as seeking us about what would be permitted in the historic district. And you would expect that you would have known that your house was located in a historic district.

MR. RODNEY: I was made aware of that. I was not completely, totally knowledgeable of what that meant. I am however, now fully aware of that. But, that is as it is.

MR. FULLER: Do we have a motion?

MS. ALDERSON: I'd like to make a motion that based on the staff recommendations and our history of reviewing decisions that this application be denied.

MR. DUFFY: I second.

MR. FULLER: Any further discussion?

MR. FLEMING: I have a question. Now that you're aware of the rules and regulations of the Historic Preservation, do you see that you can maybe go back and rectify these conditions?

MR. RODNEY: You say rectify, I don't understand what you mean.

MR. FLEMING: The cutting of the trees and the fence and the door that was not inside the regulation. I understand why you did it. We understand why you did it, but not knowing the rules of the historic preservation you can't do it. So now that these are enlightened to you, do you see that you can go back and fix it to where it could meet the rules so we can get this approved for you?

MR. RODNEY: Yeah, I didn't, I mean at this time, it was suggested that I change the door. Okay. I thought before I did anything I would come here and at least get this out of the way before I did anything else. There's nothing which, except for the trees that were cut down, I mean I can, I don't know that I would put them back in the same place because there's such a bunch of stumps there that haven't been removed. Okay. But I can, I do intend to plant trees on the property, just haven't decided exactly where at this point. The door can be done. The fence I think has been corrected. The shed I can provide a site plan showing where that is.

There's nothing that can't be done. I just needed to get an understanding where we were as far as this was concerned. I want to get this out of the way.

MR. FULLER: Can we go ahead and finish the vote? All in favor? Motion on the table is for denial. All in favor please raise your right hand? All opposed? Those who abstain?

MS. ANAHTAR: I have a question. I think we were still asking him whether he agrees to some of the, what do you call it --

MR. FULLER: Well --

MS. ANAHTAR: -- changes like replacing --

MR. DUFFY: Well, we're voting on the application before us.

MS. FOTHERGILL: The applicant can submit a new historic area work permit application with --

MR. DUFFY: Precisely. That's what we would very much hope to see in the future.

MS. ANAHTAR: So we cannot continue with this one?

MR. DUFFY: No, because what we have --

MS. ANAHTAR: That's what I'm trying to --

MR. DUFFY: What we have in this is a retroactive of things that we simply cannot approve. And what the applicant needs to do is come up with remediation to the problems in a new application that would be compliant with our regulations approvable working with staff, I think. So I think there are two different, I think that's a future application, a future vote.

MR. FULLER: And I believe what has just transpired is we had a motion on the table. It was seconded and it was passed by a vote of 6. And I'm not sure what, okay, it was unanimously passed.

MS. ALDERSON: For the record, I was thinking I could offer is that all of the use that you had expressed can be met through alternative design that would be more sympathetic with the historic district.

MR. FULLER: But I think we should also correct the misunderstanding that a fence that meets the County guidelines for a fence does not mean that it can be approved or is approved by this Commission. It still does need to have approval of this Commission before you can have a fence there. So, the present time none of the items that are listed here are approved. So, the only thing you can do and should be doing is removing and replacing the front door back to its original condition, removing the fence and removing the shed. Because none of those are permitted items at the present time. You cannot simply replace trees on your own accord. You need to submit a new plan to identify where the trees are coming and submit that to us in a retroactive HAWP. If you want to leave them where they are, well you have to show them where you would like to have them placed.

So, at the present time nothing that is there is in compliance with this Commission and needs to be removed.

MR. RODNEY: Say that again. I'm sorry, I missed it. You said nothing, the trees that I planted need to be removed. Is that what you said?

MR. FULLER: That's correct.

MR. RODNEY: There's no guide relative to planting trees as far as I understand. That I got from your staff.

MR. FULLER: You need to submit a plan to us for approval before you plant those trees.

MR. RODNEY: Staff didn't know that. They didn't tell me that.

MS. WRIGHT: I think the point being that we don't review folks planting new trees and shrubs on their property. So if he's planted new trees and shrubs, that's all well and good. But they don't count towards the mitigation for the trees that were removed. We're not saying take out the trees you planted, but they aren't going to count towards mitigation.

MS. ALDERSON: To clarify that, the tree replacement plan is not simply a numeric trade of existing trees for new trees. It works as the character, the replacement of the trees as they replace to the character of the historic district. So, you can't simply line with the same number of trees that were once within your property. You need to make a plan that simulates the general character that existed before the trees were removed. Which is a naturalistic character, a wooded character consistent with this historic district.

MR. ROTENSTEIN: In light of the comments and recommendations from my fellow Commissioners, I'd like to also add that before you incur any additional costs and make additional changes that you think might comply with what we've said here and what's in the staff report, that you work very closely with staff to ensure that the steps you take are in compliance and that you are in a better position to come back before this Commission with a historic area work permit that will get you to the point that you need to be.

MS. FOTHERGILL: For the record, the applicant will receive a written denial within 15 days of this hearing.

MR. FULLER: Thank you.

MR. RODNEY: Thank you. Good night.

Trees that were removed



10526 St. Paul Street, Kensington, MD 20895
301-942-6700 Fax 301-942-6734

January 24, 2006

C & R Contracting, LLC
9723 Capital View Avenue
Silver Spring, MD 20910
Attn: Curtis

Dear Curtis:

Per your request, I have visited the property located at 9723 Capital View Avenue, Silver Spring, Maryland and inspected the remaining stubs resulting from the removal of several trees. The following is a list of genus, species and sizes of the trees that were cut down:

6" Black Walnut
10" American Elm
5" American Elm
13" Black Locust
13" American Elm
7" White Ash
7" Black Locust
6" Black Locust
8" Black Locust
5" Boxelder Maple
7" Black Locust
13" White Ash
11" Siberian Elm
Double Leader Boxelder Maple (1 lead is 7" the other is 5")
Four Leader Mulberry (leads were 13", 9", 8" and 8")

If you have any questions or need any more information, please feel free to give us a call.

Sincerely,

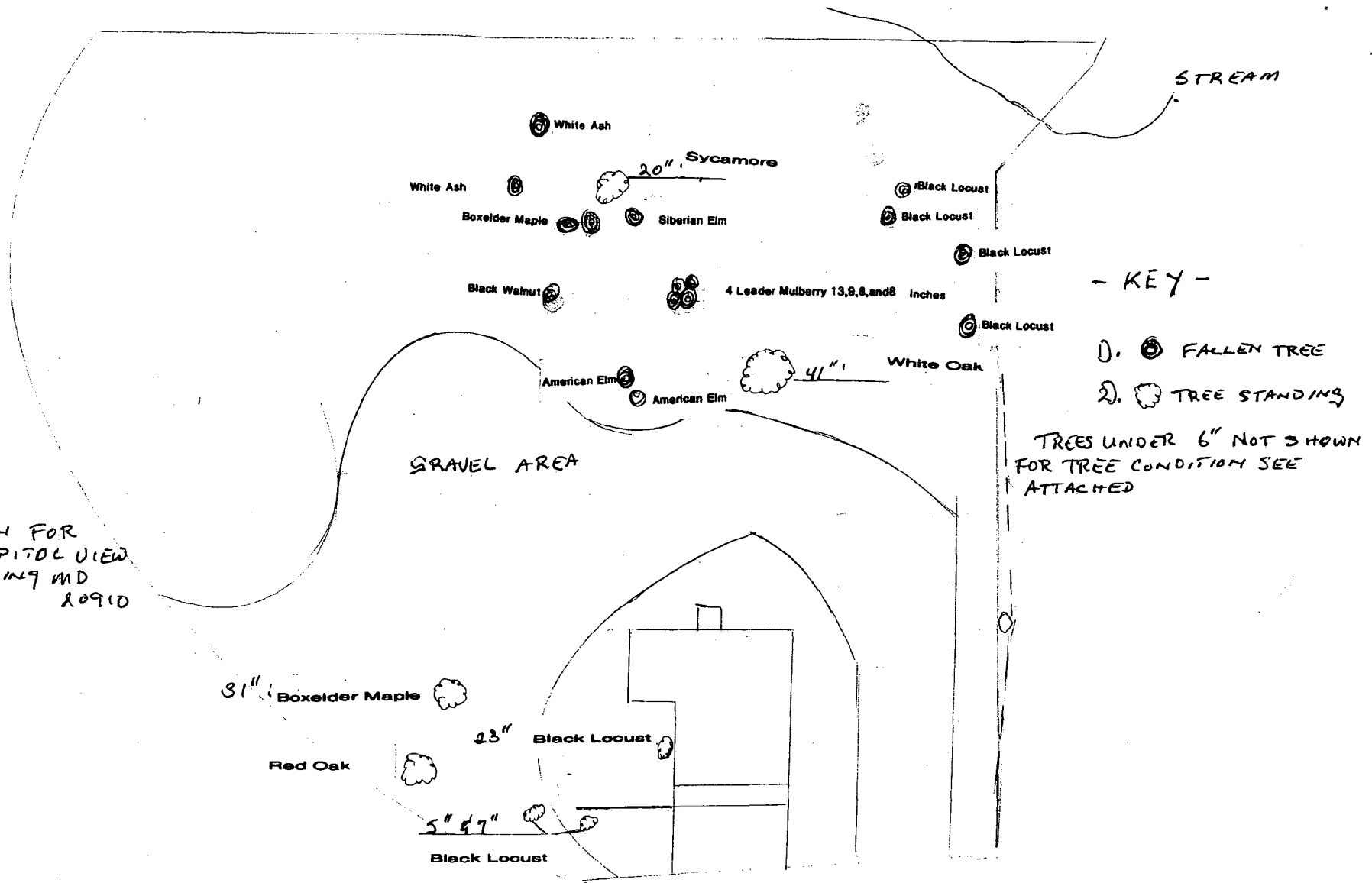
Edward S. Mulheron
ISA Certified Arborist



MULHERON TREE EXPERTS

26

SITE PLAN FOR
 9723 CAPITOL VIEW
 SILVER SPRING MD
 20910



- KEY -
 1. (6) FALLEN TREE
 2. (cloud) TREE STANDING
 TREES UNDER 6" NOT SHOWN
 FOR TREE CONDITION SEE
 ATTACHED

trees that remain



10526 St. Paul Street, Kensington, MD 20896
301-942-6700 Fax 301-942-6734

January 24, 2006

C & R Contracting, LLC
9723 Capital View Avenue
Silver Spring, MD 20910
Attn: Curtis

Dear Curtis:

Per your request, I have visited the property located at 9723 Capital View Avenue, Silver Spring, Maryland and inspected the remaining trees still standing at the property to determine the genus, species and sizes of the trees to be removed:

1. 20" Sycamore – the tree is in good health, and has a 95% live crown ratio. There are some soil compaction issues due to gravel driveways that exist within 15' of the base of this tree.
2. 41" White Oak – this tree is in moderate to good health with an 85% live crown ratio. As this tree has not been maintained in over 10 years the live crown ratio is consistent with a tree of its size. It is lacking a developed root flair at the base of the tree, and has significant soil compaction around 70% of the root zone of the tree due to an existing gravel driveway.
3. 31" Boxelder Maple – this tree is in good health, and has a 95% live crown ratio. The only issue of concern with this tree is that 70% of the crown leans over the house.
4. 23" Black Locust – this tree is in moderate health, and has an 80% live crown ratio. The tree is completely covered in ivy and euonymous vines making it difficult to determine if there are any structural faults within the main stem. The tree stands within 2 feet of the foundation of the house, which could potentially affect the structural soundness of the tree due to its limited root zone. There is also leaking the basement of the home in close proximity to this tree which would indicate foundation damage from the roots of the tree.
5. 7.5" Black Locust – this tree is in good health and has no issues of concern.
6. 5" Black Locust – this tree is in good health and has no issues of concern.



C & R Contracting, LLC

January 24, 2006

Page 2

7. 31" Red Oak – this tree is in moderate health with a live crown ratio of 90%. The tree has an exposed wound at its base on the street side, and the crown is uneven.
8. 16" Tulip Poplar – this tree is in good health with a 95% live crown ratio and has no issues of concern.

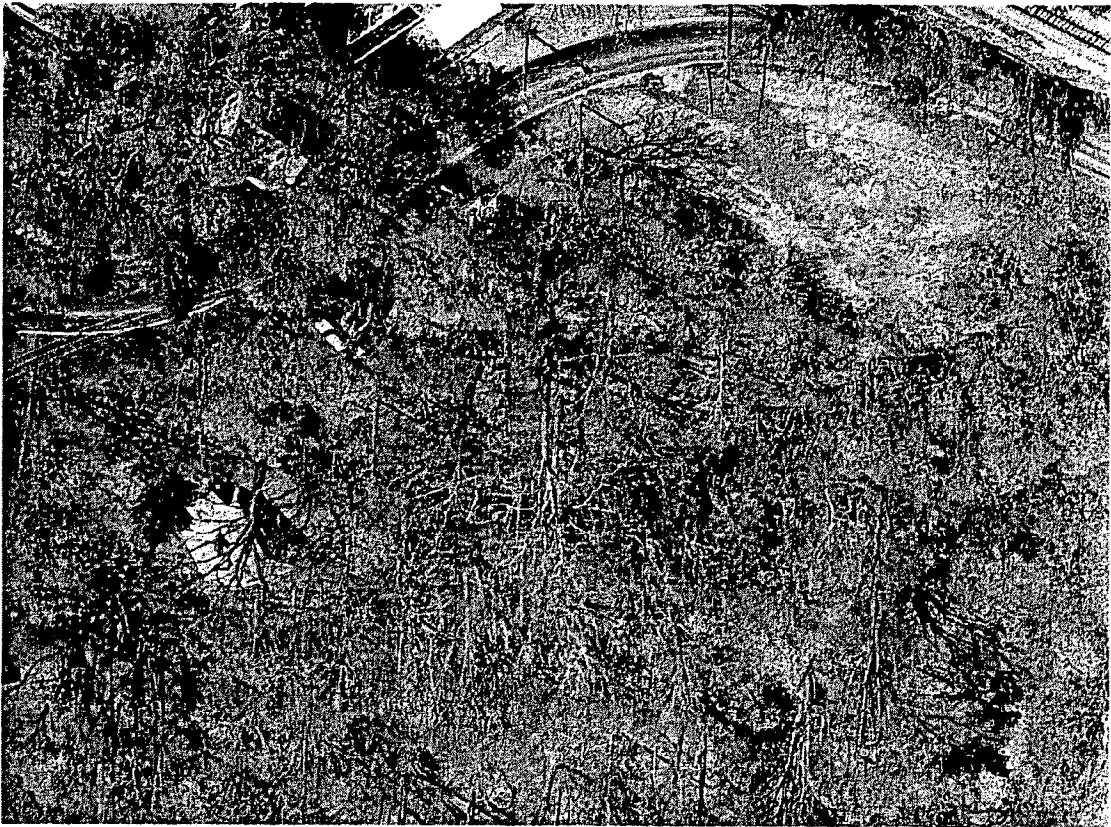
If you have any questions or need any more information, please feel free to give us a call.

Sincerely,

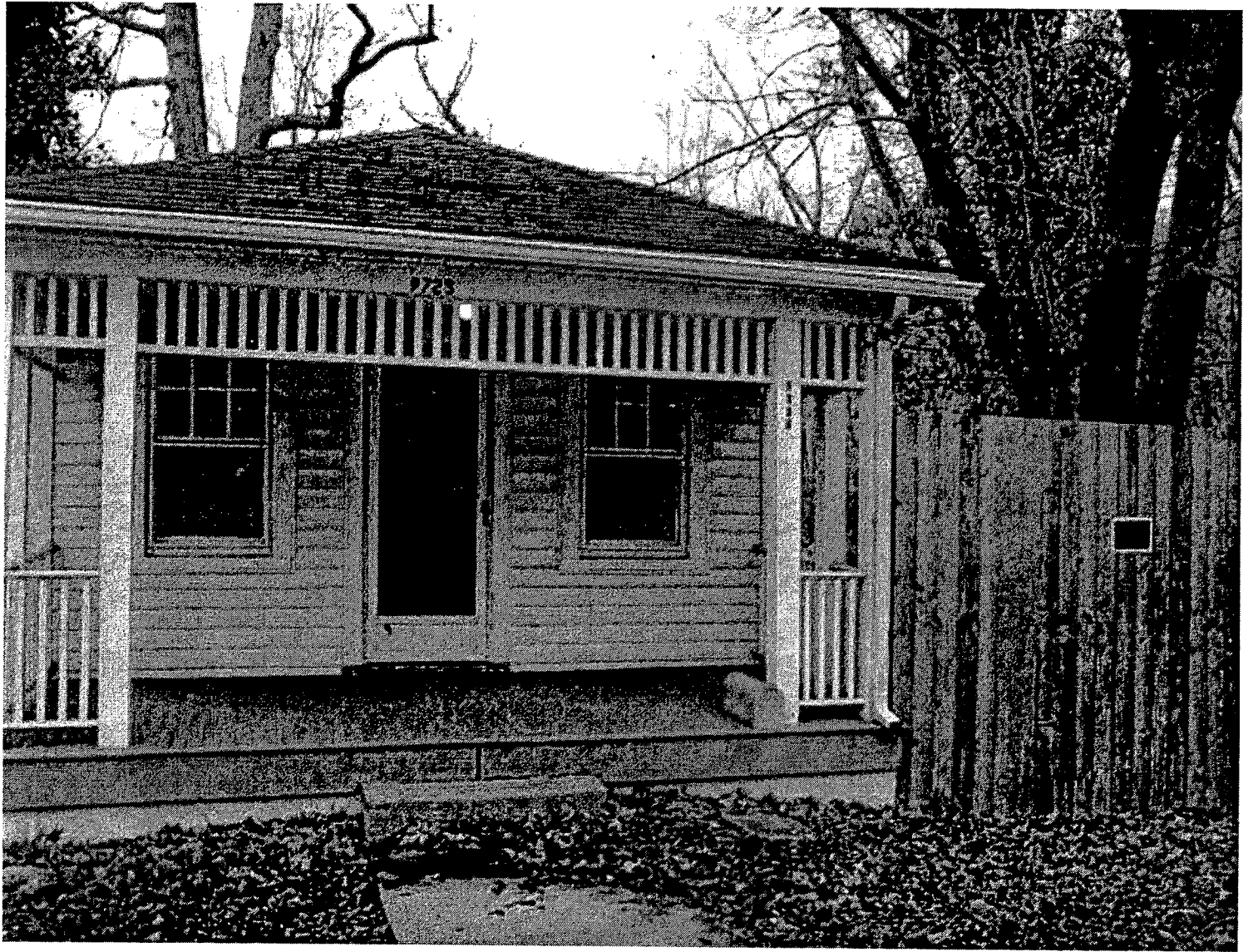


Edward S. Mulheron
ISA Certified Arborist

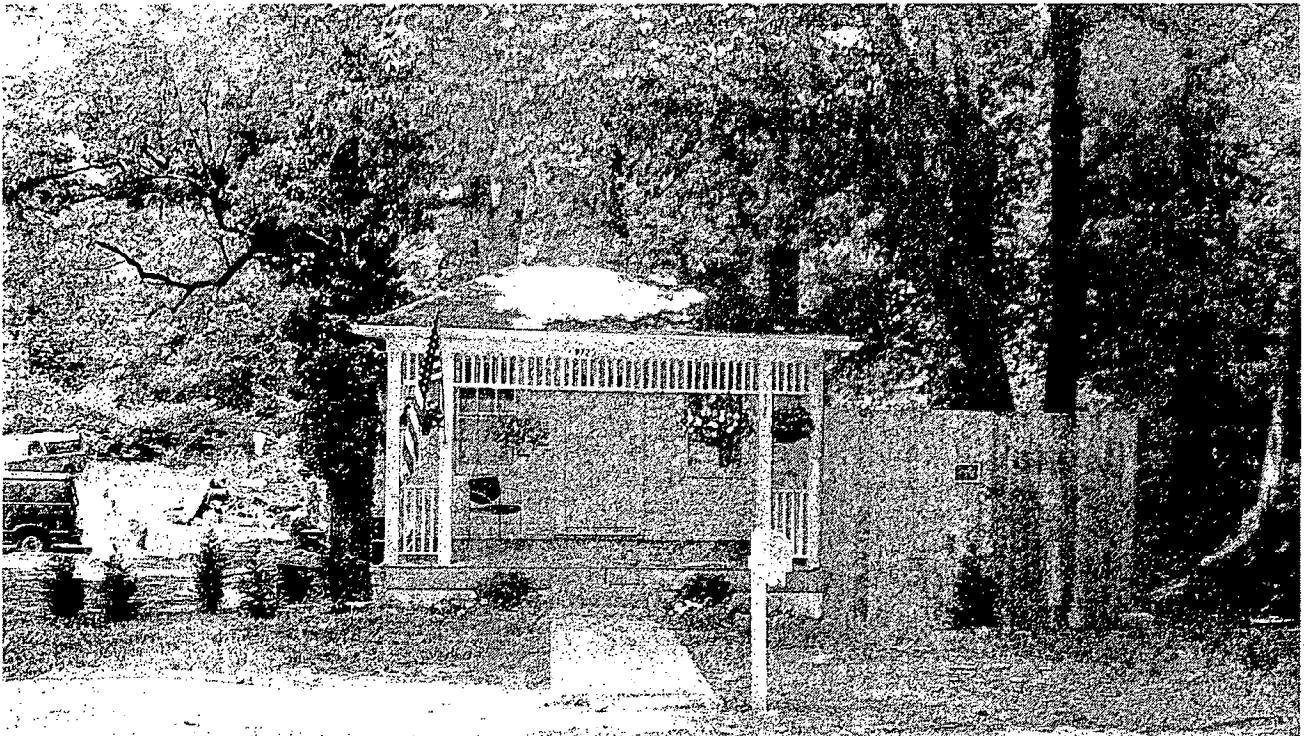
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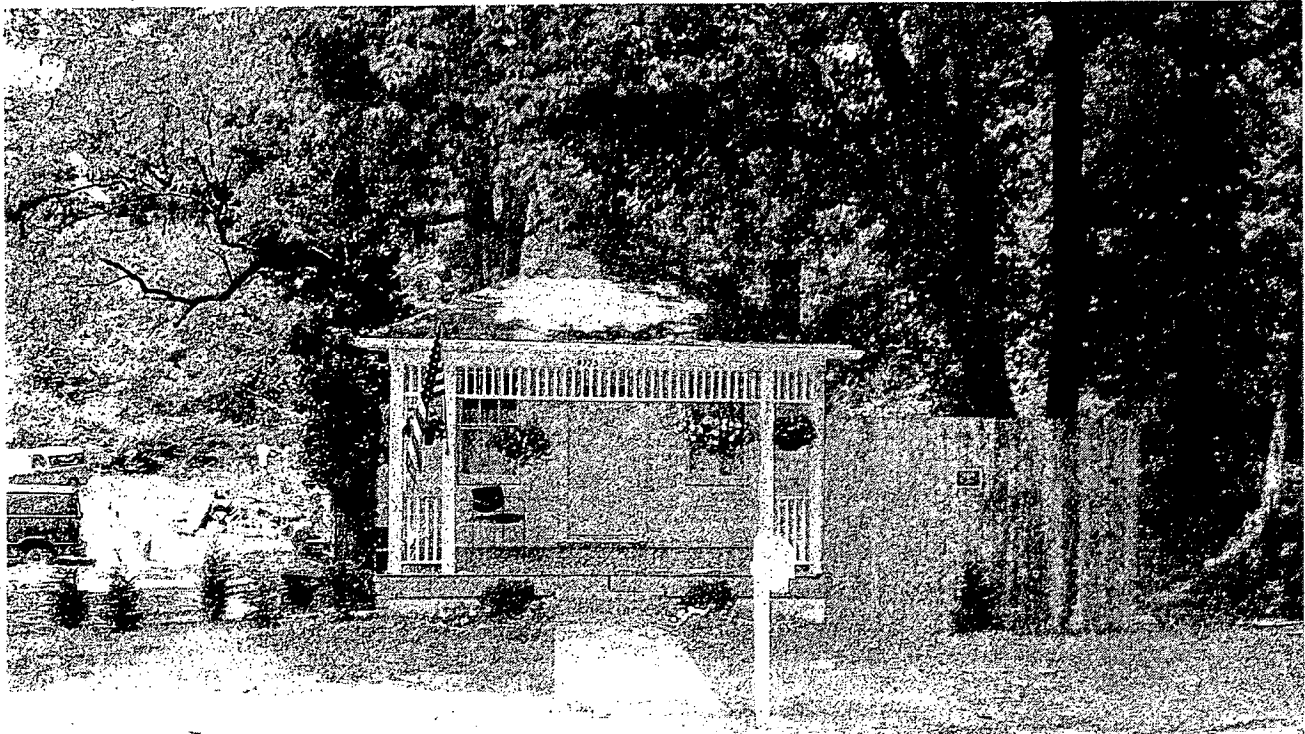
9723 Capital view (prior to tree removal)

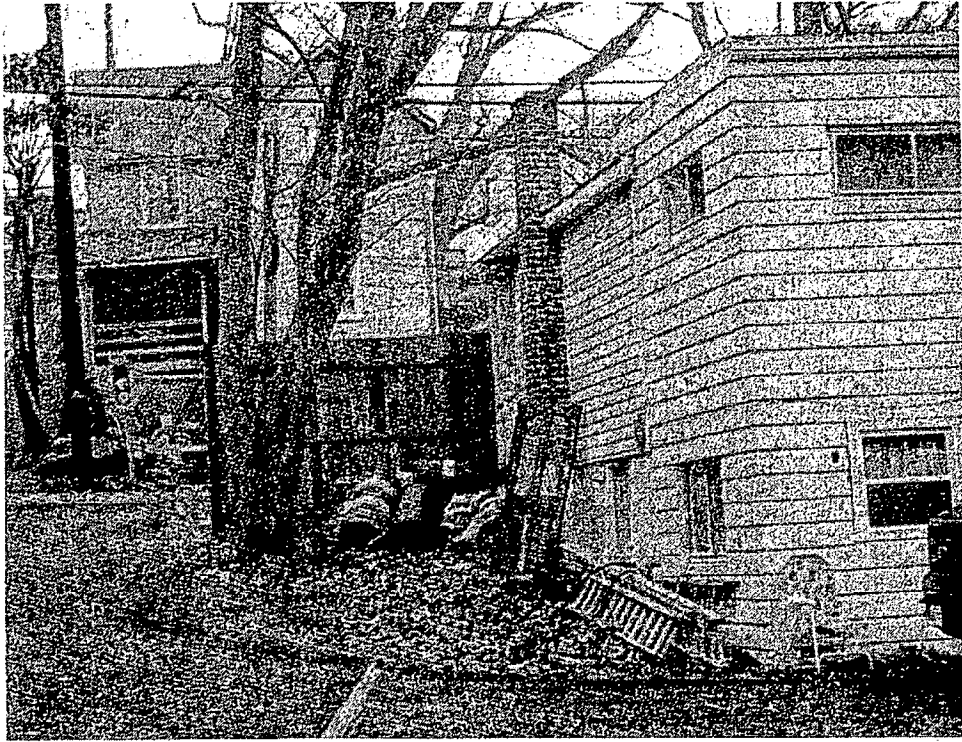


front door that was removed



replacement front door



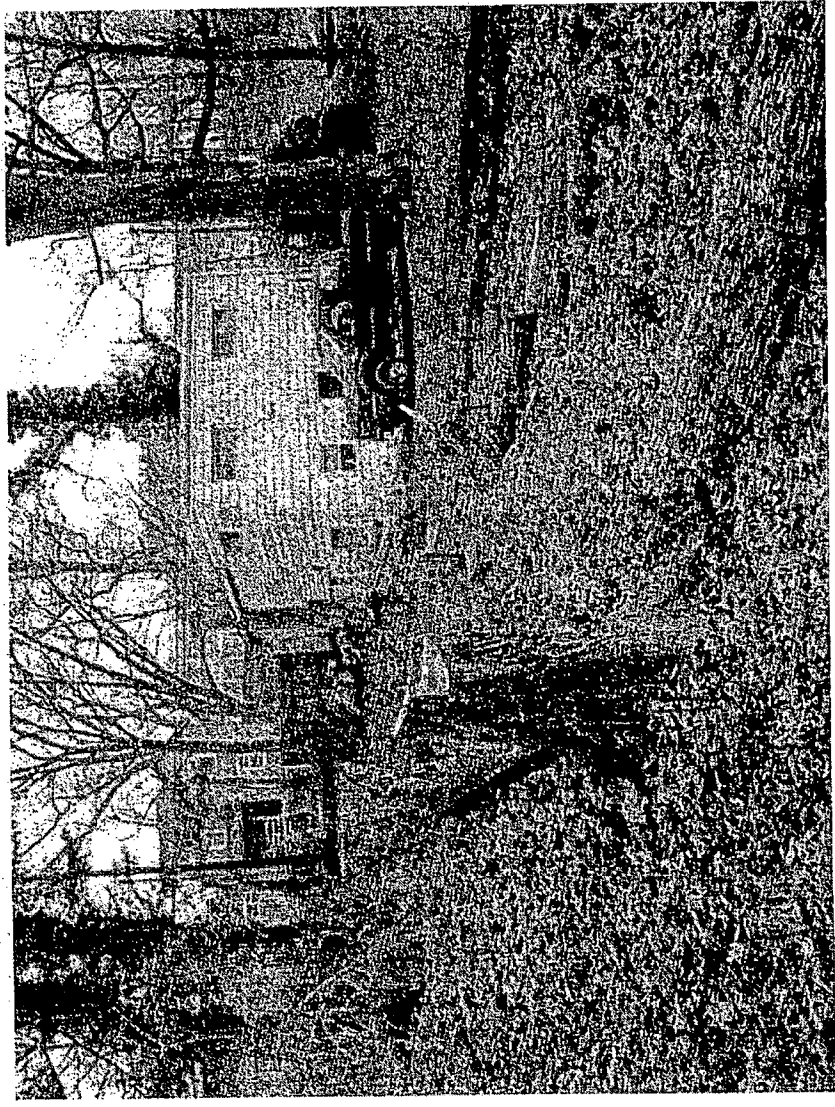
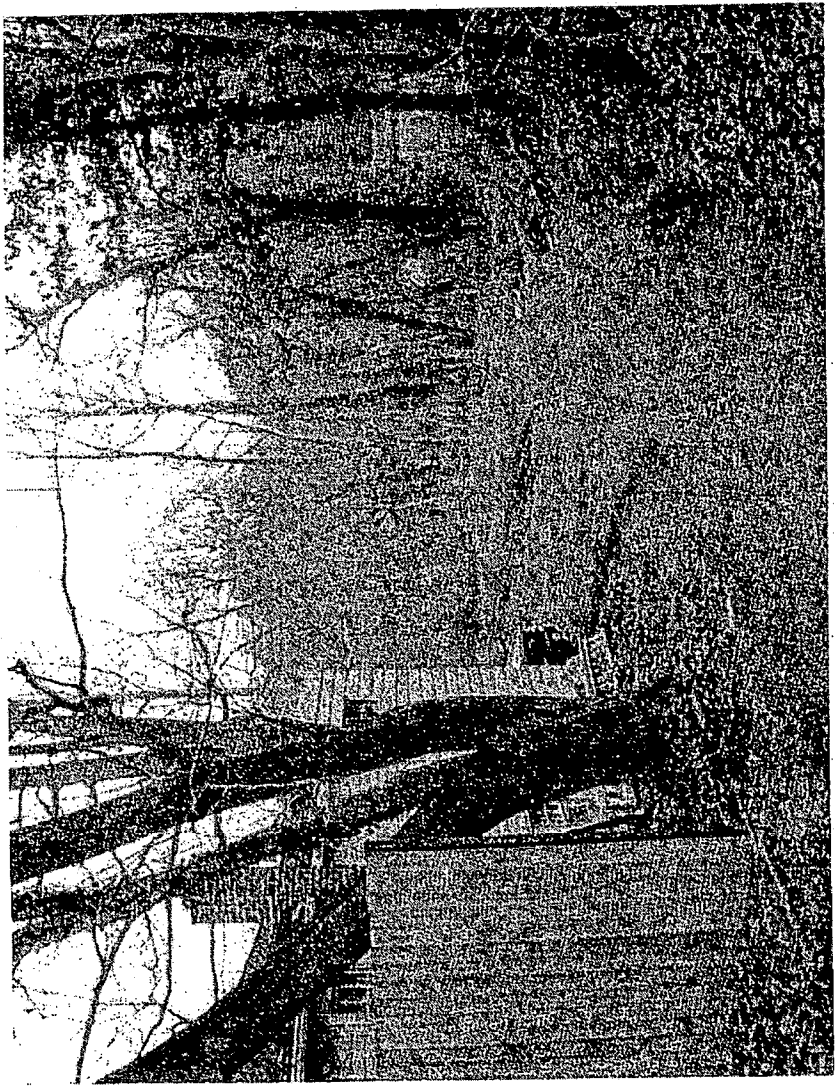


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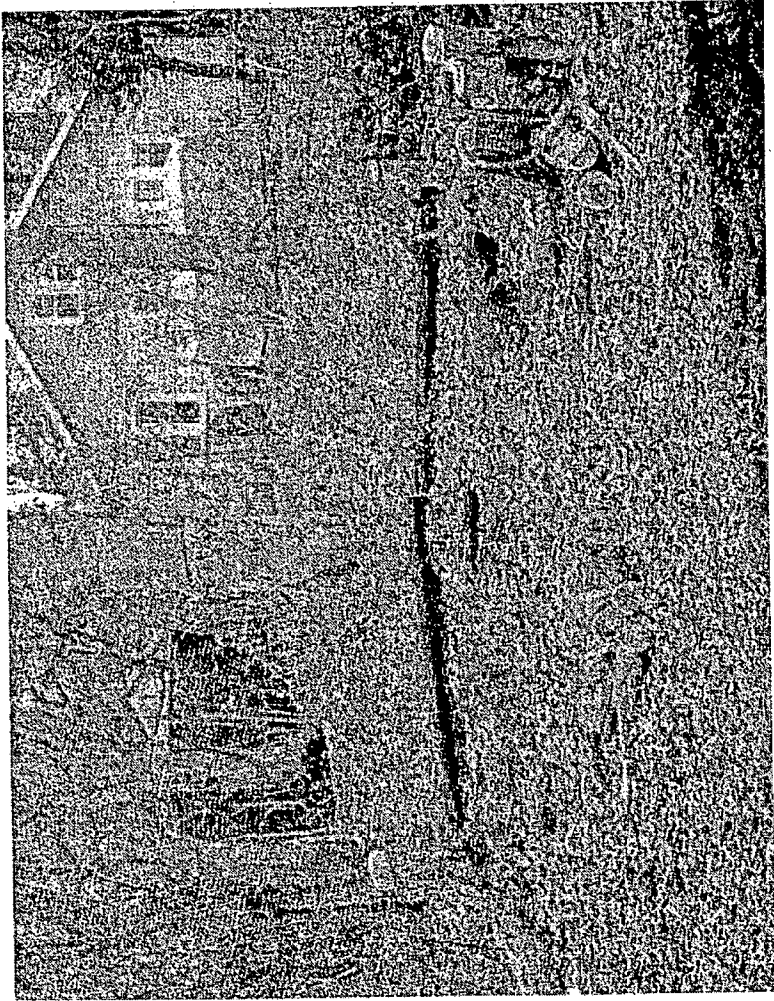


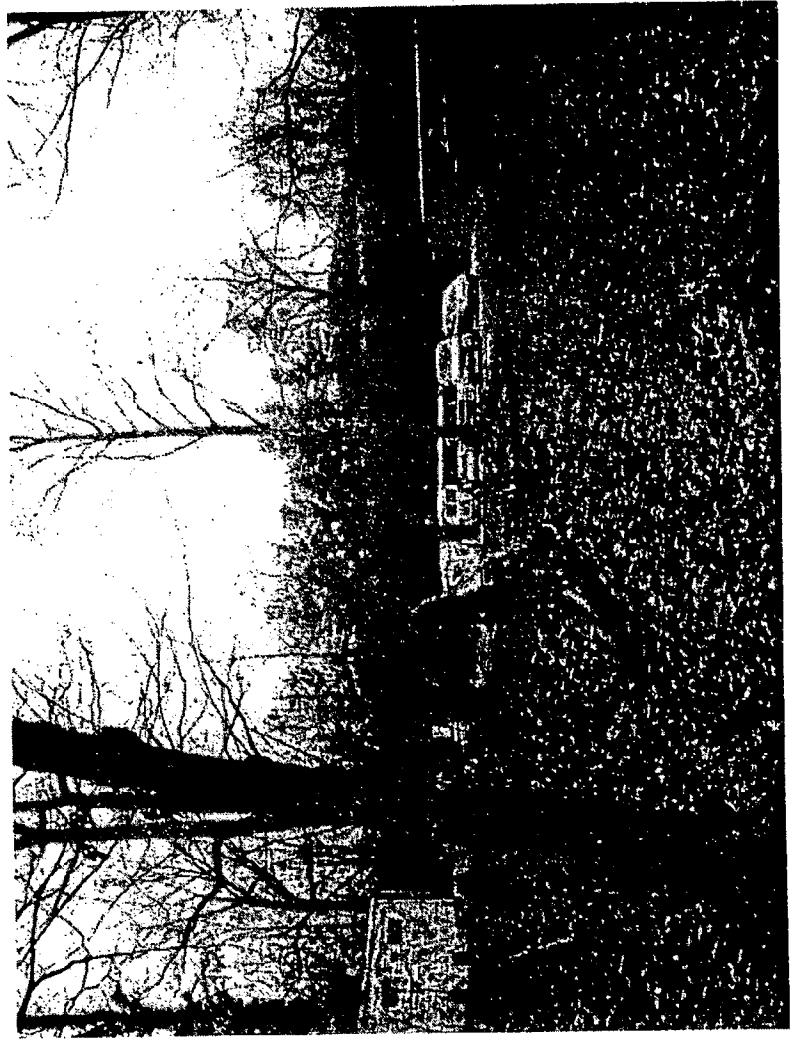
34
~~15~~

35
~~16~~

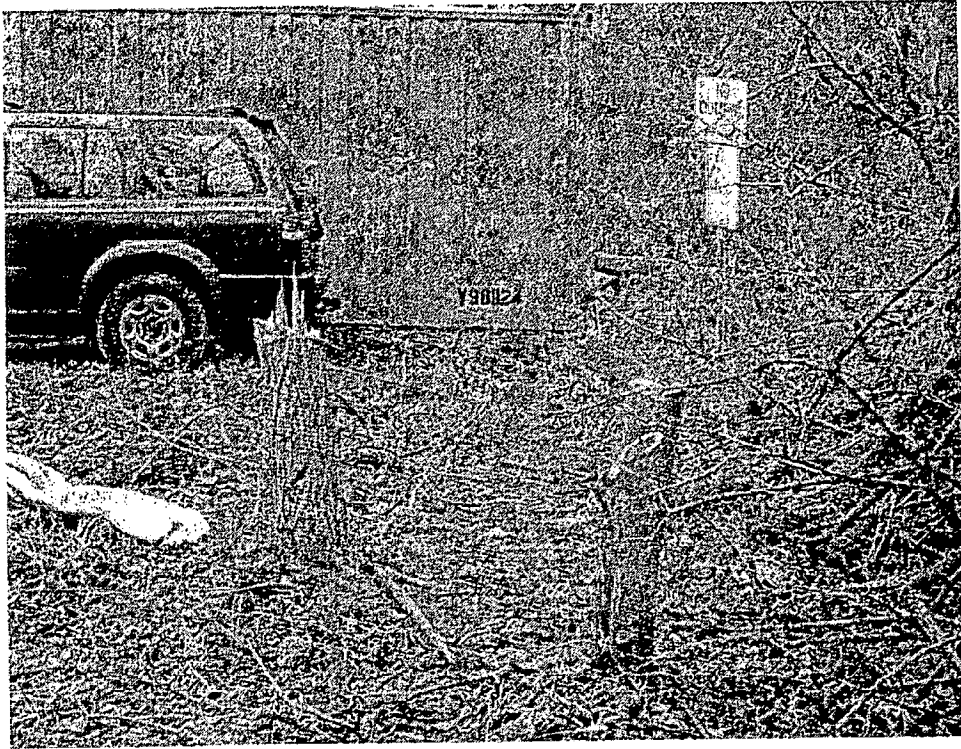


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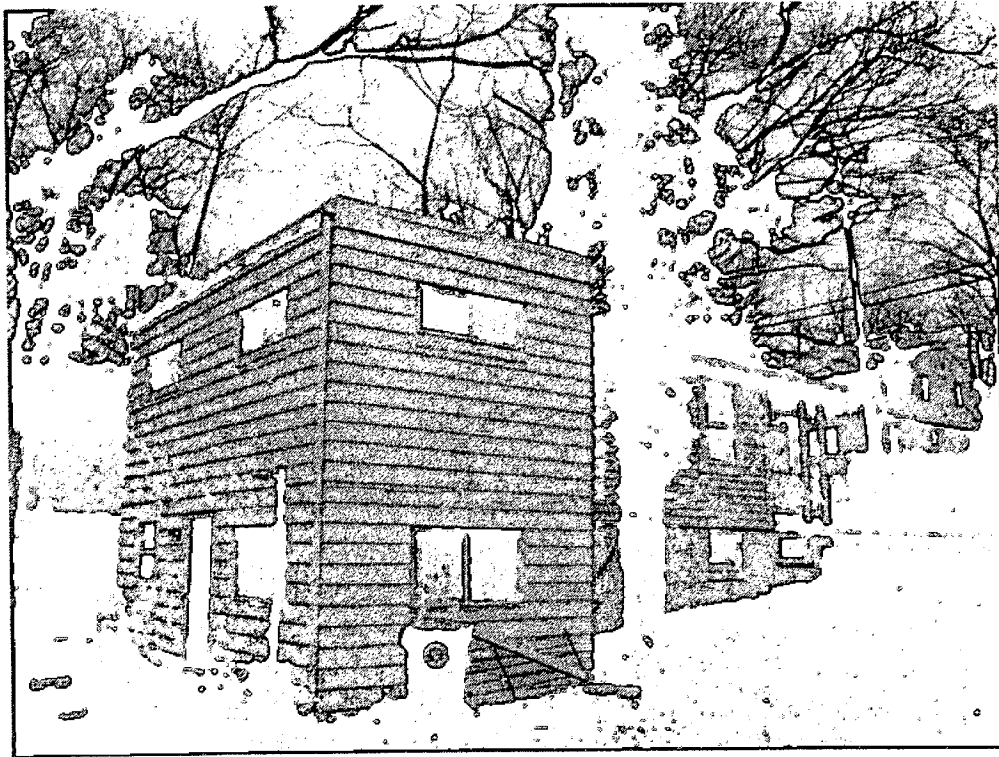
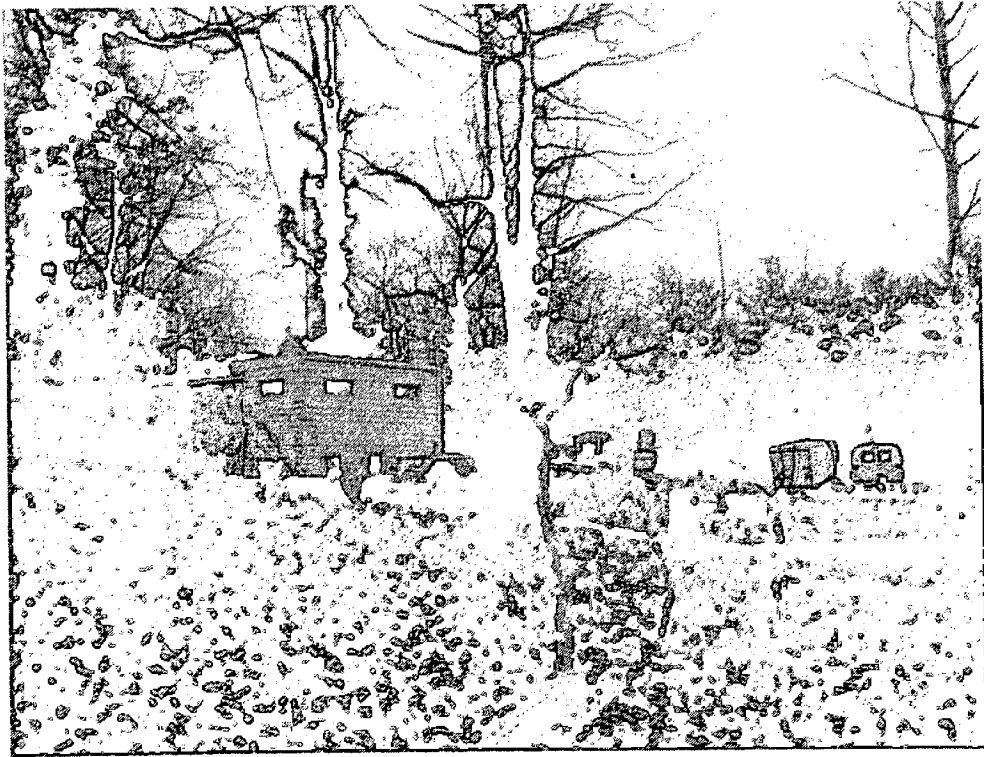


37
~~18~~



connexes have been removed

19
38



shed installed
with a
HAWP



ADJACENT PROPERTY:

MS. SCALA 9717 CAPITOL VIEW AVE

SILVER SPRING MD 20910

ACROSS THE STREET

9722 CAPITOL VIEW AV

SILVER SPRING MD 20910

TREE REPLACEMENT PLAN FOR 9723 Capitol View Ave. Sliver Spring, MD 20910

The Following is submitted as a plan of action for the reforestation of Grounds at 9723 Capitol View Ave.

The Home Owner Proposes to plant a combination of Deciduous Flowering and Fruit as well as Evergreen Trees to Total 17 trees in approximately the vicinity of the trees which were removed.

Deciduous :

- 2 Kwanzan Flowering Cherry Trees
- 2 Cleveland select Flowering Pear trees
- 2 Purple Leaf Plum Tree
- 2 Granny Smith (Green Apple) trees
- 2 Cherry Trees (Fruit Bearing)
- 2 Pear Trees (Fruit Bearing)
- 5 Cypress Pines

Total # of Trees Planted : 17

Term: Between and fall 2007

Planting to be completed by or before September 30th, 2007.

At date of purchase the trees will be at least 3 years old and measure at least 5 feet after planting. Rate of growth is projected to be 6" to 10" inches per annum and, 3-5 cm of caliper growth.

TREE REPLACEMENT PLAN FOR 9723 Capitol View Ave. Sliver Spring, MD 20910

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2 Granny Smith (Green Apple) trees

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2 Pear Trees (Fruit Bearing)

5 Cypress Pines

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Planting to be completed by or before September 30th, 2007.

At date of purchase the trees will be at least 3 years old and measure at least 5 feet after planting. Rate of growth is projected to be 6" to 10" inches per annum and, 3-5 cm of caliper growth.

1
36" X 80" X 1-3/4"
3/0 9-LITE 2 PANEL EXTERIOR FIR



Masonite



9-Lite, 2 Panel

- FSC certified wood
- Engineered stiles & rails helps prevent warping
- Door supplied unfinished, ready-to-paint or stain
- 1 year limited warranty



Mixed Sources
Product group from well-managed
forests and other controlled sources

Cert no. SCS-COC-00591

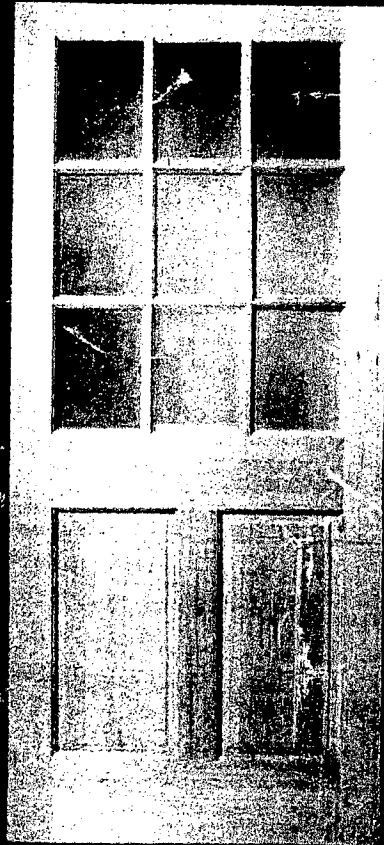
www.fsc.org

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1
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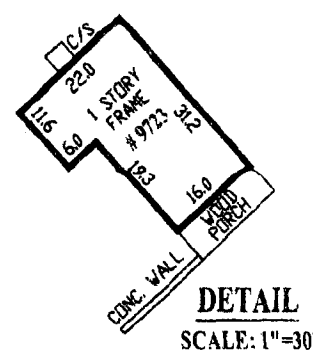
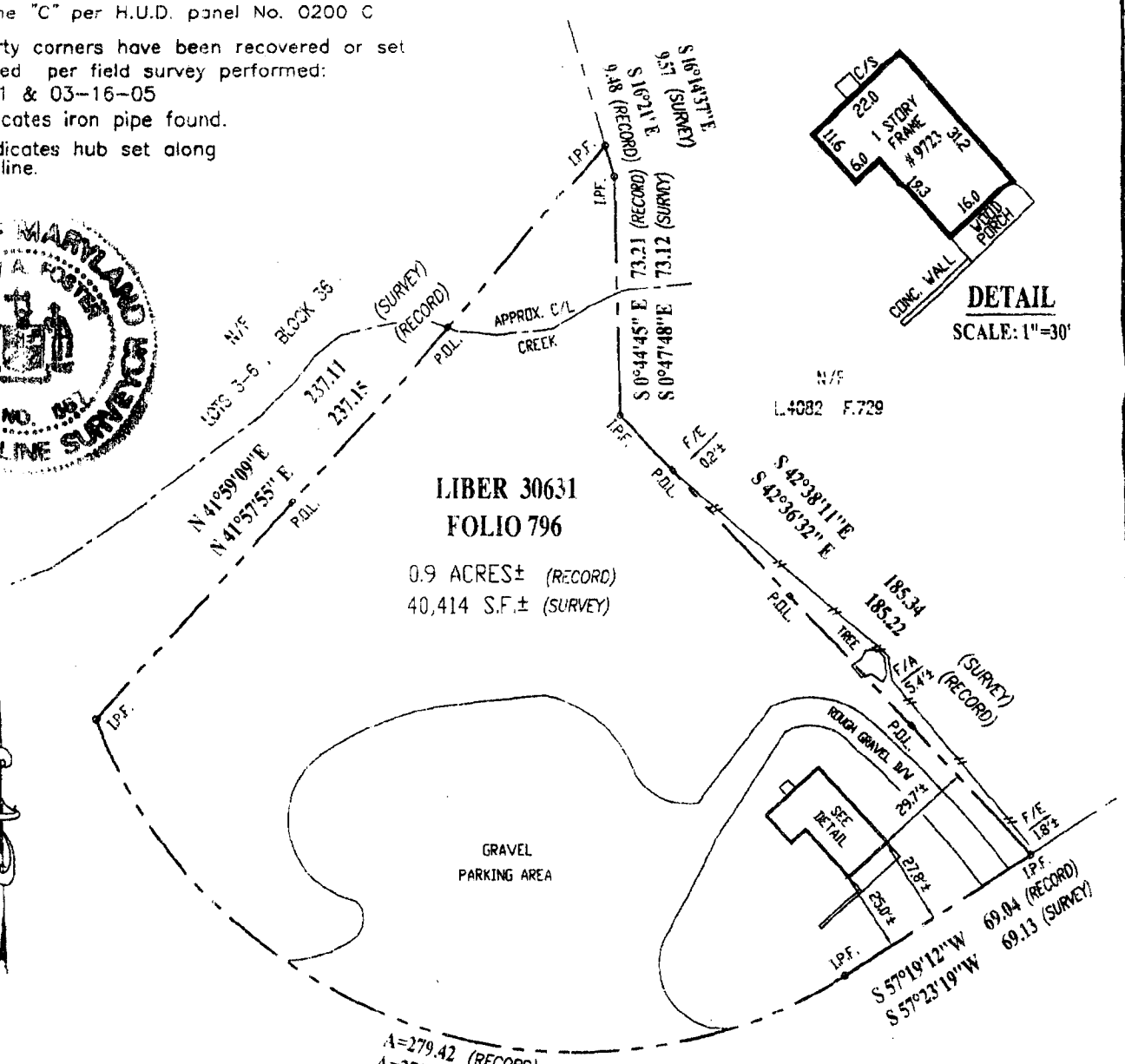
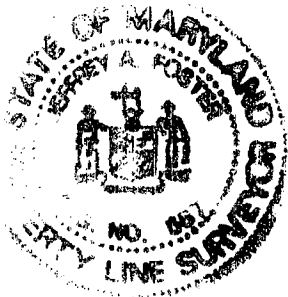
www.fsc.org

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The information shown hereon has been prepared without benefit of a Title Report, therefore, may not reflect all easements or encumbrances which may affect subject property.

Notes:

- 1) Flood zone "C" per H.U.D. panel No. 0200 C
- 2) All property corners have been recovered or set and verified per field survey performed: 07-19-01 & 03-16-05
- 3) I.P.F. Indicates iron pipe found.
P.O.L. Indicates hub set along property line.



**LIBER 30631
FOLIO 796**

0.9 ACRES± (RECORD)
40,414 S.F.± (SURVEY)

PLAT OF SURVEY

PARTS OF LOTS 7 & 8, BLOCK 36
AND

PARTS OF LOTS 41 & 42, BLOCK 34

CAPITOL VIEW PARK

MONTGOMERY COUNTY, MARYLAND

CAPITOL VIEW AVENUE

(KENSINGTON FOREST GLEN ROAD-PER DEED)

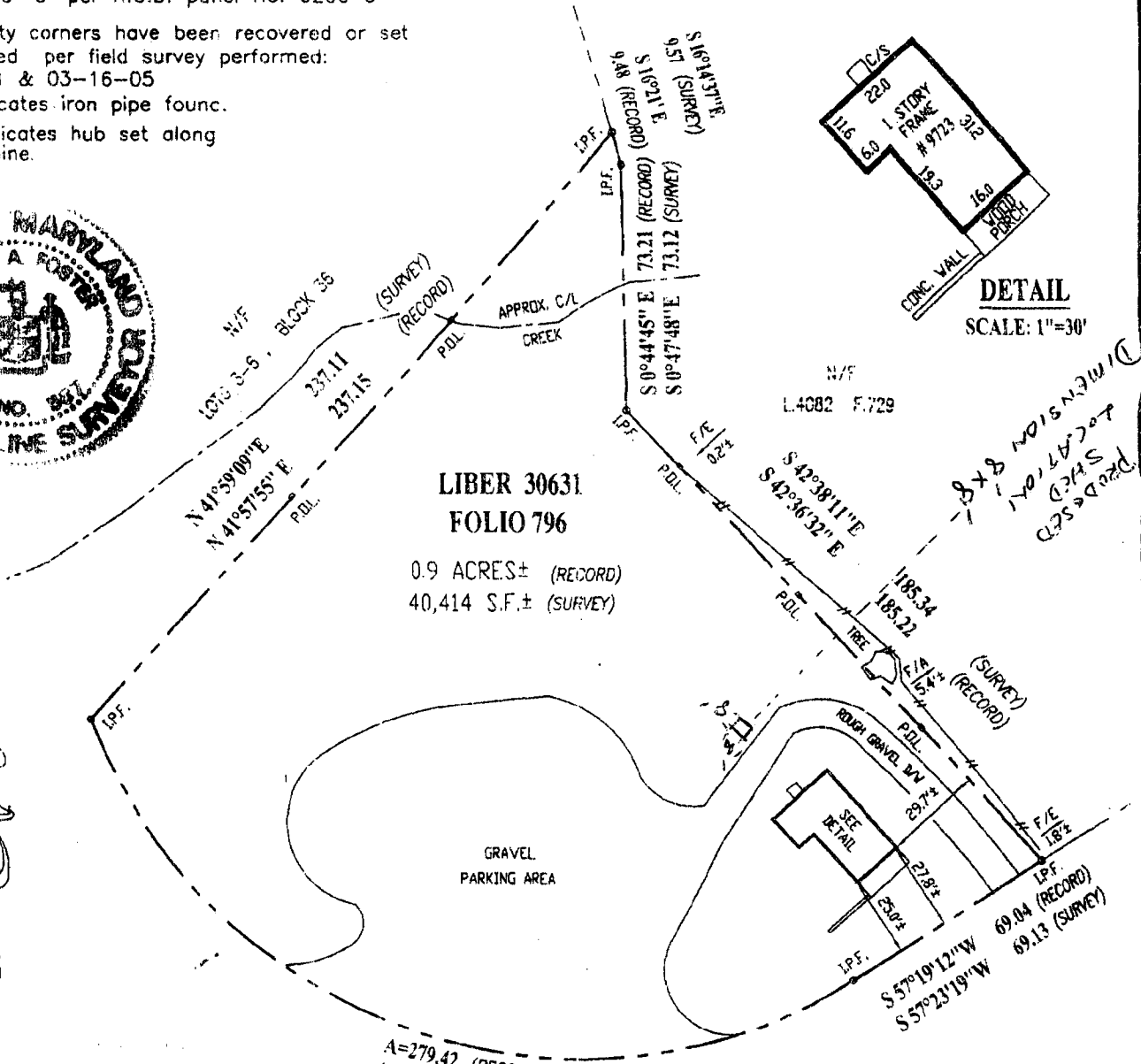
Building Line and/or Flood Zone Information is taken from Available Sources and is Subject to Interpretation of Originator.

<p>SURVEYOR'S CERTIFICATE</p> <p>"I HEREBY CERTIFY THAT THE INFORMATION SHOWN HEREON HAS BEEN BASED UPON THE RESULTS OF A FIELD SURVEY PURSUANT TO THE DEED OR PLAT OF RECORD. PROPERTY MARKERS HAVE BEEN RECOVERED OR PLACED IN ACCORDANCE WITH THE INFORMATION SHOWN."</p> <p><i>Jeffrey A. Foster</i> 527</p> <p>MARYLAND PROPERTY LINE SURVEYOR REG. NO.</p>	<p>REFERENCES</p> <p>PLAT BK. A</p> <p>PLAT NO. 9</p>	<p>SNIDER & ASSOCIATES SURVEYORS - ENGINEERS LAND PLANNING CONSULTANTS 2 Professional Drive, Suite 216 Gaithersburg, Maryland 20879 301/948-5100, Fax 301/948-1286</p>
	<p>LIBER 30631</p> <p>FOLIO 761</p>	

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P.O.L. Indicates hub set along property line.



DETAIL
SCALE: 1"=30'

PROPOSED DIMENSIONS
LOCATED BY STAKES

LIBER 30631
FOLIO 796

0.9 ACRES± (RECORD)
40,414 S.F.± (SURVEY)

A=279.42 (RECORD)
A=279.03 (SURVEY)
R=154.44 (COMP.)

PLAT OF SURVEY
PARTS OF LOTS 7 & 8, BLOCK 36
AND
PARTS OF LOTS 41 & 42, BLOCK 34
CAPITOL VIEW PARK
MONTGOMERY COUNTY, MARYLAND

CAPITOL VIEW AVENUE
(KENSINGTON FOREST GLEN ROAD-PER DEED)

Building Line and/or Flood Zone Information is taken from Available Sources and is Subject to Interpretation of Originator.

<p>SURVEYOR'S CERTIFICATE I HEREBY CERTIFY THAT THE INFORMATION SHOWN HEREON HAS BEEN BASED UPON THE RESULTS OF A FIELD SURVEY PURSUANT TO THE DEED OR PLAT OF RECORD. PROPERTY MARKERS HAVE BEEN RECOVERED OR PLACED IN ACCORDANCE WITH THE INFORMATION SHOWN.</p> <p><i>Jeffrey A. Foster</i> 527 MARYLAND PROPERTY LINE SURVEYOR REG. NO.</p>	<p>REFERENCES</p> <p>PLAT BK. A PLAT NO. 9</p>	<p>SNIDER & ASSOCIATES SURVEYORS - ENGINEERS LAND PLANNING CONSULTANTS 2 Professional Drive, Suite 210 Gaithersburg, Maryland 20879 301/948-5100, Fax 301/948-1286</p>
	<p>LIBER 30631 FOLIO 761</p>	
		<p>SCALE: 1" = 50' DRAWN BY: E.M.G. JOB NO.: 01-3831B 06-1415</p>

Fothergill, Anne

From: Fothergill, Anne
Sent: Monday, April 02, 2007 9:43 AM
To: 'Curtis Rodney'
Cc: 'Martin, James'
Subject: 9723 Capitol View Avenue
Importance: High

The deadline for the April 25th Historic Preservation Commission (HPC) meeting is this Wednesday April 4th at DPS. Your HAWP application must include the following:

- 1) While the fence has been removed, any proposed fencing should be included in the Historic Area Work Permit application to DPS.
- 2) The proposed replacement front door needs to be proposed to the HPC. The wood 9-lite, 2-panel front door that Mr. Rodney has shown to staff is most likely approvable but it will need to be included in this application for HPC review and approval.
- 3) The shed should be removed (the HPC was clear at the meeting that it is not approvable) and any proposed shed would need to be included in the new HAWP submitted to DPS. For a proposed shed include all details including photos, specifications, dimensions, materials, and its location on a site plan.
- 4) A tree replacement plan must be submitted for HPC review and approval. The HPC told Mr. Rodney that the reforestation plan should include trees that would enhance the naturalistic character of the lot and the historic district. The tree replacement plan should include at a minimum thirteen trees with 3" caliper. The trees should be native species, deciduous, overstory trees to reforest the area where the 13 trees were cut down. Some of the trees that were removed were White Ash, Box Elder Maple, American Elm and Siberian Elm, and those same tree species could be planted.

Please email or call me with any questions.

Thanks,

Anne

Anne Fothergill
Historic Preservation Planner
Montgomery County Planning Department
Countywide Planning--Historic Preservation Section
1109 Spring Street, Suite 801
Silver Spring, MD 20910
301-563-3400 phone
301-563-3412 fax
<http://www.mc-mncppc.org/historic/>



Fothergill, Anne

Subject: FW: Civil Case number 4Z33760234 and 4Z337602345 9723 Capitol View Avenue

-----Original Message-----

From: Martin, James [mailto:James.Martin@montgomerycountymd.gov]
Sent: Friday, March 09, 2007 7:55 AM
To: Fothergill, Anne
Subject: RE: Civil Case number 4Z33760234 and 4Z337602345 9723 Capitol View Avenue

Anne:

Jim Savage is going to request the court to order a \$100.00 a week fine until compliance is obtained. The fine would be a lien against the property.

JIM MARTIN
INVESTIGATOR

From: Fothergill, Anne [mailto:Anne.Fothergill@mncppc-mc.org]
Sent: Thu 3/8/2007 10:41 AM
To: Savage, James; Martin, James; Scala-Demby, Susan
Subject: RE: Civil Case number 4Z33760234 and 4Z337602345 9723 Capitol View Avenue

Mr. Savage and Mr. Martin:

Thanks for your emails. In general, the HPC would support fines for a violation that has not been resolved in over a year. However, our understanding is that Mr. Rodney has claimed indigence. We would be interested to know how indigence is determined as he is a property owner (possibly of more than one property), business owner, and it appears he has paid his County property taxes. If fines are in fact an option, we would recommend that fines be imposed.

In terms of the HPC requirements, at the December 16, 2006 hearing it was clear what the HPC had required of Mr. Rodney as part of their denial of his retroactive Historic Area Work Permit (HAWP) application, and the requirements were listed in the written denial. Mr. Rodney stated he was aware of these requirements at the hearing and again at the December 27, 2006 follow-up meeting with staff. In fact, he has been aware of these requirements since HPC staff first met with him in January 2006.

The requirements of the HPC are:

- 1) The fencing must be removed and any proposed fencing would need a new Historic Area Work Permit submitted to DPS.
- 2) The front door must be replaced with an HPC-approved front door; the proposed front door will need a new HAWP submitted to DPS. The wood 9-lite, 2-panel front door that Mr. Rodney has shown to staff is most likely approvable but it will need a proposed HAWP submitted to DPS for HPC review and approval.
- 3) The shed must be removed and any proposed shed would need a new HAWP submitted to DPS.
- 4) A tree replacement plan must be submitted for HPC review and approval. The HPC told Mr. Rodney that the reforestation plan should include trees that would enhance the naturalistic character of the lot and the historic district. The tree replacement plan should include at a minimum thirteen trees with a 3" caliper. The trees should be native species, deciduous, overstory trees to reforest the area where the 13 trees were cut down. Some of the trees that were removed were White Ash, Box Elder Maple, American Elm and Siberian Elm, and Mr. Rodney has been advised that he could plant those same tree species.

If you need additional information in writing from the HPC or HPC staff, please let me know. I will plan to be at the March 27, 2007 court date.

Fothergill, Anne

From: Fothergill, Anne
Sent: Thursday, March 08, 2007 10:42 AM
To: 'Savage, James'; Martin, James; Scala-Demby, Susan
Subject: RE: Civil Case number 4Z33760234 and 4Z337602345 9723 Capitol View Avenue

Mr. Savage and Mr. Martin:

Thanks for your emails. In general, the HPC would support fines for a violation that has not been resolved in over a year. However, our understanding is that Mr. Rodney has claimed indigence. We would be interested to know how indigence is determined as he is a property owner (possibly of more than one property), business owner, and it appears he has paid his County property taxes. If fines are in fact an option, we would recommend that fines be imposed.

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Thanks,

Anne Fothergill
Historic Preservation Planner
Montgomery County Planning Department
Countywide Planning--Historic Preservation Section
1109 Spring Street, Suite 801
Silver Spring, MD 20910
301-563-3400 phone

3/8/2007

301-563-3412 fax

<http://www.mc-mncppc.org/historic/>

-----Original Message-----

From: Savage, James [mailto:James.Savage@montgomerycountymd.gov]

Sent: Wednesday, March 07, 2007 10:41 AM

To: Martin, James; Fothergill, Anne; Scala-Demby, Susan

Subject: RE: Civil Case number 4Z33760234 and 4Z337602345 9723 Capitol View Avenue

Please check with HPC and find out what they would require and let me know and we'll put that information and those requirements in the abatement order.

-----Original Message-----

From: Martin, James

Sent: Wednesday, March 07, 2007 9:29 AM

To: Fothergill, Anne; Scala-Demby, Susan; Savage, James

Subject: RE: Civil Case number 4Z33760234 and 4Z337602345 9723 Capitol View Avenue

Anne:

The next court date is March 27, 2007 at 12:30 p.m. at the District Court 8552 Second Avenue Room 402.

I have not had any contact with Mr. Curtis since our last court date.

I do not have any additional recommendation on how to resolve the cases.

I will request that a fine be re-imposed.

As far as the abatement order, I feel this is in the Historic preservation preview.

What action is your office prepared to recommend to the court that would remedy the violations? We can request that front door and trees be replaced by the county but in this scenario, your office would need to specify the trees and the door.

I would recommend that you contact the county attorney's office with recommendations.

Mr. Spicer may not be the attorney this time.

The county attorney will be assigned by Jim Savage the Division Chief of the enforcement section in the county attorney's office.

I would recommend that your office contact him about the legal action needed to assure compliance.

JIM MARTIN
INVESTIGATOR

From: Fothergill, Anne [mailto:Anne.Fothergill@mncppc-mc.org]

Sent: Tue 3/6/2007 12:45 PM

To: Martin, James; Spicer, Malcolm

Subject: RE: Civil Case number 4Z33760234 and 4Z337602345 9723 Capitol View Avenue

I just got a call from a neighbor asking about this property and the pending court case. Here is what I know:

3/8/2007

on December 19, 2006 Judge Mitchell ordered Mr. Rodney to get an approved Historic Area Work Permit within 90 days, which he agreed to. He came to my office on December 27th, but I have not heard from him since and he has not filed a HAWP application that we have seen. Ninety days will be up in about 2 weeks and there is no way he can get an approved HAWP in that time as the next HPC meeting is March 28th.

Do you know anything more about this case that I can relay to the neighbor? What happens if he does not meet the 90 days--is there another court date scheduled? Please let me know.

Thanks,
Anne

Anne Fothergill
Historic Preservation Planner
Montgomery County Planning Department
Countywide Planning--Historic Preservation Section
1109 Spring Street, Suite 801
Silver Spring, MD 20910
301-563-3400 phone
301-563-3412 fax
<http://www.mc-mncppc.org/historic/>



10526 St. Paul Street, Kensington, MD 20895
301-942-6700 Fax 301-942-6734

January 24, 2006

C & R Contracting, LLC
9723 Capital View Avenue
Silver Spring, MD 20910
Attn: Curtis

Dear Curtis:

Per your request, I have visited the property located at 9723 Capital View Avenue, Silver Spring, Maryland and inspected the remaining trees still standing at the property to determine the genus, species and sizes of the trees to be removed:

1. 20" Sycamore – the tree is in good health, and has a 95% live crown ratio. There are some soil compaction issues due to gravel driveways that exist within 15' of the base of this tree.
2. 41" White Oak – this tree is in moderate to good health with an 85% live crown ratio. As this tree has not been maintained in over 10 years the live crown ratio is consistent with a tree of its size. It is lacking a developed root flair at the base of the tree, and has significant soil compaction around 70% of the root zone of the tree due to an existing gravel driveway.
3. 31" Boxelder Maple – this tree is in good health, and has a 95% live crown ratio. The only issue of concern with this tree is that 70% of the crown leans over the house.
4. 23" Black Locust – this tree is in moderate health, and has an 80% live crown ratio. The tree is completely covered in ivy and euonymous vines making it difficult to determine if there are any structural faults within the main stem. The tree stands within 2 feet of the foundation of the house, which could potentially affect the structural soundness of the tree due to its limited root zone. There is also leaking the basement of the home in close proximity to this tree which would indicate foundation damage from the roots of the tree.
5. 7.5" Black Locust – this tree is in good health and has no issues of concern.
6. 5" Black Locust – this tree is in good health and has no issues of concern.



MD TREE EXPERT
LIC. NO. 715

C & R Contracting, LLC
January 24, 2006
Page 2

7. 31" Red Oak – this tree is in moderate health with a live crown ratio of 90%. The tree has an exposed wound at its base on the street side, and the crown is uneven.
8. 16" Tulip Poplar – this tree is in good health with a 95% live crown ratio and has no issues of concern.

If you have any questions or need any more information, please feel free to give us a call.

Sincerely,



Edward S. Mulheron
ISA Certified Arborist



10526 St. Paul Street, Kensington, MD 20895
301-942-6700 Fax 301-942-6734

January 24, 2006

C & R Contracting, LLC
9723 Capital View Avenue
Silver Spring, MD 20910
Attn: Curtis

Dear Curtis:

Per your request, I have visited the property located at 9723 Capital View Avenue, Silver Spring, Maryland and inspected the remaining stubs resulting from the removal of several trees. The following is a list of genus, species and sizes of the trees that were cut down:

6" Black Walnut
10" American Elm
5" American Elm
13" Black Locust
13" American Elm
7" White Ash
7" Black Locust
6" Black Locust
8" Black Locust
5" Boxelder Maple
7" Black Locust
13" White Ash
11" Siberian Elm
Double Leader Boxelder Maple (1 lead is 7" the other is 5")
Four Leader Mulberry (leads were 13", 9", 8" and 8")

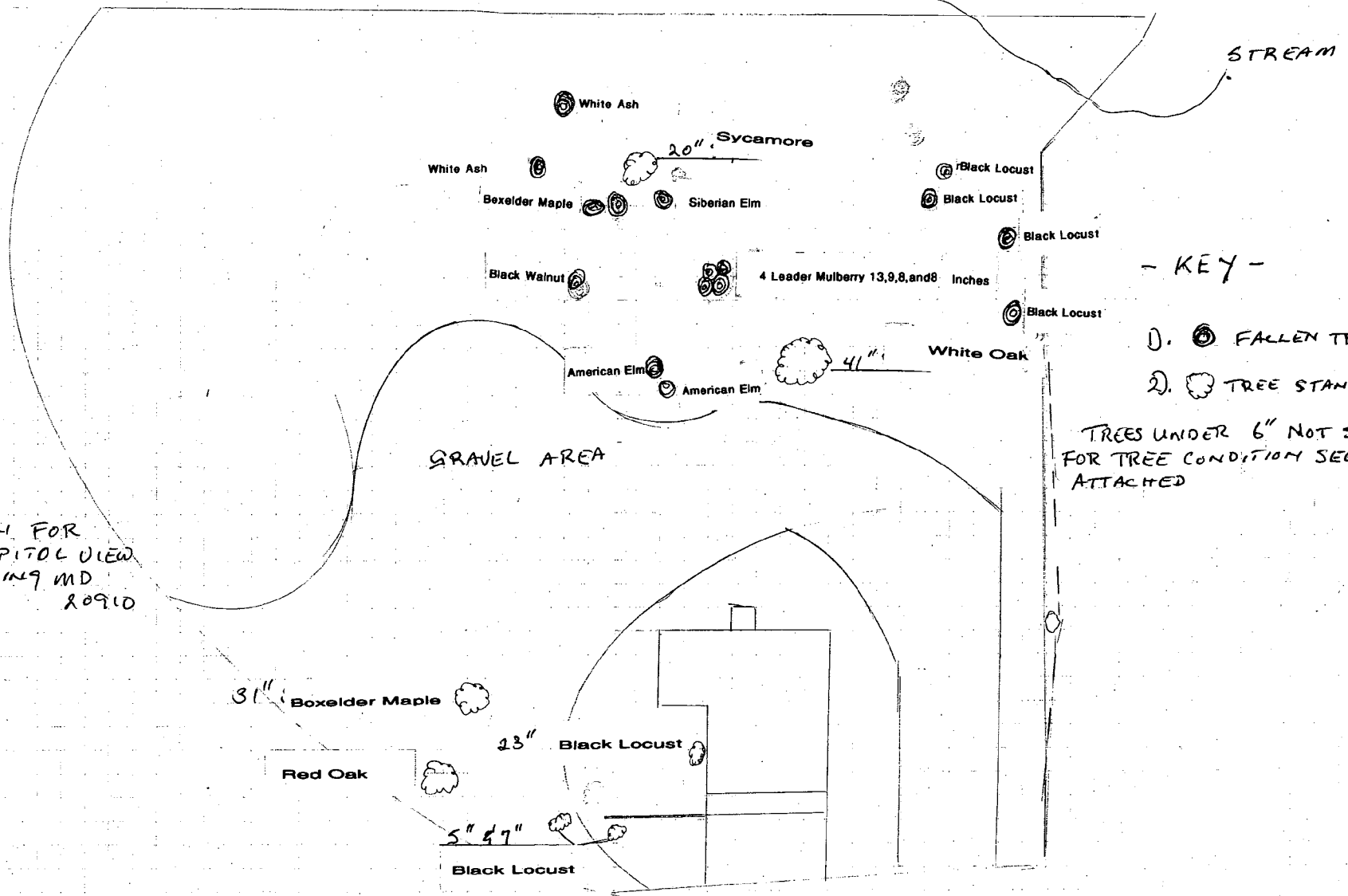
If you have any questions or need any more information, please feel free to give us a call.

Sincerely,

Edward S. Mulheron
ISA Certified Arborist



SITE PLAN FOR
 9723 CAPITOL VIEW
 SILVER SPRING MD
 20910



- KEY -

- 1. FALLEN TREE
- 2. TREE STANDING

TREES UNDER 6" NOT SHOWN
 FOR TREE CONDITION SEE
 ATTACHED





































Thompson, Abigail

From: Fothergill, Anne
Sent: Friday, August 04, 2006 10:14 AM
To: Thompson, Abigail
Subject: hawp app

can you look through and see which of these items he submitted and which are missing so I can tell the attorney? Thanks!

- 1) The completed HAWP application including adjacent and confronting neighbors' addresses.
- 2) A site plan showing where the trees were that were removed and where the remaining trees are. This is for trees 6" or greater in diameter.
- 3) A certified arborist's report stating the size, species and condition of the trees that were removed.
- 4) A certified arborist's report stating the size and species of the remaining trees.
- 5) A proposed tree replacement plan.
- 6) A photo and description of the replacement front door and the door that was removed.
- 7) A photo and description of the fencing that was installed and a site plan showing the location of the fencing. While this was not cited as a violation, it should have been as fencing installation requires a HAWP and HPC approval.

needs description
mostly
I think this is OK
✓
✓
No
needs
maybe?
needs

Anne Fothergill
Historic Preservation Planner
Montgomery County Department of Park and Planning
1109 Spring Street, Suite 801
Silver Spring, MD 20910
301-563-3400 phone
301-563-3412 fax
<http://www.mc-mncppc.org/historic/>

--
No virus found in this outgoing message.
Checked by AVG Free Edition.
Version: 7.1.394 / Virus Database: 268.10.5/407 - Release Date: 8/3/2006

missing info

Fothergill, Anne

From: Fothergill, Anne
Sent: Thursday, August 24, 2006 4:31 PM
To: 'curtisrodney@msn.com'
Cc: 'Martin, James'; 'Savage, James'
Subject: RE: HAWP application

Importance: High

Update: It has been brought to my attention that a shed has recently been installed on this property, which is another alteration made to this property without HPC approval. In addition to the other items mentioned below, we will need more information on the shed--dimensions, materials, photos of the shed, and a site plan showing the shed's location on the property. Again, this information must be submitted by August 30, 2006.

thanks,
Anne

-----Original Message-----

From: Fothergill, Anne
Sent: Thursday, August 24, 2006 2:09 PM
To: 'curtisrodney@msn.com'
Cc: 'Martin, James'; Savage, James
Subject: HAWP application

Mr. Rodney:

We have received your Historic Area Work Permit (HAWP) application requesting retroactive HPC approval for the tree removal, fencing installation, and front door replacement.

However, at this time this application is incomplete and cannot be processed. In order to have your case listed on the September 13th HPC agenda, we need the following information from you by August 30, 2006:

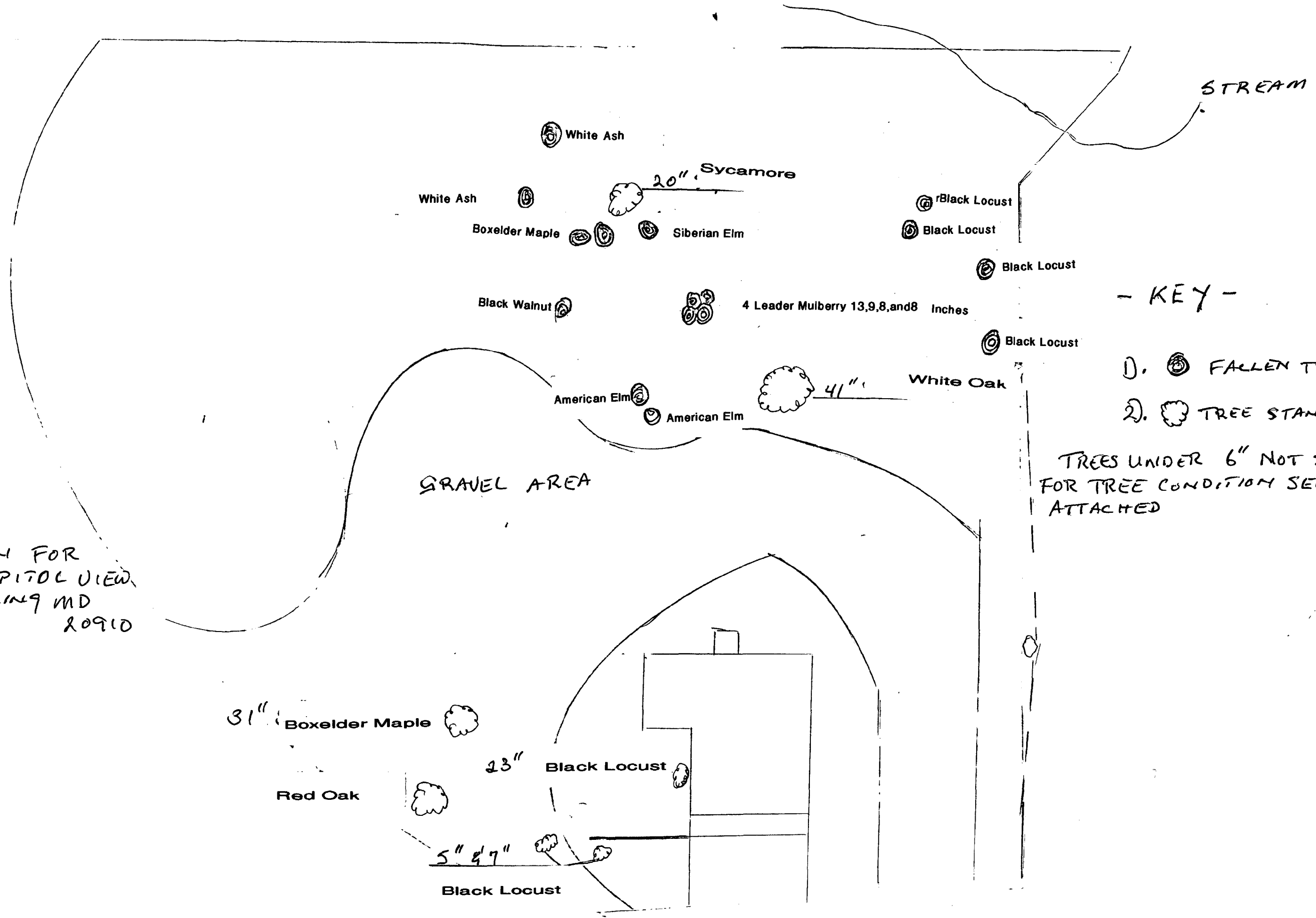
1. Proposed tree replacement plan--show on your site plan where you propose to plant trees and what species and size. and include a written description of your tree replacement plan.
2. A photo and description of the front door that was removed as well as a photo and description of the replacement front door.
3. A photo and description of the fencing that was installed without an approved HAWP permit.

The written descriptions can be sent by email to me and the photos can be mailed to the address below. I am copying Mr. Martin, the DPS inspector, and Mr. Savage, the County Attorney, on this email so they are aware of the status of this pending violation case.

Thanks,
Anne

Anne Fothergill
Historic Preservation Planner
Montgomery County Department of Park and Planning
1109 Spring Street, Suite 801
Silver Spring, MD 20910
301-563-3400 phone
301-563-3412 fax
<http://www.mc-mncppc.org/historic/>

SITE PLAN FOR
 9723 CAPITOL VIEW
 SILVER SPRING MD
 20910



- KEY -
 1. (circled 1) FALLEN TREE
 2. (circled 2) TREE STANDING
 TREES UNDER 6" NOT SHOWN
 FOR TREE CONDITION SEE
 ATTACHED



RETURN TO: DEPARTMENT OF PERMITTING SERVICES
255 ROCKVILLE PIKE, 2nd FLOOR, ROCKVILLE, MD 20850
240/777-6370

DPS - #8

A

431282

HISTORIC PRESERVATION COMMISSION
301/563-3400

APPLICATION FOR HISTORIC AREA WORK PERMIT

CONFRONTING ADDRESS 9703
ADJACENT 9719

Contact Person: CURTIS RODNEY

Daytime Phone No.: 240-508-4195

Tax Account No.: 00995343

Name of Property Owner: CURTIS RODNEY Daytime Phone No.: 240-508-4195

Address: 9723 CAPITAL VIEW AV. SILVER SPRING MD 20910
Street Number City State Zip Code

Contractor: SELF Phone No.: 240-508-4195

Contractor Registration No.: _____

Agent for Owner: N/A Daytime Phone No.: N/A

LOCATION OF BUILDING/PREMISE

House Number: 9723 CAPITAL VIEW Street CAPITAL VIEW

Town/City: SILVER SPRING Nearest Cross Street: FOREST GLEN

Lot: 3-6 Block: 36 Subdivision: CAPITAL VIEW PARK

Liber: 30631 Folio: 761 Parcel: _____

PART ONE: TYPE OF PERMIT ACTION AND USE

1A. CHECK ALL APPLICABLE:

CHECK ALL APPLICABLE:

- Construct Extend Alter/Renovate A/C Slab Room Addition Porch Deck Shed
- Move Install Wreck/Raze Solar Fireplace Woodburning Stove Single Family
- Revision Repair Revocable Fence/Wall (complete Section 4) Other: TREE REMOVAL

1B. Construction cost estimate: \$ ~~3700~~ 599 + TAX

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

PART TWO: COMPLETE FOR NEW CONSTRUCTION AND EXTEND/ADDITIONS

2A. Type of sewage disposal: 01 WSSC 02 Septic 03 Other: _____

2B. Type of water supply: 01 WSSC 02 Well 03 Other: _____

PART THREE: COMPLETE ONLY FOR FENCE/RETAINING WALL

3A. Height 4 feet 6 inches

3B. Indicate whether the fence or retaining wall is to be constructed on one of the following locations:

- On party line/property line Entirely on land of owner On public right of way/easement

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

[Signature]
Signature of owner or authorized agent

8/3/06
Date

Approved: _____ For Chairperson, Historic Preservation Commission

Disapproved: _____ Signature: _____ Date: _____

Application/Permit No.: _____ Date Filed: 8/24/06 Date Issued: _____



10526 St. Paul Street, Kensington, MD 20895
301-942-6700 Fax 301-942-6734

January 24, 2006

C. & R Contracting, LLC
9723 Capital View Avenue
Silver Spring, MD 20910
Attn: Curtis

Dear Curtis:

Per your request, I have visited the property located at 9723 Capital View Avenue, Silver Spring, Maryland and inspected the remaining stubs resulting from the removal of several trees. The following is a list of genus, species and sizes of the trees that were cut down:

6" Black Walnut
10" American Elm
5" American Elm
13" Black Locust
13" American Elm
7" White Ash
7" Black Locust
6" Black Locust
8" Black Locust
5" Boxelder Maple
7" Black Locust
13" White Ash
11" Siberian Elm
Double Leader Boxelder Maple (1 lead is 7" the other is 5")
Four Leader Mulberry (leads were 13", 9", 8" and 8")

If you have any questions or need any more information, please feel free to give us a call.

Sincerely,

Edward S. Mulheron
ISA Certified Arborist





10526 St. Paul Street, Kensington, MD 20895
301-942-6700 Fax 301-942-6734

January 24, 2006

C & R Contracting, LLC
9723 Capital View Avenue
Silver Spring, MD 20910
Attn: Curtis

Dear Curtis:

Per your request, I have visited the property located at 9723 Capital View Avenue, Silver Spring, Maryland and inspected the remaining trees still standing at the property to determine the genus, species and sizes of the trees to be removed:

1. 20" Sycamore – the tree is in good health, and has a 95% live crown ratio. There are some soil compaction issues due to gravel driveways that exist within 15' of the base of this tree.
2. 41" White Oak – this tree is in moderate to good health with an 85% live crown ratio. As this tree has not been maintained in over 10 years the live crown ratio is consistent with a tree of its size. It is lacking a developed root flair at the base of the tree, and has significant soil compaction around 70% of the root zone of the tree due to an existing gravel driveway.
3. 31" Boxelder Maple – this tree is in good health, and has a 95% live crown ratio. The only issue of concern with this tree is that 70% of the crown leans over the house.
4. 23" Black Locust – this tree is in moderate health, and has an 80% live crown ratio. The tree is completely covered in ivy and euonymous vines making it difficult to determine if there are any structural faults within the main stem. The tree stands within 2 feet of the foundation of the house, which could potentially affect the structural soundness of the tree due to its limited root zone. There is also leaking the basement of the home in close proximity to this tree which would indicate foundation damage from the roots of the tree.
5. 7.5" Black Locust – this tree is in good health and has no issues of concern.
6. 5" Black Locust – this tree is in good health and has no issues of concern.



C & R Contracting, LLC
January 24, 2006
Page 2

7. 31" Red Oak – this tree is in moderate health with a live crown ratio of 90%. The tree has an exposed wound at its base on the street side, and the crown is uneven.
8. 16" Tulip Poplar – this tree is in good health with a 95% live crown ratio and has no issues of concern.

If you have any questions or need any more information, please feel free to give us a call.

Sincerely,



Edward S. Mulheron
ISA Certified Arborist



HISTORIC PRESERVATION COMMISSION


Douglas M. Duncan
County Executive

Julia O'Malley
Chairperson

Date: October 26, 2006

MEMORANDUM

TO: Curtis Rodney
9723 Capitol View Avenue, Silver Spring

FROM: Anne Fothergill, Senior Planner 
Historic Preservation Section
Maryland-National Capital Park & Planning Commission

SUBJECT: Historic Area Work Permit Application #431282

Your Historic Area Work Permit application for tree removal, front door replacement, and fencing and shed installation was **Denied** by the Historic Preservation Commission at its October 25, 2006 meeting.

You will receive a written Decision and Opinion on the Commission within 15 days. You can apply for a Historic Area Work Permit with a new proposal at any time.

Please contact staff to discuss any proposed changes to your house or property. Thanks.





HISTORIC PRESERVATION COMMISSION


Douglas M. Duncan
County Executive

Julia O'Malley
Chairperson

Date: October 26, 2006

MEMORANDUM

TO: Robert Hubbard, Director
Department of Permitting Services

FROM: Anne Fothergill, Senior Planner 
Historic Preservation Section
Maryland-National Capital Park & Planning Commission

SUBJECT: Historic Area Work Permit #431282, tree removal, front door replacement, fencing and shed installation

The Montgomery County Historic Preservation Commission (HPC) has reviewed the attached application for a retroactive Historic Area Work Permit (HAWP). This application was **Denied** at the October 25, 2006 meeting.

Applicant: Curtis Rodney

Address: 9723 Capitol View Avenue, Silver Spring





RETURN TO: DEPARTMENT OF PERMITTING SERVICES
255 ROCKVILLE PIKE, 2nd FLOOR, ROCKVILLE, MD 20850
240/777-6310

DPS - #8

HISTORIC PRESERVATION COMMISSION
301/563-3400

APPLICATION FOR
HISTORIC AREA WORK PERMIT

CONFRONTING ADDRESS 9703
ADJACENT 9717

Contact Person: CURTIS RODNEY
Daytime Phone No.: 240-508-4195

Tax Account No.: 00995343

Name of Property Owner: CURTIS RODNEY Daytime Phone No.: 240-508-4195

Address: 9723 CAPITAL VIEW AV. SILVER SPRING MD 20910
Street Number City State Zip Code

Contractor: SELF Phone No.: 240-508-4195

Contractor Registration No.: _____

Agent for Owner: N/A Daytime Phone No.: N/A

LOCATION OF BUILDING/PREMISE

House Number: 9723 CAPITAL VIEW Street: CAPITAL VIEW

Town/City: SILVER SPRING Nearest Cross Street: FOREST GLENN

Lot: 3-6 Block: 36 Subdivision: CAPITAL VIEW PARK

Liber: 50631 Folio: 761 Parcel: _____

PART ONE: TYPE OF PERMIT ACTION AND USE

1A. CHECK ALL APPLICABLE:

- Construct
- Extend
- Alter/Renovate
- Move
- Install
- Wreck/Raze
- Revision
- Repair
- Revocable

CHECK ALL APPLICABLE:

- A/C
- Slab
- Room Addition
- Porch
- Deck
- Shed
- Solar
- Fireplace
- Woodburning Stove
- Single Family
- Fence/Wall (complete Section 4)
- Other: TREE REMOVAL

1B. Construction cost estimate: \$ ~~3700~~ 599 + TAX

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

PART TWO: COMPLETE FOR NEW CONSTRUCTION AND EXTEND/ADDITIONS

2A. Type of sewage disposal: 01 WSSC 02 Septic 03 Other: _____

2B. Type of water supply: 01 WSSC 02 Well 03 Other: _____

PART THREE: COMPLETE ONLY FOR FENCE/RETAINING WALL

3A. Height 4 feet 6 inches

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

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

[Signature] Signature of owner or authorized agent
8/3/06 Date

Approved: _____ For Chairperson, Historic Preservation Commission
Disapproved: Signature: Julia O'Malley Date: 10-26-06
Application/Permit No.: _____ Date Filed: _____ Date Issued: _____

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

7002 0860 0000 0980 2002 3148 5891

OFFICIAL USE

Postage	\$
Certified Fee	2.40
Return Receipt Fee (Endorsement Required)	1.85
Restricted Delivery Fee (Endorsement Required)	3.70
Total Postage & Fees	\$

sent Nov. 9
2006
Postmark
Here

Sent To
Mr. Curtis Rodney
Street, Apt. No.
or PO Box No. **9723 Capital View Ave**
City, State, ZIP+4
Silver Spring, MD 20910

Certified Mail Provides:

- A mailing receipt
- A unique identifier for your mailpiece
- A signature upon delivery
- A record of delivery kept by the Postal Service for two years

Important Reminders:

- Certified Mail may **ONLY** be combined with First-Class Mail or Priority Mail.
- Certified Mail is not available for any class of international mail.
- **NO INSURANCE COVERAGE IS PROVIDED** with Certified Mail. For valuables, please consider Insured or Registered Mail.
- For an additional fee, a Return Receipt may be requested to provide proof of delivery. To obtain Return Receipt service, please complete and attach a Return Receipt (PS Form 3811) to the article and add applicable postage to cover the fee. Endorse mailpiece "*Return Receipt Requested*". To receive a fee waiver for a duplicate return receipt, a USPS postmark on your Certified Mail receipt is required.
- For an additional fee, delivery may be restricted to the addressee or addressee's authorized agent. Advise the clerk or mark the mailpiece with the endorsement "*Restricted Delivery*".
- If a postmark on the Certified Mail receipt is desired, please present the article at the post office for postmarking. If a postmark on the Certified Mail receipt is not needed, detach and affix label with postage and mail.

IMPORTANT: Save this receipt and present it when making an inquiry.

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

MR. Curtis Rodney
9723 Capitol View Ave
Silver Spring, MD 20910

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
X Addressee

B. Received by (*Printed Name*) C. Date of Delivery

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (*Extra Fee*) Yes

2. Article Number
(*Transfer from service label*)

7002 0860 0000 3148 5891

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

Anne Fothergill
Historic Preservation Commission
1109 Spring St, Ste 801
Silver Spring, MD 20910

Track & Confirm

Search Results

Label/Receipt Number: **7002 0860 0000 3148 5891**
Status: **Notice Left**

We attempted to deliver your item at 1:33 PM on November 10, 2006 in SILVER SPRING, MD 20910 and a notice was left. It can be redelivered or picked up at the Post Office. If the item is unclaimed, it will be returned to the sender. Information, if available, is updated every evening. Please check again later.

Track & Confirm

Enter Label/Receipt Number.

[Additional Details >](#)

[Return to USPS.com Home >](#)

11-14-06

Avi called + told Mr. Rodney that we sent him the denial by certified mail.

HISTORIC PRESERVATION COMMISSION

of

MONTGOMERY COUNTY

**8787 Georgia Avenue
Silver Spring, Maryland 20910**

301-563-3400

Case No. 31/07-06K Received August 24, 2006

Public Appearance September 13, 2006 and October 25, 2006

Before the Montgomery County Historic Preservation Commission

Application of Curtis Rodney
9723 Capitol View Avenue, Silver Spring

DECISION AND OPINION OF THE COMMISSION

Decision of the Commission: DENY the Applicant's application for retroactive approval of alterations to the building and property.

Commission Motion: At the October 25, 2006 meeting of the Historic Preservation Commission (HPC), Commissioner Alderson presented a motion to deny the retroactive application to remove 13 trees, replace the front door, install fencing, and install a shed. Commissioner Duffy seconded the motion. Commissioners Fuller, Rotenstein, Alderson, Duffy, Anahtar and Fleming voted in favor of the motion. Commissioners O'Malley, Jester, and Burstyn were absent. The motion passed 6-0.

BACKGROUND AND CHRONOLOGY:

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

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 a historic resource, unless reduced by the District Council or 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.

Commission: The historic preservation commission of Montgomery County, Maryland.

Director: The director of the department of permitting services of Montgomery County, Maryland or his designee.

Exterior features: The architectural style, design and general arrangement of the exterior of an historic resource, including the color, nature and texture of building materials, and the type and style of all windows, doors, light fixtures, signs or other similar items found on or related to the exterior of an historic resource.

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.

On December 27 2005, Historic Preservation staff were notified by residents of work taking place at 9723 Capitol View Avenue. A Department of Permitting Services (DPS) inspector was sent to investigate and found that the property owner, Mr. Curtis Rodney, had cut down 13 trees 6" dbh or larger without an approved Historic Area Work Permit (HAWP). DPS issued a stop work order. After a staff site visit it was determined that 6' tall privacy fencing also had been installed without HPC approval.

In January 2006, two Historic Preservation staff members met with Mr. Rodney and discussed what alterations to the house and the property require HPC approval and how to apply for a HAWP.

In March 2006, Mr. Rodney replaced the front door without a Historic Area Work Permit. A DPS inspector issued a notice of violation.

On May 16, 2006, the tree removal and door replacement violations cases were heard in District Court. At the hearing, Judge Stephen Johnson, County Attorney Jim Savage, DPS inspector Jim Martin, Mr. Rodney and HPC staff discussed the details of these violations. Judge Johnson ordered that Mr. Rodney must submit all required paperwork for a HAWP within 45 days of that date and then must comply with HPC requirements in order to have an approved HAWP within 30 days after the HPC hearing.

In July or August 2006, Mr. Rodney installed a shed on the property without an approved HAWP.

On August 24, 2006, Curtis Rodney submitted a retroactive application for a HAWP to remove trees, replace the front door, install fencing, and install a shed.

The tree removal, front door replacement, and fencing and shed installation were completed prior to August 24, 2006 and before being reviewed by the Commission.

9723 Capitol View Avenue is designated a Contributing Resource in the Capitol View Park Historic District, which was added to the Master Plan For Historic Preservation in Montgomery County in 1982. The house at 9723 Capitol View Avenue was built c. 1935.

EVIDENCE IN THE RECORD:

The Historic Preservation office received the Historic Area Work Permit (HAWP) application on August 24, 2006. A written staff recommendation on this case was prepared and sent to the Commission on September 6, 2006. At the September 13, 2006 HPC meeting, staff person Anne Fothergill showed digital photos of the site and presented an oral report with staff recommendations. Mr. Rodney did not attend the September 13, 2006 meeting.

Staff recommended that the HAWP application be continued to allow the applicant more time to provide the required information for a complete application.

The HPC concurred with staff and continued the application with four conditions. Specifically, the HPC required that the applicant:

1. Submit a proposed tree replacement plan to staff by October 4, 2006. The plan must be completed by a certified arborist and include species, size, and location of trees to be planted.
2. Submit specifications for a proposed replacement front door including material, design, and photo to staff by October 4, 2006 (door to match original door as close as possible).
3. Submit proposed shed details including design, materials, location, and photos to staff by October 4, 2006.
4. Remove the fencing at front right of the house by October 4, 2006 and submit photos showing area where fence was removed to staff by October 4, 2006.

The case was continued to October 25, 2006. At the October 25, 2006 HPC meeting, staff person Anne Fothergill showed digital photos of the site and presented an oral report with a staff recommendation. Staff recommended that the HAWP application be denied as it is not consistent with Chapter 24A or the *Secretary of the Interior's Standards for Rehabilitation* ("Standards").

Staff's specific concerns that constituted reasons for the denial recommendation were:

1. The *Standards* state, "the historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided."
2. The *Standards* state, "deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence."
3. The *Standards* state, "new additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with

the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.”

4. The tree removal adversely impacts the environmental setting of this property and the overall wooded, naturalistic character of the historic district.
5. Fiberglass is not an appropriate replacement material for an original wood front door on a Contributing Resource and the installation of the door lessens the integrity of the historic resource.
6. Tall privacy fencing installed adjacent to the front plane of the historic house detracts from the open sight lines of the historic district; the fencing is incompatible with the historic house in its design and location.
7. Plastic is not an appropriate material for a shed in the historic district and the shed location is too prominent and visible for the historic resource and district.

The applicant, Curtis Rodney, did not attend the September 13, 2006 meeting but was present at the October 25, 2006 meeting when the motion to deny the application was made and approved.

Curtis Rodney stated that he was told by Montgomery County that he did not need a permit for the shed. He also said he could move the shed back on the lot. Mr. Rodney stated that he reduced the fencing from the original six feet tall to less than three feet tall and was told by Montgomery County that he did not need a fence permit if it was under three feet tall. He stated he replaced the front door because the door was not secure and his security was compromised. Mr. Rodney stated he has planted some Cypress pines in front of the house and that he intends to plant more trees but he does not have a tree replacement plan.

The Local Advisory Panel submitted a written statement concurring with staff's recommendation for denial and stating: "it is our duty to request redress from HPC regarding these violations and for the County to be enabled to respond faster when violations are observed." They expressed concern "that this would set a precedent for other residents of Historic Districts."

Commissioner Alderson concurred with staff that "none of these alterations are consistent with the guidelines for the historic district, nor would any of them be approved. The concern is that if you ask the general question of Montgomery County about the County guidelines that was not the same as seeking out what would be permitted in the historic district. And you would expect that you would have known that your house was located in a historic district."

Mr. Rodney stated that he is now fully aware of what it means to be in a historic district.

Commissioner Alderson made the motion to deny the application and Commissioner Duffy seconded it. Commissioners Fuller, Rotenstein, Alderson, Duffy, Anahtar and Fleming voted in favor of the motion and the vote for denial was unanimous.

Commissioner Fleming and Anahtar discussed with Mr. Rodney how he can rectify the existing conditions and they stated that he can submit a new HAWP application.

Commissioner Fuller informed Mr. Rodney that he “should be removing and replacing the front door back to its original condition, removing the fence and removing the shed because none of those items are permitted items at the present time.” Commissioner Fuller also stated that Mr. Rodney must submit a tree replacement plan.

Commissioner Alderson stated that “the tree replacement plan is not simply a numeric trade of existing trees for new trees... You need to make a plan that simulates the general character that existed before the trees were removed, which is a naturalistic character, a wooded character consistent with the historic district.”

Commissioner Rotenstein recommended that Mr. Rodney “work very closely with staff to ensure that the steps you take are in compliance and that you are in a better position to come back before this Commission with a Historic Area Work Permit that will get you to the point that you need to be.”

CRITERIA FOR APPROVAL AND FINDINGS OF THE COMMISSION:

The criteria, which the Commission must evaluate in determining whether to deny a Historic Area Work Permit application, are found in Section 24A-8(a) of the Montgomery County Code, 1984, as amended.

Section 24A-8(a) provides that:

The Commission shall instruct the director to deny a permit if it finds, based on the evidence and information presented to or before the commission that the alteration for which the permit is sought would be inappropriate, inconsistent with or detrimental to the preservation enhancement or ultimate protection of the historic site or historic resource within an historic district, and to the purposes of this chapter.

Section 24A-6(a) provides that:

Required An historic area work permit for work on public or private property containing an historic resource must be issued pursuant to the provisions of this chapter before:

(1) Constructing, reconstructing, moving, relocating, demolishing or in any manner modifying, changing or altering the exterior features of any historic site or any historic resource located within any historic district.

(2) Performing any grading, excavating, construction or substantially modifying, changing or altering the environmental setting of a historic site or a historic resource located within a historic district.

Section 24A-6(c)2 provides that:

Any person who shall undertake any work as stated in subsection (a) of this section without first obtaining a historic area work permit shall be subject to the penalties established in section 24A-11.

Section 24A-11 provides that:

Any person who violates a provision of this chapter, or fails to comply with any of the requirements thereof, or disobeys or disregards a decision of the Commission, or fails to abide by the conditions of a permit, shall be subject to punishment for a class A violation as set forth in section 1-19 of chapter 1 of the County Code. Each day a violation continues to exist shall constitute a separate offense. (Ord. No. 9-4, 1; 1983 L.M.C., ch. 22 28; Ord. No. 11-59.)

In analyzing whether the criteria for issuance of a Historic Area Work Permit have been met, the Commission also evaluates the evidence in the record in light of the guidelines for the historic district that are included as part of the Amendment to the Approved and Adopted Master Plan for Historic Preservation in Montgomery County Maryland – Capitol View Park Historic District.

The Commission also evaluates the evidence in light of generally accepted principles of historic preservation, including the *Secretary of the Interior's Standards for Rehabilitation*, adopted in the HPC Executive Regulations in November 1997. In particular, *Standards* #1, #2, #6 and #9 are applicable in this case.

- Standard 1: A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.
- Standard 2: The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.
- Standard 6: Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.”
- Standard 9: New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

Based on all the information presented in this case, the Commission finds that:

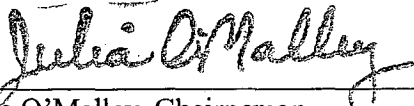
1. 9723 Capitol View Avenue is a Contributing Resource in the Capitol View Park Historic District.
2. The proposal for tree removal, front door replacement, and shed and fencing installation is not in keeping with the *Secretary of the Interior's Standards for Rehabilitation* and constitutes changes to the Contributing Resource and its environmental setting that adversely affect the historic resource and the historic district.

CONCLUSION:

The Commission was guided in its decision by Chapter 24A, by the Amendment to the Approved and Adopted Master Plan for Historic Preservation in Montgomery County Maryland – Capitol View Park Historic District, and by the *Secretary of the Interior's Standards for Rehabilitation*.

Based on the evidence in the record and the Commission's findings, as required by Section 24A-8(a) of the Montgomery County Code, 1984, as amended, the Commission must **deny** the application of Curtis Rodney for a retroactive Historic Area Work Permit (HAWP) for alterations to the building and property at 9723 Capitol View Avenue in the Capitol View Park Historic District. The changes for which this application is made are in violation of Section 24A-11.

If any party is aggrieved by the decision of the Commission, pursuant to Section 24A-70(h) of the Montgomery County Code, an appeal may be filed within thirty (30) days with the Board of Appeals, which will review the Commission's decision de novo. The Board of Appeals has full and exclusive authority to hear and decide all appeals taken from the decision of the Commission. The Board of Appeals has the authority to affirm, modify, or reverse the order or decision of the Commission.



Julia O'Malley, Chairperson
Montgomery County
Historic Preservation Commission

November 8, 2006
Date

THE MONTGOMERY COUNTY HISTORIC PRESERVATION COMMISSION

-----X

HISTORIC AREA WORK PERMIT - : HPC Case No. 35/15-05Y
3 Grafton Street :

-----X

HISTORIC AREA WORK PERMIT - : HPC Case No. 13/10-06C
23341 Frederick Road :

-----X

HISTORIC AREA WORK PERMIT - : HPC Case No. 35/13-06EE
19 Grafton Street :

-----X

HISTORIC AREA WORK PERMIT - : HPC Case No. 37/03-06CCC
35 Columbia Avenue :

-----X

HISTORIC AREA WORK PERMIT - : HPC Case No. 23/65-06B
200 Market Street :

-----X

HISTORIC AREA WORK PERMIT - : HPC Case No. 37/07-06O
3109 Lee Street :

-----X

HISTORIC AREA WORK PERMIT - : HPC Case No. 37/03-06DDD
6921 Laurel Avenue :

-----X

HISTORIC AREA WORK PERMIT - : HPC Case No. 37/03-06EEE
7400 Maple Avenue :

-----X

HISTORIC AREA WORK PERMIT - : HPC Case No. 30/13-06H
10912 Montrose Avenue :

-----X

HISTORIC AREA WORK PERMIT - : HPC Case No. 35/13/06DD
23 West Irving Street :

-----X

HISTORIC AREA WORK PERMIT - : HPC Case No. 31/07-06K
9723 Capitol View Avenue :

-----X

PRELIMINARY CONSULTATION - :
37 West Lenox Street :

-----X

A meeting in the above-entitled matter was held on October 25, 2006, commencing at
7:32 p.m., in the MRO Auditorium at 8787 Georgia Avenue, Silver Spring, Maryland 20910,
before:

ACTING COMMISSION CHAIRMAN

Jeff Fuller

COMMISSION MEMBERS

Timothy Duffy
Warren Fleming
Caroline Alderson
Nuray Anahtar
David Rotenstein

ALSO PRESENT:

Susan Sodaberg, Staff
Tania Tully, Staff
Michele Oaks, Staff
Gwen Wright, Staff
Anne Fothergill, Staff

APPEARANCES

STATEMENT OF:

PAGE

Rachel Newhouse	4
Jawad Kader	22
Susan Shyker	23
Paula Gibson	41
Duane Gibson	41
Paul Lochner	42
John Finnerman	45
Emily White	49
Andrew Strongham	52
Curtis Rodney	78
Todd Brown	88
Steven Muse	92
Patrick Carter	95

MR. FULLER: Next case this evening is Case K at 9723 Capitol View Avenue. Do we have a staff report?

MS. FOTHERGILL: We do. As you'll recall, we had a staff report the last meeting, September 13th meeting, sorry, not the last meeting. And the case was continued because the applicant was not present. So there was a staff report and some comments from the Commissioners. And those are in your packet, circles 25 through 30.

This is a retroactive case for 9723 Capitol View Avenue which is a contributing resource in the Capitol View Park Historic District. And the applicant has made some alterations to the property and the house without the approval from the HPC and historic area work permit. And violations have been issued and so now we are looking at a retroactive approval request for background. This is the house at 9723 Capitol View. And in December of last year, the applicant down 13 trees and neighbors did call it in and the Department of Permitting Services issued a stop work order. At that time it was determined that fencing also had been installed which you can see in this slide.

At that time staff met with the applicant and Discussed what the requirements were in the historic district were and how to apply for a retroactive historic area work permit for the alterations that had been made. In March 2006 the applicant replaced a front door without a historic area work permit and at that time the Department of Permitting Services issued an additional notice of violation. In may of this year these violations were heard in District Court and at that hearing the judge required that the applicant submit the necessary paperwork to the Historic Preservation Commission and do whatever was needed to receive approval within 30 days of that.

In July or August of this year the applicant installed a shed on the property without an approved historic area work permit and then as I mentioned September 13th the Commission reviewed this case. And at that time the Commission voted to extend the case to give the applicant more time to complete the application. The application as submitted is not complete and the Commission required a proposed tree replacement plan that would be prepared by a certified arborist, a proposed replacement front door that would be more appropriate compatible with his house and suggestions were made by staff at that time.

Information about the shed including design, materials, location on the site plan and photos that have never been submitted and to remove the fencing on the front right of the house. So, the, I'm going to show you on the site with a retroactive application what staff tends to do when they look at what's in front of them and say would staff recommend approval if this was a proposal, not the changes have already been made, but that this came in as a proposal. Would it meet the guidelines and be approvable and that kind of approval from the Commission.

So there is the fencing that was installed. You'll see in another slide that since the September 13th Commission hearing that the applicant has cut the fence down. So you can see it there. The fencing remains but it is lower. The, this is the back of the house and then you will see the 13 trees, six inches further that were removed without approved historic area work permit. And the applicant has stated that no proposed tree replacement plan was submitted because he doesn't not intend to plant replacement trees. So that's why nothing was submitted.

It is as you can see in circle 6 a large lot. You can see and so there is a lot of room for tree replacement. This is the shed that was recently installed and again you don't have permission on the shed, materials or any sort of application submission. The staff has recommended denial of this application based on generally the Commission would not allow removal of 13 substantial size trees without a compelling reason, without a proposed tree replacement plan. Oh, I didn't point out the front door, I apologize. You can see in your packet in circle 12 or circle 11 is the original front door and circle 12 is the replacement front door which the applicant has stated is a fiber glass fabric door. And that if the applicant came to Commission and requested approval, approval of original wood door and replaced it with that door that would not be approved. And the staff feels that the judge and the Commission have been very clear about what the applicant needed to do to comply with the requirements of the Commission and that those requirements have not been met. And the applicant is here tonight and will answer any of your questions.

MR. FULLER: Are there questions for staff? Would the applicant please come forward. Good evening. If you would state your name for the record and any comments regarding the staff presentation.

MR. RODNEY: Good evening. My name is Curtis Rodney.

MR. FULLER: Do you have any comments regarding the staff report?

MR. RODNEY: Yeah. The shed is, can I move backwards. The shed meets, falls within the County regulations for not requiring a permit. That is it is 8 by 8. It does not meet the 120 square feet requirement for permit. That I was informed by the Montgomery County so I did not seek the permit for that. It is a box purchased, bought in a three box container and erected in one day. It's plastic. It was erected in an emergency manner for saving some stuff that I had on the ground previously.

With regard to the fence, I was told the fence did not exceed 3 feet in height. It also did not require a permit. Relative to the door the security in my home was compromised. Therefore I replaced a door that was broken and my house was not secure so I had to reestablish that security. Learning after that that I had replaced the door I had to receive a permit seemed kind of redundant in my mind to seek a permit for something that was already up.

The trees I was also informed by your staff that anything 6 inches or less did not require approval. The trees that were in fact removed that were above 6 inches were replaced by Cypress pines and those pines were planted to the front of the house.

MR. FULLER: Is that it? Questions of the applicant? Is there any discussion?

MS. ALDERSON: Only to concur with the staff recommendation that none of these alterations are consistent with the guidelines for the historic district. Nor would any of them be approved. The concern is that if you ask the general question of Montgomery County about County guidelines that was not the same as seeking us about what would be permitted in the historic district. And you would expect that you would have known that your house was located in a historic district.

MR. RODNEY: I was made aware of that. I was not completely, totally knowledgeable of what that meant. I am however, now fully aware of that. But, that is as it is.

MR. FULLER: Do we have a motion?

MS. ALDERSON: I'd like to make a motion that based on the staff recommendations and our history of reviewing decisions that this application be denied.

MR. DUFFY: I second.

MR. FULLER: Any further discussion?

MR. FLEMING: I have a question. Now that you're aware of the rules and regulations of the Historic Preservation, do you see that you can maybe go back and rectify these conditions?

MR. RODNEY: You say rectify, I don't understand what you mean.

MR. FLEMING: The cutting of the trees and the fence and the door that was not inside the regulation. I understand why you did it. We understand why you did it, but not knowing the rules of the historic preservation you can't do it. So now that these are enlightened to you, do you see that you can go back and fix it to where it could meet the rules so we can get this approved for you?

MR. RODNEY: Yeah, I didn't, I mean at this time, it was suggested that I change the door. Okay. I thought before I did anything I would come here and at least get this out of the way before I did anything else. There's nothing which, except for the trees that were cut down, I mean I can, I don't know that I would put them back in the same place because there's such a bunch of stumps there that haven't been removed. Okay. But I can, I do intend to plant trees on the property, just haven't decided exactly where at this point. The door can be done. The fence I think has been corrected. The shed I can provide a site plan showing where that is.

There's nothing that can't be done. I just needed to get an understanding where we were as far as this was concerned. I want to get this out of the way.

MR. FULLER: Can we go ahead and finish the vote? All in favor? Motion on the table is for denial. All in favor please raise your right hand? All opposed? Those who abstain?

MS. ANAHTAR: I have a question. I think we were still asking him whether he agrees to some of the, what do you call it --

MR. FULLER: Well --

MS. ANAHTAR: -- changes like replacing --

MR. DUFFY: Well, we're voting on the application before us.

MS. FOTHERGILL: The applicant can submit a new historic area work permit application with --

MR. DUFFY: Precisely. That's what we would very much hope to see in the future.

MS. ANAHTAR: So we cannot continue with this one?

MR. DUFFY: No, because what we have --

MS. ANAHTAR: That's what I'm trying to --

MR. DUFFY: What we have in this is a retroactive of things that we simply cannot approve. And what the applicant needs to do is come up with remediation to the problems in a new application that would be compliant with our regulations approvable working with staff, I think. So I think there are two different, I think that's a future application, a future vote.

MR. FULLER: And I believe what has just transpired is we had a motion on the table. It was seconded and it was passed by a vote of 6. And I'm not sure what, okay, it was unanimously passed.

MS. ALDERSON: For the record, I was thinking I could offer is that all of the use that you had expressed can be met through alternative design that would be more sympathetic with the historic district.

MR. FULLER: But I think we should also correct the misunderstanding that a fence that meets the County guidelines for a fence does not mean that it can be approved or is approved by this Commission. It still does need to have approval of this Commission before you can have a fence there. So, the present time none of the items that are listed here are approved. So, the only thing you can do and should be doing is removing and replacing the front door back to its original condition, removing the fence and removing the shed. Because none of those are permitted items at the present time. You cannot simply replace trees on your own accord. You need to submit a new plan to identify where the trees are coming and submit that to us in a retroactive HAWP. If you want to leave them where they are, well you have to show them where you would like to have them placed.

So, at the present time nothing that is there is in compliance with this Commission and needs to be removed.

MR. RODNEY: Say that again. I'm sorry, I missed it. You said nothing, the trees that I planted need to be removed. Is that what you said?

MR. FULLER: That's correct.

MR. RODNEY: There's no guide relative to planting trees as far as I understand. That I got from your staff.

MR. FULLER: You need to submit a plan to us for approval before you plant those trees.

MR. RODNEY: Staff didn't know that. They didn't tell me that.

MS. WRIGHT: I think the point being that we don't review folks planting new trees and shrubs on their property. So if he's planted new trees and shrubs, that's all well and good. But they don't count towards the mitigation for the trees that were removed. We're not saying take out the trees you planted, but they aren't going to count towards mitigation.

MS. ALDERSON: To clarify that, the tree replacement plan is not simply a numeric trade of existing trees for new trees. It works as the character, the replacement of the trees as they replace to the character of the historic district. So, you can't simply line with the same number of trees that were once within your property. You need to make a plan that simulates the general character that existed before the trees were removed. Which is a naturalistic character, a wooded character consistent with this historic district.

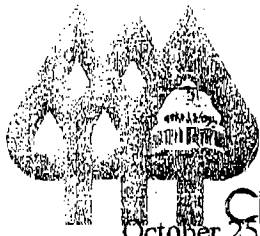
MR. ROTENSTEIN: In light of the comments and recommendations from my fellow Commissioners, I'd like to also add that before you incur any additional costs and make additional changes that you think might comply with what we've said here and what's in the staff report, that you work very closely with staff to ensure that the steps you take are in compliance and that you are in a better position to come back before this Commission with a historic area work permit that will get you to the point that you need to be.

MS. FOTHERGILL: For the record, the applicant will receive a written denial within 15 days of this hearing.

MR. FULLER: Thank you.

MR. RODNEY: Thank you. Good night.

IV - K



**CAPITOL VIEW PARK
CITIZEN'S ASSOCIATION**

October 25, 2006

SILVER SPRING, MARYLAND 20910

Historic Preservation Commission
Re: Case number 31/07/06K continued
9723 Capitol View Avenue

The Executive Committee and the Historic Review Committee of the Capitol View Park Citizens Association strongly support the HPC Staff recommendation of DENIAL of this Retroactive HAWP

To quote from the Civic Association's letter included in this HAWP "We feel it is our duty as a Community to request redress from HPC regarding these violations and for the County to be enabled to respond faster when violations are observed. We are highly concerned that this owner will continue to flaunt County regulations and that this would set a precedent for other residents of Historic Districts."

Sincerely

Betsy Tebow, President
Capitol View Park Citizens Association
Carol Ireland and Duncan Tebow, Co-chairpersons
Capitol View Park Historic Review Committee

HISTORIC PRESERVATION COMMISSION STAFF REPORT

Address:	9723 Capitol View Avenue, Silver Spring	Meeting Date:	10/25/2006
Resource:	Contributing Resource Capitol View Park Historic District	Report Date:	10/18/2006
Applicant:	Curtis Rodney	Public Notice:	10/11/2006
Review:	HAWP	Tax Credit:	None
Case Number:	31/07-06K CONTINUED	Staff:	Anne Fothergill

PROPOSAL: RETROACTIVE Tree removal, front door replacement, fencing and shed installation

RECOMMENDATION: Denial

PROPERTY DESCRIPTION

SIGNIFICANCE: Contributing Resource within the Capitol View Park Historic District
STYLE: Cottage
DATE: c. 1917-1935

PROPOSAL

The applicant is requesting retroactive HPC approval for:

1. The removal of 11 trees greater than 6" dbh plus one double leader (7" and 5") boxelder maple and one four leader (13", 9", 8", and 8") mulberry (listing of trees that have been removed in Circle 8 ; photos of site after tree removal in Circles 14-20)
2. The replacement of the front door (photos of new door in Circle 12 and previous door in Circle 11)
3. The installation of approximately 10 feet of approximately 6' tall* privacy fencing located to the right of the front porch of the house
*at time of staff report, fencing reduced to approximately 2' tall (photos in Circle 13)
4. The installation of a shed located behind the house (photos in Circle 21)

BACKGROUND

December 2005: The applicant cut down 13 trees 6" dbh or larger without an approved Historic Area Work Permit (HAWP). DPS issued a stop work order. After a site visit it was determined that fencing also had been installed without HPC approval.

January 2006: Two staff members met with the applicant and discussed what alterations to the house and the property require HPC approval and how to apply for a HAWP.

March 2006: The applicant replaced the front door without a Historic Area Work Permit. DPS issued a notice of violation.

May 16, 2006: The tree removal and door replacement violations cases were heard in District Court. At that hearing, Judge Stephen Johnson, County Attorney Jim Savage, DPS inspector Jim Martin, the

property owner (applicant) and HPC staff discussed the details of these violations. Judge Johnson ordered that the applicant must submit all required paperwork for a HAWP within 45 days of that date and then must comply with HPC requirements in order to have an approved HAWP within 30 days after the HPC hearing.

July/August 2006: The applicant installed a shed on the property without an approved HAWP.

September 13, 2006: The Historic Preservation Commission reviewed this case. The applicant did not appear at the meeting. The meeting transcript is in Circles 25-30.

The HPC voted to continue the case to the October 25, 2006 meeting to allow the applicant more time to complete the application requirements. Specifically, the HPC required that the applicant:

1. Submit a proposed tree replacement plan to staff by October 4, 2006. The plan must be completed by a certified arborist and include species, size, and location of trees to be planted.
2. Submit specifications for a proposed replacement front door including material, design, and photo to staff by October 4, 2006 (door to match original door as close as possible).
3. Submit proposed shed details including design, materials, location, and photos to staff by October 4, 2006.
4. Remove the fencing at front right of the house by October 4, 2006 and submit photos showing area where fence was removed to staff by October 4, 2006.

The applicant and the County Attorney were informed by mail of the outcome of the meeting and staff met with the applicant and discussed the four requirements. At the time of the staff report, the applicant had not complied with the above conditions.

APPLICABLE GUIDELINES

When reviewing alterations and new construction within the Capitol View Park Historic District several documents are to be utilized as guidelines to assist the Commission in developing their decision. These documents include *Montgomery County Code Chapter 24A (Chapter 24A)* and the *Secretary of the Interior's Standards for Rehabilitation (Standards)*. The pertinent information in these documents is outlined below.

Montgomery County Code; Chapter 24A

A HAWP should be denied if the Commission finds, based on the evidence and information presented to or before the commission that the alteration for which the permit is sought would be inappropriate, inconsistent with or detrimental to the preservation, enhancement or ultimate protection of the historic site or historic resource within an historic district, and to the purposes of this chapter.

Secretary of the Interior's Standards for Rehabilitation:

#1 A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.

#2 The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.

#6 Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.

#9 New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

STAFF DISCUSSION

It is very unfortunate that this application has to be reviewed retroactively and that these changes have already been made to the house and its environmental setting. When staff reviews retroactive applications the work is evaluated as though it has not yet been completed and staff asks the question - Would staff have recommended approval of these proposed changes? In this case, the answer is no, the HPC would most likely not have approved this had it come in as a proposal because it is an incomplete application and because the alterations are not allowable under Montgomery County Code Chapter 24A and the Secretary of the Interior's *Standards for Rehabilitation*.

While staff is recommending denial of this application, unfortunately a denial will not help the situation since the house and property will remain the same and any corrective measures will be delayed. Ideally appropriate measures would be taken immediately to attempt to return the building and the property to the way it was before the violations were made. But staff, the HPC, and Judge Johnson have been very generous in allowing extensions and continuances so that the applicant could submit an application with a proposal that would be approvable. At the time of the staff report, no supplemental written information had been submitted since the original application, only verbal comments (noted under Front Door and Tree Removal) and the change in the fence (noted under Fencing).

After reviewing the insufficient information that has been submitted, staff is recommending denial. The incompatible and inappropriate changes that have already been made to the house and the property are listed below with a detailed discussion of the denial recommendations. As Commissioner Alderson stated on the record at the September 13, 2006 meeting (Circle 28), "The fence as is, not approvable. The door as is, not approvable, and the shed as is, is not approvable. So alternates need to be submitted."

FRONT DOOR: Had the applicant come to the HPC with a damaged front door and a request to replace it, the HPC might have allowed that if the applicant proposed a compatible wood replacement door. No replacement door information has been submitted and the current door is fiberglass (as stated by the applicant) and not appropriate for this house. In the previous staff report, staff had recommended that the applicant replace the new front door with one that is as close to the original as possible and offered to assist in the selection of the door. It appears from photos that the door was a 4-lite/3-horizontal panel wood door. Staff did a cursory internet search and found doors similar to this including ones by TruStile, which were included in the previous staff report (Circles 22 + 23).

FENCING: Since the last staff report and the applicant's meeting with staff, the applicant has cut the fence down to approximately two foot tall (see photo in Circle 13). It is unclear if this is the final plan for the fencing or if the applicant plans to remove the entire fence, which would be the staff recommendation. If the applicant would like to submit a different fencing proposal with a site plan and a fence design, staff and the HPC will consider that at a later date. Because the fencing was not part of the

violation notices/citations and the subsequent court hearings, this alteration can be discussed separately when there is a proposed plan to review.

SHED: While the HPC may allow the installation of a small shed on this property, the applicant has not submitted any details on this shed for staff and the HPC to review. Staff informed the applicant of what information was required (a site plan showing the location of the shed and detailed information on the shed including dimensions and materials) but the applicant has not provided any information. Therefore the shed installation should be denied.

TREE REMOVAL: The HPC would generally not allow the removal of 13 trees greater than 6" dbh from a property without a compelling reason and the HPC would require a detailed tree replacement proposal for their consideration as part of the review. Staff required the applicant to submit a tree replacement plan but did not receive one. The applicant stated that he does not intend to plant any replacement trees and therefore does not have a proposed landscape plan to submit. Since there is no proposed tree replacement and the lot was cleared of many trees without approval, staff is recommending denial.

Many members of the Capitol View Park community are concerned about this case and have been in contact with staff frequently over the past nine months to express their concerns and dismay. A letter from the civic association is in Circle 24. At the court hearing, the judge made it clear that the owner (applicant) was to cooperate with HPC staff and the HPC, and that he was to ultimately receive retroactive approval from the HPC. If this application is denied by the HPC, the applicant will return to court within 60 days to resolve the outstanding violations and citations.

STAFF RECOMMENDATION

Staff recommends that the Commission **deny** the retroactive HAWP application as being consistent with Chapter 24A-8(a):

A HAWP should be denied if the Commission finds, based on the evidence and information presented to or before the Commission that the alteration for which the permit is sought would be inappropriate, inconsistent with or detrimental to the preservation, enhancement or ultimate protection of the historic site or historic resource within an historic district, and to the purposes of this chapter.

and inconsistent with the *Secretary of the Interior's Standards for Rehabilitation #1, #2, #6 and #9.*



RETURN TO: DEPARTMENT OF PERMITTING SERVICES
255 ROCKVILLE PIKE, 2nd FLOOR, ROCKVILLE, MD 20850
240/777-6370

DPS - #3

A

431282

HISTORIC PRESERVATION COMMISSION
301/563-3400

APPLICATION FOR HISTORIC AREA WORK PERMIT

CONFRONTING ADDRESS 9703
ADJACENT 9717

Contact Person: CURTIS RODNEY
Daytime Phone No.: 240-508-4195

Tax Account No.: 00995343

Name of Property Owner: CURTIS RODNEY Daytime Phone No.: 240-508-4195

Address: 9723 CAPITAL VIEW AV. SILVER SPRING MD 20910
Street Number City State Zip Code

Contractor: SELF Phone No.: 240-508-4195

Contractor Registration No.: _____

Agent for Owner: N/A Daytime Phone No.: N/A

LOCATION OF BUILDING/PREMISE

House Number: 9723 CAPITAL VIEW Street CAPITAL VIEW
Town/City: SILVER SPRING Nearest Cross Street: FOREST GLEN
Lot: 3-6 Block: 36 Subdivision: CAPITAL VIEW PARK
Liber: 30631 Folio: 761 Parcel: _____

PART ONE: TYPE OF PERMIT ACTION AND USE

1A. CHECK ALL APPLICABLE:

- Construct
- Extend
- Alter/Renovate
- Move
- Install
- Wreck/Raze
- Revision
- Repair
- Revocable

CHECK ALL APPLICABLE:

- A/C
- Slab
- Room Addition
- Porch
- Deck
- Shed
- Solar
- Fireplace
- Woodburning Stove
- Single Family
- Fence/Wall (complete Section 4)
- Other: TREE REMOVAL

1B. Construction cost estimate: \$ 37,599 + TAX

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

PART TWO: COMPLETE FOR NEW CONSTRUCTION AND EXTEND/ADDITIONS

2A. Type of sewage disposal: 01 WSSC 02 Septic 03 Other: _____

2B. Type of water supply: 01 WSSC 02 Well 03 Other: _____

PART THREE: COMPLETE ONLY FOR FENCE/RETAINING WALL

3A. Height 4 feet 6 inches

3B. Indicate whether the fence or retaining wall is to be constructed on one of the following locations:

- On party line/property line
- Entirely on land of owner
- On public right of way/easement

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

[Signature]
Signature of owner or authorized agent

8/3/06
Date

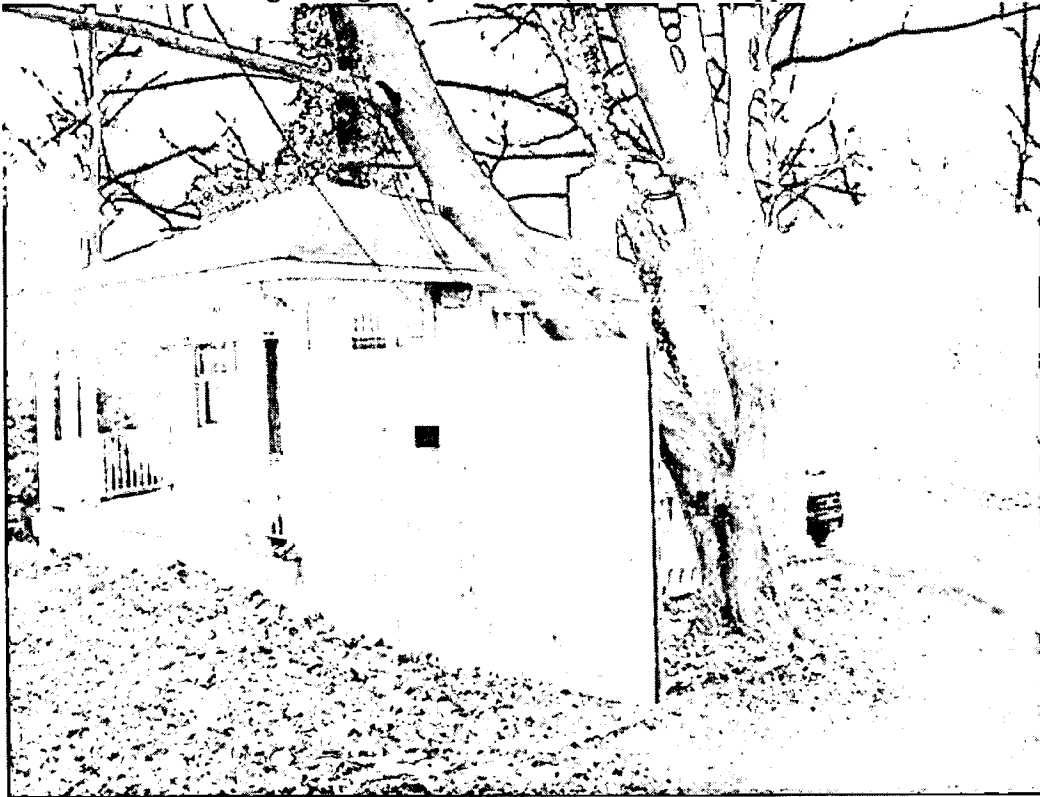
Approved: _____ For Chairperson, Historic Preservation Commission

Disapproved: _____ Signature: _____ Date: _____

Application/Permit No.: _____ Date Filed: 8/24/06 Date Issued: _____

5

Fencing as originally installed (without HPC approval)



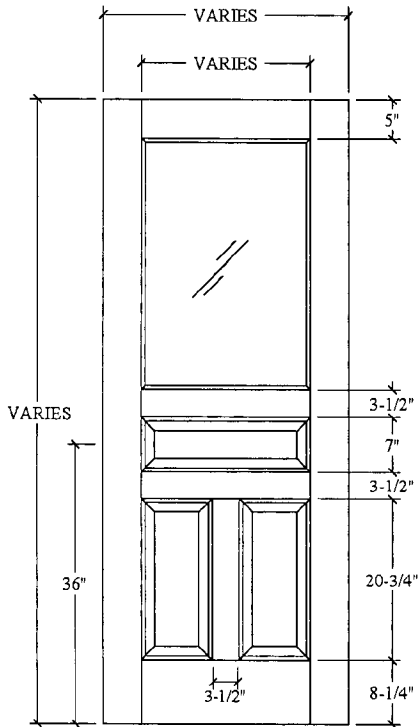
October 2006



Stile Widths: : 4" on doors 30" & under; 5" on doors over 30"
 (face dimensions)

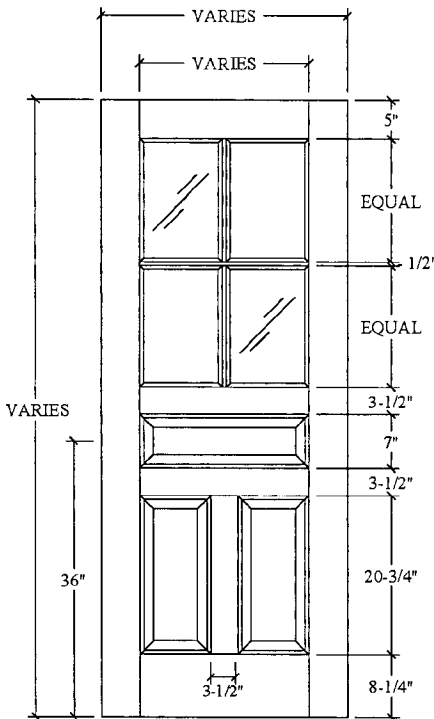
PL300

PL300 OG/SS: 20" - 42"
 Widths: BM/LP: 24" - 42"
 BBM: 25" - 42"



PL304

PL304 OG/SS: 20" - 42"
 Widths: ARM: 24" - 42"



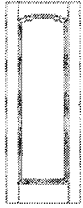
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 2003



*Dimensions are face dimensions for OG sticking.
 *Custom drawings available upon request.
 *Drawings are not to scale.

TruStile's TS Series offers over 100 architecturally-correct panel door designs, from one panel to nine panel options. Each door is built with true stile and rail construction — they are not routed or stamped. This results in crisp clean lines and quality craftsmanship. All TS Series doors are available in paint-grade MDF, twelve different wood species, or in any of our unique TruClad® metal finishes. Find your preferred style from the selections below, which can then be completed in the material and panel profile that you desire.



1 PANEL DOORS



2 PANEL DOORS



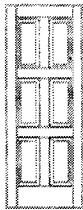
3 PANEL DOORS



4 PANEL DOORS



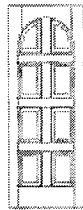
5 PANEL DOORS



6 PANEL DOORS



7 PANEL DOORS



8 PANEL DOORS



9 PANEL DOORS



**CAPITOL VIEW PARK
CITIZENS ASSOCIATION**

Historic Preservation Commission
Re 9723 Capitol View Avenue
HPC Case # 31/07/06K

SILVER SPRING, MARYLAND 20910

Dear Commissioners,

The Capitol View Park Citizens Association and the Historic Review Committee of the Citizens Association and numerous citizens of this Community are highly concerned with the violations of the regulations, set forth by HPC to protect Historic Districts, at the property at 9723 Capitol View Avenue. The Civic Association has endeavored to communicate the rules governing a structure in an historic district to the owner of 9723 Capitol view Avenue. We left information to politely convey that Capitol View Park's Historic District status necessitates filing Historic Area Work Permits (HAWP) for tree cutting and other changes to the exterior structure including building of fences.

The current owner has neglected to file HAWPs and violated the following HPC rules:

1. at least 18 living trees were cut down in violation of restrictions on cutting trees without permission.
2. A privacy fence was constructed, without an Historic Area Work Permit, and was attached to the front of the historic property, and
3. An exterior door which changes the historic character of the house was installed.

Additionally the community has made numerous calls beginning in December 2005 to the county about trash, storage containers and business trucks being parked on the open space next to the house in a R-60 (residential) zone. A new violation just in the past few weeks was the construction at the rear of the property of a shed.

We feel it is our duty as a community to request redress from HPC regarding these violations and for the County to be enabled to respond faster when violations are observed. We are highly concerned that this owner will continue to flaunt county regulations and that this would set a precedence for other residents of Historic districts.

We appeal to you the Board to require this owner to do the following:

1. to remove the privacy fence.
2. replace trees and provide a landscaping plan and
3. replace the door, which is not in the style of the existing house.

Sincerely

Betsy Tebow, President
Capitol View Park citizens Association
Carol Ireland and Duncan Tebow, Co-chairpersons
Capitol View Park Historic Review Committee

MONTGOMERY COUNTY HISTORIC PRESERVATION COMMISSION

HISTORIC AREA WORK PERMIT - : HPC Case No. 37/03-06TT

7411 Baltimore Avenue :

HISTORIC AREA WORK PERMIT - : HPC Case No. 31/07-06K

9723 Capitol View Avenue :

A meeting in the above-entitled matter was held on September 13, 2006, commencing at 7:44 p.m., in the MRO Auditorium at 8787 Georgia Avenue, Silver Spring, Maryland 20910, before:

COMMISSION CHAIRMAN

Julia O'Malley

COMMISSION MEMBERS

Timothy Duffy

Warren Fleming

Jeff Fuller

Caroline Alderson

Tom Jester

Lee Burstyn

ALSO PRESENT:

Gwen Wright

Anne Fothergill

Tania Tully

Michele Oaks

APPEARANCES

STATEMENT OF:

Virginia Watkins

PAGE

6

25

MS. FOTHERGILL: The applicant is not here. Do you want me to present the case, do the visuals and go through the violations or continue to the October 25th meeting?

MR. BURSTYN: I recommend that we hear it and provide comments to the record, but withhold a vote until the applicant decides whether they're going to appear and has a chance to respond to provide any other information.

MS. FOTHERGILL: Would you like to also see the PowerPoint? The photos are in your packet, so I can do the visuals if you'd like.

MS. O'MALLEY: You want to run through this quickly?

MS. FOTHERGILL: Yes, please. While the slides are warming up, this is a retroactive case that goes back to December 2005. It's alterations made to a contributing resource in the Capitol View Park Historic District. The address is 9723 Capitol View Avenue. And for background, in December of 2005 neighbors informed our office that the applicant was cutting down trees and an inspector was sent, a stop work order was issued, and the applicant had cut down 13 trees that are 6 inches or larger without getting an approved historic area work permit.

So since that time, the case has been ongoing. The staff has met with the applicant to discuss what the applicant needed to do to get HPC approval. Then in March 2006 the applicant replaced the front door without a historic area work permit, and again, DPS issued a notice of violation. In May of 2006, the violation case was heard in District Court and at that hearing, the violations were discussed and the judge ordered that the applicant must submit all required paperwork to the HPC for historic work permit within 45 days of that date. That was in May.

And that the applicant must comply with whatever the HPC required for approval within 30 days. And then at some point in July or August, the applicant installed a shed on the property without applying for HPC approval. So these are -- this is an aerial and that large gravel area is, I guess, has sort of over time been used as a turnaround for cars, but the applicant parks a lot of trucks. And there's been issues with neighbors over the use of this property and zoning issues, and that's also being reviewed by the county.

This is the front of the house. And that is the fencing that was installed. A violation has not been issued for that, but that is part of this retroactive application that the fencing was installed without a historic area work permit. That is no longer the front door. The front door has been replaced, and there is a photo of the front door in your packet, the replacement front door.

This is just going around so you can see the fencing that was installed, and that's the back of the fencing. And this looking down to the back of the lot.

MR. BURSTYN: Is that the door?

MS. FOTHERGILL: Pardon?

MR. BURSTYN: Can you go back?

MS. FOTHERGILL: The photos here show the door before it was replaced. Which slide did you want?

MS. O'MALLEY: Back of the fence.

MS. FOTHERGILL: Oh, the back of the fence. That is not the door that was replaced, but is possibly another door. I mean it is another door. This is the back of the house. And then this is looking towards Capitol View Avenue from the far part of the lot, and those are some of the vehicles that are parked.

And I'll show you the trees that were cut down. The applicant did get an arborist to write a list of what trees were removed, and that is in circle 9 of your staff report. And so these are the trees that remain. Then this is the shed that was recently installed that we have no information on that, the applicant hasn't submitted any information.

Staff had asked the applicant to submit a tree replacement plan so that we could have some reforestation on the site to remedy the situation. And there's been no tree replacement plan submitted, and staff asked for information about replacement front door and nothing was submitted. And staff also informed the applicant that most likely that fencing would not have been approved if an application had been submitted.

The applicant was not responsive in the requirements that staff had made to complete a historic area work permit application. In this staff report, we outlined deadlines that would allow the applicant to submit the required information in advance of the October 25, 2006 meeting, including removing the fencing before that time, and then submitting the supplemental materials, and then having the final review at the October 25, 2006 meeting, with the October 4th deadline for all the information that was not submitted at this time. Since the applicant is not here, that concludes my staff report.

MS. O'MALLEY: Are there questions for staff?

MR. FULLER: I think it's obvious, but it appears that the application that was submitted was submitted August 3rd?

MS. FOTHERGILL: It was submitted to our office and not to the Department of Permitting Service as is required, and that was in the in between time for deadlines. So this was the first meeting it could be on, but yes.

MR. FULLER: No, I guess I'm getting more towards, if the judge ordered that he make a submission within 45 days, he missed the submission date, right?

MS. FOTHERGILL: Oh, yes.

MR. FULLER: And besides, it appears that the submission really doesn't meet normal standards. It does have anything describing the condition of the shed. It doesn't have anything describing the removal of the door. So the application as submitted is really an incomplete application?

MS. FOTHERGILL: Yes.

MR. JESTER: Even if the application were complete, the fact that it was submitted to HPC, or to the staff and not to DPS, would you accept that and put it on the agenda?

MS. FOTHERGILL: We were able to work with DPS in this situation and get a permit number and have it go through the process.

MR. JESTER: Okay.

MS. FOTHERGILL: So it is in the system.

MS. O'MALLEY: So once he passed the 45 days, was there a fine?

MS. FOTHERGILL: No. The county attorney was informed that the days had passed and that was when reminder calls were made to the applicant, and that's when this came in.

MR. FULLER: I guess, you know to me, I don't even think that we should be taking action, because as far as I'm concerned, it's not a complete application, and almost to the contrary, I almost think that we ought to be sending the applicant and potentially the judge a letter just noting that number one, the application as received was well past, or what was received was received well past the 45 days conditioned, and what was received was not an application that we could even take action on.

MS. ALDERSON: I would, however, like to add that since we are discussing this for the record, some just very basic items. The fence as is, is not approvable. The door as is, is not approvable, and the shed as is, is not approvable. So alternates need to be submitted. And I don't know if you want to hear from the others, but I would expect there would be consensus on that.

And that if the owner expresses a concern about having glazing on the upper portion of the door, that can be rectified by installing or screwing Lexian to the rear side, and there are plenty of sources available. So, you know, there are solutions to problems that might be raised.

MS. WRIGHT: So are we hearing that the Commission is essentially saying that, because this is an incomplete application you don't wish to continue it, deny it or approve it. You wish us to send it back to the applicant and to the judge in question and say, this application was submitted after the time the judge ordered it to be submitted, and it was submitted as an incomplete application?

MR. FULLER: And procedurally, I don't really care whether it's a continuance or it's simply that we're not taking action on it because it's incomplete. I'm good either way.

MR. JESTER: Do we have to continue it or do we have to -- are we able to not act on it?

MS. WRIGHT; I think if you continue it, I think you really would have a choice. You could continue it and say, try to bring everything in and make it a complete application and then we'll talk

about it. Or you have the choice of simply saying, you know, it was incomplete and we aren't going to act on it at all. We're going to just send it right back to you and say it's incomplete.

MS. ALDERSON: I'd prefer, to me the advantage of a continuance is that we encourage the applicant to make the application complete as quickly as possible, and that it is an opportunity for exchange, because I think since we have had an initial look, I would not want to mislead the owner into thinking that what has been submitted will be accepted.

MS. O'MALLEY: I think that would be a good way to follow it. I would also agree that a continuance would mean that we would be able to carry on a dialogue with the applicant.

MR. FULLER: We could try it this way.

MS. O'MALLEY: We have another, let's -- Mr. Burstyn.

MR. BURSTYN: Yeah, I just had a couple of points. Probably instead of sending it to the judge, we probably should work through the county attorney's office number one.

MS. FOTHERGILL: The county attorney, just so you know, was aware that it was an incomplete application and recommended that the HPC take action.

MR. BURSTYN: Number two, when we send this information to the applicant, I think we should also include a transcript of these proceedings so he can be aware of what went on here this evening, and number three, just a question for staff, you mentioned that the house is currently on the market.

MS. WRIGHT: That is our understanding. There's not a sign out, but that is our understanding.

MR. BURSTYN: And I was just going to ask a theoretical question whether when you have an application that's kind of in limbo here, would the owner be able to convey clean title to a new owner and then the new owner would have the responsibility of taking up the application and retrofitting or whatever is required?

MS. WRIGHT: I think the concern is that it could be sold and the new owner -- it would be hard to enforce the -- it would be harder to enforce the law with the new owner. There is nothing that would prevent the current owner from selling the property. There's no deed restriction on it or something that would come up at the time of the closing that would say this property has a cloud on it, and you can't sell it.

And our concern would be that once it's sold, we would have hard time to enforce.

MR. BURSTYN: The court judgment is to the individual not the property.

MS. WRIGHT: Correct.

MR. JESTER: And I think the reality is that the application before us, the one we're able to act on is the one, is Mr. Rodney's application and he's the owner of the property. I don't think we have any way to --

MR. FULLER: But we could potentially caution Mr. Rodney that if he concealed the fact that the current conditions are not -- that he might be violating his sort of responsibility to inform of, you know, if you're selling something and you're aware of a defect, you're concealing a latent defect.

MR. JESTER: But that's Mr. Rodney's obligation, not ours.

MR. FULLER: And I'm just saying, couldn't we throw that in our thing so that he's at least, he can't then say that he sold it and he didn't know that he should have been letting them know about it?

MS. ALDERSON: Yeah, which would be an issue between them, but --

MS. WRIGHT: I think if this is -- you know, I have to say, I think if this is continued to, I think we were suggesting October 25th, it's certainly probably worth giving it one more month or so of an effort to work out an agreement with the current owner that he will comply with some of these conditions. But if that does not happen, I honestly don't think that we have any alternative but to turn this back to the court.

MS. O'MALLEY: I would agree.

MR. JESTER: I agree.

MR. DUFFY: I agree with the logic of the continuance to that point. I'd also like to add to the specifics that Commissioner Alderson wanted to have recorded in the record that the tree replacement plan should be produced by a certified arborist.

MS. O'MALLEY: Do we have a motion?

MR. FULLER: I make a motion that we continue Case 31/07-06K with a note that the applicant should return with a complete application and all required documentation.

MS. WRIGHT: And it would be continued to October 25th. That was what the staff recommendation was aiming for.

MR. FULLER: To continue until October 25th.

MS. O'MALLEY: Is there a second?

MR. JESTER: Second.

MS. O'MALLEY: All in favor, raise your right hand.

VOTE.

MS. O'MALLEY: Unanimous. So that was approved.

MR. FULLER: Not approved, continued.

MS. O'MALLEY: It was continued, not approved. The continuance was approved.



HISTORIC PRESERVATION COMMISSION

Douglas M. Duncan
County Executive


Julia O'Malley
Chairperson

Date: September 14, 2006

MEMORANDUM

TO: Curtis Rodney
9723 Capitol View Avenue, Silver Spring

CC: James Martin, Department of Permitting Services
James Savage, Montgomery County Attorney's Office

FROM: Anne Fothergill, Senior Planner 
Historic Preservation Section
Maryland-National Capital Park & Planning Commission

SUBJECT: Historic Area Work Permit Application #431282

Your Historic Area Work Permit application for tree removal, fencing, front door replacement and shed installation was **Continued** by the Historic Preservation Commission (HPC) at its September 13, 2006 meeting to the October 25, 2006 HPC meeting. The HPC required the following four conditions:

1. The applicant will submit a proposed tree replacement plan to staff by October 4, 2006. The plan must be completed by a certified arborist and include species, size, and location of trees to be planted.
2. The applicant will submit specifications for a proposed replacement front door including material, design, and photo to staff by October 4, 2006 (door to match original door as close as possible).
3. The applicant will submit proposed shed details including design, materials, location, and photos to staff by October 4, 2006.
4. The fencing at front right of the house will be removed by October 4, 2006. The applicant will submit photos showing area where fence was removed to staff by October 4, 2006.

If these conditions are not met by the deadline, the HPC could deny the retroactive Historic Area Work Permit application at the October 25, 2006 meeting. **Your attendance is required at the October 25, 2006 HPC meeting.**

The required materials can be submitted to our office at the address below. Thank you.



HISTORIC PRESERVATION COMMISSION STAFF REPORT

Address:	9723 Capitol View Avenue, Silver Spring	Meeting Date:	9/13/2006
Resource:	Contributing Resource Capitol View Park Historic District	Report Date:	9/6/2006
Applicant:	Curtis Rodney	Public Notice:	8/30/2006
Review:	HAWP	Tax Credit:	None
Case Number:	31/07-06K	Staff:	Anne Fothergill

PROPOSAL: RETROACTIVE Tree removal, front door replacement, fencing and shed installation

RECOMMENDATION: Approve with Conditions

STAFF RECOMMENDATION

Staff is recommending that the HPC approve this HAWP application with the following conditions:

1. This case will be on the October 25, 2006 HPC meeting agenda for final HPC review.
2. The applicant will submit a proposed tree replacement plan with species, size, and location of trees to be planted to staff by October 4, 2006.
3. The applicant will submit a proposed replacement front door including material, design, and photo to staff by October 4, 2006 (door to match original door as close as possible).
4. The applicant will submit proposed shed details including design, materials, location, and photos to staff by October 4, 2006.
5. The fencing at front right of the house will be removed by October 4, 2006 (within 21 days). The applicant will submit photos showing area where fence was removed to staff by October 4, 2006.

PROPERTY DESCRIPTION

SIGNIFICANCE: Contributing Resource within the Capitol View Park Historic District
STYLE: Cottage
DATE: c. 1917-1935

PROPOSAL

The applicant is requesting retroactive HPC approval for:

1. The removal of 11 trees greater than 6" dbh plus one double leader (7" and 5") boxelder maple and one four leader (13", 9", 8", and 8") mulberry (listing of trees removed in Circle 8; photos of site after tree removal in Circles 14-20)
2. The replacement of the front door (photos of new door in Circle 12 and previous door in Circle 11)
3. The installation of approximately 10 feet of approximately 6' tall privacy fencing located to the right of the front porch of the house (photos in Circle 13)
4. The installation of a shed located behind the house (photos in Circle 21).

BACKGROUND

December 2005: The applicant cut down 13 trees 6" dbh or larger without an approved Historic Area Work Permit (HAWP). DPS issued a stop work order. After a site visit it was determined that fencing also had been installed without HPC approval.

January 2006: Two staff members met with the applicant and discussed what alterations to the house and the property require HPC approval and how to apply for a HAWP.

March 2006: The applicant replaced the front door without a Historic Area Work Permit. DPS issued a notice of violation.

May 16, 2006: The tree removal and door replacement violations cases were heard in District Court. At that hearing, Judge Stephen Johnson, County Attorney Jim Savage, DPS inspector Jim Martin, the property owner (applicant) and HPC staff discussed the details of these violations. Judge Johnson ordered that the applicant must submit all required paperwork for a HAWP within 45 days of that date and then must comply with HPC requirements in order to have an approved HAWP within 30 days after the HPC hearing.

July/August 2006: The applicant installed a shed on the property without an approved HAWP.

APPLICABLE GUIDELINES

When reviewing alterations and new construction within the Capitol View Park Historic District several documents are to be utilized as guidelines to assist the Commission in developing their decision. These documents include *Montgomery County Code Chapter 24A (Chapter 24A)* and the *Secretary of the Interior's Standards for Rehabilitation (Standards)*. The pertinent information in these documents is outlined below.

Montgomery County Code; Chapter 24A

A HAWP permit should be issued if the Commission finds that:

1. The proposal will not substantially alter the exterior features of a historic site or historic resource within a historic district.
2. The proposal is compatible in character and nature with the historical archaeological, architectural or cultural features of the historic site or the historic district in which a historic resource is located and would not be detrimental thereto or to the achievement of the purposes of this chapter.

In the case of an application for work on a historic resource located within a 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 surrounding historic resources or would impair the character of the historic district.

Secretary of the Interior's Standards for Rehabilitation:

Standard #2: The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.

Standard #9: New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

STAFF DISCUSSION

It is very unfortunate that this application has to be reviewed retroactively. While staff considered recommending denial of this incomplete application, a denial will do nothing to help the situation since the site would remain the same and any corrective measures would be delayed. In order to remedy the situation, appropriate measures should be taken to attempt to return the building and the property to the way it was before the violations. Staff is recommending a number of conditions of approval so that needed improvements can be made immediately.

FRONT DOOR: Staff is recommending that the applicant replace the new front door with one that is as close to the original as possible. It appears from photos that the door was a 4-lite/3-horizontal panel wood door. Staff did a cursory internet search and found doors similar to this including one by TruStile. Staff recommends that the applicant return to the HPC with the specifications for a compatible wood replacement door. Staff can work with the applicant in the selection of the door if desired.

FENCING: Generally the HPC does not approve of tall privacy fencing adjacent to the front porch of a house. The fencing that was installed is too tall, not open enough, located too far forward, and must be removed. If the applicant would like to submit a different fencing proposal with a site plan and a fence design, staff and the HPC can consider that at a later date.

SHED: While the HPC may approve the installation of a small shed on this property, the applicant has not submitted any details on this shed for staff and the HPC to review. Staff informed the applicant about what information was needed but the applicant did not provide any information. The applicant will need to submit a site plan showing the location of the shed and detailed information on the shed including dimensions and materials before the HPC can consider it.

TREE REMOVAL: The HPC generally would not allow the removal of 13 trees greater than 6" dbh from a property without a very compelling reason and the HPC would require a detailed tree replacement proposal for their consideration as part of the review. Staff required the applicant to submit a tree replacement plan but did not receive one. The applicant must submit a landscape plan showing where trees will be planted, what species of trees, and what size. The HPC will need to find it approvable and then the applicant must plant the trees. Staff would recommend that some of the replacement trees be of a large caliper. This is a large lot that can sustain many trees.

Many members of the Capitol View Park community are concerned about this case and have been in contact with staff frequently over the past nine months to express their concerns and dismay. A letter from the civic association is in Circle 23. Once the case is resolved with the HPC the applicant will return to Court for final resolution of the outstanding violations and citations.

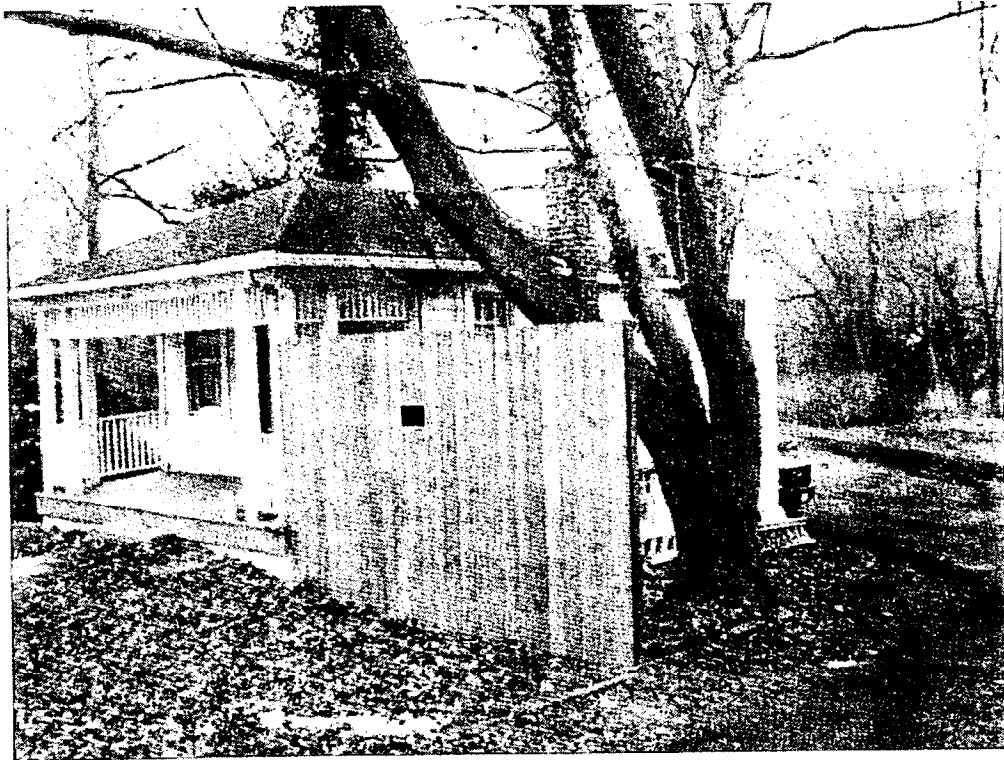
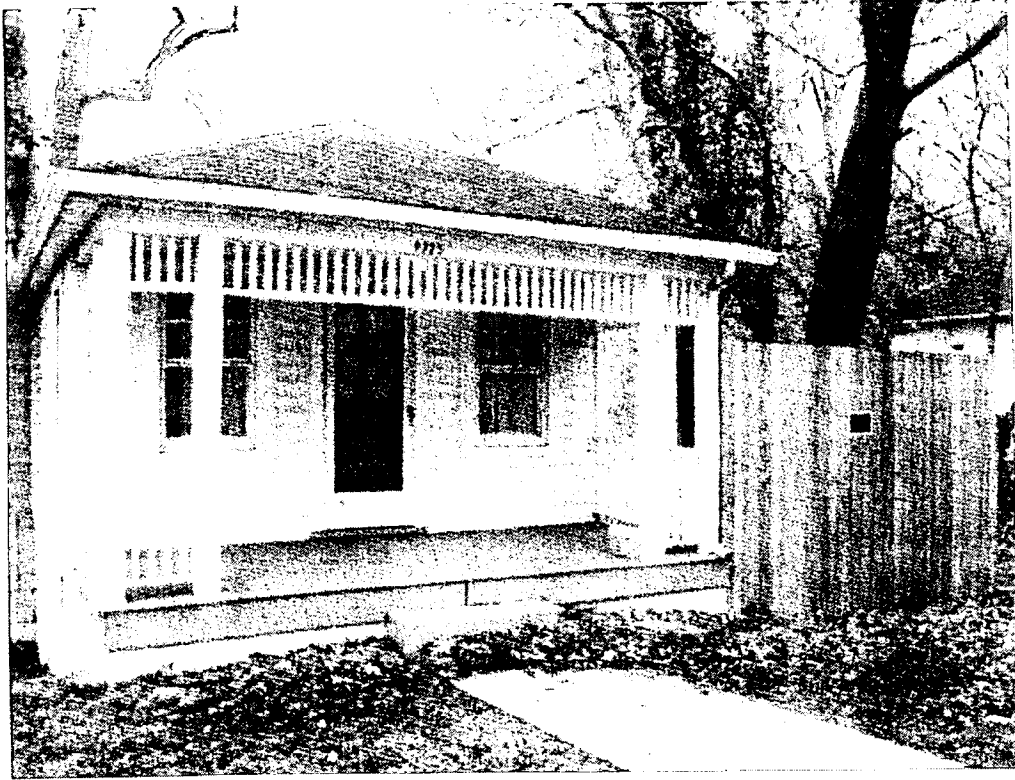
STAFF RECOMMENDATION

Staff recommends that the Commission **approve** the HAWP application **with the conditions specified on Circle 1** as being consistent with Chapter 24A-8(b)(1) & (2);

and with the *Secretary of the Interior's Standards for Rehabilitation*;

and with the general condition that the applicant shall present the **3 permit sets of drawings, if applicable, to Historic Preservation Commission (HPC) staff for review and stamping** prior to submission for the Montgomery County Department of Permitting Services (DPS) building permits;

and with the general condition that the applicant shall notify the Historic Preservation Staff if they propose to make **any alterations** to the approved plans.



fencing

8/0-

5-16-06

Judge Stephen P. Johnson

9723 Cap-view - Curtis Rodney

county attorney Jim Savage

DPS inspector Jim Martin

door - ~~to~~ lock not working (house had been vacant
told at closing w/in h.d.

w/in 45 days w/all required papers

permit w/in 30 days

finer waived in both cases \$1000 suspenses

do whatever staff/HPC says

Montgomery County Park and Planning Historic Preservation Staff
9723 Capitol View Avenue Log

March 2005: A neighbor told staff at the Historic Preservation section office that the owner at 9723 Capitol View Avenue is talking about demolition and subdivision. This house is a Contributing Resource in the historic district.

Sept. 2005 Mr. Rodney bought the house

December 27, 2005: A member of the Capitol View Park neighborhood association called our office and reported that trees were being cut down. No Historic Area Work Permit had been approved for this tree removal or the recent fencing installation. We called in the violation to DPS.

December 30, 2005: Two more calls come in to our office about this tree removal. We called DPS hotline again and also called a DPS inspector, Pete Hrycak. Mr. Hrycak said he will post a stop work order there today.

January 12, 2006: Anne Fothergill and Michele Oaks, staff of the Park and Planning-Historic Preservation section, met with the property owner, Curtis Rodney, at the HP office. Staff discussed what owning a property in a historic district means and what alterations to the house and property require HPC approval and how an owner applies for a permit. Staff gave the owner information about permits, tax credits and the web site address for more information.

Staff explained to Mr. Rodney that the tree removal and fencing installation do require an approved Historic Area Work Permit (HAWP) and went over exactly what he needs to do to apply for a retroactive permit. Owner states he will apply for HPC approval as soon as he gets an arborist to evaluate the trees.

Mr. Rodney asked about possible subdivision of the property and new construction on the property and what that would entail and staff provided information on that process. Staff also discussed the storage boxes (connexes) and the owner stated they were temporary and would be removed from the site soon.

February 16, 2006: A neighbor called the office and stated that the house is up for sale. Staff spoke to and emailed the seller's realtor, Renee Okon, to ensure that the realtor and interested buyers are aware that the house is in a historic district and that any proposed changes to the property require HPC approval.

March 28 and 29, 2006: A neighbor called to report that Mr. Rodney replaced his front door. This also is without a Historic Area Work Permit and we email Mr. Rodney that, as we had informed him before, this type of change requires HPC approval.

The neighbor also reported that Mr. Rodney is operating a business out of a building zoned for residential use. We forwarded both of these issues to DPS.

Mr. Rodney emailed staff that he is still waiting for the arborist to come out to the property so he can apply for a HAWP. He stated that the connexes will be removed by April 15, 2006, as required by DPS inspector Jim Martin.

May 2, 2006: One connex is still on the property and staff let DPS know.

January 12, 2006

Thursday

January 2006

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29	30	31				

February 2006

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7 ^{am}	
8 ⁰⁰	
9 ⁰⁰	
10 ⁰⁰	9723 Capitol View Avenue plans (conference table)
11 ⁰⁰	
12 ^{pm}	
1 ⁰⁰	
2 ⁰⁰	
3 ⁰⁰	
4 ⁰⁰	
5 ⁰⁰	
6 ⁰⁰	

TaskPad

TaskPad

Notes

Fothergill, Anne

From: Fothergill, Anne
Sent: Friday, December 30, 2005 4:02 PM
To: Oaks, Michele; Thompson, Abigail; Wright, Gwen; Tully, Tania
Subject: RE: Capitol View violation

fyi...Michele found an email from Tania in March that was about potential plans for this property. I have pasted it below (see 2nd paragraph). I am going out there on Tuesday morning to take photos of other Capitol View houses so I will take photos. Anne

-----Original Message-----

From: Tully, Tania
Sent: Friday, March 18, 2005 11:19 AM
To: Fothergill, Anne; Oaks, Michele; Thompson, Abigail
Subject: 9717 & 9723 Capitol View

Howdy-

I just spoke with Alexandra Taft, owner of the above contributing resource (Bungalow) about the possibility of a rear addition. She was doing the right thing by calling to see what we look for in an addition before she went to an architect. I gave her the basic schpeel and noted the top concerns with additions. She will call back once she has some idea sketches. I will take it when she calls barring unforeseen problems.

During the conversation she alerted me that her neighbor at 9723 (also contributing resource) is talking about a demo and subdivide plan. Has anyone heard about this? I assured her that she would get notified of any impending actions and that demolition is rarely approved.

Tania

-----Original Message-----

From: Oaks, Michele
Sent: Friday, December 30, 2005 11:21 AM
To: Thompson, Abigail; Fothergill, Anne; Wright, Gwen; Tully, Tania
Subject: RE: Capitol View violation

I had two other people call about this today. I guess he is doing more cutting. I called the hotline and they had no record of the call in from us or any other neighbor. So I called Pete and begged him to help and he said he was going to go out to the site and post a stop work order at the end of business today.

Michele

Michele Oaks, Senior Planner
Historic Preservation Office

Montgomery County Department of Park and Planning
1109 Spring Street, Suite 801
Silver Spring, MD 20910
(301) 563-3400 (phone)
(301) 563-3412 (fax)
michele.oaks@mncppc-mc.org
www.mncppc.org

-----Original Message-----

From: Thompson, Abigail

Sent: Thursday, December 29, 2005 4:20 PM

To: Fothergill, Anne; Oaks, Michele; Wright, Gwen; Tully, Tania

Subject: RE: Capitol View violation

I called in a violation to DPS about these issues last Tuesday after probably the same woman called to report the trees/fence, and Gwen added in a few other CVP issues. I'll call next week to make sure someone was sent out.

-----Original Message-----

From: Fothergill, Anne

Sent: Tue 12/27/2005 1:55 PM

To: Thompson, Abigail; Oaks, Michele; Wright, Gwen; Tully, Tania

Cc:

Subject: Capitol View violation

Fothergill, Anne

From: Fothergill, Anne
Sent: Tuesday, December 27, 2005 1:56 PM
To: Thompson, Abigail; Oaks, Michele; Wright, Gwen; Tully, Tania
Subject: Capitol View violation

Betsy Tebow of Capitol View just called in about a vacant lot at 9723 Capitol View Avenue where they are cutting down mature trees (that appear healthy). They also have installed fencing next door without a permit and she thinks the lot may be owned by the same people. She is calling the information into the hotline. If anyone knows anything about activity at this property please call her at 301-587-7112.

Anne

Fothergill, Anne

From: Fothergill, Anne
Sent: Wednesday, March 29, 2006 12:42 PM
To: 'curtisrodney@msn.com'
Cc: 'Martin, James'
Subject: 9723 Capitol View Avenue

Dear Mr. Rodney:

I have learned from James Martin of DPS that he has given you until April 15, 2006 to remove your storage boxes at 9723 Capitol View Avenue. I am emailing because I want to be clear that even though our office gave you a letter allowing the boxes to remain until July 2006, you will need to comply with the DPS requirement as their deadline supersedes ours.

Additionally, we have learned that you may have removed your front door without a Historic Area Work Permit (HAWP). As we stated when we met with you in January, you must apply for a HAWP for any proposed changes to the building or your property. If in fact you have replaced your front door then you need to contact us immediately. Finally, we are still waiting for your follow-up HAWP application on the non-approved tree removal.

Thanks,
Anne

Anne Fothergill
Historic Preservation Planner
Montgomery County Park and Planning
1109 Spring Street, Suite 801
Silver Spring, MD 20910
301-563-3400 phone
301-563-3412 fax
<http://www.mc-mncppc.org/historic/>

Fothergill, Anne

From: Fothergill, Anne
Sent: Thursday, March 30, 2006 8:58 AM
To: 'Curtis Rodney'
Subject: RE: 9723 Capitol View Avenue

As we discussed in January, any changes to the exterior of your house or your property require an approved Historic Area Work Permit, and that would include replacement of your front door which may have been original to the house. You will need retroactive approval from the HPC for this change.

More information on the requirements of living in a historic district can be found on our web site: <http://www.mc-mncppc.org/historic/index.shtm>

Anne

-----Original Message-----

From: Curtis Rodney [mailto:curtisrodney@msn.com]
Sent: Wednesday, March 29, 2006 3:26 PM
To: Fothergill, Anne
Cc: renee@okonrealty.com
Subject: RE: 9723 Capitol View Avenue

Miss. Fothergill I too need to be very clear, An attempt to breach the security of my home left my front door compromised and significantly unsecure. Re-establishing the security of my home was and is my Right and responsibility. Therefore I Changed the door. I would like to request a copy of the HOA's and or the Historic Preservation Society hand book or Manual so that I may refer to the guidelines regarding Changes/ Improvement to "MY" property.

Regarding the container, Yes I did speak with Mr. Martin and we agreed the containers should be gone by April 15, 2006. Should you have any other concerns involving 9723Capital View feel free to e-mail me or call or use what ever means you choose to contact the me. I'll be here. Untill I sell.

PS : About The fallen Trees, I'm waiting on the arborist to map the property he is a bit busy rightnow but promisses to get to me soon.

Curtis C. Rodney
President
C & R Contracting Company

>From: "Fothergill, Anne" <Anne.Fothergill@mncppc-mc.org>
>To: <curtisrodney@msn.com>
>CC: "Martin, James" <James.Martin@montgomerycountymd.gov>
>Subject: 9723 Capitol View Avenue
>Date: Wed, 29 Mar 2006 12:41:39 -0500

>
>Dear Mr. Rodney:

>
>I have learned from James Martin of DPS that he has given you until April
>15, 2006 to remove your storage boxes at 9723 Capitol View Avenue. I am
>emailing because I want to be clear that even though our office gave you a
>letter allowing the boxes to remain until July 2006, you will need to
>comply with the DPS requirement as their deadline supersedes ours.

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>Additionally, we have learned that you may have removed your front door

>without a Historic Area Work Permit (HAWP). As we stated when we met with
>you in January, you must apply for a HAWP for any proposed changes to the
>building or your property. If in fact you have replaced your front door
>then you need to contact us immediately. Finally, we are still waiting for
>your follow-up HAWP application on the non-approved tree removal.

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>Thanks,

>Anne

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>Silver Spring, MD 20910
>301-563-3400 phone
>301-563-3412 fax
><http://www.mc-mncppc.org/historic/>

>
>
>

Fothergill, Anne

From: Curtis Rodney [curtisrodney@msn.com]
Sent: Thursday, March 30, 2006 3:35 PM
To: Fothergill, Anne
Subject: RE: 9723 Capitol View Avenue

Ok!

Curtis C. Rodney
President
C & R Contracting Company

>From: "Fothergill, Anne" <Anne.Fothergill@mncppc-mc.org>
>To: "Curtis Rodney" <curtisrodney@msn.com>
>Subject: RE: 9723 Capitol View Avenue
>Date: Thu, 30 Mar 2006 08:58:20 -0500

>
>As we discussed in January, any changes to the exterior of your house or
>your property require an approved Historic Area Work Permit, and that would
>include replacement of your front door which may have been original to the
>house. You will need retroactive approval from the HPC for this change.

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>More information on the requirements of living in a historic district can
>be found on our web site: <http://www.mc-mncppc.org/historic/index.shtm>

>Anne

>
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>Sent: Wednesday, March 29, 2006 3:26 PM
>To: Fothergill, Anne
>Cc: renee@okonrealty.com
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>of the HOA's and or the Historic Preservation Society hand book or Manual
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>PS : About The fallen Trees, I'm waiting on the arborist to map the
>property
>he is a bit busy rightnow but promises to get to me soon.

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>Curtis C. Rodney
>President
>C & R Contracting Company

>
>
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> >From: "Fothergill, Anne" <Anne.Fothergill@mncppc-mc.org>
> >To: <curtisrodney@msn.com>
> >CC: "Martin, James" <James.Martin@montgomerycountymd.gov>
> >Subject: 9723 Capitol View Avenue
> >Date: Wed, 29 Mar 2006 12:41:39 -0500
> >
> >Dear Mr. Rodney:
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> >your follow-up HAWP application on the non-approved tree removal.
> >
> >Thanks,
> >Anne
> >
> >Anne Fothergill
> >Historic Preservation Planner
> >Montgomery County Park and Planning
> >1109 Spring Street, Suite 801
> >Silver Spring, MD 20910
> >301-563-3400 phone
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> ><http://www.mc-mncppc.org/historic/>
> >
> >
> >
>
>



DISTRICT COURT OF MARYLAND FOR MONTGOMERY COUNTY
8552 SECOND AVENUE (C) 0602
SILVER SPRING MD 20910-3405

CITATION: 5Z33760235 MI

TO: MARTIN, JAMES C
DPS
255 ROCKVILLE PIKE, 2ND FLOOR
ROCKVILLE MD 20850

STATE OF MARYLAND VS. RODNEY, CURTIS

NOTICE OF TRIAL DATE

YOU ARE HEREBY SUBPOENAED TO APPEAR FOR THE TRIAL OF THE CHARGES LISTED ON THE CITATION IDENTIFIED ABOVE. THE TRIAL WILL BE HELD ON AUGUST 08, 2006 AT 08:30 AM AT THE DISTRICT COURT LOCATED AT 8552 SECOND AVENUE , SILVER SPRING , MD. IN ROOM 4U2 .

BY: JEFFREY L. WARD
(CLERK)

DATE: 04/21/06

FOR QUESTIONS CONCERNING THIS DOCUMENT CONTACT THE STATE'S ATTORNEY'S OFFICE AT (240) 777-7300.

HEARING/SPEECH IMPAIRED CALLERS ONLY, TELEPHONE TTY/TT 1-800-925-9690 OR (240) 777-7300 (VOICE) THRU MARYLAND RELAY SERVICE AT 1-800-735-2258.

ANY REASONABLE ACCOMMODATION FOR PERSONS WITH DISABILITIES SHOULD BE REQUESTED BY CONTACTING THE COURT IMMEDIATELY.

1100014120

0001412A

D4

TRACKING NUMBER:06-1001-31794-1



MONTGOMERY COUNTY
DEPARTMENT OF PERMITTING SERVICES
255 Rockville Pike, 2nd Floor
Rockville, Maryland 20850-4166

NOTICE OF VIOLATION

FOR MONTGOMERY COUNTY, MARYLAND the undersigned issuer, being duly authorized, states that:

On, December 14, 2005 the recipient of this NOTICE, Curtis Rodney
Date Recipient's Name

9723 Capitol View Avenue Silver Spring, Maryland 20910
Street Address City, State, Zip

is notified that a violation of Montgomery County Code, Section: 59-C-1.31 (Uses Permitted) R-60 zone

Exists at: 9723 Capitol View Avenue silver Spring, Maryland 20910 199926341
Location Case #

The violation is described as: 1.) Operation of a construction business in the R-60 residential zone.
2.) Placement of Connex storage containers without first obtaining a building permit from the
Department of permitting Services

The following corrective action(s) must be performed immediately as directed:

- 1.) Discontinue the operation of a construction business in the R-60 zone.
- 2.) Discontinue having storage containers placed without a building permit issued from the
Department of Permitting Services.

An inspection fee of \$ _____ is required in addition to any application fee(s).

Compliance Time: (30) Thirty Calendar days

Failure to comply with this notice will result in the issuance of one or more \$500.00 civil citations.

This Notice of Violation may be appealed to the Montgomery County Board of Appeals within 30 days of the issue date. The Board of Appeals is located in the Council Office Building, 100 Maryland Avenue, Room 217, Rockville, Maryland 20850, telephone 240-777-6600.

ISSUED BY: James C. Martin James C. Martin December 14, 2005
Printed Name Signature Date

Phone No. 301-370-0042

RECEIVED BY: _____
Printed Name Signature Date

Phone No. _____ Sent by Registered Mail/Return Receipt On: _____

RECIPIENT'S SIGNATURE ACKNOWLEDGES RECEIPT OF A COPY OF THIS NOTICE OF VIOLATION

Fothergill, Anne

From: Martin, James [James.Martin@montgomerycountymd.gov]
Sent: Wednesday, April 05, 2006 11:32 AM
To: Jetter, Reginald; Hubbard, Robert; Scala-Demby, Susan
Cc: Hrycak, Peter; Fothergill, Anne
Subject: RE: 9723 Capitol View Avenue violations

I disagree that I should issue a \$500.00 civil citation for a front door that was broken and replaced due to vandalism about 10 days ago, as you and Susan Scala Demby ordered. I also disagree with your decision to issue a \$500.00 civil citation for the cutting down of trees without any written notices being issued to the owner on how to correct the problem. Inspector Hrycak only ordered that the tree cutting be stopped.

Please notify Inspector Hrycak to be prepared to testify about the tree issue. The owner felt this was permitted. I do not have a copy of the published guidelines regarding what activities constitute ordinary maintenance historic property.

I disagree that a representative from Historic preservation division should not be required to testify in court on the impact on the community and any action taken by the owner to correct the problem. They should be required to advise the court regarding an abatement order on how to correct the problem.

Documentation from Park and Planning that a copy of the the ordinary maintenance guidelines, sent registered mail to this owner, by the historic commission, as required by the code, would be useful at court.

So, as ordered, I will issue two civil citation referencing Montgomery County code 24A-6. One for the door that the owner admitted replacing and the other for the trees cut down.

JIM MARTIN
INVESTIGATOR

-----Original Message-----

From: Jetter, Reginald
Sent: Wed 4/5/2006 10:17 AM
To: Martin, James
Cc:
Subject: FW: 9723 Capitol View Avenue violations

FYI

Reginald T. Jetter
Department of Permitting Services
Division Chief, Casework Management
255 Rockville Pike, 2nd Floor
Rockville, Maryland 20850
240 777-6275

-----Original Message-----

From: Hubbard, Robert
Sent: Wednesday, April 05, 2006 9:56 AM
To: Jetter, Reginald
Subject: FW: 9723 Capitol View Avenue violations

Reggie,

Are you monitoring these requests

Robert Hubbard
Director, Department of Permitting Services
255 Rockville Pike
Rockville, MD 20850
(240) 777-6363
(240) 777-6361 (FAX)
robert.hubbard@montgomerycountymd.gov

-----Original Message-----

From: Fothergill, Anne [mailto:Anne.Fothergill@mncppc-mc.org]
Sent: Tuesday, April 04, 2006 4:19 PM
To: Martin, James
Cc: Hrycak, Peter; Scala-Demby, Susan; Jetter, Reginald; Hubbard, Robert
Subject: RE: 9723 Capitol View Avenue violations

Mr. Martin:

I spoke with Pete Hrycak yesterday and he told me that all of the violations at 9723 Capitol View Avenue, including the December 2005 tree removal, are now being handled by you. If that is the case, I am requesting some clarification and follow-up from you.

In terms of the December 2005 tree removal, I need some clarification since we have not seen any of the paperwork. We understand a Stop Work Order was issued in December 2005, but was a Notice of Violation also issued at that time? If so, how many days was the owner, Mr. Rodney, given to contact this office? He has not filed a Retroactive Historic Area Work Permit (HAWP) application for the tree removal. When we got an email from Mr. Rodney, he stated that he has not been able to have an arborist evaluate the trees, although at least 3 months have passed since his Stop Work order. Depending on the wording of the Stop Work order/NOV, a citation may be warranted.

The second issue, the front door replacement, also has not been adequately addressed by Mr. Rodney. He did confirm via email that he has replaced his front door because of security issues. He still needs to submit a retroactive HAWP application for the door, and it would be preferable if he filed it at the same time as the tree removal application.

The next deadline for a submission for a HAWP application is tomorrow, April 5, for the April 26 HPC meeting. Ideally he would submit by that deadline. The deadline after that is April 19 for the May 10 HPC meeting. Please inform Mr. Rodney that he must submit these retroactive HAWP applications to be in compliance.

If you have any questions, please contact me. Also, please send me copies of the Stop Work order and any NOV's for this property.

Thanks,
Anne

Anne Fothergill
Historic Preservation Planner
Montgomery County Department of Park and Planning
1109 Spring Street, Suite 801
Silver Spring, MD 20910
301-563-3400 phone
301-563-3412 fax
<http://www.mc-mncppc.org/historic/>

-----Original Message-----

From: Martin, James [mailto:James.Martin@montgomerycountymd.gov]
Sent: Tuesday, March 28, 2006 1:47 PM
To: Fothergill, Anne
Cc: Hrycak, Peter; Scala-Demby, Susan
Subject: RE: 9723 Capitol View Avenue violations

I don't know anything about the tree issue. I spoke with the owner, Curtis Rodney, who stated that

Peter Hrycak inspected the property and issued a stop work order for cutting down the trees.

-----Original Message-----

From: Fothergill, Anne [mailto:Anne.Fothergill@mncppc-mc.org]

Sent: Tue 3/28/2006 1:05 PM

To: Martin, James

Cc:

Subject: RE: 9723 Capitol View Avenue violations

Thanks for this update.

Are you aware that he has never complied with the December 2005 violation? That is, he has never come to the HPC to request retroactive approval of the tree removal and other alterations to the property, which is what he was required to do.

-----Original Message-----

From: Martin, James [mailto:James.Martin@montgomerycountymd.gov]

Sent: Tuesday, March 28, 2006 1:01 PM

To: Fothergill, Anne

Subject: RE: 9723 Capitol View Avenue violations

I have given the owner an extension of time to comply with the removal of the storage boxes. He has until the 15th of April 2006 to remove them

He will be requesting a home occupation certificate though he only has a no impact home office at his dwelling. I have spoken to the Capitol View citizen's association and they are aware of the status of the case.

As far as the front door is concerned, he will be contacting your office about its replacement.

I am not going to issue civil citations at this time. If Mr. Rodney does not contact you within 10 days and apply for a modification let me know and I will take additional appropriate action.

JIM MARTIN
INVESTIGATOR

-----Original Message-----

From: Fothergill, Anne [mailto:Anne.Fothergill@mncppc-mc.org]

Sent: Tue 3/28/2006 11:30 AM

To: Martin, James

Cc: Scala-Demby, Susan; Jetter, Reginald; Hubbard, Robert; Wright,

Gwen

Subject: 9723 Capitol View Avenue violations

This is regarding a number of violations at 9723 Capitol View Avenue, Silver Spring, which is located in the Capitol View Park Historic District. In December 2005, the owner, Curtis Rodney, cut down many trees without a Historic Area Work Permit as well as making other alterations to the site including installation of fencing and storage trailers. It is our understanding that a Notice of Violation was issued in late December 2005. In January 2006 we met with the owner and informed him that he cannot make any changes to the exterior of the building or the property without approval from the Historic Preservation Commission.

We received a phone call today that recently he replaced the front door illegally and also may be operating a business out of the house.

We are asking that an inspector be sent out today to begin issuing citations on a daily basis until he complies with the law. We have been told that Mr. James' Martin has been involved in this case but if that is incorrect and there is a different inspector who should go out, please assign a new inspector and let me know who has been assigned to the case. I have left Mr. Martin a voice mail in addition to this email. At our meeting last week, Mr. Hubbard and Mr. Jetter asked to be copied on emails regarding violations.

Thanks,
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Historic Preservation Planner
Montgomery County Park and Planning
1109 Spring Street, Suite 801
Silver Spring, MD 20910
301-563-3400 phone
301-563-3412 fax
<http://www.mc-mmcppc.org/historic/>



JAMES C. MARTIN
Investigator

Department of Permitting Services
255 Rockville Pike, 2nd Floor
Rockville, Maryland 20850
301-370-0042
240-777-6263 FAX
240-777-6256 TTY

james.martin@montgomerycountymd.gov ————— ⊗



C & R CONTRACTING CO. LLC

C&R CONTRACTING CO.
9723 CAPITOL VIEW AVENUE
SILVER SPRING,
MARYLAND 20910

Office Phone: (301)495-4840
Cell Phone: (240)508-4195
Fax: (301) 495-9550 E-mail:
curtisrodney@msn.com

Curtis Rodney

CEO/DIRECTOR OF CONTRACT
OPERATIONS

Service is our Specialty

Serving the Washington Metro area since 1988

Complete Building Maintenance since 1988

SERVICE IS OUR SPECIALTY

*Janitorial services, Grounds and Landscape maintenance,
Specialty Cleaning: Carpet, VC Tile Hard surface flooring,
Handyman Services, Lighting replacement, Painting, Dry-
wall*

*Construction, Commercial / Residential Remodeling and
Demolition*

Fothergill, Anne

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Sent: Tuesday, April 04, 2006 4:19 PM
To: 'Martin, James'
Cc: Hrycak, Peter; Scala-Demby, Susan; 'reginald.jetter@montgomerycountymd.gov'; 'robert.hubbard@montgomerycountymd.gov'
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INVESTIGATOR

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Thanks,
Anne

Anne Fothergill



HISTORIC PRESERVATION COMMISSION

Douglas M. Duncan
County Executive

Julia O'Malley
Chairperson

January 12, 2006

Department of Permitting Services
Rockville, MD

To Whom It May Concern:

I have met with the owner of 9723 Capitol View Avenue regarding the temporary storage bins on his property. He has stated that the storage trailers will be removed within 6 months from today (July 12, 2006). Because of this temporary nature of the installations, they do not require a Historic Area Work Permit approved by the Historic Preservation Commission. He is aware he needs to determine if a County permit is required.

Sincerely,

Anne Fothergill
Senior Planner
Montgomery County Park and Planning

Signed: _____

Curtis Rodney, Property Owner



Fothergill, Anne

From: Fothergill, Anne
Sent: Thursday, February 16, 2006 2:19 PM
To: 'reneeokon@NUMBER1EXPERT.com'
Cc: 'curtisrodney@msn.com'
Subject: 9723 Capitol View Avenue

hi Renee and Curtis,

Thanks for talking to me this afternoon about the MRIS listing for 9723 Capitol View Avenue, which is located in the Capitol View Park Historic District. Just to clarify, the Montgomery County Historic Preservation Commission (HPC) has not approved any new houses for this lot (or subdivision of the lot) or any additions/alterations to the existing house and property, and I want to be sure that is made very clear to any potential buyers. Any changes to the property would need a Historic Area Work Permit approved by the HPC. Interested purchasers can learn more about owning a property in a historic district from our web site below, or they are welcome to call me.

Thanks,
Anne

Anne Fothergill
Historic Preservation Planner
Montgomery County Park and Planning
1109 Spring Street, Suite 801
Silver Spring, MD 20910
301-563-3400 phone
301-563-3412 fax
<http://www.mc-mncppc.org/historic/>