

Mayor Tracey Furman

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



**Council Member Conor Crimmins
Council Member Ann Lichter**

Released: December 11, 2023

**Wednesday, December 13, 2023
Town Council Meeting – Closed Session, 6:00 pm**

CALL TO ORDER

THE MAYOR AND TOWN COUNCIL

1. Closed Session:

- a. Motion to call for a Closed Session pursuant to State Government Article §3-305(b)(3), "Closed Session", to consider the acquisition of real property for a public purpose and matters directly related to the acquisition; and to consult with counsel to obtain legal advice pursuant to Article §3-305(b)(7).

- *No Action will be taken on items to be discussed during the Closed Session with the Town Attorney.*

ii. Legal Advice:

- Lease Agreement with 10509 Summit Avenue Ventures, LLC
- Pepco Streetlights

iii. Land Acquisition:

- 10528 St. Paul Street
- 10800 St. Paul Street
- 10415 Montgomery Avenue

ADJOURNMENT

**Wednesday, December 13, 2023
Town Council Meeting – Public Session, 7:30 pm**

The Town Council Meeting will be held via the Zoom Video Conferencing application only.

The Council Meeting will begin at 7:30 pm. For those wishing to access the meeting through Zoom, please use the following Zoom Video Conferencing link:

<https://us02web.zoom.us/j/88276084882?pwd=bE9XWmlFZ2Q3TkY3JTL01SWWVpdz09>

Meeting ID: 882 7608 4882

Password: 762154

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 November 8, 2023
Special Town Council Meeting Minutes of November 20, 2023

THE MAYOR AND TOWN COUNCIL

1. Montgomery County Expedited Bill 38-23:

- a. Acknowledge that the Town sent a letter in support of Montgomery County Expedited Bill 38-23, which would amend certain language pertaining to Tenant Displacement – Right of First Refusal to Buy Rental Housing within the County Code.

THE TOWN MANAGER AND STAFF

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. **Resolution No. R-23-2023** – A Resolution of the Mayor and Town Council of Kensington approving a Variance to allow a six-foot (6') entry gate within the front plane of the southwest corner of the property located at 3419 Dupont Avenue, in accordance with Section 5-109, "Fences, Walls, and Retaining Walls", of the Town Code.
2. **Resolution No. R-24-2023** – A Resolution of the Mayor and Council of the Town of Kensington Authorizing a Contract with Bartlett Tree Experts for Soil Care Fertilization and Tree Pest Management for certain trees within Town Parks and the Public Right-of-Way.
 - a. *Will require approval by an extra-majority vote of the Town Council (waiving advertising procedure).*

PUBLIC APPEARANCES

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

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:

Council Meeting: Wednesday, January 10, 2024, 7:00 pm

Town of Kensington 3710 Mitchell Street Kensington, MD 20895
Phone 301.949.2424 Fax 301.949.4925
www.tok.md.gov



**MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND**

KATE STEWART
COUNCILMEMBER
DISTRICT 4

November 29, 2023

To: Andrew Friedson, Councilmember
Montgomery County Council District 1

From: Kate Stewart, Councilmember
Montgomery County Council District 4

Subject: Requested amendment to Expedited Bill 38-23

Dear Planning, Housing, and Parks Committee Members,

I write today to request an amendment to Expedited Bill 38-23, Tenant Displacement – Right of First Refusal to Buy Rental Housing - Amendments you are considering during your December 4th meeting.

The amendment would be to delete from the Right of First Refusal (ROFR) exclusion of multifamily buildings operated for a religious or charitable purpose.

The proposed amendment language would be:

Rental housing means a multiple-family dwelling, or a group of multiple-family dwellings operated as one entity, with a total of at least 4 rental units. *Rental housing* [does not] may include a dwelling operated for a religious or charitable purpose.

Currently, we have at least 27 multifamily properties that are owned by a religious institution or charitable organization in the County. The SDAT data are not very good or readily accessible to provide an exact count, but the Planning Department staff went through all the exempt multifamily properties in the County and all the parcels owned by institutions, and found that at least 27 properties countywide are owned by a religious institution/charitable organization and have multifamily housing on the parcel.

This past year, the Town of Kensington and the County were unable to move forward with an affordable housing project because the property was exempt by the current language in the County's policy.

Given the need to address our affordable housing crisis and the benefits of ROFR to help tenants become first-time home buyers if the rental where they live is going to be sold, I ask the committee to consider removing this barrier to the County or residents of a multifamily property having the option to purchase the property.

Specifically, the amendment states "may include" because it is not my intent to have the policy cover convents or other housing for members of a religious order, but rather to cover housing that is being rented to tenants.

Mayor Tracey Furman

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



**Council Member Conor Crimmins
Council Member Ann Lichter**

November 28, 2023

The Honorable Andrew Friedson
Chair, Planning, Housing, and Parks Committee – Montgomery County Council
100 Maryland Avenue
Rockville MD 20850

**RE: Amendment to Expedited Bill 38-23
Tenant Displacement – Right of First Refusal to Buy Rental Housing**

Dear Chairman Friedson and Planning, Housing, and Parks Committee Members:

Please accept this letter in support of the requested amendment to Expedited Bill 38-23, which would delete from the Right of First Refusal (ROFR) exclusion of multifamily buildings operated for a religious or charitable purpose.

The requested amendment from Council Member Stewart would be beneficial in allowing the County and municipalities to help address affordable housing in our community. In November 2022, the Town coordinated with Montgomery County to acquire the Brookside Apartment complex in Kensington to serve as a pilot program to establish a Community Land Trust that would preserve and enhance affordable housing within our community with a commitment to equitable access. The Brookside Apartment complex was owned by the Church of Jesus Christ of Latter-day Saints ("the Church") and put up for sale on the competitive market. Unfortunately, the County's attempts to acquire the property failed, as the Church claimed the sale of the multifamily housing unit was exempt from the County's Right of First Refusal policy. The property was subsequently sold to a private company and has since been leased as market-rate housing.

We encourage the Planning, Housing, and Parks Committee to support the requested amendment to Expedited Bill 38-23, as it would be regrettable if a similar situation to the Brookside Apartment property were to happen again and prevent the County and local communities from preserving and enhancing affordable housing.

Sincerely,

A handwritten signature in black ink, appearing to read "Tracey Furman", is written over a horizontal line. Below the signature, the name "Tracey Furman" and the title "Mayor" are printed in black text.

Tracey Furman
Mayor

CC: Natali Fani-Gonzalez, County Council – District 6
Will Jawando, County Council – At-large
Kate Stewart, County Council – District 4
Kensington Town Council

Town of Kensington 3710 Mitchell Street Kensington, MD 20895
Phone 301.949.2424 Fax 301.949.4925
www.tok.md.gov

Resolution No. R-23-2023

Adopted:

A Resolution of the Mayor and Town Council of Kensington approving a Variance to allow a six-foot (6') entry gate within the front plane of the southwest corner of the property located at 3419 Dupont Avenue, in accordance with Section 5-109, "Fences, Walls, and Retaining Walls", of the Town Code.

WHEREAS, the Town received a permit application for the installation of an entry gate by Margaret "Margy" Rodgers, ("the Applicant"), for certain real property located at 3419 Dupont Avenue, ("the Property"); and

WHEREAS, the proposed entry gate would exceed the allowed height of a fence within the front plane of a residential property, in accordance with Section 5-109, "Fences, Walls, and Retaining Walls", of the Town Code; and

WHEREAS, the Applicant has filed a Variance request before the Town Council to allow for a six-foot (6') entry gate within the front plane of the property located at 3419 Dupont Avenue; 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 at the November 8, 2023, Council 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 November 8, 2023, and evidence submitted, adopts the following findings of fact and conclusions of law:

Findings of Fact:

1. Margaret “Margy” Rodgers (“the Applicant”), is the owner of 3419 Dupont Avenue, Kensington, Maryland, which is zoned single-family residential (“the property”).
2. The property has an existing four-foot (4’) fence within the front plane of the property.
3. The Applicant has requested to install a six-foot (6’) entry gate within the southwest corner of the property to prevent access between 3419 Dupont Avenue and 10701 St. Paul Street, which has a steep drop from the existing retaining wall into southeast corner of 10701 St. Paul Street.
4. The property owners at 10701 St. Paul Street, Aurora Elmore and Aleks Nakutis, provided a letter in support of the Variance.
5. The property owner at 3417 Dupont Avenue, Ron Walters, provided a letter in support of the Variance.

Conclusions of Law:

1. The Strict application of the Town’s regulations would result in peculiar and unusual practical difficulties due to the grade drop between 3419 Dupont Avenue and 10701 St. Paul Street, where the Council found that the existing passageway was unsafe, and a gate was necessary to restrict access to the property.
2. The proposed Variance is the minimum necessary to overcome the unique condition of the topography.
3. The Variance can be granted without impairment of the intent, purpose, and integrity of this article.

BE IT FURTHER RESOLVED THAT the Variance request to install a six-foot (6’) entry gate within the front plane of the southwest corner of the property located at 3419 Dupont Avenue be and it is hereby granted.

ADOPTED by the Town Council of Kensington, Maryland at the regular public meeting assembled on the 13th day of December, 2023.

EFFECTIVE the 13th day of December, 2023.

ATTEST: TOWN OF KENSINGTON, MARYLAND

By: _____
Susan C. Engels, Clerk – Treasurer

Tracey C. Furman, Mayor

Resolution No. R-24-2023
Adopted:

A Resolution of the Mayor and Council of the Town of Kensington Authorizing a Contract with Bartlett Tree Experts for Soil Care Fertilization and Tree Pest Management for certain trees within Town Parks and the Public Right-of-Way.

WHEREAS, pursuant to Chapter II, "Government and Administration", Article 4, "Purchasing and Contracts", Section 2-405, "Professional Services Contracts", the Council may decide by an extra-majority vote (defined as one more than a majority of those present and voting) to authorize the Town Manager to enter into negotiated procurement for professional services rather than advertise; and

WHEREAS, the Town requested a proposal from Bartlett Tree Experts for Soil Care Fertilization and Tree Pest Management for certain trees located within Town Parks and the Public Right-of-Way; and

WHEREAS, Bartlett Tree Experts provided a Contract proposal to the Town for services related to Soil Care Fertilization and Tree Pest Management (Attachment A); and

WHEREAS, the Mayor and Council have determined that it is in the public interest to authorize the Town Manager to enter into a contract with Bartlett Tree Experts for the contract price of \$14,440.00, on the terms and conditions as set out in the attached Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Town of Kensington, Maryland, that the Town Manager be and is hereby authorized to enter into a contract in substantially the form attached, with a contract price not to exceed \$14,440.00, with Bartlett Tree Experts for Soil Care Fertilization and Tree Pest Management.

Adopted by the Town Council this 13th day of December, 2023.

Effective this 13th day of December, 2023.

ATTEST: TOWN OF KENSINGTON, MARYLAND

By: _____
Susan C. Engels, Clerk – Treasurer

Tracey C. Furman, Mayor



ATTACHMENT A

Client: 3339310

Printed on: 10/6/2023

Town of Kensington
Attn: Matt Hoffman
Matt Hoffman
3710 Mitchell Street
Kensington, MD 20895

Bartlett Tree Experts
Joshua Nadler - Representative
1 Metropolitan Court
Gaithersburg, MD 20878
Business: 301-881-8550
Mobile Phone: 301-968-5251
E-Mail Address: jnadler@bartlett.com
Bus. Reg. ID: MDA-1329

MD Applicator Certification No.: 72720/LTE1989

Property Address: Town Hall, Reinhardt, St. Paul and Clum, Kensington, MD 20895

The following program is recommended for certain trees and shrubs on your property. In addition to a thorough plant health care program, Bartlett Tree Experts recommends having a qualified arborist inspect your property periodically to assist you in identifying potential risks or hazardous conditions relating to your trees or shrubs. THIS IS NOT AN INVOICE.

Soil Care and Fertilization:

Boost Liquid Treatment

Apply Boost NK 32-0-10 to the following plant and location to help maintain plant health.

- all trees and shrubs located at the St. Paul Park (Near St. Paul Road)

Provide 1 treatment at 1,524.00 per treatment.

Estimated Treatment Date: 10/1/2024 thru 12/29/2024.

Amount: \$1,524.00

Boost Liquid Treatment

Apply Boost NK 32-0-10 to the following plants and locations to help maintain plant health.

- all Trees and Shrubs located at the Reinhardt Park (10400 Armory Ave)
- Norway Spruce located at the Town Hall (3710 Mitchell St)

Provide 1 treatment at 829.00 per treatment.

Estimated Treatment Date: 10/1/2024 thru 12/29/2024.

Amount: \$829.00

Boost Liquid Treatment

Client: 3339310

Printed on: 10/6/2023

Apply Boost NK 32-0-10 to the following plant and location to help maintain plant health.

- all Trees and Shrubs located at the Clum-Kennedy Park (10207-10225 Kensington Pkwy)

Provide 1 treatment at 852.00 per treatment.

Estimated Treatment Date: 10/1/2024 thru 12/29/2024.

Amount: \$852.00

Boost Liquid Treatment

Apply Boost NK 32-0-10 to the following plants and locations to help maintain plant health.

- 10 Willow Oaks located at the road of Conneticut Ave between Knowels Road and Baltimore Road
- 9 Willow Oaks located at the road of Conneticut Ave between Washington Road and Dresden Road

Provide 1 treatment at 1,663.00 per treatment.

Estimated Treatment Date: 10/1/2024 thru 12/29/2024.

Amount: \$1,663.00

Soil Treatment

Apply Fortifite to the following plants and locations to help maintain plant health.

- 9 Kousa Dogwoods and 2 Willow Oaks located at the St. Paul Park (near St Paul Road)
- 3 Kousa Dogwoods located at the Clum-Kennedy Park (10207-10225 Kensington Pkwy)
- Spruce Tree located at the in front of Town Hall (3710 Mitchel)
- Yews located at the Ernest Memorial Park (10301 Connecticut Ave)

Provide 1 treatment at 1,205.00 per treatment.

Estimated Treatment Date: 4/19/2024 thru 7/17/2024.

Amount: \$1,205.00

Pest Management:

Bacterial Leaf Scorch Treatment

Apply a systemic root flare injection treatment to the following plants to help suppress bacterial leaf scorch disease.

- 2 Pin Oaks located at the Reinhardt Park (10400 Armory Ave)
- 5 Pin Oaks located at the St. Paul Park (St. Paul Street and Plyers Mill Road: near the swing set)

Provide 1 treatment at 1,443.00 per treatment.

Client: 3339310

Printed on: 10/6/2023

Estimated Treatment Date: 6/5/2024 thru 7/4/2024.

Arborist Notes:

- ***This treatment is recommended annually

Amount: \$1,443.00

Root Rot Treatment

Perform a systemic soil treatment to the following plant to help suppress Phytophthora root rot.

- Spruce Tree located at the in front of Town Hall (3710 Mitchel)

Provide 2 treatments at 256.00 per treatment.

Estimated Treatment Dates: 4/19/2024 thru 5/18/2024, 6/1/2024 thru 6/30/2024.

Amount: \$512.00

Scale Treatment

Perform a foliage treatment to the following plants to help suppress Japanese maple scale.

- 9 Kousa Dogwoods and 2 Willow Oaks located at the St. Paul Park (near St Paul Road)
- Spruce Tree located at the in front of Town Hall (3710 Mitchel)
- 3 Kousa Dogwoods located at the Clum-Kennedy Park (10207-10225 Kensington Pkwy)
- Yews located at the Ernest Memorial Park (10301 Connecticut Ave)

Provide 2 treatments at 834.00 per treatment.

Estimated Treatment Dates: 4/19/2024 thru 5/18/2024, 8/1/2024 thru 8/30/2024.

Arborist Notes:

- ***Also Treat 3 Weeping Cherry Tree, Purple Leaf Plum at Clum-Kennedy Park (10207-10225 Kensington Pkwy) with a trunk treatment of Borers and 2 Plums at Reinhardt Park (10400 Armory Ave)

Amount: \$1,668.00

Scale Treatment

Work Description

Arborist Notes:

- Inject the following trees for Lecanium Scale:
 - Willow Oak at Ernest Park
 - 2 Willow Oaks at St. Paul Park

Provide 1 treatment at 1,020.00 per treatment.

Estimated Treatment Date: 6/3/2024 thru 7/2/2024.

Amount: \$1,020.00

Scale Treatment

Work Description

Arborist Notes:

- Treat the following trees with a foliage and leaf treatment for Lecaniums Scale:
-10 Willow Oaks on Connecticut between Washington Road and Dresden
-9 Willow Oaks on Connecticut between Knowels Road and Baltimore

Provide 1 treatment at 3,011.00 per treatment.

Estimated Treatment Date: 6/3/2024 thru 7/2/2024.

Amount: \$3,011.00

Root Invigoration:

Root Invigoration

Root Invigoration™: Cultivate the soil beneath the crown of Spruce Tree located at the in front of Town Hall (3710 Mitchel) using an Air-Spade to improve soil health and promote root development and function. A radius of approximately 4 feet from the trunk will be cultivated to a depth of 6-8 inches. Note: The cultivated soil should be irrigated regularly following treatment to keep the soil moist if adequate rainfall does not occur.

Provide 1 treatment at 713.00 per treatment.

Estimated Completion Date: 11/1/2023 thru 11/21/2023.

- Mulch will be applied to an approximate depth of 2 inches to the treated area following cultivation.

Arborist Notes:

- Mulch around covered root flare will also be pulled back during this procedure

Amount: \$713.00

Total Amount: \$14,440.00

Additional Information

For your convenience, we have placed the pesticide labels, precautionary statements, material safety data sheets, as well as any pertinent consumer information notices regarding protection of humans, animals, and the environment with respect to your proposed plant health care treatment, on our website at <http://www.bartlett.com/productlabels/> for you to review. When accessing this website, simply go to the listed state in which the proposed treatment will take place, and review any of the information relating to your treatment options. If you have any questions, or if you wish to receive any of the treatment information separately, please contact your local Bartlett office. We will be happy to answer any questions, or provide you with this information on a CD Rom or paper if you prefer.

Please review the terms and conditions attached, which become part of the agreement, and sign and return one copy authorizing the program.

(Customer Signature)



(Bartlett Representative - Joshua Nadler)

(Date)

10/6/2023

(Date)

Prices are guaranteed if accepted within thirty days.

All accounts are net payable upon receipt of invoice.

Work is done in accordance with ANSI A300 Tree Care Standards.

To access a certificate of liability insurance for Bartlett Tree Experts, please navigate to
<http://www.bartlett.com/BartlettCOL.pdf>

Poison Control Telephone Number: 1 800 222 1222