



TUESDAY, JANUARY 27, 2015
CITY OF COLLEGE PARK
COUNCIL CHAMBERS

7:00 P.M.
ORAL ARGUMENT CPD-2014-01
4618 College Avenue
Departure of 11.4 feet from the required 22-foot driveway width

7:30 P.M.
MAYOR AND COUNCIL MEETING
AGENDA

MEDITATION

PLEDGE OF ALLEGIANCE: Councilmember Dennis

ROLL CALL

MINUTES: Regular Meeting of January 13, 2015; confidential minutes of closed session
on January 6, 2015

ANNOUNCEMENTS

ACKNOWLEDGMENT OF DIGNITARIES

ACKNOWLEDGMENT OF NEWLY APPOINTED BOARD AND COMMITTEE MEMBERS

AWARDS

PROCLAMATIONS

AMENDMENTS TO THE AGENDA

CITY MANAGER'S REPORT: Joe Nagro

STUDENT LIAISON'S REPORT: Cole Holocker

COMMENTS FROM THE AUDIENCE ON NON-AGENDA ITEMS

PRESENTATIONS

ACTION ITEMS

15-G-05 Appointments to Boards and Committees

Motion By:
To: Approve
Second:
Aye: _____ Nay: _____
Other: _____

15-G-06 MC/PG 111-15 Prince George's County Municipal Zoning
Authority: Discussion and Consideration of a position

Motion By:
To: Approve
Second:
Aye: ____ Nay: ____
Other: ____

COUNCIL COMMENTS
COMMENTS FROM THE AUDIENCE
ADJOURN

INFORMATION/STATUS REPORTS (For Council Review)

1. Legislative Report – Len Lucchi, O'Malley, Miles, Nysten & Gilmore, PA
2. Worksession Discussions on City-appointed Boards: Revised Outline and Board Groupings – Janeen S. Miller, City Clerk

**This agenda is subject to change. For the most current information, please contact the City Clerk. In accordance with the Americans with Disabilities Act, if you need special assistance, please contact the City Clerk's Office and describe the assistance that is necessary.
City Clerk's Office: 240-487-3501**

7:00 p.m.
Oral Argument
CPD-2014-01

NOTICE OF PUBLIC HEARING

**EXCEPTION FILED TO THE RECOMMENDATION OF THE
COLLEGE PARK ADVISORY PLANNING COMMISSION
IN CASE NUMBER CPD-2014-01**

Date of Notice: January 15, 2015

Applicant: Steven Behr

Property: 4618 College Avenue

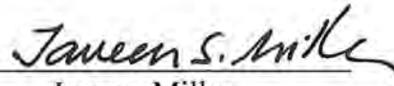
Subject: Departure of 11.4 feet from the Required 22-foot Driveway Width

Oral argument on the exception to the Advisory Planning Commission's recommendation in the above referenced case is scheduled before the College Park Mayor & Council on:

*Tuesday, January 27, 2015, 7:00 p.m.
Council Chambers – Second Floor
College Park City Hall
4500 Knox Road
College Park, Maryland*

A copy of the rules of procedures for oral argument on exceptions from recommendations of the Advisory Planning Commission is attached for your information.

If you have further questions, please call the College Park Planning Department at (240) 487-3538.



Janeen Miller
City Clerk

cc: Parties of Record
Advisory Planning Committee
Mayor & Council
City Attorney

RULES OF PROCEDURE FOR THE MAYOR AND CITY COUNCIL
FOR THE CONDUCT OF ORAL ARGUMENT ON EXCEPTIONS
FROM DECISIONS OF THE ADVISORY PLANNING COMMISSION

- A. A meeting of the Mayor and City Council for the purpose of hearing oral argument on exceptions from any decision of the Advisory Planning Commission (“APC”) with respect to its grant or denial of a variance or departure, pursuant to Chapter 190, “Zoning” of the Code of the City of College Park, shall be open to the public.
- B. Persons attending oral argument shall maintain proper decorum and refrain from disturbing the orderly process of the hearing. The Mayor may take the measures necessary to ensure that order is maintained.
- C. Whenever a request for oral argument has been made by a Councilmember or by a party of record to the proceedings before the APC, all other parties of record may also make oral argument or may submit a written statement in support of or in opposition to the APC’s recommendation. As set forth in §190-6 of the City Code, oral argument shall be limited to the facts and information contained in the record made at the evidentiary hearing before the APC. Copies of any written material submitted together with a statement in support or opposition shall be filed with the City Clerk (along with a certification of service upon the persons requesting oral argument) no later than five (5) days before the scheduled date for oral argument. References to factual matters in written submissions shall be limited to items which were in evidence before the Advisory Planning Commission.
- D. The order of presentation before the Mayor and Council shall, unless otherwise directed by the Mayor, be as follows:
 - 1. Orientation by Planning Staff and, if necessary, a representative of the office of the City Attorney.
 - 2. Oral argument against the recommendation of the Advisory Planning Commission.
 - 3. Oral argument in favor of the recommendation of the Advisory Planning Commission.
 - 4. Rebuttal by the parties in opposition to the recommendation of the Advisory Planning Commission.
 - 5. Rebuttal by the parties in support of the recommendation of the Advisory Planning Commission.

- E. Oral argument shall be limited to thirty (30) minutes each for parties in support, collectively, and parties in opposition, collectively, except that no person shall be given fewer than five minutes to speak and the Mayor may extend the total time allotted sufficiently to accomplish that objective. Persons wishing to make oral argument shall advise the City Clerk prior to the hearing. Before the start of argument, the Mayor shall divide the total time allotted to the parties in support and in opposition among the persons appearing in support and in opposition and shall advise the speakers accordingly.
- F. Rebuttal shall be limited to ten (10) minutes each for parties of support, collectively, and parties in opposition, collectively except that no person shall be given fewer than two minutes to speak and the Mayor may extend the total time allotted sufficiently to accomplish that objective. Before the start of rebuttal argument, the Mayor shall divide the total time allotted to the parties in support and in opposition among the persons wishing to speak in rebuttal and shall advise the speakers accordingly.
- G. A decision of the Mayor and Council as to a recommendation of the Advisory Planning Commission shall be made in accordance with subsections D. and E. of §190-6 of the City Code as follows:

Section D After the close of the Council's hearing, a majority of the Mayor and Council shall accept, deny or modify the recommendation of the Commission or return the variance application to the Commission to take further testimony or reconsider its recommendation.

Section E The Council shall give its decision, in writing, stating the reasons for its action. Copies of the decision shall be sent to all persons of record, the Commission, the Maryland-National Capital Park and Planning Commission and the Prince George's County Council sitting as the District Council.

**RECORD OF CASE
CPD-2014-01
STEVEN BEHR
4618 COLLEGE AVENUE**

Oral Argument Scheduled: January 27, 2015 - 7:00 p.m.

**SUBMITTED BY: Department of Planning, Community
& Economic Development**

Record of Case CPD-2014-01

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RULES OF PROCEDURE FOR THE MAYOR AND CITY COUNCIL
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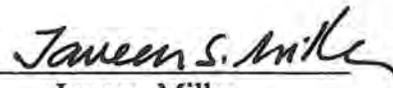
Date of Notice: January 15, 2015
Applicant: Steven Behr
Property: 4618 College Avenue
Subject: Departure of 11.4 feet from the Required 22-foot Driveway Width

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Janeen Miller
City Clerk

cc: Parties of Record
Advisory Planning Committee
Mayor & Council
City Attorney

Theresheia Williams

From: Janeen S Miller
Sent: Sunday, January 04, 2015 8:16 AM
To: Stephanie Stulich
Cc: Terry Schum; Theresheia Williams
Subject: Re: 4618 College Avenue (CPD-2014-01) - councilmember request for oral argument

Received by the deadline, Stephanie, thank you. I'm copying Terry and Theresheia.

Janeen S. Miller, CMC
City Clerk
City of College Park
4500 Knox Road
College Park MD 20740
240-487-3501
(Sent from Windows Mail)

From: Stephanie Stulich
Sent: Saturday, January 3, 2015 11:38 PM
To: Janeen Miller, janeen.miller@collegeparkmd.gov
Cc: Yvette Allen, Suellen M. Ferguson, Robert Day, Joe Nagro, Bill Gardiner

I am hereby requesting oral argument on the recommendation of the Advisory Planning Commission on Case CPD-2014-01 regarding the decision of the College Park Advisory Planning Commission regarding 4618 College Avenue, on the grounds that the recommendation fails to comply with the criteria of College Park Ordinance 95-0-6, Article I, Section 190-5, for Zoning Variances, Section 190-9 for Departures from Design and/or Landscaping Standards, Parking and Loading Standards and Sign Design Standards or Section 190-11 for Certification, revocation and revisions of nonconforming uses.

Stephanie Stulich
City Councilmember, District 3

Submitted on January 3, 2015



Advisory Planning Commission
City of College Park
4500 Knox Road
College Park, Maryland 20740
Telephone: (240) 487-3538
Facsimile: (301) 887-0558

**NOTICE OF RECOMMENDATION (RESOLUTION)
OF THE
ADVISORY PLANNING COMMISSION
OF THE
CITY OF COLLEGE PARK**

RE: Case No. CPD-2014-01 Name: Steven Behr

Address: 4618 College Avenue, College Park, MD 20740

Enclosed herewith is a copy of the Recommendation setting forth the action taken by the Advisory Planning Commission of the City of College Park in your case on:

December 4, 2014

Public Hearing Date

CERTIFICATE OF SERVICE

This is to certify that on December 19, 2014, the above notice and attached Recommendation were mailed, postage prepaid, to all persons of record.

NOTICE

Within fifteen (15) calendar days from the date this notice was mailed any person of record may file exceptions to the Commission's recommendation, and a request for oral argument before the Mayor and Council. Exceptions shall be addressed to the City Clerk, 4500 Knox Road, College Park, Maryland 20740 by January 3, 2015.


Terry A. Schum
Planning Director

cc: Mayor & Council
City Attorney
Advisory Planning Commission
Parties of Record



Resolution of the Advisory Planning Commission of the City of College Park, Maryland, Regarding Departure Number CPD-2014-01, 4618 College Avenue, College Park, Maryland, Steven Behr, Recommending a Departure of 11.4 -feet From the Required 22-foot Driveway Width.

WHEREAS, the City of College Park, Maryland (hereinafter, the "City") has, pursuant to Ordinance Number 11-O-03 (hereinafter, the "Ordinance"), and in accordance with Section 27-924 of the Prince George's County Zoning Ordinance (hereinafter, "Zoning Ordinance"), enacted an ordinance which sets forth procedural regulations governing any or all of the following: departures from design and landscaping standards, parking and loading standards, sign design standards, and variances for lot size, setback, and similar requirements for land within the corporate boundaries of the City, alternative compliance from landscaping requirements, certification, revocation, and revision of nonconforming uses, and minor changes to approved special exceptions; and

WHEREAS, the Advisory Planning Commission (hereinafter, APC) is authorized by the Ordinance to hear requests for departures from the terms of the Zoning Ordinance and the Prince George's County Landscape Manual with respect to design and/or landscaping requirements, parking and loading standards and sign design standards, and to make recommendations to the City Council in connection therewith; and

WHEREAS, the City is authorized by the Ordinance to grant an application for departure if the purposes of the applicable provisions of the Zoning Ordinance will be equally well or better served by the applicant's proposal; the departure is the minimum necessary given the specific circumstances of this request; the departure is necessary to alleviate circumstances that are special to the subject use, given its nature at this location or alleviate circumstances which are prevalent in the district; (for design departures) the departure will not impair the visual, functional or environmental quality or integrity of the site or of the surrounding neighborhood; (for parking and loading departures) all methods for calculating spaces required have either been used or found to be impractical, and that parking and loading needs of adjacent residential areas will not be infringed upon if the departure is granted; and

WHEREAS, Section 27-563 of the Prince George's County Zoning Ordinance requires a 22-foot wide driveway from a parking lot to a street for two-way traffic; and

WHEREAS, on July 24, 2014, Steven B. Behr (the “Applicant”), submitted an application for departure from Section 27-563 of the Zoning Ordinance, requesting a departure of 11.4-feet from the required 22-foot driveway width from a parking lot to a street; and

WHEREAS, on December 4, 2014, the APC conducted a hearing on the merits of the departure application, at which the APC heard testimony and accepted evidence including the staff report, the staff PowerPoint presentation and Exhibits 1-19 with respect to whether the subject application meets the standards for a departure as set forth in the Ordinance; and

NOW, THEREFORE, BE IT RESOLVED with the following members present and voting, Lawrence Bleau, Mary Cook, James McFadden, Rose Green Colby and Christopher Gill; that:

Section 1 Based on the evidence and testimony presented at the hearing with respect to the subject departure application, the APC makes the following findings of fact:

- 1.1 The property is zoned R-18 and is improved with a 2,694 square-foot, 2.5 story stucco building and a 10’ x 10’ frame shed.
- 1.2 The property has an area of 10,000 square feet and an existing gravel parking lot that varies in width. The driveway is 10.6-feet wide at its narrowest.
- 1.3 There is a joint driveway agreement, dated June 26, 2001, with the adjoining eastern property owner at 4620 College Avenue, which provides an additional 6-foot of driveway width.
- 1.4 The distance between the subject house and the adjoining house to the east (4620 College Avenue) is 16.6 feet at its narrowest.
- 1.5 The Old Town neighborhood is comprised of a mix of single-family homes, small multifamily apartment buildings, rooming houses and a number of fraternities and sororities.
- 1.6 The property is a contributing resource to the Old Town College Park Historic District and modifications to the environmental setting require a Historic Area Work Permit (HAWP).

Section 2 The APC makes the following conclusions of law with regard to CPD-2014-01 Required Findings for Granting a Departure from Design Standards:

2.1 The purposes of the applicable provisions of the Prince George's County Zoning Ordinance will be equally well or better served by the applicant's proposal.

- a. *To require (in connection with each building constructed and each new use established) off-street automobile parking lots and loading areas sufficient to serve the parking and loading needs of all persons associated with the buildings and uses.*

The proposed rooming house requires and provides five parking spaces, including a handicapped accessible parking space. Parking for the resident manager of the dwelling is exempt because the dwelling was constructed prior to parking regulations (1949).

- b. *To aid in relieving traffic congestion on streets by reducing the use of public streets for parking and loading and reducing the number of access points.*

All required parking will be provided thus reducing the use of public streets for parking. No loading space is required for the proposed use. Access to College Avenue is limited to one driveway located in the eastern side yard.

- c. *To protect the residential character of residential areas.*

Approving a reduction in width of the driveway to reflect existing conditions will help protect the residential character of the neighborhood. The required 22-foot width is a commercial standard and not in keeping with the residential character of the area where narrower driveways are prevalent.

- d. *To provide parking and loading areas which are convenient and increase the amenities in the Regional District.*

The proposed parking area located directly behind the house is convenient to the residents of the house. The proposed landscape plan, which includes the removal of invasive bamboo and the planting of native trees and shrubs, will enhance the landscape amenities in the immediate area and its environmental setting.

2.2 The departure is the minimum necessary, given the specific circumstances of the request.

A departure of 11.4 feet to validate the existing 10.6-foot wide gravel driveway on the subject property is the minimum necessary to allow the applicant to legally establish the rooming house. The joint driveway agreement, however, effectively creates a wider driveway. There is only 16.6-feet between the two structures at the narrowest point, and no room to expand the driveway. The minimum required lot width in the R-18 zone is 85-feet. The lot width for the subject property is only 50-feet wide.

The driveway widens to the required 22-feet at the rear of the house. The driveway cannot be widened in the front of the house without a variance.

2.3 The departure is necessary to alleviate circumstances that are special to the subject use, given its nature at this location or alleviate circumstances which are prevalent in the district.

The house was built in 1927 before zoning (1928) and has evolved into what exists today. The lot is exceptionally narrow for a property in the R-18 zone. The driveway cannot be widened in the front yard without a variance which would be contrary to the residential character of the area.

Section 3

Based on the findings of fact and conclusions of law set forth herein above, the Advisory Planning Commission recommends by a 5-0-0 vote, in accordance with Section 190-9 of the City's Code, approval of the requested departure of 11.4-feet from the required 22-foot driveway width with the following conditions:

1. Revise the site plan to:
 - a. Show new timber framing to contain the gravel driveway in the front yard. The width of the driveway in the front yard shall not exceed 11-feet on the subject property.
 - b. Indicate the location of the relocated shed to comply with the Zoning Ordinance. If the shed location cannot comply with the Zoning Ordinance, it shall be removed from the site.
 - c. Correct the R-18 building setbacks or place an asterisk after "required" to explain that the building was constructed in 1927 prior to Zoning Regulations going into effect in 1928 and that no new building is being proposed.

- d. Show the locations for two "no parking in driveway" signs. One sign should be along the eastern side of the house (freestanding or wall sign) and one freestanding sign should be in the front yard.
2. The bare areas of the driveway and parking area shall be replenished with gravel or other dust-free material. The driveway and parking areas shall be maintained to provide a dust-free surface at all times.
3. Prior to the issuance of a Use and Occupancy permit, the applicant shall provide a written determination from Maryland-National Capital Park and Planning Commission (M-NCPPC) and Department of Permitting, Inspections and Enforcement (DPIE) on the following requirements: a) the maximum number of allowed guests and/or occupants, b) the maximum number of kitchens allowed, c) whether furnishings are required to be provided to guests.
4. If the parking area is to be illuminated, the lighting shall be arranged so as not to reflect or glare on land used for residential purposes.
5. All refuse shall be contained in covered bins.
6. Outdoor storage shall be prohibited with the exception of bicycles.
7. Parking shall be prohibited in the driveway at all times, including no parking in the front of or along side of the house. Parking shall only be permitted in the designated rear parking lot. The applicant shall post signage stating this prohibition in visible locations along the side of the house and in front of the house.

So recommended this 4th day of December, 2014
The Advisory Planning Commission of the
City of College Park, Maryland.



Mary C. Cook, Chair

Dated: 12-19-14



City of College Park
Department of Planning, Community & Economic Development
Amended Staff Report (December 4, 2014)

Reviewer: Miriam Bader

Date: December 4, 2014

A. APPLICATION INFORMATION

Application Number: CPD-2014-01

Hearing Date: December 4, 2014

Applicant: Steven B. Behr

Premise Address: 4618 College Avenue

Location: The property is located approximately 150 feet west of Rhode Island Avenue in the Old Town College Park Historic District.

Request: Departure of 11.4-feet from the required 22-foot driveway width. A companion request for Alternative Compliance to Section 4.7 (buffering incompatible uses) in the Prince George's County Landscape Manual will be reviewed by the Planning Director under Section 190-16 of the Code of the City of College Park, Maryland.

Purpose: The applicant is proposing to convert a single-family dwelling to a rooming house with 5 guest rooms for up-to 9 guests, which is a permitted use. The Departure from Design Standards is necessary because a rooming house requires a 22-foot driveway width. The existing gravel driveway is 10.6-feet wide at its narrowest point on the subject property.

Requirements: Section 27-563 of the Prince George's County Zoning Ordinance requires a 22-foot wide driveway from a parking lot to a street (each lane needs to be 11-foot wide) for two-way traffic.

B. PROPERTY INFORMATION

Land Area: 10,000 square feet

Legal Description: Lot 5, Block 16 College Park – Johnson & Curriden’s Subdivision

Zoning: R-18

**Property
Characteristics:**

1. The property is improved with a 2,694 square-foot, 2.5 story stucco building and a 10’ x 10’ frame shed (to be removed or relocated).
2. The property has an existing gravel parking lot that can park six vehicles (five are required). The applicant is proposing to reduce this parking lot by one vehicle.
3. The driveway meets the minimum width for a length of 90-feet in the rear yard but narrows to 14-feet for a length of 29-feet in the side yard then 10.6-feet for a length of 6-feet in the side yard and then widens to 11-feet for a length of 75-feet in the side and front yards.
4. There is a joint driveway agreement with the adjoining eastern property owner at 4620 College Avenue, which provides an additional 6-foot of driveway width (Exhibit 7).
5. The distance between the subject house and the adjoining house to the east (4620 College Avenue) is 16.6 feet at its narrowest point.

**Neighborhood
Characteristics:**

1. The Old Town neighborhood is comprised of a mix of single-family homes, small multifamily apartment buildings, rooming houses and a number of fraternities and sororities.

Other Information:

1. The property is a contributing resource to the Old Town Historic District and modifications to the environmental setting require a Historic Area Work Permit (HAWP).

C. HISTORY OF HOUSE AND PROPERTY

The dwelling on the property, referred to as the Holbrook House, was designated as a historic site (66-021-31) by Prince George's County in 1992. The Old Town College Park Historic District was designated by the County in 2008 and named as a National Historic District on December 4, 2012. The Holbrook House, which was constructed in 1927, is one of two known examples in Prince George's County of the Alhambra model of Sears, Roebuck and Company mail-order homes.

The structure is currently operated as a single-family rental property but has a history of use as a rooming house and multifamily dwelling. In 1967, the owner-occupant, Mrs. Holbrook, rented three rooms upstairs and a basement apartment. A year later she rented an additional room upstairs. The house continued to operate as a rental property under the next owner who purchased the property in 1973. In 1978, the house was again sold and the new owner indicated the property was owner-occupied. When the property was sold again in 2001, the new owner obtained rental licenses from the City for two units and a HAWP for the construction of an addition to the rear of the house. Although a county use and occupancy permit was issued in 2002 when the addition was completed, it was for a single-family dwelling. The City of College Park inspected the property and issued a rental license for three units. The current owner, Steven Behr, purchased the property in 2006 with the expectation that it could continue to operate as a three-unit multifamily dwelling. Also, a previous owner added the existing gravel driveway located in the rear yard without permits.

In 2009, the applicant applied for a Special Exception to convert the single-family dwelling to a two-family dwelling. Along with this application, the applicant applied for a Departure from the required commercial driveway standards. Both the Special Exception and the Departure were recommended for approval by the Prince George's County Planning Board but were denied by the District Council. The City of College Park was opposed to the application. One of the factors considered in the denial was that when the property was designated as a historic site in 1992, the rear yard was covered with grass. Sometime after 1992, the owner cleared the rear yard of grass and vegetation and covered it with gravel to allow about six vehicle parking spaces. The rear yard alteration appears to be an unauthorized modification of the environmental setting of the historic site done without Historic Preservation approval.

On May 13, 2011, the Public Services Department sent a letter to the Applicant notifying him that since the District Council denied the Special Exception, the use and occupancy permit only authorized the property to continue as a single family dwelling. Subsequent to receiving this notice, the Applicant converted the interior of the structure back to a single-family home by removing the wall separating the new addition from the rest of the house as per the original plans submitted by the prior owner (but never constructed). Subsequently, the City validated the property as a single-family dwelling. Currently, the building has eight existing bedrooms, four bathrooms and three kitchens.

In 2012, the applicant applied for permit 36083-2011-U to validate the use as a rooming house and permit 15799-2011-RG to validate the existing gravel parking lot both of which are pending the decision of this case.

D. HISTORIC AREA WORK PERMIT (HAWP)

The applicant applied for a Historic Area Work Permit (HAWP 40-014) on September 14, 2014 in order to propose the following changes within the historic site's environmental setting: (1) alteration (reduction) of an existing gravel parking area in the rear yard to provide a total of 5 parking spaces with wheel stops (including a designated handicap-accessible parking space; (2) additional landscaping in both the front and rear yards; (3) installation of a handicap ramp to provide accessibility to the house; (4) installation of fencing along the rear (north) property line; (5) installation of a bike rack in the rear under a covered area of the house and (6) possible removal or relocation of an existing shed in the rear yard. All proposed work is intended to comply with zoning and alternative compliance requirements relevant to the pending change in use of the property from a single-family dwelling to a rooming house.

The Old Town College Park Historic District Local Advisory Committee (LAC) met on October 30, 2014 to discuss HAWP 40-014. They were not opposed to the changes and offered the following suggestions: 1) consider a less institutional looking handicapped ramp; 2) consider a substitute for the 15 boxwoods along the western edge of the driveway to avoid creating a hedge; 3) reconsider the planting of the Honeylocust in front of the house if it will block the view of the house; 4) reconsider the 3 Pin Oaks in the rear yard because with the 2 Honeylocusts, there may be an overcrowding problem; 5) consider replacing the second-story windows in the front.

The Historic Preservation Commission requested a referral to the Mayor and City Council concerning this HAWP. The Mayor and City Council met on November 5, 2014 to discuss this case. The following motion was approved by unanimous consent:

"I move that the City Council forward comments to the Prince George's County Historic Preservation Commission regarding a Historic Area Work Permit application for the Holbrook House located at 4618 College Avenue. The following should be addressed as part of the application:

1. Install new timber framing to contain the gravel driveway in the front yard. The width of the driveway in the front yard shall not exceed 11 feet on the subject property.
2. Indicate the located of the relocated shed on the site plan.
3. Revise the landscape plan and plant list to:
 - a. Reduce the number of Honey Locust trees in the rear yard to 1 tree.
 - b. Replace the Pin Oaks in the rear yard with smaller understory trees.
 - c. Substitute Boxwoods in the front yard with other plants such as: False Cypress, Mugo Pine, Birds News Blue Spruce or Japanese Holly.
4. Replace the two non-historic second-story windows on the front façade with windows that are consistent with the historic character of the dwelling."

The Historic Preservation Commission (HPC) approved this HAWP on November 18, 2014 and delegated final approval to HPC staff once the City Horticulturist refines the selection of plant materials to be used. The Historic Preservation Commission agreed to the LAC and City Council suggestions except for the suggestion to replace the two non-

historic second story windows. The HPC did not feel there was sufficient nexus between this condition and the subject of the HAWP.

E. REQUIRED FINDINGS FOR GRANTING A DEPARTURE FROM DESIGN STANDARDS

According to City of College Park Code, Section 190-9 (8) (a) (Required Findings): A recommendation that a departure be granted shall be made by the Commission only upon the following findings:

(1) The purposes of the applicable provisions of the Prince George's County Zoning Ordinance will be equally well or better served by the applicant's proposal.

- a. To require (in connection with each building constructed and each new use established) off-street automobile parking lots and loading areas sufficient to serve the parking and loading needs of all persons associated with the buildings and uses.*

The proposed rooming house requires and provides five parking spaces, including a handicapped accessible parking space. Parking for the resident manager of the dwelling is exempt because the dwelling was constructed prior to parking regulations (1949).

- b. To aid in relieving traffic congestion on streets by reducing the use of public streets for parking and loading and reducing the number of access points.*

All required parking will be provided thus reducing the use of public streets for parking. No loading space is required for the proposed use. Access to College Avenue is limited to one driveway located in the east side yard.

- c. To protect the residential character of residential areas.*

Approving a reduction in width of the driveway to reflect existing conditions will help protect the residential character of the neighborhood. The required 22 foot width is a commercial standard and not in keeping with the residential character of the area where narrower driveways are prevalent.

- d. To provide parking and loading areas which are convenient and increase the amenities in the Regional District.*

The proposed parking area located directly behind the house is convenient to the residents of the house. The proposed landscape plan,

which includes the removal of invasive bamboo and the planting of native trees and shrubs, will enhance the landscape amenities in the immediate area and its environmental setting.

(2) The departure is the minimum necessary, given the specific circumstances of the request.

A departure of 11.4 feet to allow and validate the existing 10.6-foot wide gravel driveway on the subject property is the minimum necessary that will allow the applicant to legally establish the rooming house use even though with the shared driveway condition, the departure needed is, in effect, only 5.4 feet. There is only 16.6 feet between the structures at the narrowest point, 10.6 feet on the subject property and 6 feet on the adjoining property which is occupied by a gravel driveway. There is no room to expand due to the location of the two structures and the narrowness of the lot. **The minimum required lot width in the R-18 zone is 85-feet. The lot width for the subject property is only 50-feet wide.**

The driveway widens to the required 22 feet at the rear of the house but not in the front of the house. There is an existing timber curb that defines the western boundary in the front yard. This timber curb is worn out and losing its effectiveness in containing the gravel driveway and preventing parking in the front yard. Staff recommends, as a condition, that this timber be replaced. The driveway could be widened in front of the house; however, staff does not recommend this because it could negatively affect the residential character of the area and would necessitate the applicant obtaining a variance to allow the driveway to encroach in the front yard of the house.

(3) The departure is necessary to alleviate circumstances that are special to the subject use, given its nature at this location or alleviate circumstances which are prevalent in the district.

The house was built in 1927 before zoning (1928) and has evolved into what exists today. The lot is exceptionally narrow for a property in the R-18 zone. The driveway could physically widen again in front of the houses but this would necessitate the driveway encroaching into the front yard of the subject dwelling and would be contrary to the residential character of the area.

F. RECOMMENDATION

The applicant has demonstrated that this application meets all the necessary requirements to grant the departure, therefore, in accordance with Section 190-9 of the City's code, staff recommends approval of the requested departure of 11.4 feet from the required 22-foot driveway width (Section 27-563) with the following conditions:

1. Revise the site plan to:

- a. Show new timber framing to contain the gravel driveway in the front yard. The width of the driveway in the front yard shall not exceed 11 feet on the subject property.
 - b. Indicate the location of the shed to be relocated in the rear yard.
 - c. Show the correct required R-18 building setbacks or place an asterisk after "required" to explain that the building was constructed in 1927 prior to Zoning Regulations going into effect in 1928 and that no new building is being proposed.
 - d. **Designate locations for "no parking in driveway" signs-(minimum of two signs).**
2. The bare areas of the driveway and parking area shall be replenished with gravel or other dust-free material. The driveway and parking areas shall be maintained to provide a dust-free surface at all times.
 3. ~~The issue of two bedroom suites being permitted in a rooming house shall be resolved via a letter from M-NCPPC.~~ **No more than 9 guests/10 people including the Operator shall be allowed to live in the rooming house at any given time.**
 4. If the parking area is to be illuminated, the lighting shall be arranged so as not to reflect or glare on land used for residential purposes.
 5. All refuse shall be contained in covered bins.
 6. Outdoor storage shall be prohibited with the exception of bicycles.
 7. Parking shall be prohibited in the driveway at all times, **including no parking in the front of or along side of the house. Parking shall only be permitted in the designated rear parking lot.** The applicant shall post signage stating this prohibition in a visible location.

Alternative Compliance Recommendation

The Planning Director has recommended approval of the alternative compliance request from certain requirements in the Landscape Manual subject to the following conditions:

1. Revise the landscape plan and plant list to:
 - a. Reduce the number of Honey Locust trees in the rear yard to 1 tree.
 - b. Replace the Pin Oaks in the rear yard with: Japanese Snowbell, or native species such as Hop Hornbeam or Viburnum Selections (dilatatum, dentatum prunifolium, trilobum).
 - c. Substitute Boxwoods in the front yard with Birds Nest Blue Spruce. Plant and maintain to avoid plants from forming a hedge that exceeds 4 feet in height.
 - d. Revise the quantities in the landscape schedule to reflect quantities shown on the Landscape Plan.

- e. Revise the Landscape Plan to reflect the trees shown removed on the site plan dated 12/09/14.
- f. Correct Table 3. of the Landscape Plan to indicate that shade trees provided are worth 10 plant units not 30 plant units as shown

E. EXHIBITS

- 1. Application
- 2. Statement of Justification
- 3. Maryland-National Capital Park and Planning Commission (M-NCPPC) Permit Review Comments
- 4. Zoning Map
- 5. Neighborhood Map
- 6. Historic Inventory Listing
- 7. Joint Driveway Agreement
- 8. Public Services Letter dated May 13, 2011, use classification
- 9. Prince George's County Planning Board Resolution on Departure Request, January 7, 2010
- 10. Prince George's County Planning Board Resolution on Special Exception Request, January 10, 2010
- 11. Zoning Hearing Examiner Decision on Special Exception Request, March 31, 2010
- 12. County Council Resolution on Departure Request, March 14, 2011
- 13. County Council Resolution on Special Exception Request, March 14, 2011
- 14. City Council Motion on HAWP
- 15. M-NCPPC HAWP Staff Recommendation
- 16. Photos of the Site
- 17. Floor Plan
- 18. Site Plan and Landscape Plan



APPLICATION FORM

FOR OFFICE USE ONLY – DO NOT WRITE IN THIS SPACE

Application No: _____ Case Reviewer: _____
Planning Director Review: APC Review: APC Hearing: APC Meeting/Hearing Date: _____

APPLICATION TYPE

- Certification of Nonconforming Use
- Revision of Certified Nonconforming Use
- Minor Change to Special Exception
- Limited Minor Change to Special Exception
- Departure from Design and/or Landscaping Standards
- Departure from Parking and/or Loading Spaces
- Departure from Sign Design Standards
- Specific Change to Special Exception Site Plan
 - Gas Station Drive-in or Fast Food
 - Other Alternative Compliance

PROPERTY DESCRIPTION

Property Address, if applicable: 4618 College Ave. College Park, MD 20740		
Geographic Location of Property: North of College Ave. Approximately 150' West of Rhode Island Ave.		
Existing Use of Property: Single Family Dwelling		Proposed Use: Rooming House
Total Area/SF: 10,000 sq. ft. (0.23 AC)	City Council District: 3	No. of dwelling units: 1
Current Zone: R-18	Existing Lots/Blocks/Parcels: LOT 5; BLOCK 16	

Please list and provide copies of resolutions of previously approved applications affecting the subject property.

DDS-590-

Owner's Name, Address, Phone & E-mail Steven B. Behr 14835 Melfordshire Way Silver Spring, MD 20906 (240) 793-5180	Owner's Representative, Address, Phone & E-mail: (if applicable) Arthur J. Horne, Jr., Esq. 1101 Mercantile Lane, Suite 240 Largo, MD 20774 (301) 925-1800 ahorne@shpa.com
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SIGNATURE

Signature by all owners of record

Steven Behr

Owner's Signature

4/17/2014

Date

Owner's Signature

Date

Russell W. Shipley
Arthur J. Horne, Jr.*
Dennis Whitley, III*
Robert J. Antonetti, Jr.

1101 Mercantile Lane, Suite 240
Largo, Maryland 20774
Telephone: (301) 925-1800
Facsimile: (301) 925-1803
www.shpa.com

Bradley S. Farrar
L. Paul Jackson, II*

Also admitted in the District of Columbia

July 24, 2014

Applicant: Steven B. Behr

Project Name: 4618 College Avenue

Request: **Departure from Parking Design Standards of Section 27-563 of the Zoning Ordinance regarding Connection to a Street in accordance with Section's 27-587 and 27-239.01 of the Zoning Ordinance and Companion Alternative Compliance to Certain Requirements in the *Landscape Manual***

Applicant, Steven B. Behr, by and through his attorneys, Arthur J. Horne, Jr. and Shipley and Horne, P.A., hereby submits this Statement of Justification in support of a requested departure from parking design standards contained in Section 27-563 of the Prince George's County Zoning Ordinance, being also Subtitle 27 of the Prince George's County Code, regarding the width of a driveway connecting to a public street. The departure is required in order to allow the applicant to validate the existing driveway width and parking area and to allow operation of a Rooming House as a permitted use in the R-18 Zone pursuant to Section 27-441(b) Table of Uses. Section I of this justification addresses the departure request.

The departure application is submitted concurrently with a companion request for Alternative Compliance to Section 4.7 (buffering incompatible uses) in the *Landscape Manual*. Section II of this justification addresses the Alternative Compliance request.

SECTION I - Departure from Design Standards

A. Location and Description:

The subject property is located at 4618 College Avenue in the City of College Park, Maryland, approximately 150 feet west of Rhode Island Avenue. The property forms a narrow rectangular lot (Lot 5, Block 16 College Park – Johnson & Curriden's Subdivision) along the north side of College Avenue. The lot measures 50 feet wide and 200 feet in depth and contains 0.23 acres or 10,000 square feet in the R-18 Zone. A 1,543 square foot two-story single-family dwelling exists on the property. A six-foot-high wooden fence extends along the western property line from the street line to the end of the dwelling.

The lot is level and is accessed via a driveway from College Avenue. The variable width two-way gravel driveway is 11 feet wide at its narrowest. The driveway is located in the east side yard and is shared, via a 12-foot wide driveway easement, with the adjoining single-family dwelling located to the east at 4620 College Avenue. The shared driveway extends six (6) feet into the west side yard of the next door dwelling at 4620 College Avenue. In total, the shared driveway measures 17 feet in width and leads to a multiple vehicle parking compound located in each property's rear yard. Existing trees and shrubs exist between the subject property and the adjacent dwelling to the west and also along the north property line. A grove of invasive bamboo exists along the north property line and is proposed for removal.

The subject property was designated as a historic site in 1992. The site and dwelling is listed in the "2011 *Illustrated Inventory of Historic Sites for Prince George's County, Maryland*" as the "Holbrook House".¹ Like many other older dwellings in this neighborhood, the subject dwelling was originally constructed as single-family dwelling but was subsequently converted to a multifamily dwelling by the previous owner. The existing building was initially built in 1927 and predates adoption of the Zoning Ordinance. At some point in the past, a gravel parking area was installed by a previous owner in the rear yard environmental setting. Notwithstanding, as indicated on Page 7 of Planning Board Resolution (PGCPB No. 09-175) that recommended approval of SE-4611 for an Adaptive Reuse of a Historic Site and companion case (Departure from Design Standards (DDS-590), the Historic Preservation Commission (HPC) reviewed the applications and stated in a November 19, 2009 memorandum that approval of SE-4611 would have no effect on the historic and architectural character of the Holbrook House Historic Site and Environmental Setting (66-042-31). Details of these prior applications are discussed in the Zoning History section below.

The Applicant acquired the property in 2006 with the expectation that it could continue operating as a multifamily dwelling. It had been converted by the previous owner, without proper permits, into a multifamily dwelling with nine bedrooms. Also, the previous owner added the existing gravel driveway located in the rear yard.

In response to City violation notices, the Applicant converted the interior to an open single-family home by removing the wall separating the new addition from the rest of the house as per the original plans submitted by the prior owner (but never constructed pursuant thereto). Subsequently, the City validated the property as a single-family dwelling. Currently, the building has eight (8) existing bedrooms, four (4) bathrooms, and three (3) kitchens.

B. Surrounding Uses:

The subject property is within an established neighborhood characterized by older single-family homes in the R-55 Zone, rooming houses, sorority and fraternity houses, and apartments in

¹ The *Approved 2010 Historic Sites and Districts Plan* identifies the subject property and house as Historic Site 66-042-31. The plan notes that the two-story stucco-covered "Mission" style frame dwelling, with pyramidal roof and decorative shaped parapets, was constructed in 1927 and is one of two known examples of the Alhambra model of Sears, Roebuck and Company mail-order houses in the County. The Environmental Setting for Holbrook House is the entirety of the associated property identified as "Lot 5 and part of Lots 3 and 4, Block 16 College Park – Johnson & Curriden's Subdivision."

the R-18 Zone. The neighborhood is predominantly oriented to and serves the housing needs of many students enrolled at the University of Maryland. Land uses and zoning on adjacent property is as follows:

- North: Lots 9 and 16, Block 16 are zoned R-55 and used as single-family dwellings;
- East: Lot 6 is currently used as a single-family dwelling in the R-18 Zone and also shares a common driveway easement with the subject property;
- South: Across College Avenue are rooming houses and an apartment in the R-18 Zone; and
- West: Lot 4 is in the R-18 Zone and used as a rooming house.

C. Development Data Summary:

	EXISTING	PROPOSED
Zone(s)	R-18	R-18
Use(s)	Single-family dwelling	Rooming house with five (5) Guest Rooms for (9) guests
Acreage	0.23 (10,000 sq. ft.)	0.23 (10,000 sq. ft.)
Lots	1	1

D. Zoning and Land Use History:

The subject property was retained in the R-18 Zone by the May 1990 Langley Park-College Park-Greenbelt Sectional Map Amendment for the purpose of implementing the medium density multifamily land use recommendation in the October 1989 Master Plan for said area. The 2002 Prince George’s County Approved General Plan placed this property in the Developed Tier. The vision for the Developed Tier is a network of sustainable, transit-supporting, mixed-use, pedestrian-oriented, medium- to high-density neighborhoods. Plan Prince George’s 2035 Growth Policy Map appears to include the property in a portion of the College Park/UM Metro/M Square Purple Line Regional Transit Center, where a range of housing options are encouraged to appeal to different income levels and household types. While not clearly apparent, the Map may also be interpreted to show the area of the subject property as an Established Community where context-sensitive infill and low- to medium-density development is encouraged.

The existing dwelling has been used as a rooming house and multifamily dwelling. In 1967, the owner, Mrs. Holbrook, rented three rooms upstairs and a basement apartment. A year later she rented an additional room upstairs. The house continued to operate as a rental property under the next owner who purchased the property in 1973. In 1978, the house was again sold and the new owner indicated the property was owner-occupied. When the property was sold yet again in 2001, the new owner obtained rental licenses for two units and a Historic Area Work Permit for the construction of an addition to the rear of the house. Although a county use and occupancy

permit was issued in 2002 when the addition was completed, it was for a single-family dwelling, not a three-unit multifamily dwelling. The City of College Park inspected the property and issued a rental license for three units. The current owner and Applicant, Steven Behr, purchased the property in 2006.

In 2009, the Applicant requested a Special Exception (SE-4611) to allow for an adaptive use of a historic site pursuant to Section 27-330.02 of the Zoning Ordinance, to allow the legal conversion of a single-family dwelling to a two-family dwelling. The conversion of single-family dwellings is not permitted in the R-18 Zone, except by this provision. That application and its companion Departure from Design Standards application (DDS-590) were both recommended for approval by the Planning Board (PGCPB No. 09-175) and (PGCPB No. 09-176). However, the District Council ultimately denied SE-4611, thus nullifying DDS-590.

Currently, the Applicant requests approval of the same type of interior driveway width departure that was approved by the Planning Board in DDS-590. However, this time the departure relates to validating the use of the structure for a rooming house; a use permitted in the R-18 Zone. Because a rooming house is a permitted use, Section 27-330.02 of the Zoning Ordinance no longer applies.²

In January 2011, the Applicant applied for Permit 36083-2011-U to validate the use as a rooming house and that permit remains on hold pending approval of the instant request. Also, Permit 15799-2011-RG was submitted to validate the existing gravel parking lot that was constructed without permits by a previous owner. That permit was applied for as a single-family dwelling and must now be approved as a commercial parking lot for the proposed rooming house. Although the permit was amended to request a commercial parking lot it remains on hold. The Applicant will request a Historic Area Work Permit as part of the approval process for Permit 15799-2011-RG to validate the parking lot.

E. Nature of Requested Departure:

The proposal requests a departure from the design standard in Section 27-560(a) of the Zoning Ordinance that requires a 22-foot-wide interior driveway for two-way traffic. This departure request is essentially the same as approved by the Planning Board in DDS-590. The site plan shows that a portion of the existing access drive is only 11 feet wide. The Applicant has provided a copy of a joint driveway agreement (Liber 14700, Folio 382) with the adjacent property owner (Lot 6) which provides an additional six feet of driveway width to the east.

The Applicant will be able to obtain appropriate permits to operate a rooming house at the subject property once the instant departure and alternative compliance requests and Historic Area Work Permit is approved.

² Section 27-330.02 (Adaptive Use of a Historic Site) only applies if a proposed use is not allowed within the existing zone. The R-18 Zone allows rooming houses but not the conversion into a two-family dwelling that was proposed in SE-4611.

A Rooming House is defined in Section 27-107.01 (11) of the Zoning Ordinance as:

(204) Rooming House: A "Dwelling" in which (for compensation) lodging (excluding meals) is furnished by the inhabitants to four (4) or more, but not over nine (9), guests. The "Dwelling" shall contain not over five (5) "Guest Rooms." A Rooming House shall not be considered a "Bed-and-Breakfast Inn."

A "Guest Room" is defined in Section 27-107.01 (11) of the Zoning Ordinance as:

(111) Guest Room: A room or suite of rooms in which living and sleeping accommodations are provided for one (1) or more paying visitors. "Guest Rooms" shall have no provisions for cooking, except in the case of "Guest Rooms" in a "Hotel" or "Motel," where "Guest Rooms" may contain a "kitchenette." Rooms in school "Dormitories" and "Fraternity or Sorority Houses" are not "Guest Rooms" (emphasis).

F. Parking and Loading Requirements: Section 27-568 of the Zoning Ordinance requires parking at a rate of one (1) parking space per guest room. The Applicant is proposing five (5) "guest rooms" to house a total of nine (9) guests. Thus, five parking spaces are required and provided, including a required handicap space based on the number of guest rooms/suites.

Two of the larger bedrooms are designated as double occupant suites. The guest room suites are designated on the attached floor plan. One bedroom is designated for the rooming house inhabitant or resident manager. However, because the dwelling was constructed in 1927 before parking was regulated, parking for the resident manager of the dwelling is exempt per Section 27-584 (a) of the Zoning Ordinance.

G. Departure from Design Standards (Division 2, Subdivision 2):

Section 27-587(a): - Authority for Departures from Design Standards:

This section permits a Municipal Corporation to approve a departure from parking Design Standards (Division 2, Subdivision 2) pursuant to procedures and requirements in 27-239.01 of the Zoning Ordinance, provided the District Council has delegated this responsibility. The City of College Park has been delegated this authority.

Section 27-239.01 (a) (1) – Authorization:

A departure from the design standards contained in Part 11 (parking) or part 12 (loading) of this Subtitle or contained in *the Landscape Manual* may be approved by the City of College Park in accordance with the provisions of this Section.

Section 27-239.01 (7) – Required Findings for Departures from Design Standards:

In order for the City of College Park to grant departures from the parking design standards contained in Part 11 and Part 12 of the Subtitle or contained in the *Landscape Manual*, it shall make the following findings and shall, pursuant to Section 27-239.01 (6) embody its decision in a resolution and give written notice to all persons of record and the District Council:

(i) The purposes of this Subtitle will be equally well or better served by the applicant's proposal;

RESPONSE: The purposes for parking design standards contained in Part 11 of the Zoning Ordinance (Off-Street Parking and Loading) are found in Section 27-550:

Section 27-550 – Purposes:

(a) The purposes of this Part are:

(1) To require (in connection with each building constructed and each new use established) off-street automobile parking lots and loading areas sufficient to serve the parking and loading needs of all persons associated with the buildings and uses;

RESPONSE: The proposed rooming house requires and provides five (5) parking spaces, including a handicapped parking space. Parking for the resident manager of the dwelling is exempt because the dwelling was constructed prior to parking regulations. Loading facilities are not required for a rooming house.

(2) To aid in relieving traffic congestion on streets by reducing the use of public streets for parking and loading and reducing the number of access points;

RESPONSE: The Applicant is proposing five (5) "guest rooms" to house a total of nine (9) rooming house guests. Thus, five parking spaces are required and provided at one space per guest room, including a required handicap space. A "guest room" is a room or suite of rooms in which living and sleeping accommodations are provided for one (1) or more paying visitors. Thus, all parking has and will continue to be provided on-site and will not cause traffic congestion on nearby streets. Access to College Avenue is limited to one driveway located in the east side yard. This driveway serves a dual function in providing access both to the subject property and the adjacent property to the east (Lot 6), via a shared recorded driveway easement. Thus the number of access points is minimized.

(3) To protect the residential character of residential areas; and

RESPONSE: Approval of the requested driveway width departure will validate the existing driveway and will be consistent with the action taken by the Planning Board in approving the same request in prior DDS-590. As discussed above, DDS-590 was a companion application to SE-4611 that was ultimately denied by the District Council. Thus, the companion DDS was never utilized because the District Council reversed the Planning Board's DDS approval as being moot. Additionally, in reviewing and approving the prior SE-4611 and companion DDS-590, the Historic Preservation Commission (HPC) found that approval would have no effect on the historic and architectural character of the Holbrook House Historic Site and Environmental Setting. Approval of the departure will not change a driveway and parking situation that has existed for some time with no known complaints.

(4) To provide parking and loading areas which are convenient and increase the amenities in the Regional District.

RESPONSE: The proposed parking area and driveway are designed and located to conveniently serve rooming house guests. The removal of invasive bamboo in the rear yard and the replanting of additional native trees and shrubs will be a great improvement to the property and will enhance the landscape amenities in the immediate area and its environmental setting.

(ii) The departure is the minimum necessary, given the specific circumstances of the request;

RESPONSE: The design departure to allow and validate the existing 11-foot wide gravel driveway is the minimum necessary that will allow the applicant to legally establish the rooming house use. There is not additional space to increase driveway width on the subject property because of the narrowness of the lot (50 feet frontage), the existing building setback (11 feet), and the fact that the adjacent Lot 6 is the same shape and size and has a 7-foot building setback. Overall, the two-way shared driveway as proposed provides a 17 foot wide interior driveway connection to College Avenue. The driveway widens to 22 feet at the rear of the site where 90 degree parking is located on both the subject property and adjacent Lot 6. Thus a departure of five (5) feet is the minimum required to validate this existing situation.

(iii) The departure is necessary in order to alleviate circumstances which are unique to the site or prevalent in areas of the County developed prior to November 29, 1949;

RESPONSE: The departure is required to alleviate circumstances unique to the subject and adjacent property and not too different than found at other locations in this historic Old Town College Park neighborhood. The subject property was developed as a single-family dwelling in 1927 and has evolved into what exists today. It was built prior to current parking and access requirements, including all zoning regulations. Typically, a lot in the R-18 Zone must be a minimum 100 feet wide and the subject property is only 50 feet wide.

The narrowness of the lot and size of the historic house necessitates that required parking be located in the rear of the lot. A driveway is required to access the parking spaces. However, the narrow lot width severely limits the ability to provide a standard driveway.

(iv) The departure will not impair the visual, functional, or environmental quality or integrity of the site or of the surrounding neighborhood.

RESPONSE: The design departure from the width of an interior driveway will not impair the visual, functional and environmental integrity of the site or surrounding neighborhood. This has previously been determined by the Planning Board and Historic Preservation Commission as already discussed. Also, the very limited uses at the subject property and number of parking spaces which access the subject driveway, along with the fact that there is sufficient width to accommodate two-way operations at very low speeds within the overall driveway easement, the minimum departure provides a functional solution to accommodating all required parking. The additional landscaping provided elsewhere on the site will improve the appearance of the property and further enhance the overall Environmental Setting.

In addition to demonstrating compliance with the above purposes for parking regulations, the City of College Park also requires demonstrating the following:

2. *The impact of vehicular traffic entering and leaving the parking lot upon the public streets and the number and locations of points of access.*

RESPONSE: There is only one driveway entrance to the property from College Avenue. It is shared with the adjoining single-family dwelling as discussed previously. There are no additional parking spaces or expansion of the parking lot proposed beyond what is required by the proposed rooming house.

3. *The ease of pedestrian movement within the lot and to other pedestrian areas.*

RESPONSE: Pedestrian movement will be enhanced by installation of wheel stops to mark individual parking spaces and the addition of a 4' wide concrete walkway leading from the parking lot to the rear entrance.

4. *Whether the amenity and convenience of the lot is enhanced by landscaping, the provision of pedestrian spaces, screening, and similar means.*

RESPONSE: As illustrated on the site and landscape plans the rear parking lot amenities are enhanced and contribute to improving pedestrian convenience. The parking area is enhanced by removal of an existing shed, invasive bamboo plants, and provision of a new concrete walkway. Parking spaces will be clearly defined by wheel stops. A substantial amount of new landscaping is provided in place of the existing bamboo along the rear property line and west property line. These and other landscaping improvements elsewhere on the property will contribute to enhancement of the site's environmental setting.

5. *Maximizing the safety and efficiency of vehicular circulation within the lot; and*

RESPONSE: There will be no change in the safety and efficiency of vehicular circulation within the rear parking lot or shared driveway. In fact, the designation of parking spaces using wheel stops will help reduce possibilities for haphazard parking.

6. *Compatibility with the surrounding area.*

RESPONSE: The improvements proposed will certainly enhance compatibility of the entire site with surrounding development and the sites own environmental setting. The neighborhood contains numerous rooming houses, fraternity and sorority houses, apartments and single family dwellings that have over the years been converted from one use to another and expanded with increased on-site parking lots. Approval of the departures will enable the Applicant to operate a rooming house with all required off-street parking, thus preserving compatibility with surrounding properties.

SECTION II – Alternative Compliance

Nature of Request:

The existing use of the subject property is recognized as a single-family dwelling. The Applicant has filed Permit 36083-2011-U to establish the actual use of the dwelling as a Rooming House, a permitted use in the R-18 Zone. However, a rooming house is deemed by Section 4.7 of the *Landscape Manual* to be a "Low-Impact" use. Because the site is adjacent to a single-family dwelling located to the east on Lot 6, it is subject to a Type B bufferyard requirement.

Accordingly, a minimum 30-foot building setback is required along the east property line as well as a minimum, 20-foot wide landscaped yard. The existing building setback is 11 feet and there is no landscape strip. Moreover, 80 plant units per linear feet of property line are required to be located in the landscaped yard. Schedule 'C' on the Landscape Details sheet indicates the 200-foot deep lot requires 160 plant units along the east property line. None are provided because of the developed nature of both Lot 5 and 6.

Alternative Compliance is requested simply because it is impossible to provide the required building setback, landscaped yard and the required amount of plant materials in the east side yard. This is because the east side yard is used exclusively as a driveway. This driveway is also located on the adjacent Lot 6 and is used by both property owners as access to their respective parking lots located in each rear yard.

Alternative Compliance:

Alternative compliance is required in instances where conditions make it impractical or impossible to comply with the *Landscape Manual*. Requests for alternative compliance may be approved for any application to which the requirements apply when one or more of the following conditions are present:

(1) Topography, soil, vegetation, or other site conditions are such that full compliance with the requirements is impossible or impractical; or improved environmental quality would result from the alternative compliance.

RESPONSE: As explained above, site conditions inhibit full and partial compliance, but the alternative landscaping proposed will improve the environmental quality of the overall subject property and will enhance surrounding properties. Specifically, 50 units of planting has been provided and shown in Tables 1 and 3 on the Landscape Details Sheet to compensate for the 160 units required in the side bufferyard. Of the 50 units, ten (10) units are part of an existing tree shown in Table 1. Additionally, invasive bamboo along the north property line will be removed and will be replanted with five (5) shade trees and several shrubs.

(2) Space limitations, unusually shaped lots, and prevailing practices in the surrounding neighborhood, in-fill sites, and for improvements and redevelopment in older communities.

RESPONSE: As explained above, the subject property, including other properties nearby, forms an unusually small and narrow lot to have been placed in the R-18 Zone. Space limitations make it impossible to provide the required setback and bufferyard along the east property line. Overall space limitations on the property also make it difficult to provide the required amount of plant materials elsewhere on the site without making the property look overgrown and out of character with neighboring properties. Further, the subject site has been developed, used, and converted into uses that establish a prevailing neighborhood character comprised of fraternity/sorority houses, small apartments, rooming houses and single-family dwellings that do not comply with current zoning and landscape standards.

(3) Change of use on an existing site increases the buffer required by Section 4.7, Buffering Incompatible Uses, more than it is feasible to provide.

RESPONSE: The change from a single-family low-impact use to a rooming house use requires increasing the bufferyard and building setback from Lot 6 and the requirement is not feasible to provide.

(4) Safety considerations make alternative compliance necessary.

RESPONSE: Any landscaping in the side yard would narrow the driveway and reduce pedestrian and vehicle safety.

(5) An alternative compliance proposal is equal or better than normal compliance in its ability to fulfill the design criteria in Section 3, Landscape Elements and Design Criteria.

RESPONSE: The alternative proposed will provide 50 new plant units in addition to the landscaping already existing and proposed. This landscaping will occur in the rear bufferyard in place of existing invasive bamboo that is proposed for removal, along the west property line, and in the front yard along the street. It is the Applicant's belief that due to the narrowness of the lot, the large dwelling, the driveway, and the rear parking area, that little space exists elsewhere to attractively design and arrange additional plant materials beyond the 50 additional plant units proposed to compensate for none being in the east bufferyard.

The Landscape Details sheet indicates compliance with the following pertinent sections of

the *Landscape Manual*:

- Section 4.2-1 landscape strips along streets (1 shade tree and 5 shrubs are required and 20 additional shrubs are added).
- Section 4.7 buffering incompatible uses along the north property line (single-family dwelling) 40 plant units are required and 65 units are proposed in addition to removal of the bamboo.
- Section 25-128 Tree Canopy Coverage – 1,503 square feet is required and 2,541 square feet is provided by six (6) major shade trees and eight (8) evergreen columnar trees.

Also, the Landscape Details sheet indicates that the site is exempt from Section 4.3-2 (interior planting for parking lots) because the parking lot is less than 7,000 square feet. Also, Section 4.7 (buffering incompatible uses) does not apply to the lot adjacent on the west because it is also a low-impact rooming house use.

Conclusion:

The Applicant is committed to operating a permitted rooming house use while concurrently validating the existing driveway and rear yard parking areas to bring the property up to code standards. The Applicant is also improving the property's landscaping. Therefore, we believe that the minimum 5-foot wide driveway departure is the minimum necessary to resolve a long standing use dilemma and bring the property and proposed use into conformance with the Zoning Ordinance. We believe the additional landscaping proposed to compensate for the inability to provide the required landscaped bufferyard in the east side yard is an appropriate response that demonstrates a good faith effort toward compliance on a site that is otherwise too small and developed to effectively provide the total required 160 plant units. As discussed throughout this statement of justification, the Applicant has shown that the purposes for parking regulations and landscaping, as applied to this uniquely located institutional property, are equally well served by the proposal.

Sincerely,



Arthur J. Horne, Jr.

Attachments:



Permit Reviewer: Mary Hampton 36083-2011-U
Telephone Number: 301-952-5411 January 3, 2012
Fax Number: 301-952-4141
Permit Status: www.mncppc.org

The following comments were generated from permit review. Any questions or concerns regarding the following should be directed to the reviewer at the phone number provided above.

1. This permit is for a rooming house in the R-18 Zone. The existing use is a single family dwelling. A rooming house is a low impact use and therefore subject to Section 4.2 and 4.7 of the Landscape Manual due to the change in use from a lower to a higher use category. The applicant must submit site and landscape plans in accordance with Section 27-254 of the Zoning Ordinance with all appropriate schedules. If Alternative Compliance is required, the applicant must contact the City of College Park for information and instructions regarding this process. *7/30/13 – See revised comments generated below after the review of revised plans.*

2. A rooming house is subject to the parking requirements and design standards of Part 11 of the Zoning Ordinance. Therefore site and landscape plans must be submitted demonstrating compliance to these requirements as well as all applicable sections of the Landscape Manual and Section 27-442(a) of the Zoning Ordinance. Please note that permit 15799-2011-RG is currently on hold to validate the parking lot that was constructed without a permit by the previous owner as well as do interior alterations. However this permit was applied for as a single family dwelling and therefore not reviewed as a commercial parking lot. The applicant must contact DER permits office to either revise the application to correct the proposed use and case type to a parking lot for a rooming house (which will be a commercial permit) or abandon the permit and re apply. A separate permit may be required for the interior work. If a departure is required from either the number of the required spaces or from design standards, the applicant must contact the City of College Park. *7/30/13 – Permit 15799-2011-RG was revised to a CG and is currently on hold. This use and occupancy permit will remain on hold until this CG permit is approved.*

3. A Historic Area Work Permit will be required for the parking lot as commented during the review of permit 15799-2011-RG. The applicant must contact Howard Berger at 301-952-4712 for information regarding this process. *7/30/13 – This comment is still outstanding per 15799-2011-RG.*

4. Once revised plans are submitted additional comments will be generated.

I emailed the comments to Steven Behr.

7/30/13 – These comments were generated after the review of revised site and landscape plans:

1. The parking schedule indicates that 5 parking spaces are required and provided for the rooming house based on 5 guest rooms. However it also states that the parking required is not met on site and that a departure has been submitted to the City of College Park for the remaining 9 required spaces. This must be clarified.

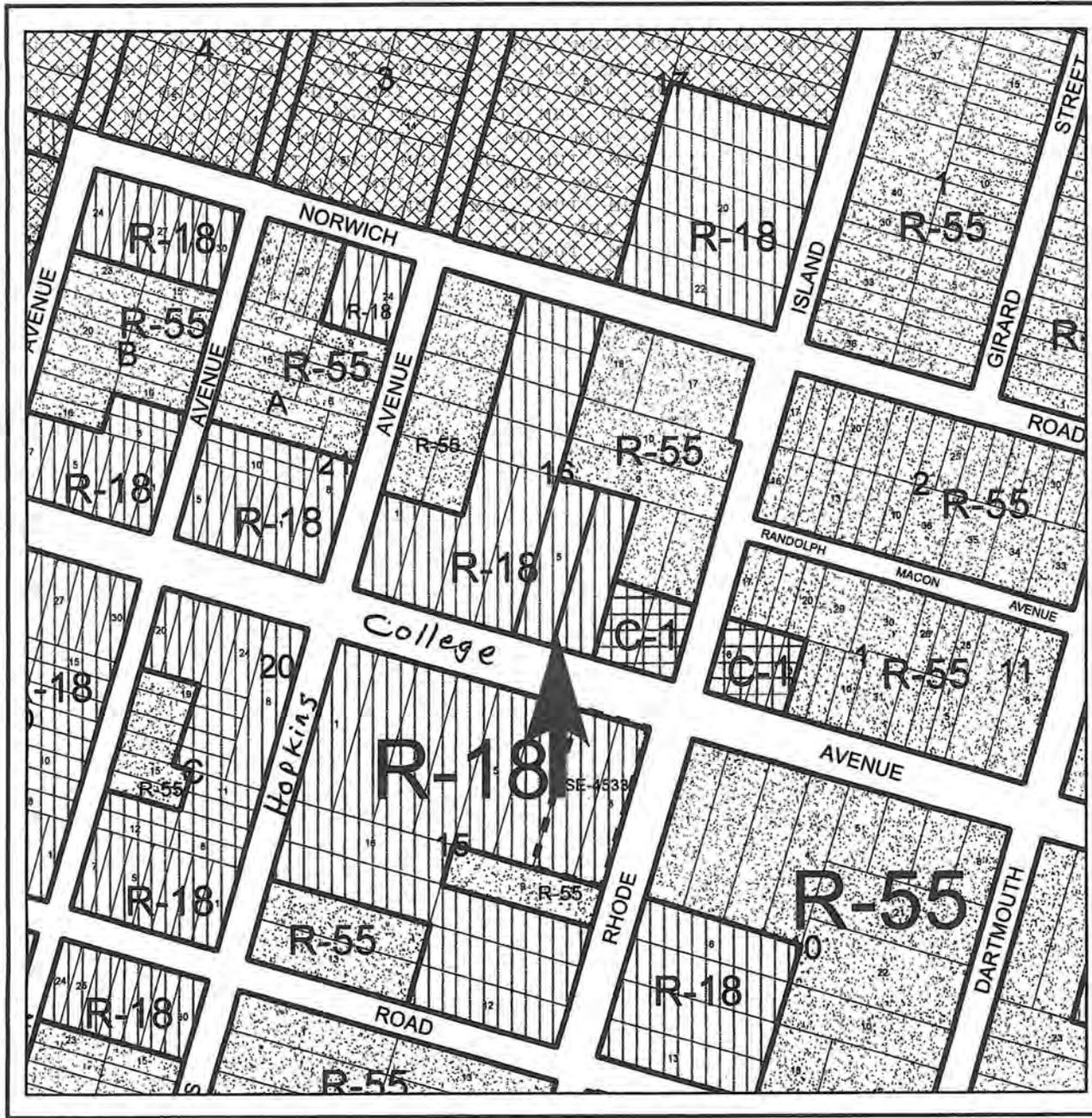


**THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
PERMIT REVIEW SECTION**

14741 Governor Oden Bowie Drive, Upper Marlboro Md. 20772

2. A portion of the proposed driveway is 11 feet in width with an additional 6 feet provided on the adjacent property with a shared recorded easement. A departure from the City of College Park is required and has been noted on the site plan. A copy of the recorded easement should also be submitted with 15799-2011-CG.
3. The proposed van accessible parking space must be identified on the site plan.
4. A ramp or other means of access to the building from the accessible parking spaces must be labeled on the site plan.
5. Alternative Compliance from Section 4.7 is required along the east property line because the minimum required building setback and landscape yard cannot be provided. This request must be submitted to the city of College park.
6. The schedule for 4.7 along the east property line (Table 2) must be revised to indicate the impact of adjoining property as SFD and minimum required bufferyard is a B bufferyard.
7. The landscape plan shows existing bamboo as part of the existing woodlands in the required b Bufferyard along the north property line. Bamboo is an invasive species, cannot be counted towards existing woodlands, and must be removed per our Urban Design Section. The required bufferyard must be provided. Section 4.9 -1 is therefore incorrect.
8. The schedule for Section 4.7 along the north property line (Table 3) must be revised to indicate the impact of adjoining property as SFD and minimum required bufferyard is a B bufferyard.
9. The north arrow on the site and landscape plans does not match.
10. The landscape plans must be prepared sand sealed by a landscape architect registered in the State of Maryland.
11. A rooming house is a "dwelling" in which for compensation lodging excluding meals is furnished by the inhabitants to four or more but not over nine guests. The "dwelling" shall not contain more than 5 guest rooms. The site plan indicates the building is a rooming house with 5 guest rooms. Are these rooms in addition to the dwelling? If so the parking schedule should clarify this and no parking is "required" for the original dwelling since the building was constructed prior to 1949. Parking is required for the proposed guest rooms. The number of guests must be provided on the site plan.

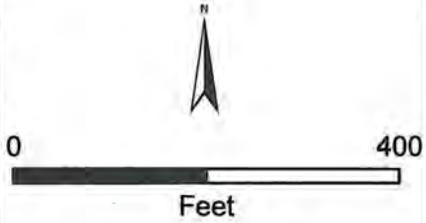
7/30/13 – I emailed the revised comments to Steven Behr and Miriam Bader with the City of College Park.



ZONING SKETCH MAP

APPLICATION NO: _____
 REQUEST: _____

PAZ: _____
 EXISTING ZONE: R-18
 PLANNING AREA: 66
 WSSC GRID: 209NE04
 TAX MAP: 33
 TAX GRID: D3
 COUNCIL DISTRICT: 3



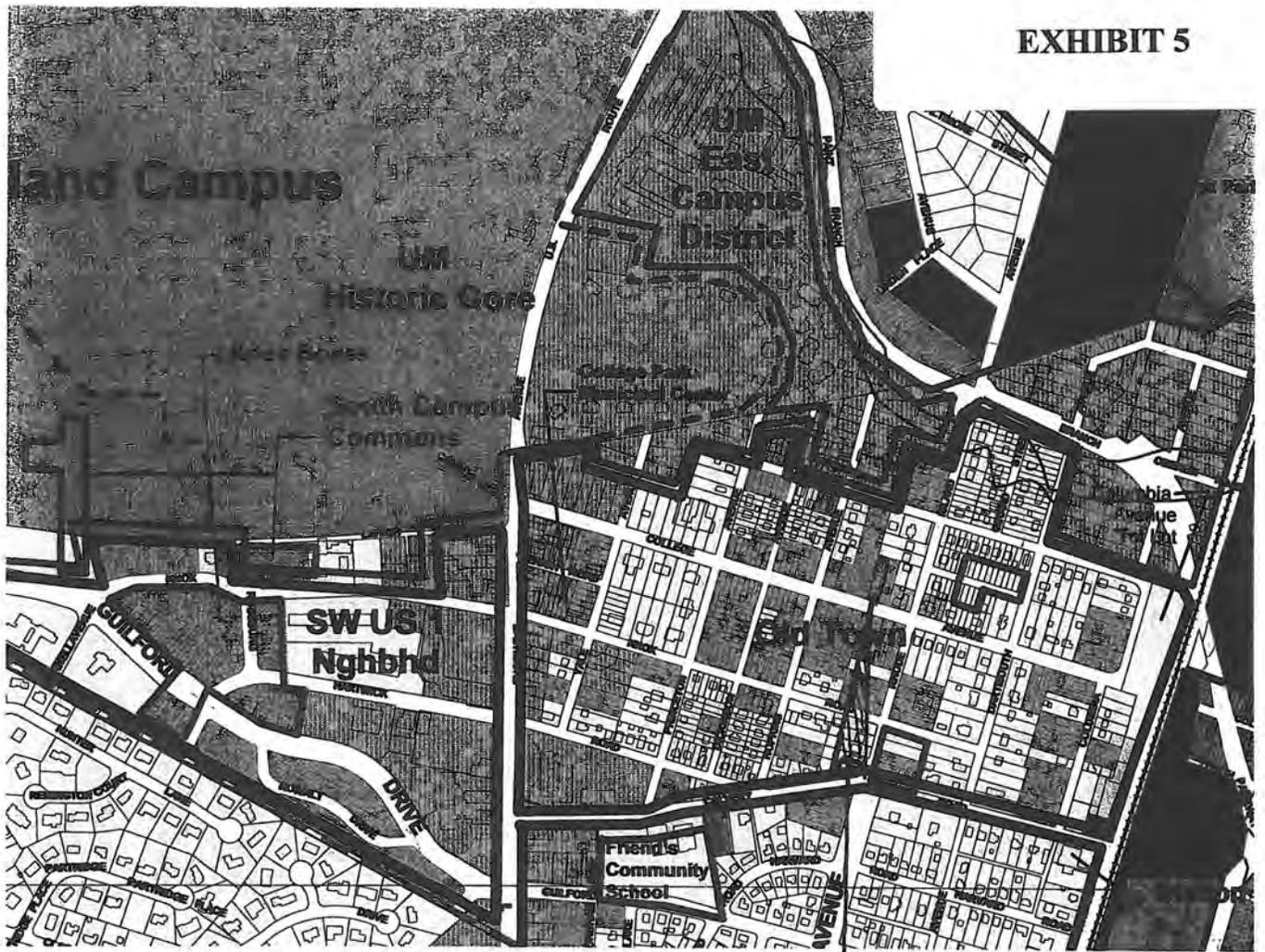
1 inch = 200 feet



The Maryland-National Capital Park and Planning Commission
 Prince George's County Planning Department
 Geographic Information System

Created: June 17, 2014

EXHIBIT 4



4618 College Avenue

- Trainsta.shp
- ▲ Pwr_rail.shp
- Build.shp
- Hydra.shp
- Fplain.shp
- Hydrs.shp
- Hydr.c.shp
- Property.shp
- Parkprop.shp
- Zoning.shp
 - C-1
 - C-2
 - C-A
 - C-M
 - C-O
 - C-S-C
 - I-1
 - I-2
 - I-3
 - M-U-1
 - M-X-T
 - O-S
 - R-10
 - R-18
 - R-20
 - R-30
 - R-30C
 - R-35
 - R-55
 - R-80
 - R-H
 - R-O-S
 - R-R
 - R-T
 - ROAD

- Key**
- Approved Housing Projects
 - Planned Housing Projects
 - Mixed Use Development
 - Neighborhood Boundary Lines
 - Redevelopment Sites
 - Vacant Sites
 - City Boundary Line



Old Town

Digital Data Source: The Maryland-National Park and Planning Commission

Address	Street	Style/Form	Date ⁱⁱ	Stories	Wall Treatment	Current Bldg Use	Roof Shape	District Status ⁱⁱⁱ	Integrity ^{iv} Comments
4613	College Avenue	Colonial Revival	1919	2.5	Aluminum Siding	Domestic	Pyramidal	C	
4615	College Avenue	Colonial Revival	1931	2.5	Vinyl Siding	Domestic	Gable, Side	C	
<u>4616</u>	College Avenue	Colonial Revival	1922	2.5	Aluminum Siding	Domestic	Pyramidal	C	Adjoining property to the west
4617	College Avenue	Colonial Revival	1923	2.5	Vinyl Siding	Domestic	Gable, Side	C	
<u>4618</u>	College Avenue	Colonial Revival, Spanish	1927	2.5	Stucco	Domestic	Pyramidal	C	Subject Property
4619	College Avenue	Colonial Revival	1930	2.5	Brick	Apartments	Gable, Side	C	
<u>4620</u>	College Avenue	Queen Anne	Ca. 1900	1.5	Asbestos Shingles	Domestic	Pyramidal	C	Adjoining property to east
4622-4624	College Avenue	Colonial Revival	1908/1912	2.5	Asbestos Shingles	Commercial/Apartments	Gable, Side/Front	C	
4701	College Avenue	Modern/ Colonial Revival	1998	2	Vinyl Siding	Domestic	Gable, Front	NC	
4702	College Avenue	Modern/ Colonial Revival/ Split Level	1979	2	Brick Veneer	Domestic	Gable, Side /False Mansard	NC	
4703	College Avenue	Modern/ Colonial Revival	1998	2	Vinyl Siding	Domestic	Gable, Side	NC	
4705	College Avenue	Modern/ Colonial Revival	1997	2.5	Vinyl Siding	Domestic	Gable, Front	NC	
4706	College Avenue	Modern/ Colonial Revival	1979	2	Brick Veneer	Domestic	Gable, Side	NC	
4707	College Avenue	Modern/ Colonial Revival	1997	2	Vinyl Siding	Domestic	Gable, Side	NC	
4709	College Avenue	Modern/ Colonial Revival	1995	2	Vinyl Siding	Domestic	Gable, Side	NC	
4710	College Avenue	Queen Anne	1891	2.5	Aluminum Siding	Domestic	Gable, Cross	C	
4800	College Avenue	Colonial Revival	1910	2.5	Asbestos Shingle	Domestic	Gable, Side	C	
4801	College Avenue	Dutch Colonial Revival	1952	1.5	Brick Veneer	Domestic	Gambrel	NC	
4804	College Avenue	Colonial Revival	1938	2	Wood Shingle	Domestic	Gable, Side	C	
4805	College Avenue	Colonial Revival	1923	2.5	Vinyl Siding	Domestic	Gable, Side	C	

Stated driveway Agreement

PPIN
NOT
TAXE
DATE

JOINT DRIVEWAY AGREEMENT

THIS JOINT DRIVEWAY AGREEMENT made this 26 day of June, 2001 by Marion G. Texier, Trustee of H. Burlin and Marion Texier Revocable Trust (hereinafter referred to as "Declarant") and David C. Model (hereinafter referred to as "Model").

WITNESSETH:

WHEREAS, Declarant is the owner of certain parcels of real property described in Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, Model is the contract purchaser for Lot 5 under contract dated April 10, 2001.

WHEREAS, it is the intention of Declarant and Model to declare a Joint Driveway

Agreement for the upkeep and maintenance of a common driveway and further for ingress and egress over and upon the Joint Driveway area as more fully depicted on a survey by Meridian Surveys, Inc. dated May 31, 2001 which is attached hereto and incorporated herein by reference.

NOW, THEREFORE, the Declarant and Model hereby declare that the real properties described in "A" are and shall be forever held, conveyed, hypothecated, encumbered, sold, leased, rented, used, occupied and improved subject to this grant and the establishment of this Joint Driveway Agreement, which Agreement shall be binding upon and for the benefit of Declarant and Model, and their respective successors and assigns, in perpetuity and running with the land. Said Joint Driveway Agreement shall be utilized for the maintenance and upkeep of the common driveway, as well as the right of ingress and egress over and upon driveway area described above in order to effectuate the purposes herein contained. Both properties shall be subject to this Joint Driveway

OLD MILL TITLE
2001 JUN 28 A 10 26

CLERK OF THE
CIRCUIT COURT

IMP FD SURE \$ 5.00
RECORDING FEE 20.00
TOTAL 25.00
Res# PC03 Rcpt # 20344
Jun 28, 2001 Bk # 3343
10:26 am

PRINCE GEORGE'S COUNTY CIRCUIT COURT (Land Records) REP 14770, p. 0382, MSA_CE64_14850. Date available 09/27/2005. Printed 07/24/2014.

Agreement for reasonable ingress/egress and traffic over and upon the common driveway area.

All present and future owners of the real properties described in Exhibit "A" shall be equally responsible for all costs for maintenance, upkeep, repairs and replacement of the Joint Driveway. All present and future owners of the real properties described in Exhibit "A" shall not allow any action to be taken on behalf of themselves, their transferees, assigns, personal representatives, executors or successors that will interfere with the peaceful and unobstructed use and enjoyment of the Joint Driveway area by all persons entitled to the benefit of the same, including, without limitation, the erection of any building or structure of any nature whatsoever or the planting of any trees or shrubs within the Joint Driveway area. Any person utilizing the Joint Driveway area understands and agrees that the owner of any real property whose property boundaries are within the Joint Driveway area and subject to this Joint Driveway Agreement shall forever be held harmless and indemnified from any and all liability, costs, expenses, including reasonable attorney's fees, claims, damages or causes or action arising out of or from the use and enjoyment of said Joint Driveway area, unless said injury or damage is caused by the gross misconduct or negligence of the said property owner. At no time shall any vehicle be parked on the Joint Driveway area, so as not to impede access to parking at rear of houses.

IN WITNESS WHEREOF, the Declarant and Model have executed this Joint Driveway Agreement this 26 day of June, 2001.

Marion G. Texier

Marion G. Texier, Trustee
H. Burlin and Marion Texier Revocable Trust

David C. Model

David C. Model

STATE OF MARYLAND)
COUNTY OF MONTGOMERY)

I hereby certify that on this 26th day of June, 2001, before the undersigned, a Notary Public of the jurisdiction aforesaid, personally appeared MARION G. TEXIER, who executed the foregoing Joint Driveway Agreement for the purposes therein contained. In witness whereof I hereunto set my hand and official seal.

My Commission Expires: _____ Phoebe Schlinger (SEAL)
Notary Public

PHOEBE SCHLANGER
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires April 7, 2003

STATE OF MARYLAND)
COUNTY OF MONTGOMERY)

I hereby certify that on this 26 day of June, 2001, before the undersigned, a Notary Public of the jurisdiction aforesaid, personally appeared DAVID C. MODEL, who executed the foregoing Joint Driveway Agreement for the purposes therein contained. In witness whereof I hereunto set my hand and official seal.

My Commission Expires: 1-1-02 David C. Model (SEAL)
Notary Public

PRINCE GEORGE'S COUNTY CIRCUIT COURT (Land Records) REP 14770, p. 0384, MSA_CE64_14850. Date available 09/27/2005. Printed 07/24/2014.

SCHEDULE "A"

Lot numbered Five (5) and Lot numbered Six (6) in Block numbered Sixteen (16) in "Johnson and Curriden's subdivision of College Park" as per plat thereof recorded in Liber JWB 5 folio 478 and re-recorded at Plat Book A, folio 50, among the Land Records of Prince George's County, Maryland.

Parcel ID Nos:

Lot 5 21-2410306 4618 College Avenue, College Park, MD

Lot 6 21-2410314 4620 College Avenue, College Park, MD

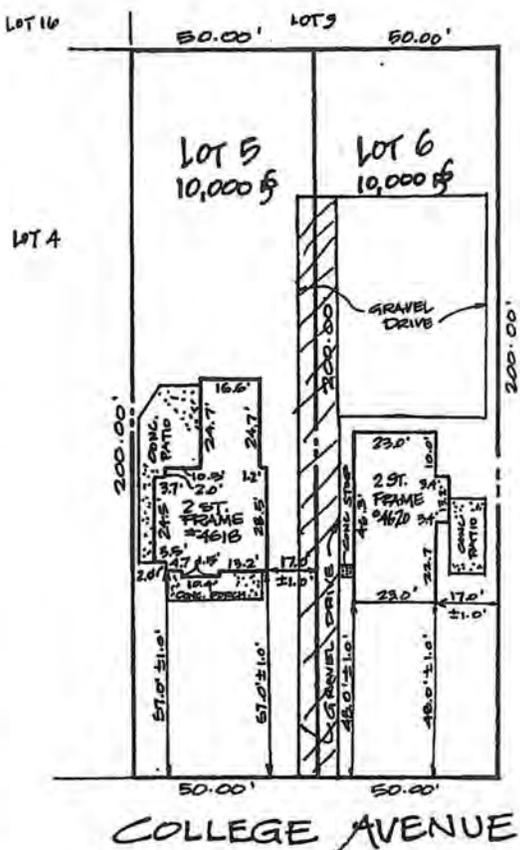
Title Insurance Company: none.

After recordation return to:
Law Office David P. Modell
4550 Montgomery Avenue #901N
Bethesda, MD 20814

PRINCE GEORGE'S COUNTY CIRCUIT COURT (Land Records) REP 14770, p. 0385, MSA_CE64_14850, Date available 09/27/2005, Printed 07/24/2014.

PRINCE GEORGES COUNTY CIRCUIT COURT (Land Records) REP 14770, p. 0386, MSA, CE64, 14850. Date available 09/27/2005. Printed 07/24/2014.

14770 386
 JOINT DRIVEWAY AREA 



No evidence of property corners was found. Apparent occupation is shown.

Date: 5-31-01 Scale: 1" = 40' Dm: *SKG*
 Plat Book: A
 Plat No.: 50 NO TITLE REPORT FURNISHED
 Work Order: 01-2582
 Address: 4618 & 4620 COLLEGE AVENUE
 District: 21
 Jurisdiction: PRINCE GEORGES COUNTY, MD

Surveyor's Certification

I hereby certify that the survey shown hereon is correct to the best of my knowledge and that, unless noted otherwise, it has been prepared utilizing description of record. This survey is not a boundary survey and the location or existence of property corners is neither guaranteed nor implied. Fence lines, if shown, are approximate in location. This property does not lie within a 100-year flood plain according to FEMA insurance maps as interpreted by the originator unless otherwise shown hereon. Building restriction lines shown are as per available information and are subject to the interpretation of the originator.

Stephen J. Wenthold

LOCATION DRAWING
 LOT 5 & LOT 6
 BLOCK 16
 JOHNSON & CURRIDEN'S
 SUBDIVISION OF COLLEGE PARK

NOTE: This plat is of benefit to a consumer only insofar as it is required by a lender or a title insurance company or its agent in connection with contemplated transfer, financing or refinancing. This plat is not to be relied upon for the establishment or location of fences, garages, buildings, or other existing or future improvements. This plat does not provide for the accurate identification of property boundary lines, but such identification may not be required for the transfer of title or securing financing or refinancing.



Meridian Surveys, Inc.
 811 Russell Avenue
 Suite #303
 Gaithersburg, MD 20879
 (301) 721-9400

EXHIBIT A - LEGAL DESCRIPTION

Tax ID Number(s): 21-2410306

Land Situated in the County of Prince Georges in the State of MD

All that lot of ground situate in the County of Prince George's, State of Maryland and described as follows, that is to say:

Being known and designated as Lot(5), Block "16", in a subdivision known as "JOHNSON AND CHILDREN'S SUBDIVISION OF COLLEGE PARK" as per plat recorded in Liber JWBS, at Folio 478, and re-recorded at Plat Book A, Folio 50 among the Land Records of Prince George's County, Maryland.

Together with the right to cross Lot 6, Block 16, of said subdivision for the purpose of ingress and egress over a common driveway as now located thereon, and subject to the right of the owners of said Lot 6 to cross Lot 5 for the same purpose; all as now more fully set forth in a Joint Driveway Agreement recorded in Liber 14770 at Folio 382.

Commonly known as: 4618 College Ave, College Park, MD 20740

Title Source
662 Woodward Avenue
Detroit, MI 48226
Non Resident Producer Firm License: NPF 132284

Maryland Producers License:

Via Certified Mail Receipt No. 700



City of College Park
240-487-3500
www.collegeparkmd.gov

City Hall
4500 Knox Road
College Park, MD 20740-3390

City Manager
240-487-3501

City Clerk
240-487-3501

Finance
240-487-3509

Human Resources
240-487-3533

Parking Enforcement
240-487-3520

Planning
240-487-3538

Youth & Family Services
4912 Nantucket Road
College Park, MD 20740-1458

240-487-3550

Seniors Program
301-345-8100

Public Services
4601-A Calvert Road
College Park, MD 20740-3421

Code Enforcement
240-487-3570

Public Works
9217 51st Avenue
College Park, MD 20740-1947

240-487-3590

Public Services Department
May 13, 2011

Steven B. Behr
14835 Melfordshire Way
Silver Spring, MD 20906

Dear Mr. Behr:

This office is in receipt of the Final Decision of the District Council of denial of Special Exception 4611 for the property located at 4618 College Avenue, College Park, Maryland, which has not been appealed and is now final. As you know, this decision denied your request for a special exception to allow for a two unit dwelling, so that the use and occupancy authorized for the property continues as a single family dwelling. The decision further determined that the rear yard of the property, which is within the environmental setting for this historic site, has been altered without the proper historic area work permits.

Please provide this office with the date that this property will be brought into compliance by converting the physical layout of the residence to a single family dwelling and by returning the rear yard to the original environmental setting. You should confirm with Prince George's County as to what permits may be required to meet compliance with the yard work, including an Historic Area Work Permit.

If we do not hear from you within 15 days of the date of this letter, we will assume that you are not proceeding with the required changes and will take appropriate enforcement action.

Sincerely,


Jeannie M. Ripley, Manager
Code Enforcement Division

cc: Regular U.S. Mail
Posted on Property
Robert W. Ryan, Public Services Director
Suellen M. Ferguson, City Attorney
Stephanie Stulich, Councilmember District 3

behr compliance letter 2011

Home of the University of Maryland



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772
TTY: (301) 952-4366
www.mncppc.org/pgco

PGCPB No. 09-176

File No. DDS-590

RESOLUTION

WHEREAS, the Prince George's County Planning Board has reviewed DDS-590 requesting a departure of 11 feet from the required 22-foot driveway width in accordance with Subtitle 27 of the Prince George's County Code; and

WHEREAS, after consideration of the evidence presented at the public hearing on December 17, 2009, the Prince George's County Planning Board finds:

A. **Location and Field Inspection:** The subject property is a narrow, rectangular-shaped lot located on the north side of College Avenue, approximately 150 feet west of Rhode Island Avenue, also known as 4618 College Avenue. The site is improved with a historic single-family dwelling (divided into three units) known as the Holbrook House and a ten-foot by ten-foot shed. Parking is provided at the rear of the structure for six vehicles. A six-foot-high wooden fence extends along the western property line from the street line to the end of the dwelling. The site has access to College Avenue via a variable width, two-way driveway, a portion of which includes a shared 12-foot-wide driveway easement.

B. **Development Data Summary:**

	EXISTING	APPROVED
Zone(s)	R-18	R-18
Use(s)	Multifamily dwelling	Two-family dwelling
Acreage	0.23	0.23
Lots	Lot 5	Lot 5

C. **History:** The 1989 *Approved Master Plan for Langley Park-College Park-Greenbelt and Vicinity and Adopted Sectional Map Amendment for Planning Areas 63, 66, and 67* retained the property in the R-18 (Multifamily Medium Density Residential) Zone. Subsequent to the adoption of the master plan, the dwelling on the property, referred to as Holbrook House, was designated a historic site (66-021-31) within the Old Town College Park Historic District (66-021). Holbrook House, which was constructed in 1927, is one of two known examples in Prince George's County of the Alhambra model of Sears, Roebuck and Company mail-order homes.

The structure has a history of use as a rooming house and multifamily dwelling. In 1967, the owner, Mrs. Holbrook, rented three rooms upstairs and a basement apartment. A year later she rented an additional room upstairs. The house continued to operate as a rental property under the next owner who purchased the property in 1973. In 1978, the house was again sold and the new owner indicated the property was owner-occupied. When the property was sold yet again in 2001, the new owner obtained rental licenses for two units and a Historic Area Work Permit for the construction of an addition to the rear of the house. Although a county use and occupancy permit

was issued in 2002 when the addition was completed, it was for a single-family dwelling, not a three-unit multifamily dwelling. The City of College Park inspected the property and issued a rental license for three units. The current owner, Steven Behr, purchased the property in 2006.

- D. **Master Plan Recommendation:** The application does not strictly conform to the land use recommendations of the 1989 Approved Master Plan for Langley Park-College Park-Greenbelt and Vicinity. The master plan recommends an urban residential land use with a density between 12.0 and 16.9 dwelling units per acre. The applicant is proposing a density of 8.6 dwelling units per acre, in compliance with Section 27-442(h) of the Zoning Ordinance which restricts the property to a maximum of two dwelling units on 0.23 acre. The application is compatible with the goal to preserve historic resources in the county.

The 2002 *Prince George's County Approved General Plan* places this property in the Developed Tier. The vision for the Developed Tier is a network of sustainable, transit-supporting, mixed-use, pedestrian-oriented, medium- to high-density neighborhoods.

- E. **Request:** The applicant is requesting a departure from design standards from Section 27-560(a) of the Zoning Ordinance, which requires a 22-foot-wide driveway for two-way traffic. The site plan shows that a portion of the existing access drive is only 11 feet wide. The applicant has provided a copy of a joint driveway agreement (Liber 14700, Folio 382) with the adjacent property owner (Lot 6) which provides an additional six feet of driveway width to the east. The applicant is requesting an associated special exception (SE-4611) for an adaptive use of a historic site pursuant to Section 330.02 of the Zoning Ordinance, to allow the legal conversion of a single-family dwelling to a two-family dwelling. The conversion of single-family dwellings is not permitted in the R-18 Zone, except by this provision.
- F. **Parking and Loading Requirements:** Per Section 27-568 of the Zoning Ordinance, the applicant is required to provide a minimum of four parking spaces for the proposed two-family use. The site plan shows that six parking spaces, including one handicap space, are provided. Because the applicant has amended the original application to propose a two-family detached dwelling, it is recommended that the handicap space be replaced with a standard parking space. A handicap parking space is not required for the proposed use. Loading spaces are neither required nor provided.
- G. **Required Findings:**

Section 27-239.01(b)(7)(a) of the Zoning Ordinance provides that in order for the Planning Board to grant the departure, it shall make the following findings:

- (i) The purposes of this Subtitle will be equally well or better served by the applicant's proposal;

The purposes of the Parking Regulations will be equally well served by the applicant's proposal. The purposes of parking design standards are contained in Section 27-550 of the Zoning Ordinance. The purposes pertain to the following:

- Providing sufficient parking to serve the needs of all persons associated with the building and uses.
- Relieving traffic congestion on streets by reducing the use of streets for parking.
- Protecting the residential character of residential areas.
- Providing parking areas that are convenient and increase the amenities in the Regional District.

The applicant is providing parking above the minimum required amount in the Zoning Ordinance to serve the needs of the future residents of Holbrook House. Safe and efficient access to the parking area will not be compromised if the departure is granted. Only a portion of the driveway width is less than 22 feet wide on the subject property and this deficiency is improved by an additional six feet of width provided on the adjacent property pursuant to a shared driveway agreement.

- (ii) The departure is the minimum necessary, given the specific circumstances of the request;

Comment: The departure is the minimum necessary given the specific circumstances of the request. The lot is extremely narrow. The minimum lot width in the R-18 Zone is generally 100 feet. The subject property has a lot width of only 50 feet. The shared driveway represents an improvement to the access situation. There are no other means available to increase the width of the driveway on the subject property without impacting the historic structure.

- (iii) The departure is necessary in order to alleviate circumstances which are unique to the site or prevalent in areas of the County developed prior to November 29, 1949;

The original single-family dwelling was constructed in 1927, prior to current parking and access requirements. As noted previously, properties in the R-18 Zone are currently required to be at least 100 feet at the front street line. The narrowness of the lot necessitates that required parking be located at the rear of the lot. A driveway is required to access the parking spaces; however, the narrow lot width severely limits the applicant's ability to provide the required driveway width. For this reason, the departure is necessary to alleviate circumstances unique to the site.

- (iv) The departure will not impair the visual, functional, or environmental quality or integrity of the site or of the surrounding neighborhood.

The Transportation Planning Section, in a memorandum dated September 30, 2009 (Masog to Fenton), specifically referenced the requested departure and offered the following comments:

Within the side yard, the applicant is proposing an 11-foot-wide portion of the driveway. This does not meet the minimum requirements of the Zoning Ordinance, which is 22 feet. The proposed circulation pattern shows vehicles entering the site from College Avenue and parking at the rear of the site, and exiting the site via the same driveway onto College Avenue. The existing paved area extends beyond the subject site onto the adjacent property (Lot 6). The driveway on the subject Lot 5 is currently shared with Lot 6 (which contains an existing multifamily dwelling) for ingress and egress purposes. This shared driveway includes an easement that runs along the property boundary of Lots 5 and 6. This easement is the subject of a joint driveway agreement which was submitted with the application and is recorded in the County Land Records. The total existing shared, paved driveway area between Lots 5 and 6 is approximately 16 feet wide, with 11 feet shown on the subject Lot 5, and approximately five feet of paved area shown on Lot 6. It widens to 22 feet at the rear of the site where the 90 degree parking is located. The section of driveway that is 11 feet wide appears to contain parking. The Board, in an effort to facilitate emergency access, recommends that parking in the driveways be prohibited. Given the very limited uses and number of parking spaces which access the subject driveway, along with the fact that there is sufficient width to accommodate two-way operations at very low speeds within the overall easement, the departure is acceptable with the condition noted above.

Based on the above, the departure will not impair the functional quality of the site. The site plan indicates that a thicket of existing bamboo along the rear property line and a small portion of the western property line will be removed. Because it provides screening, staff recommends it be trimmed and maintained so as to not encroach into the parking area and to enhance the environmental setting. As the applicant is not proposing any structural changes to the dwelling or other changes to the property, the departure will not impair the visual or environmental quality of the site or the integrity of the surrounding neighborhood.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Subtitle 27 of the Prince George's County Code, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission adopted the findings contained herein and APPROVED the above-noted application, subject to the following condition:

1. Parking shall be prohibited in the driveway at all times. The applicant shall post signage stating this prohibition in a visible location.

BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with the District Council for Prince George's County, Maryland within thirty (30) days of the final notice of the Planning Board's decision.

* * * * *

This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Squire, seconded by Commissioner Clark, with Commissioners Squire, Clark, Vaughns and Parker voting in favor of the motion, and with Commissioner Cavitt voting against the motion at its regular meeting held on Thursday, December 17, 2009, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 7th day of January 2010.

Patricia Colihan Barney
Acting Executive Director

Frances J. Guertin
By Frances J. Guertin
Planning Board Administrator

PCB:FJG:CF:arj

APPROVED AS TO LEGAL SUFFICIENCY.

J. J.
M-NCPPC Legal Department

Date 12/23/09

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION



PGCPB No. 09-175

14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772
TTY: (301) 952-4366
www.mncppc.org/pgco
File No. SE-4611

RESOLUTION

WHEREAS, the Prince George's County Planning Board has reviewed SE-4611 requesting an adaptive use of a historic site to a two-family dwelling in accordance with Subtitle 27 of the Prince George's County Code; and

WHEREAS, after consideration of the evidence presented at the public hearing on December 17, 2009, the Prince George's County Planning Board finds:

A. **Location and Field Inspection:** The subject property is a narrow, rectangular-shaped lot located on the north side of College Avenue, approximately 150 feet west of Rhode Island Avenue, also known as 4618 College Avenue. The site is improved with a historic single-family dwelling (divided into three units) known as the Holbrook House and a ten-foot by ten-foot shed. Parking is provided at the rear of the structure for six vehicles. A six-foot-high wooden fence extends along the western property line from the street line to the end of the dwelling. The site has access to College Avenue via a variable width, two-way driveway, a portion of which includes a shared 12-foot-wide driveway easement.

B. **Development Data Summary:**

	EXISTING	APPROVED
Zone(s)	R-18	R-18
Use(s)	Multifamily dwelling	Two-family dwelling
Acreage	0.23	0.23
Lots	Lot 5	Lot 5

C. **History:** The 1989 *Approved Master Plan for Langley Park-College Park-Greenbelt and Vicinity and Adopted Sectional Map Amendment for Planning Areas 65, 66, and 67* retained the property in the R-18 (Multifamily Medium Density Residential) Zone. Subsequent to the adoption of the master plan, the dwelling on the property, referred to as Holbrook House, was designated a historic site (66-021-31) within the Old Town College Park Historic District (66-021). Holbrook House, which was constructed in 1927, is one of two known examples in Prince George's County of the Alhambra model of Sears, Roebuck and Company mail-order homes.

The structure has a history of use as a rooming house and multifamily dwelling. In 1967, the owner, Mrs. Holbrook, rented three rooms upstairs and a basement apartment. A year later she rented an additional room upstairs. The house continued to operate as a rental property under the next owner who purchased the property in 1973. In 1978, the house was again sold and the new owner indicated the property was owner-occupied. When the property was sold yet again in 2001, the new owner obtained rental licenses for two units and a Historic Area Work Permit for the construction of an addition to the rear of the house. Although a county use and occupancy permit

was issued in 2002 when the addition was completed, it was for a single-family dwelling, not a three-unit multifamily dwelling. The City of College Park inspected the property and issued a rental license for three units. The current owner, Steven Behr, purchased the property in 2006.

- D. **Master Plan Recommendation:** The application does not strictly conform to the land use recommendations of the 1989 Approved Master Plan for Langley Park-College Park-Greenbelt and Vicinity. The master plan recommends an urban residential land use with a density between 12.0 and 16.9 dwelling units per acre. The applicant is proposing a density of 8.6 dwelling units per acre, in compliance with Section 27-442(h) of the Zoning Ordinance which restricts the property to a maximum of two dwelling units on 0.23 acre. The application is compatible with the goal to preserve historic resources in the county.

The 2002 Prince George's County Approved General Plan places this property in the Developed Tier. The vision for the Developed Tier is a network of sustainable, transit-supporting, mixed-use, pedestrian-oriented, medium- to high-density neighborhoods.

- E. **Request:** The applicant is requesting special exception approval of an adaptive use of a historic site pursuant to Section 330.02 of the Zoning Ordinance, to allow the legal conversion of a single-family dwelling to a two-family dwelling. The conversion of single-family dwellings is not permitted in the R-18 Zone, except by this provision. An associated departure from design standards is requested to allow an 11-foot-wide driveway where a 22-foot-wide driveway is required.
- F. **Neighborhood and Surrounding Uses:** The neighborhood is defined by the following boundaries:

North—	Paint Branch Parkway
South—	East-West Highway
East—	US 1
West—	MARC/B & O Railroad line

Staff further notes that the property is within the College Park Historic District (attached) which is included within the above boundaries in its entirety. The neighborhood is characterized as residential, with single-family homes (several of which were observed to be occupied by students), sororities, fraternities, garden apartments, and a church.

The property is surrounded by the following uses:

North—	A single-family dwelling in the R-55 (One-Family Detached Residential) Zone
South—	College Avenue
East—	A multifamily dwelling in the R-18 Zone
West—	Rooming house in the R-18 Zone

(2) Parking and surfacing.

- (A) The design of parking lots shall minimize, to the extent practicable, the impact of the parking needs associated with the proposed adaptive use on the environmental setting and the surrounding neighborhood.**
- (B) Where deemed appropriate by the District Council, innovative paving techniques, such as dust-free, pervious surfaces, unusual textures, and configurations that minimize paved surfaces, may be required.**

The Zoning Ordinance requires two off-street parking spaces per dwelling unit. Four parking spaces are therefore required for the proposed use; the applicant has provided six (existing) parking spaces. Although two more parking spaces are provided than the minimum number required, the additional spaces will facilitate the purposes of Part 11 of the Zoning Ordinance by reducing the need to park along public rights-of way. Given the Zoning Ordinance allows up to ten individuals to occupy a two-family dwelling, the number of parking spaces is not excessive. The driveway and parking area are paved with gravel. A site visit revealed that grass has encroached into portions of the proposed parking area and driveway. A condition requiring the applicant to replenish the bare parking areas and maintain the entire parking area to provide a dust-free surface is included.

(e) Upon filing the Special Exception application, the applicant shall submit the following information:

- (1) Evidence of Historic Preservation Commission approval of an established environmental setting for the proposed adaptive use;**
- (2) A written justification statement, including:**
 - (A) The nature and scope of the use proposed;**
 - (B) The hours of operation; and**
 - (C) The impact of traffic generated by the proposed use on local roadways, including the type, amount, and distribution of anticipated traffic, as well as the adequacy of proposed access points to the site, existing levels of service on surrounding roadways, and the peak hour service level at the nearest major intersection below the minimum adopted by the Planning Board in the "Guidelines for the Analysis of the Traffic Impact of Development Proposals," as may be amended from time to time;**

- (3) In addition to the site plan requirements in Section 27-296(c), the site plan shall show the following:
- (A) A delineation by metes and bounds of the established environmental setting; and
 - (B) The topography of the subject property and abutting lots (for a depth of at least fifty (50) feet).

The applicant is in general conformance with the applicable requirements above. The applicant submitted a statement of justification in support of the request and a site plan. The site plan does not show the topography of the property and abutting lots, and therefore, shall be revised to do so. The applicant also submitted a traffic statement (peak-hour trip generation) dated July 20, 2009, undertaken by O. R. George and Associates, Inc., which was reviewed by the Transportation Planning Section and is discussed in Section M of this report.

- (f) The applicant shall demonstrate to the satisfaction of the District Council that:
- (1) Any proposed multiple uses within the historic structure are compatible with each other;

The applicant is proposing a single use within the historic structure.

- (2) The proposed adaptive use will not change the existing character of the surrounding community by virtue of noise, lighting, unsightliness, parking, signs, traffic, or other impacts; and

The proposed two-family dwelling will arguably result in less impact to the character of the surrounding community than the existing three-unit arrangement. The applicant is removing the entire basement unit and replacing it with a storage area. There is no indication from the referral responses that the legal conversion of a single-family dwelling to a two-family dwelling will have any greater impact on the surrounding area than the existing use, or that it would have anything but a de minimus impact over that of a single-family dwelling. The Transportation Planning Section found the impact of traffic generated by the proposed use to be negligible. In a letter dated October 27, 2009 (Mayor Brayman to Chairman Parker) the City of College Park indicated their concern regarding the conversion, which is discussed in greater detail in Section K below. The Zoning Ordinance restricts the number of unrelated individuals who maintain a dwelling unit to five; therefore, up to ten individuals would be permitted to live in the two-family structure. The existing floor plan shows one dwelling unit with five bedrooms and the other dwelling unit with two bedrooms.

The Planning Board is in receipt of numerous violations cited by the City of College Park for the subject address since the current owner purchased the property. Most of the violations concern litter, with six notices issued in 2006, eight in 2007, one in 2008, and two in 2009 (one for the overgrown bamboo and the other was a violation on the adjacent property). It appears that the current owner is making a concerted effort to have his tenants properly maintain the property. A site visit by staff found the property to be generally well-maintained with some debris in the parking area and areas with outdoor storage (not visible from the street). The Planning Board recommends that all trash be contained in covered bins, and that outdoor areas be cleared of all storage with the exception of bicycles.

- (3) The proposed adaptive use will not adversely affect distinguishing exterior architectural features or important natural features in the established environmental setting.

The applicant is not proposing any exterior structural changes to the dwelling or any changes to natural features within the environmental setting. Interior modifications will be limited to the removal of the existing basement unit.

- H. **Landscape Manual Requirements:** A memorandum from the Urban Design Section (Silor to Fenton) dated October 8, 2009 indicated that the site is exempt from *Prince George's County Landscape Manual* requirements pursuant to Section 27-328.02 of the Zoning Ordinance, as no construction, enlargement, or extension of a building is proposed. The site plan should be revised to indicate that the existing bamboo, which provides screening, will be trimmed and cut back, rather than removed.
- I. **Zone Standards:** In the case of an adaptive use of a historic site, the special exception site plan is controlling with regard to net lot area, lot coverage, green area, lot frontage, yards, building height, distance between buildings, and location, height, and use of accessory buildings. The proposed use is in conformance with density requirements for the zone.
- J. **Parking and Loading Requirements:** Per Section 27-568 of the Zoning Ordinance, the applicant is required to provide a minimum of four parking spaces for the proposed two-family use. The site plan shows that six parking spaces, including one handicap space, are provided. Because the applicant has amended the original application to propose a two-family detached dwelling, it is recommended that the handicap space be replaced with a standard parking space. A handicap parking space is not required for the proposed use. Loading spaces are neither required nor provided.

The applicant is requesting an associated departure from design standards (DDS-590) from Section 27-560(a) of the Zoning Ordinance, which requires a 22-foot-wide driveway for two-way traffic. The site plan shows that a portion of the existing access drive is only 11 feet wide. The applicant has provided a copy of a joint driveway agreement (Liber 14700, Folio 382) with the

adjacent property owner (Lot 6) which provides an additional six feet of driveway width to the east.

K. Referral Agencies and Divisions:

City of College Park—The City of College Park, in letters (Brayman to Turner and Brayman to Parker) dated October 27, 2009, indicated its opposition to the conversion of a single-family residence to the proposed use. The primary reasons cited for the opposition are that the applicant did not provide a compelling argument for the necessity of the proposed use; that the conversion would only benefit the property owner (financially); that allowing excessive lot coverage (68 percent) on the site "is an extraordinary situation that adversely affects the character of the neighborhood and the established environmental setting"; and, that the increased density on such a small lot will result in "excessive cars, noise, trash, and other problems."

Historic Preservation Commission—The Historic Preservation Commission (HPC) met on November 17, 2009 to review the special exception application. In a memorandum dated November 19, 2009, they stated that, in consideration of the staff report and testimony from the applicant and the City of College Park, the approval of the proposed applications will have no effect on the historic and architectural character of the Hölbrook House Historic Site (66-042-31).

Community Planning—It is noted in the Community Planning North memorandum dated September 14, 2009 (Williams to Fenton) that the property is located under the traffic pattern for College Park Airport and is therefore subject to Aviation Policy Area regulations found in Part 10B Airport Compatibility of the Zoning Ordinance. The application was referred to The Maryland Aviation Administration for comment. In a letter dated October 19, 2009 (Krozack to Fenton), they determined that the proposal has no impact on the College Park Airport.

Urban Design Section—The Urban Design Section, in a memorandum dated October 8, 2009, recommended specific conditions including one for detailed site plan (DSP) approval. Per Section 27-436(e)(1) of the Zoning Ordinance, a DSP is required for an attached or multifamily dwelling; it is not required for a two-family dwelling; therefore, this condition has not been included. Other issues raised by the Urban Design Section regarding the site plan have been addressed.

L. Other Issues: It is noted that the adjacent rooming house use to the west (4616 College Avenue) has a valid Use and Occupancy (U&O) permit to operate. There is nothing in the county permit system to indicate the adjacent two-story frame dwelling to the east (4620 College Avenue) is operating as a legal multifamily use. The City of College Park has issued a rental license for this address for three units. The City has since cited the owner for not having a county U&O permit.

M. Required Findings: Section 27-317(a) of the Zoning Ordinance provides that a special exception may be approved if:

(1) The proposed use and site plan are in harmony with the purpose of this Subtitle;

The purposes of Subtitle 27, as set forth in Section 27-102, are generally to protect the health, safety and welfare of the public, and promote compatible relationships between various land uses. Based on available records, the subject property has operated illegally as a multifamily dwelling from 1967 to 1976, and between 2001 to the present. The current applicant is seeking to legally convert the historic, single-family residence into a two-family dwelling, retaining its residential use. The latest addition to the structure was approved in 2003 pursuant to a Historic Preservation Work Permit. It was determined at that time that the second story addition would not compromise the architectural integrity of the house or the environmental setting. The applicant is not proposing any new changes to the structure or approved environmental setting, with the exception of removing the interior basement unit which is required for conformance with density restrictions. The proposed use will be compatible with the adjacent land uses and with the immediate neighborhood. For the reasons stated above, the proposed use and site plan are in harmony with the purposes of the Subtitle.

- (2) The proposed use is in conformance with all the applicable requirements and regulations of this Subtitle;

No variances are necessary to implement the proposed special exception as no additional structures or improvements are being proposed. A departure is required for the driveway width. With the recommended conditions, the proposed use is in conformance with the applicable requirements and regulations of the Subtitle.

- (3) The proposed use will not substantially impair the integrity of any validly approved Master Plan or Functional Master Plan, or, in the absence of a Master Plan or Functional Master Plan, the General Plan;

The 1989 Approved Master Plan for Langley Park-College Park-Greenbelt and Vicinity recommends a slightly greater density than the applicant proposes. While not in strict conformance with the land use recommendations of the master plan, the applicant is proposing to retain the residential land use on the property and is in conformance with density requirements for the R-18 Zone. In addition, the architectural integrity of the historic structure and the approved environmental setting will be preserved. Therefore, the use will not substantially impair the master plan or General Plan.

- (4) The proposed use will not adversely affect the health, safety, or welfare of residents or workers in the area;

None of the responses from any of the referring agencies received by staff, with the exception of the City of College Park, indicate that the proposed use will adversely affect the health, safety, or welfare of residents or workers in the area. After reviewing the applicant's traffic statement, the Transportation Planning Section, in a memorandum dated August 20, 2009 (Janousek to Penton), concluded that since the multifamily use has operated for several years without adverse impacts to the neighborhood, it does not appear that approval of the proposal will have any adverse impact on traffic or circulation, or create a safety problem. Because the use has operated in the past with no

apparent negative effects, and because the traffic generated by the proposed use has not been detrimental to the use and development of adjacent properties or to the general neighborhood, staff finds that no transportation-related issues would arise from the approval of either the special exception or departure application. The site plan is acceptable from the standpoint of access and circulation.

It is noted that the above comment was written in regard to the original multifamily use proposed by the applicant, and that the use currently proposed by the applicant, a two-family dwelling, would arguably have even less impact than the use originally analyzed by the Transportation Planning Section.

A special exception use, not unlike a comprehensive rezoning, is accorded a certain presumption of validity. It is considered compatible with uses permitted by right within the zone as long as specific criteria are met. Unless unique adverse impacts are identified, the special exception may be approved. The appropriate standard for determining whether the use would create an adverse impact upon surrounding properties is to show that the proposed use, at the particular location proposed, would have adverse impacts above and beyond those inherently associated with the special exception use, irrespective of its location within the zone. Although there may be negative effects associated with the proposed use, they are considered integral to the use and will not result in greater or more unique adverse effects at the proposed location than if the use were located at another site in the same zone, particularly if the zone is in proximity to the university.

In view of this, it can be reasonably concluded that the proposed use, with the recommended conditions, will not be detrimental to the use or development of adjacent properties or the general neighborhood.

- (5) The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood; and

As noted above, the property has operated as a multifamily use, albeit illegally, for some time, with no adverse impact to adjacent properties or the general neighborhood. In the Transportation Planning Section memorandum dated September 30, 2009 (Masog to Fenton) which also analyzed the original multifamily proposal rather than the two-family use, it was concluded that the anticipated impact of vehicle trips resulting from the proposed use would be de minimus. Moreover, based on the location of the site, its accessibility to public transportation, and its proximity to a variety of uses which would encourage walking or biking and thereby reduce the traffic impact of the use, the Transportation Planning Section further concluded that the adaptive use would not change the character of the surrounding community with regard to traffic.

The Zoning Ordinance expressly prohibits the conversion of single-family homes in the R-18 Zone, but allows the conversion of single-family historic sites as long as specific required findings are met. Non-designated dwellings have the option of being torn down and replaced with multifamily uses; however, a Historic Preservation Work Permit would be required to determine the impact of the proposed use on adjacent historic sites and the historic district. Therefore, the

Planning Board does not anticipate that the conversion of the Holbrook House to a two-family dwelling would set an undesirable precedent. During the site visit, it was evident that several single-family homes along College Avenue were occupied as student housing. If there are instances where actual conversions may have taken place illegally, they should be brought to the attention of the appropriate county agency to be rectified.

(6) The proposed site plan is in conformance with an approved Tree Conservation Plan.

The site is exempt from the Woodland Conservation and Tree Preservation Ordinance as it contains less than 10,000 square feet of woodland, is less than 40,000 square feet in area, and there is no previous tree conservation plan associated with the property. An exemption letter was issued February 21, 2008 which is valid until February 21, 2010.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Subtitle 27 of the Prince George's County Code, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission adopted the findings contained herein and recommends to the District Council for Prince George's County, Maryland that the above-noted application be APPROVED, subject to the following conditions:

1. Prior to review by the Zoning Hearing Examiner, the site plan shall be revised to show:
 - a. the correct proposed density.
 - b. the yards, setbacks, and other development standards proposed.
 - c. the topography of the property and abutting lots.
 - d. the existing bamboo retained. The bamboo shall be maintained so it does not encroach into the parking area.
2. If the parking area is to be illuminated, the lighting shall not spill over into adjacent properties.
3. The applicant shall replenish the bare areas of the driveway and parking area with gravel or other dust-free material. The driveway and parking area shall be maintained to provide a dust-free surface at all times.
4. The handicap parking space shall be replaced with a standard parking space.
5. All refuse shall be contained in covered bins.
6. Outdoor storage not in a shed shall be prohibited, with the exception of bicycles.
7. Parking shall be prohibited in the driveway at all times. The applicant shall post signage stating this prohibition in a visible location.

* * * * *

This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Squire, seconded by Commissioner Clark, with Commissioners Squire, Clark, Vaughns and Parker voting in favor of the motion, and with Commissioner Cavit voting against the motion at its regular meeting held on Thursday, December 17, 2009, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 7th day of January 2010.

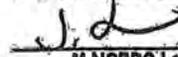
Patricia Colihan Barney
Acting Executive Director



By Frances J. Guertin
Planning Board Administrator

PCB:FJG:CF:arj

APPROVED AS TO LEGAL SUFFICIENCY.


M-NCPPC Legal Department

Date 12/23/09

**DISTRICT COUNCIL FOR PRINCE GEORGE'S COUNTY, MARYLAND
OFFICE OF ZONING HEARING EXAMINER**

**SPECIAL EXCEPTION
4611**

DECISION

Application:	Adaptive Reuse of a Historic Site
Applicant:	Steven B. Behr/Steven Behr College Avenue Property
Opposition:	City of College Park, et. al.
Hearing Dates:	February 3, March 9 and March 31, 2010
Hearing Examiner:	Maurene Epps Webb
Disposition:	Denied

NATURE OF REQUEST

(1) Special Exception 4611 is a request for permission to use approximately 0.23 acre (2,694 square feet) of land in the R-18 (Multifamily Medium Density Residential) Zone, located on the north side of College Avenue, approximately 150 feet west of Rhode Island Avenue (U.S. 1), for an Adaptive Reuse of a Historic Site. In particular, Applicant wishes to convert a single-family dwelling unit to a two-family dwelling unit.¹ Such conversions are not permitted in the R-18 Zone absent approval of the instant Application. The subject property lies within the municipal boundaries of the City of College Park, Maryland.

(2) The Technical Staff recommended that the Application be approved subject to certain site plan revisions. (Exhibit 18) The Planning Board recommended approval with conditions. (Exhibit 21(a)) It also granted a Departure to Design Standards (DDS-590) for the 11-foot wide driveway that is required to be 22-foot wide. (Exhibit 65)

(3) The City of College Park and several residents therein appeared in opposition to the request.

(4) At the close of the hearing the record was left open to allow the Applicant and opponents to submit written closing argument. The last of these items was received on June 14, 2010, and the record was closed at that time.

¹ Applicant originally sought a conversion to a three-family (Multi-Family) dwelling unit. However, that request would have required a variance so the Application was amended. See, October 22, 2009 Attachment to Exhibit 18 submitted by Robb A. Longman, Esq.

FINDINGS OF FACT

Subject Property

(1) The subject property is a narrow, rectangular-shaped lot improved with a single-family dwelling (currently divided into three (3) units) that is a designated Historic Site known as the Holbrook House (660021-31). It is located within the College Park Historic District. The house is an Alhambra model sold by Sears as a mail order kit in the early decades of the 20th Century. (Feb. 3, 2010 T. 29). Two (2) changes to the structure were approved by the Historic Preservation Commission over the years: revisions to the second-story windows (1978), and the addition of a second story to the rear of the structure (2002). (Exhibits 9(a), 10(b), 10(d); Feb. 3, 2010 T. 29, 33)

(2) The property is exempt from the requirements of the Woodland Conservation and Tree Preservation Ordinance since it is less than 40,000 square feet in area and contains less than 10,000 square feet of woodland. A letter of exemption was issued on February 21, 2008, and expired on February 21, 2010. (Exhibit 5)

Master Plan/Zoning

(3) The property is located in an area governed by the 1989 Master Plan for Langley Park-College Park-Greenbelt and Vicinity. The Master Plan recommends urban residential land use with a density between 12.0 and 16.9 dwelling units per acre. The 1989 Sectional Map Amendment for Langley Park-College Park-Greenbelt and Vicinity retained the property in the R-18 Zone.

(4) The property is located within the Developed Tier discussed in the 2002 General Plan. The Developed Tier envisions "a network of sustainable, transit-supporting, mixed-use, pedestrian-oriented, medium-to high-density neighborhoods." (2002 General Plan, p. 31)

Neighborhood and Surrounding Uses

(5) The neighborhood consists of residential properties that include single-family dwellings, sororities/fraternities, garden apartments and a church. It is defined by the following boundaries:

North – Paint Branch Parkway
South – East-West Highway
East – US 1
West - MARC/B&O Railroad line

(6) The adjoining property to the north is developed with a single-family dwelling in the R-55 Zone. The properties to the east and west are developed, respectively, with a

multi-family dwelling and a rooming house in the R-18 Zone. College Avenue is located to the south.

Applicant's Proposal

(7) The conversion of single-family dwellings is not permitted in the R-18 Zone, absent approval of the instant Special Exception. The Applicant wishes to legally operate a two-family dwelling in the single family dwelling that is a designated Historic Site (known as the Holbrook House). The dwelling has been used as a rooming house and a multi-family dwelling over the years. (Exhibits 7(a)-(r); March 31, 2010 T. 70-71, 74-75) At the time of Applicant's purchase it was configured as three (3) dwellings with the first unit in the upstairs rear (which was the last approved addition), and the remaining two (2) in the main house. (Exhibit 14 (a)) Moreover, the City of College Park had issued a rental license for the three (3) units at the subject property. (Exhibits 7 (f)-(k); February 3, 2010 T. 12) However, the most recent Use and Occupancy permit issued by the County was for a single-family detached dwelling. (Exhibit 54; February 3, 2010 T. 11)

(8) Five (5) parking spaces are required and six (6) are provided. (Exhibit 37(a); February 3, 2010 T. 12) The parking area has been located to the rear of the dwelling since Applicant's purchase. Applicant proposes to "square out" the west edge of the parking area and install wheel stops to better delineate the spaces. (February 3, 2010 T. 59) A Departure was approved that allows Applicant to place an 11-foot-wide portion of his driveway in the side yard. This was approved, in part, because Applicant has a recorded easement with the adjacent landowner to allow a joint driveway that is 16-feet-wide. The driveway widens to 22 feet at the rear of the property where the parking is located.

(9) Applicant's witness, accepted as an expert in land use planning, testified that the request satisfied all applicable provisions of the Zoning Ordinance, noting that the use fits in with the surrounding properties:

This site is generally characterized by an eclectic mix of single-family dwellings, boarding houses and rooming houses, multi-family dwellings of various characters – some single-family dwellings which had been converted over the years to multi-family dwellings – some in small garden apartments or other mixed multi-family use types ranging from small to the moderately intense – multi-story, stair-access buildings typically – but there is a range.... There is even an occasional smattering of commercial and institutional [uses].... So, the land use is very eclectic throughout the neighborhood but certainly includes a substantial quantity of land uses identical to the one that is proposed by the subject application....

(10) Staff reasoned (noted below) that the language in Section 27-330.02 (c) requires Applicant to satisfy the maximum density regulations found in Section 27-442(h) of the Zoning Ordinance. If Applicant must meet the density requirements of 1.84 two-family dwelling units on the 0.23-acre property, the Application must be denied absent

approval of a variance. The expert witness believed this to be a faulty interpretation for the following reasons:

This planner believes that the applicant's original application was correct: The staff's application of the density regulations of the R-18 Zone to the adaptive use of a historic site would subvert the very purpose of permitting adaptive uses, which is to permit "the adaptation of a building designated as a Historic Site by the Historic Preservation Commission for a use not allowed within the existing zone [emphasis added] in order to encourage the preservation of buildings important to Prince George's County heritage or which have distinctive architectural and environmental characteristics." Staff's application in this case of the Euclidean R-18 density standard makes the preservative incentive of adaptive reuse wholly moot.

This planner believes that the list of regulations provided in 27-330.02 (c) is illustrative rather than prescriptive. If a use is not permitted in a particular zone by right, its permitted density is necessarily zero, yet the intent of the ordinance in permitting the adaptive reuse as an otherwise-impermissible use is quite explicit. Instead of a prescriptive limit of density, the ordinance provides instead for the protections of Section 27-317 (supplemented by 27-330.02) as they may be applied by the reasoned judgment of the Zoning Hearing Examiner and the District Council to protect the public health, safety and welfare, the character of the neighborhood, and the use and development of adjacent properties and the general neighborhood, while at the same time preserving the character and environmental setting of the Historic Site.

(Exhibit 46, p. 5)

Agency Comment

(11) As noted above, the property was designated as a Historic Site in 1992. Staff testified that the following would have occurred at the time of designation as a historic site:

At that time the property was documented in the summer of 1991. The person completing the documentation would examine both the interior and exterior of the building or buildings – in this case there's only one – and also its associated property – in this case it's a subdivided lot in the City of College Park – and develop a physical description of all of those features as well as a statement of historic significance that describes the development of the particular piece of property and any significance attached to that and/or any individuals involved with the development of the property in the context of the community in which this particular property happens to be located.

Based on that documentation, the Staff of the Historic Preservation Commission would make a recommendation to the Commission that a property either does or does not meet at least one of the designation criteria included in the County's Historic Preservation Ordinance, which is Subtitle 29. Based on the Staff recommendations, the HPC would then take an action....

Based on the documentation that we have available to us, I can say that the property is a two and a half story frame house originally built for single-family use from a mail-order

kit sold by Sears, Roebuck and Company It is one of only two identified Alhambra models located in Prince George's County.

The property at that time did include two modifications to its original form. One was the revision to the second-story windows on the front of the house which were revised in 1978 because those windows had deteriorated. They were replaced with the windows that are still present on the property. The second alteration ... there was a one-story addition to the rear of the property....

In 2002, Mr. Modell submitted a Historic Area work permit to add a second story to the existing one-story rear addition. That application was reviewed and approved by the Historic Preservation Commission in 2002.

(February 3, 2010 T. 28-29)

(12) Applicant submitted his request to the Historic Preservation Commission ("HPC") as required by the Zoning Ordinance. He included pictures of the dwelling as well as the parking area to the rear. (Exhibits 14 (a)-(b)) The HPC held a hearing on the instant request on November 17, 2009. Shortly thereafter it issued a recommendation that the request be approved. The information received by the HPC in its hearing was placed into the instant record. (Exhibit 36)

(13) The Technical Staff ultimately recommended approval with conditions that were addressed by Applicant in his revised Site Plan. (Exhibits 37 (a)-(b)) The Transportation Planning Section noted that a traffic study was not required because the proposed use would not generate more than 100 net trips in any peak hour and no new construction is proposed. It further opined that the Application would not create a traffic safety problem since it has operated for several years without any adverse impact on the neighborhood and the Site Plan provided suitable access and circulation. The Community Planning Section also noted that the use does not strictly conform to the recommendation of the Master Plan that there be urban residential land use with a density between 12.0 and 16.9 dwelling units per acre, but does meet the vision of the Developed Tier concerning sustainable, transit-supporting, pedestrian-oriented neighborhoods.

(14) The Planning Board recommended approval of the request, reasoning as follows:

The proposed two-family dwelling will arguably result in less impact to the character of the surrounding community than the existing three-unit arrangement. The applicant is removing the entire basement unit and replacing it with a storage area. There is no indication from the referral responses that the legal conversion of a single-family dwelling to a two-family dwelling will have any greater impact on the surrounding area than the existing use, or that it would have anything but a de minimus impact over that of a single-family dwelling....

The Zoning Ordinance expressly prohibits the conversion of single-family homes in the R-18 Zone, but allows the conversion of single-family historic sites as long as specific required findings are met. Non-designated dwellings have the option of being torn down and replaced with multifamily uses; however, a Historic Preservation Work Permit would

be required to determine the impact of the proposed use on adjacent historic sites and the historic district. Therefore, the Planning Board does not anticipate that the conversion of the Holbrook House to a two-family dwelling would set an undesirable precedent....

(Exhibit 21(b), pp. 5, 9-10)

Opposition's Concerns

(15) The City of College Park and a few of its residents noted their opposition to the Application for several reasons. The City initially posits that the request does not satisfy Section 27-330.02 of the Zoning Ordinance, *infra*, because Applicant has not shown that the request is *needed* to encourage the preservation of the historic building. (February 3, 2010 T. 13, 41) The City also believed that the HPC did not consider the environmental setting in its review of the Application since it never addressed the graveled parking to the rear of the dwelling. However, HPC staff noted, *supra*, that there was no substantive change to the parking area and, therefore, the HPC did not have reason to focus on the environmental setting in its review of the Application.

(16) The City noted that there had been several violation notices issued for infractions that occurred on site ranging from noise complaints to failure to remove litter. (Exhibit 31; March 31, 2010 T. 97-99) It was argued that the close proximity to the University of Maryland further exacerbates the problem: more students housed together leads to more loud parties and more littering. (February 3, 2010 T. 118-121; March 31, 2010 T. 100-101)

APPLICABLE LAW

(1) The adaptive reuse of a Historic Site may be permitted in the R-18 Zone upon approval of a Special Exception. Such approval is premised upon satisfaction of the criteria set forth in Sections 27-317(a) and 27-330.02 of the Zoning Ordinance.

(2) Section 27-317 (a) provides as follows:

- (1) The proposed use and site plan are in harmony with the purpose of this Subtitle;
- (2) The proposed use is in conformance with all the applicable requirements and regulations of this Subtitle;
- (3) The proposed use will not substantially impair the integrity of any validly approved Master Plan or Functional Master Plan, or, in the absence of a Master Plan or Functional Master Plan, the General Plan;
- (4) The proposed use will not adversely affect the health, safety, or welfare of residents or workers in the area;
- (5) The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood; and
- (6) The proposed site plan is in conformance with an approved Tree Conservation Plan.

(3) Section 27-330.02 provides as follows:

(a) For the purposes of this Section, the adaptive use of a Historic Site is defined as the adaptation of a building designated as a Historic Site by the Historic Preservation Commission for a use not allowed within the existing zone in order to encourage the preservation of buildings important to Prince George's County heritage or which have distinctive architectural and environmental characteristics.

(b) Use of Historic Sites under the provisions of this Section are limited to:

- (1) One-family, two-family, three-family, or multifamily dwellings; or
- (2) Commercial office or retail trade; and
- (3) The proposed use is not a use prohibited in all zones.

(c) The approved Special Exception site plan for the adaptive use shall be controlling with regard to net lot area, lot coverage, green area, lot frontage, yards, building height, distance between buildings, and location, height, and use of accessory buildings.

(d) All proposals for the adaptive use of a Historic Site shall comply with the standards listed below.

(1) Lighting.

(A) Lighting shall be subdued, consistent with the nature of the historic resource, and shall not shine or glare off the premises. Low-intensity seasonal or decorative lighting is permitted.

(2) Parking and surfacing.

(A) The design of parking lots shall minimize, to the extent practicable, the impact of the parking needs associated with the proposed adaptive use on the environmental setting and the surrounding neighborhood.

(B) Where deemed appropriate by the District Council, innovative paving techniques, such as dust-free, pervious surfaces, unusual textures, and configurations that minimize paved surfaces, may be required.

(e) Upon filing the Special Exception application, the applicant shall submit the following information:

(1) Evidence of Historic Preservation Commission approval of an established environmental setting for the proposed adaptive use;

(2) A written justification statement, including:

(A) The nature and scope of the use proposed;

(B) The hours of operation; and

(C) The impact of traffic generated by the proposed use on local roadways, including the type, amount, and distribution of anticipated traffic, as well as the adequacy of proposed access points to the site, existing levels of service on surrounding roadways, and the peak hour service level at the nearest major intersection below the minimum adopted by the Planning Board in the "Guidelines for the Analysis of the Traffic Impact of Development Proposals," as may be amended from time to time;

(3) In addition to the site plan requirements in Section 27-296(c), the site plan shall show the following:

(A) A delineation by metes and bounds of the established environmental setting; and

(B) The topography of the subject property and abutting lots (for a depth of at least fifty (50) feet).

(f) The applicant shall demonstrate to the satisfaction of the District Council that:

(1) Any proposed multiple uses within the historic structure are compatible with each other;

(2) The proposed adaptive use will not change the existing character of the surrounding community by virtue of noise, lighting, unsightliness, parking, signs, traffic, or other impacts; and

(3) The proposed adaptive use will not adversely affect distinguishing exterior architectural features or important natural features in the established environmental setting.

(4) The requested use must meet the purposes of the R-18 Zone, set forth in Section 27-436(a) of the Zoning Ordinance:

(a) **Purposes.**

(1) The purposes of the R-18 Zone are:

(A) To make available suitable sites for multifamily developments of low and moderate density and building bulk;

(B) To provide for this type of development at locations recommended in a Master Plan, or at other locations which are found suitable by the District Council;

(C) To provide for this type of development at locations in the immediate vicinity of the moderate-sized commercial centers of the County; and

(D) To permit the development of moderately tall multifamily buildings, provided they are surrounded by sufficient open space in order to prevent detrimental effects on the use or development of other properties in the general vicinity.

(5) Finally, a Special Exception may only be denied if any adverse effect of the proposed use at the proposed site is greater than the adverse effect inherent in said use irrespective of its location within the particular zone:

The local legislature, when it determines to adopt or amend the text of a zoning ordinance with regard to designating various uses as allowed only by special exception in various zones, considers in a generic sense that certain adverse effects, at least in type potentially associated with (inherent to, if you will) these uses are likely to occur wherever in the particular zone they may be located. In that sense, the local legislature puts on its "Sorting Hat" and separates permitted uses, special exceptions, and all other uses. That is why the uses are designated special exception uses, not permitted uses. The inherent effects notwithstanding, the legislative determination necessarily is that the uses conceptually are compatible in the particular zone with otherwise permitted uses and with surrounding zones and uses already in place, provided that , at a given location, adduced evidence does not convince the body to whom the power to grant or deny individual applications is given that actual incompatibility would occur....

Peoples Counsel for Baltimore County v. Loyola College in Maryland, 406 Md. 54, 94-95, 956 A. 2d 166 (2008).

CONCLUSIONS OF LAW

(1) The Application furthers the purposes of the Zoning Ordinance set forth in Section 27-102 since the proposed use does not include any new development of the property and will not negatively impact any public facilities or services; the use will not alter existing relationships between uses in the area; the use will satisfy all applicable codes and will not create a dangerous situation on site; and the use will not negatively impact the transportation system in the area since no additional traffic, other than that experienced since its inception several years ago, is anticipated. (Section 27-317(a)(1))

(2) The Application does not require the grant of a variance and the Planning Board approved the requisite Departure. Accordingly, it is in conformance with all applicable requirements of the Zoning Ordinance. (Section 27-317(a)(2))

(3) The proposed use does not substantially impair the intent of the Master Plan since it is a use that supports suburban residential land uses, and since the Developing Tier envisions medium-to-high-density, transit-supporting, pedestrian-oriented neighborhoods. (Section 27-317(a)(3))

(4) The property is exempt from the requirements of the Woodland Conservation and Tree Preservation Ordinance. Accordingly, there is no required Tree Conservation Plan. (Section 27-317 (a)(6))

(5) The language in Section 27-330.02 (c), *supra*, did not expressly note that the Special Exception Site Plan governs as to the proper density for the site. As a result, it was argued that the Application must be denied since Section 27-442 (h) of the Zoning Ordinance requires a density of two (2) dwelling units on .23 acre in the R-18 Zone. It is important to remember that the use is described in the various use tables as the "Adaptive use of a Historic Site when not otherwise allowed." In the commercial and industrial zones there are *no* density regulations provided for this use. See, Sections 27-462 and 27-473(b). Accordingly, one could argue that *no* density is permitted in these zones, but that would be illogical since the use is listed as one permitted by Special Exception therein. In the residential zones there are density requirements for two-family dwellings but the instant request should not be bound by these requirements. If the Special Exception use is *otherwise not allowed* it would render the provisions in Sections 27-317 and 27-330.02 moot to also impose the density requirements set forth for uses that *are otherwise allowed* in the Zone. It would be more logical to assume that density would be addressed on a case by case basis as a particular Special Exception Application is reviewed. Additionally, I agree with Applicant's land use witness that the language in Section 27-330.02(a) is introductory in nature and does not require an Applicant to show that the historic site would be abandoned/demolished if the request is not approved.

(6) Those opposed to the request further argued that the HPC did not properly consider the environmental setting of the property when it issued its recommendation of approval since it did not discuss the graveled parking area to the rear that was gradually introduced over the years and was never approved via the Historic Area Work Permit process. (March 31, T. 50-54) The law requires Applicant to submit "evidence of [HPC] approval of an established environmental setting for the proposed adaptive reuse." The matter was referred to the HPC solely for it to apply its expertise and render a recommendation. Applicant submitted what he received from the HPC. I don't believe he should be penalized because the HPC recommendation did not expressly address the rear yard parking.

(7) The use has existed on site for a few years. The Opposition submitted evidence that it has negatively impacted the health, safety or welfare of residents/workers in the area for many of these years – at least since the dwelling was no longer owner occupied.

(8) It was difficult for me to arrive at my decision because I recognize that many of the uses permitted by right in the R-18 Zone (such as a private or public community spa, boardinghouse, congregate living facility or rooming house) could have a greater adverse impact on the neighboring properties. I also note that Applicant expended a considerable sum for a property that had been used as a three-family dwelling for many years, and which he thought to be a legal use. However, the test in approving a special exception is whether it adversely impacts the neighboring property at the particular location and would not have the same negative impact elsewhere in the R-18 Zone. Applicant's property sits in an area a stone's throw from the University of Maryland. This area suffers from an abundance of issues that arise from having multiple occupants in non owner-occupied single-family homes. Such problems would be compounded if the instant request is approved since Applicant could not be required to reside there and "police" his lessees, and there is insufficient acreage to "buffer" noise. Therefore, I cannot find compliance with Sections 27-317(a)(4) and (5) or caselaw concerning the grant of a special exception.

DISPOSITION

Special Exception 4611 is hereby Denied.



THE PRINCE GEORGE'S COUNTY GOVERNMENT

Office of the Clerk of the Council
(301) 952-3600

March 21, 2011

RE: *DDS 590 Steven Behr College Avenue Property*
(Companion Case: SE 4611)
Steven B. Behr, Applicant

REVERSED



**NOTICE OF FINAL DECISION
OF THE DISTRICT COUNCIL**

Pursuant to the provisions of Section 27-134 of the Zoning Ordinance of Prince George's County, Maryland requiring notice of decision of the District Council, you will find enclosed herewith a copy of the Council Order setting forth the action taken by the District Council in this case on March 14, 2011.

CERTIFICATE OF SERVICE

This is to certify that on March 21, 2011, this notice and attached Council Order were mailed, postage prepaid, to all persons of record.

Redis C. Floyd
Clerk of the Council

(10/97)

County Administration Building - Upper Marlboro, Maryland 20772

Case No. DDS-590

Applicant: Steven B. Behr

**COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND,
SITTING AS THE DISTRICT COUNCIL**

ORDER REVERSING PLANNING BOARD DECISION

IT IS HEREBY ORDERED, after review of the administrative record, and after reviewing and acting on the special exception case, S.E. 4611, filed by this applicant, that the Planning Board's decision in PGCPB No. 09-176, approving a departure from design standards for a driveway on property described as 0.23 acres of land, located on the north side of College Avenue, approximately 150 feet west of Rhode Island Avenue (US Route 1), College Park, is:

REVERSED, for the reasons stated below, which are hereby adopted as the findings of fact and conclusions of law of the District Council in this matter:

A. To begin, this design departure application is moot, after the District Council's decision to deny S.E. 4611, for an alleged "adaptive reuse" of a designated historic site. The Council has decided not to allow the use of the premises as a two-family dwelling for the reasons articulated by the City of College Park, whose officials appeared in opposition to both applications. The driveway on the subject property is certainly adequate for the one-family dwelling use permitted there, and a departure from driveway design standards is not warranted.

B. Moreover, the applicant failed to prove that waiver of the driveway standard, as requested, to allow an 11-foot driveway (at its narrowest point) where one twice as wide, 22 feet, is required, was reasonable under the circumstances, or the least that could be approved.

The reason the driveway must be 22 feet is that the applicant, or his predecessor, --apparently without notice to or approval by Historic Preservation, Environmental Resources, or College Park.

officials - modified the property's rear yard, replacing a grass lawn with a graveled surface used as a parking area for about six vehicles. These cars cannot back in and out, from the rear yard to the street, and even if they could a driveway accommodating two-way traffic would be required. The applicant did not prove by evidence that his request was reasonable, in accord with zoning or historic preservation regulations, or the smallest waiver that would meet the problem.

C. Perhaps the chief difficulty with the applicant's case is that it represents nothing more than an after-the-fact effort to legalize unauthorized use and structural modifications on the subject property, a historic site to be preserved as is, subject to Historic Preservation Commission modification approvals. If the applicant had done things the right way, preserving the one-family use while proposing (but not constructing or using) a two-family dwelling, and if he had obtained Historic Preservation, Planning Commission, and Environmental Resources approvals for the conversion, then the driveway standards modification might be made a part of the approvals, or might be unnecessary.

The District Council will not, however, approve either the special exception or the design departure for an applicant whose property was reasonably used as a one-family dwelling until its unlawful conversion. The applicant's suggestion that he should not be blamed for the sins of his predecessor cannot be accepted. In purchasing the subject property, the applicant should have but apparently did not ascertain the uses historic preservation and zoning regulations permitted, and uses on his property must be limited to those the regulations allow.

D. The records for both the special exception, S.E. 4611, and the design departure, DDS-590, both demonstrate what is argued by the City of College Park. This applicant and his predecessor have consistently failed to follow applicable law and rules for the subject property. The applicant has failed to prove the reasonableness of the proposed departure from driveway standards, and he also failed to prove that his property meets the special exception standards for the conversion of a historic site.

Ordered this 14th day of March, 2011, by the following vote:

In Favor: Council Members Campos, Franklin, Harrison, Johnson, Lehman, Olson, Patterson,
Toles and Turner

Opposed:

Abstained:

Absent:

Vote: 9-0

COUNTY COUNCIL OF PRINCE GEORGE'S
COUNTY, MARYLAND, SITTING AS THE
DISTRICT COUNCIL FOR THAT PART OF
THE MARYLAND-WASHINGTON
REGIONAL DISTRICT IN PRINCE GEORGE'S
COUNTY, MARYLAND

By: Ingrid M. Turner
Ingrid M. Turner, Chair

ATTEST
Redis C. Floyd
Redis C. Floyd
Clerk of the Council



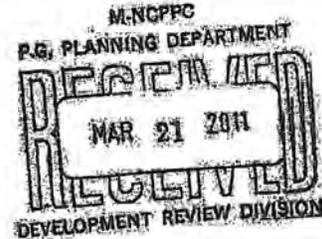
THE PRINCE GEORGE'S COUNTY GOVERNMENT

Office of the Clerk of the Council
(301) 952-3600

March 21, 2011

RE: *SE 4611 Steven Behr College Avenue Property*
(Companion Case: DDS 590)
Steven B. Behr, Applicant

Denial



***NOTICE OF FINAL DECISION
OF THE DISTRICT COUNCIL***

Pursuant to the provisions of Section 27-134 of the Zoning Ordinance of Prince George's County, Maryland requiring notice of decision of the District Council, you will find enclosed herewith a copy of the Council Order setting forth the action taken by the District Council in this case on March 14, 2011.

CERTIFICATE OF SERVICE

This is to certify that on March 21, 2011, this notice and attached Council Order were mailed, postage prepaid, to all persons of record.

Redis C. Floyd
Redis C. Floyd
Clerk of the Council

(10/97)

County Administration Building - Upper Marlboro, Maryland 20772

Case No.: S.E. 4611

Applicant: Steven B. Behr

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND,
SITTING AS THE DISTRICT COUNCIL

ORDER OF DENIAL

IT IS HEREBY ORDERED, after review of the administrative record, that Application No. S.E. 4611, for a special exception for an Adaptive Reuse of a Historic Site, to convert a one-family residential dwelling historic site to a two-family dwelling, on property described as approximately 0.23 acres of land in the R-18 Zone, located on the north side of College Avenue, approximately 150 feet west of Rhode Island Avenue (US Route 1), also identified as 4618 College Avenue, College Park, is:

DENIED, for the following reasons, which are hereby adopted as the findings of fact and conclusions of law of the District Council:

A. The District Council adopts the facts stated, as to the application and the subject property, in the Technical Staff Report. The property is a relatively small single-family lot, about 0.23 acres, with an existing single-family dwelling and a shared driveway with the adjacent residential lot. It fronts on College Avenue about 150 feet west of Rhode Island Avenue, very near the edge of the campus of the University of Maryland, within the boundaries of the City of College Park and the Old Town Historic District.

Photographic and other exhibits and testimony in the record indicate that the property has been designated as a historic site since 1992 and that the rear yard then was covered with grass. Some time after 1992 the owner caused the rear yard to be cleared of grass and vegetation and covered with gravel, to allow about six motor vehicle parking spaces. The rear yard alteration

appears to be an unauthorized modification of the environmental setting of the historic site, done without Historic Preservation Commission approval. Evidence also indicates that at times the single-family dwelling on the site has been allowed (or purposely modified) to be used as two or three residential units, contrary to what is allowed by the use and occupancy permit. The structural and use modifications appear also to be unauthorized modifications of the historic structure, not reviewed or approved by the HPC, and also not permitted by City or County inspectors.

The present special exception application, to reuse the historic site as a two-family dwelling with attendant parking, is subject to legal restrictions in the Zoning and Historic Preservation ordinances, notwithstanding modifications the owner-applicant may propose in the special exception site plan.

B. The District Council agrees with the City of College Park that the applicant did not meet the burden (of production or of proof) imposed in § 27-330.02 of the Zoning Ordinance, as to adaptive reuse of this historic site. Subsection (a) expressly provides that for this special exception, a new, "adaptive" use of a historic site, a use "not allowed within the existing zone," the applicant must meet the purpose for this type of exception, which is "to encourage the preservation of [historic or architecturally significant] buildings" that are "important to Prince George's County heritage" or otherwise "distinctive," in "architectural and environmental characteristics." In other words, the applicant must demonstrate that approval of the adaptive reuse will tend to preserve the historic building or site or both, for the use, enjoyment, and education of future generations.

The applicant completely failed to meet the site-preservation requirement in § 27-330.02 (a), and the hearing examiner did not correctly apply it. In the future, the examiner must see to it

that every applicant proves by evidence that a proposed adaptive reuse of historic property will tend to preserve the resource, the building and setting, from disuse, deterioration, or inappropriate development.

This applicant's case for adaptive reuse is apparently founded on allegations that the subject property cannot produce an adequate economic return unless the Council permits a two-family dwelling. The evidence included proof of the amount paid for the property, together with proffers that the structure in some prior years had been used for two- and three-family dwelling purposes, and that these uses were feasible physically and would not be detrimental to the immediately adjacent properties or the special exception neighborhood. But the evidence showed that two- and three-family uses are detrimental to adjacent and neighborhood properties, and also that houses next door and across the street are in single-family use, which continues to be viable for the property.

C. The District Council agrees with the hearing examiner that the applicant failed to meet his burden to prove that the proposed special exception use, the two-family dwelling, would "not be detrimental to the use or development of adjacent properties or the general neighborhood." Zon. Ord., § 27-317(a) (5). The City of College Park offered considerable testimony, from a City inspector and area residents, that the property lies very close to the University of Maryland; that the university does not allow underage alcoholic beverage consumption on campus; that fraternity houses therefore use nearby off-campus houses for college drinking parties that are noisy and disruptive to residents; and that converting this house to two-family use, with two rental units, would result in increased disturbance to nearby residents. The applicant did not refute this evidence.

D. The District Council agrees with the City of College Park that the applicant did not show compliance with Historic Preservation Ordinance requirements, as to alteration of the structure and alteration of the environmental setting after the 1992 historic site designation. The property since 1992 has been designated a historic site; it is undisputed that the 1992 environmental setting included a grassy rear yard, which has since been converted to a graveled parking lot without Historic Preservation Commission approval; and it is also undisputed that the single-family use for the property, as recognized in 1992, has been modified more than once without HPC or County review or approval.

At a minimum, approval of a special exception for adaptive reuse of a historic structure under § 27-330.02 must be based on proof that the owner and applicant have maintained the historic structure without alteration, or without unauthorized alteration, prior to the special exception application. As indicated above, the purpose of the special exception must be, at least in part, to ensure preservation of the historic structure and site. That purpose is hardly promoted by unauthorized alterations prohibited by the Historic Preservation Ordinance in Subtitle 29 of the County Code.

E. The District Council agrees with the City of College Park that the applicant failed to demonstrate by evidence that the special exception use, if approved, will not have an adverse effect on the environmental setting or the surrounding neighborhood. As to the environmental setting for the historic site, the applicant failed to produce evidence to show what the 1992 historic site setting was, in character or physical content, or how the setting would be changed by the two-family use. As to adverse effects on the surrounding neighborhood, the applicant could not refute the testimony of City and neighborhood resident witnesses that the two-family use would lead to partying and alcohol consumption by student renters, leading then to noise, late-

night driving and automobile noise, and similar disruptions.

R. The District Council agrees with the City of College Park that the applicant did not meet a number of requirements in § 27-317 of the Zoning Ordinance, which sets out the general standards for all special exceptions. First, the two-family use, on 0.23 acres of ground in the R-18 Zone, does not and cannot meet the density requirements for residential uses in that zone. Residential density in R-18 may not exceed 8.00 dwellings per net lot acres. § 27-442 (h) (table vii). The density proposed by the applicant, two units on 0.23 acres, substantially exceeds 8.00 units per acre. Section 27-330.02 (c) does not authorize the Zoning Hearing Examiner to use discretion to override density restrictions specifically set out for the subject property's zone. Moreover, this applicant did not show that his use was consistent with Zoning Ordinance requirements or would not substantially impair the Master Plan, or the Historic Sites and Districts Plan for Prince George's County.

Adopted this 14th day of March, 2011, by the following vote.

In Favor: Council Members Campos, Franklin, Harrison, Johnson, Lehman, Olson, Patterson,
Toles and Turner

Opposed:

Abstained:

Absent:

Vote: 9-0

COUNTY COUNCIL OF PRINCE GEORGE'S
COUNTY, MARYLAND, SITTING AS THE
DISTRICT COUNCIL FOR THAT PART OF
THE MARYLAND-WASHINGTON REGIONAL
DISTRICT IN PRINCE GEORGE'S COUNTY,
MARYLAND

BY: Ingrid M. Turner
Ingrid M. Turner, Chair

ATTEST:

Redis C. Floyd
Redis C. Floyd
Clerk of the Council



CERTIFICATE

I, Janeen S. Miller, City Clerk of the City of College Park, Maryland, do hereby certify under the penalties of perjury that motion number 14-G-119 was approved by unanimous consent by the College Park City Council at their Council Meeting on November 12, 2014. The motion stated:

I move that the City Council forward comments to the Prince George's County Historic Preservation Commission regarding a Historic Area Work Permit application for the Holbrook House located at 4618 College Avenue. The following should be addressed as part of the application:

1. **Install new timber framing to contain the gravel driveway in the front yard. The width of the driveway in the front yard shall not exceed 11 feet on the subject property.**
2. **Indicate the location of the relocated shed on the site plan.**
3. **Revise the landscape plan and plant list to:**
 - a. **Reduce the number of Honey Locust trees in the rear yard to 1 tree.**
 - b. **Replace the Pin Oaks in the rear yard with smaller understory trees.**
 - c. **Substitute Boxwoods in the front yard with other plants such as False Cypress, Mugo Pine, Birds Nest Blue Spruce or Japanese Holly.**
4. **Replace the two non-historic second-story windows on the front façade with windows that are consistent with the historic character of the dwelling.**

Janeen S. Miller *Nov. 13, 2014*
 Janeen S. Miller Date
 City Clerk

SEAL

RECEIVED

NOV 12 2014

Upper Marlboro, Maryland 20772
TTY: (301) 952-4366
www.mncppc.org/pgco

CITY OF COLLEGE PARK
PLANNING DEPARTMENT
**FINDINGS OF FACT, CONCLUSION, AND STAFF RECOMMENDATIONS ON
HISTORIC AREA WORK PERMIT APPLICATION 40-14**

DATE: November 4, 2014
TO: Historic Preservation Commission
VIA: Frederick C. Stachura, HPC Coordinator (fc)
Historic Preservation Section
FROM: Howard S. Berger, Supervisor (HB)
Historic Preservation Section
RE: Holbrook House (Historic Site 66-042-031)
4618 College Avenue
College Park MD 20740

Applicant/ Steven Behr
Owner: 14835 Melfordshire Way
Silver Spring MD 20906

Procedural Background

The applicant requested a Historic Area Work Permit (HAWP) for alterations to Holbrook House, 4618 College Avenue, College Park (Historic Site 66-042-031). The application was filed on September 12, 2014, and accepted as complete on October 29, 2014. The application was scheduled to be heard by the Historic Preservation Commission on November 18, 2014.

Findings

The subject property is the Holbrook House, 4618 College Avenue, College Park, identified within the inventory as Historic Site 66-042-031.

1. Built in 1927 for the William A. Holbrook family, the Holbrook House is a two-story, stucco-covered frame dwelling in the Spanish Mission style. It has a hip roof and decorative shaped parapets. It was built from the "Alhambra" model, one of the more distinctive and recognizable models offered by Sears, Roebuck and Company. It is an excellent example of a mail-order house and one of only two known examples of the Alhambra model in Prince George's County. The property was designated as a historic site in 1992 and became a contributing resource within the Old Town College Park Historic District in 2008; the same district was listed in the National Register of Historic Places in 2012.

2. The applicant proposes the following changes within the historic site's environmental setting: (1) alteration (reduction) of an existing gravel parking area in the rear yard to provide a total of 5 parking spaces with wheel stops (including a designated handicap-accessible parking space; (2) additional landscaping in both the front and rear yards; (3) installation of a handicap ramp to provide accessibility to the house; (4) the provision of a 6' sight-tight fence along the rear (north) property line, (5) installation of a small bike rack in the rear of the property under a covered area of the house, and (6) possible removal or relocation of an existing shed in the rear yard. All proposed work is intended to comply with zoning and alternative compliance requirements relevant to a pending change in use for the property from a single-family dwelling to a rooming house. The subject HAWP application is one element of the approvals necessary for the proposed change in use; a Departure from commercial driveway requirements and alternative compliance for the Prince George's County Landscape Manual are also required, and fall within the decision-making authority of the City of College Park.

The applicant submitted photographs of existing conditions at the property as well as site and landscape plans of both existing and proposed conditions. Existing conditions include a shed in the rear yard that will require relocation or removal in order to implement the proposed parking and landscape plan. (Attachment 1: HAWP 40-14)

3. A number of the work items proposed by the subject HAWP application will rectify conditions at the property created by a previous owner without the required review and approval by the Historic Preservation Commission. It should be noted that when the property was designated as a historic site in 1992, the rear yard was grass-covered lawn devoid of paving (the gravel parking area currently in place). The applicant's current site and landscape plans, if approved by the HPC and the City of College Park, would formalize the provision of parking and limit the number of spaces provided in the rear yard, provide handicap-accessible parking and access as required, preclude the parking of cars in the front yard along the drive shared with the adjacent house to the east, and provide additional plantings as required by the Prince George's County Landscape Manual.
4. The City of College Park was provided formal notice of the application On October 31, 2014 in compliance with Subtitle 29-109(b)(1). City planning staff has developed recommendations for Mayor and Council on the subject application for discussion on November 5th and for action on November 12th. Final recommended action by the City of College Park will be presented at the HPC meeting on November 18, 2014. (Attachment 2: City of College Park Staff Recommendations, HAWP 40-14)
5. The Old Town College Park Historic District Local Advisory Committee (OTCPHDLAC) met October 30, 2014 to review HAWP 40-014. The discussion and comments by the LAC are provided here as summarized by City staff in attendance, and referenced to the relevant criteria from the Old Town College Park Historic District Design Guidelines used to evaluate the application:

Off-Street Parking: The design should allow for "minimal negative visual impact on the character of the streetscape. Existing parking lots should be landscaped to create a visual screen." (page 33)

Fences and Landscape: "New fences should follow contributing examples in scale and material and should be compatible with the historic district." Landscaping should be replaced "in-kind or with similar species for contributing properties." (page 34)

Site Features and Improvements: "The character of a historic district comes not only from its building but also from the private and public spaces and features that surround and help define the historic resources." Site improvements need to be reviewed in context with the streetscape environment. (page 35)

The primary comments and concerns expressed by the LAC are as follows:

1. The LAC would prefer the handicapped accessible ramp be designed with a more residential and historic appearance. The LAC is concerned that the submitted ramp is too commercial looking in design. However, since the handicapped ramp is located to the rear of the property and will not be visible from the front, the LAC is not as troubled about this. They recommend that the applicant submit a less institutional looking handicapped ramp, if possible.
2. The LAC would like the proposed shrubs along the western edge of the driveway (15 boxwoods) to be reconsidered. Their concern is that they do not want these boxwoods that are proposed to be spaced very close together to create a front yard hedge/fence. They are not opposed to landscaping at this location for the purpose of defining the western edge of the driveway and preventing front yard parking; however, they are opposed to creating a hedge/fence at this location since front yard fences are prohibited. Also, they are concerned that the plantings could create a visual obstruction for vehicular traffic. The LAC recommends that the applicant reconsider the type of material at this location, keeping in mind the height at maturity and the spacing.
3. The applicant is proposing to plant a Thornless Honeylocust (2.5-inch to 3-inch caliper) in front of the house. The LAC is concerned that this tree may block the view of the house as it reaches its mature size. They recommend that the applicant reconsider such a large tree at this location.
4. The applicant is proposing to plant 3 Pin Oaks (2.5-inch to 3-inch caliper) and 2 Honeylocusts (2.5-inch to 3-inch caliper) in the rear yard. The LAC is concerned that this may be too many trees for the area proposed, limiting the chances of survivability. They recommend that the City Horticulturist review the landscape plan, keeping in mind this concern.
5. The LAC would like the applicant to consider replacing the windows in front that were replaced many years ago prior to the current ownership, with windows that would be more in character with the historic nature of the house.

Conclusions

1. Both the current and proposed conditions of the rear yard are incompatible with the early twentieth-century domestic character of this detached single-family residence. These conditions are a function of the evolution of this property from a single-family residence to

one occupied by a growing number of unrelated individuals over time. The scale of the proposed parking reflects the "commercial" requirements of the applicant's proposed change in use for the property. Although the proposed HAWP application does not propose substantive impacts to the dwelling itself, it does affect the character of the historic site's Environmental Setting. As such, the proposed changes to the property must be analyzed for the scale of their impact on the property. Since the proposed parking and landscaping comply with the relevant section of the Old Town Historic District Design Guidelines (page 33), the subject proposal should be considered compatible with those guidelines.

2. The Old Town College Park Historic District Local Advisory Committee has provided a number of comments on the subject application. In particular, the LAC comments focused on the character of the proposed handicap ramp, the character of the front and rear yard plantings, and the need to determine whether or not the existing shed in the rear yard will be relocated or removed. In addition, the LAC noted that it encouraged the applicant to consider the replacement of the two, non-historic second-story windows on the house's façade (south elevation).

Staff concurs with the LAC's concerns about the character of the proposed landscaping. It would appear that the planting of three Thornless Honeylocusts in the rear yard may be too many based on the mature growth habit of the tree and the size of the yard. If a specific quantity of trees is required for alternative compliance, the applicant should consider other species with mature habits more suited to the limitations of the site. Staff also suggests that the applicant consider a number of other plants as substitutes for the proposed boxwoods in the front yard. Suitable alternatives could include varieties of False Cypress, Mugo Pine, Birds Nest Blue Spruce, and Japanese Holly. The mature habit of the plants will be or could be easily controlled to respond to the limits of the planting area and controls on front yard fences and/or hedges. The plantings in this location should be carefully chosen to ensure vitality and longevity in order to preclude parking in the vicinity and to enhance the character of front yard.

Potential revisions to the applicant's planting plan could be addressed by the HPC through any approval of the subject applicant, or could be deferred for final selection to the City of College Park Horticulturist, as the HPC prefers.

Staff concurs with the suggestion that the applicant consider the replacement of the two non-historic windows on the façade to enhance the historic character of the dwelling. It should be noted that these windows were in place at the time of the historic site designation in 1992, and that currently, a Prince George's County Historic Preservation Tax Credit of 25% of the value of the work would be available to the property owner, and that based on the value of the work, both state and federal income tax credits may also be available.

3. The applicant's proposal to provide five parking spaces in the rear yard that will be defined by timber edging will reduce the amount of gravel currently in place. The provision of a handicap ramp for access to the house is required by building code and its location in the rear yard will have a *de minimus* impact on the historic and architectural character of the historic site. The proposed provision of fencing along the rear yard (north) property line will screen the subject yard and its parking layout from the adjacent property to the north. The addition of a line of plantings in the front yard beginning at the southeast corner of the house will help define the limits of the driveway shared by the subject property and the

one to the east and should obviate the ability to park cars in the front of the house along the driveway.

The applicant's proposed landscape plan should be revised to address the concerns of the Local Advisory Committee and Historic Preservation Commission staff and to relocate or remove the existing shed. If the HPC is willing to defer to the City of College Park Horticulturist in this matter and if the HPC votes to approve the application with a revised landscape plan, final approval of HAWP 40-14 could be delegated to staff.

Staff Recommendation

If the applicant agrees to revise the associated landscape plan to address new plant material selections and the presence or absence of the existing shed in the rear yard, staff recommends that the Historic Preservation Commission:

Approve HAWP 40-2014 as meeting Subtitle 29-111(b):

- (2) The proposal is compatible in character and nature with the historical, archeological, architectural, or cultural features of the historic resource and is in harmony with the purpose and intent of this Subtitle.
- (3) The proposal will enhance or aid in the protection, preservation, and public or private utilization of the historic resource in a manner compatible with its historical, archeological, architectural, or cultural value.

and the Secretary of the Interior's *Standards for Rehabilitation*:

- (10) New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Attachments:

- (1) HAWP 40-14
- (2) City of College Park Staff Recommendations, HAWP 40-14

Copies: (w/o enclosure)
Haitham Hijazi, Director
Department of Permitting, Inspections, and
Enforcement
9400 Peppercorn Place
Largo, MD 20774

Applicant/Owner:
Steven Behr
14835 Melfordshire Way
Silver Spring MD 20906

Prince George's County Planning Board:
Chad Williams, Planning Areas 66, 67

Municipality:

**The Honorable Andrew M. Fellows
Mayor, City of College Park
4500 Knox Road
College Park MD 20740**

Attorney:

**Arthur J. Horne, Jr.
Shiple & Horne, P.A.
1101 Mercantile Lane, Suite 240
Largo MD 20774**

**Terry Schum, Planning Director
City of College Park
4500 Knox Road
College Park MD 20740**

**Miriam Bader, Senior Planner
City of College Park
4500 Knox Road
College Park MD 20740**

Historic Preservation Commission

Prince George's County, Maryland

County Administration Building • 14741 Governor Oden Bowie Drive, Upper Marlboro MD 20772
 HistoricPreservation@ppd.mncppc.org • pgplanning.org/HPC.htm • 301-952-3680 • FAX 301-952-3799

HISTORIC AREA WORK PERMIT APPLICATION

Property Address: 4618 College Avenue, College Park, MD 20740

Property Name (if any): Holbrook House

[OFFICE USE ONLY]

Historic Site # or PG ID #	<u>66-042-31</u>	HAWP Application #	<u>40-14</u>
Building/Grading/Sign Permit #	<u>15799-2011 etc.</u>	Received Date	<u>9-12-2014</u>
Property Zoning	<u>R-18</u>	Application Accepted as Complete	<u>9-16-2014</u>
		HPC Decision Date	
Within Municipal Limits: YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		CONCEPT <input type="checkbox"/> FINAL <input type="checkbox"/>	

PROPERTY OWNER

APPLICANT (IF DIFFERENT THAN OWNER)

Name	<u>Steven Behr</u>			Name	
Firm				Firm	
Address	<u>14835 Melfordshire Way</u>			Address	
City	<u>Silver Spring</u>	State	<u>MD</u>	ZIP	<u>20906</u>
Phone	<u>(240) 793-5180</u>			Phone	
email	<u>sbehr@ix.netcom.com</u>			email	

CONTRACTOR

ARCHITECT/ARCHEOLOGIST/ENGINEER (IF APPLICABLE)

Name	<u>TBD</u>			Name	<u>Milton Perez</u>		
Firm				Firm	<u>Capitol Development and Design, inc.</u>		
Address				Address	<u>4600 Powder Mill Road</u>		
City		State		ZIP			
City		State	<u>MD</u>	ZIP	<u>20705</u>		
Phone				Phone	<u>(301) 937-3501</u>		
email				email	<u>perez@cddi.net</u>		

TYPE OF WORK FOR WHICH YOU ARE APPLYING

- | | | |
|---|---|---|
| <input type="checkbox"/> Addition | <input type="checkbox"/> Demolition | <input type="checkbox"/> New Construction |
| <input checked="" type="checkbox"/> Alteration | <input type="checkbox"/> Excavation | <input type="checkbox"/> Repair |
| <input type="checkbox"/> Archeology | <input checked="" type="checkbox"/> Grading | <input checked="" type="checkbox"/> Signage |
| <input checked="" type="checkbox"/> Other (explain) <u>Gravel Parking Lot and associated Landscaping/Accessibility signs and ramp</u> | | |

Are there any easements or deed restrictions for the exterior of this building or the site?

YES

NO

If YES, submit a letter from the easement holder stating their approval of the proposed work.

Description of work proposed. Be specific and include as much information as possible. *Attach extra sheets as needed.*

We are seeking approval for alteration of the existing gravel backyard/parking area that has been in existence since at least 2001 and prior to current owners purchase of the property.

We are planning to improve the landscaping and formalize the parking area to comply with zoning and alternative compliance requirements associated with a pending change in use of the property from a single family home to a rooming house, which is currently being reviewed by the City of College Park and Montgomery County Park and Planning.

Gravel Parking lot with concrete wheelstops to include one Handicap accessible parking spot and sign.

Installation of a prefabricated Aluminum Handicap Accessible Ramp from the Handicap Accessible parking spot to the back door of the property.

Changes to landscaping to reduce the existing gravel footprint of existing lot (see proposed site plan) and add a variety of shrubs, bushes, tree and plants to comply with Landscaping and Alternative Compliance Plans submitted to the city(see attached Landscape Plan and Alternative Compliance plan.

Required attachments for all applications (check to acknowledge attachment/inclusion):

A site plan to scale indicating property lines and lot dimensions, adjacent street and curb cuts, existing structures and locations for all existing and proposed improvements including freestanding signs.

Printed or digital photographs of the existing buildings, property and area of work (e.g., roof, wall) must be submitted.

Required attachments as applicable (check as applicable):

If building or freestanding signs are proposed please provide scale drawings indicating material, method of attachment, position on building, size and front lineal feet of building, size and position of all other signs on building, and a layout of the sign.

Scaled drawings (1/4" to 1') for new construction, signs, additions, and major alterations. Drawings must include: plans, sections, elevations and details.

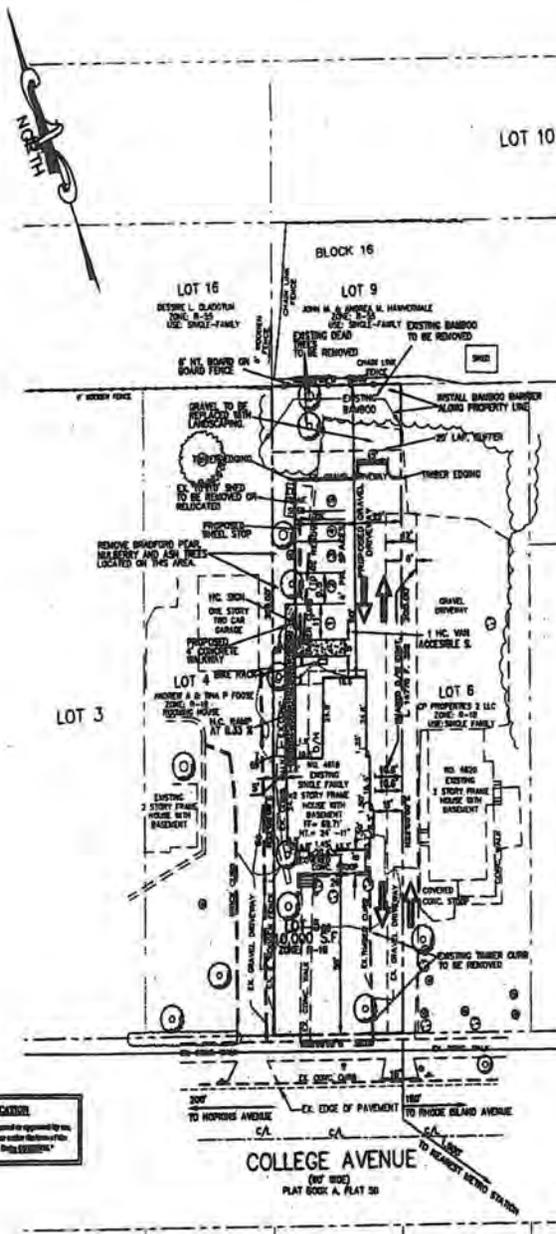
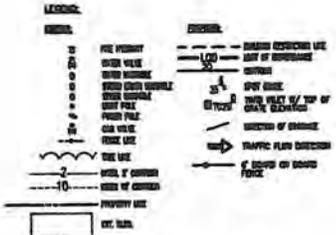
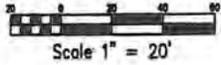
Materials cut sheets and/or methods specifications.

I am the owner of this property, or I am the authorized representative of the property owner and I have advised the owner of this application and the intended work. The information on this application represents an accurate description of the proposed work. I have omitted nothing that might affect the decision of the Historic Preservation Commission. I understand that the approval of this application by the Prince George's County Historic Preservation Commission does not constitute approval of other required permit applications. I agree to supply two additional photographs of the proposed work when the work is completed. I will attend (or send a representative to attend) the Public Appearance on this application if it is not approved administratively.

Signature of Applicant

Date

DEF57-13



4618 COLLEGE AVENUE SITE NOTES

1. TAX MAP 7000-000/04
2. ADD'N 7000-000/04
3. TAX ACCOUNT: 240300
4. PROPERTY ADDRESS: 4618 COLLEGE AVENUE, COLLEGE PARK, MD 20746
5. PROPOSED USE OF PROPERTY: HOUSING HOUSE (3 GUEST ROOMS)
6. 2ND SHEET NO. 2000004
7. FLAT 107.431-1237, JORDAN & CURRIER SUB LOTS 1 AND 2.
8. BOUNDARY BASED ON RECORDED PLAT, DETERMINED BY C.A.D.I.
9. ELECTION DISTRICT: 21
10. CONGRESSIONAL DISTRICT: 3
11. AVIATION POLICY AREA: NONE
12. AREA OF LOT 3: 0.23 AC. OR 10,000 S.F.
13. MUNICIPALITY: COLLEGE PARK
14. ZONE/PLAT/LOT CATEGORIES: S-3/7/-3
15. BUILDING HEIGHT: MAXIMUM BUILDING HEIGHT: 40' EXISTING BUILDING HEIGHT: 34' - 11" (3 STORIES PLUS BASEMENT)
16. ZONING: S-10 EXISTING USE: SINGLE FAMILY
17. THE SUBJECT PROPERTY IS LISTED AS "HOLBROOK HOUSE" IN THE "ILLUSTRATED INVENTORY OF HISTORIC SITES FOR PRINCE GEORGE'S COUNTY, MARYLAND" P.A.M. NUMBER 05-042-31.
18. STORM WATER MANAGEMENT CONCEPT APPROVAL, IN PROGRESS
19. THERE ARE NO CONTINGENTS OR CONTINGENTS TO PROPERTY
20. THIS PROPERTY IS NOT WITH IN CHEESAPEAKE BAY CRITICAL AREA OVERLAY.
21. PRE-EMBRANVILLE CO. 11 - 0.5 MILE
22. FLOOD/COLEGE PARK-0.4 MILES
23. 100' LOT WIDTH/PROVIDED: 100 FT.
24. EXISTING LOT WIDTH/PROVIDED: 50 FT.
25. R-10 BUILDING SET BACKS:

FRONT =	NONE
SIDE =	NONE
REAR =	NONE
AT FRONT BUILDING LINE =	100 FT.
AT FRONT STREET LINE =	100 FT.
26. PROVIDED:

FRONT =	30 FT.
SIDE =	3/11 FT.
REAR =	50 FT.
AT FRONT BUILDING LINE =	50 FT.
AT FRONT STREET LINE =	30 FT.
27. SPECIFIC INDIVIDUAL TREES ARE NOT RECORDED. BUSHES AT LEAST 800 S.F. PER LOT SHALL BE ALLOCATED FOR FRONT, SIDE OR REAR YARD PURPOSES.
28. PURSUANT TO SECTION 57-442(a)-LOT COVERAGE - THE LOT COVERAGE FOR LOT 3 IS = 47% (4,728/10,000 = 47%)
29. PERMITTED: 400' PROPOSED: 476' EXISTING BUILDING AREA:

BUILDING AREA:	1,341 S.F.
PORCH AREA:	309 S.F.
EX. PARKING AREA & DRIVEWAY:	4,053 S.F.
PROPOSED PARKING AREA & DRIVEWAY:	3,188 S.F.
TOTAL LOT COVERAGE AREA PROPOSED =	4,728 S.F. (47%)
30. THERE ARE NO STEP SLIPPER IN THE PROPERTY.
31. THERE IS NO 100-YEAR FLOODPLAIN ON SITE.
32. THERE ARE NO FEDERAL STREAMS ON SITE.
33. PARKING REQUIREMENTS:

REQUIRED: 500' PROPOSED: 476' EXISTING BUILDING AREA:	1,341 S.F.
PORCH AREA:	309 S.F.
EX. PARKING AREA & DRIVEWAY:	4,053 S.F.
PROPOSED PARKING AREA & DRIVEWAY:	3,188 S.F.
TOTAL LOT COVERAGE AREA PROPOSED =	4,728 S.F. (47%)
34. *EXISTING DWELLING: NO PARKING IS REQUIRED SINCE THE BUILDING WAS CONSTRUCTED PRIOR TO 1946.
35. GUEST ROOMS: 1 SPACE FOR EVERY ONE GUEST ROOM REQUIRED: 5 GUEST ROOMS/A = 5 (5 SPACES) PROVIDED: 4 (4' X 8.5') REGULAR SPACES 1 UNUSUALLY SPACE TOTAL: 5 PARKING SPACES
36. *THE GUEST ROOMS ARE IN ADDITION TO THE DWELLING.
37. TOTAL NUMBER OF GUESTS: 9 GUESTS
38. LANDSCAPE MANUAL APPLICABILITY: PURSUANT TO SECTIONS 1.1(4) THIS SITE PLAN IS NOT EXEMPT FOR THE FOLLOWING REASONS: IT DOES INVOLVE AN A CHANGE OF USE FROM LOW-TO A HIGH-INTENSITY USE; THEREFORE, AN ALTERNATIVE COMPLIANCE TO SECTION 4.7 OF THE LANDSCAPE MANUAL IS BEEN SUBMITTED TO THE CITY OF COLLEGE PARK.
39. ALL HANDS AND REGULAR PARKING SPACES TO BE PAINTED FOR PRINCE GEORGE'S COUNTY REQUIREMENTS (4' WHITE PAINT).
40. NO NEW SIGN IS PROPOSED FOR THIS ADDITION.
41. THERE ARE EXISTING LIGHT FIXTURES LOCATED ON THE FRONT AND REAR OF THE EXISTING DWELLING.
42. PURSUANT TO SECTION 57-383 OF THE PRINCE GEORGE'S COUNTY ZONING ORDINANCE THE EXISTING DRIVEWAY DOES NOT MEET THE REQUIRED 11' FOR EACH LANE; THEREFORE, A DRIVEWAY REPAIRS HAS BEEN SUBMITTED TO THE CITY OF COLLEGE PARK.

UTILITY CERTIFICATION:

I HEREBY CERTIFY THAT THE CUSTOMER AND/OR PROPOSED UNDERGROUND UTILITY INFORMATION SHOWN HEREON HAS BEEN CORRECTLY OBTAINED FROM UTILITY COMPANY RECORDS, FURTHER THAT THIS PROPERTY HAS BEEN CAREFULLY CONSIDERED WITH EACH UTILITY COMPANY, AND ALL AVAILABLE UNDERGROUND UTILITY INFORMATION RELATIVE TO THIS PLANNING HAS BEEN OBTAINED FROM THEM.

M. M. M. 10-28-14 DATE
MASONRY TOWER, P.E. MD. REG. #10844

I HEREBY CERTIFY THAT THE GRADING SHOWN ON THIS PLAN CONFORMS WITH SUBTITLE 23, SECTION 700 OF THE PRINCE GEORGE'S COUNTY CODE AND THAT I HAVE INSPECTED THIS SITE AND THAT ALL NEARBY ON TO THIS SITE FROM OTHER UNPAID PROPERTIES, AND FROM THIS SITE ONTO OTHER NEARBY PROPERTIES HAS BEEN ADDRESSED IN SUBMITTAL ACCORDANCE WITH APPLICABLE CODES.

M. M. M. 10-28-14 DATE
MASONRY TOWER, P.E. MD. REG. #10844



PROFESSIONAL CERTIFICATION:

"I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed professional engineer under the laws of the State of Maryland, License No. 10844, Expired Date: 02/28/2017"

OWNER/APPLICANT
STEVEN BEHR
14005 BELFLORENCE WAY
SILVER SPRING, MD 20906
PHONE # 301-306-3001

888 UTILITY
FOR LOCATION OF UTILITIES CALL 1-800-257-7777
48 HOURS IN ADVANCE OF ANY WORK IN THE VICINITY



VICINITY MAP
SCALE: 1"=2000'

CDD
CAPITAL DEVELOPMENT DESIGN, INC.
PLANNERS - SURVEYORS
1400 SPOTSWOOD HILL ROAD - SUITE 200 - COLLEGE PARK, MD 20746
PHONE: 301-427-2881 FAX: 301-427-2882

STEVEN BEHR
4618 COLLEGE AVENUE
BERYWN (21ST) ELECTION DISTRICT
PRINCE GEORGE'S COUNTY, MARYLAND

SITE PLAN

REVISIONS

11/28/14	REV. PER COUNTY COMMENTS MP
12/27/14	REV. PER CITY OF C. PARK COMMENTS MP

MUNICIPAL APPROVALS

PROJECT NAME: 4618 COLLEGE AVENUE			
PROJECT NUMBER:			
The Department of Planning and Urban Development, Prince George's County, Maryland			
Approved on:	Approved by:	Director's Title:	City/County Seal:

DATE: OCT. 2014
DIR: [] CHECKED: []
SCALE: 1"=20'
PROJECT/FILE NO: 08-016
SHEET NO: 1 OF 4





























MEMORANDUM

TO: Mayor and Council

THROUGH: Joseph L. Nagro, City Manager
Terry Schum, Planning Director

FROM: Miriam H. Bader, Senior Planner

DATE: October 31, 2014

SUBJECT: Referral from Historic Preservation Commission for Historic Area Work Permit (HAWP)
4618 College Avenue
Steven Behr

ISSUE

This is a referral from the Historic Preservation Commission for a Historic Area Work Permit (HAWP) for the Holbrook House located at 4618 College Avenue. The property owner, Steven Behr, is required to apply for a HAWP since he is proposing to alter an existing gravel, backyard parking area from a 6-car parking lot to a 5-car parking lot (including a designated handicapped parking space) and adding new gravel to the parking lot and driveway. The applicant is also proposing to add landscaping, wheel stops, handicapped signage, a handicapped ramp, a bike rack, a rear-yard fence and may remove or relocate a shed. The Historic Preservation Commission will be holding a Public Hearing on this application on November 18, 2014.

SUMMARY

Location

The subject property is located at 4618 College Avenue, approximately 150 feet west of Rhode Island Avenue in the Old Town College Park Historic District.

Existing Property Structures

The property is improved with a 1,543 square-foot, 2.5-story stucco building and a 10' x 10' frame shed.

Proposal

The applicant is proposing to convert a single-family dwelling to a rooming house with 5 guest rooms for up-to 9 guests, which is a permitted use.

Lot Size and Zoning

The 0.23 acre parcel (10,000 square feet) and is zoned R-18.

History of House and Property

The dwelling on the property, referred to as the Holbrook House, was designated as a historic site (66-021-31) by Prince George's County in 1992. The Old Town College Park Historic District was designated by the County in January 2008 and was listed in the National Register of Historic Places as a historic district on December 4, 2012. The Holbrook House, which was constructed in 1927, is one of two known examples in Prince George's County of the Alhambra model of Sears, Roebuck and Company mail-order homes.

The structure is currently operated as a single-family rental property but has a history of use as a rooming house and multifamily dwelling. In 1967, the owner, Mrs. Holbrook, rented three rooms upstairs and a basement apartment. A year later she rented an additional room upstairs. The house continued to operate as a rental property under the next owner who purchased the property in 1973. In 1978, the house was again sold and the new owner indicated the property was owner-occupied. When the property was sold again in 2001, the new owner obtained rental licenses from the City for two units and a HAWP for the construction of an addition to the rear of the house. Although a county use and occupancy permit was issued in 2002 when the addition was completed, it was for a single-family dwelling. The City of College Park inspected the property and issued a rental license for three units. The current owner, Steven Behr, purchased the property in 2006 with the expectation that it could continue to operate as a three-unit multifamily dwelling. Also, a previous owner added the existing gravel driveway located in the rear yard without permits.

In 2009, the applicant applied for a Special Exception to convert the single-family dwelling to a two-family dwelling. Along with this application, the applicant applied for a Departure from the required commercial driveway standards. Both the Special Exception and the Departure were recommended for approval by the Prince George's County Planning Board but were denied by the District Council. The City was opposed. One of the factors considered in the denial was that when the property was designated as a historic site in 1992, the rear yard was covered with grass. Sometime after 1992, the owner cleared the rear yard of grass and vegetation and covered it with gravel to allow about six vehicle parking spaces. The rear yard alteration appears to be an unauthorized modification of the environmental setting of the historic site done without Historic Preservation approval.

On May 13, 2011, the Public Services Department sent a letter to the Applicant notifying him that since the District Council denied the Special Exception, the use and occupancy permit is only authorized for the property to continue as a single family dwelling. Subsequent to receiving this notice, the Applicant converted the interior of the structure back to a single-family home by removing the wall separating the new addition from the rest of the house as per the original plans submitted by the prior owner (but never constructed). Subsequently, the City validated the property as a single-family dwelling. Currently, the building has eight existing bedrooms, four bathrooms and three kitchens.

On January 3, 2012, the applicant applied for permit 36083-2011-U to use the dwelling as a rooming house and permit 15799-2011-RG to improve the existing gravel parking lot. The applicant has also applied for a Departure of 11.4 feet from the required 22-foot driveway width

required for commercial driveways and for alternative compliance from the Landscape Manual. A Type B bufferyard is required along the east property line because the site is adjacent to a single-family dwelling (the structure on the west side is classified as a rooming house). The bufferyard cannot be located at the required location due to the existence of a shared driveway. This will be heard by the Advisory Planning Commission pending the outcome of the HAWP.

Old Town College Park Local Historic District Local Advisory Committee (LAC)

The Applicant met with the Local Advisory Committee (LAC) on October 30, 2014. The LAC reviewed the proposal under the Old Town College Park Historic District Guidelines (see Attachment 3). The main comments and concerns expressed by the LAC are as follows:

1. The LAC would prefer the handicapped accessible ramp be designed with a more residential and historic appearance. The LAC is concerned that the submitted ramp is too commercial looking in design. However, since the handicapped ramp is located to the rear of the property and will not be visible from the front, the LAC is not as troubled about this. They recommend that the applicant submit a less institutional looking handicapped ramp, if possible.
2. The LAC would like the proposed shrubs along the western edge of the driveway (15 boxwoods) to be reconsidered. Their concern is that they do not want these boxwoods that are proposed to be spaced very close together to create a front yard hedge/fence. They are not opposed to landscaping at this location for the purpose of defining the western edge of the driveway and preventing front yard parking; however, they are opposed to creating a hedge/fence at this location since front yard fences are prohibited. Also, they are concerned that the plantings could create a visual obstruction for vehicular traffic. The LAC recommends that the applicant reconsider the type of material at this location, keeping in mind the height at maturity and the spacing.
3. The applicant is proposing to plant a Thornless Honeylocust (2.5-inch to 3-inch caliper) in front of the house. The LAC is concerned that this tree may block the view of the house as it reaches its mature size. They recommend that the applicant reconsider such a large tree at this location.
4. The applicant is proposing to plant 3 Pin Oaks (2.5-inch to 3-inch caliper) and 2 Honeylocusts (2.5-inch to 3-inch caliper) in the rear yard. The LAC is concerned that this may be too many trees for the area proposed, limiting the chances of survivability. They recommend that the City Horticulturist review the landscape plan, keeping in mind this concern.
5. The LAC would like the applicant to consider replacing the windows in front that were replaced many years ago prior to the current ownership, with windows that would be more in character with the historic nature of the house.

Criteria for HAWP review

When reviewing HAWP requests, the LAC and HPC need to ensure the proposal will not impair the character of the Historic Site or Historic District. For this request, the following criteria are used:

Off-Street Parking: The design should allow for “minimal negative visual impact on the character of the streetscape. Existing parking lots should be landscaped to create a visual screen.”

Fences and Landscape: “New fences should follow contributing examples in scale and material and should be compatible with the historic district.” Landscaping should be replaced “in-kind or with similar species for contributing properties.”

Site Features and Improvements: “The character of a historic district comes not only from its building but also from the private and public spaces and features that surround and help define the historic resources.” Site improvements need to be reviewed in context with the streetscape environment.

RECOMMENDATION

City staff recommends supporting the findings of the LAC subject to these additional conditions:

1. Install new timber framing along the driveway in the front yard and/or revise the landscaping per the LAC recommendations.
2. The site plan shows a 10-foot by 10-foot framed shed to be removed or relocated. If it is relocated, the applicant shall indicate the location on the site plan.

Attachments:

Attachment 1: Letter to Mayor Fellows from Historic Preservation Commission providing notice of Historic Area Work Permit Application

Attachment 2: Historic Area Work Permit Application

Attachment 3: Site Plan (sheets 1-4)

Attachment 4: Relevant Excerpts from the Old Town College Park Historic District Guidelines

Attachment 5: District Council Decision on Special Exception



A

Subject Property (Holbrook House), 4618 College Ave.



B

Historical Marker for Holbrook House



C

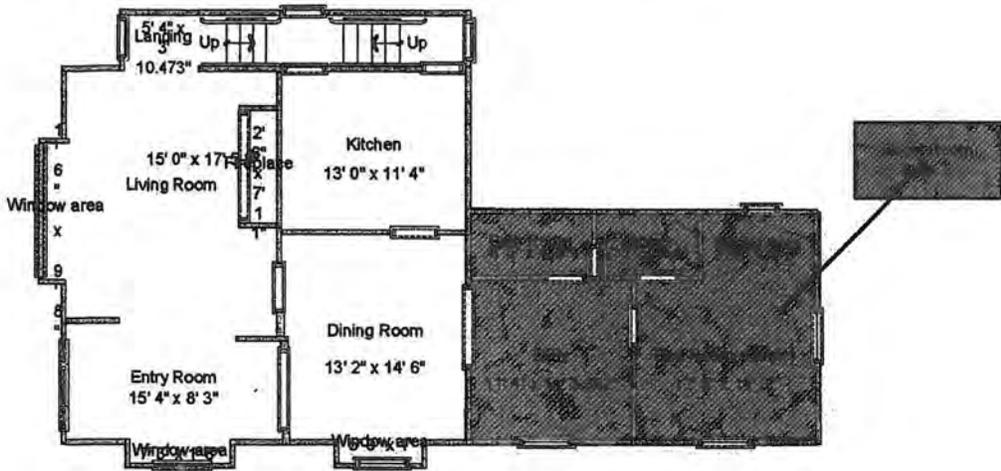
Driveway



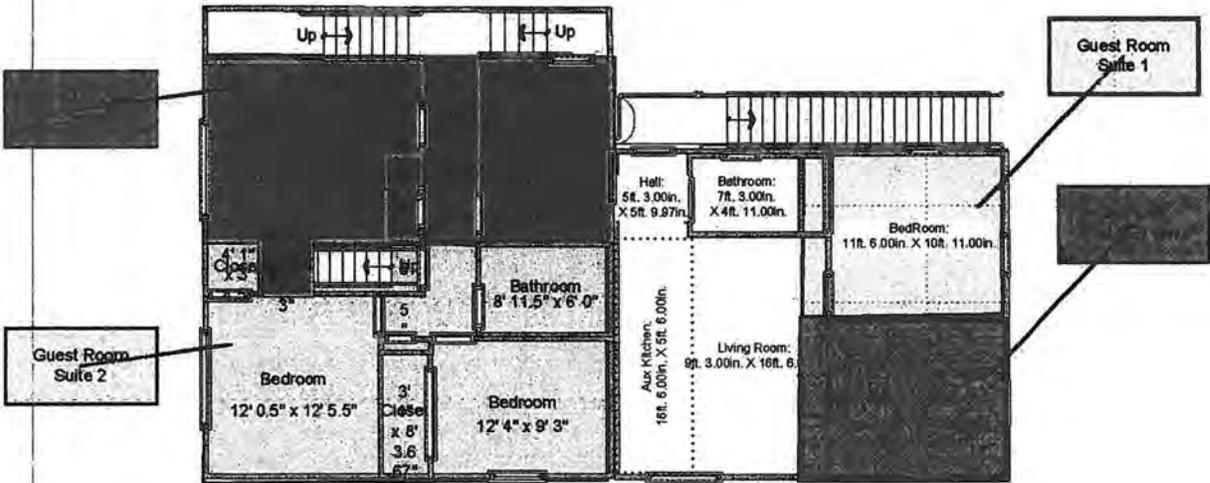
D

Close-up of Driveway

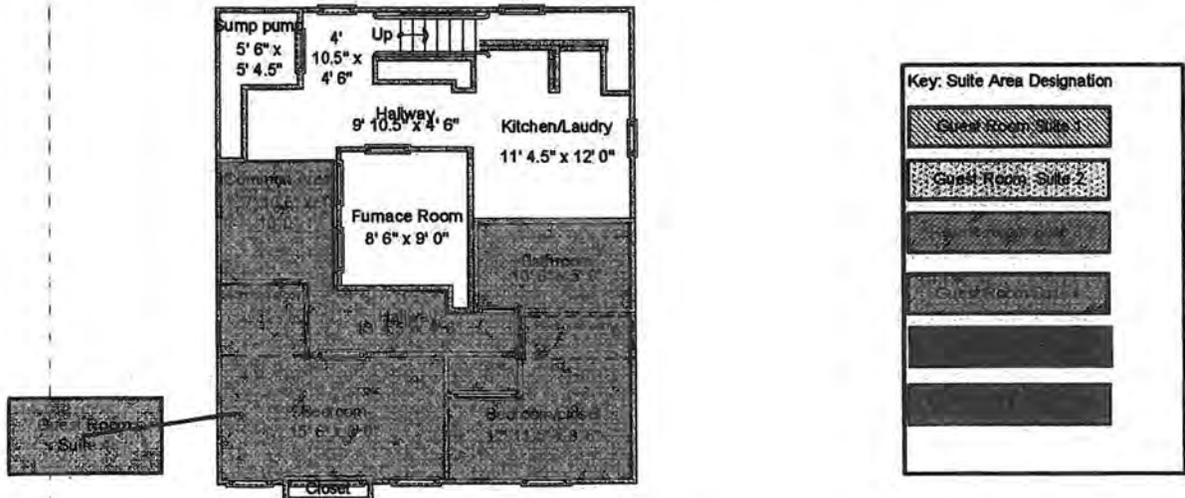
4618 College Park Main Level – Floor Plan

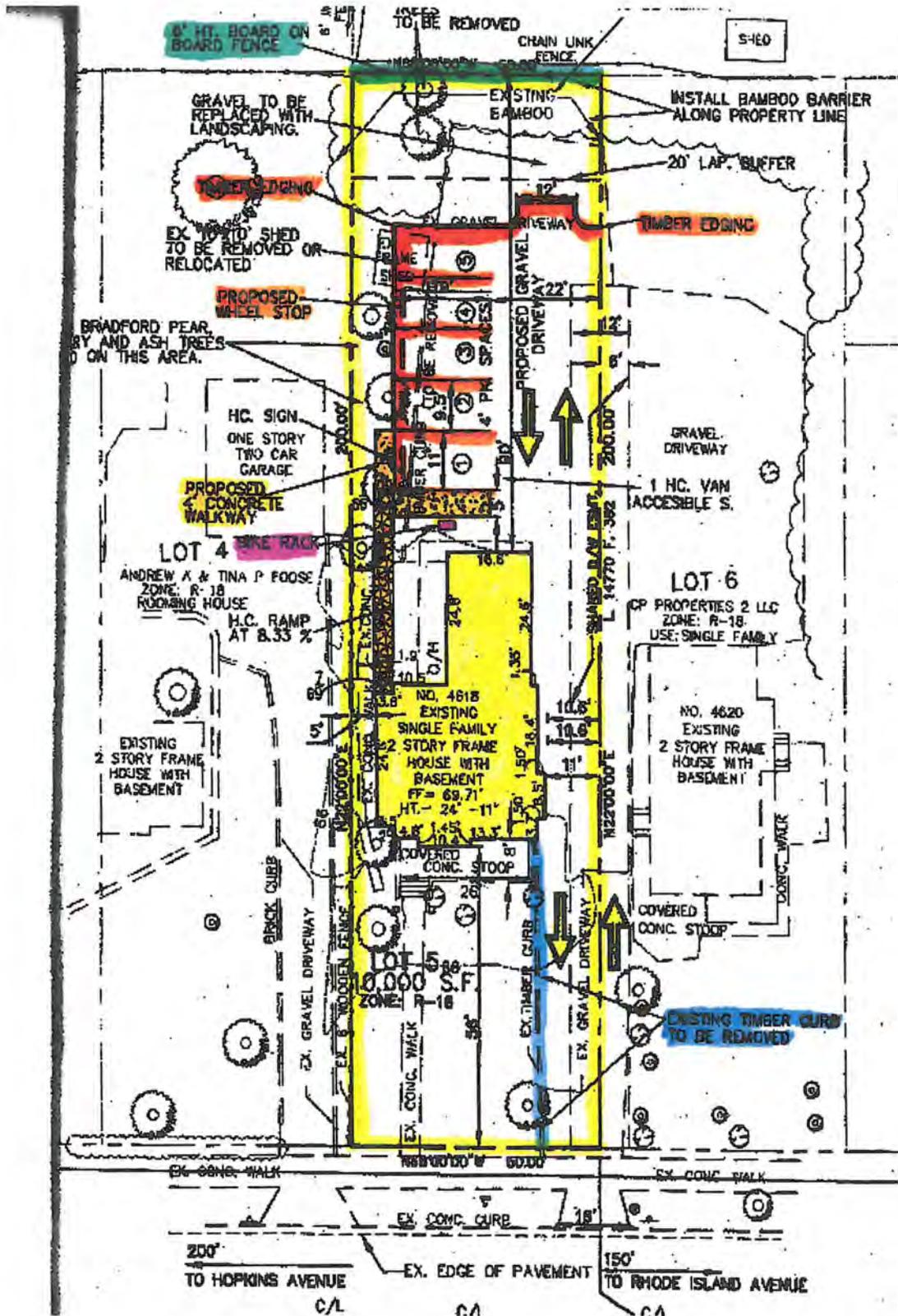


4618 Second Level Floor Plan

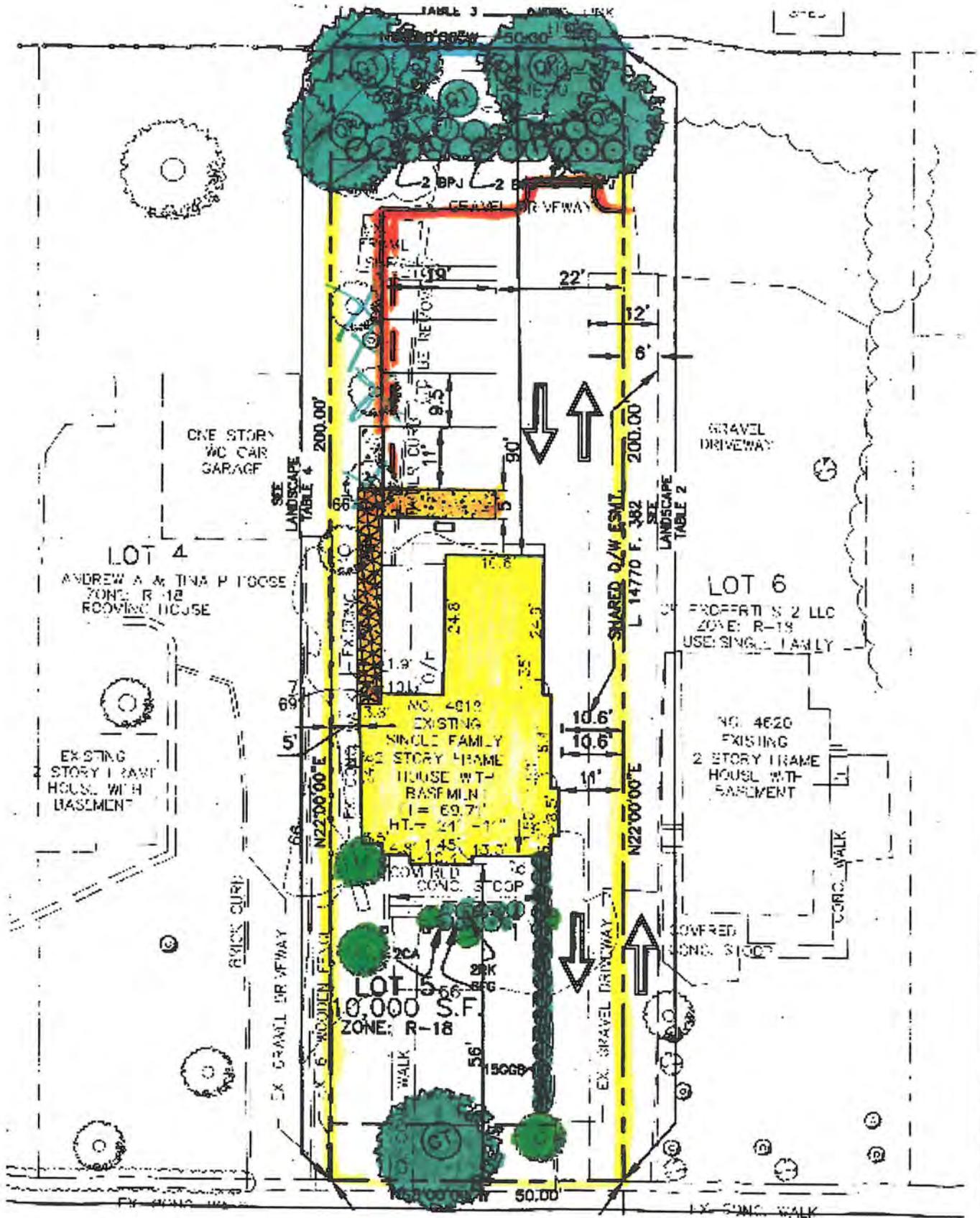


4618 Basement Level Floor Plan





LANDSCAPE PLAN



From: Kathy Bryant [mailto:kbryant20740@yahoo.com]
Sent: Tuesday, December 02, 2014 4:45 PM
To: Kathy Bryant
Subject: Notice of Public Hearing for a Departure Request - 4618 College Avenue - Dec. 4 7:30 pm City Hall

Residents of Old Town,

An appeal has been made to the City of College Park Advisory Planning Commission for a Departure under Section 190-9 and Alternative Compliance under Section 190-16 of the Code of the City of College Park for 4618 College Avenue, Lot 5, Block 16.

The specific request is for a departure of 11 feet, 4 inches from the required 22-foot driveway width and alternative compliance from the standards of the Prince George's County Landscape Manual.

The applicant is Steven B. Behr, who has requested departures several times over the years.

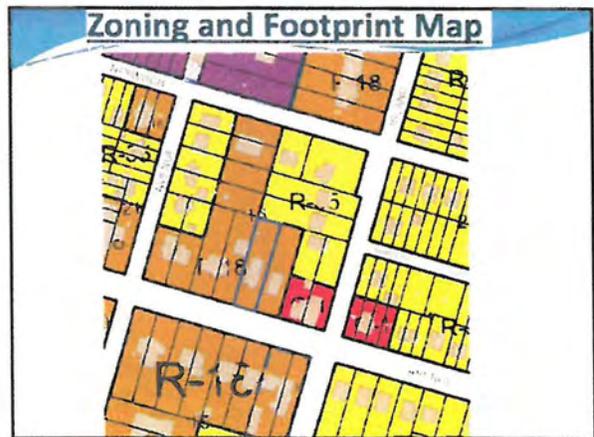
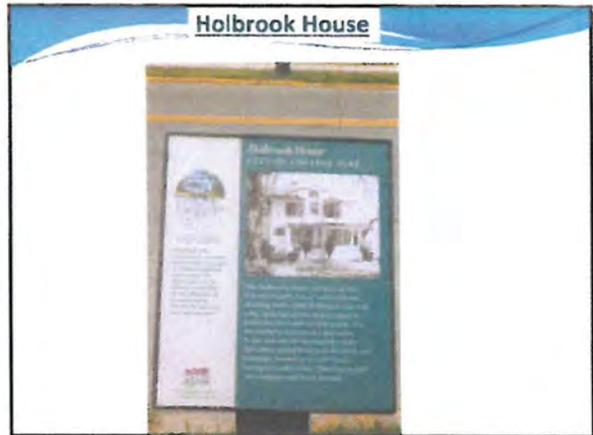
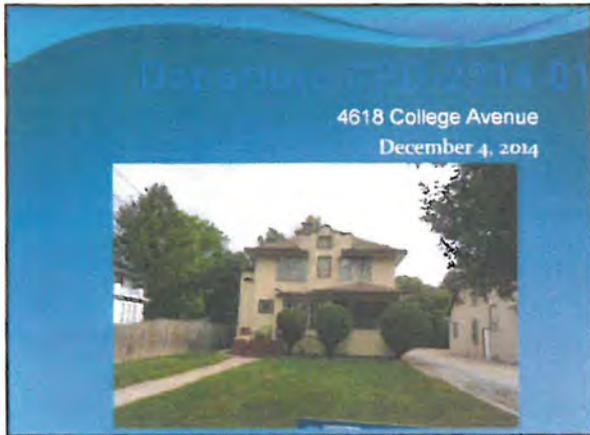
In the past, Steven Behr has requested many departures.

I have always attended the hearings for his requests for departures and have testified and fought against all of them.

I would testify against this proposed departure.

However, I cannot be there because I have a photography job that night. But if you have concerns, please attend.

Kathy Bryant
President, Old Town Civic Association



Aerial View



Bird's Eye View

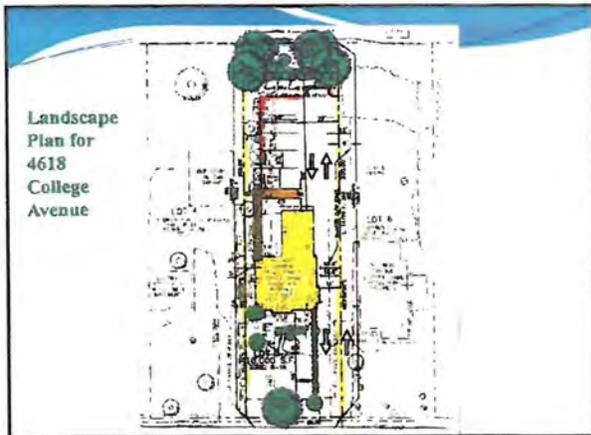
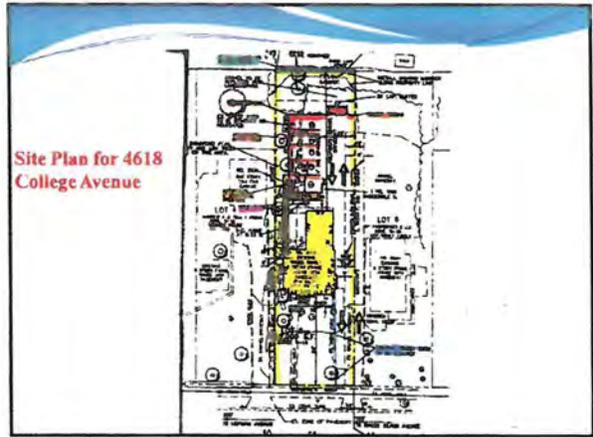
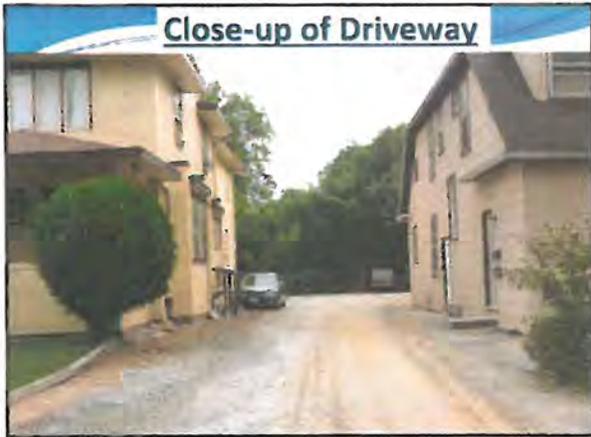


Applicant Proposal

1. Convert the existing Single-Family Dwelling to a Rooming House.
Rooming House Definition: "A dwelling in which (for compensation) lodging (excluding meals) is furnished by the inhabitants to four (4) or more, but not over nine (9) guests. The dwelling shall contain not over five (5) 'Guest Rooms.'"
2. Make changes to site to accommodate the Rooming House Use, which requires:
 - a. A driveway and parking lot that meets the commercial standards in the Zoning Ordinance.
 - b. Compliance with the Landscape Manual.
3. Obtained an HAWP to validate the existing parking lot and proposed landscaping on 11-18.
4. Obtain a Departure for Driveway Width from City
5. Obtain Alternative Compliance for Eastern Landscaped Buffer from Planning Director.

Close-up of Driveway





Required Findings:

(1) Purposes of Zoning Ordinance are equally or better served by proposal:

- a. Provide sufficient off-street parking
5 parking spaces are required and provided including a handicapped accessible space
- b. Reduce on-street parking and reduce access points
Parking will be provided on site in a rear parking area. Access to College Ave is limited to one driveway located in the east side yard
- c. Protect the residential character of residential areas
The requested departure to reduce the required driveway width from 22-foot wide to 16.6 feet wide will help protect the residential character where narrower driveways are prevalent.
- d. Provide convenient parking and increase amenities
Proposed parking is directly behind house
Landscape plan will remove invasive bamboo and plant native trees and shrubs, enhancing the environment

Required Findings:

(2) The departure is the minimum necessary

- Driveway meets required width (22-feet) to the rear of the house
- Only need departure for where driveway narrows between the houses and continues to the front curb-cut (16.6 feet between houses).
- The applicant could meet the minimum required width in front of the house but not without negatively affecting the residential character of the area.
- Also, the driveway would encroach in front of the house and thus require a variance.

Required Findings:

(3) Unique conditions or alleviate prevalent circumstances

- The house was built in 1927 before zoning (1928).
- The two neighboring houses are only 16.6 feet apart.
- The lot is exceptionally narrow for a property in the R-18 zone. Min. Lot Width is 85-feet, the lot width of this lot is 50-feet.
- Driveway could physically widen again in front of the houses but this would necessitate the driveway encroaching into the front yard of the subject dwelling and would be contrary to the residential character of the area.

City Staff Recommendation

Staff recommends approval of the requested departure of 11.4 feet from the required 22-foot driveway width with the following conditions:

1. Revise site plan to:
 - a. Show new timber framing to contain the gravel driveway in the front yard. The width of the driveway in the front yard shall not exceed 11 feet on the subject property.
 - b. Indicate location of shed to be relocated in the rear yard.
 - c. Show required R-18 building setbacks or place an asterisk after "required" to explain that the building was constructed in 1927 prior to Zoning Regulations.

City Staff Recommendation (Cont. 1)

2. Replenish bare areas of the driveway and parking area with gravel or other dust-free material.
3. No more than 9 guests/10 people (including the operator) shall be allowed to live in the rooming house at any given time.
4. If the parking area is to be illuminated, the lighting shall be arranged so as not to reflect or glare on land used for residential purposes.
5. All refuse shall be contained in covered bins.
6. Outdoor storage shall be prohibited with the exception of bicycles.
7. Parking shall be prohibited in the driveway at all times including parking in front of or along side the house. Parking is only permitted in the designated rear parking lot. The applicant shall post signage stating this prohibition in a visible location.

City Staff Recommendation (Cont. 2)

Alternative Compliance Recommendation

The Planning Director has recommended approval of the alternative compliance request from certain requirements in the Landscape Manual subject to the following conditions:

1. Revise the landscape plan and plant list to:
 - a. Reduce number of Honey Locust trees in rear yard to 1 tree.
 - b. Replace Pin Oaks in rear yard with: Japanese Snowbell, or native species such as Hop Hornbeam or Viburnum Selections (dentatum, dentatum prunifolium, trilobum).
 - c. Substitute Boxwoods in front yard with Birds Nest Blue Spruce. Plant and maintain to avoid plants from forming a hedge that exceeds 4 feet in height.
 - d. Revise quantities in landscape schedule to reflect quantities shown on Landscape Plan.
 - e. Revise the Landscape Plan to reflect the trees shown removed on the site plan dated 12/09/14.
 - f. Correct Table 3. of the Landscape Plan to indicate that shade trees provided are worth 10 plant units not 30 plant units as shown



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TRANSCRIPT OF PUBLIC HEARING
COLLEGE PARK ADVISORY PLANNING COMMISSION

**CPD-2014-01: Departure of 11.4 feet from the Required 22-foot
 Driveway Width and Alternative Compliance From the
 Standards in the Prince George’s County Landscape Manual**

Applicant: Steven Behr

Location: 4618 College Avenue

Date: December 4, 2014

**Present: Commissioners: Mary Cook, Chair, Lawrence Bleau, James
 McFadden, Rose Greene Colby and Christopher Gill; Planning
 Staff: Terry Schum, Miriam Bader and Theresheia Williams;
 Attorney: Sue Ford**

Public Hearing was called to order at 7:36 p.m.

Mary Cook: The planning staff will be sworn in and present their staff report. We will then take testimony from the applicant and anyone else who has signed up to speak. Please state your name and address for the record.

Miriam Bader: Miriam Bader, Senior Planner, 4500 Knox Road, College Park, MD.

Steven Behr: Steven Behr, 14835 Melfordshire Way, Silver Spring, MD

Francis M. Silberholz: Francis M. Silberholz, 1101 Mercantile Lane, Largo, MD

Bradley Farrar: Bradley Farrar, 4614 Clemson Road, College Park, MD

Mary Cook: Do you promise to speak truthfully in the testimony you are about to give?

Miriam Bader: Yes.

Steven Behr: Yes.

Francis Silberholz: Yes

Bradley Farrar: Yes.

1 **Mary Cook:** Okay, so we are going to move on to Ms. Bader who will give us a
2 presentation on the case.

3 **Miriam Bader:** This is a departure request from driveway width for the Holbrook House
4 located at 4618 College Avenue. The applicant, Steve Behr, has owned the house since
5 2006. The Holbrook House was designated as a historic site by Prince George's County in
6 1992. The Old Town College Park Historic District was designated by the County in 2008
7 and was named as a National Historic District on December 4, 2012. The Holbrook House,
8 which was constructed in 1927, is a 2.5 story stucco building and is one of two known
9 examples in Prince George's County of the Alhambra model of Sears, Roebuck and
10 Company mail-order homes. On the screen is the location map so you will be able to orient
11 yourselves to where the property is located. It is approximately 150 feet west of Rhode
12 Island Avenue. The 0.23 acre parcel (10,000 square feet) is zoned R-18 which is a
13 multiple-family medium-density zone. The abutting properties to the east and west are also
14 zoned R-18. The block also has R-55 zoned properties. The corner property is a dry
15 cleaner with a rooming house above it. The property to the west is a rooming house and
16 the property to east is a single-family home. Typically, the houses in this area are two lots.
17 The birds-eye view of the property shows the existing gravel drive that leads up to the
18 house, and the rear parking area. The applicant is proposing to convert the existing single-
19 family dwelling to a rooming house. A rooming house is defined as "a dwelling in which
20 (for compensation) lodging (excluding meals) is furnished by the inhabitants to four (4) or
21 more, but not over nine (9) guests. The dwelling shall contain not over five (5) 'guest
22 rooms." Guest room is defined as "a room or suite of rooms in which living and sleeping
23 accommodations are provided for 1 or more paying visitors and there is no provision for
24 cooking." Second, the applicant is proposing to make changes to his site in order to
25 accommodate the rooming house use, which is considered a commercial standard, so he
26 needs to meet the commercial standard for the driveway. A single-family home does not

1 need to have a commercial standard driveway. Also, he would need to comply with the
2 Landscape Manual. He is not able to comply with the Landscape Manual in one
3 circumstance, because he is required to install a buffer, which is located where the
4 driveway is. That's why he is seeking Alternative Compliance. In the City's ordinance, he
5 seeks Alternative Compliance through the Planning Director, in a separate process. The
6 third thing is that he has to obtain a Historic Area Work Permit (HAWP) to change the
7 environmental setting. The applicant has already gone through the HAWP process. He
8 went before the Local Advisory Committee (LAC) on October 30, 2014 and before the
9 Historic Preservation Commission (HPC) on November 18, 2014. The applicant is
10 proposing a departure of 11.4-feet from the required 22-foot width that's required for the
11 rooming house. The existing gravel driveway is 10.6 feet wide at its narrowest point to his
12 property line plus 6-feet on the neighboring property, which is a total width of 16.6 feet at
13 the narrowest point. There is a joint driveway agreement, which was recorded on June 26,
14 2001, that allows the people to use the joint driveway space. The existing parking lot is
15 larger, but the applicant is proposing to reduce it to 5 parking spaces, which is the required
16 amount of parking spaces he is supposed to have for the rooming house. He is also
17 required to install an access ramp for the handicapped parking space. Also, a 6-foot high
18 board-on-board fence should be installed to serve as a buffer since he is asking for
19 Alternative Compliance. If the buffer is installed, it would lessen the impact on the
20 adjoining property owner. The site plan also shows an existing timber curb that is in
21 disrepair, so staff is making that a condition to be replaced. In his proposed landscaping
22 plan, he will be removing the invasive bamboo, which is shown on the site plan. He is
23 proposing to put a Honey Locust in front and two Honey Locusts in the rear with three Pin
24 Oaks. He is also proposing to put 15 Boxwood trees on the western edge of the property,
25 which will discourage parking in the front of the home. The required findings for granting a
26 departure request are:

- 1 1. The purpose of the applicable provisions of the Prince George's County Zoning
2 Ordinance will be equally well or better served by the applicant's proposal. It is
3 broken down into 4 different criteria.
- 4 a. Did the applicant provide sufficient off-street parking? He is required to
5 provide 5 parking spaces and that is what he has provided including a
6 handicapped accessible space.
- 7 b. To reduce the on-street parking and access parking points. Parking in the rear
8 will reduce the on-street parking and he only has one access point, the one
9 driveway off of College Avenue.
- 10 c. To protect the residential character of the residential area. The requested
11 departure is to reduce the required driveway width from 22 feet to 16.6 feet
12 wide at the narrowest point. He does meet the driveway width in the rear of the
13 house. A narrower driveway will help him protect the residential character. If
14 not, then he would widen it to 22- feet and it would be out of character and it
15 would have to go in front of the house.
- 16 d. To provide convenient parking and loading areas, which are convenient and
17 increase the amenities in the Regional District. The proposed parking is directly
18 behind the house so it is very convenient to the residents that live there. The
19 landscape plan does show that he is going to be removing an invasive bamboo
20 and planting native trees and shrubs. We did go out to the site with the City
21 Horticulturist to see if he is putting in the kind of landscape that we would like
22 to see at that location. She made some suggestions on landscape materials. I
23 have talked to the applicant about it and he seems willing to go with those
24 suggestions.

25 **Lawrence Bleau:** Can I ask you a question about the fourth finding?

26 **Miriam Bader:** Sure.

1 **Lawrence Bleau:** I think I recall somewhere else in your report about bicycle racks being
2 installed?

3 **Miriam Bader:** Yes.

4 **Lawrence Bleau:** That should probably be included in item d.

5 **Miriam Bader:** Yes, you are correct. He is providing a bicycle rack, and that was at
6 staff's suggestion. It will be in the rear, so it won't affect the curb side appeal of the
7 property. Also, with respect to amenities, he will be providing a handicapped space and
8 handicapped ramp. I don't know if it would be considered an amenity, but it is an
9 improvement to the property. The second part of the departure findings is the minimum
10 necessary. As I mentioned before, the driveway meets the minimum required width of 22-
11 feet in the rear of the house. However, the departure is needed because the two homes are
12 16.6 feet apart, so he has that difficulty, but that is an existing circumstance. We could
13 require that he meet the 22-feet in the front of the house, but that means that would
14 encroach in front of the house and he would have to go through a variance process. Also, it
15 doesn't fit in with the character of that neighborhood. In terms of the unique conditions to
16 alleviate circumstances, the house was built in 1927, which was before the Zoning
17 Ordinance in 1928, so that's part of the reason why the homes were so close together. The
18 two neighboring houses, as I mentioned before, are only 16.6 feet apart. The lot is
19 exceptionally narrow for property in the R-18 zone. In the R-18 zone, the required
20 minimum width is 85 feet and this lot is only 50 feet. As shown in the zoning map, most of
21 the properties in the area are on two lots, so they have 100 foot width. Again, as I pointed
22 out before, the driveway could physically widen in front of the house, but it would
23 necessitate the driveway encroaching in the front yard and would be contrary to residential
24 character. Therefore, since it appears that he has met the required findings, staff is
25 recommending approval of the requested departure of 11.4 feet from the required 22 foot
26 driveway width with the following conditions: a) That he revise his site plan to show the

1 new timber framing to contain the gravel driveway in the front yard. The width of the
2 driveway of the front yard shall not exceed 11 feet on the subject property. He is also
3 proposing to put timber framing around where the bamboo is and also to define the parking
4 area. b) Indicate the location of the shed to be relocated to the rear yard. What he needs to
5 do is show that it will comply with the Zoning Ordinance. It needs to meet the setbacks
6 and cannot be in the required buffer yard. I talked to the applicant and he understands that
7 if he cannot meet the zoning ordinance requirement of the 3-foot setback of the side
8 property line, then he will not be able to relocate the shed. In his site plan, he said that the
9 shed is either going to be removed or relocated. We just wanted to clarify that if he
10 relocates it, it has to meet the zoning ordinance requirements.

11 **Lawrence Bleau:** I thought it was a 1-foot setback for accessory structures.

12 **Miriam Bader:** Three feet. c) He has to show the correct required R-18 building setbacks
13 or place an asterisk after "required" to explain that the building was constructed in 1927.
14 This is just a technicality on his site plan that he needs to clarify. I think what he put on the
15 R-18 building setback was "not applicable." It's applicable, so he can make that change.

16 d) To designate locations for "no parking in driveway" signs, which we feel will be a
17 minimum of two signs. The photo shows a car parked in the driveway and sometimes
18 when I go out there cars are parked on the site also. So if he is asking for a departure to
19 reduce the width, he shouldn't further reduce it by having cars parked there. We have
20 talked to the applicant about this and he understands. We are thinking that one sign should
21 be put on the side of the house and a small free-standing sign on the property.

22 **Mary Cook:** I have a question. The whole reason for doing this is that it is supposed to
23 be two-way traffic there?

24 **Miriam Bader:** Right correct.

25 **Christopher Gill:** I think it's marked that way on the map.

1 **Miriam Bader:** That's why it's 22-feet wide, so that each side would be 11 feet. So those
2 are the first set of conditions. The second condition is to replenish the bare areas of the
3 driveway and parking area with gravel or dust-free surface, that's what the applicant was
4 intending to do anyhow, but we just wanted to clarify that. 3) No more than 9 guests/10
5 people including the operator shall be allowed to live in the rooming house at any given
6 time.

7 **Sue Ford:** Can I interrupt you for a minute?

8 **Miriam Bader:** Yes.

9 **Sue Ford:** There's been a lot of back and forth between the staff, attorney, county and the
10 applicant over the last couple of days on this. City attorney, Suellen Ferguson, has been the
11 principal one involved, and so I have a late breaking message from her. I just want to make
12 sure that the applicant has an opportunity to understand what the latest thought is. What
13 Suellen Ferguson is saying, I am just paraphrasing here, is that she is indicating that
14 Maryland-National Capital Park and Planning Commission (M-NCPPC) and the
15 Department of Permitting Inspections and Enforcement (DPIE) together are supposed to
16 determine the issue of the number of people allowed in the house. I guess it is a question
17 of 9 versus 10. I guess there is an issue also about the number of kitchens in the house and
18 whether the rooms are required to be furnished. So I am not suggesting that we make any
19 findings or determination. It's really not part of our decision here tonight, but as part of the
20 recommendation we would recommend that the M-NCPPC and DPIE take action and
21 resolve those issues. That would just be part of APC's recommendation. I didn't want to
22 blindsides the applicants. That is the recommendation I am hearing as of this afternoon.

23 **Steven Behr:** Should we take that out and say something different.

24 **Sue Ford:** I think that would be better. So for the recommendation, this will be written up
25 in the form of a resolution and whatever the APC decides one way or the other. If they

1 determine to make one of the recommendations I just indicated, it's up to the APC to
2 decide that or not. I just wanted to let you know before you started your case.

3 **Steven Behr:** I appreciate that. I do know that the County Code does allow for 9 guests, it
4 specifically says that, but I didn't see anything that limits it to a number of people including
5 the operator. It allows for an operator and up to 9 guests.

6 **Sue Ford:** It is my understanding that it is partially because you only have 5 parking
7 spaces, that's why it is a relevant issue.

8 **Steven Behr:** This section was written before 1927?

9 **Sue Ford:** I understand you are asking for a departure, something different than what's
10 allowed by the code that deals with parking in driveways. And you are proposing 5 spaces
11 that's why it is relevant.

12 **Mary Cook:** Okay can we finish with staff presentation?

13 **Sue Ford:** Sure, I'm sorry; I just wanted to include that.

14 **Miriam Bader:** Okay, 4) If the parking area is to be illuminated, the lighting shall be
15 arranged so as not to reflect or glare on land used for residential purposes. 5) All refuse
16 shall be contained in covered bins. 6) Outdoor storage shall be prohibited with the
17 exception of bicycles. Just to let you know about the Alternative Compliance, the Planning
18 Director has recommended approval of the Alternative Compliance request from certain
19 requirements in the Landscape Manual subject to the following conditions: 1) Revise the
20 landscape plan and plant list to: a) Reduce the number of Honey Locust trees in the rear
21 yard to 1 tree. There was a concern about overcrowding and this was something that was
22 pointed out by the Local Advisory Committee (LAC). b) Replace the Pin Oaks in the rear
23 yard with: Japanese Snowbell or native species such as Hop Hornbeam, c) Substitute
24 Boxwood in the front yard with Birds Nest Spruce. We were concerned about them turning
25 into a hedge that could exceed 4 feet and then you would have a front yard fence, which the
26 zoning ordinance does not allow. That's why we are making a recommendation to

1 substitute it with Birds Nest Blue Spruce because it doesn't grow that high. It should be
2 easier for the applicant to maintain and not exceed 4' in height and it would not have that
3 hedgy effect, it's more of a round bush. d) Revise the quantities in the landscape schedule
4 to reflect quantities shown on the Landscape Plan. These were just inconsistencies so we
5 just want to make sure that everything is consistent. We met with the applicant and he
6 revised his site plan but I don't know if he was able to do all the pages because we were
7 under a tight time frame. e) Revise the Landscape Plan to reflect the trees to be removed
8 on the site plan and f) Correct Table 3 of the Landscape Plan to indicate that shade trees
9 provided are worth 10 plant units, which was just a minor typo. That concludes my
10 presentation. I would like to enter the revised staff report, the PowerPoint presentation and
11 the letter from Kathy Bryant addressed to the Old Town residents into the record.

12 **Christopher Gill:** I have a technical question about this. The letter was not actually
13 addressed to the Advisory Planning Commission. Can we just add it to the record anyway?

14 **Sue Ford:** You can add it to the record, and give it whatever weight you choose to give it
15 given the circumstances of its introduction.

16 **Christopher Gill:** Okay.

17 **Lawrence Bleau:** What should we designate it as?

18 **Christopher Gill:** It will be Exhibit 19.

19 **Miriam Bader:** Well that concludes my presentation; I am here for any questions.

20 **Christopher Gill:** Can I ask you a process question. Are we being asked to approve both
21 the revision to the site plan and the Alternative Compliance recommendation?

22 **Miriam Bader:** The Alternative Compliance is decided by the Planning Director.

23 **Christopher Gill:** Okay.

24 **Miriam Bader:** It was a little bit confusing when we were reading the ordinance, because
25 it did seem to say that it had to be a public hearing.

26 **Terry Schum:** We just wanted to get it on the record here.

1 **Mary Cook:** Okay. So you are done Miriam?

2 **Miriam Bader:** I am done.

3 **Mary Cook:** Okay, Mr. Behr, would you like to present your case?

4 **Steven Behr:** I think that staff has done a very good job on providing the case by the City.

5 We have had a lot of discussion and I want to thank everyone who has been involved in

6 this process, because it has been a long time coming. There has been a lot of back and forth

7 and figuring out how it meets the criteria, especially with being an historic house. In

8 regard to the letter from Kathy Bryant, I really am not sure what her concern is. Just to

9 clarify what she said, I've only applied for one departure in the past and it was basically

10 this exact same departure, driveway width for a prior use. That was approved by the LAC,

11 they were in favor of it, but it was eventually overturned by District Council because of the

12 exemption issue.

13 **Mary Cook:** We were unclear about that too. Is there anything else you would like to

14 add?

15 **Steven Behr:** Is there anything Bradley that you would like to discuss?

16 **Bradley Farrar:** Again, I would like to reiterate, I think staff has done an excellent job in

17 working with us to resolve all the issues and making sure that we comply with the code and

18 the communities. We want to make sure that the property continues to reflect the

19 community. Ms. Bader and the staff worked hand-in-hand to do that. We agree with

20 staff's recommendation and move for the commission to adopt the departure.

21 **Mary Cook:** We didn't really go to staff for any questions. Are there any questions for

22 staff before we move on?

23 **Lawrence Bleau:** If at some point, the house is modified to turn one of the suites into two

24 separate rooms, would that trigger an increase in the requirement for parking spaces.

25 **Miriam Bader:** Remember the definition says they can't have more than 9 guests and they

26 can only have 5 guest rooms. So the parking requirement is for 5 guest rooms. What's

1 unclear is the definition of guest room where it says a room or suite of rooms. So that's
2 where we need the clarification from M-NCPPC and DPIE on suite of rooms. Does that
3 mean you can have two bedrooms, or a kitchen when it says you can have one? But what
4 the ordinance says is not more than 5 guest rooms, so they did one parking space per guest
5 room.

6 **Lawrence Bleu:** I can imagine subsequent owners saying, "I will just put up a wall
7 between these two and make another rental area." All of a sudden parking is not in
8 compliance.

9 **Terry Schum:** So under this use, the parking requirements are not going to change. If the
10 applicant wants to change the use, that's another story. Unless it's changed to a single-
11 family home and then of course you wouldn't need the 5 parking spaces.

12 **Sue Ford:** For the procedural questions about the Landscape Alternative Compliance, if
13 staff could just clarify, and I am working from Section 190-16 of the Code with regard to
14 Alternative Compliance and I presume the property was posted and no one from the public
15 requested a formal hearing?

16 **Miriam Bader:** That's correct. We posted the sign within the 15 days and no public
17 hearing was requested.

18 **Sue Ford:** I just wanted to put in the record that no hearing was requested.

19 **Lawrence Bleu:** Has there been any feedback from the neighborhood or the civic
20 association.

21 **Miriam Bader:** We got the e-mail from Kathy Bryant and also Mr. Schnabel came in and
22 asked questions. I gave him a copy of the report and it seemed to address his concerns. I
23 think most people have more concerns with it going to a rooming house than with the
24 departure.

25 **Mary Cook:** Right and our purpose tonight is the departure. Does anyone have any other
26 questions of either the staff or the applicant?

1 **James McFadden:** No, I have been watching the e-mail traffic that comes out of Old

2 Town and I have not seen anything on this until I saw Kathy's e-mail.

3 **Mary Cook:** You haven't seen anything at all?

4 **James McFadden:** Nothing. There has been no e-mail.

5 **Mary Cook:** They must not be upset because they are not sending anything.

6 **James McFadden:** Well, Nigel, I and Richard are on the LAC and we unanimously

7 approved the plan with some comments that are included in the staff report. I was kind of

8 surprised that I didn't see anybody from the neighborhood there then. Once again, they are

9 not here tonight, so I don't think that they are after them with pitch forks.

10 **Christopher Gill:** What would be the implication if we didn't approve this?

11 **Sue Ford:** You are just making a recommendation, so it is likely the applicant could

12 possibly be unhappy with that determination and then take it to the Council. The applicant

13 is also entitled to file exceptions to your recommendation.

14 **Christopher Gill:** Okay.

15 **Mary Cook:** Is there anything else?

16 **Lawrence Bleau:** We need to clarify the language on #3 under recommendation.

17 **Mary Cook:** Right.

18 **Christopher Gill:** I am still not clear why that is in there at all.

19 **Lawrence Bleau:** It is just reiterating the definition to put it in the record because it's

20 obvious.

21 **Christopher Gill:** Isn't that redundant because it is already covered by the use. And there

22 is some confusion around it but that's ultimately something that can easily be settled with

23 the County.

24 **Lawrence Bleau:** As Ms. Ford suggests, we could remove this language and put in

25 language of our own that is referencing an agreement with Park & Planning and just make

26 that part of the requirement.

1 **Christopher Gill:** I'm still not sure that would be strictly necessary, but it shouldn't be a
2 problem.

3 **Lawrence Bleau:** I think it would be the best solution of the definition being used.

4 **Sue Ford:** I think the issue is relevant because you are dealing with parking and parking
5 spaces. It's relevant enough to include a recommendation of a condition that it be properly
6 resolved through the proper channels.

7 **Mary Cook:** Well if you don't have anything else, someone can make a motion. Can we
8 add to our motion that it be resolved with Park and Planning?

9 **Christopher Gill:** What kind of provision could we put in there? Could we say that they
10 can't start construction until... I'm just not clear what we would do. What if the County
11 comes back with an answer we don't like?

12 **Terry Schum:** I've got a suggestion. Maybe because this really revolves around the
13 applicant obtaining a Use and Occupancy (U&O) permit, perhaps the condition would be
14 prior to the issuance of the U&O permit the maximum number of guests/occupants of the
15 dwelling shall be determined by M-NCPPC.

16 **James McFadden:** And that other body.

17 **Terry Schum:** And DPIE.

18 **Bradley Farrar:** But that would be a part of the Use and Occupancy permit.

19 **Terry Schum:** Yes it would.

20 **Christopher Gill:** This is exactly what I was saying earlier, because it seems redundant
21 because they are going to have to do that as part of the occupancy permit anyway.

22 **Sue Ford:** Again, Ms. Ferguson suggested also that with the same action item that the
23 number of the kitchens and furnishings be put in the resolution by M-NCPPC and DPIE. I
24 also make for condition 1.d. to the extent that staff indicated where staff would recommend
25 that the two "no parking" signs be located, that we clarify this condition to indicate what

1 staff said. I guess one would be on the house on the side, and one would be free-standing
2 in the front yard. I think that would be a little clearer as far as that condition.

3 **Steven Behr:** I am not sure if you could put one on the house without going back to the
4 Historic Preservation Commission.

5 **Sue Ford:** Could it be next to the house?

6 **Steven Behr:** I would believe so. I think it would only be a problem if the sign were
7 actually attached to the house.

8 **Sue Ford:** Okay, why don't we say either immediately beside the house and/or attached to
9 the house.

10 **Steven Behr:** We could just have it detailed on the site plan.

11 **Terry Schum:** I think the intent of this was to show the location on the site plan. Revise
12 the site plan to show the location of the "no parking in driveway" signs. We could be more
13 specific.

14 **Sue Ford:** It's just because staff was specific in the report indicating where she thought
15 the signs should be located.

16 **Terry Schum:** It would be along the side of the house and then along the driveway in the
17 front yard.

18 **James McFadden:** Had this come up at the LAC, I don't think they would have really
19 been concerned about a sign of that size on the side of the house where it is really not
20 visible from the front. However, I am not prepared to say that would be our
21 recommendation because there are two other members and I don't know how Howard at
22 the Historic Preservation Commission would feel about something like that since it is
23 permanently affixed to the house. I am glad he brought that up; there might be an issue
24 outside of the LAC with Historic Preservation Commission. Even though I personally
25 think, I would rather have it there than have another post stuck in front of the house or the
26 side where it is visible.

1 **Christopher Gill:** That would be my inclination.

2 **Lawrence Bleau:** What is wrong with the language as it is?

3 **Sue Ford:** I would just suggest to the extent that staff indicated that the two “no parking”
4 signs, one should be in the front of the house in the driveway, and the other one I think you
5 could just say should be either attached to or immediately adjacent to the side of the house.
6 Simple as that and they could figure it out.

7 **Miriam Bader:** Okay, but should we add language that says as long as it doesn’t
8 necessitate a Historic Area Work Permit (HAWP) then he would have to go back?

9 **Sue Ford:** You could say at the preference of the applicant, so if they decide that they
10 don’t want to attach something to the side of the house because they have to get another
11 permit and they would rather put something on a pole right next to the house, that would be
12 their choice.

13 **Miriam Bader:** I am wondering if even the pole for a free-standing sign would necessitate
14 a HAWP permit?

15 **Christopher Gill:** I’m still not clear why the original language doesn’t work if they have
16 to designate a location.

17 **James McFadden:** I still remember the LAC understood that there were going to be “no
18 parking” signs. So that was not an issue at the time. I don’t remember the placement of the
19 signs being discussed, just that there would be a minimum of two.

20 **Miriam Bader:** Okay good.

21 **Christopher Gill:** Since this is already adding one, which is a revision to the site plan
22 somebody is going to see that before it happens. They can’t just designate and just go out
23 and do it. It will be on the site plan. So it will go through review and if that picks up any
24 issues somebody will send it back to the LAC or somewhere else.

25 **Mary Cook:** So just say something like the sign locations as indicated on the revised site
26 plan.

1 **Christopher Gill:** But again, I am not sure why the original language doesn't work.

2 **Sue Ford:** Staff indicated that there is a reason to have signage both on the side of the
3 building and free-standing. Staff doesn't want parking on the side of the building, nor does
4 staff want parking in the front of the building. So I think we should be specific, it's not just
5 putting two signs anywhere you want on the property. I think we need to be specific about
6 the general vicinity where they should be and then it would be up to the applicant as far as
7 the specifics of where they can get approval to actually put the signs. I think we should
8 indicate in a recommendation the general vicinity where the signs would be located.

9 **Christopher Gill:** So we can say designate location for "no parking in driveway" signs,
10 with at least one between the front of the house and the sidewalk and one between the front
11 of the house and rear of the house along the driveway.

12 **Sue Ford:** I think that would be fine.

13 **Lawrence Bleau:** Okay. Actually looking at one of the pictures I was thinking, the front
14 part of the driveway, I would be tempted to even narrow the front part of the driveway
15 since it doesn't even meet the apron in the street to get a little more green space in front of
16 the house.

17 **Christopher Gill:** Doesn't it angle?

18 **Miriam Bader:** They were going to move it up to 11 feet, so we said not to exceed 11
19 feet.

20 **Lawrence Bleau:** So it would be narrower?

21 **Miriam Bader:** Yes, because it sort of expands.

22 **Christopher Gill:** Yea, there is a little bit more of a curve.

23 **Lawrence Bleau:** I remember seeing the picture.

24 **Steven Behr:** I don't think there is going to be nearly as big of a concern as it is today. We
25 are sharing the space and they have to have room to get through. I just didn't want to

1 encroach on the shared driveway space as much as possible because that wouldn't be fair to
2 them either.

3 **Lawrence Bleau:** Another thing I noticed is the gravel is going onto the adjacent property
4 also, but we can't do anything about that tonight. On the right side, there are no timbers to
5 stop it.

6 **Miriam Bader:** But luckily they have the vegetation to stop it.

7 **Lawrence Bleau:** Okay. I.d. we fixed, now back to 3. Should we take out 3 altogether,
8 reword it or go with original wording?

9 **Mary Cook:** Terry gave us some good wording.

10 **Miriam Bader:** Yes, she was saying something about prior to the U&O.

11 **Sue Ford:** Okay, here is a proposal since I will be involved in writing this. We could say
12 that condition #3 could say "prior to the issuance of the Use and Occupancy permit the
13 maximum number of guests and/or occupants as well as the number of kitchens and the
14 furnishings requirements shall be determined by M-NCPPC and DPIE.

15 **Mary Cook:** Okay.

16 **Lawrence Bleau:** So that is prior to issuance of the U&O?

17 **Sue Ford:** Correct.

18 **Lawrence Bleau:** So after the issuance of the U&O that no longer has any controlling
19 influence.

20 **Sue Ford:** Well once the U&O is issued that will have been determined.

21 **Christopher Gill:** Do we need to require them to put that on the record somewhere?
22 What counts as determining it?

23 **Lawrence Bleau:** It would be a letter from Park and Planning.

24 **Terry Schum:** I think we do need something in writing from them in the file so our code
25 enforcement section when they inspect this property annually will know what to do and
26 how to react.

1 **Christopher Gill:** Yes, because it seems like it could fall into a bureaucratic black hole
2 where they go off and decide and never tell anyone in the City.

3 **Terry Schum:** Right.

4 **Sue Ford:** We could say it will be determined in writing.

5 **Christopher Gill:** In writing to the City?

6 **Sue Ford:** We could just say in writing and provided to the City.

7 **Terry Schum:** May I ask a question of the attorney? You said furnishings, do you mean
8 bedrooms?

9 **Sue Ford:** Apparently, there is an issue about whether the bedrooms are required to be
10 furnished. Again, this is coming from Ms. Ferguson. I wish I had more detail, but that's
11 all I have.

12 **Terry Schum:** Obviously, we have struggled with this definition of rooming house since
13 in today's world, we don't have many rooming houses. This is an old zoning code with old
14 definitions, we are struggling with it. I think Park and Planning has struggled a bit with it
15 as well so to get it in writing will be welcomed by everyone so we will all be on the same
16 page. Obviously, we enforce the County's code, but we do not interpret it, they need to
17 interpret it for us. We're getting there.

18 **Mary Cook:** Okay, I think we took care of those two, is there anything else? Okay who is
19 going to make a motion?

20 **Lawrence Bleau:** I will do that. I move to recommend approval of the request for
21 departure CPD-2014-01 using staff's language in the revised staff report with the following
22 changes in recommendation 1.d., with language for one sign between the front of the house
23 and street and the other sign between the front and the rear of the house. On
24 recommendation #3, I forgot the wording.

25 **Sue Ford:** It will read "prior to the issuance of the Use and Occupancy permit, the
26 maximum number of guests and/or occupants as well as the number of kitchens and the

1 furnishings requirements shall be determined in writing and provided to the City of College
2 Park by M-NCPPC and DPIE.

3 **Mary Cook:** Okay.

4 **Lawrence Bleau:** And those are the only two changes from staff's revised report correct?

5 **Mary Cook:** That's your motion?

6 **Lawrence Bleau:** Yes.

7 **James McFadden:** I second that.

8 **Mary Cook:** Okay, Jim seconds it. Everybody in favor of the motion? Aye.

9 **Lawrence Bleau:** Aye.

10 **Christopher Gill:** Aye.

11 **James McFadden:** Aye.

12 **Rose Greene Colby:** Aye

13 **Mary Cook:** All opposed? Not hearing any opposition. Mr. Behr here is some
14 instructions on your next step and you can work with the staff if you have any questions.
15
16

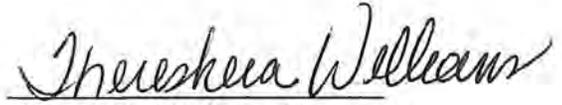
17 The public hearing adjourned at 8:30 p.m.

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CERTIFICATE OF TRANSCRIBER

I, Theresheia Williams, do hereby certify under the penalties of perjury that the foregoing transcript is a true and correct record, to the best of my knowledge, of the proceedings in the matter of 4618 College Avenue, College Park, MD 20740, Case Number CPD-2014-01 heard by the Advisory Planning Commission of the City of College Park on December 4, 2014.


Theresheia Williams, Secretary
City of College Park
Advisory Planning Commission

MINUTES

MINUTES
Regular Meeting of the College Park City Council
Tuesday, January 13, 2015
7:30 – 8:11 p.m.

PRESENT: Mayor Fellows; Councilmembers Kabir, Wojahn, Brennan, Dennis, Stullich, Day, Mitchell and Hew.

ABSENT: None.

ALSO PRESENT: Joe Nagro, City Manager; Janeen Miller, City Clerk; Suellen Ferguson, City Attorney; Bill Gardiner, Assistant City Manager; Robert Stumpff, Director of Public Works; Cole Holocker, Student Liaison.

Mayor Fellows opened the regular meeting at 7:30 p.m. and Councilmember Brennan led the Pledge of Allegiance.

Minutes: A motion was made by Councilmember Dennis and seconded by Councilmember Mitchell to approve the minutes of the Regular Meeting on December 9, 2014, and the confidential minutes of the closed session on December 9, 2014. The motion passed 8 – 0 – 0.

Announcements:

Councilmember Kabir announced the Family Fun Bowling Bash being sponsored by the City's Recreation Board on Sunday from 1 – 4 at the AMF Bowling Lanes. He also discussed the District 1 volunteer program where neighbors will help by shoveling snow for senior citizens. If you are a volunteer or in need of help with shoveling in District 1, contact your Councilmember.

Councilmember Wojahn reported on last night's kick-off of "Live Smart, Eat Local" held at the Board and Brew. The next one will be held on Wednesday, February 25, at 7:00 p.m., location to be determined.

Councilmember Brennan announced the next meeting of the Berwyn District Civic Association at 8:00 on Thursday at Fealy Hall.

Councilmember Dennis announced the 24th annual tribute to Dr. Martin Luther King will be held on Saturday, 2:00 p.m., at the Clarice Smith Center for the Performing Arts.

Councilmember Mitchell thanked the Public Works Department for their efforts on snow removal, and announced that the Prince George's County Municipal Association would meet on Thursday night at the Old Parish House.

Acknowledgement of Newly Appointed Board and Committee Members: Mayor Fellows recognized Carl Patterson (Housing Authority), Cory Sanders (Aging-In-Place Task Force), Doris Ellis (EAC) and Matt Dernoga (CBE) who were in the audience and thanked them for their service.

Proclamations: Mayor Fellows read the City's proclamation for the 24th Annual Tribute to Dr. Martin Luther King, Jr.: *Our Diversity As A People Is Our Strength As A Nation.*

Amendments to the Agenda: None.

City Manager's Report: Mr. Nagro reminded everyone that City offices will be closed on Monday, January 19 for the Martin Luther King Day holiday. Trash and recycling will be delayed one day next week.

Mr. Nagro announced his plans to retire after 25-plus years of serving the City in a multitude of different positions. He is proud to have been the City Manager for the last 10 years, and thanked the residents and staff for their support and kindness over the years. Mr. Nagro's last day will be June 30, 2015.

Mayor Fellows thanked Mr. Nagro for his service and said the City will embark on a nation-wide search for his successor.

Student Liaison's Report: Mr. Holocker said things are quiet since it is still winter break. In the spring he hopes to move forward on some safety initiatives.

Comments from the Audience on Non-Agenda items:

Thea Scarato, 6 Hillside, Greenbelt, MD: She requested that the City Council take an official position to oppose cell towers on school grounds, and presented several claims of health concerns near cell towers.

Mayor Fellows heard a report about problems with large sediment run-off into Guilford Run from the Knox Village development, and on Route 1, near the Cafritz development.

CONSENT AGENDA: A motion was made by Councilmember Dennis and seconded by Councilmember Mitchell to adopt the Consent Agenda, which consisted of the following item:

15-G-01 Award of additional FY 2015 Education Grants as follows: \$7,500 to Greenbelt Middle School for their College Awareness Project; \$2,500 to Buck Lodge Elementary School for their Positive Behavior Intervention and Supports Program; and \$2,500 to University Park Elementary School for their Enrichment Clubs/Extended Learning Opportunity Program.

The motion passed 8 – 0 – 0.

ACTION ITEMS

15-G-02 Authorize a City legislative request for a two-year extension of City of College Park Bond Bill 06-G168 for \$400,000 for College Park City Hall

A motion was made by Councilmember Wojahn and seconded by Councilmember Brennan That The Mayor And Council Authorize A City Legislative Request For A Two-Year Extension Of The City's Existing State Bond Bill 06-G168 For \$400,000 For City Hall.

Councilmember Wojahn said the City received a State bond bill in the amount of \$400,000 to be used for the design and construction of a new City Hall. This bond bill was extended in June 2013, and the current deadline for using the funds is June 1, 2015. In late 2013, the City learned that the University of Maryland Foundation would acquire property on Baltimore Avenue through an inheritance. Some of the property adjoins the City Hall site. This property acquisition created the possibility of collaborating with the University to redevelop the existing City Hall site together with the Baltimore Avenue frontage. In 2014 the City stopped its design work to expand City Hall in order to discuss with the University the possibility of a joint development. In November 2014, with strong interest by the University, the City Council voted to keep City Hall in its current location, and requested that staff pursue discussions with the University to jointly redevelop the City Hall site and the Baltimore Avenue frontage. It is expected that the collaboration between the City and the University will result in a stronger civic presence for the City with greater visibility and access from Baltimore Avenue, and also facilitate the redevelopment of the parcels along Baltimore Avenue. The change in plans makes it impossible for the City to be able to expend the State bond bill prior to June 1, 2015. Given the overall potential benefits of pursuing this course of action, it is hoped that the State legislature will approve the requested extension. Councilmember Wojahn has spoken with Sen. Rosapepe about this request, who said the fact that we have selected a location and have a plan to move forward with redevelopment of City Hall at its current location would be a strong point in the City's favor.

Mayor Fellows said he hoped the University would help us in this effort.

There were no comments from the audience.

Councilmember Dennis clarified that this would be a request of the current legislative session.

Councilmember Kabir said he will support this but is disappointed that we did not do this at the November 25 meeting when residents came out to discuss the location of a new City Hall.

Councilmember Wojahn said this does not extend or delay our decision-making process for City Hall; it requests an extension of the \$400,000 bond bill which would be necessary regardless of the site that was selected.

The motion passed 8 – 0 – 0.

15-O-01 Introduction Of Ordinance 15-O-01, An Ordinance Of The Mayor And Council Of The City Of College Park To Repeal And Re-Enact Chapter 161,

“Recycling” In Its Entirety, To Require Source Separation Of Recyclable Materials For All Owners And Residents Utilizing City Solid Waste Collection Services

A motion was made by Councilmember Wojahn and seconded by Councilmember Dennis to introduce Ordinance 15-O-01, An Ordinance Of The Mayor And Council Of The City Of College Park To Repeal And Re-Enact Chapter 161, “Recycling” In Its Entirety, To Require Source Separation Of Recyclable Materials For All Owners And Residents Utilizing City Solid Waste Collection Services.

Mayor Fellows announced that the Public Hearing for this Ordinance would be held on Tuesday, February 10, 2015 at 7:15 p.m. in the Council Chambers.

15-G-03 Appointments to Boards and Committees

A motion was made by Councilmember Wojahn and seconded by Councilmember Kabir to reappoint Mark Shroder to the Noise Control Board and to appoint Philip Aronson to the Committee for a Better Environment. The motion passed 8 – 0 – 0.

COUNCIL COMMENTS:

Councilmembers Mitchell and Dennis asked about the procedure a resident should use to request “back-door pick up” of trash and recycling. Mr. Stumpff replied there is a form the resident completes annually for a doctor to certify that the resident has a problem and gives Public Works staff permission to enter on to their property for this purpose.

Councilmember Brennan requested a future Worksession on the topic of lowering the voting age in City elections to age 16 to determine if this is a reasonable request for our City and to discuss the impact it would have on staff and the Board of Elections.

COMMENTS FROM THE AUDIENCE: None.

ADJOURN: A motion was made by Councilmember Brennan and seconded by Councilmember Dennis to adjourn the regular meeting, and with a vote of 8 – 0 – 0, Mayor Fellows adjourned the meeting at 8:11 p.m.

Janeen S. Miller, CMC
City Clerk

Date
Approved

Pursuant to §C6-3 of the College Park City Charter, at 9:33 p.m. on January 6, 2015, in the Council Chambers of City Hall, a motion was made by Councilmember Dennis and seconded by Councilmember Stullich to enter into a Closed Session for the purpose of discussing a personnel matter. The motion passed 8 – 0 – 0 and after a brief recess the Council entered into the closed session at 9:42 p.m.

Present: Mayor Andrew Fellows; Councilmembers Wojahn, Kabir, Brennan, Dennis, Stullich, Day, Hew and Mitchell.

Absent: None.

Also Present: Joe Nagro, City Manager.

Topics Discussed: Mr. Nagro discussed a personnel matter with the Council.

Actions Taken: None.

Adjourn: A motion was made by Councilmember Day and seconded by Councilmember Mitchell to adjourn the closed session, and at 9:55 p.m. with a vote of 8 – 0 – 0, Mayor Fellows adjourned the meeting.

15-G-05

Councilmember Kabir:

- Appoint Judy Blumenthal and Lisa Ealley to the Aging-In-Place Task Force

15-G-06

MEMORANDUM

TO: Mayor and City Council
FROM: Bill Gardiner, Assistant City Manager *BG*
THROUGH: Joe Nagro, City Manager *JN*
DATE: January 23, 2015
SUBJECT: Municipal Land Use Legislation

ISSUE: MC/PG 111-15 with amendments

SUMMARY:

A municipal zoning bill, MC/PG 111-15, has been introduced in the 2015 session, and significant amendments have been drafted. The original bill and the amendments are attached. The bill as amended would do the following:

- Expand the list of land use actions that the District Council may delegate to a municipality to include Specific Design Plans and Conceptual Site Plans.
- Allow for full delegation by the District Council to a municipality for Detailed Site Plans.
- Accommodate smaller municipalities by allowing municipalities to choose between using their own planning staff or the staff of M-NCPPC in order to exercise powers delegated by the District Council.
- Maintain the Circuit Court's appellate role over such municipal decisions.
- Maintain a countywide zoning code to avoid piecemeal zoning.
- Streamline the land use process by removing one step.
- If a municipality has enacted a comprehensive ordinance to regulate fences, then it may be less restrictive than county law.

RECOMMENDATION:

Staff received the amendments on January 22nd, and will provide further analysis and a recommendation to Council during the January 27th Council Meeting. The City Council has worked closely with Bowie and Greenbelt in the past to support legislation that would expand municipal zoning authority.

The bill and the proposed amendments are tentatively scheduled to be discussed on February 4th at a bi-county worksession. Council discussion and an official position on the bill at the Council Meeting on the 27th will provide time to inform the bi-county committee prior to its worksession.

Attachments: MCPG 111-15
MCPG 111-15 Amendments Version 2

M.C./P.G. COUNTY DELEGATION

L5, L3, L2

5lr0447

Bill No.: _____

Requested: _____

Committee: _____

Drafted by: Selle

Typed by: Gail

Stored - 10/22/14

Proofread by _____

Checked by _____

By: **Montgomery County Delegation and Prince George's County Delegation**

(Requested by: **Delegate Valentino-Smith**)

A BILL ENTITLED

1 AN ACT concerning

2 **Prince George's County - Municipal Zoning Authority**

3 **MC/PG 111-15**

4 FOR the purpose of exempting the exercise of certain powers by a municipal corporation
5 from a prohibition against the exercise of any powers relating to planning,
6 subdivision control, or zoning by a municipal corporation in Prince George's County
7 in the Maryland-Washington Regional District; exempting the exercise of certain
8 powers by a municipal corporation from a provision of law limiting the exercise of
9 certain powers to the Maryland-National Capital Park and Planning Commission;
10 authorizing a municipal corporation in Prince George's County to enact a
11 comprehensive local law regulating fences in the municipal corporation; establishing
12 that a certain local law regulating fences in a municipal corporation may be less
13 restrictive than certain local and zoning laws; repealing a provision of law
14 authorizing the Prince George's County Council, sitting as the district council, to
15 revoke a certain delegation of site plan approval authority to the Prince George's
16 County Planning Board only for a certain purpose; authorizing the governing body
17 of a municipal corporation in Prince George's County in the regional district to
18 exercise certain powers of the district council and the county planning board relating
19 to the zoning of land in the municipal corporation; requiring a party of record to
20 appeal a certain municipal action to the district council for review before exercising

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 a certain right to judicial review; making conforming changes; and generally relating
2 to the zoning authority of municipal corporations in Prince George’s County.

3 BY repealing and reenacting, with amendments,
4 Article – Land Use
5 Section 20–709, 22–120, 22–202, 22–203, and 25–210; and 25–301 and 25–302 to be
6 under the amended subtitle “Subtitle 3. Municipal Zoning Authority”
7 Annotated Code of Maryland
8 (2012 Volume and 2014 Supplement)

9 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
10 That the Laws of Maryland read as follows:

11 **Article – Land Use**

12 20–709.

13 [A] EXCEPT AS PROVIDED IN §§ 22–203, 25–301, AND 25–303 OF THIS
14 ARTICLE, A municipal corporation in Prince George’s County that is in the regional district
15 may not exercise any powers relating to planning, subdivision control, or zoning [not
6 granted to the municipal corporation by the district council under § 25–303 of this article].

17 22–120.

18 [Within] EXCEPT AS PROVIDED IN § 25–301 OF THIS ARTICLE, WITHIN the
19 regional district, any power granted to a planning commission or board of appeals under
20 Division I of this article shall be construed as vested exclusively in and may be exercised
21 only by:

- 22 (1) the Commission; or
- 23 (2) the board of appeals created or authorized by this title.

24 22–202.

25 (a) This section applies to any zoning law that imposes a more restrictive height
26 limitation, lesser percentage of lot occupancy, wider or larger courts, deeper yards, or other

1 more restrictive limitations than those provided by State, county, municipal, or other local
2 regulations.

3 (b) **[A] EXCEPT AS PROVIDED IN § 22-203(D) OF THIS ARTICLE, A zoning law**
4 **described in subsection (a) of this section shall prevail in the area where it is imposed over**
5 **the limitations provided by State, county, municipal, or other local regulations.**

6 22-203.

7 (a) A municipal corporation in Prince George's County shall have concurrent
8 authority in its boundaries with the county Department of Environmental Resources,
9 Licenses and Inspections Group, to seek compliance with zoning requirements to the extent
10 that the requirements pertain to signs.

11 (b) A municipal corporation in Prince George's County may enact local laws
12 regulating fences erected in front of the building setback lines on all residential property
13 located in the municipal corporation.

14 (c) **A MUNICIPAL CORPORATION IN PRINCE GEORGE'S COUNTY MAY ENACT**
15 **A COMPREHENSIVE LOCAL LAW REGULATING FENCES IN THE MUNICIPAL**
16 **CORPORATION.**

17 (D) (1) **[Any] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
18 **SUBSECTION, ANY local law enacted under this section may not be less restrictive than**
19 **any local law in effect or subsequently enacted by the county council.**

20 (2) **A LOCAL LAW ENACTED UNDER SUBSECTION (C) OF THIS SECTION**
21 **MAY BE LESS RESTRICTIVE THAN:**

22 (I) **A LOCAL LAW IN EFFECT OR SUBSEQUENTLY ENACTED BY**
23 **THE COUNTY COUNCIL; OR**

24 (II) **A ZONING LAW IN EFFECT OR SUBSEQUENTLY ADOPTED BY**
25 **THE DISTRICT COUNCIL.**

26 25-210.

1 (a) (1) Subject to subsection (b) of this section, the district council may review
2 a final decision of the county planning board to approve or disapprove a detailed site plan.

3 (2) A party of record may appeal to the district council a final decision by
4 the county planning board to approve or disapprove a site plan.

5 (b) The district council may only decide whether to review the final approval or
6 disapproval of a detailed site plan under this section within 30 days after the date the final
7 approval or disapproval was issued.

8 (c) (1) Except as provided in paragraph (2) of this subsection, if the district
9 council decides to review an approval or a disapproval under this section, the district
10 council shall hold a hearing within 70 days after the district council issues the decision to
11 conduct a review.

12 (2) The district council may decide to extend the time to hold a hearing
13 under paragraph (1) of this subsection for up to 45 additional days on its own motion or on
14 request of the applicant.

15 (d) The district council shall issue a final decision within 60 days after the date
16 of the hearing.

17 [(e) The district council may revoke a delegation of site plan approval authority to
18 the county planning board only for the purpose of delegating approval authority over
19 detailed site plans to the governing body of a municipal corporation in the regional district
20 under § 25-301(c)(2)(ix) of this title.]

21 Subtitle 3. Municipal [Delegation] ZONING AUTHORITY.

22 25-301.

23 (a) Except as otherwise provided in this section, [the district council may provide
24 that] the governing body of a municipal corporation may exercise the powers of the district
25 council AND THE COUNTY PLANNING BOARD as specified in this subtitle.

26 (b) When exercising authority [delegated] under subsection (c) or (d) of this
27 section, the governing body of a municipal corporation:

1 (1) shall be subject to the substantive and procedural requirements and
2 standards established by the district council; and

3 (2) may not impose:

4 (i) [with respect to general delegation] under subsection (c) of this
5 section, a different requirement or standard than the requirements or standards that would
6 apply if [the district council had not delegated its authority to] the municipal corporation
7 **HAD NOT EXERCISED THE POWERS AUTHORIZED UNDER THIS SECTION; or**

8 (ii) [with respect to delegation] in a revitalization overlay zone
9 under subsection (d) of this section, a stricter requirement or standard than the
10 requirements or standards that would apply if [the district council had not delegated its
11 authority to] the municipal corporation **HAD NOT EXERCISED THE POWERS**
12 **AUTHORIZED UNDER THIS SECTION.**

13 (c) (1) This subsection applies to land in a municipal corporation in the
14 regional district.

15 (2) The [district council may delegate to the] governing body of a municipal
16 corporation **MAY EXERCISE** the powers of the district council **OR THE COUNTY PLANNING**
17 **BOARD, AS APPROPRIATE,** regarding:

18 (i) design standards;

19 (ii) parking and loading standards;

20 (iii) sign design standards;

21 (iv) lot size variances and setback and similar requirements;

22 (v) landscaping requirements;

23 (vi) certification, revocation, and revision of nonconforming uses;

24 (vii) minor changes to approved special exceptions;

25 (viii) vacation of municipal rights-of-way; [and]

1 (ix) [except as provided in paragraph (3) of this subsection, all]
2 detailed site plans;

3 (X) SPECIFIC DESIGN PLANS; AND

4 (XI) CONCEPTUAL SITE PLANS.

5 [(3) The authority to delegate with regard to detailed site plans does not
6 apply to detailed site plans:

7 (i) for a zone that requires detailed site plan approval by the district
8 council;

9 (ii) that are required as a condition of approval of a zoning map
10 amendment or a preliminary plan of subdivision;

11 (iii) for which the approval of a conceptual site plan or a preliminary
12 plan of cluster subdivision is required; or

13 (iv) that are required for designated parcels as a specific condition of
14 a sectional map amendment.]

15 (d) (1) This subsection applies to a revitalization overlay zone created by the
16 district council.

17 (2) For any portion of a revitalization overlay zone in a municipal
18 corporation, [the district council may delegate to] the governing body of a municipal
19 corporation **MAY EXERCISE** the powers of the district council **OR THE COUNTY PLANNING**
20 **BOARD, AS APPROPRIATE**, regarding:

21 (i) design standards;

22 (ii) parking and loading standards;

23 (iii) sign design standards;

24 (iv) lot size variances and setback and similar requirements; [and]

1 (v) landscaping requirements;

2 (VI) CERTIFICATION, REVOCATION, AND REVISION OF
3 NONCONFORMING USES;

4 (VII) MINOR CHANGES TO APPROVED SPECIAL EXCEPTIONS;

5 (VIII) VACATION OF MUNICIPAL RIGHTS-OF-WAY;

6 (IX) DETAILED SITE PLANS;

7 (X) SPECIFIC DESIGN PLANS; AND

8 (XI) CONCEPTUAL SITE PLANS.

9 (3) The [delegation] EXERCISE of powers under paragraph (2) of this
10 subsection may not impede a development that meets the requirements the district council
11 sets for the revitalization overlay zone.

12 (4) For any portion of a revitalization overlay zone not within a municipal
13 corporation, the district council may authorize the county planning board to approve:

14 (i) departures from parking and loading standards;

15 (ii) departures from design standards; and

16 (iii) any variance from the zoning laws.

17 25-302.

18 (a) (1) Except as provided in subsection (b) of this section, any party of record
19 to an action of the governing body of a municipal corporation exercised under § 25-301(c)
20 of this subtitle shall have the same right to judicial review by the circuit court as the party
21 would have if the district council had taken the action.

22 (2) Any party to an action of the governing body of a municipal corporation
23 or the county planning board exercised under § 25-301(d) of this subtitle shall have the

1 same right to judicial review by the circuit court as the party would have if the district
2 council had taken the action.

3 (b) (1) With respect to an action taken [under the general delegation
4 authorized] under § 25–301(c) of this subtitle, before exercising the right to judicial review
5 under subsection (a)(1) of this section, a party of record shall appeal the action of the
6 governing body of the municipal corporation to the district council for review on the record
7 if the action concerns:

8 (i) certification, revocation, or revision of nonconforming uses; [or]

9 (ii) detailed site plans;

10 (III) SPECIFIC DESIGN PLANS; OR

11 (IV) CONCEPTUAL SITE PLANS.

12 (2) On appeal, the district council may:

13 (i) approve the action of the municipal corporation by a majority
14 vote of its members; or

15 (ii) approve the action of the municipal corporation with conditions
16 or overrule the action by a vote of at least six members.

17 (3) (i) A person aggrieved by the action of the district council under this
18 subsection may request judicial review of the action by the circuit court.

19 (ii) The municipal corporation whose action is affected by the action
20 of the district council shall be considered an aggrieved person.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2015.

BY: Delegate Valentino-Smith
(To be offered in the Bi-County Committee)

AMENDMENT TO MC/PG 111-15
(Sprint Copy)

AMENDMENT NO. 1

On page 1, in line 2, strike “Zoning” and substitute “Land Use”; and after line 3, insert:

“FOR the purpose of exempting the exercise of certain powers by a municipal corporation in Prince George’s County from a prohibition against the exercise of any powers relating to planning, subdivision control, or zoning that are not granted to the municipal corporation the district council; authorizing a municipal corporation in Prince George’s County to enact a comprehensive local law regulating fences in the municipal corporation; establishing that a certain local law regulating fences in a municipal corporation may be less restrictive than certain local and zoning laws; authorizing the governing body of a municipal corporation in Prince George’s County in the regional district to exercise certain powers of the district council relating to the zoning of land in the municipal corporation; authorizing the governing body of a municipal corporation to use the municipal corporations’ employees or the Commission’s employees when exercising certain delegated authority; and generally relating to land use and planning powers in Prince George’s County.

BY repealing and reenacting, with amendments

Article – Land Use

Section 20-709, 22-202, 22-203, 25-301

Annotated Code of Maryland

(2012 Volume and 2014 Supplement”.

On pages 1 and 2, strike in their entirety the lines beginning with line 4 on page 1 through line 8 on page 2, inclusive.

AMENDMENT NO. 2

On page 2, after line 11, insert:

“20-709.

[A] EXCEPT AS PROVIDED IN § 22-203 OF THIS ARTICLE, A municipal corporation in Prince George’s County that is in the regional district may not exercise any powers relating to planning, subdivision control, or zoning not granted to the municipal corporation by the district council under § 25-303 of this article.

22-202.

(a) This section applies to any zoning law that imposes a more restrictive height limitation, lesser percentage of lot occupancy, wider or larger courts, deeper yards, or other more restrictive limitations than those provided by State, county, municipal, or other local regulations.

(b) [A] EXCEPT AS PROVIDED IN § 22-203(D) OF THIS ARTICLE, A zoning law described in subsection (a) of this section shall prevail in the area where it is imposed over the limitations provided by State, county, municipal, or other local regulations.

22-203.

(a) A municipal corporation in Prince George's County shall have concurrent authority in its boundaries with the county Department of Environmental Resources, Licenses and Inspections Group, to seek compliance with zoning requirements to the extent that the requirements pertain to signs.

(b) A municipal corporation in Prince George's County may enact local laws regulating fences erected in front of the building setback lines on all residential property located in the municipal corporation.

(c) A MUNICIPAL CORPORATION IN PRINCE GEORGE'S COUNTY MAY ENACT A COMPREHENSIVE LOCAL LAW REGULATING FENCES IN THE MUNICIPAL CORPORATION.

(D) (1) [Any] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, ANY local law enacted under this section may not be less restrictive than any local law in effect or subsequently enacted by the county council.

(2) A LOCAL LAW ENACTED UNDER SUBSECTION (C) OF THIS SECTION MAY BE LESS RESTRICTIVE THAN:

(I) A LOCAL LAW IN EFFECT OR SUBSEQUENTLY ENACTED BY THE COUNTY COUNCIL; OR

(II) A ZONING LAW IN EFFECT OR SUBSEQUENTLY
ADOPTED BY THE DISTRICT COUNCIL.

25-301.

(a) Except as otherwise provided in this section, the district council may provide that the governing body of a municipal corporation may exercise the powers of the district council as specified in this subtitle.

(b) When exercising authority delegated under subsection (c) or (d) of this section, the governing body of a municipal corporation:

(1) shall be subject to the substantive and procedural requirements and standards established by the district council; and

(2) may not impose:

(i) with respect to general delegation under subsection (c) of this section, a different requirement or standard than the requirements or standards that would apply if the district council had not delegated its authority to the municipal corporation; or

(ii) with respect to delegation in a revitalization overlay zone under subsection (d) of this section, a stricter requirement or standard than the requirements or standards that would apply if the district council had not delegated its authority to the municipal corporation.

(c) (1) This subsection applies to land in a municipal corporation in the regional district.

(2) The district council may delegate to the governing body of a municipal corporation the powers of the district council regarding:

(i) design standards;

(ii) parking and loading standards;

(iii) sign design standards;

(iv) lot size variances and setback and similar requirements;

(v) landscaping requirements;

(vi) certification, revocation, and revision of nonconforming uses;

(vii) minor changes to approved special exceptions;

(viii) vacation of municipal rights-of-way; and

(ix) [except as provided in paragraph (3) of this subsection, all] detailed site plans;

(X) SPECIFIC DESIGN PLANS; AND

(XI) CONCEPTUAL SITE PLANS.

[(3) The authority to delegate with regard to detailed site plans does not apply to detailed site plans:

(i) for a zone that requires detailed site plan approval by the district council;

(ii) that are required as a condition of approval of a zoning map amendment or a preliminary plan of subdivision;

(iii) for which the approval of a conceptual site plan or a preliminary plan of cluster subdivision is required; or

(iv) that are required for designated parcels as a specific condition of a sectional map amendment.]

(d) (1) This subsection applies to a revitalization overlay zone created by the district council.

(2) For any portion of a revitalization overlay zone in a municipal corporation, the district council may delegate to the governing body of a municipal corporation the powers of the district council regarding:

(i) design standards;

(ii) parking and loading standards;

(iii) sign design standards;

(iv) lot size variances and setback and similar requirements;

[and]

(v) landscaping requirements;

(VI) CERTIFICATION, REVOCATION, AND REVISION OF NONCONFORMING USES;

(VII) MINOR CHANGES TO APPROVED SPECIAL EXCEPTIONS;

(VIII) VACATION OF MUNICIPAL RIGHTS-OF-WAY;

(IX) DETAILED SITE PLANS;

(X) SPECIFIC DESIGN PLANS; AND

(XI) CONCEPTUAL SITE PLANS.

(3) The delegation of powers under paragraph (2) of this subsection may not impede a development that meets the requirements the district council sets for the revitalization overlay zone.

(4) For any portion of a revitalization overlay zone not within a municipal corporation, the district council may authorize the county planning board to approve:

(i) departures from parking and loading standards;

(ii) departures from design standards; and

(iii) any variance from the zoning laws.

(E) THE GOVERNING BODY OF A MUNICIPAL CORPORATION MAY USE THE MUNICIPAL CORPORATION'S EMPLOYEES OR THE COMMISSION'S EMPLOYEES WHEN EXERCISING AUTHORITY DELEGATED UNDER THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2015."

AMENDMENT NO. 3

On pages 2 through 8, strike in their entirety the lines beginning with line 12 on page 2 through line 22 on page 8, inclusive.

EXPLANATION OF AMENDMENTS:

Amendment No. 1:

Technical

Amendment No. 2:

Maintains the current provisions of the bill with the following changes:

1. Authorizes the governing body of a municipal corporation to use the municipal corporation's employees or the Maryland-National Capital Park and Planning Commission's employees when exercising certain delegated authority.
2. Does not include provisions from the current bill that would have:
 - Authorized the district council to revoke a certain delegation of authority to the county planning board for a purpose other than delegating the authority to the governing body of a municipal corporation.
 - Authorized the governing body of a municipal corporation to exercise certain powers of the district council without obtaining authorization from the district council.
 - Authorized the governing body of a municipal corporation to exercise certain powers of the planning board.
 - Required a certain person to appeal a certain municipal action to the district council before exercising a certain right to judicial review.

Amendment No. 3:

Strikes the current language of the bill in its entirety.

1. LEGISLATIVE REPORT – Len Lucchi

O'MALLEY, MILES, NYLEN & GILMORE, P.A.

Attorneys & Counselors at Law

11785 Beltsville Drive, 10th Floor
Calverton, MD 20705
www.omng.com
(301) 572-7900 • (301) 572-6655 (f)

Matthew D. Osnos
Lawrence N. Taub
Lynn Loughlin Skerpon
Nathaniel A. Fornan

Mark G. Levin
William M. Shipp
Kate Pomper Pruitt
Eddie L. Pounds

Nancy L. Slepicka
Leonard L. Lucchi
Stephanie P. Anderson

Peter F. O'Malley
(1939-2011)

Edward W. Nylan
(1922-2010)

John D. Gilmore, Jr.
(1921-1999)

January 23, 2015

TO: Bill Gardner, Assistant City Manager

FROM: Len Lucchi and Eddie Pounds, City Lobbyists

DATE: January 23, 2015

RE: Weekly Report

The first full week of the Maryland General Assembly is at a close and a new Governor has been inaugurated. Here is a list of pertinent issues:

1. **The Budget** – The Governor gave a briefing on his proposed budget yesterday and introduced it today. Here are some impacts regarding College Park:
 - a. **Local aid** – The Governor's budget includes a \$35 million cut in local aid. The only municipal impact appears to be in police grants, continuing the cut that Governor O'Malley made in the current budget through the Board of Public Works. There does not appear to be any increase in Highway User Revenue distributions.
 - b. **Education aid** – The Governor cut in half the discretionary grants to the larger public school districts known as the Geographic Cost of Education Index. For Prince George's County Public Schools, this represents a 1% cut in its budget.
 - c. **Purple Line** – The Governor is maintaining funding for the Purple Line, as well as the Red Line, but emphasized that no final decision has been made on going forward.
 - d. **New Regional Hospital** – The Governor maintained the State's commitment in its MOU with the County to fund \$230 million over the next three fiscal years.

2. **Municipal Land Use Authority** – Delegate Valentino-Smith has reworked her bill (MC/PG 111-15) to allow the District Council to delegate authority to a municipality to decide Specific Design Plans, Detailed Site Plans, and Conceptual Site Plans. A BiCounty Committee Work Session is tentatively set for February 5, 2015.

3. **Extension of Bonding Authority for New City Hall** – Senator Rosapepe and Delegate Barnes will be sponsoring legislation to extend the deadline by which the City must encumber the state capital funds for this purpose.

2. INFORMATION REPORT:

REVISED OUTLINE FOR BOARD WORKSESSIONS

MEMORANDUM

TO: Mayor and City Council

THROUGH: Joe Nagro, City Manager

FROM: Janeen S. Miller, City Clerk *JSM*

DATE: January 23, 2015

RE: Worksession Discussions regarding City-Appointed Authorities, Boards, Committees and Commissions

ISSUE

The Mayor and City Council discussed an approach for a comprehensive review of their appointed Authorities, Boards, Committees and Commissions (hereafter referred to as "Boards") at the Worksession on January 20. Based on that discussion, adjustments have been made to the proposed outline, and the list of 17 Boards has been categorized.

SUMMARY

Council reviewed a proposed outline for the comprehensive review of appointed Boards and suggested revisions to the approach which are reflected on the outline that is attached. The 17 boards have been grouped into four categories. Boards will be invited to future Worksessions based on those categories. The attached summary schedules "The Big Picture" discussions at three Worksessions on March 3, 17 and April 7. Future dates will be determined.

RECOMMENDATION

Please review the revised outline and board groupings and let me know if you have any revisions. Major concerns can be addressed at the Council meeting next week. After next Tuesday's meeting, I will contact the Boards and invite them to the Worksessions as shown on the attached schedule.

Attachments:

- 1 – Outline Updated January 23, 2015
- 2 – Board Groupings

2015 Council Review of City-Appointed Boards

Outline updated January 23, 2015

	TOPIC	W/S DATE (2015)	DESCRIPTION	WHO ATTENDS
1	Plan The Approach	January 20	Develop the outline/approach to address topics of future discussion	Council, Staff
2	The Big Picture – Part 1	March 3	A fresh look at the complete list of City Boards: legal role and relationship of advisory boards to the Council; review the charge: should any Boards be restructured, combined or eliminated; which are inactive; is there an area that we should add an advisory board? Recruitment issues.	Group I
3	The Big Picture - Part 2	March 17		Group II
4	The Big Picture – Part 3	April 7		Group III and Group IV (if possible)
5	The Big Picture – Wrap Up	TBD	Council review and discussion of what they heard during Big Picture discussions	Council, Staff
6	Discussion of Board Relationships and Interactions with Council and City Staff	TBD	Relationship between Council, Boards and Staff Liaison; Communication between Council and Boards; Council direction on Board Workplans; Council discussion on budgeting funds for boards, and policy regulating use of funds donated to City Boards; legal authority of Boards as appointees of Council; duty of Boards to abide by City policies and state/county law.	Council, Staff, Staff Liaisons

7	Council Discussion with (Selected/All?) Boards	TBD	Meet with Boards to review outcome of earlier Council Work-sessions and to solicit their feedback: Review any proposed changes; Review General Rules and Responsibilities that apply to Boards; Discuss Council-Board Interaction; Clarify Role of Staff Liaison; Clarify Expenditure of Funds, address issues raised by the Board.	Council, Staff, Boards and Staff Liaison
8	Public Comment on Any Proposed Changes	TBD	Summary of any proposed changes to specific Boards or to any policies are reviewed prior to public comment next week.	Public Comment
9	Implementation	TBD	Finalize any changes that are going to be made, and determine the implementation plan.	Council, Staff

**2015 Comprehensive Board Review
The Big Picture
Board Groupings**

- I. These have some regulatory or quasi-judicial authority:
Advisory Planning Commission
Noise Control Board
Airport Authority
Board of Election Supervisors
Cable Television Commission
Ethics Commission

- II. These have some environmental component (or, in the case of the Farmer's Market resolution, specifically mentions collaboration with CBE)
Committee for a Better Environment
Sustainable Maryland Certified Green Team
Tree and Landscape Board
Farmers Market

- III. These are unaffiliated/stray groups (all have funds/budgets)
Animal Welfare Committee
Education Advisory Committee
Recreation Board
Veterans Memorial Improvement Committee

- IV. These have a public safety component:
Neighborhood Quality of Life Committee
Neighborhood Watch Steering Committee
Citizens Corps Council