



**Review and Comment on Historic Preservation Easement- 3923 Prospect Street, Kensington**

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 Scott Whipple, Supervisor, Historic Preservation, Functional Planning & Policy Division,  
[scott.whipple@montgomeryplanning.org](mailto:scott.whipple@montgomeryplanning.org), 301-563-3404

 Mary Dolan, Chief, Functional Planning & Policy Division, [mary.dolan@montgomeryplanning.org](mailto:mary.dolan@montgomeryplanning.org) 301-495-4552

**Completed: 12/18/12**

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**Description**

- 3923 Prospect Street, Kensington
- 21,563 sq ft; 0.495 acres
- Kensington Sector Plan (2011)
- Applicant: Charles and Helen Wilkes

**Summary/Analysis**

**Summary:**

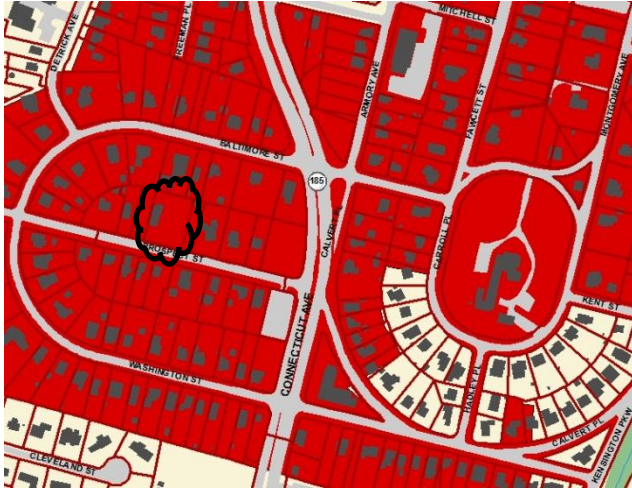
Pursuant to section 24A-13 of the County Code, the Planning Board is to review and comment on an application to donate a preservation easement to the County. Staff recommends approval to transmit comments to the Montgomery County Historic Preservation Commission (HPC).

**Recommendation:**

Staff recommends approval of the proposed easement donation.

**Site Description:**

The subject property is 3923 Prospect Street, Kensington (consisting of Lot Numbered Thirty-Five (35) in the subdivision known as KENSINGTON PARK per Plat 22225 (a resubdivision of Lots Eleven, Twelve and part of Ten (11, 12 and part of 10) in Block 11 in a subdivision known as KENSINGTON PARK)). The subject property is identified as a Primary One resource located within the Kensington Master Plan Historic District. The property is improved with a single-family home, constructed in 1903, on the former Lot Twelve. The property is zoned R-60.



**Analysis:**

Establishment of a County Easement Program

The county is authorized to accept historic preservation easements, administered by the Historic Preservation Commission (*section 24A-13 of the County Code*). Upon receipt of an application for a preservation easement, the HPC is required to forward the application to the Planning Board for review and comment. Planning Board review and comment is required within 45 days. The application was accepted on December 3, 2012. The application for easement is before the Planning Board on December 19, 2012 at the request of the applicant, who is attempting to record the easement by the end of the calendar year.

In making its comments, the Planning Board should focus on:

1. The relative significance of the historic resource;
2. The structural condition;
3. The owner’s planning or completed preservation efforts;
4. The existing zoning and nature of the surrounding neighborhood;
5. Whether an easement will promote long-term survival of the historic resource; and
6. Identification of competing or supporting land use priorities or other relevant factors or issues.

The Historic Preservation Commission will consider the recommendation of the Planning Board and, in this instance, the Town of Kensington (the Town of Kensington has submitted a resolution in support of the easement, attached) and evaluate the application using the criteria above to formulate a recommendation for the County Executive. Upon positive recommendation of the Historic Preservation Commission, the County Executive may accept the donation of the easement.

The Easement

The easement would restrict development on that portion of the property formerly known as Lot 11 and the portion of Lot 10 that was included at the time the property was resubdivided into a single lot (Lot 35). The easement places no additional restrictions on that portion of Lot 35 formerly known as Lot 12. The easement is identified as the area shown with cross-hatching on Exhibit B. A resource within the Kensington Master Plan Historic District, the entirety of Lot 35 is subject to protections under the historic preservation ordinance (*section 24A of the County Code*).

The easement prohibits the construction of a single-family or multi-family home or townhouse or other improvements for residential use, while allowing the construction of other improvements, such as fencing, a driveway, garage, swimming pool, or an accessory apartment, provided that the Historic Preservation Commission approve such improvements. The easement prohibits the subdivision of the property.

### Factors for Consideration

Staff has evaluated the application and makes the following findings:

1. The subject property, with a dwelling constructed in 1903, is identified as a Primary One resource in the Kensington Master Plan Historic District.
2. The easement area is unimproved. The related dwelling is well maintained and in good condition.
3. One of the property owners, Helen Wilkes, is a founding member and current president of the Kensington Land Trust (KLT), a 501(c)(3) incorporated in 1992. The KLT's mission is to promote awareness of the town's historic garden park setting and to provide information and support to facilitate the preservation of historic open space in the town. Ms. Wilkes has expressed a desire, as a founding member of the KLT, to demonstrate a personal commitment in support of protecting open space in Kensington by having a preservation easement on her property.
4. The property, and surrounding neighborhood, is zoned R-60. The neighborhood is characterized by a pattern of open space-residence-open space. "The Vision of Kensington: A Long Range Preservation Plan" states:  

"The original subdivision with its curvilinear streets and park-like settings encourage development of large, free-standing structures surrounded by substantial garden settings... The majority of the Victorian residences in this historic core are sited on two or three lots each allowing for generous open space adjacent to and surrounding the historic resource... The overriding impression is of a turn-of-the-century garden suburb with widely spaced houses set on expansive lots among mature trees and pleasant vistas. The average lot coverage within the Kensington Historic District is 15%."

The easement is consistent with the R-60 zone and would serve to maintain the current character of the neighborhood and historic district.

5. The easement promotes the long-term survival of both the property and the historic district. The easement restrictions do not extend to the portion of the property improved by the residence, with limiting improvements on the remainder of the property – *that portion of the property that conveys the garden-like characteristics of the historic district* – to those that would have minimal impact on the character of the resource and of the district.

6. Historic Preservation staff referred this easement application to Area 1 staff for comment. No competing land use priorities or other relevant factors were identified.

**Conclusion**

Based on information provided by the applicants and the analysis contained in this report, staff concludes that the proposed Easement is consistent with criteria established for the Historic Preservation Easement Program in section 24A-13 of the County Code and furthers the county's historic preservation goals. Staff recommends approval of the application for easement.

SW/MD/am

**ATTACHMENTS**

1. Wilkes Easement

## Whipple, Scott

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**From:** Helen C. Wilkes <hcw933@juno.com>  
**Sent:** Friday, December 14, 2012 2:56 PM  
**To:** MCP-Chair  
**Cc:** Krasnow, Rose; Whipple, Scott; asherman@paleyrothman.com; Garcia, Joyce  
**Subject:** Deed of Easement - Wilkes property, 3923 Prospect Street, Kensington  
**Attachments:** Sec. 24A-13\_HP\_easemt\_program.docx; R-29-2012\_Support\_3923\_Prospect-Wilkes\_Easement.pdf

Dear Ms. Carrier:

I'm writing to request that the Planning Board consider and approve the granting of a preservation easement on my husband's and my residential property in the historic district of Kensington in time to be considered and approved by the HPC at their final hearing of this year, December 19. It is imperative to us that we record this easement by year's end. We are compelled largely by the fact that there will likely be significant changes to federal tax laws in the coming year, and we wish, accordingly, to record the easement by the end of this year.

By way of background, please know that I am also personally motivated to complete this easement as soon as possible because I am a founding member and current president of the Kensington Land Trust, a 501(c)(3) incorporated in 1992. The KLT's mission is to promote awareness of the town's historic garden park setting and to provide information and support to facilitate the preservation of historic open space in the town. We are committed to stepping up our efforts in 2013 to educate property owners in the town's historic district about the importance of preserving character-defining open space/side yard lots in our historic garden park suburb. Further, we are striving to encourage one or two easement donations to the county each year, going forward. I feel that it is especially important that I, as a founding member of the KLT, demonstrate my husband's and my personal commitment by having a preservation easement on our property.

As I've conveyed to Scott Whipple, I've contacted Gwen Wright, his predecessor as Supervisor of the Dept. of Planning's Historic Preservation Division, to review the history and process followed for preservation easement donations under Sec. 24A-13 during her tenure. Gwen oversaw the donation of several easements during her years in this position, including two donations in the Kensington Historic District. She pointed out that the Planning Board is not absolutely required to comment on such an application, even though the Board has, by law, 45 days to comment. She expressed the opinion that, because our grant of a preservation easement to the county is not controversial and because the Town of Kensington has unanimously supported it by resolution (see attached), it is possible for the Planning Board to grant its approval without docketing the matter.

In short, my husband and I respectfully request that the Planning Board consider and approve our easement donation in time for the HPC to consider it at its December 19, year-end hearing so that the easement can be recorded by the end of December. Please feel free to contact me or our attorney, Arnold Sherman (301-951-9377, direct, or [asherman@paleyrothman.com](mailto:asherman@paleyrothman.com)) for further information. Mr. Sherman was involved in both easements previously granted in Kensington. We appreciate your consideration very much.

Sincerely,  
Helen Wilkes

Helen Crettier Wilkes, AIA  
301-933-0859 home/office  
301-404-6700 mobile/voicemail

Parcel I.D. No. 13-03377812

DEED OF EASEMENT

THIS DEED OF EASEMENT (the "Deed") is granted as of this \_\_\_\_\_ day of \_\_\_\_\_ 2012, by CHARLES C. WILKES and HELEN C. WILKES (individually, a "Grantor"; and jointly, the "Grantors") to and for the benefit of MONTGOMERY COUNTY, MARYLAND, a body corporate and politic (the "Grantee").

WITNESSETH:

WHEREAS, Grantors are the owners of certain real property known as 3923 Prospect Street, Kensington, Maryland 20895, consisting of Lot Numbered Thirty-Five (35) in the subdivision known as KENSINGTON PARK per Plat 22225 (a resubdivision of Lots Eleven, Twelve and part of Ten (11, 12 and part of 10) in Block 11 in a subdivision known as KENSINGTON PARK) and as more particularly described in Exhibit A attached hereto and incorporated herein by reference and which consists of land containing approximately 21,563 square feet in size (the "Property") and upon which certain improvements have been developed (the "Improvements"); and

WHEREAS, the single-family home currently on the Property was built in 1903 and is situated on that portion of the Property which was formerly known as Lot 12 prior to the resubdivision of the Property into a single lot as described above; and

WHEREAS, the Property is located in an historic district listed in the National Register of Historic Places which historic district has also been acknowledged and accepted by Grantee and the Maryland-National Capital Park and Planning Commission and incorporated into Grantee's master plan for historic preservation; and

WHEREAS, Grantee is a body corporate and politic and has established laws whose purpose is to protect, preserve and enhance sites, structures with their appurtenances and environmental settings, and districts of historic, archeological, architectural or cultural value, all as is more particularly provided for by law; and

WHEREAS, the overriding character of the historic district is one of a turn-of-the-century garden suburb with widely-spaced Victorian-era houses set on expansive lots among mature trees and open vistas; and

WHEREAS, this Deed will promote the conservation and preservation of the significant historic, architectural, cultural and scenic character of the Property; and

WHEREAS, Grantors hereby express their desire to limit and otherwise restrict the development and the nature of the improvements which may be made to certain areas of the Property as set forth herein; and

WHEREAS, Grantee is possessed with the power and duty to accept and hold this Deed; and

WHEREAS, the Historic Preservation Commission of Montgomery County, Maryland (the "Historic Preservation Commission") is possessed with the power and duty to administer this Deed; and

WHEREAS, Grantee has determined that this Deed is exclusively for conservation and preservation purposes.

NOW, THEREFORE, in consideration of the foregoing recitals, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Grantors hereby grant and convey to Grantee with Special Warranty of Title a certain easement (the "Easement") with respect to that portion of the Property which was formerly known as Lot 11 and part of Lot 10 prior to the resubdivision of the Property into a single lot (the "Easement Area"), together with all of the rights and interests thereto belonging to said Easement Area, which is situate, lying and being in Montgomery County, State of Maryland, and which said Easement Area is shown as the cross-hatched area on Exhibit B attached hereto and made a part hereof.

2. The definitions of the words "Property" and "Improvements" set forth in the Recitals are incorporated herein by reference.

3. The terms of the Easement are as follows:

(A) Duration and Nature of the Easement. This Easement shall be perpetual in duration. The parties agree that this Easement is and shall be considered an easement in gross and as such is inheritable and assignable and runs with the land as an incorporeal property interest in the Easement Area on which said Easement is granted enforceable by Grantee and its successors, transferees and assigns with respect to the Easement Area and against Grantors and Grantors' heirs, successors, transferees and assigns. The Easement is subject to any and all presently existing valid encumbrances, easements and rights-of-way upon the Easement Area on which said Easement is granted. Notwithstanding the immediately preceding sentence, the Property and the Improvements are currently encumbered by a Deed of Trust recorded in the land records of Montgomery County, Maryland securing a loan payable to CitiMortgage, Inc. (the "Lender"). Attached hereto and incorporated by reference herein is a Lender Acknowledgement and Consent whereby the Lender subordinates its rights in the Property and to the right of Grantee, its successors or assigns, to enforce the conservation purposes of the Easements in perpetuity. The Lender has executed the Acknowledgement and Consent for the sole and limited purpose of so subordinating its interest.

(B) Description of Easement. The Easement which Grantors grant and the rights reserved to Grantors pursuant to this Deed are described as follows:

(i) With respect to that portion of the Property on which Grantors' home is currently located and which was formerly known as Lot 12 prior to the



resubdivision of the Property into a single lot, there shall be no easement granted which limits or otherwise restricts the development, renovation or alteration of or the nature of the improvements which may be made to said portion of the Property in any manner and, accordingly, Grantors reserve the right to construct on or otherwise develop, renovate or alter said portion of the Property with any improvement; provided, however, that in all events any such construction, development, renovation, alteration or improvement, shall be developed, planned and implemented in accordance with the applicable rules and regulations of and approved by the Historic Preservation Commission and any other governmental or quasi-governmental agency having authority over the development of the Property.

(ii) With respect to the Easement Area, Grantors are prohibited from constructing a single-family or multi-family home or townhouse or any other improvement which may be used as a residence on any part of the Easement Area. However, notwithstanding the immediately preceding sentence, Grantors reserve the right to construct on or otherwise develop, renovate, alter, maintain and/or construct on any portion of the Easement Area certain improvements which shall be limited to, (a) a fence, gate, barrier or other form of separation currently on or subsequent to the date hereof constructed on any part of the Easement Area which shall separate one part of the Easement Area from another part of the Easement Area, or separate a portion of the Easement Area from the portion of the Property described in Section 3(B)(i) above, or separate any said portion of the Property from any adjacent or contiguous property; or (b) a driveway currently on, or subsequent to the date hereof, constructed on any part of the Easement Area; or (c) an addition to, upgrade to, or change in the use and purpose of any structure subsequent to the date hereof constructed on any part of the Easement Area; or (d) a garage; or (e) a carriage house; or (f) a swimming pool; or (g) an accessory apartment; provided, however, that in all events any such construction, development, renovation, alteration, maintenance or improvement, shall be developed, planned and implemented in accordance with the applicable rules and regulations of, and approved by, the Historic Preservation Commission and any other governmental or quasi-governmental agency having authority over the development of the Property. Also, in furtherance of any such construction, development, renovation, alteration, maintenance or improvement, Grantors shall be prohibited from making any improvement on any portion of the Easement Area that would be inconsistent with the historic character of the Property.

(C) Subdivision Prohibited. Grantors hereby acknowledge that the Property consists of a single lot. Grantors hereby memorialize their desire to treat and preserve all of the Property as a single unitary parcel in furtherance of their wishes to permit only one single-family home on the Property and to prohibit, what would otherwise be permitted after subdivision, the construction of an additional single-family home on the Property except as otherwise provided for herein and, accordingly, Grantors hereby covenant and agree that they shall not resubdivide the Property into more than one lot, there shall exist only one single-family home on the Property and they shall not cause, permit or suffer the construction of an additional single-family home on the Property.

(D) Public Access. Grantors hereby agree to make the Easement Area open to the public on two days per year, from 10:00 A.M. until 4:00 P.M., by prearrangement and

appointment through Grantee for inspection and viewing of the Easement Area; and to further permit the Grantee access to the Easement Area on such days or at other times by appointment as may be determined by Grantors, to (i) photograph the Easement Area and to distribute such photographs to magazines, newsletters, or other publicly available publications, and (ii) to arrange for educational organizations, professional architectural associations, and historic societies to study the Easement Area. The Easement does not convey to Grantee or the public the right to enter the interior of any improvement on the Property.

(E) Inspection. Grantee shall have the right to enter the Easement Area on reasonable notice to Grantors for the purpose of inspecting the Easement Area to determine whether there is compliance by Grantors with the terms of this Deed. Grantors and Grantee agree that they shall be governed by Chapter 24A of the Montgomery County Code and that all renovations and alterations made to the structure shall be reviewed and approved by the Historic Preservation Commission.

(F) Enforcement. Upon any breach by Grantors of any of the material terms, conditions or restrictions contained in the Easement granted hereby, Grantee may exercise any or all of the following remedies, but only after fifteen (15) days prior written notice and opportunity to cure such breach:

- (i) institute a suit to enjoin any breach or enforce any covenant by ex parte, temporary and/or permanent injunction;
- (ii) demand that the Property be restored promptly to the condition required by said Easement; and
- (iii) correct any breach, and hold Grantors responsible for the resulting cost.

Grantee's remedies shall be cumulative and shall be in addition to any other rights and remedies available to Grantee at law or equity. If Grantors are found to have breached any of their obligations under the Easement granted hereby, Grantors shall jointly or severally reimburse Grantee for any reasonable costs or expenses incurred by Grantee, including, but not limited to, court costs and reasonable attorneys' fees.

(G) Waiver. No failure on the part of Grantee to enforce any covenant or provision herein nor the waiver of any right hereunder by Grantee shall discharge or invalidate such covenant or provision or any other covenant, condition, or provision hereof, or affect the right of Grantee to enforce the same in the event of a subsequent breach or default.

(H) Notice. Any notice required to be given hereunder shall be in writing and shall be given by certified or registered mail, with postage prepaid and return receipt requested and, if to Grantors, addressed to Grantors as follows:

Charles and Helen Wilkes  
(or the then current owner of the Property)  
3923 Prospect Street  
Kensington, Maryland 20895

or to Grantors at such other address as Grantors may from time to time designate by notice to the Historic Preservation Commission, or, if to Grantee, addressed to Grantee as follows:

Chairperson  
Historic Preservation Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760

or to Grantee at such other address as the Chairperson of the Historic Preservation Commission may from time to time designate by notice to Grantors. Any notice given in the foregoing manner shall be deemed to have been given upon receipt thereof, which shall be presumed to be three (3) business days after the day notice has been deposited with the United States Post Office.

(I) Construction. The Easement is for the purpose of promoting and shall be construed to promote the purposes of Chapter 24A of the Montgomery County Code and of Section 2-118 of the Real Property Article of the Annotated Code of Maryland, and to preserve the historic, architectural, cultural and scenic character of the Property.

(J) Subsequent Conveyance. Grantors agree that the restrictions set forth in this Deed will be inserted, verbatim or by express reference, in any subsequent deed or other legal instrument by which Grantors' fee simple title to any portion of the Property or any other possessory interest in the Property, or any part thereof, is divested or conveyed.

(K) Transfer of Ownership. Grantors and each subsequent owner of the Property and the Improvements thereon agree to notify Grantee in writing of the names and addresses of any party to whom the Property, or any part thereof, is being transferred before or within thirty (30) days after the transfer is consummated. Failure of Grantors or any subsequent owner of the Property and the Improvements thereon to notify Grantee and its successors and assigns shall not affect the validity or enforceability of the Easement provided for herein.

(L) Conservation Purposes. Grantee agrees that it will hold this Deed exclusively for conservation purposes, *i.e.*, that it will not transfer this Deed whether or not for consideration. However, subject to the provisions of any applicable federal, state or county law, Grantee may assign or transfer all or any its interest in this Deed to a governmental unit or organization which qualifies at the time of the transfer as an eligible donee of this Deed under any pertinent provisions of federal, state or local law including, but not limited to, the Maryland Historical Trust and/or the Kensington Land Trust, which will thereafter continue to hold this Deed exclusively for conservation purposes either solely or jointly with the Grantee, as the case may be. Upon such assignment or transfer, the assignee or transferee, as the case may be, shall

have all of the rights, duties and obligations of Grantee with respect to the maintenance, operation and enforcement of the Easement granted hereby.

(M) Property Right. Grantors agree that the donation of this Deed gives rise to a property right, immediately vested in the Grantee, with a fair market value equal to the proportionate value that this Deed at the time of the donation bears to the value of the Property as a whole.

(N) Extinguishment. The Easement granted hereby may be extinguished by a judicial proceeding if an unexpected material change in the conditions applicable to all or a portion of the Property upon which said Easement is granted occurs including, but not limited to, a casualty which makes it impossible or impractical to continue the use of said Easement for conservation purposes. In the event of such judicial extinguishment, Grantee shall be entitled to a portion of the proceeds of the sale, exchange or involuntary conversion which are allocated to said portion of the Property (as defined herein and which does not include the value of any improvements) equal to the proportionate value that said Easement, at the time of its donation, bore to the value of the applicable portion of the Property as a whole at that time, but which in no event shall be less than five percent (5%) of the value allocated to said portion of the Property at the time of such sale, exchange or involuntary conversion, and any and all compensation so received by the Grantee shall be used by the Grantee in a manner for conservation purposes consistent with the Easement. In addition, in the event of such judicial extinguishment, Grantors and each subsequent owner of the Property may construct on or otherwise develop, renovate or alter the Property upon which said Easement is granted with any improvement; provided, however, that in all events any such construction, development, renovation, alteration or improvement, shall be developed, planned and implemented in accordance with the applicable rules and regulations of and approved by the Historic Preservation Commission and any other governmental or quasi-governmental agency having authority over the development of the Property.

(O) Interpretation. This Deed shall be interpreted under the laws of the State of Maryland and Montgomery County, Maryland resolving any ambiguities and questions of the validity of specific provisions so as to give maximum effect to its historic preservation purpose.

(P) Perpetual Duration. The Easement created by this Deed shall be a servitude running with the land in perpetuity. Every provision of the Easement that applies to Grantors or Grantee shall also apply to their respective agents, heirs, executors, administrators, assigns, and all other successors in interest.

(Q) Responsibilities of Grantors and Grantee Not Affected. Other than as specified herein, the Easement is not intended to impose any legal or other responsibility on Grantee, or modify any existing obligation of Grantors as owners of the Property.

To Have and To Hold, this Deed of Easement unto Grantee, its successors and assigns, forever.

IN WITNESS WHEREOF, Grantors and Grantee intending to legally bind themselves have set their hands and seals on the date first written above.

Witness:

\_\_\_\_\_

By: \_\_\_\_\_  
Charles C. Wilkes

\_\_\_\_\_

By: \_\_\_\_\_  
Helen C. Wilkes

\_\_\_\_\_

\_\_\_\_\_  
Ramona Bell-Pearson, Assistant Chief  
Administrative Officer Montgomery County,  
Maryland

APPROVED AS TO FORM AND LEGALITY

\_\_\_\_\_  
Terri A. Jones, Assistant County Attorney  
Office of the County Attorney

**Lender Acknowledgment and Consent – Deed of Easement**

\_\_\_\_\_ [lender name] has on this \_\_\_\_ day of \_\_\_\_\_, 2012, caused these presents to be signed by \_\_\_\_\_ [print name], its \_\_\_\_\_ [title of executive officer], and attested by its \_\_\_\_\_ [title of attesting officer e.g., corporate secretary] and its corporate seal to be affixed and hereby appoints \_\_\_\_\_ its true and lawful attorney in fact to acknowledge and deliver these presents as its act and deed. The delivery of this Acknowledgement and Consent constitutes (a) the consent of \_\_\_\_\_ [lender name] to the Easement described in the Deed of Easement to which this Acknowledgement and Consent is attached and made a part of and (b) the subordination of the lien of the Deed of Trust recorded in Liber \_\_\_\_\_ in Folio \_\_\_\_\_ to the within instrument.

\_\_\_\_\_  
Name of Lending Institution

Attest:

(Corporate Seal)

\_\_\_\_\_  
Attesting Officer

By: \_\_\_\_\_  
Executive Officer or Attorney in Fact

**Notary Form For Lender**

\_\_\_\_\_) )  
\_\_\_\_\_) SS:  
\_\_\_\_\_) )

I hereby certify that on this \_\_\_\_ day of \_\_\_\_\_, 2012, before the subscriber, a Notary Public in and for the state and county aforesaid, personally appeared before me \_\_\_\_\_ who is personally well known to me as the person named as the attorney in fact in the foregoing and annexed deed of easement as the executive officer or attorney in fact (circle one) as aforesaid, and by virtue of the power vested in him/her by said deed, acknowledged the same to be the act and deed of \_\_\_\_\_.

IN TESTIMONY WHEREOF, I have affixed my official seal.

\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_

ACKNOWLEDGMENTS

STATE OF MARYLAND )  
 ) SS:  
COUNTY OF MONTGOMERY )

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2012, before the subscriber, a Notary Public of the State of Maryland, personally appeared before me CHARLES C. WILKES and acknowledged the foregoing instrument to be his act and deed and that he executed the same for the purposes therein contained.

IN TESTIMONY WHEREOF, I have affixed my official seal.

\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_

STATE OF MARYLAND )  
 ) SS:  
COUNTY OF MONTGOMERY )

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2012, before the subscriber, a Notary Public of the State of Maryland, personally appeared before me HELEN C. WILKES and acknowledged the foregoing instrument to be her act and deed and that she executed the same for the purposes therein contained.

IN TESTIMONY WHEREOF, I have affixed my official seal.

\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_

STATE OF MARYLAND            )  
                                                  ) SS:  
COUNTY OF MONTGOMERY )

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2012, before the subscriber, a Notary Public of the State of Maryland, personally appeared before me Ramona Bell-Pearson and acknowledged that she is the Assistant Chief Administrative Officer of Montgomery County, Maryland and that the execution of the foregoing instrument is her free act as Assistant Chief Administrative Officer on behalf of Montgomery County, Maryland.

IN TESTIMONY WHEREOF, I have affixed my official seal.

\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_

THE UNDERSIGNED, a member in good standing of the Bar of the Court of Appeals of Maryland, hereby certifies that the within instrument was prepared by him.

\_\_\_\_\_  
\_\_\_\_\_, Esquire



## EXHIBIT A

### Legal Description

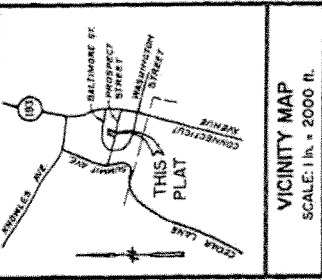
Lot Numbered Thirty-Five (35) in Block 11 in the subdivision known as KENSINGTON PARK in Plat 22225 (a resubdivision of Lots Eleven, Twelve and part of Ten (11, 12 and part of 10) in Block 11 in a subdivision known as KENSINGTON PARK as per plat thereof recorded in Plat Book B at plat 4 among the land records of Montgomery County, Maryland), being the same property as described in deed recorded in Liber 8399 at Folio 829 recorded in the Land Records of Montgomery County, Maryland.

EXHIBIT B

Easement Area

Exhibit B

PLAT No.: 22225



**OWNERS' CERTIFICATE**

We Charles C. Wilkes and Helen C. Wilkes, owners of the property shown hereon, hereby adopt this plan of re-subdivision, establish the minimum building restriction lines, hereby grant a Public Utilities Easement (P.U.E.) and hereby agree to execute and record a Preliminary Plat for the property to be subdivided, and to execute and record a Final Plat for the property as shown on the documents entitled "Terms and Conditions of Sale" and "Final Plat" as recorded in Liber 3834 of Folio 457 among the Land Records of Montgomery County Maryland, subject to all current and applicable regulations of all federal, state and local governing agencies and as owners of this subdivision, we our successors or assigns, will cause all property markers and any other required monumentation to be set by a registered Maryland Land Surveyor in accordance with the provisions of Section 50-2-41 of the Montgomery County Code.

There are no sales, actions, of law, liens, leases, mortgages or trusts affecting the property included in this plan of re-subdivision, except a certain Deed of Trust and the parties in interest there to have affixed their signatures hereon indicating their assent to this plan of re-subdivision.

*[Signature]*  
Charles C. Wilkes Date 1/29/02  
Witness  
*[Signature]*  
Helen C. Wilkes Date 1/29/02  
Witness

We SUNTRUST MORTGAGE, INC. hereby present to this plat of re-subdivision

*[Signature]*  
Jackie B. Ballas Trustee Date 1/29/02  
Witness

**GENERAL NOTES**

- All terms, conditions, limitations, and easements associated with any Preliminary Plat, Site Plat, Project Plat, or other plan affecting development of this property, approved by the Montgomery County Planning Board, are intended to survive and be approved by the recording of this plat unless expressly contemplated by the plan as approved. The official public files for any such plan maintained by the Planning Board are available for public review during normal business hours.
- The approval of this plat is predicated on the availability of public water and sewer.
- Horizontal datum is established from a Plat of Subdivision entitled "KENSINGTON PARK" recorded in Plat Book B, Plat No. 4.
- This property lies within the R-60 zone.
- This plat conforms with the requirements of Section 50-35 of the Montgomery County Subdivision Regulations, being Chapter 50 of the County Code. This plat involves the consolidation of lots 35 A (all)
- This Subdivision Record Plat is not intended to show every matter affecting the ownership and use, nor every matter restricting the ownership and use, of this property. The Subdivision Record Plat is not intended to replace an examination of title or to depict or note all matters affecting title.

**SUBDIVISION RECORD PLAT**

**KENSINGTON PARK**

RESUBDIVISION OF LOTS 11 & 12 AND PART OF LOT 10, BLOCK 11  
TOWN OF KENSINGTON  
MONTGOMERY COUNTY, MARYLAND  
SCALE: 1 in. = 30 ft. JANUARY, 2002

FILED  
JULY 30 2002

**PLAT TABULATION**

No. of lots = 1  
No. of parcels = 0  
No. of outlots = 0  
Area of lots = 21563 SQ. FT.  
Area of street dedication = 0 SQ. FT.

TOTAL AREA OF PLAT = 21563 SQ. FT.  
or 0.49502 Acres

**SURVEYOR'S CERTIFICATE**

I hereby certify that the plat shown hereon is correct; that it is all of the lands conveyed to Charles C. Wilkes and Helen C. Wilkes, husband and wife, by Henry W. Jarvinen and Dorothy C. Jarvinen, husband and wife, by deed dated August 2, 1988, being recorded among the Land Records of Montgomery County, Maryland, in Liber 837 of Folio 829. We also certify that once engaged as described in Our Code of Professional Conduct, we will fill its terms as delineated hereon in accordance with the provisions of Section 50-2-41 of the Montgomery County Code.

There is 21563 square feet or 0.49502 acres of land included on this plat. There is no street dedication to public use by this plat.

By: *[Signature]*  
Philip A. Wilk  
Professional Land Surveyor  
Maryland Registration No. 10797

APPROVED: *[Signature]*  
MAYOR

APPROVED: *[Signature]*  
TREASURER

RECORDED  
PLAT BOOK:  
PLAT No.:

TOWN OF KENSINGTON  
JANUARY 28, 2002

FOR PUBLIC WATER AND SEWER SYSTEM ONLY  
MONTGOMERY COUNTY, MARYLAND  
DEPARTMENT OF PERMITTING SERVICES

APPROVED: *[Signature]*  
DIRECTOR

**ADDENDUM**

This plat is a resubdivision of all of lots 11 and 12 and part of lot 10, block 11, as shown on a plat of subdivision entitled "Kensington Park", recorded in Plat Book B in Plat No. 4.



APPROVED: *[Signature]*  
CHAIRMAN

APPROVED: *[Signature]*  
ASST. SECRETARY

APPROVED: *[Signature]*  
SECRETARY

APPROVED: *[Signature]*  
TREASURER

MACBPC RECORD FILE NO. 618-05

618-05

MSA S511249-2810B

76707

**RESOLUTION NO. R-29-2012**

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF KENSINGTON, MARYLAND, PROVIDING COMMENTS WITH RESPECT TO, AND SUPPORTING, THE APPLICATION OF CHARLES C. AND HELEN C. WILKES TO THE MONTGOMERY COUNTY HISTORIC PRESERVATION COMMISSION TO ACCEPT AN EASEMENT ON A PORTION OF THEIR PROPERTY LOCATED AT 3923 PROSPECT STREET.**

**Whereas,** the Wilkes' have submitted an application to the Montgomery County Historic Preservation Commission ("Commission") to accept a preservation easement for a portion of their property located at 3923 Prospect Street ("Property") within the corporate limits of the Town of Kensington; and

**Whereas,** the Commission has referred the application to the Town for review and comment in accordance with Section 24A-13 of the Montgomery County Code; and

**Whereas,** review and comment by the Town must be made within 45 days and should include an evaluation of the proposal using the criteria specified in Section 24A-13 as well as identification of competing or supporting land use priorities or other relevant factors or issues; and

**Whereas,** the Mayor and Council of Kensington support historic preservation within the Town of Kensington; and

**Whereas,** the Property is located in an historic district listed in the National Register of Historic Places which historic district has also been acknowledged and accepted by the County and the Maryland-National Capital Park and Planning Commission and incorporated into the County's master plan for historic preservation; and

**Whereas,** the overriding character of the historic district is one of a turn-of-the-century garden suburb with widely-spaced Victorian-era houses set on expansive lots among mature trees and open vistas; and

**Whereas,** the preservation easement would prohibit construction of a single-family or multi-family home or townhouse or any other improvement which may be used as a residence on any part of the Easement Area, which will guarantee that only one residence will be located on the entire lot; and

**Whereas,** the Wilkes have requested the support of the Town in their application to the Commission; and

**Whereas,** the Mayor and Council have determined that the preservation easement will promote the conservation and preservation of the significant historic, architectural, cultural and scenic character of the Property; and

**Whereas,** the Mayor and Council have determined that the preservation easement is consistent with and satisfies the criteria set out in Section 24A-13 of the Montgomery County Code; and

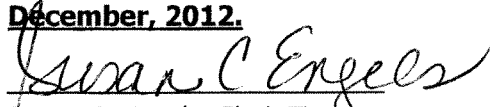
**Whereas,** the Mayor and Council have found no competing land use priorities.

**Now Therefore Be it Resolved** that the foregoing recitals are incorporated herein by reference and that the Mayor and Town Council support the application of Charles C. and Helen C. Wilkes to the Montgomery County Historic Preservation Commission to accept a preservation easement on a portion of their property located at 3923 Prospect Street.

**Adopted** by the Mayor and Town Council this 10<sup>th</sup> day of **December, 2012.**

  
Peter C. Fosselman

**This is to Certify** that the foregoing Resolution was adopted by the Mayor and Town Council in public meeting assembled on the 10<sup>th</sup> day of **December, 2012.**

  
Susan C. Engels, Clerk-Treasurer