

**Mayor Tracey Furman**

**Council Member Darin Bartram  
Council Member Nate Engle**



**Council Member Conor Crimmins  
Council Member Bridget Hill-Zayat**

Released: March 5, 2021

**Monday, March 8, 2021  
Town Council Meeting, 7:00 pm**

The Town Council Meeting will be held through the Zoom Video Conferencing application. We recommend downloading the Zoom app prior to the meeting at the following link: [www.zoom.us](https://www.zoom.us)

The Council Meeting will begin at 7:00 pm and access to the meeting will be through the following Zoom Video Conferencing link:

<https://us02web.zoom.us/j/82413970533?pwd=K2NHNmRPaUNla1ovdWpORHJrS2VCdz09>

**Meeting ID: 824 1397 0533**

**Password: 210580**

Or you may join the meeting by calling: +1 301 715 8592 US (Washington D.C) and entering the Meeting ID and Password above.

**CALL TO ORDER**

**MOMENT OF SILENCE**

**APPROVAL OF MINUTES**

Town Council Meeting Minutes of February 8, 2021

**FROM THE MAYOR AND TOWN COUNCIL**

1. **10112 Kensington Parkway (Variance Hearing)** – A request for a variance in accordance with Section 5-104, "Building Lines", of the Town Code.
2. **10619 Connecticut Avenue (Sign Variance Hearing)** – A request for a variance in accordance with Section 6-104 (f), "Limited Duration Signs", of the Town Code.
3. **Thrive Montgomery 2050** – An update on the continued communication to the Planning Board from the coalition of municipalities and community associations with regards to concerns related to the proposed Thrive Montgomery 2050 plan.

**Town of Kensington 3710 Mitchell Street Kensington, MD 20895  
Phone 301.949.2424 Fax 301.949.4925  
[www.tok.md.gov](http://www.tok.md.gov)**

4. **Pedestrian and Bicycle Access and Safety Working Group** – Acknowledge that the Transportation-Land Use (TLC) grant has been submitted by the Montgomery County Department of Transportation (MCDOT) on behalf of the Town to study bicycle and pedestrian safety improvements along the Connecticut Avenue corridor.

#### **FROM THE TOWN MANAGER AND STAFF**

1. **Ethics Commission** – Acknowledge that the Ethics Commission met on Thursday, February 25, 2021 to review the Town's Financial Disclosure forms.
2. **Noyes Children's Library** – Review request by the Noyes Children's Library Foundation to allow certain projections into the public right-of-way, per the proposed construction plans.
3. **Pepco Rate Case (9655)** – Acknowledge that the Town filed testimony with regards to the multi-year Pepco Rate Case before the Public Service Commission.

#### **PUBLIC APPEARANCES**

*(The public is invited to speak on any subject that is not a topic on tonight's agenda)*

#### **ORDINANCES, RESOLUTIONS, AND REGULATIONS**

*(Ordinances, resolutions, and regulations to be introduced or adopted following appropriate procedures required by the Town Code; or resolutions that may require discussion by the Mayor and Council prior to approval)*

1. **Ordinance No. O-01-2021** – An Ordinance of the Mayor and Council of the Town of Kensington Amending Chapter 2, "Government and Administration", Article 2, "Elections", Section 2-201, "General Voter Registration", Section 2-202, "Distribution of Absentee Ballots", Section 2-203, "Procedures of Absentee Voting", and Section 2-204, "Canvassing of Absentee Ballots" of the Town Code to delete any requirement that a voter provide a reason for voting by Absentee Ballot and to delete an invalid provision with respect to eliminating voters from the supplemental list.
  - a. *The Public Hearing was held on Monday, February 8, 2021.*
2. **Ordinance No. O-02-2021 (Introduction)** – An Ordinance of the Mayor and Council of the Town of Kensington introducing the Fiscal Year 2021-2022 (FY22) Budget.
  - a. *The Public Hearing will be scheduled for Monday, April 12, 2021, 7:00 pm.*
3. **Resolution No. R-02-2021** – A Resolution of the Mayor and Town Council in support of a driveway variance at 10311 Summit Avenue, in accordance with Section 5-107 of the Town Code.
4. **Resolution No. R-03-2021** – A Resolution of the Kensington Town Council to Confirm the Mayor's Appointments to the Board of Supervisors of Elections.
5. **Resolution No. R-04-2021** – A Resolution of the Kensington Town Council to Confirm the Mayor's Appointments to the Town's Ethics Commission.
6. **Resolution No. R-05-2021** – A Resolution of the Mayor and Town Council Authorizing and Ratifying a Contract with Greene Hurlocker, PLC for legal services.

#### **ADJOURNMENT**

*(The Mayor and Council may move to close the meeting and may move to reopen the meeting)*

THE NEXT SCHEDULED MEETING(S) OF THE MAYOR AND TOWN COUNCIL WILL BE HELD:

***Monday, April 12, 2021, 7:00 pm***

**Town of Kensington 3710 Mitchell Street Kensington, MD 20895**

**Phone 301.949.2424 Fax 301.949.4925**

**www.tok.md.gov**

February 19, 2021

Hon. Tracy Furman, Mayor  
Daniel Bartram, Council Member  
Bridget Hill-Zayat, Council Member  
Conor Crimmins, Council Member  
Nate Engle, Council Member  
Via: EMAIL

**RE: Building Lines variance Request at 10112 Kensington Parkway**

Dear Mayor and Council,

I am writing on behalf of my clients, Martha Teitelbaum and David Zweirdling, owners of 10112 Kensington Parkway. The two areas that are proposed to be non-conforming to the Town's 10' side yard setback requirement are the rear screened porch and a portico over a new side entry. Each is described in detail, below.

At the rear screen porch, we propose a 13'10" x 11'-2" structure (148 SF) at the rear. The corner of the existing house at this point is located 7'-7" off the side yard line. We have chosen to inset the porch off the corner, such that the porch at its rear corner is 7'-0" off the property line. Our rationale for requesting the variance is as follows:

- **Conformance to Existing Building Line.** We recognize Town of Kensington allows us to maintain the existing building setback for additions smaller than 650 SF, but request a variance that complies with Montgomery County side yard setback of 7' instead. The lot narrows toward the rear yard with an angled side yard line. While the setback we propose is a decrease from the existing corner of the home, we have made an effort to set back from the existing building line. If the lot were rectangular in shape, the setback would be an increase from the existing building line.
- **Lot Constraint.** The rear of the lot is occupied by a large patio and an in-ground pool. This pool, built in the late 1970's, has a concrete foundation, and dirt was brought in to fill around the pool to create a fully built-in look. It takes up an enormous portion of the yard, and leaves very little buildable area, and we have fit the porch in as best we can given all constraints. As part of this renovation, we did price out the option of removing the pool and elevated deck to allow for more building room, but this was cost prohibitive. Removal costs were \$85,000 ++.

At the side entry, we propose a portico over a new entry to the kitchen. The existing home has a window off the breakfast area in the kitchen, that the homeowners would like to convert to an accessible entrance from the driveway. The portico extends 42" off the house and has 2 columns and a gable roof. It is open air. The side yard setback is 8'-0" at the front corner of the portico and 6'-4" at the rear corner of the portico. Our rationale for requesting the variance is as follows:

- **Accessibility.** The homeowners are an elderly couple and purchased this 1-story home in Kensington to age-in-place. As we plan for future mobility and accessibility issues, it is most cost effective to allow for accessible entrances off the rear patio and the side of the kitchen. This would be more convenient for bringing groceries and the like into the kitchen. There is an existing on-grade path from the driveway to this entrance that can be utilized without additional cost. At the existing front door, there are 3 steps, which makes the first floor inaccessible to those with mobility issues. The homeowner did study and bid adding a large ramp to the front yard. This proved extremely costly and not as elegant/integrated a solution.
- **Lot Constrain/Shape.** Again, this lot is heavily occupied by existing impermeable surfaces at the rear and side yard paths, patios, retaining walls, etc. We feel that the solutions we propose are utilizing what is existing and taking advantage of the slope on the side yard to create level entries to the home for seniors without adding sightly ramps or other intrusive structures. The lot is trapezoidal in shape, and as such, the side lot line angles back, creating a narrower setback at this portico line. The owners have spoken with the abutting property and have offered to plant vegetation on the subject property as a natural border between this new side door and their yard. The Owners will confer with their neighbors and plant only agreed upon vegetation at this location.

The Owners have contacted the neighbors on either side of the subject property and have garnered approval of the proposed work. The neighbors are:

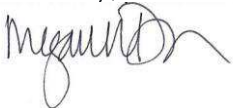
Vidya L Samarasinghe  
10114 Kensington Parkway

Maura Harty and Jim Larner  
10110 Kensington Parkway

Enclosed, please find the drawings of the proposed design, and an enlarged detail-diagram of the abovementioned non-conforming areas.

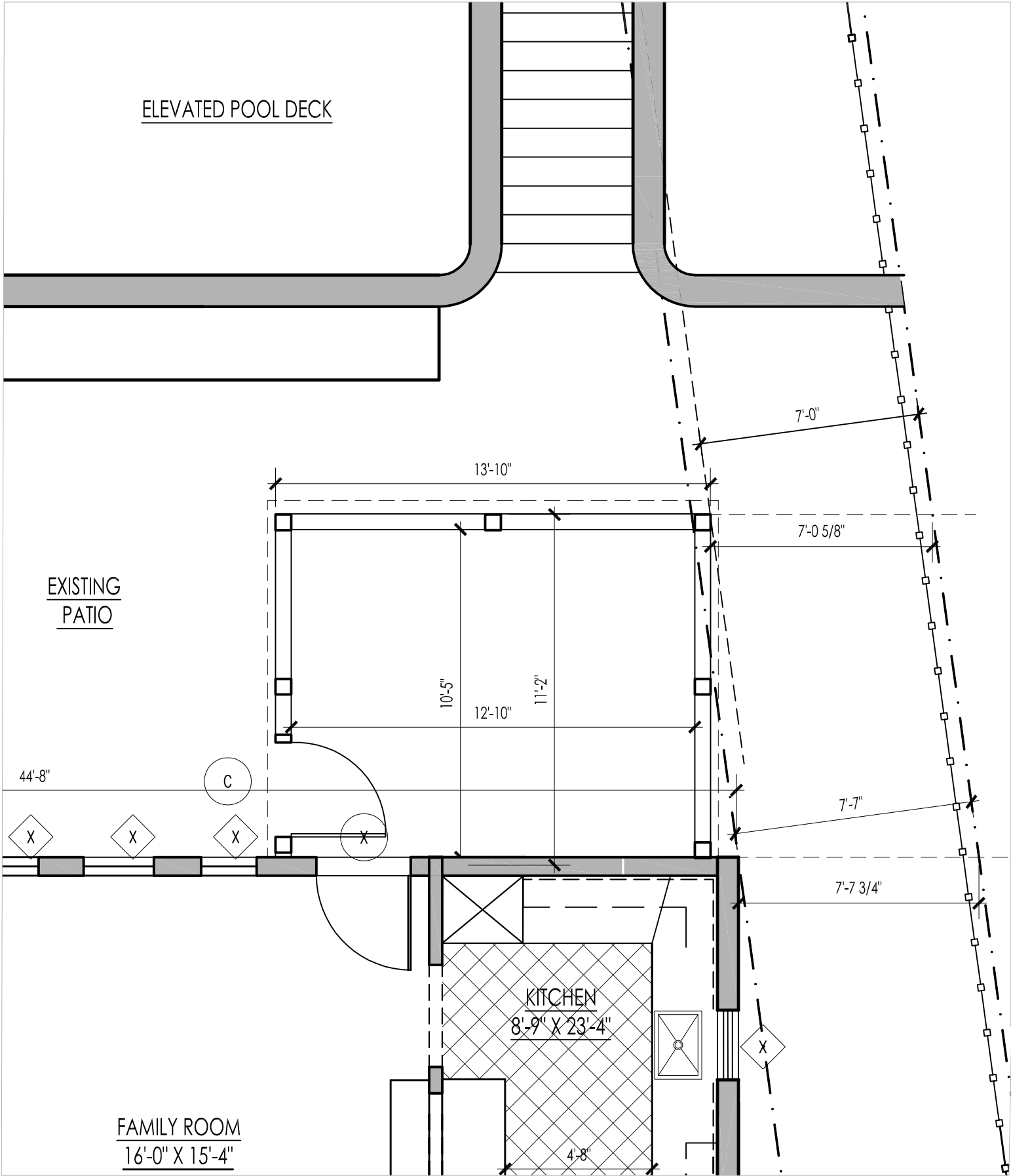
If you have any questions or need for clarification, please contact me on behalf of the homeowners. Thank you in advance for your time and consideration.

Sincerely,

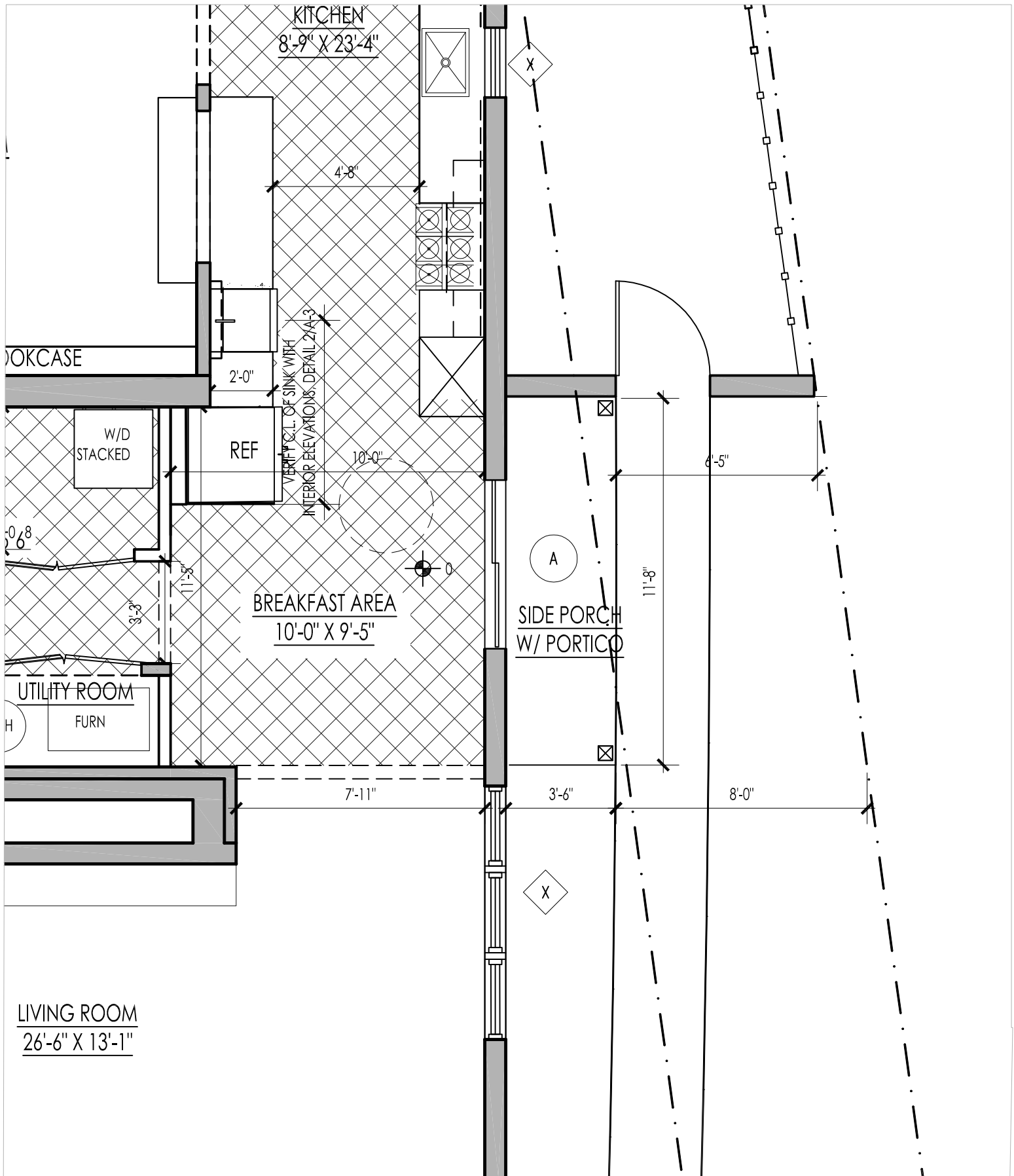


Megan N DiNicola, RA  
PRINCIPAL

301-960-5146  
Megan@studio105architecture.com



10112 KENSINGTON PKWY TOK VARIANCE APPLICATION	REAR SCREEN PORCH DETAIL PLAN	1/4" = 1'-0" 2.19.21
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10112 KENSINGTON PKWY  
TOK VARIANCE APPLICATION

SIDE PORCH + PORTICO  
DETAIL PLAN

1/4" = 1'-0"  
2.19.21

**Code Modification Request**

Noyes Children's Library  
10237 Carroll Place  
Kensington, MD  
Page 1 of 5

Use Group: A3/B Non-separated Mixed Use  
Sprinklers: Yes

Building Permit AP # 920195

**We are requesting modification to section 3202.2 of the International Building Code to permit construction within the existing Town of Kensington right-of-way.** This section of the 2015 IBC prohibits encroachments into the public right-of-way above grade and below 8 feet in height, except as provided for in Sections 3202.2.1 through 3202.2.3. Only those structures complying with IBC Chapter 34, and approved by DPS Land Development Division, are permitted in the ROW.

We are renovating a public library that was built in 1893 on a triangular lot within a traffic island adjacent to Warner Circle. The original Plat for the Town of Kensington was recorded in 1890 and does not show the triangular parcel within the right-of-way for Montgomery Avenue and Carroll Place. **The Library was constructed in 1893 entirely within the 1890 right-of-way. Refer to Exhibit "A".**

The Noyes Children's Library continued to be operated by the Board of Trustees for the Town of Kensington until 1951 when the Board agreed to have it incorporated as part of the newly founded Montgomery County Public Library System. **In 1952 the current Deed was recorded which established the triangular lot. It is noted in the 1952 deed that the existing cellar "Bilco" door to the existing building encroached on the east side of the existing library. Refer to Exhibit "B".**

The proposed renovation of the library converts the current cellar into a useable lower level, with a classroom and two accessible bathrooms. **In order to meet the requirement for two means of egress from the lower level, an exterior stair is proposed on the east side of the building in the area of the original cellar "Bilco" door. Refer to Exhibit "C",** ROW Encroachment Exhibit prepared by Adtek Engineering. The east egress stair will extend approximately 2 feet into the Montgomery Avenue ROW.

As noted in Exhibit "C", there will be two new air-conditioner condensers on the east side and a generator to provide emergency power for the sprinkler system, security system, and sump pump in the event of a power outage. These units are entirely within the Montgomery Avenue ROW, approximately 3.5 feet and 5 feet from the east side of the historic building. A railing along the north side of an exterior ramp projects approximately 1 foot into the Carroll Place ROW.

The triangular lot provides a highly limited area for the renovation of the 1893 historic library. The proposed design includes the addition of a sidewalk along the east side of the library within the Montgomery Avenue ROW. **The encroachments into the rights-of-way do not adversely impact vehicular or pedestrian access, in fact the proposed plan improves both.**

**Code Modification Request**

Noyes Children's Library  
10237 Carroll Place  
Kensington, MD  
Page 2 of 6

The Town of Kensington, who has jurisdiction over both rights-of way, has provided approval for the requested encroachments. **Refer to Exhibit "D".**

**Due to the non-compliant encroachment evident in the existing condition, the historic nature and uniqueness of the library located on a traffic island, the acceptance of the encroachment by the Town of Kensington, and the lack of adverse impact on vehicular and pedestrian movement, we hereby request modification to Section 3202.2 for the above referenced modest encroachments.**

**Attachments:**

**Exhibit A** Town of Kensington Plat, dated 1890

**Exhibit B** 1952 Deed, Existing Land Survey

**Exhibit C** ROW Encroachment Plan, C-3, dated 03 September 2020, prepared by ADTEK Engineers, Inc.

**Exhibit D** Letter of Acceptance from the Town of Kensington

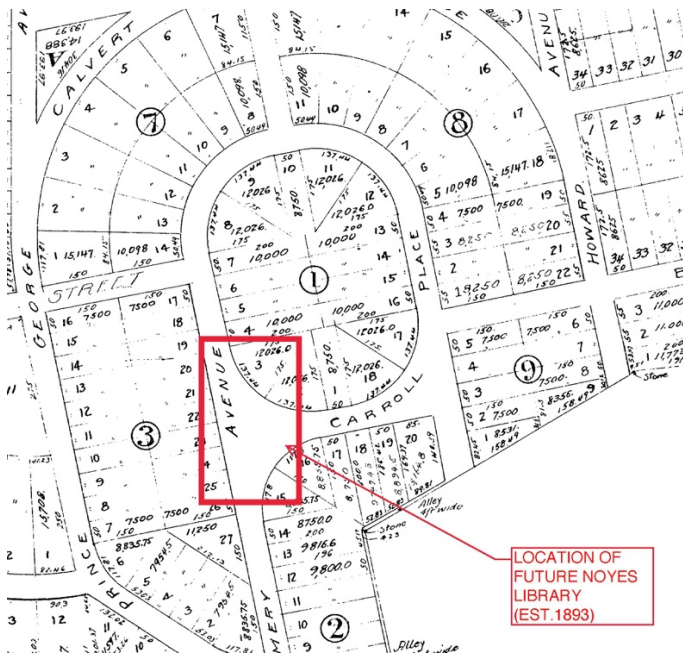
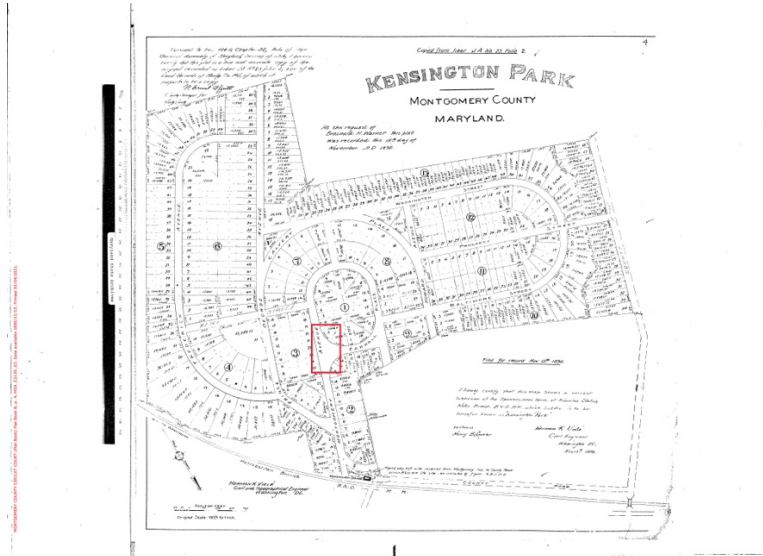


Kensington, MD

## Exhibit A

## Town of Kensington 1890 Plat

Page 3 of 5



**Code Modification Request**

Noyes Children's Library

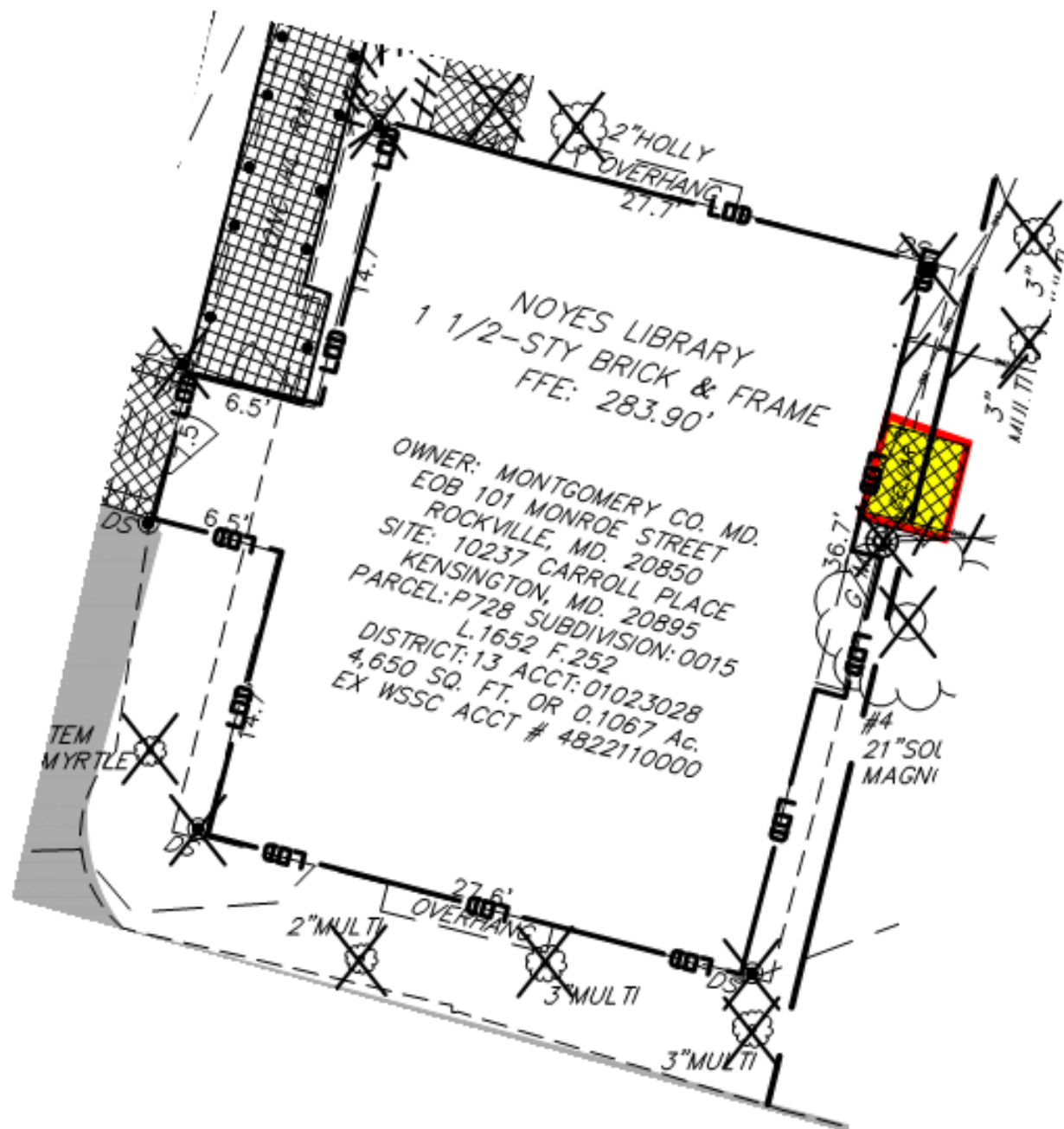
10237 Carroll Place

Kensington, MD

**Exhibit B**

**Noyes, 1952 Deed, Existing Land Survey**

Page 4 of 5





CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING
C1	110.00	110.00	110.00	N 89°57'59" E
C2	215.00	112.85	111.55	N 36°50'12" W

#### ZONING SUMMARY

PARCEL: P728  
SUB DIVISION: 0015  
ZONED: R-50  
LOCATION: TOWN OF KENSINGTON

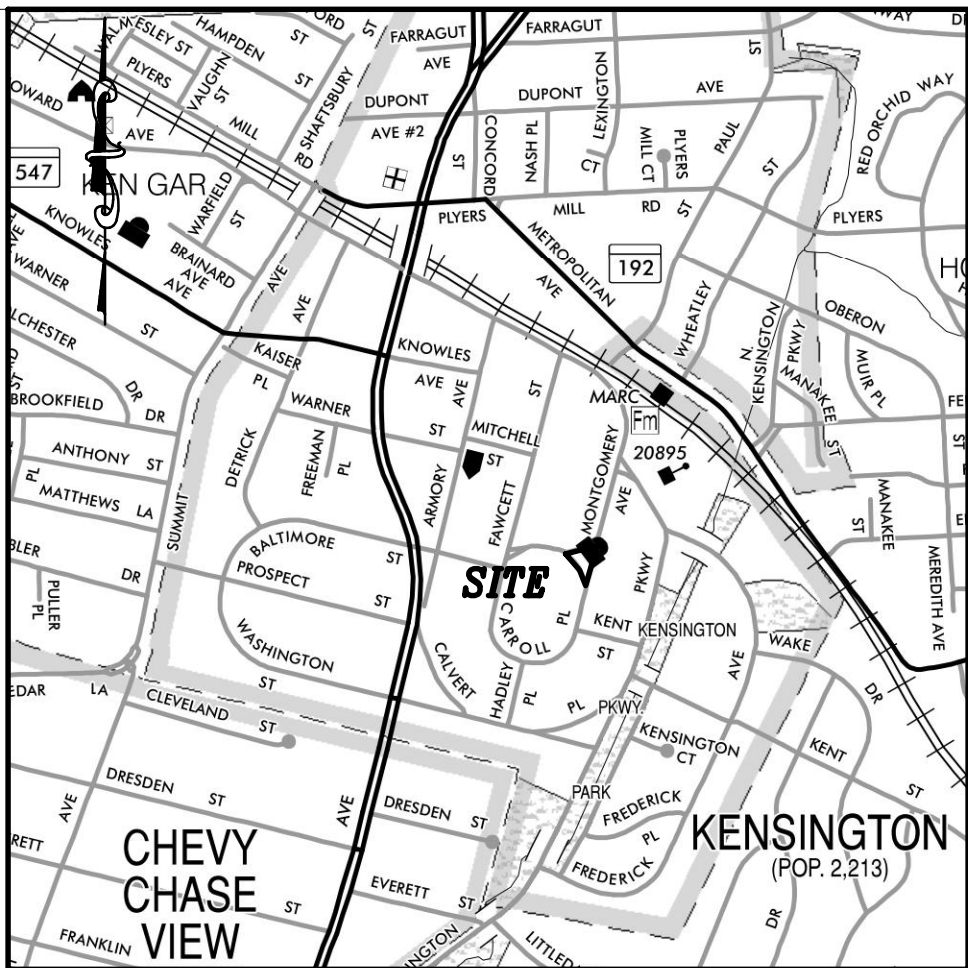
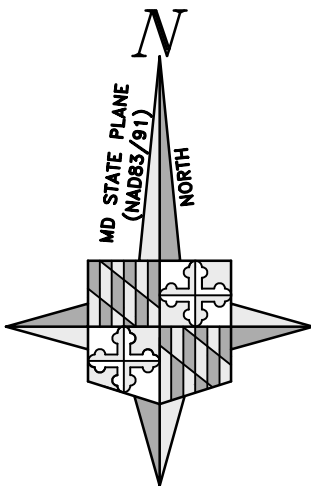
SETBACKS: MIN REQ. PROVIDED  
FRONT YARD SETBACK: 25' 24', 12' AND 13.1'  
SIDE SETBACK: 8' N/A  
REAR YARD SETBACK: 20' N/A

#### BUILDING HEIGHT

EXISTING: 29.20'  
ADDITION: 31.04'  
MAX ALLOWED: 35'

LOT AREA: 0.1067 ACRES (4,650 sq.ft.) PER SURVEY COMPLETED BY  
PVS, INC. DATED 11/19/2019, REVISED 11/21/2019.

MAXIMUM LOT COVERAGE: 35%  
EXISTING LOT COVERAGE: 59.2%  
PROPOSED LOT COVERAGE: 63.5%



#### VICINITY MAP

SCALE: 1" = 1,000'±  
(WSSC GRID: 213 NW 04)  
MONTGOMERY COUNTY

#### LEGEND

PROPOSED STORM DRAIN	PVC
PROPOSED CONCRETE CURB & GUTTER	
SEE DETAIL, SHEET C-3A	
PROPOSED DEPRESSED CURB & GUTTER	
SEE DETAIL, SHEET C-3A	
PROPOSED SIDEWALK SEE LANDSCAPE PLANS FOR DETAILS	
PROPOSED SIDEWALK SEE LANDSCAPE PLANS FOR DETAILS	
2" MILL & OVERLAY	
ROW ENCROACHMENT	

#### SITE NOTES

- ALL PAVEMENT STRIPING AND HANDICAP ACCESS RAMPS SHOWN ON THESE PLANS SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE MOST CURRENT APPLICABLE ADA CODES. SPECIFICATIONS AND DETAILS SHOWN ON THE CONTRACT DOCUMENTS.
- SPOT ELEVATIONS ALONG A CURB LINE ARE TO THE FLOW LINE, UNLESS SPECIFICALLY NOTED OTHERWISE.
- REFER TO ELECTRICAL PLAN FOR SITE LIGHTING AND LAYOUT. REFER TO ARCHITECTURAL DRAWINGS FOR BUILDING CONSTRUCTION. REFER TO LANDSCAPE PLANS FOR ON-SITE PAVING.
- CURBS, GUTTERS, SIDEWALKS, AND PAVING SHALL BE INSTALLED IN SUCH A MANNER AS TO PROVIDE POSITIVE DRAINAGE FOR ALL AREAS SO THERE IS NO ACCUMULATION OF SURFACE WATER.
- THE CONTRACTOR SHALL TEST PIT ALL PROPOSED UTILITY CROSSINGS AND PROPOSED UTILITIES WHICH LIE WITHIN FIVE (5) FEET OF EXISTING UTILITIES PRIOR TO TRENCHING OR ORDERING MATERIALS. IF A DISCREPANCY IS FOUND, IMMEDIATELY TEST PIT AND PROVIDE RESULTS TO THE ENGINEER OF RECORD.
- COORDINATION BETWEEN THE SITE CONTRACTOR AND THE PLUMBING CONTRACTOR IS REQUIRED FOR UTILITY WORK AROUND THE PROPOSED BUILDING. DEMOLITION TO EXISTING UTILITIES IN THESE AREAS SHALL BE BY THE SITE CONTRACTOR. ALL PROPOSED WORK WITHIN THE LIMITS OF THE NEW BUILDING AREAS SHALL BE DONE BY THE PLUMBING CONTRACTOR. (SEE PLUMBING DWG'S).
- BUILDING STAKEOUT SHALL UTILIZE ARCHITECTURAL PLAN.
- THE CONTRACTOR IS RESPONSIBLE FOR COORDINATION OF AND ALL COSTS ASSOCIATED WITH ALL PROPOSED UTILITY CONNECTIONS (GAS, ELECTRIC, COMMUNICATIONS, ETC.). THE CONTRACTOR IS RESPONSIBLE FOR COORDINATION OF ALL UTILITY CROSSINGS TO MAINTAIN MINIMUM HORIZONTAL AND VERTICAL SEPARATION BETWEEN SITE CONTRACTOR INSTALLED UTILITIES AND AGENCY INSTALLED UTILITIES SUCH AS GAS, ELECTRIC, COMMUNICATIONS, ETC.
- ALL GRADES SHOWN INDICATE FINAL CONDITIONS. SUBGRADE PREPARATION AND CONCRETE AND ASPHALT SHALL BE COORDINATED WITH ARCHITECT'S AND LANDSCAPE ARCHITECT'S PLANS AND DETAILS FOR LIMITS AND REQUIREMENTS WHERE PAVERS AND/OR STAMPED CONCRETE ARE TO BE PLACED.
- SEE SHEET C-3A FOR ADDITIONAL SITE DETAILS.
- PROVIDE SLEEVES IN CONCRETE/PAVING WHERE REQUIRED FOR PLACEMENT OF SIGNAGE.
- THIS PLAN HAS BEEN APPROVED FOR MANDATORY REFERRAL BY MNCPPC AT HEARING DATED 04/12/2018 AND MANDATORY REFERRAL NO. MR2018015.
- THIS SITE HAS NO ON-SITE PARKING. ALL PARKING IS ON THE STREET OR PATRONS WALK TO THE SITE.

CAUTION: IF THIS DRAWING IS A REDUCTION,  
GRAPHIC SCALE MUST BE USED  
(ORIGINAL SIZE = 24" x 36")

#### GRAPHIC SCALE



Prepared by:  
ADTEK Engineers, Inc.  
201 South East St., Suite 201  
Frederick, Maryland 21701

On Behalf Of:  
Montgomery County, Maryland  
Department of General Services  
101 Monroe Street, 11th Floor  
Rockville, Maryland 20850  
240-777-6113

#### MISS UTILITY

CALL "MISS UTILITY AT 8-1-1 OR 1-800-257-7777 OR LOG ON TO  
www.call811.com or www.missutility.com 48 HOURS IN ADVANCE OF ANY  
WORK IN THIS VICINITY. THE EXCAVATOR MUST NOTIFY ALL PUBLIC  
UTILITY COMPANIES WITH UNDERGROUND FACILITIES IN THE AREA OF  
PROPOSED EXCAVATION AND HAVE THOSE FACILITIES LOCATED BY THE  
UTILITY COMPANIES PRIOR TO COMMENCING EXCAVATION. BEFORE  
EXCAVATION THE CONTRACTOR IS RESPONSIBLE FOR CALLING TICKET  
CHECK AT 1-866-821-4226 TO VERIFY THAT ALL UTILITIES HAVE BEEN  
MARKED, 48 HOURS AFTER CALLING MISS UTILITY.



WIEDEMANN ARCHITECTS LLC  
5272 RIVER ROAD SUITE 610  
BETHESDA, MD 20816  
Voice 301-652-4022  
Fax 301-652-4094

www.wiedemannarchitects.com

#### PROJECT

NOYES CHILDREN'S LIBRARY  
10237 CARROLL PLACE  
KENSINGTON, MD 20895

#### ISSUED

ISSUED FOR

PERMIT  
03 SEPTEMBER 2020

#### CONSULTANTS

ARCHITECTS:  
GRIMM AND PARKER  
11720 BELTSVILLE  
SUITE 600  
CALVERTON, MD 20705  
301-595-1000

CIVIL ENGINEERS  
ADTEK ENGINEERS  
150 SOUTH EAST STREET  
SUITE 201  
FREDRICK, MD 21701  
301-662-4408

LANDSCAPE ARCHITECTS  
NORTON LAND DESIGN  
5146 DORSEY HALL DRIVE  
2ND FLOOR  
ELLCOTT CITY, MD 21042  
443-542-9199

MEP:  
GIPE ASSOCIATES  
1220 EAST JOPPA ROAD  
SUITE 223  
TOWSON, MD 21286  
410-832-2420

STRUCTURAL ENGINEER:  
COLUMBIA ENGINEERING, INC.  
6210 OLD DOBBIN LANE  
COLUMBIA, MD 21045  
410-992-9970

REVISIONS	
DATE	DESCRIPTION

#### SHEET

C-3

GRADING & UTILITY PLAN



CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING
C1	1107.51'	1107.51'	1107.51'	N 87°57'59" E
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ZONING SUMMARY

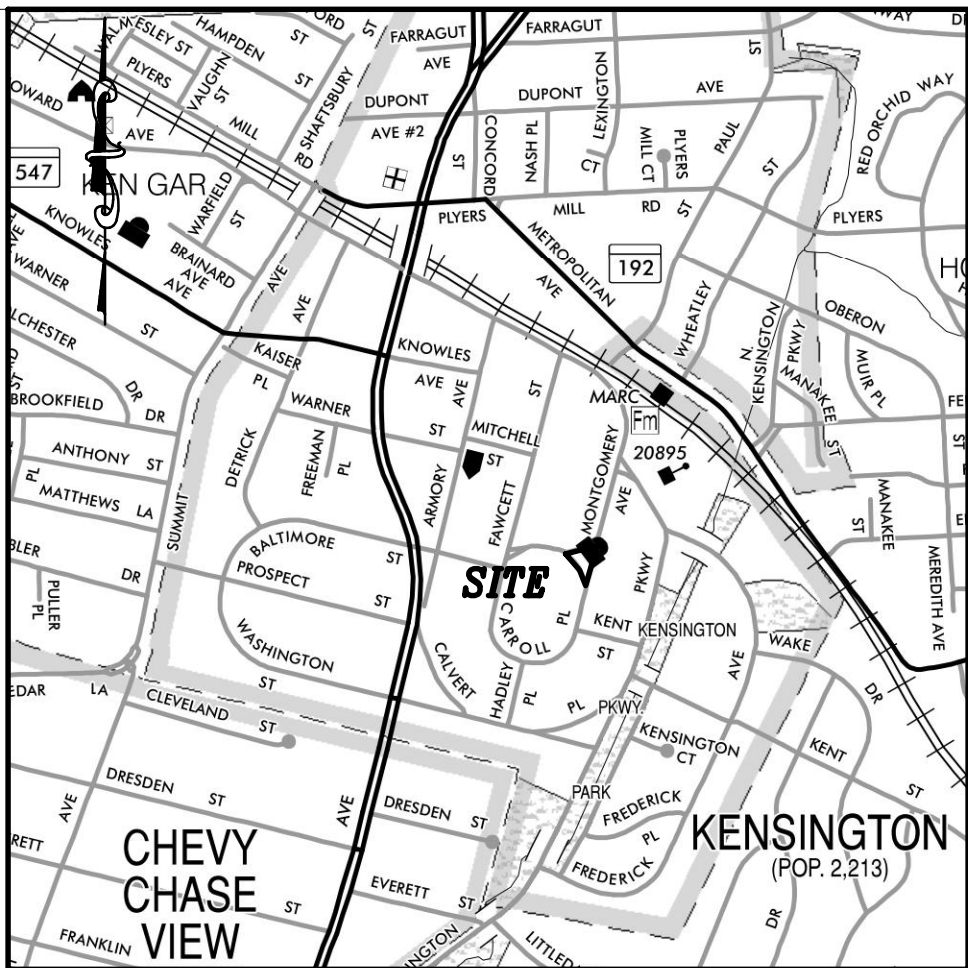
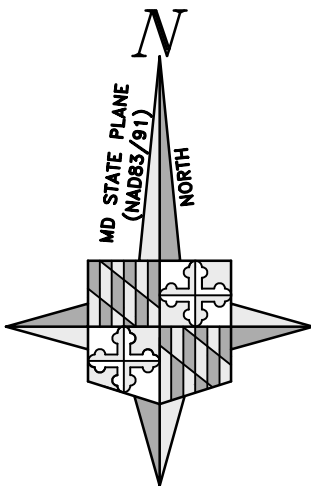
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ZONED:	R-50
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SIDE SETBACK:	8' N/A
REAR YARD SETBACK:	20' N/A

BUILDING HEIGHT

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SCALE: 1" = 1,000'±  
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MONTGOMERY COUNTY

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PROPOSED SIDEWALK SEE LANDSCAPE PLANS FOR DETAILS	
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ROW ENCROACHMENT	

SITE NOTES

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GRAPHIC SCALE



Prepared by:  
ADTEK Engineers, Inc.  
201 South East St., Suite 201  
Frederick, Maryland 21701

On Behalf Of:  
Montgomery County, Maryland  
Department of General Services  
101 Monroe Street, 11th Floor  
Rockville, Maryland 20850  
240-777-6113

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11720 BELTSVILLE  
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301-595-1000

CIVIL ENGINEERS  
ADTEK ENGINEERS  
150 SOUTH EAST STREET  
SUITE 201  
FREDRICK, MD 21701  
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LANDSCAPE ARCHITECTS  
NORTON LAND DESIGN  
5146 DORSEY HALL DRIVE  
2ND FLOOR  
ELLCOTT CITY, MD 21042  
443-542-9199

MEP:  
GIPE ASSOCIATES  
1220 EAST JOPPA ROAD  
SUITE 223  
TOWSON, MD 21286  
410-832-2420

STRUCTURAL ENGINEER:  
COLUMBIA ENGINEERING, INC.  
6210 OLD DOBBIN LANE  
COLUMBIA, MD 21045  
410-992-9970

REVISIONS	
DATE	DESCRIPTION

SHEET

C-3

GRADING & UTILITY PLAN





**GreeneHurlocker**  
Attorneys at Law

Brian R. Greene  
[BGreene@GreeneHurlocker.com](mailto:BGreene@GreeneHurlocker.com)  
Direct Dial: 804.672.4542

March 3, 2021

**By Electronic Filing**

Andrew S. Johnston, Executive Secretary  
Maryland Public Service Commission  
William Donald Schaefer Tower  
6 Saint Paul Street, 16<sup>th</sup> Floor  
Baltimore, MD 21202-6806

Re: ***IN THE MATTER OF THE APPLICATION OF POTOMAC ELECTRIC POWER  
COMPANY FOR ADJUSTMENTS TO ITS RETAIL RATES FOR THE  
DISTRIBUTION OF ELECTRIC ENERGY – Case No. 9655***

Dear Secretary Johnston:

Attached for filing in the above-referenced matter please find the direct testimony of Scott Watson on behalf of the Town of Kensington, Maryland.

Please feel free to contact me if you have any questions.

Sincerely,

*/s/ Brian R. Greene*

Brian R. Greene

c: Service List (by email)

**BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF MARYLAND**

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In the Matter of:

Potomac Electric Power Company's  
Application for an Electric Multi-Year  
Plan for the Distribution of Electric  
Energy

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\_\_\_\_\_  
CASE NO. 9655  
\_\_\_\_\_

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**DIRECT TESTIMONY OF SCOTT WATSON  
ON BEHALF OF THE TOWN OF KENSINGTON, MARYLAND**

---

Brian R. Greene, Esq.  
GreeneHurlocker, PLC  
4908 Monument Ave., Suite 200  
Richmond, VA 23230  
(804) 672-4542  
[BGreene@GreeneHurlocker.com](mailto:BGreene@GreeneHurlocker.com)

Counsel for Town of Kensington, Maryland

Date: March 3, 2021

**I. Introduction and Background**

**Q: Please state your name, your place of employment, your title, and your business address.**

A: My name is Scott Watson. I am the principal of Scott Watson Associates, Inc., a lighting consultation company. My address is 6107 West Mill Road, Flourtown, Pennsylvania 19031. I am an expert in lighting, retained by the Town of Kensington, Maryland (the “Town”) for my opinions regarding PEPCO’s Smart Streetlight Initiative Tariff Filing, Maryland Public Service Commission Case Number 9655.

**Q: Describe your education, training, and professional experience.**

A: I graduated from Princeton University in 1974 with a Bachelor of Arts degree in Architecture. I am currently a lighting consultant and have worked in the lighting consultation profession since 1982. As outlined in my resume, attached as Exhibit 1, I trained with Claude R. Engle, Lighting Consultant, of Washington D.C. for five years between 1982 and 1987. Subsequently, in 1987, I established Scott M. Watson Lighting Design, Inc. in Bethesda, Maryland. This firm completed over 1000 institutional, commercial, and residential lighting design projects in the mid-Atlantic region and beyond, including LEED and historic preservation projects. Between June 2007 and October, 2009, I served as an Associate Principal with The Lighting Practice, in Philadelphia, PA. During that time, I continued to serve my prior commercial and institutional clientele, while also working on important new projects in the Philadelphia and New York areas. In 2009, I left the Lighting Practice and formed Scott Watson Associates. Scott Watson Associates, located in the Philadelphia area, is active in projects from Washington, DC, to New York, and beyond.

1 **Q: Do you have prior consulting or design experience with respect to public or**  
2 **municipal lighting design?**

3 A: In addition to my firm's principal focus on Architectural Lighting Design, we have  
4 designed complete, innovative street lighting systems for the towns of Garrett Park;  
5 Chevy Chase View; and Chevy Chase, Section 3; as well as the Villages of Martin's  
6 Additions and Friendship Heights - all in Montgomery County, MD. In addition, we have  
7 designed, or served as consultants regarding street lighting design, for areas within the  
8 Towns of Bethesda, Chevy Chase (formerly known as Chevy Chase, Section 4), and  
9 Somerset - also in Montgomery County - as well as in Frederick, MD, and Leesburg, VA

10 **Q: On what topics do you intend to provide testimony in this matter?**

11 A: I will provide testimony on behalf of the Town regarding: (1) the quality of PEPCO's  
12 proposed lighting 'upgrades'; (2) the anticipated costs of PEPCO's lighting 'upgrades';  
13 and PEPCO's proposed smart system of operation. I will also convey the Town's  
14 positions on these issues, which are aligned with my analysis and recommendations.

15 **II. Direct Testimony**

16 **A. Quality of PEPCO's Proffered Lighting 'Upgrades'**

17 **Q: Are you familiar with PEPCO's proposed Smart Streetlight Initiative as part of its**  
18 **tariff application in Maryland Public Service Commission case number 9655?**

19 A: Yes. PEPCO's Smart LED<sup>1</sup> Streetlight Initiative, as described in its tariff filing,  
20 proposes the purchase and installation of LED luminaires at no up-front cost to  
21 communities over the next five years. PEPCO also proposes to install smart node  
22 connections with the lighting, alongside a remote monitoring and control system.

---

<sup>1</sup> Light-emitting diode ("LED").



1   **Q:     Do you have an opinion regarding the quality of the proposed lighting upgrades?**

2   A:     Yes. In my professional opinion, PEPCO's proposal is neither an 'upgrade', nor does it  
3           result in lower costs or even justifiably higher costs to the Town. Moreover, the Town is  
4           of the opinion that PEPCO's proposed smart 'node' or sensor program has not been  
5           sufficiently detailed such that it is possible to determine, practically, whether such a  
6           program is beneficial or cost-effective to the Town. I will discuss each of these issues in  
7           turn within this testimony.

8                               **i. The lighting replacements being offered by PEPCO are unlikely to**  
9                               **improve lighting in the Town.**  
10

11   **Q:     What is your opinion of PEPCO's proposed lighting 'upgrades'?**

12   A:     It is my belief that a simple one-for-one replacement of old street lights with newer, more  
13           energy-efficient models will probably not produce improved lighting in a town. In fact, it  
14           is likely to repeat (or preserve) any existing errors in the lighting layout, such as areas  
15           that are under-lit and shadowy, because the lights are too far apart or blocked by foliage;  
16           or over-lit and glary, because the lights are too close together, more powerful than  
17           needed, oriented incorrectly, or poorly shielded. A simple one-for-one replacement of  
18           street lights generally cannot correct these sorts of deficiencies. If the replacement  
19           luminaires are glarier than the original fixtures, it could exacerbate the problems by  
20           increasing visual discomfort for the residents, drivers, and pedestrians in a town.

21           In order to create a proper upgrade to a street lighting system, a lighting designer surveys  
22           the town, identifies problem areas, and revises the street light layout, within practical  
23           limits, to correct them. In a utility-pole-mounted, overhead-wired system, this may  
24           require adding or deleting individual street lights or moving them from one utility pole to

1 another - even sometimes installing a new a pole here and there to improve uniformity  
2 and reduce shadows. With underground-wired, post-top-mounted street lighting systems,  
3 re-spacing of luminaires becomes more difficult, so this and other options must be very  
4 carefully considered. Re-spacing lights, as needed, can help ensure that an optimal  
5 lighting design is achieved, but the success of an installation will ultimately depend on  
6 the luminaires that are used.

7 Since the advent of LED street lighting, I have been disappointed, repeatedly, by typical  
8 lighting manufacturers' disregard of the many sensible design techniques, which were  
9 developed and honed to near perfection over decades of practice, to control glare and  
10 enhance visual comfort. It often seems that the only concern of LED lighting  
11 manufacturers is to produce as much light as possible, using as little energy as possible to  
12 do it. These efforts are rewarded by organizations such as the DesignLights Consortium  
13 ("DLC") which rates street lights solely based on their efficacy (lumens produced per  
14 watt consumed), and by utility companies who provide rebates based only on DLC's  
15 ratings, without taking into consideration the critical issue of visual comfort.

16 In my experience, the most energy-efficient LED luminaires on the market are also the  
17 glariest, with the highest color temperatures. These are often favored by utilities, despite  
18 the fact that the American Medical Association has recommended that street lights in  
19 residential areas have warm color temperature and lighting designers have long known  
20 that street lights need adequate shielding to minimize visual discomfort to people who  
21 live near them or walk or drive under them.

22 **ii. PEPCO's proposed changes to the Town's lighting must meet certain**  
23 **conditions.**  
24

1   **Q:     Given your opinions set forth above, do you propose a particular plan of action**  
2       **before PEPCO’s proposal, if approved, may be implemented? If so, please describe.**

3   A:    Yes. I believe that PEPCO should not be allowed to install any LED replacement  
4       luminaires in the Town until the following conditions have been met:

5       a)     PEPCO mounts all of its proposed LED upgrades (in all available wattages, color  
6       temperatures, and American National Standards Institute (“ANSI”) distribution patterns)  
7       in a demonstration facility, at appropriate mounting height and spacing, along streets or  
8       drives that are similar in character to a typical residential street in Montgomery County.

9       Critically, it is my experience that manufacturers are continually changing important  
10      characteristics of their LED luminaires. Thus, it will be incumbent upon PEPCO, at all  
11      times, to display only currently-available versions of its offered luminaires;

12      b)     The Town's lighting consultant has seen and measured, at night, the luminance of,  
13      and illumination provided by, all of the offerings that might be considered to be  
14      appropriate replacements for the existing street lights in the Town;

15      c)     The Town's lighting consultant has evaluated the offerings and shown them, at  
16      night, to members of the Town Council and concerned citizens and explained to them the  
17      pros and cons to their being deployed along the streets of the Town; and

18      d)     The Town Council has deliberated and selected one or more of PEPCO's offerings  
19      for use in the Town, and PEPCO has agreed to install the selected luminaires.

20      If the Town does not find any of PEPCO's offered luminaires to be acceptable, or if  
21      luminaires that have been approved by the Town should become unavailable in their  
22      approved versions before they can be purchased, PEPCO will not install any of its offered  
23      lights under this program unless or until the latest versions can be evaluated and

1 approved. If approval of PEPCO's offered luminaires is not possible, PEPCO and the  
2 Town will negotiate to determine a way that acceptable lights can be supplied and  
3 installed.

4 **Q: What is the position of the Town on the issue of the quality and implementation of**  
5 **PEPCO's proposal?**

6 A: The Town's position is consistent with my recommendations and opinion on this point.  
7 Since the general trajectory of LED luminaire revisions seems to be towards better  
8 shielding, more comfortable color temperature, and more appropriate ANSI distributions,  
9 it is my belief that the interests of the Town would be best served by receiving assurance  
10 from PEPCO that the Town will be placed very late in PEPCO's installation schedule for  
11 the system-wide LED upgrade. This will allow sufficient time for potentially-more-  
12 acceptable versions of the offered luminaires to be made available for consideration by  
13 the Town.

14 **B. Costs of PEPCO's Proposed Lighting Upgrades**

15 **Q: Do you have an opinion as to the potential costs of PEPCO's proposed lighting**  
16 **upgrades? If so, please explain.**

17 A: Yes. PEPCO proposes replacement of all existing luminaires with new, LED luminaires  
18 at "no cost" to the municipalities involved. However, the monthly tariffs for the new  
19 luminaires will be higher than the tariffs for the existing luminaires. PEPCO will  
20 amortize its replacement costs, through the proposed higher tariffs, in a few years, but  
21 there is no sunset proposed for the higher tariffs. I submit that PEPCO's proposed LED  
22 luminaires will require much less maintenance, over time, than the luminaires they are

1 replacing. Large savings in maintenance costs and energy usage are, after all, what  
2 PEPCO wants to achieve through the proposed conversion.

3 I believe it would be unfair to the Town, or to any town, for PEPCO to charge inflated  
4 tariffs after the LED installation has been paid for by the Town. PEPCO can easily  
5 determine how long it will take to amortize the installation costs. As such, PEPCO  
6 should be compelled to identify for each town a date after which the tariff for each  
7 luminaire type will be reduced to a reasonable amount that will cover only anticipated  
8 maintenance and repair of the luminaires, including a sensible overhead percentage. I  
9 believe this amount should be no more than 25% of the initial tariff that PEPCO has  
10 proposed for each LED luminaire replacement, and that PEPCO should be compelled to  
11 demonstrate clearly how the tariff has been calculated.

12 **Q: What is the position of the Town on the issue of the costs of PEPCO's smart**  
13 **streetlight LED initiative?**

14 A: The Town's position is consistent with my recommendations and opinion on this point. If  
15 PEPCO's smart streetlight LED initiative is approved, the Town requests that PEPCO  
16 provide a sunset date for the proposed initial tariffs for LED replacement street lights and  
17 that it charge a much lower tariff for the LED replacements after that date, based on  
18 clearly-demonstrated anticipated maintenance and repair costs.

19 **C. PEPCO's Proposed Smart System**

20 **Q: What is your understanding regarding PEPCO's tariff's proposed smart node**  
21 **connections?**

22 A: PEPCO's tariff filing for LED streetlights proposes to install smart node connections to  
23 communicate bi-directionally on the existing Advanced Metering Infrastructure that

1 would communicate with PEPCO regarding real-time information and alerts for system  
2 anomalies and would allow remote control features, including: dimming, on/off  
3 schedules, and other functionality.

4 **Q: Do you have an opinion regarding this program?**

5 A: Yes. PEPCO's proposal to install "smart" nodes, "smart" sensors, and a "smart" network  
6 control system, when it installs its proposed LED replacement luminaires, and to charge a  
7 30% surcharge on its proposed LED tariffs to cover this proposal is of uncertain value to  
8 the Town. Perhaps some aspects of this system could be useful in the commercial areas  
9 of the Town, but the benefits, if any, may not be worth the proposed price in residential  
10 areas of the Town. Insufficient information is available to make such a determination at  
11 this point in time.

12 The Town Council will need to be convinced of the value of any proposed benefits,  
13 through close review of PEPCO's promotional materials describing the system, and a  
14 careful analysis of the results of PEPCO's planned demonstration installations, prior to  
15 agreeing to any installation of "smart" network components within its borders.

16 **Q: Do you have other thoughts regarding PEPCO's tariff's proposed smart node**  
17 **connections?**

18 A: Yes. I note the lack of a clear description of the parameters and details of the program. It  
19 further appears that many questions pertaining to the smart node sensors and the central  
20 management system will not be answered until the successful implementation of the 2-  
21 year Smart Sensor pilot. Based upon this, PEPCO's proposed smart node program  
22 appears to be in a very speculative stage.

23 **Q: What is the position of the Town on the issue of "smart" node installation?**

1    A:     The Town's position is consistent with my recommendations and opinion on this point. In  
2           addition, the Town requests that no "smart" equipment be installed until it has been  
3           authorized by vote of the Town Council.

4    **Q:     Does this conclude your direct testimony in this matter?**

5    A:     Yes.

**SCOTT WATSON ASSOCIATES, INC. LIGHTING CONSULTANTS**

6107 WEST MILL ROAD, FLOURTOWN, PA, 19031

PHONE: 610-687-6677 FAX: 610-687-1106

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**Scott M. Watson, IALD**

Principal, Scott Watson Associates, Inc., Lighting Consultants, 2009 - present

Associate Principal, The Lighting Practice, 2007-2009

Principal, Scott M. Watson, Lighting Design, Inc., 1987-2007

Designer, Claude R. Engle, Lighting Consultant, 1982-1987

**Education:**

B.A. in Architecture, Princeton University, 1974

**Professional History:**

After training with Claude R. Engle, Lighting Consultant, of Washington, DC, for five years, Mr. Watson established Scott M. Watson Lighting Design, Inc., in Bethesda, MD, in 1987. This firm completed over 1000 institutional, commercial, and residential lighting design projects for demanding clients, in the mid-Atlantic region and beyond, including LEED and historic preservation projects. The firm was not active from June, 2007, through October, 2009, while Mr. Watson served as Associate Principal with The Lighting Practice, in Philadelphia, PA. During that time, Mr. Watson continued to serve his prior commercial and institutional clientele through TLP, while also working on important new projects in the Philadelphia and New York areas. Mr. Watson left the Lighting Practice in 2009 and formed Scott Watson Associates. Located in the Philadelphia area, the firm is active on projects from Washington, DC, to New York, and beyond.

**Professional Associations:**

Professional member of the International Association of Lighting Designers (IALD)

Member, Illuminating Engineering Society of North America (IESNA),

**Professional Activities:**

Mr. Watson has spoken and served on panels for local, regional, and national meetings of the IESNA and various organizations involved in the lighting and construction industries, since 1987. He served on the board of National Council on the Qualification of Lighting Professionals (NCQLP), of which he was treasurer and secretary, until 2007. Mr. Watson also served on the board of the National Lighting Bureau, and was secretary and vice-president, for over nine years ending in 2007. In addition to his seven-year stint as the instructor of lighting design in the Interior Architecture department at the Maryland Institute, College of Art, in Baltimore, MD, he has taught lighting design courses for the IESNA and has given lectures on lighting design for architects, interior designers, contractors, and college students, for several different colleges and business organizations in the DC and Philadelphia metropolitan areas. Projects featuring Mr. Watson's lighting designs have received awards from the IESNA, AIA, and other organizations, and many have been seen in local, national, and international publications.



Ordinance No. O-01-2021  
Introduced: January 11, 2021  
Adopted:

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF KENSINGTON AMENDING CHAPTER 2, "GOVERNMENT AND ADMINISTRATION", ARTICLE 2, "ELECTIONS", SECTION 2-201. "GENERAL VOTER REGISTRATION", SECTION 2-202, "DISTRIBUTION OF ABSENTEE BALLOTS", SECTION 2-203, "PROCEDURES OF ABSENTEE VOTING", AND SECTION 2-204, "CANVASSING OF ABSENTEE BALLOTS" OF THE TOWN OF KENSINGTON CODE TO DELETE ANY REQUIREMENT THAT A VOTER PROVIDE A REASON FOR VOTING BY ABSENTEE BALLOT AND TO DELETE AN INVALID PROVISION WITH RESPECT TO ELIMINATING VOTERS FROM THE SUPPLEMENTAL LIST.

**WHEREAS**, pursuant to §5-201 *et seq.* of the Local Government Article, Annotated Code of Maryland, the Town of Kensington (hereinafter, the "Town") has the power to pass such ordinances as it deems necessary to protect the health, safety and welfare of the citizens of the municipality and to prevent and remove nuisances; and

WHEREAS, Chapter 2, "Government and Administration", Article 2, "Elections", Section 2-202, "Distribution of Absentee Ballots", Section 2-203, "Procedures of Absentee Voting", and Section 2-204, "Canvassing of Absentee Ballots" were adopted by the Mayor and Council to provide for voting by absentee ballot in Town elections; and

**WHEREAS**, pursuant to §4-108 of the Local Government Article, Annotated Code of Maryland, the Town is prohibited from requiring an individual to provide a reason that the individual will be unable to vote in person on election day in order to vote by absentee ballot; and

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CAPS	: Indicate matter added to existing law.
[Brackets]	: Indicate matter deleted from law.
Asterisks * * *	: Indicate matter remaining unchanged in existing law but not set forth in Ordinance.
CAPS	: Indicate matter added in amendment
[Brackets]	: Indicate matter deleted in amendment

**WHEREAS**, Maryland law prohibits removing a registered voter from the vote list merely for the failure to vote; and

**WHEREAS**, the Mayor and Council have determined that it is in the public interest and required by State law to delete the provisions in Sections 2-202, 2-203 and 2-204 that reference any requirement that a voter provide a reason for voting by absentee ballot and to delete the provision in Section 2-102 allowing removal of persons from the voter list if that person has not voted in the past five years.

**Section 1.** **NOW THEREFORE, BE IT ORDAINED AND ENACTED**, by the Mayor and Council of the Town of Kensington, Maryland that Chapter 2, "Government and Administration", Article 2, "Elections", Section 2-201, "General Voter Registration," of the Code of the Town of Kensington be, and is hereby, repealed and re-enacted with amendments to read as follows:

Section 2-201. General Voter Registration

(a) – (e) \* \* \* \* \*

(f) The Board of Supervisors of Elections shall review the books of registration prior to the second Monday in May preceding the next Town election for removal of any person who has died, who has moved out of Town, ~~[who has not voted in at least one Town election within the five preceding calendar years,]~~ or who is otherwise legally disqualified. The Board of Supervisors of Elections shall report, in writing to the Town Council the names of all persons whose registrations are withdrawn and the reasons therefor. All questions arising in connection with the registration or withdrawal of registration of any person shall be determined and decided as provided in Section 707 of the Town Charter.

(g) – (h) \* \* \* \* \*

Section 2. **BE IT FURTHER ORDAINED AND ENACTED**, by the Mayor and Council of the Town of Kensington, Maryland that Chapter 2, "Government and Administration", Article 2,

"Elections", Section 2-202, "Distribution of Absentee Ballots," of the Code of the Town of Kensington be, and is hereby, repealed and re-enacted with amendments to read as follows:

Section 2-202 Distribution of Absentee Ballots

(a) Any qualified and registered voter may apply in writing or in person to the Clerk-Treasurer or Board of Supervisors of Elections for an absentee ballot ~~[if he or she can not be present at any upcoming Town election]~~.

(b) If an applicant appears to be eligible to vote as an absentee voter, the Clerk- Treasurer shall, as soon as practicable, deliver to him or her at the place so designated by the applicant, an absentee ballot and envelopes therefor, as hereinafter described in Subsection (f) below. If it appears that the applicant is not eligible to vote as an absentee voter, the Clerk-Treasurer shall, as soon as practicable, so notify the applicant.

(c) The Clerk-Treasurer shall deliver with each ballot and envelope instructions clearly explaining the manner in which the recipient may vote as an absentee voter under the provisions of this Article.

(d) The Clerk-Treasurer shall keep a record of applications for absentee ballots as they are received, showing the date received, the names and residences of the applicants, and places where such ballots were delivered, and, if any such applicants were rejected, the reasons for such rejections. Such applications and records shall be available for public examination for a period of six months after the election. The individual record of each voter to whom an absentee ballot was delivered shall be marked to indicate the fact that an absentee ballot was delivered to the applicant and the date of such delivery. Only those voters to whom absentee ballots have been delivered shall be permitted to use such ballots. No voter to whom an absentee ballot has been delivered shall be allowed to vote in person at the polls at the election, except as provided in Section 2-203 (c) of this Article.

(e) No more than one absentee ballot shall be delivered to any one applicant unless the Clerk-Treasurer has reasonable grounds to believe that the absentee ballot previously delivered has been lost, destroyed or spoiled.

(f) The form of ballots and envelopes for absentee voters shall be as follows:

(1) The ballots shall contain the words "absentee ballot" in large letters in a clear space at the top of each ballot and the signature of the Clerk-Treasurer.

(2) The following shall be delivered to the absentee voter:

(i) An envelope marked "Ballot Envelope" of sufficient size to contain the absentee ballot

(ii) Another envelope, hereinafter referred to as the "Outer Envelope", of sufficient size to contain the Ballot Envelope; **AND (III) OATH OF ABSENTEE VOTER AS FOLLOWS:**

I, \_\_\_\_\_, DO HEREBY SWEAR (OR AFFIRM) THAT I AM A VOTER LEGALLY QUALIFIED TO VOTE IN THE TOWN OF KENSINGTON'S ELECTION TO BE HELD ON \_\_\_\_\_; THAT I AM LEGALLY REGISTERED TO VOTE IN THE TOWN OF KENSINGTON; THAT THE WITHIN BALLOT WAS MARKED SECRETLY, FOLDED, ENCLOSED AND SEALED IN THE ENCLOSED BALLOT ENVELOPE; THAT I AM NOT PRESENTLY DISQUALIFIED FROM VOTING UNDER THE LAWS OF THE STATE OF MARYLAND OR THE TOWN OF KENSINGTON.

~~"I, \_\_\_\_\_, do hereby swear (or affirm) under penalty of perjury that I am legally qualified to vote in the Town of Kensington's election to be held on \_\_\_\_\_; that I will be unable to vote in person on the day of such election because \_\_\_\_\_ as stated in my application for the enclosed ballot; that the enclosed ballot was marked secretly, folded and enclosed and sealed in the enclosed Ballot Envelope and in this envelope; and that I am now disqualified from voting in person in the Town election."~~

~~\_\_\_\_\_~~  
(Signature of absentee voter)]

**Commented [A1]:** Added at the request of the Town Council, as an Amendment, during the Public Hearing on February 8, 2021.

**Section 3. BE IT FURTHER ORDAINED AND ENACTED** by the Mayor and Council of the Town of Kensington that Chapter 2, "Government and Administration", Article 2, "Elections", Section 2-203, " Procedures of Absentee Voting " of the Code of the Town of Kensington be, and is hereby, repealed and re-enacted with amendments to read as follows:

Section 2-203. Procedures of Absentee Voting

(a) The procedure for absentee voting is as follows: The absentee voter shall mark the absentee ballot, insert it in the Ballot Envelope and then seal this envelope. The voter shall then insert this envelope, **TOGETHER WITH A COMPLETED AND SIGNED OATH** into the outer envelope, and then seal this envelope. The voter shall then deliver the foregoing to the Clerk-Treasurer or the Board of Supervisors of Elections on or before the close of the polls on Election Day.

(b) No absentee ballots actually received by the Clerk-Treasurer or the Board of Supervisors of Elections after the close of the polls shall be valid.

(c) Any person to whom an absentee ballot has been delivered who has not returned said ballot as provided in Subsection (a) above and who ~~[finds that he or she is able]~~ DECIDES to vote in person at the polls on Election Day, may vote in such election if ~~[he or she delivers their]~~ THEIR unmarked absentee ballot, together with both the Ballot Envelope and the Outer Envelope, IS RETURNED to the Board of Supervisors of Elections prior to the close of the polls. The Board of Supervisors of Elections shall clearly mark each of such materials "void" and shall enter in the appropriate register the fact that such materials have been returned but not used.

**Section 4.** BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the Town of Kensington that Chapter 2, "Government and Administration", Article 2, "Elections, Section 2-204, "Canvassing of Absentee Ballots", of the Code of the Town of Kensington be, and is hereby, repealed and re-enacted with amendments to read as follows:

Section 2-204 Canvassing of Absentee Ballots

The procedure for the canvassing of ballots shall be as follows:

(a) The Clerk-Treasurer shall deliver all sealed Outer Envelopes received to the Board of Supervisors of Elections. No sealed Outer Envelopes shall be opened at any time prior to the canvassing of the absentee ballots.

(b) When an Outer Envelope is opened, the Board of Supervisors of Elections shall conclusively determine whether or not the person who has submitted the absentee ballot is a qualified, registered voter in the Town to whom an absentee ballot was delivered under this Article, **HAS PROPERLY COMPLETED THE OATH SPECIFIED IN SECTION 2-202 (F) (2) (III) ABOVE,** and has not voted in person at the election. The Board of Supervisors of Elections shall then enter in the appropriate register the fact that the voter **WHOSE NAME APPEARS ON THE OATH** has voted by absentee ballot. They shall thereafter separately open the Ballot Envelopes in such a manner that they are unable to match the name of the absentee voters with the particular absentee ballots that have been submitted. The Board of Supervisors of Elections shall then proceed to count and certify the absentee ballots.

(c) The Ballot Envelopes found to be invalid by the Board of Supervisors of Elections shall not be opened. The Board of Supervisors of Elections shall keep a record of all absentee ballots

which have been rejected and the reason for each such rejection. Such record, and envelopes **AND OATHS** described in Section 2-202 of this Article, shall be available for public inspection at the Town office for a period of six months after the election.

(d) Whenever the Board of Supervisors of Elections shall determine from proof or investigation that any person who has marked and delivered to the Clerk-Treasurer or Board of Supervisors of Elections an absentee ballot has died before Election Day, said Board of Supervisors of Elections shall not count the ballot of the deceased voter. If at or prior to the time of such counting and canvassing the Board of Supervisors of Elections shall not have determined that the absentee resident who marked a ballot had died before Election Day, said ballot shall be counted. The fact that said absentee resident may later be shown to have been actually dead on Election Day shall not invalidate said ballot or said election.

(e) For the purpose hereof the term “deliver” shall mean delivery by mail or by any other means.

**Section 5.** BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the Town of Kensington that upon formal introduction of this proposed Ordinance, the Town Clerk shall distribute a copy to each Council member and shall maintain a reasonable number of copies in the office of the Town Clerk. The proposed ordinance or a fair summary thereof together with a notice setting out the time and place for a public hearing thereon and for its consideration by the Council, shall be:

- a. Posted at the town hall by the next business day;
- b. Posted on the official town website;
- c. Sent to those persons listed on the official town email list /mail subscription service; and
- d. Published once prior to the public hearing in the town newsletter or sent by substitute regular mail to newsletter circulation addresses.

The public hearing shall be held at least fifteen (15) days after introduction and may be held separately or in connection with a regular or special council meeting and may be adjourned from time to time. All persons interested shall have an opportunity to be heard. This

Ordinance shall become effective on \_\_\_\_\_ provided that the ordinance or a fair summary thereof is:

- a. Posted at the town hall by the next business day for at least two (2) weeks;
- b. Posted on the official town website;
- c. Sent to those persons listed on the official town email list /mail subscription service;
- and
- d. Published once in the town newsletter.

**INTRODUCED** by the Mayor and Council of the Town of Kensington, Maryland at a public meeting assembled on the \_\_\_\_ day of \_\_\_\_\_ 2021.

**ADOPTED** by the Mayor and Council of the Town of Kensington, Maryland at a public meeting assembled on the \_\_\_\_ day of \_\_\_\_\_ 2021.

**EFFECTIVE** the \_\_\_\_ day of \_\_\_\_\_, 2021.

**ATTEST:**

**TOWN OF KENSINGTON**

By: \_\_\_\_\_  
Susan Engels, Clerk-Treasurer

By: \_\_\_\_\_  
Tracey Furman, Mayor

**APPROVED AS TO FORM AND LEGAL  
SUFFICIENCY:**

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Suellen M. Ferguson, Town Attorney



**Budget Ordinance No. O-02-2021****Introduced: March 8, 2021****Adopted:**

AN ORDINANCE TO APPROPRIATE AND ADOPT THE FISCAL YEAR 2021 – 2022 (FY22) BUDGET AND TO LEVY A TAX ON CERTAIN REAL AND PERSONAL PROPERTY UNDER THE PROVISIONS OF §6-203 OF THE TAX-PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND, AS AMENDED.

WHEREAS, §5-205 *et seq.* of the Local Government Article, Annotated Code of Maryland, authorizes the Mayor and Town Council to provide for the control and management of its finances and expend money for any public purpose and for the safety, health, and general welfare of the Town and its occupants; and

WHEREAS, §6-203 of the Tax-Property Article, of the Annotated Code of Maryland (as amended), grants authority to municipal corporations to levy a tax on personal property, land, and improvements thereon, within the municipal corporation; and

WHEREAS, Article VIII, “Finance”, Section 801, “Fiscal Year”, of the Town Charter states that the Fiscal Year of the Town shall begin on July 1, 2021 and end on June 30, 2022; and

WHEREAS, Section 802, “Proposed Budget”, of the Town Charter states that the Town Manager shall submit to the Council prior to the third Monday in April, a Budget of anticipated revenues, proposed operating expenditures, and proposed capital project expenditures, along with a written financial plan for the succeeding fiscal year; and

WHEREAS, Section 803, “Adoption”, of the Town Charter states that prior to adopting the Budget, the Council shall hold a public hearing following due notice and a favorable vote of at least a majority of the total elected membership of the Council shall be necessary for adoption.

NOW THEREFORE, the Mayor and Town Council of Kensington does hereby adopt the following Budget Ordinance:

AN ORDINANCE TO APPROPRIATE AND ADOPT THE FISCAL YEAR 2021 – 2022 (FY22) BUDGET AND TO LEVY A TAX ON CERTAIN REAL AND PERSONAL PROPERTY UNDER THE PROVISIONS OF §6-203 OF THE TAX-PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND, AS AMENDED.

FY22 Budget - Town of Kensington					
<b>ANTICIPATED REVENUE</b>					
	General Property Taxes		\$	1,358,323	
	Other Taxes		\$	680,250	
	Licenses & Permits		\$	48,143	
	Intergovernmental Revenues		\$	256,648	
	Fines & Fees		\$	2,000	
	Miscellaneous Revenue		\$	45,500	
	Grants - County & State		\$	-	
<b>TOTAL ANTICIPATED REVENUE</b>					<b>\$2,390,864</b>
	Re-Appropriation		\$	710,906	
<b>TOTAL ANTICIPATED FUNDS AVAILABLE</b>					<b>\$3,101,770</b>
<b>PROPOSED EXPENDITURES</b>					
	General Government		\$	1,141,708	
	Public Works		\$	882,773	
	Public Safety		\$	294,857	
	Parks & Recreation		\$	115,600	
	Non-Departmental		\$	10,000	
					<b>\$2,444,938</b>
	Capital Improvement Budget		\$	656,832	
<b>TOTAL PROPOSED EXPENDITURES</b>					<b>\$3,101,770</b>

#### SECTION 1:

BE IT ORDAINED AND ORDERED this \_\_\_\_\_ day of May, 2021, by the Kensington Town Council, acting under and by virtue of the authority granted to it by §5-205 *et seq.* of the Local Government Article, Annotated Code of Maryland, and Article VIII of the Kensington Town Charter, that the budget for Fiscal Year July 1, 2021 through June 30, 2022, attached hereto and incorporated herein by reference, be and the same hereby is appropriated and adopted.

#### SECTION 2:

AND BE IT FURTHER ORDAINED AND ORDERED, this \_\_\_\_\_ day of May, 2021, by the Kensington Town Council, acting under the virtue of the authority granted to it by §6-203 of the Tax-Property Article, of the Annotated Code of Maryland (as amended), and Article VIII of the Kensington Town Charter, hereby levies a tax at the rate of One thousand, three hundred twelve ten-thousandths

cents (**\$0.1312**) per One Hundred Dollars of full value assessment on all taxable real property located within the corporate limits of the Town of Kensington.

### **SECTION 3:**

AND BE IT FURTHER ORDAINED AND ORDERED, this \_\_\_\_\_ day of May, 2021, by the Kensington Town Council, acting under the virtue of the authority granted to it by §6-203 of the Tax-Property Article, of the Annotated Code of Maryland (as amended), and Article VIII of the Kensington Town Charter, hereby levies a tax at the rate of eighty cents (**\$0.80**) per One Hundred Dollars of full value assessment on all taxable personal property located within the corporate limits of the Town of Kensington.

### **SECTION 4:**

AND BE IT FURTHER ORDAINED AND ORDERED, this \_\_\_\_\_ day of May, 2021, by the Kensington Town Council, acting under the virtue of the authority granted to it by §8-101 of the Tax-Property Article of the Annotated Code of Maryland (as amended), and Article VIII of the Kensington Town Charter, hereby levies a tax at the rate of five dollars (**\$5.00**) per One Hundred Dollars of full value assessment on all taxable personal property set forth by §8-101 of the Tax-Property Article, of the Annotated Code of Maryland (as amended):

1. Operating personal property of a railroad;
2. Operating personal property of a public utility that is machinery or equipment used to generate electricity or steam for sale;
3. All other operating personal property of a public utility; and
4. Machinery and equipment, other than operating personal property of a public utility, that is used to generate electricity or steam for sale or hot or chilled water for sale that is used to heat or cool a building.

### **SECTION 5:**

AND BE IT FURTHER ORDAINED AND ORDERED, this \_\_\_\_\_ day of May, 2021, by the Kensington Town Council, hereby adopts the imposition of a full-year, one-half year, three-quarter year, and one-quarter year tax levies, authorized pursuant to §10-102, 10-103, 10-104, and 10-105 of the Tax-Property Article of the Annotated Code of Maryland (as amended), and authorizes and empowers Montgomery County, Maryland, to collect and remit the same to the Town of Kensington, consistent with the imposition and collection of such levies on real property by Montgomery County.

AND BE IT FURTHER ORDAINED AND ORDERED, this \_\_\_\_\_ day of May, 2021, by the Kensington Town Council that the transfer of funds by Resolution within the Operating and Capital Improvements Budget may occur.

AND BE IT FURTHER ORDAINED AND ORDERED, this \_\_\_\_\_ day of May, 2021, by the Kensington Town Council, acting under and by virtue of the authority granted to it by §5-201 *et seq.* of the Local Government Article, Annotated Code of Maryland, and Article VI, “Powers of the Council”, Section 601, “General Powers” of the Town Charter that:

(1) If any part of provision of this ordinance is declared by a court of competent jurisdiction to be invalid, the part of provision held to be invalid shall not affect the validity of the ordinance as a whole or any remaining part thereof; and

(2) This ordinance shall take effect on the 1st day of July, 2021, provided the following:

(a) Posted at Town Hall by the next business day following introduction; and

(b) Posted on the official Town website; and

(c) Sent to those persons listed on the official Town email list/mail subscription service; and

(d) Published once prior to the public hearing in the Town newsletter or sent by substitute regular mail to newsletter circulation addresses.

**INTRODUCED** by the Mayor and Town Council of Kensington, Maryland at the regular public meeting assembled on the 8th day of March, 2021.

**ADOPTED** by the Mayor and Town Council of Kensington, Maryland at the regular public meeting assembled on the \_\_\_\_\_ day of May, 2021.

**EFFECTIVE** the 1st day of July, 2021.

**TOWN OF KENSINGTON**

**BUDGET DETAILS**

PROPOSED BUDGET 2021-22	Adopted Budget 2020-21	Actuals 2/28/2021	Projected 6/30/2021
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**REVENUE FUND**

GENERAL PROPERTY TAXES

Rates

Real Property Tax	0.1312	<b>808,372</b>	792,594	763,935	792,594
Personal Property Tax - Utilities	5.0000	<b>426,134</b>	432,983	108,174	432,983
Personal Property Tax - Business	0.8000	<b>123,818</b>	120,084	58,319	120,084
<b>SUBTOTAL</b>		<b>\$1,358,323</b>	<b>\$1,345,661</b>	<b>\$930,428</b>	<b>\$1,345,661</b>

OTHER TAXES

Income Taxes		<b>680,000</b>	668,825	545,263	802,976
Admissions and Amusements Tax		<b>250</b>	250	127	253
<b>SUBTOTAL</b>		<b>\$680,250</b>	<b>\$669,075</b>	<b>\$545,389</b>	<b>\$803,230</b>

LICENSES & PERMITS

Town Building and Sign Permits		<b>12,000</b>	12,000	36,811	38,000
Parking Permits		<b>4,950</b>	6,000	5,233	5,400
Cable Franchise Fees		<b>25,593</b>	27,558	6,735	26,940
Traders' Licenses		<b>5,600</b>	9,000	2,357	6,000
<b>SUBTOTAL</b>		<b>\$48,143</b>	<b>\$54,558</b>	<b>\$51,136</b>	<b>\$76,340</b>

INTERGOVERNMENTAL REVENUE

County Tax Duplication		<b>156,809</b>	176,213	156,809	156,809
Highway User Funds		<b>95,613</b>	105,069	28,140	95,009
Bank Shares		<b>4,226</b>	4,226	4,226	4,226
<b>SUBTOTAL</b>		<b>\$256,648</b>	<b>\$285,508</b>	<b>\$189,176</b>	<b>\$256,044</b>

FINES AND FEES

SafeSpeed Camera Program		<b>1,000</b>	3,000	0	0
Parking & Municipal Infractions		<b>1,000</b>	1,000	1,080	1,500
<b>SUBTOTAL</b>		<b>\$2,000</b>	<b>\$4,000</b>	<b>\$1,080</b>	<b>\$1,500</b>

OTHER

Town Hall Rentals		<b>15,000</b>	30,000	0	0
Park Rentals		<b>2,500</b>	2,500	2,480	2,480
Municipal Events		<b>13,500</b>	13,500	5,501	7,000
Interest		<b>10,000</b>	30,000	6,575	6,575
Miscellaneous		<b>4,500</b>	5,400	3,847	4,500
<b>SUBTOTAL</b>		<b>\$45,500</b>	<b>\$81,400</b>	<b>\$18,403</b>	<b>\$20,555</b>

GRANTS

	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>TOTAL REVENUE</b>	<b>\$2,390,864</b>	<b>\$2,440,202</b>	<b>\$1,735,612</b>	<b>\$2,503,330</b>
<b>UNAPPROPRIATED SURPLUS</b>	<b>710,906</b>	<b>662,726</b>		
<b>TOTAL REVENUE INCLUDING UNAPPROPRIATED SURPLUS</b>	<b>\$3,101,770</b>	<b>\$3,102,928</b>	<b>\$1,735,612</b>	<b>\$2,503,330</b>

EXPENDITURES

GENERAL GOVERNMENT

PERSONNEL SERVICES

Salaries & Wages		<b>501,993</b>	501,132	231,248	355,551
Social Security, Medicare, Unemployment Taxes		<b>38,533</b>	37,498	16,933	26,442
Workers Compensation Insurance		<b>4,936</b>	4,934	4,569	4,569
Health, Life, and Employee Benefits		<b>63,059</b>	61,201	24,982	37,066
Retirement - 401 (A) Money Purchase Plan		<b>40,902</b>	40,911	19,980	30,933
<b>SUBTOTAL</b>		<b>\$649,423</b>	<b>\$645,675</b>	<b>\$297,712</b>	<b>\$454,561</b>

OPERATING EXPENSES

ELECTED OFFICIALS

Mayor and Council Compensation		<b>24,000</b>	24,000	12,500	21,000
Mayor and Council Legislative, Education, Travel		<b>15,200</b>	15,200	962	3,145
<b>SUBTOTAL</b>		<b>\$39,200</b>	<b>\$39,200</b>	<b>\$13,462</b>	<b>\$24,145</b>

PROFESSIONAL SERVICES

Town Attorney		<b>50,000</b>	50,000	7,771	18,321
Audit		<b>13,000</b>	10,700	10,700	10,700
Other Professional Services		<b>71,250</b>	53,800	15,369	35,087

**TOWN OF KENSINGTON**

**BUDGET DETAILS**

	PROPOSED BUDGET 2021-22	Adopted Budget 2020-21	Actuals 2/28/2021	Projected 6/30/2021
SUBTOTAL	\$134,250	\$114,500	\$33,839	\$64,108
TOWN GOVERNMENT OPERATIONS				
Town Hall Maintenance	47,200	45,700	18,604	34,091
Town Hall Utilities	41,000	41,000	15,740	31,398
Town Hall Equipment	6,000	6,000	270	6,000
Economic Development & Commercial Revitalization	147,000	120,000	42,537	49,562
Office Expenses	34,850	28,350	13,746	25,155
Office Equipment/Furniture	2,000	2,000	1,149	1,149
Insurance	21,000	21,000	14,679	14,679
Municipal Dues, Memberships and Fees	10,285	10,485	9,281	9,281
Conferences, Training, & Travel	6,500	6,500	0	0
Miscellaneous	3,000	3,000	50	3,000
SUBTOTAL	\$318,835	\$284,035	\$116,056	\$174,315
TOTAL GENERAL GOVERNMENT EXPENSES	\$1,141,708	\$1,083,410	\$461,070	\$717,129
EXPENDITURES				
PUBLIC WORKS				
PERSONNEL SERVICES				
Salaries & Wages	341,878	341,878	170,565	258,152
Social Security, Medicare, Unemployment Taxes	26,097	25,290	13,242	19,942
Workers Compensation Insurance	16,972	16,972	7,454	16,972
Health, Life, and Employee Benefits	71,098	68,989	44,215	66,551
Retirement - 401 (A) Money Purchase Plan	27,743	27,743	16,242	25,000
SUBTOTAL	\$483,788	\$480,871	\$251,718	\$386,618
OPERATING EXPENSES				
OPERATING SUPPLIES				
Conferences, Training, and Travel	500	500	0	0
Drug Testing	1,000	1,000	0	0
Uniforms, Gloves, Vests, Boots, and Shirts	3,000	3,000	1,026	3,000
Small Equipment Purchases	12,000	12,000	208	12,000
Vehicle Fuel Expenses	8,000	8,000	3,143	6,287
Small Equipment Maintenance and Repairs	3,500	3,500	882	3,500
Vehicle Repairs	20,000	20,000	8,116	20,000
Shop Supplies and Tools	3,000	3,000	893	3,000
Miscellaneous	1,000	1,000	293	1,000
SUBTOTAL	\$52,000	\$52,000	\$14,562	\$48,787
TRASH, BRUSH, RECYCLING, AND LEAF COLLECTION				
Trash, Brush, and Recycling Collection	165,785	164,720	92,373	158,835
Leaf Collection and Other Disposal Fees	18,000	18,000	10,397	16,840
SUBTOTAL	\$183,785	\$182,720	\$102,770	\$175,675
INFRASTRUCTURE				
Street Sweeping	8,000	8,000	0	4,000
Street Maintenance	20,000	24,000	3,747	12,000
Snow Removal	8,500	8,500	0	5,000
Sidewalk Repair	12,000	12,000	0	12,000
Storm Drain Maintenance	6,000	6,000	10,700	10,700
Landscaping Vegetation Management	25,000	25,000	3,245	25,000
Landscaping Street Trees Maintenance and Planting	75,000	75,000	32,015	75,000
Garage Maintenance, Miscellaneous & Utilities	8,700	13,700	1,328	5,700
SUBTOTAL	\$163,200	\$172,200	\$51,035	\$149,400
TOTAL PUBLIC WORKS EXPENSES	\$882,773	\$887,791	\$420,084	\$760,479
PUBLIC SAFETY				
PERSONNEL SERVICES				
Salaries & Wages	180,715	152,307	82,580	130,382
Social Security, Medicare, Unemployment Taxes	13,764	11,429	6,373	10,030
Workers Compensation Insurance	11,307	9,347	7,073	9,347
Health, Life, and Employee Benefits	10,273	10,053	6,285	9,311

## TOWN OF KENSINGTON

## BUDGET DETAILS

	PROPOSED BUDGET 2021-22	Adopted Budget 2020-21	Actuals 2/28/2021	Projected 6/30/2021
Retirement - 401 (A) Money Purchase Plan	5,298	5,298	3,192	4,959
SUBTOTAL	\$221,357	\$188,434	\$105,503	\$164,029

## OPERATING SUPPLIES &amp; SERVICES

## PUBLIC UTILITIES AND PROFESSIONAL SERVICES

Parking Lot Lighting (Metropolitan)	2,000	2,000	549	2,000
Public Street Lighting	56,000	56,000	26,962	46,220
Traffic Control & Engineering	12,000	12,000	6,071	12,000
Miscellaneous	3,500	2,000	0	2,000
SUBTOTAL	\$73,500	\$72,000	\$33,582	\$62,220
TOTAL PUBLIC SAFETY EXPENSES	\$294,857	\$260,434	\$139,085	\$226,249

## PARKS &amp; RECREATION

## FACILITIES AND PUBLIC UTILITIES

Park Utilities	3,100	1,750	1,497	1,750
SUBTOTAL	\$3,100	\$1,750	\$1,497	\$1,750

## OPERATING SUPPLIES AND PROFESSIONAL SERVICES

Small Equipment Maintenance and Repairs	10,000	5,000	7,943	7,943
Equipment Purchases	8,000	10,000	5,265	7,000
Landscape Architecture Services	3,000	3,000	0	3,000
Miscellaneous	1,000	1,000	0	0
SUBTOTAL	\$22,000	\$19,000	\$13,208	\$17,943

## LANDSCAPING

Landscaping and Vegetation Management	15,000	5,000	5,605	5,605
Parks and Town Hall Landscaping	25,000	25,000	7,917	24,395
SUBTOTAL	\$40,000	\$30,000	\$13,522	\$30,000

## TOWN MUNICIPAL EVENTS

Municipal Events - Labor Day Parade and Festival	29,500	29,500	2,900	2,900
Municipal Events - Other Municipal Events	21,000	21,000	550	550
SUBTOTAL	\$50,500	\$50,500	\$3,450	\$3,450
TOTAL PARKS RECREATION EXPENSES	\$115,600	\$101,250	\$31,677	\$53,143

## NON DEPARTMENTAL

Contingency	10,000	10,000	0	0
TOTAL NON DEPARTMENTAL EXPENSES	\$10,000	\$10,000	\$0	\$0

TOTAL OPERATING BUDGET	\$2,444,938	\$2,342,885	\$1,051,915	\$1,757,001
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CAPITAL IMPROVEMENTS PROGRAM	\$656,832	\$760,043	\$180,176	\$760,043
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TOTAL CIP BUDGET APPROPRIATIONS	\$656,832	\$760,043	\$180,176	\$760,043
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TOTAL OPERATING & CIP EXPENDITURES	\$3,101,770	\$3,102,928	\$1,232,091	\$2,517,044
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**Resolution No. R-02-2021**

Adopted:

**A Resolution of the Town Council of Kensington to grant a parking area Variance for 10311 Summit Avenue.**

**WHEREAS**, an application for a front plane parking area has been filed by Kevin and Kristi Jones, (“Applicants”), for certain real property located at 10311 Summit Avenue (“the property”); and

**WHEREAS**, the purpose of the Variance is to allow the installation of a 190 square foot parking area, adjacent to the existing driveway, within the front plane of the property, as regulated within Section 5-107 of the Town Code; and

**WHEREAS**, the Town Council may grant a petition for a Variance after a hearing when the Council finds that:

1. Strict application of the Town regulations would result in peculiar and unusual practical difficulties to, or exceptional or undue hardship, upon the owner of the property;
2. The variance is the minimum reasonably necessary to overcome any exceptional conditions; and
3. The variance can be granted without substantial impairment of the intent, purpose, and integrity of this article.

**WHEREAS**, the Mayor and Council, conducted a Public Hearing on the Variance request on February 8, 2021, at a public meeting, after due notice to the public and to the adjacent neighbors, and received testimony on the requested Variance. The Council closed the record following the Public Hearing.

**NOW, THEREFORE, BE IT RESOLVED** that the Council of the Town of Kensington, based on the testimony presented at the Public Hearing on February 8, 2021, and evidence submitted, adopts the following findings of fact and conclusions of law:

**Findings of Fact:**

1. Kevin and Kristi Jones (“Applicants”), are the owners of 10311 Summit Avenue in Kensington, Maryland, which is zoned single family residential (“the Property”).
2. The property has an existing driveway which is 11’x47’ (517 square feet), of which 275 square feet are located within the front plane of the property.
3. The Town allows a maximum of 35 percent surface parking area within the front plane of a residential property; the property would have an allowance of 438 square feet of surface parking within the front plane.



4. The proposed parking area ("Parking Pad") would add an additional 190 square feet to the surface parking area at the property for coverage of 37 percent.
5. The Montgomery County Department of Transportation restricts street parking along the east side of Summit Avenue between 4:00 pm – 6:00 pm, Monday – Friday.
6. The Applicants wish to construct the parking pad to help with egress/ingress related to traffic volume issues, along with parking restrictions, along Summit Avenue.

**Conclusions of Law:**

1. Strict application of Town regulations would result in undue hardship considering the traffic volumes and parking restrictions along Summit Avenue.
2. The proposed Variance is the minimum necessary to overcome the unique condition of the hardship by allowing a three-point-turn and removing a vehicle from parking along Summit Avenue.
3. The Variance can be granted without impairment of the intent, purpose, and integrity of this article.

**BE IT FURTHER RESOLVED THAT** the additional 190 square feet of surface parking area at the property at 10311 Summit Avenue be and it is hereby granted.

**ADOPTED** by the Town Council of Kensington, Maryland at the regular public meeting assembled on the \_\_\_\_ day of March, 2021.

**EFFECTIVE** the \_\_\_\_ day of March, 2021.

**ATTEST: TOWN OF KENSINGTON, MARYLAND**

By: \_\_\_\_\_  
Susan C. Engels, Clerk – Treasurer

\_\_\_\_\_  
Tracey C. Furman, Mayor

**Resolution No. R-03-2021**

Adopted:

**A Resolution of the Kensington Town Council Confirming Appointments Made by the Mayor to the Board of Supervisors of Elections.**

**WHEREAS**, Article VII, "Registration, Nominations and Elections", Section 702, "Board of Supervisors of Elections", of the Town Charter, requires that there shall be a Board of Supervisors of Elections, consisting of three (3) members who shall be appointed by the Mayor with the approval of the Council on or before the first Monday in April; and

**WHEREAS**, the term of members of the Board of Supervisors of Elections shall begin on the first Monday in April in the year in which they are appointed and shall run for one (1) year; and

**WHEREAS**, members of the Board of Supervisors of Elections shall be qualified voters of the Town and shall not hold or be candidates for any elective office during their terms of office; and

**WHEREAS**, the Board shall appoint one of its members as Chairperson.

**NOW, THEREFORE, BE IT RESOLVED** by the Kensington Town Council that the following appointments by the Mayor are confirmed as follows:

Martha Deale	3941 Washington Street	One Year Term Expires	3-31-2022
Spencer Harrill	3810 Warner Street	One Year Term Expires	3-31-2022
Jennifer Smith	10537 St. Paul Street	One Year Term Expires	3-31-2022

**ADOPTED** by the Town Council of Kensington, Maryland at the regular public meeting assembled on the \_\_\_\_ day of March, 2021.

**EFFECTIVE** the \_\_\_\_ day of March, 2021.

**ATTEST: TOWN OF KENSINGTON, MARYLAND**

By: \_\_\_\_\_  
Susan C. Engels, Clerk – Treasurer

\_\_\_\_\_  
Tracey C. Furman, Mayor

**Resolution No. R-04-2021**

Adopted:

**A Resolution of the Kensington Town Council Confirming  
Appointments Made by the Mayor to the Town Ethics Commission.**

**WHEREAS**, Chapter II, "Government and Administration", Article 3, "Public Ethics", Section 2-304, "Ethics Commission", of the Town Code requires that there shall be a Town Ethics Commission consisting of three (3) members who shall be appointed by the Mayor, with the approval of the Council, on or before the first Monday in April; and

**WHEREAS**, the terms of members of the Town Ethics Commission shall begin on the first Monday in April in the year in which they are appointed and shall run for two (2) years with staggered terms; and

**WHEREAS**, the Town Code provides that vacancies on the Commission shall be filled by the Mayor with the approval of the Council for the remainder of the unexpired term; and

**WHEREAS**, the members of the Town Ethics Commission shall be qualified voters of the Town and shall not hold or be candidates for any elective office during their terms of office, nor be employees of the Town; and

**NOW, THEREFORE, BE IT RESOLVED** by the Kensington Town Council that the following appointments by the Mayor are confirmed as follows:

David Beaudet	3506 Farragut Avenue	Two Year Term Expires	4-01-2023
Tina Sherman	3515 Perry Avenue	Two Year Term Expires	4-01-2023

**NOW, THEREFORE, BE IT FURTHER RESOLVED** by the Kensington Town Council that the following term(s) continue as follows:

John "Jack" Gaffey, Jr.	10105 Frederick Avenue	Two Year Term Expires	4-01-2022
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**ADOPTED** by the Town Council of Kensington, Maryland at the regular public meeting assembled on the \_\_\_\_ day of March, 2021.

**EFFECTIVE** the \_\_\_\_ day of March, 2021.

**ATTEST: TOWN OF KENSINGTON, MARYLAND**

By: \_\_\_\_\_  
Susan C. Engels, Clerk – Treasurer

\_\_\_\_\_  
Tracey C. Furman, Mayor

**Resolution No. R-05-2021**

Adopted:

**A Resolution of the Mayor and Council of the Town of Kensington Authorizing and Ratifying a Contract with Greene Hurlocker, PLC for Legal Services.**

**Whereas**, it is in the public interest for the Mayor and Council to ensure that street lighting in the Town is adequate and efficient, that the charges for electric service are reasonable and that any plan for replacement of the lights will provide service that is at least equivalent to current service in terms of price appearance, output, glare shielding, color temperature, and distribution; and

**Whereas**, the Potomac Electric Power Company ("PEPCO") has filed a multi-year rate case in Case No. 9655 before the Maryland Public Service Commission, proposing to replace existing service with LED replacement lights; and

**Whereas**, the Mayor and Council have determined to become a party in the said Pepco's rate case to protect the interest of the Town and its residents; and

**Whereas**, the Mayor and Council wish to authorize and ratify a contract for the retention of the law firm of GreeneHurlocker to represent the Town in the rate case, on the terms and conditions as set out in attached Exhibit A; and

**Whereas**, the Mayor and Council may, pursuant to Section 2-405 of the Town Code, approve a contract for professional services by an extra-majority vote.

**Now Therefore Be It Resolved** by the Mayor and Council of Town of Kensington that a contract for legal services in Case No. 9655 before the Maryland Public Service Commission in the form attached as Exhibit A be and it is hereby approved and ratified.

**ADOPTED** by an extra-majority the Town Council of Kensington, Maryland at the regular public meeting assembled on the \_\_\_\_ day of March, 2021.

**EFFECTIVE** the \_\_\_\_ day of March, 2021.

**ATTEST: TOWN OF KENSINGTON, MARYLAND**

By: \_\_\_\_\_  
Susan C. Engels, Clerk – Treasurer

\_\_\_\_\_  
Tracey C. Furman, Mayor



# GreeneHurlocker

Attorneys at Law

Brian R. Greene  
[BGreene@GreeneHurlocker.com](mailto:BGreene@GreeneHurlocker.com)  
Direct Dial: 804.672.4542

February 19, 2021

***PRIVILEGED AND CONFIDENTIAL***

**BY E-MAIL ONLY**

**Re: Representation by GreeneHurlocker, PLC**

Dear Mayor Furman:

This letter follows up my communications with Matt Hoffman and Bridget Hill-Zayat regarding the Town of Kensington's ("Town") need for legal counsel in Pepco's multi-year rate case in Case No. 9655 before the Maryland Public Service Commission. The purpose of this letter is to set forth the terms upon which GreeneHurlocker, PLC (the "firm") agrees to provide legal services to the Town in this engagement and possibly other matters under the terms set forth herein. We appreciate this opportunity to be of service.

I will be the attorney primarily responsible for this engagement, and other members of the firm may assist as needed. Our hourly rates are based upon factors that include experience, specialization, and level of professional attainment, are reviewed annually, and may change. The following hourly rates will remain in effect for the Town for 2021:

- The rate for members/partners for this engagement is \$405.00 per hour.
- Our counsel level attorneys will be billed at \$305.00 per hour.
- Our associates will be billed at \$235.00 to \$295.00 per hour (depending on experience);
- Our paralegals will be billed at \$125.00 per hour.

The firm will keep you informed as to the status of any matter on which we are working, as well as the courses of action that are being followed or that the firm recommends. The firm will work closely with you or your designee to develop and implement strategies that will advance the Town's interests and goals.

During the representation, the firm may be required to advance costs on the Town's behalf. That said, the firm does not charge clients for "run-of-the-mill" charges such as photocopying or postage unless it is a large job, in which case it will be in the firm's discretion to pass these costs through to the Town's at cost. These cost advances, if passed through, will appear on our monthly statements to the Town's. In the case of larger cost advances, or where the services of experts are required, we may ask that the Town pay the expenses directly or forward the necessary funds to us in advance. We will seek the Town's pre-approval for expenses exceeding \$250.



We prefer to e-mail our invoices monthly. Unless you inform us otherwise, we will email our invoices to the Town Manager at MJHoffman@tok.md.gov. I will review all invoices to see that they are appropriate, and you should feel free to discuss with me any questions concerning any invoice. Payment is due within 30 days of receipt, and we encourage our clients to pay us via wire or ACH. If that is acceptable, we will provide our banking information.

The Town has the right to terminate the firm's representation of it at any time. The firm may terminate this representation upon written notice to the Town and when permitted by law and the Virginia Rules of Professional Conduct. The firm may withdraw from this representation if payment is delinquent and you agree not to contest our withdrawal in such circumstance. The firm also agrees, upon termination, to undertake steps to the extent reasonably practicable to protect your interests, including allowing time for employment of other counsel, refunding any fee advancement that has not been earned, and providing your file as required by the Virginia Rules of Professional Conduct. The firm will take reasonable steps to protect the confidentiality of all confidential information obtained during the course of our representation of you including after the termination of the matter. If the firm receives a demand from any person or entity for the contents of your file, the firm will use its best efforts to delay compliance with such a demand so that you may be notified of it and take what efforts you think appropriate to resist or comply with the demand.

The firm will retain electronic or paper copies of all records in the Town's file for a period of no less than seven years from the end of the firm's representation in this matter. Attached to this letter is a copy of the firm's document retention policy.

If I have accurately stated our agreement, please sign below and return the executed version to me via e-mail. We look forward to working with you.

Sincerely,

*/s/ Brian R. Greene*

Brian R. Greene



On behalf of the Town of Kensington, I understand and agree to the foregoing terms:

By: Matthew J. Hoffman

Print Name: Matthew J. Hoffman

Title: Town Manager

Date: February 22, 2021





**GreeneHurlocker, PLC Document Retention Policy**

1. "Documents" means all records, papers, exhibits, notes, electronic mail, and other written and electronic data.
2. The "Firm" means GreeneHurlocker, PLC.
3. The Firm will retain electronic copies of all Documents. The Firm will store electronic copies of Documents in a media format that is, at the time the copies are created, regularly accepted in the legal community.
4. The Firm will retain clients' electronic Documents for a period of not less than seven years from the date that a client's matter terminates or, for Documents not related to a client, for a period of seven years from the date the Document was created. At the end of the relevant retention period, the Firm may dispose of the electronic Documents at any time at its sole discretion. The Firm's retention of certain Documents longer than a period of seven years is no indication that the Firm promises to retain any other Documents for a period longer than seven years.
5. The Firm will also retain originals or paper copies of Documents which only have legal significance or practical utility if retained in their original form. From time to time, the Firm may send to its clients original Documents and retain only electronic copies.
6. During the course of a pending matter, attorneys in the Firm may direct that paper files of certain Documents be maintained. These paper files, however, shall be copies of the Firm's retained electronic Documents and the Firm may, at its sole discretion, dispose of the paper files or copies at any time.
7. Whenever the Firm disposes of any Documents it will take reasonable precautions to ensure that the disposal is undertaken in such a manner as to protect client confidences and secrets from unauthorized disclosure.
8. The Firm will take reasonable precautions to ensure that all electronically stored Documents are stored on secure, properly maintained, properly backed-up computer hardware and media.
9. The Firm will retain electronic mail messages in a database storage system of the Firm's choosing. Because electronic mail messages may be duplicative, repetitive, contain extraneous information, or otherwise be related to a client's matter but not germane or material to it, the Firm will choose which electronic mail messages related to a client's matter will be retained. Any electronic mail messages not expressly designated by the Firm for retention in its database will be destroyed 60 days after being received or sent by the Firm.
10. The Firm will provide a copy of this Document Retention Policy to all clients at the outset of any engagement and again upon request.





11. This Document Retention Policy is not intended to diminish any ethical or legal obligation the Firm has to retain Documents for any purpose and the Document Retention Policy will be construed to be consistent with applicable ethical or legal requirements.
12. The Firm may, at the request of a client, agree to depart from this Document Retention Policy. If the Firm agrees to a departure for a particular client, it shall not be required to implement that departure for all Documents.
13. The Firm may, from time to time, amend this Document Retention Policy. If it does, it will provide timely notice to any clients affected by the change. Former clients of the Firm will not receive notice of changes to this Document Retention Policy unless the changes implicate Documents the former clients expect the Firm to be retaining.