



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item #
3/18/10



MEMORANDUM

DATE: March 5, 2010

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *RK*
Catherine Conlon, Subdivision Supervisor *CC*
Development Review Division

FROM: *NB*
Neil Braunstein, Planner Coordinator (301-495-4532)
Development Review Division

REVIEW TYPE: Pre-Preliminary Plan of Subdivision – Advice Only

APPLYING FOR: Advice concerning a future subdivision to create three lots for two dwelling units and one 140-bed nursing home

PROJECT NAME: Kensington Nursing Home *C*
CASE #: 720090150
REVIEW BASIS: Chapter 50, Montgomery County Subdivision Regulations

ZONE: R-60
LOCATION: Southeast quadrant of the intersection of Mc Comas Avenue and Drumm Avenue
MASTER PLAN: Kensington/Wheaton

APPLICANT: Kensington Nursing, LLC
ENGINEER: Site Solutions
ATTORNEY: Venable, LLP

FILING DATE: June 4, 2009
HEARING DATE: March 18, 2010

RECOMMENDATION: No objection to submission of a preliminary plan; provide nonbinding advice with respect to conformance of the residential lots to the resubdivision criteria and the general layout of the subdivision.

SITE DESCRIPTION

The subject property, shown below and in Attachment A, consists of one platted lot and two parts of lots, which together comprise 6.28 acres of land. The site is located in the southeast quadrant of the intersection of McComas Avenue and Drumm Avenue. The zoning on the property is R-60. The property is developed with a 140-bed nursing home, which operates based on an approved special exception, and one one-family detached dwelling. Both of these buildings are proposed to be retained. Surrounding properties are developed with one-family detached dwellings in the R-60 zone.

The subject property is located within the Lower Rock Creek watershed. A stream and a pond are located on the property, around which an environmental buffer has been established by an approved natural resources inventory. Two forest stands exist on the site, measuring 17,100 square feet and 10,000 square feet respectively. Steep slopes occur near the stream along McComas Avenue.



PROJECT DESCRIPTION

The application is a pre-preliminary subdivision plan to obtain nonbinding Planning Board advice on a proposal to subdivide the lot and two parts of lots into three lots: one measuring 5.1 acres to contain the existing nursing home, one measuring 33,390 square feet to contain the existing one-family detached dwelling, and one measuring 17,635 square feet to contain a proposed one-family detached dwelling. Both dwellings and the nursing home will be accessed from Mc Comas Avenue via an existing driveway that will be improved and widened to 20 feet. Because the front of the site along Mc Comas Avenue is constrained by a stream buffer and steep slopes, the existing house is set back far from the street and is located near the nursing home. The proposed house on proposed Lot 2 would also be located near the nursing home, far from the street. The applicant seeks advice on the layout and conformity of the residential lots to the resubdivision criteria.

(Attachment B – proposed plan)

ANALYSIS AND FINDINGS

Compliance with the Subdivision Regulations and Zoning Ordinance

Of the three lots proposed, the subdivision includes one lot for an institutional use, the existing nursing home. In accordance with the Planning Board's interpretation of February 25, 2010, the proposed institutional lot is not subject to the resubdivision criteria stated in Section 50-29(b)(2), because it is for a nonresidential use, so it is not included in the resubdivision analysis. The proposed subdivision also contains two residential lots, which are not affected by the Board's interpretation, and they are subject to the resubdivision criteria. The applicant has requested the Planning Board's nonbinding advice on the proposed layout of the subdivision and conformance of these lots with the resubdivision criteria.

Conformance with Section 50-29(b)(2)

A. Statutory Review Criteria

In order to approve an application for resubdivision, the Planning Board must find that each of the proposed lots complies with all seven of the resubdivision criteria, set forth in Section 50-29(b)(2) of the Subdivision Regulations, which states:

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

B. Neighborhood Delineation

In administering Section 50-29(b)(2) of the Subdivision Regulations, the Planning Board must determine the appropriate “neighborhood” for evaluating the application. In this instance, the Neighborhood selected by the applicant, and agreed to by staff, consists of 100 lots (Attachment C). The neighborhood includes lots on Drumm Avenue, Drumm Court, Mc Comas Avenue, Casper Street, Jutland Road, Maybrook Avenue, and Jennings Road in the R-60 zone. All the lots share multiple points of access on those streets. The designated neighborhood provides an adequate sample of the lot and development pattern of the area. A tabular summary of the area based on the resubdivision criteria is included in Attachment D.

C. Analysis

Comparison of the Character of Proposed Lots to Existing

In performing the analysis, the above-noted resubdivision criteria were applied to the delineated neighborhood. The proposed lots are of the same character with respect to the resubdivision criteria as other lots within the defined neighborhood. Therefore, the proposed resubdivision complies with the criteria of Section 50-29(b)(2). As set forth below, the attached tabular summary and graphical documentation support this conclusion:

Frontage:

In a neighborhood of 100 lots, lot frontages range from 25 feet to 262 feet. Forty-one of the lots have frontages of 60 feet or less, 57 lots have frontages of 61 feet to 160 feet, and the remaining two lots have frontages of more than 240 feet. Proposed Lot 1 has a frontage of 120 feet, and proposed Lot 2 has a frontage of 70 feet. **The proposed lots will be of the same character as existing lots in the neighborhood with respect to lot frontage.**

Alignment:

Seventy-two of the existing 100 lots in the neighborhood are perpendicular in alignment, 12 are corner lots, and the remaining 16 are radial lots. The two proposed lots are perpendicular. **The proposed lots are of the same character as existing lots with respect to the alignment criterion.**

Size:

The lots in the delineated neighborhood range from 5,500 square feet to 20,987 square feet. Five of the lots are between 5,500 square feet and 6,000 square feet, 86 lots are between 6,000 and 12,000 square feet, and nine are between 12,000 and 22,000 square feet in size. Proposed lot 1 is 33,930 square feet and proposed Lot 2 is 17,635 square feet. Although proposed Lot 1 would be the largest in the neighborhood and proposed Lot 2 would be smaller than only one existing lot in the neighborhood, the lots are artificially made larger than they otherwise would have to be because the fronts of the lots are constrained with a stream buffer and steep slopes. The presence of these environmental constraints forces the houses on the lots to be placed far from the street,

increasing the lot size. The lots could theoretically be made smaller by creating the two lots without street frontage, leaving the environmental buffer in a separate outlot. But it is staff's opinion that the larger lots proposed are more in character with the surrounding neighborhood than lots without street frontage would be. **The proposed lot sizes are in character with the size of existing lots in the neighborhood.**

Shape:

Sixty-eight of the existing lots in the neighborhood are rectangular, 31 are irregular, and one is triangular. The two proposed lots are rectangular. **The shapes of the proposed lots will be in character with shapes of the existing lots.**

Width:

The lots in the delineated neighborhood range from 49 feet to 155 feet in width. Forty-eight of the lots have widths of 49 feet to 60 feet, 44 lots have widths of 61 feet to 80 feet, and the remaining eight lots have widths of 81 feet up to 155 feet. Proposed Lot 1 has a width of 120 feet and proposed Lot 2 has a width of 70 feet. **The proposed lots will be in character with existing lots in the neighborhood with respect to width.**

Area:

The lots in the delineated neighborhood range from 3,025 square feet to 8,395 square feet in buildable area. Sixty-five of the lots have a buildable area between 3,000 and 5,000 square feet, 32 lots have a buildable area between 5,000 and 7,000 square feet, and the remaining three lots are between 7,000 and 8,395 square feet in buildable area. Proposed Lot 1 has a buildable area of 8,400 square feet and proposed Lot 2 has a buildable area of 4,160 square feet. These buildable area measurements exclude the area of the lot that is within the stream buffer. Although proposed Lot 1 would have the largest buildable area in the neighborhood, the house already exists on the lot and the larger buildable area is a function of the larger lot size caused by the environmental constraints, as discussed above. The lots are made larger than they otherwise would have to be because the fronts of the lots are constrained with a stream buffer and steep slopes. The presence of these environmental constraints forces the houses on the lots to be placed far from the street, increasing the lot size. The lots could theoretically be made smaller – which would reduce the buildable area – by creating the two lots without street frontage, leaving the environmental buffer in a separate outlot. But it is staff's opinion that a larger buildable area would be more in character with the surrounding neighborhood than lots without street frontage would be. Indeed, the buildable area of proposed Lot 2 is well within the range in the neighborhood, and the buildable area of proposed Lot 1 is only five square-feet larger than that of the existing neighborhood lot with the largest buildable area. **The proposed lots will be of the same character as other lots in the neighborhood with respect to buildable area.**

Suitability for Residential Use: The existing and the proposed lots are zoned residential and the land is suitable for residential use.

Subdivision Layout

The proposal would create two lots for two houses that will not be able to be placed near the street due to the location of the stream buffer and may not be visible from the street due to heavy tree cover. These lots, one of which will contain an existing house, would be oriented more towards the nursing home than towards the surrounding neighborhood. Functionally, front yards would face the nursing home and back yards would face the wooded stream buffer and the street beyond. This layout could facilitate future subdivision of the entire site if the nursing home is discontinued at some point and replaced with one-family residential lots. The existing driveway could be the beginning of an internal loop road, onto which one-family lots front, similar to surrounding development patterns. In that case, what is now the rear of the two proposed residential lots would become the fronts of the lots. In order to facilitate that possibility, staff recommends that an increased rear-yard setback, from the required 20 feet to 25 feet, would be appropriate. A 25-foot setback would meet the requirement for a setback from a street, which would apply in the event that an internal loop street replaced the existing driveway.

Staff acknowledges that the layout may be considered awkward in relationship to the nursing home, but one house already has this relationship, and its ability to facilitate future subdivision convinces staff that the proposed layout is appropriate.

Citizen Correspondence and Issues

A pre-submission meeting with neighboring residents is not required for this pre-preliminary plan submittal, however, written notice of the plan submittal and the public hearing date was given by the applicant and staff. As of the date of this report, no citizen letters have been received.

CONCLUSION

In accordance with the Planning Board's interpretation of February 25, 2010, the proposed institutional lot is not subject to the resubdivision criteria stated in Section 50-29(b)(2), and is not included in the resubdivision analysis. With respect to the proposed residential lots, Section 50-29(b)(2) of the Subdivision Regulations specifies seven criteria with which resubdivided lots must comply. They are street frontage, alignment, size, shape, width, area and suitability for residential use within the existing block, neighborhood or subdivision. As set forth above, staff recommends that the Planning Board give nonbinding advice that the two proposed lots are of the same character as the existing lots in the defined neighborhood with respect to each of the resubdivision criteria. Staff also recommends that the Planning Board advise the applicant that the proposed layout is appropriate, with a recommendation to the applicant to increase the rear yard setbacks of the two residential lots from 20 feet to 25 feet.

Attachments

Attachment A – Vicinity Development Map

Attachment B – Proposed Development Plan

Attachment C – Resubdivision Neighborhood Map

Attachment D – Resubdivision Data Table

Table 1: Pre-Preliminary Plan Data Table and Checklist

Plan Name: Kensington Nursing Home				
Plan Number: 720090150				
Zoning: R-60				
# of Lots: 3				
# of Outlots: N/a				
Dev. Type: Residential/Institutional				
PLAN DATA	Zoning Ordinance Development Standard	Proposed for Approval by the Preliminary Plan	Verified	Date
Minimum Lot Area	6,000 sq. ft.	17,635 sq. ft. minimum	NB	3/5/09
Lot Width	60 ft.	70 ft. minimum	NB	3/5/09
Lot Frontage	25 ft.	70 ft. minimum	NB	3/5/09
Setbacks				
Front	25 ft. Min.	Must meet minimum ¹	NB	3/5/09
Side	8ft. Min./18 ft. total	Must meet minimum ¹	NB	3/5/09
Rear	20 ft. Min.	Must meet minimum ^{1,2}	NB	3/5/09
Height	35 ft. Max.	May not exceed maximum ¹	NB	3/5/09
Max Resid'l d.u. per Zoning	45	2	NB	3/5/09
MPDUs	N/a		NB	3/5/09
TDRs	N/a		NB	3/5/09
Site Plan Req'd?	No		NB	3/5/09

¹ As determined by MCDPS at the time of building permit.

² Staff proposed that, at the time of preliminary plan, a rear setback of 25 feet be required.

KENSINGTON NURSING HOME (720090150)



Map compiled on February 25, 2010 at 3:44 PM | Site located on base sheet no - 213NW03

NOTICE

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Property lines are compiled by adjusting the property lines to topography created from aerial photography and should not be interpreted as actual field surveys. Planimetric features were compiled from 1:14400 scale aerial photography using stereo photogrammetric methods.

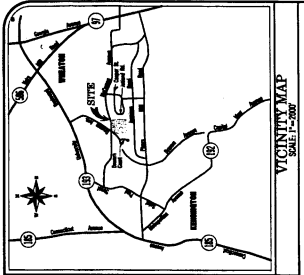
This map is created from a variety of data sources, and may not reflect the most current conditions in any one location and may not be completely accurate or up to date. All map features are approximately within five feet of their true location. This map may not be the same as a map of the same area plotted at an earlier time as the data is continuously updated. Use of this map, other than for general planning purposes, is not recommended. - Copyright 1999

Key Map



0 200

1 inch = 200 feet
1 : 2400

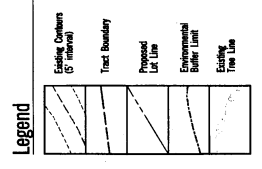


SITE DATA

1. Zoning: R-40
2. Gross Tract Area: 6.28 Ac. (273,128 sq. ft.) - per tax record includes existing home site area.
3. Net Tract Area: 4.90 Ac. (212,400 sq. ft.) - includes lots only.

Development Standards

STANDARD	REQUIRED / PERMITTED	PROPOSED
Net Lot Area	4,000 sq. ft. Min.	77,428 sq. ft.
Lot Width at Fronting Line	60 ft. Min.	70 ft.
Lot Width at Street Line	25 ft. Min.	70 ft.
Setback from street	25 ft. Min.	47-150 ft.
Setback from adjoining lot	8 ft. Min. / 10 ft. Total	8 ft. Min. / 10 ft. Total
Rear yard	20 ft. Min.	20 ft. Min.
Setback to highest point No.	35 ft. to highest point No.	35 ft. to highest point No.
Setback to lot No.	30% of lot No.	30% of lot No.



General Notes

1. The boundary and adjacent lot property line information indicated on this drawing is from existing official files - tax maps (shaded and solid).
2. The boundary and adjacent lot property line information indicated on this drawing from a survey conducted on 05/11/2010 and 05/11/2011 is shown as dashed lines.
3. Background surface markers information indicated on this drawing from a survey conducted on 05/11/2010 and 05/11/2011 is shown as dashed lines.
4. U.S.S.I.C. has been used for all surveying work. U.S.S.I.C. is a member of the International Association of Professional Surveyors, Inc. (IAPOS).

I hereby certify that this Pre-Application Plan has been prepared in accordance with the Montgomery County Subdivision Regulations adopted October 17, 1981, and amendments thereto, and that the same are in compliance with the provisions of the Subdivision Regulations. I am a duly Licensed Professional Engineer in the State of Maryland.

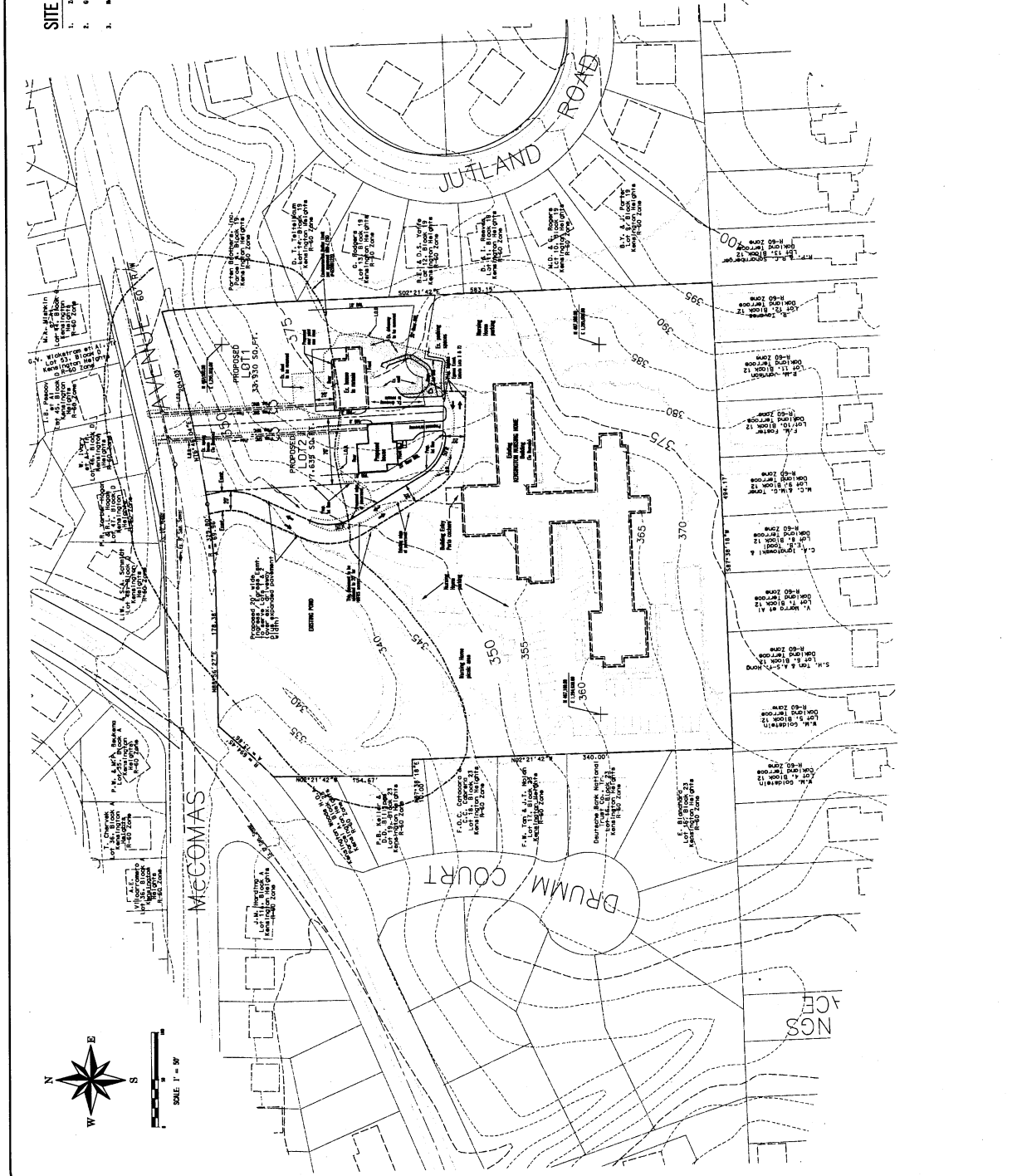
Signature: *[Signature]*
Date: 5/18/05
Title: P.E. No. 43135

720090150

PRE-APPLICATION CONCEPT PLAN
KENSINGTON NURSING, L.L.C.
ELECTION DISTRICT #13
MONTGOMERY COUNTY, MARYLAND

OWNER:
Kensington Nursing L.L.C.
10115 East Santee Circle
521 East Avenue / #240
Baltimore, Md. 21220

SITE SOLUTIONS, INC.
8815 Observations Drive, Suite 200
Baltimore, Maryland 21286-4000
(410) 442-7800 Fax (410) 442-7801
Planning Engineering Landscape Architecture





Subdivision	LOT#	BLOCK	FRONTAGE	ALIGNMENT	LOT SIZE	SHAPE	BUILDABLE AREA	LOT WIDTH
Kens. Hts	36	A	55	perpendicular	5,500	rectangular	3,025	55
Kens. Hts	37	A	55	perpendicular	5,500	rectangular	3,025	55
Kens. Hts	38	A	55	perpendicular	5,512	rectangular	3,026	55
Kens. Hts	3	17	60	perpendicular	5,742	rectangular	3,158	60
Kens. Hts	6	17	68	perpendicular	5,867	rectangular	3,230	78
Kens. Hts	5	18	60	perpendicular	6,000	rectangular	3,300	60
Kens. Hts	43	D	60	perpendicular	6,000	rectangular	3,300	60
Kens. Hts	44	D	60	perpendicular	6,000	rectangular	3,300	60
Kens. Hts	45	D	60	perpendicular	6,000	rectangular	3,300	60
Kens. Hts	6	19	65	perpendicular	6,000	rectangular	3,300	65
Kens. Hts	16	19	63	perpendicular	6,029	rectangular	3,316	57
Kens. Hts	15	19	54	radial	6,030	irregular	3,316	55
Oakland Ter	24	12	75	perpendicular	6,034	rectangular	3,680	75
Kens. Hts	47	D	72	perpendicular	6,080	rectangular	3,344	70
Kens. Hts	23	19	75	perpendicular	6,094	irregular	3,352	70
Kens. Hts	46	D	60	perpendicular	6,122	rectangular	3,367	60
Kens. Hts	1	17	60	perpendicular	6,322	rectangular	3,477	60
Kens. Hts	2	17	60	perpendicular	6,322	rectangular	3,477	60
Kens. Hts	8	17	60	perpendicular	6,322	rectangular	3,477	60
Kens. Hts	13	17	60	perpendicular	6,323	rectangular	3,058	60
Kens. Hts	21	17	60	perpendicular	6,323	rectangular	3,478	60
Kens. Hts	22	17	60	perpendicular	6,323	rectangular	3,478	60
Kens. Hts	22	19	61	perpendicular	6,323	rectangular	3,478	60
Kens. Hts	14	17	60	perpendicular	6,337	rectangular	3,062	60
Kens. Hts	4	18	100	corner	6,385	rectangular	4,192	120
Kens. Hts	17	19	61	perpendicular	6,401	rectangular	3,521	60
Kens. Hts	2	18	58	perpendicular	6,416	rectangular	3,530	58
Kens. Hts	3	18	58	perpendicular	6,416	rectangular	3,530	58
Kens. Hts	1	18	58	perpendicular	6,417	rectangular	3,530	58
Kens. Hts	1	D	105	perpendicular	6,445	irregular	4,274	75
Kens. Hts	5	19	60	perpendicular	6,473	irregular	3,560	60
Kens. Hts	12	19	53	radial	6,507	irregular	3,578	59
Kens. Hts	2	D	76	corner	6,558	irregular	4,356	124
Kens. Hts	18	19	60	perpendicular	6,600	rectangular	3,630	60
Kens. Hts	19	19	60	perpendicular	6,600	rectangular	3,630	60
Kens. Hts	7	19	59	radial	6,600	irregular	3,630	78
Kens. Hts	2	19	55	perpendicular	6,631	rectangular	3,650	55
Kens. Hts	20	17	64	perpendicular	6,662	rectangular	3,664	60
Kens. Hts	18	23	75	perpendicular	6,681	rectangular	4,100	62
Kens. Hts	15	17	62	perpendicular	6,691	irregular	3,300	62
Kens. Hts	11	19	53	radial	6,755	irregular	3,715	60
Kens. Hts	4	17	95	corner	7,010	rectangular	3,850	97
Kens. Hts	21	19	61	perpendicular	7,017	rectangular	3,859	60
Kens. Hts	17	23	77	perpendicular	7,125	rectangular	4,382	60
Kens. Hts	19	23	83	perpendicular	7,136	irregular	4,280	88
Kens. Hts	4	19	60	perpendicular	7,193	rectangular	3,956	60
Kens. Hts	3	19	60	perpendicular	7,212	rectangular	3,966	60
Kens. Hts	7	17	75	perpendicular	7,329	rectangular	4,031	80
Kens. Hts	11	23	91	perpendicular	7,533	irregular	4,633	72
Kens. Hts	16	17	61	perpendicular	7,623	rectangular	4,193	61
Kens. Hts	19	17	63	perpendicular	7,624	rectangular	4,193	60

Kens. Hts	1	19	120	corner	7,679	rectangular	4,223	110
Kens. Hts	20	19	61	perpendicular	7,710	rectangular	3,470	60
Kens. Hts	14	19	53	radial	7,796	irregular	4,290	49
Kens. Hts	9	23	62	perpendicular	7,849	irregular	4,827	62
Kens. Hts	48	D	142	corner	7,876	irregular	4,332	60
Kens. Hts	16	23	52	radial	7,898	irregular	4,739	60
Kens. Hts	11A	A	130	corner	7,935	triangular	4,452	77
Kens. Hts	42	D	39	perpendicular	7,980	irregular	4,390	60
Oakland Ter	23	12	102	corner	8,205	rectangular	4,923	80
Kens. Hts	13	19	53	radial	8,438	irregular	4,641	56
Kens. Hts	10	23	99	corner	8,460	irregular	5,203	57
Kens. Hts	6	18	108	corner	9,019	rectangular	5,546	75
Kens. Hts	7	18	67	perpendicular	9,047	irregular	5,564	67
Kens. Hts	5	17	83	corner	9,276	irregular	5,100	80
Kens. Hts	8	19	53	radial	9,386	irregular	4,505	60
Kens. Hts	10	19	53	radial	9,391	irregular	5,165	60
Kens. Hts	35	A	74	corner	9,431	irregular	5,190	97
Kens. Hts	9	18	66	perpendicular	9,528	rectangular	5,860	66
Kens. Hts	8	18	66	perpendicular	9,891	rectangular	6,083	66
Oakland Ter	21	12	61	perpendicular	10,903	rectangular	5,997	61
Oakland Ter	18	12	61	perpendicular	10,923	rectangular	6,008	61
Oakland Ter	20	12	61	perpendicular	10,943	rectangular	6,019	61
Oakland Ter	19	12	61	perpendicular	10,983	rectangular	6,040	61
Oakland Ter	17	12	61	perpendicular	11,063	rectangular	6,084	61
Oakland Ter	16	12	61	perpendicular	11,102	rectangular	6,106	61
Oakland Ter	15	12	61	perpendicular	11,142	rectangular	6,130	61
Oakland Ter	14	12	61	perpendicular	11,182	rectangular	6,150	61
Oakland Ter	13	12	61	perpendicular	11,221	rectangular	6,172	61
Oakland Ter	12	12	61	perpendicular	11,261	rectangular	6,194	61
Oakland Ter	11	12	61	perpendicular	11,301	rectangular	6,216	61
Oakland Ter	10	12	61	perpendicular	11,340	rectangular	6,237	61
Kens. Hts	14	23	47	radial	11,368	irregular	5,684	60
Oakland Ter	9	12	61	perpendicular	11,380	rectangular	6,260	61
Oakland Ter	8	12	61	perpendicular	11,419	rectangular	6,280	61
Oakland Ter	7	12	61	perpendicular	11,459	rectangular	6,302	61
Oakland Ter	6	12	61	perpendicular	11,499	rectangular	6,324	61
Oakland Ter	5	12	61	perpendicular	11,538	rectangular	6,346	61
Oakland Ter	4	12	61	perpendicular	11,578	rectangular	6,368	61
Oakland Ter	3	12	61	perpendicular	11,618	rectangular	6,390	61
Oakland Ter	2	12	61	perpendicular	11,658	rectangular	6,412	61
Kens. Hts	17	17	262	radial	12,113	irregular	7,270	155
Kens. Hts	18	17	249	radial	12,133	irregular	4,925	150
Kens. Hts	15	23	44	radial	12,735	irregular	4,460	60
Kens. Hts	8	23	123	perpendicular	13,270	rectangular	5,308	75
Kens. Hts	9	19	53	radial	14,255	irregular	4,000	60
Oakland Ter	1	12	80	corner	15,263	rectangular	8,395	80
Kens. Hts	12	23	59	radial	17,149	irregular	6,860	65
Kens. Hts	53	D	25	perpendicular	17,421	irregular	7,081	80
Proposed	2	24	70	perpendicular	17,635	rectangular	4,160	70
Kens. Hts	13	23	45	radial	20,987	irregular	6,300	60
Proposed	1	24	120	perpendicular	33,930	rectangular	8,400	120