

**CITY OF ROCKVILLE
COMMUNITY PLANNING & DEVELOPMENT SERVICES DEPARTMENT
STAFF REPORT**

TO: Planning Commission

FROM: Jim Wasilak, AICP, Chief of Planning
Bobby Ray, AICP, Principal Planner

PLANNER: Cas Chasten, Planner III



Planning Commission Meeting Date:
January 27, 2010

Board of Appeals Hearing Date:
February 6, 2010

SUBJECT: Special Exception (SPX2010-00382) for an Accessory Apartment located at 825 Duke Street, Rockville, Maryland 20850.

RECOMMENDATION: That the Planning Commission find the proposed Special Exception application in compliance with the Master Plan, and recommend such to the Board of Appeals per Section 25.07.09.g of the Zoning Ordinance.

REQUEST: In accordance with Section 25.15.01 (Special Exceptions) of the City of Rockville Zoning Ordinance, the applicant (Mr. Eugene Melanson) seeks approval to allow the establishment of an accessory apartment on the basement level of the dwelling at 825 Duke Street.

PROJECT / SITE INFORMATION:

Location: 825 Duke Street, Rockville, Maryland 20850
Applicant: Mr. Eugene Melanson
Land Use Designation: Detached Residential
Zoning District: R-90, Single Unit Detached – Restricted Residential
Planning Area: Planning Area 5 (Woodley Gardens / College Gardens)
Parcel Area: 10,666 square feet
Building Height: 2-story

Surrounding Land Use and Zoning			
Location	Zoning	Planned Land Use	Existing Use
North	R-90	Detached Residential	Single Unit Detached Dwelling
South	R-90	Detached Residential	Single Unit Detached Dwelling
East	R-90	Detached Residential	Single Unit Detached Dwelling
West	R-90	Detached Residential	Single Unit Detached Dwelling

PROPERTY DESCRIPTION:

The subject property is located on the northeast corner of Duke Street and Princeton Place. The applicant's property is approximately 10,666 square feet in size and is located in the residential subdivision of College Gardens and identified as Lot 47, Block D, Section 6. The property is improved with a two story, single-family detached dwelling, which is of masonry and frame construction. The site's topography ranges from relatively flat to gradual surface sloping. The surface grades around the base of the dwelling, as well as the front and rear yard areas, are relatively flat. The surface grades fall slightly away from the dwelling along the side yard, street side facing Princeton Place. The applicant's property contains an array of trees, shrubs, and other planted material of various species and size.

The College Gardens residential subdivision is bounded to the north by the King Farm Planned Development, east by office and multi-family land uses zoned for Mixed Use Employment (MXE) and Residential Medium Density (RMD-15) land uses respectively, and south and west by single family detached land uses zoned for R-90 and R-60 land use.

PROPOSED SITE USE:

The applicant has affirmed that when the property was purchased, the ground level (basement) had been improved with an accessory apartment. The accessory apartment contained one bedroom, a bathroom, living / dining area, and a kitchen containing cooking facilities. The applicant had been making a number of site and home improvements over the course of the previous year, which included fully renovating the ground floor area of the home where the accessory apartment is located. It was due to an inspection by City staff of these improvements that the accessory apartment came to the attention of the City. The homeowner / applicant was informed that a Special Exception was required to formally establish the accessory apartment / living unit. Approval of the Special Exception was necessary in order to retain, enhance, and upgrade the accessory unit that would include a kitchen with conventional stove / cooking facilities.

Thus the applicant submits the subject application request to formally establish and maintain that area of their home as a one-bedroom accessory apartment, as defined by the City of Rockville Zoning Ordinance Section 25.03.02 as follows:

Accessory Apartment

1. A second dwelling unit that is:
 - (a) Part of and subordinate to an existing single unit detached dwelling; and
 - (b) Contains cooking, eating, sanitation, and sleeping facilities.
2. An accessory apartment is not an accessory use

The applicant plans to lease / rent the accessory apartment to a single individual or a couple. The accessory apartment will be accessed via a separate (existing) rear entry door. The applicant will occupy the remainder of the dwelling.

Master Plan Compliance

Pursuant to Section 25.07.09.g of the Zoning Ordinance the Planning Commission is responsible for providing “consideration and recommendation to the Board of Appeals ” on Special Exception applications. Specifically the Commission’s recommendation is “based on the compliance of the proposed special exception with the Plan”.

As noted, the property is designated as Detached Residential by the Comprehensive Master Plan, and is located within Planning Area 5 (Woodley Gardens and College Gardens Neighborhood). The Master Plan describes Planning Area 5 as:

...a stable residential area which is comprised of several subdivision: College Gardens, Rockville Estates, and part of Woodley Gardens. Much of the neighborhood is a mix of single-family homes and townhouse units that were built in the 1960’s. The homes and properties are well maintained. The streets are lined with trees. With the exception of the multi-family sites, the residential zone is R-90.

Chapter Two – Land Use

Chapter Two of the Master Plan identifies the Land Use Goal as:

Retain a mix of land uses that will meet housing needs, protect the quality of life for residents, and enhance Rockville’s tax base based upon Smart Growth principles and regional cooperation.

A Policy established for this Goal (#6) encourages the City to:

Ensure a mix of housing types and price ranges to meet the diverse needs of different sections of the City’s population, with an emphasis on the importance of owner-occupied housing.

This project is consistent with the larger land use goal of the Master Plan, and specifically the policy encouraging a mix of housing types and price ranges. An implementation measure of this policy is the allowance (subject to Special Exception) for accessory apartments in all (excluding R-40) Single Dwelling Unit

Zones. Therefore the proposed use is anticipated by the Zoning Code, subject to specific development standards and conditions.

The Special Exception requirement provides additional safeguards to protect the larger detached residential neighborhood. As defined by the Zoning Ordinance a Special Exception is:

A grant of a specific use that would not be appropriate generally or without restriction and must be based upon a finding that certain conditions governing special exceptions as detailed in this Chapter exist, that the use conforms to the plan, and that the use is compatible with the existing neighborhood.

Staff is of the opinion that the subject application satisfies all required conditions, conforms to the Master Plan and is compatible with the existing neighborhood. Staff is recommending that the Commission support the Special Exception application based on its demonstrated compliance with the Master Plan.

PUBLIC OUTREACH:

In accordance with the requirements of the Zoning Ordinance, the applicant held pre-application (November 2, 2009) and post-application area meetings (December 7, 2009) to provide interested parties an opportunity to hear and ask questions about the proposal. Notification letters were sent by the applicant to properties within the subject site area, per the requirements of the Zoning Ordinance.

CONCLUSION:

Staff recommends that the Planning Commission recommend to the Board of Appeals a finding of compliance with the Master Plan consistent with Section 25.07.09.g of the Zoning Ordinance.

List of Attachments:

Attachment "A" - Board of Appeals Staff Report

CITY OF ROCKVILLE
COMMUNITY PLANNING & DEVELOPMENT SERVICES DEPARTMENT
STAFF REPORT

TO: Board of Appeals

FROM: Jim Wasilak, AICP, Chief of Planning
Bobby Ray, AICP, Principal Planner

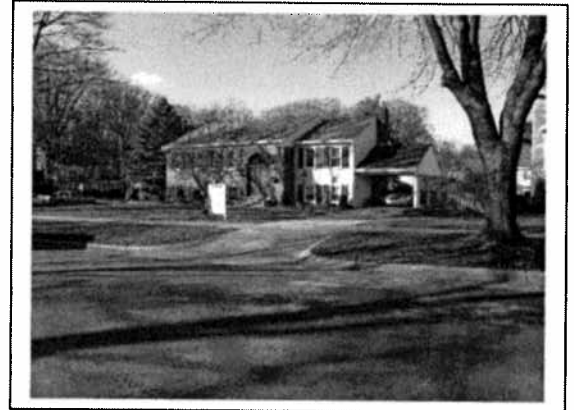
PLANNER: Cas Chasten, Planner III

Planning Commission Meeting Date:

January 27, 2010

Board of Appeals Hearing Date:

February 6, 2010



SUBJECT: Special Exception (SPX2010-00382) for an Accessory Apartment located at 825 Duke Street, Rockville, Maryland 20850.

RECOMMENDATION: That the Board of Appeals **Approve**, subject to conditions, Special Exception Application SPX2010-00382 for the Accessory Apartment located at 825 Duke Street. In addition, that the Board of Appeals approve the waiver from the APFO (Adequate Public Facilities Ordinance).

REQUEST: In accordance with Section 25.15.01 (Special Exceptions) of the City of Rockville Zoning Ordinance, the applicant (Mr. Eugene Melanson) seeks approval to allow the establishment of an accessory apartment on the basement level of the dwelling at 825 Duke Street.

PROJECT / SITE INFORMATION:

Location: 825 Duke Street, Rockville, Maryland 20850
Applicant: Mr. Eugene Melanson
Land Use Designation: Detached Residential
Zoning District: R-90, Single Unit Detached – Restricted Residential
Planning Area: Planning Area 5 (Woodley Gardens / College Gardens)
Parcel Area: 10,666 square feet
Building Height: 2-story

January 15, 2010

The subject property is located on the northeast corner of Duke Street and Princeton Place. The applicant's property is approximately 10,666 square feet in size and is located in the residential subdivision of College Gardens and identified as Lot 47, Block D Section 6. The property is improved with a two story single-family detached dwelling, which is of masonry and frame construction. The site's topography ranges from relatively flat to gradual surface sloping. The surface grades around the base of the dwelling, as well as the front and rear yard areas are relatively flat. The surface grades do however fall slightly away from the dwelling along the side yard of the street side facing Princeton Place. The applicant's property contains an array of trees, shrubs, and other planted material, all ranging in species and size.

The College Gardens residential subdivision is bounded to the north by the King Farm Planned Development, to the east by office and multifamily land uses zoned for Mixed Use Employment (MXE) and Residential Medium Density (RMD-15) land uses respectively, and south and west by single family detached land uses zoned for R-90 and R-60 land usage.

Surrounding Land Use and Zoning			
Location	Zoning	Planned Land Use	Existing Use
North	R-90	Detached Residential	Single Unit Detached Dwelling
South	R-90	Detached Residential	Single Unit Detached Dwelling
East	R-90	Detached Residential	Single Unit Detached Dwelling
West	R-90	Detached Residential	Single Unit Detached Dwelling

DEVELOPMENT PROPOSAL:

The applicant has affirmed that when he purchased the property, the ground level (basement) had been improved with an accessory apartment, which contained one-bedroom, a bathroom, living/dining area, and a kitchen containing cooking facilities. The applicant has been making a number of site and home improvements over the course of the previous year, which included fully renovating the ground area of the home where the accessory apartment is located. It was due to an inspection by City staff of the home improvements that required respective building and electrical permits that the accessory apartment came to the attention of the City. The homeowner/applicant was informed that in order to retain, enhance, and upgrade the accessory unit that would include a kitchen with conventional stove/cooking facilities, it would be necessary to apply for and be granted a special exception, in order to formally establish the accessory apartment/living unit.

Thus, the applicant submits the subject application request to formally establish and maintain that area of their home as a one-bedroom accessory apartment, as defined by the City of Rockville Zoning Ordinance, i.e., via installation of the stove/cooking unit. As noted, the accessory living unit will have a modest living room/dining area, a bathroom, a single bedroom, and a kitchen with a stove. Access to the unit will be via an existing exterior basement door located on the rear north side of the dwelling.

The applicant plans to lease/rent the accessory apartment to a single individual or a couple. As noted, the accessory apartment will be accessed via a separate (existing) rear entry door. The applicant will occupy the remainder of the dwelling.



Aerial View of 825 Duke Street

RECOMMENDED CONDITIONS:

Approval of the Special Exception is recommended subject to the following conditions: In addition Staff recommends approval of the waiver from the APFO requirements:

1. The accessory apartment must be established and utilized as represented in the application request as submitted.
2. The owner/applicant must comply with the certification requirements of the "property maintenance code."
3. The accessory apartment cannot house more than three (3) people.

4. The special exception is granted solely to the property owner/applicant and is not transferable with the property in the event of change in property ownership. Said special exception expires if the owner sells the property or if the applicant no longer occupies any portion of the dwelling.
5. If the special exception expires, the accessory apartment must be removed and dismantled or otherwise rendered inoperative within thirty (30) days of the date of expiration.
6. The owner/applicant must comply with all applicable regulations governing accessory apartments as well as licensing of the unit.
7. The above noted conditions of approval must be duly recorded among the land records of Montgomery County so that any future purchaser of the subject property is aware that the accessory apartment must be removed or a new special exception application filed and approved upon transfer of ownership.

Note: In order to record the conditions, staff will provide the applicant with a form of "declaration", the document and legal instrument the applicant must complete and file with the office of land records.

ANALYSIS AND REQUIRED FINDINGS:

Applicable Sections of the Zoning Ordinance & Staff Assessment

As per Section 25.10.03 of the Ordinance accessory apartments are permitted in the R-90 Zone by grant of special exception. In accordance with Section 25.15.01 of the Ordinance, the Board of Appeals shall not grant any petition for special exception unless it finds from a preponderance of the evidence of record that:

- 1. The proposed use will not adversely affect the City's Master Plan (the Plan), this Chapter (Zoning Ordinance), or any other applicable laws; and**

The use does not violate or adversely affect the Plan or any known laws of the City of Rockville. The land use designation of the property as assigned by the Plan, is for detached residential (medium density – 2.5 to 4 dwelling units per acre) land

usage, which is also consistent with the property's R-90 zoning classification. By allowing accessory apartments in residential zones as special exception uses, it is inferred from the ordinance that these residential uses are appropriate and compatible with other uses in the zone, if it can be shown that the proposed accessory unit will not have an adverse impact on neighboring properties.

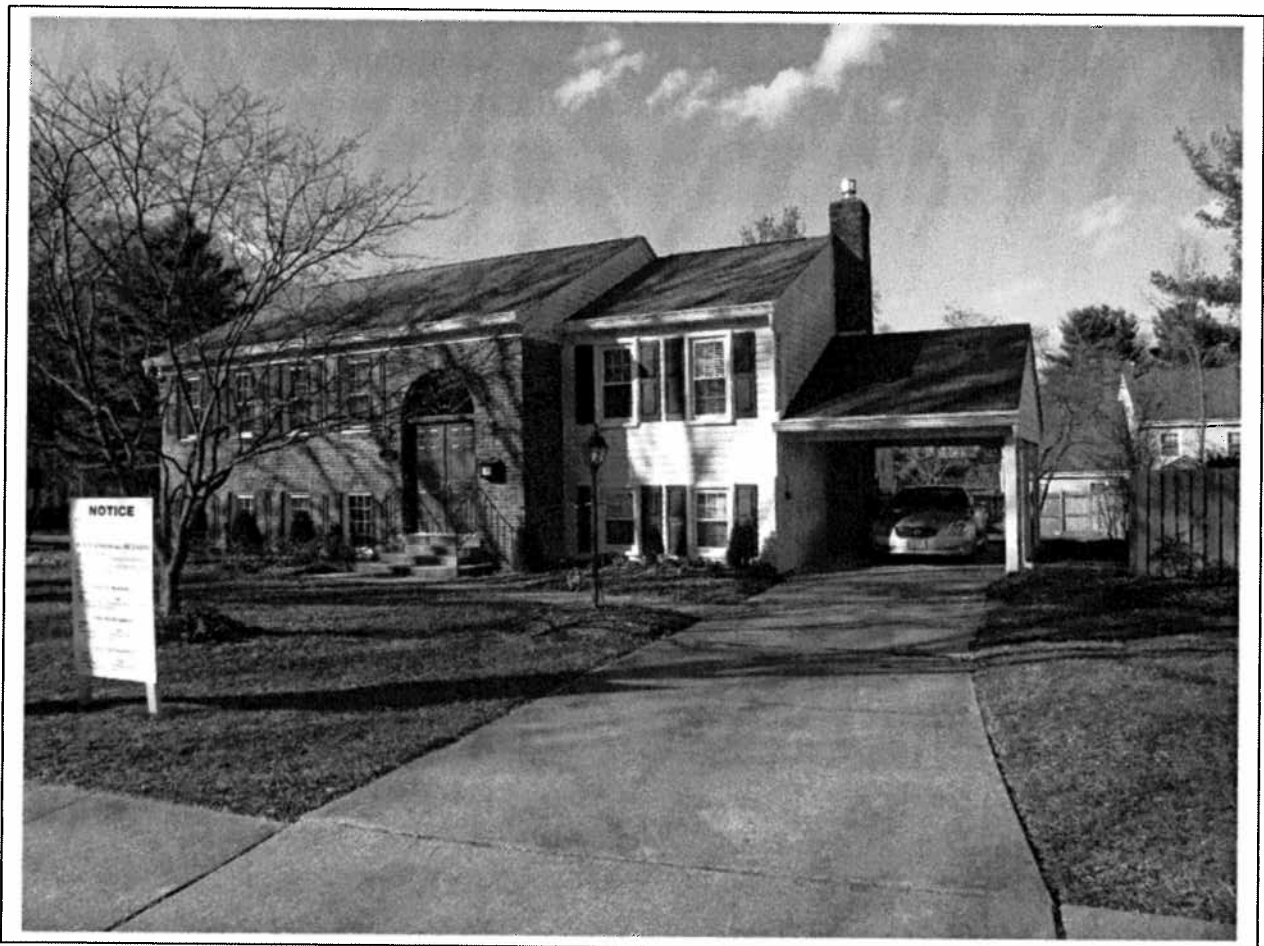
2. The proposed use at the location selected will not: a) Adversely affect the health and safety of residents in the area; or b) Overburden existing and programmed public facilities as provided in Article XVI of this Chapter and as provided in the adopted Adequate Public Facilities Standards; or c) Be detrimental to the use or development of adjacent properties or the neighborhood; or d) Change the character of the neighborhood in which the use is proposed, considering services currently required, population density, character, and number of similar uses; and e) Constitute a nuisance because of noise, traffic, number of people, or type of physical activity; and

As previously noted, the accessory apartment is being formally established to serve as a rental unit to accommodate a single individual or a couple. If the unit is leased to a single person, then it is reasonable to expect that vehicular traffic generated by one additional person would be consistent with those of other vehicle trips as generated from similar single family dwellings located within the site area. Based on the petition as submitted, staff has found no evidence the proposed accessory apartment poses any concern to the health, safety and welfare of persons living or working in the community. The subject property is approximately 10,666 square feet in size, 1,666 square feet larger than the minimum 9,000 square foot lot size of the R-90 Zone in which it is located.

The site is currently served by public water and sewer, which will not require major upgrade or retrofit to serve the proposed accessory living unit. There is no evidence that there will be any substantive increase in vehicular traffic generated from the applicant's home, because of the formal establishment of the proposed accessory apartment. The applicant will be required to obtain appropriate permits for the formal installation of the new stove/cooking range, which would be located on the basement level of the home. Based on the request as submitted, existing storm drainage, sanitary sewer, and other public improvements within the subject site will not require any improvement or retrofit due to the formal establishment of the planned accessory living unit.

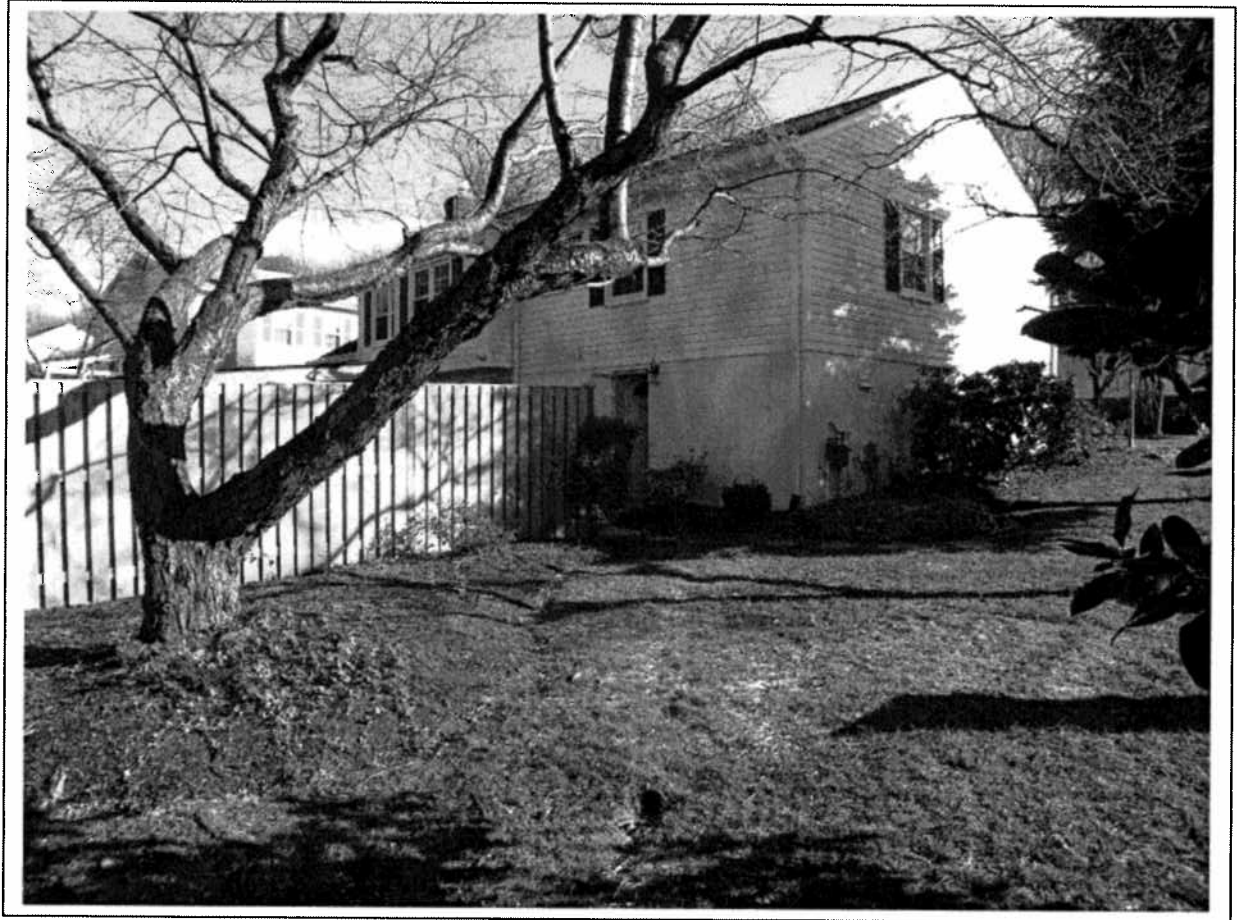
While the accessory apartment will serve as the primary residence of the person and/or persons to whom it will be leased, it will be subordinate to the principal use of the property, i.e., single-family detached residential use. It is unlikely that the applicant's formal establishment of the accessory unit, would create any physical activity objectionable to the community since the applicant affirms that tenants will have to fully adhere to the terms of a lease agreement governing acceptable conduct and use of the unit as deemed appropriate by the property owner.

Front View of 825 Duke Street



The property is located within a well-established, residential neighborhood, comprised of single-family detached dwellings. The owner has been advised that the accessory unit must be operated and maintained in accordance with all applicable requirements of the Zoning Ordinance. Such adherence serves to ensure

that the health, welfare, and safety of the community will and should not be adversely impacted by the proposed use.



Rear Yard View of 825 Duke Street

There is no evidence that the availability and/or delivery of public services within the subject site area will be altered or adversely impacted by the requested site use, i.e., public schools, police, fire & rescue, trash collection, street maintenance & repair, snow removal, etc. Since the City's Zoning Ordinance restricts the number of persons who can legally occupy the accessory unit, the limited number of persons (i.e., three) that can legally occupy the subject unit would not substantively impact the population density of the site area. It is also important to note that the applicant has represented in this request that the accessory unit will be leased solely to a single person or a couple. If however, in the future the applicant were to lease the unit to a single parent with a child who is of school age, it is extremely unlikely such a modest increase of a single

student would exceed the Adequate Public Facility Ordinance tests for schools in Rockville which is based on program capacity for each school as defined by Montgomery County Public Schools (MCPS).

Accessory apartments are not exempt from the provisions of the Adequate Public Facilities Standards, however they are identified as a certain class of uses eligible for waiver consideration. The waiver provisions section of the Resolution state that:

Certain classes of uses are deemed to have little or no impact on public facilities. As such, the deciding body may waive full compliance with the APFO provisions if it finds that there will be minimal adverse impact resulting from such a waiver.

Section 25.20.01.b. ("Adequate Public Facilities Standards") of the Zoning Ordinance states:

- b. Any development or redevelopment within the City must comply with all requirements of the Adequate Public Facilities Standards, unless a waiver is granted pursuant to said standards. A waiver of the requirement to comply with one (1) or more of the Adequate Public Facilities Standards may be granted only upon a super-majority vote of the Approving Authority. For purposes of this Article, a super-majority vote must be three (3) votes for the Board of Appeals, five (5) votes for the Planning Commission, and four (4) votes for the Mayor and Council. The Chief of Planning may not grant a waiver.**

Based upon the scope of the project, and the analysis presented above, Staff recommends that the Board of Appeals grant a waiver from the APFO on the grounds that this project will have little or no impact upon public facilities.

Since accessory apartments are land uses permitted only by grant of special exception, there is no evidence that the formal establishment of the applicant's accessory unit, will bring about the proliferation of similar land uses within the site area. Based on available information, staff notes that there has not been any other special exceptions granted for the establishment of an accessory apartment within the general site area in the past ten or fifteen years.

3. The proposed use complies with the requirements of the Ordinance, including, but not limited to, the special requirements contained in Section 25.15.02 and the general purposes of the Ordinance contained in Section 25.01.02.

Submission of the subject special exception request represents the applicant's efforts to satisfy and comply with all Ordinance requirements to legally establish an accessory apartment on the subject property located in the R-90 Zone.

In addition to satisfying the above (general) "standards for granting" a special exception request, as per Section 25.15.02.a. of the Ordinance the following "additional requirements" are applicable to the use as proposed:

1. An accessory apartment must be contained in the same building as a single unit detached dwelling and contain facilities for cooking, eating, sanitation and sleeping.

The accessory apartment will be located on the basement level of the existing one and one-half-story dwelling.

2. (a) Only one accessory apartment may be created in or attached to an existing one family detached dwelling.

The applicant's accessory unit will be the only such use located on the subject property.

(b) Accessory apartments may only be located on a lot which: i) is occupied by a family of related persons and ii) which contains no other rental residential use; iii) does not contain rooms for rent of a boarding house; and iv) does not contain a major home based business enterprise.

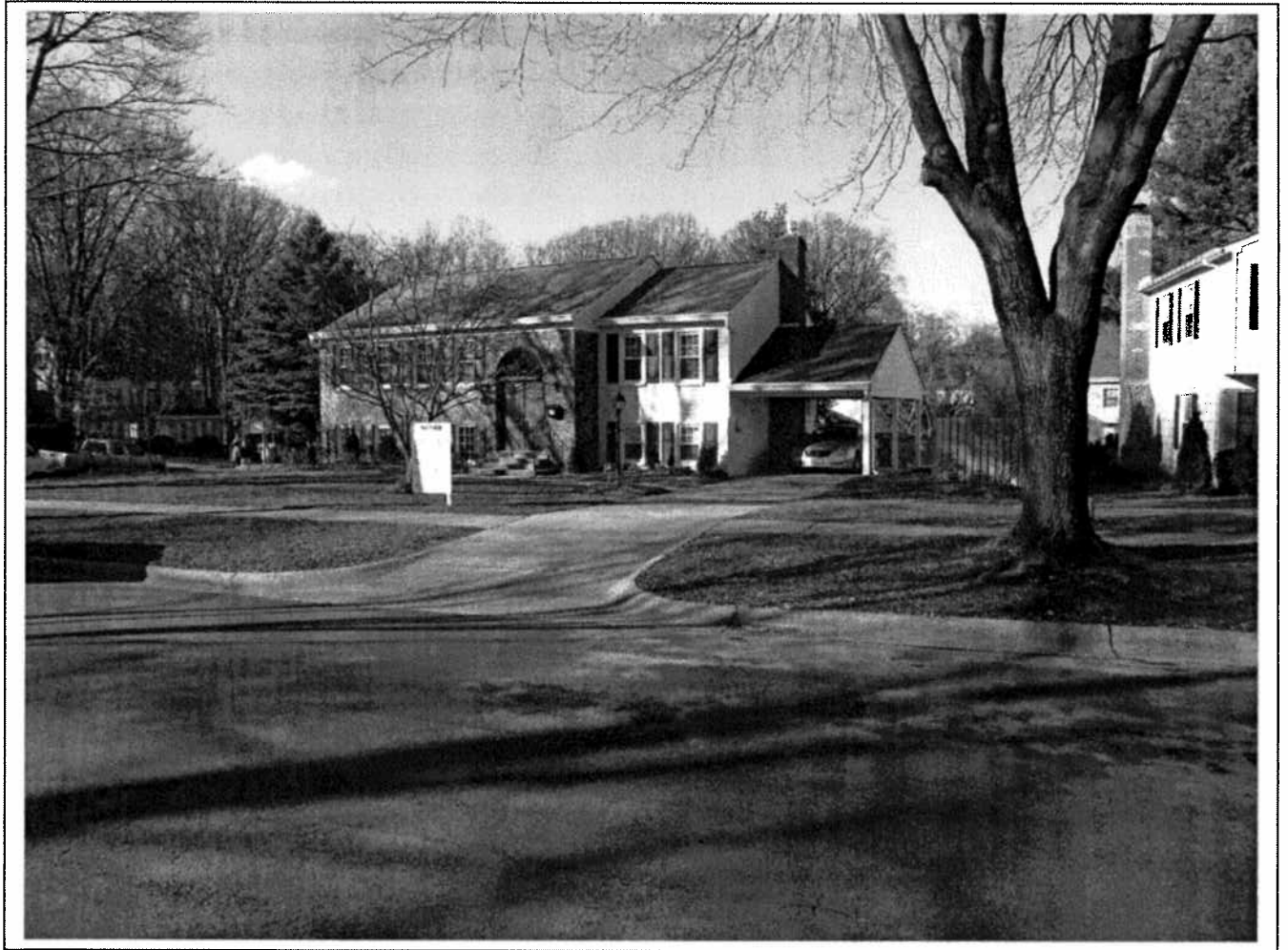
The applicant affirms that he is the sole owner and occupant of the subject property/dwelling. There will be no other accessory apartment or rooms for rent in the applicant's home. He does not propose to convert other portions of the home for rental purposes, nor will the dwelling be used as a boarding house. The applicant further affirms that the accessory unit will be a rental for a single occupant or possibly to a couple. Also the applicant is not engaged in nor plans to operate a major home-based business enterprise from the subject location.

3. **Ownership Requirements - The owner of a lot on which an accessory apartment is located must occupy one of the dwelling units, except for bona fide temporary absences not exceeding six months in any twelve-month period. The period of temporary absence may be increase by the Board at any time upon finding that a hardship would otherwise result. Any request for an extension of the period of temporary absence made subsequent to the initial grant of special exception shall be made in compliance with procedures for a minor modification of a condition of special exception in Section 25.15.01.b(1).**

The applicant affirms that the dwelling located at 825 Duke Street is his primary residence and that he is the owner of the property.

4. **Development Requirements – (a) Both the main dwelling and the accessory apartment must comply with all appropriate standards, including off-street parking requirements. (b) No variance may be granted to accommodate an accessory apartment.**

Staff notes that while there are no plans or need to widen the existing site driveway to create additional on-site parking, the driveway as designed can easily accommodate a minimum of two (2) conventional sized vehicles. As of this writing, the subject property is in substantial compliance with off-street parking requirements and all other known development standards and regulations of the R-90 Zone. Section 25.16.03 of the Zoning Ordinance requires a minimum of two (2) on-site parking spaces be provided for single-family residential dwellings. As per the Ordinance, with the formal establishment of the one-bedroom accessory apartment, an additional parking space is required to accommodate said use. Staff notes that if necessary there is ample front yard space in which to expand the driveway, but in staff's opinion, such a widening of the driveway could detract from the single-family appearance of the property.



View of Site Driveway/On-Site Parking

In accordance with Section 25.15.02.a.8. of the Zoning Ordinance entitled *Additional Conditions*, the Board of Appeals may protect and limit adverse impacts on adjacent properties and the neighborhood, by limiting the total number of motor vehicles that may be parked on the lot, and/or by limiting the total number of vehicles that may be utilized and parked on the street, by the occupants of both the accessory apartment and the main dwelling. The Board can allow, as a condition of approval, the resident of the accessory unit to park a vehicle on the street, if it deems an additional parking space is needed, thus eliminating the need to widen the existing site driveway to accommodate three (3) vehicles. Based on the manner in which the accessory unit is to be used, and that the property has ample site frontage along both Duke Street and Princeton Place, staff recommends that the on-site driveway

not be modified/widened at this time. Lastly, no variance is needed to establish the proposed accessory apartment.

5. Design Requirements -

(a) Any separate entrance to the accessory apartment must be located so that the appearance of a single unit detached-dwelling is preserved.

The dwelling has both a rear patio and exterior rear building entrance. The applicant has upgraded and improved the site's rear yard privacy fence, installed new/landscaped materials, all for the purpose of improving the overall appearance of the site. Thus, the existing exterior rear entrance that will provide entry/exit to and from the accessory apartment, is complemented by these modest improvements and as such does not detract from the appearance of the home's single-family detached character. Also, the applicant has installed pavers from the site's Princeton Place street frontage, leading directly to the rear entrance door of the proposed accessory unit, a physical feature that is a further enhancement of the property.

(b) All external modifications and improvements to the single-unit detached dwelling in which the accessory apartment is to be created or to which it is to be added must be compatible with the existing dwelling and surrounding properties.

With the exception of the above noted landscape and privacy fence improvements, there are no external modifications of the dwelling proposed under the request as submitted.

(c) The accessory apartment must show and utilize the same street address (house number) as that of the main dwelling.

No separate address will or can be used for the accessory apartment.

(d) The accessory apartment may not house more than three (3) persons and must be subordinate to the main dwelling.

The applicant has been made aware of the occupancy restriction and that the proposed accessory unit is and will be a subordinate use to the main dwelling.

Lastly, the Board of Appeals must make the following findings in addition to all of the other noted findings and requirements in granting the subject special exception request:

1. That such use will not constitute a nuisance because of traffic or number of people, and will cause no objectionable noise, odors, or physical activity.

Based on the applicant's intended use of the accessory unit, there is no evidence that occupancy of the accessory unit will generate excessive amounts of vehicular traffic. As noted, the applicant will reside in the remainder of the dwelling. Hence the establishment of the proposed accessory apartment will enable the applicant to lease the accessory unit to a single individual or couple, generate additional income, and retain full use and enjoyment of his home. The applicant has affirmed that when he purchased the property, the accessory apartment existed, although without appropriate approval or grant of the required special exception application. It was during the renovation of the basement area of the home, where the accessory living unit is located, that the applicant was informed by the City's Inspection Services staff that in order to fully renovate and retain use of the accessory living unit that he must file and seek special exception approval in accordance with requirements of the City's Zoning Ordinance. Pending formal compliance and grant of the subject special exception, staff has found no evidence of other pending or active complaints or violations against the subject property. Thus, as of this writing there is no evidence that the establishment and use of the accessory unit will create or cause excessive site activity, heighten noise levels, or generate added vehicular traffic within the neighborhood.

2. That such use will not adversely impact parking or the traffic situation in the neighborhood.

As noted, the applicant has the ability to park a minimum of two (2) vehicles on-site in addition to ample on street parking along the site's Duke Street and Princeton Place frontages. Due to the modest size of the accessory unit (as compared to the overall dwelling), coupled with the manner in which it is to be used, there is no evidence that the establishment of the accessory apartment will alter or adversely impact parking patterns within the subject site area. On those occasions when the applicant and/or the residents of the accessory unit have guests,

there should be sufficient on street parking to accommodate such short-term parking needs.

Based on all of the noted factors as reviewed in this staff report, staff recommends that Special Exception Application SPX2010-00382 be approved subject to the conditions referenced on pages one and two of this report.

COMMUNITY NOTIFICATION PROCESS:

In accordance with the requirements of the Zoning Ordinance, the applicant held pre-application (November 2, 2009) and post-application area meetings (December 7, 2009) to provide interested parties an opportunity to hear and ask questions about the proposal. Notification letters were sent by the applicant to properties within the subject site area, per the requirements of the Zoning Ordinance.

Letters of notification were sent to abutting property owners informing them of the application request, pending Planning Commission meeting and Board of Appeals public hearing, at which time the request will be publicly heard and considered. Notices were sent to property owners located within the site area. A list of addressees, as submitted and provided by the applicant, to whom notices were sent/mailed is contained in the project's application file, available for public review and inspection.

CONCLUSION:

Based upon the findings presented, staff recommends that the Board of Appeals **Approve** the Special Exception (SPX2010-00379) subject to the conditions referenced in this staff report. In addition, Staff recommends approval of the waiver requested from the APFO requirements.

/cdc

Attachments

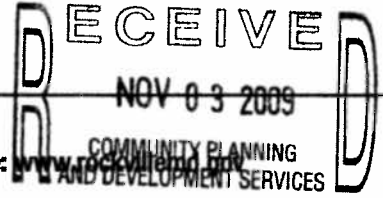
Exhibit "1" – House Location Plat

Exhibits "2 & 3" – Floor Plans



Application for
SPECIAL EXCEPTION APPLICATION

City of Rockville
Department of Community Planning and Development Services



111 Maryland Avenue, Rockville, Maryland 20850
Phone: 240-314-8200 • Fax: 240-314-8210 • E-mail: Cpds@rockvillemd.gov • Web site: www.rockvillemd.gov

TYPE OF APPLICATION:

- Special Exception
- Special Exception Modification - Major
- Special Exception Modification - Minor

Please Print Clearly or Type

Property Address Information 825 Duke Street Rockville, MD 20850

Subdivision College Gardens Lot (S) 47 Block D, Section 6

Zoning R90 Tax Account (S) 00239445

Applicant Information:

Please supply Name, Address, Phone Number and E-mail Address

Applicant Eugene Melanson, 825 Duke Street Rockville, MD 20850
(240) 499-8774, EMAIL - egm1740@yahoo.com

Property Owner SAME AS APPLICANT

Architect NONE

Engineer NONE

Attorney NONE

Project Name Accessory Apartment

Project Description Accessory Apartment with a separate entrance

STAFF USE ONLY

Application Acceptance:

Application # SPX 2010-00382

Pre-Application PAM 2010-00016

Date Accepted _____

Staff Contact _____

OR

Application Intake:

Date Received 11/3/09

Reviewed by BR

Date of Checklist Review _____

Deemed Complete: Yes No

Level of review and project impact:

This information will be used to determine your project impact, per section 25.07.02 of the Zoning Ordinance for Project Plan and Site Plan applications only.

Tract Size .24 acres, # Dwelling Units Total Zero Square Footage of Non-Residential _____

Residential Area Impact 100 %

Traffic/ Impact/Trips Fewer than 30

Points/Elements	1	2	3	4	Points
Tract size - Acres	1 or fewer	1.1 to 2.5	2.6 to 5	5.1 or greater	1
Dwelling Units	5 or fewer	6 to 50	51 to 150	151 or greater	0
Square Footage of Non-Residential Space	5,000 or fewer square feet	5,001 to 10,000 square feet	10,001 to 50,000 square feet	50,001 or greater square feet	0
Residential Area Impact	No residential development in a residential zone within 1/4 mile of the project	35% of area within 1/4 mile of the project area is comprised of single-unit detached residential units	65% of area within 1/4 mile of the project area is comprised of single-unit detached residential units	Development is within single-unit detached unit area.	4
Traffic Impact - Net new peak hour trips	Fewer than 30 trips	30-74 trips	75-149 trips	150 or more trips	1
Points Total*					6
The total of the points determine the level of notification and the approving authority .					

Based on the Impact Total Your Level of Notification Will Be:

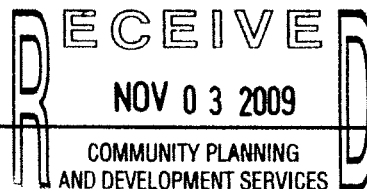
- 0-6 pts. - mailed to 750 ft. of a project area 7-9 pts. - mailed to 1,000 ft. of project area
 10-12 pts. - mailed to 1,250 ft of project area 13+ pts. - mailed to 1,500 ft. of project area

Proposed Development:

Retail 0 Sq. Footage # of Required Parking Spaces _____
 Office 0 Sq. Footage # of Provided Spaces 3
 Restaurant 0 Sq. Footage # of Required Handicap Parking Spaces _____
 Other 0 Sq. Footage # of Provided Handicap Parking Spaces 0

Bicycle Parking: # Long Term _____ # Short Term _____ Total # Provided _____

Existing Site Use(s) (to include office, industrial, residential, commercial, medical etc.) _____



Previous Approvals: (if any)

Application Number	Date	Action Taken
_____	_____	_____
_____	_____	_____

A letter of authorization from the owner must be submitted if this application is filed by anyone other than the owner.
I hereby certify that I have the authority to make this application, that the application is complete and correct and that I have read and understand all procedures for filing this application.

Eugene Samelson 11/3/09
Please sign and date

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Application Checklist:

Submitted:

- Complete Application ✓
- Filing Fee (to include Sign Fee)
- Pre-Application Number PAM 2010-00016 Documentation (Development Review Committee Meeting Notes)
- Proposed Area Meeting Date 12/7/09 @ 7PM including location ROCKVILLE SENIOR CTR, 1150 CARNATION DR (DINING ROOM) ROCKVILLE, MD 20851
- A copy of the either a subdivision plat or an identification plat ✓
- A copy of the official zoning map (should have purchased when PAM application was applied for.)
- An explanation of how this proposed use will meet the general requirements for granting a special exception and the special requirements, if any.
- A site plan that includes all existing and proposed site improvements.
- Plans and specifications for any signs that may be required in residential zones.
- A detailed site development plan prepared and certified by a professional engineer. (Eleven (12) copies- Fifteen (15) if on a state highway: (size 24' x 36")(folded to 8 1/2' X 11').
- Submittal of CTR (Comprehensive Transportation Review) Report- with Fee (copy to CPDS) (if applicable).
- Approved NRI/FSD (if required)
- Landscape Plan (if required) (6 copies)
- Approved Stormwater Concept Plan
- A preliminary schedule of development including time specific staging and phasing of:
 - Residential area to be developed in order of priority of type of dwelling unit
 - The construction of streets, utilities, and other improvements necessary to serve the project are;
 - The dedication of land to public use; and
 - The construction of nonresidential facilities
- Scope of work narrative to include statement of justification that address compliance with:
 - Mixed Use design Standards
 - Layback slope
 - LSL manual
 - APFO
 - Parking
 - Shadows
 - Signs
 - Public use per Zoning
 - Impervious surface
- Additional Information Required by Planning Staff
- Electronic Version (PDF format)

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 NOV 03 2009
 COMMUNITY PLANNING
 AND DEVELOPMENT SERVICES

Comments on Submittal: (For Staff Use Only)

November 2, 2009

MEMORANDUM

To: Mr. Castor Chasten

From: Eugene Melanson

Subject: Accessory Apartment – Project Description and Scope of Work
SPX2010-00382
825 Duke Street
Rockville, MD 20850

I am the sole owner and full time resident at 825 Duke Street, Rockville, MD. The following is a description of the accessory Apartment that I am applying for:

1) It is completely contained within the above residence, which is a single unit detached dwelling; and Contain facilities for:

- A) Cooking (Full kitchen)
- B) Eating
- C) Sanitation (Full bathroom)
- D) Sleeping (one bedroom)

2) A) Only one (1) accessory apartment will be created in my existing single unit detached dwelling.

B) The accessory apartment will be created on a lot:

- i) Which is occupied by my self
- ii) The lot does not contain any other rental residential use
- iii) The lot does not contain any rooms for rent or a boarding house
- iv) The lot does not contain a major home-based business enterprise.

3) I am the owner of the lot and dwelling and I occupy the dwelling 100 percent of the time.

4) A) Both the main dwelling and the accessory apartment comply with all current development standards, including off-street parking requirements.

B) No variance is requested to be granted.

5) A) the separate entrance to the accessory apartment is located so that the appearance of a single unit detached dwelling is preserved.

B) All external modifications and improvements to the single-unit detached dwelling in which the accessory apartment is to be created, or to which it is to be added, is compatible with the existing dwelling and surrounding properties. The improvements to my dwelling have improved the appearance of the community.

C) The accessory apartment will have the same street address (house number) as the main dwelling.

D) The accessory will not have more than three (3) people and will be subordinate to the main dwelling.

5) A) The accessory apartment will not constitute a nuisance because of traffic or number of people, and will not cause any objectionable noise, odors, or physical activity.

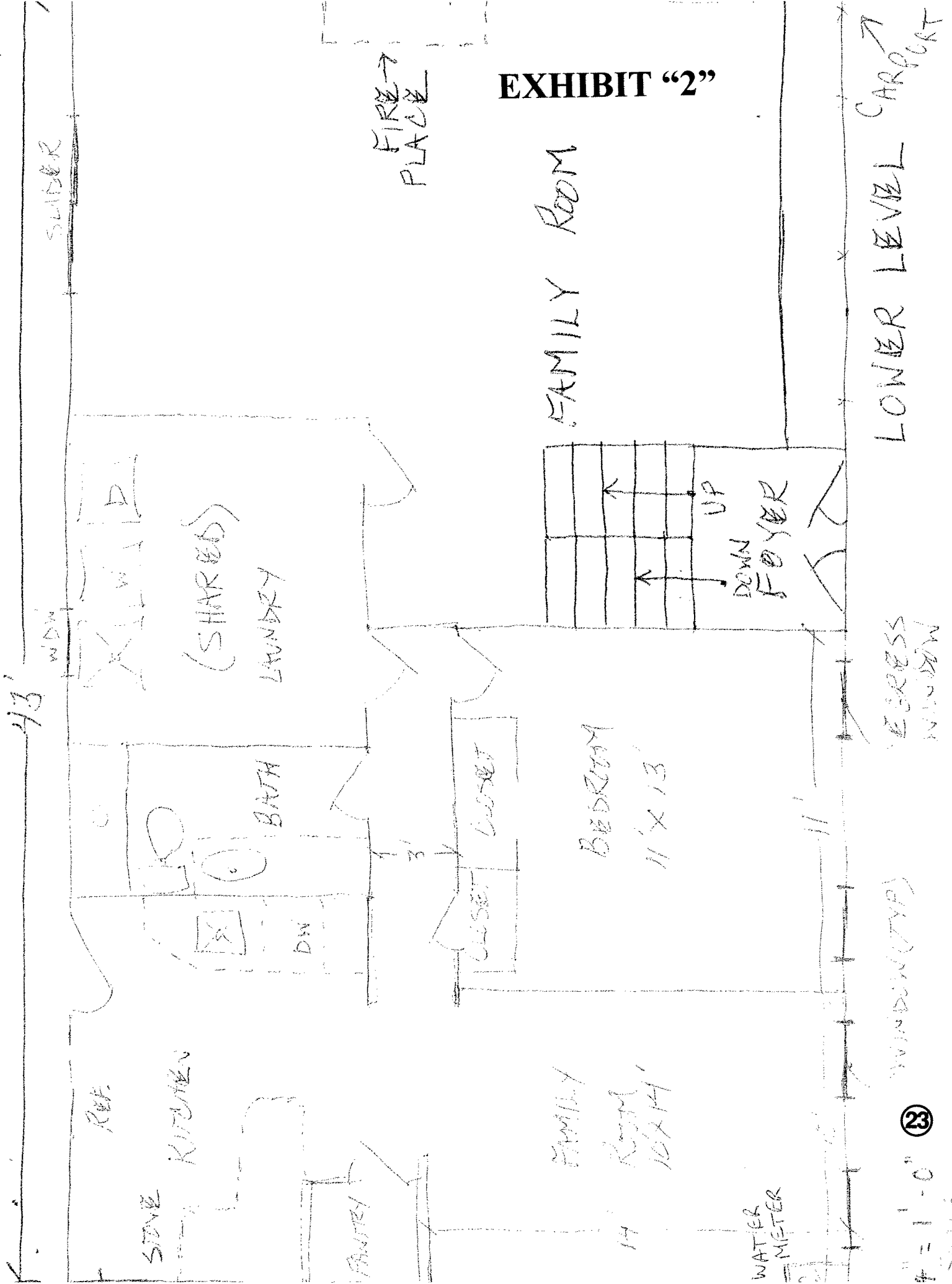
6) B) The accessory apartment will not adversely impact the parking or traffic situation in the neighborhood. I have room for two vehicles on my driveway and approximately three vehicles on Duke Street in addition to four more vehicles on Princeton Street.

Thank you,

A handwritten signature in cursive script that reads "E Melanson". The signature is written in black ink and is positioned above the printed name.

Eugene Melanson

EXHIBIT "2"



23

1" = 1'-0"
SCALE

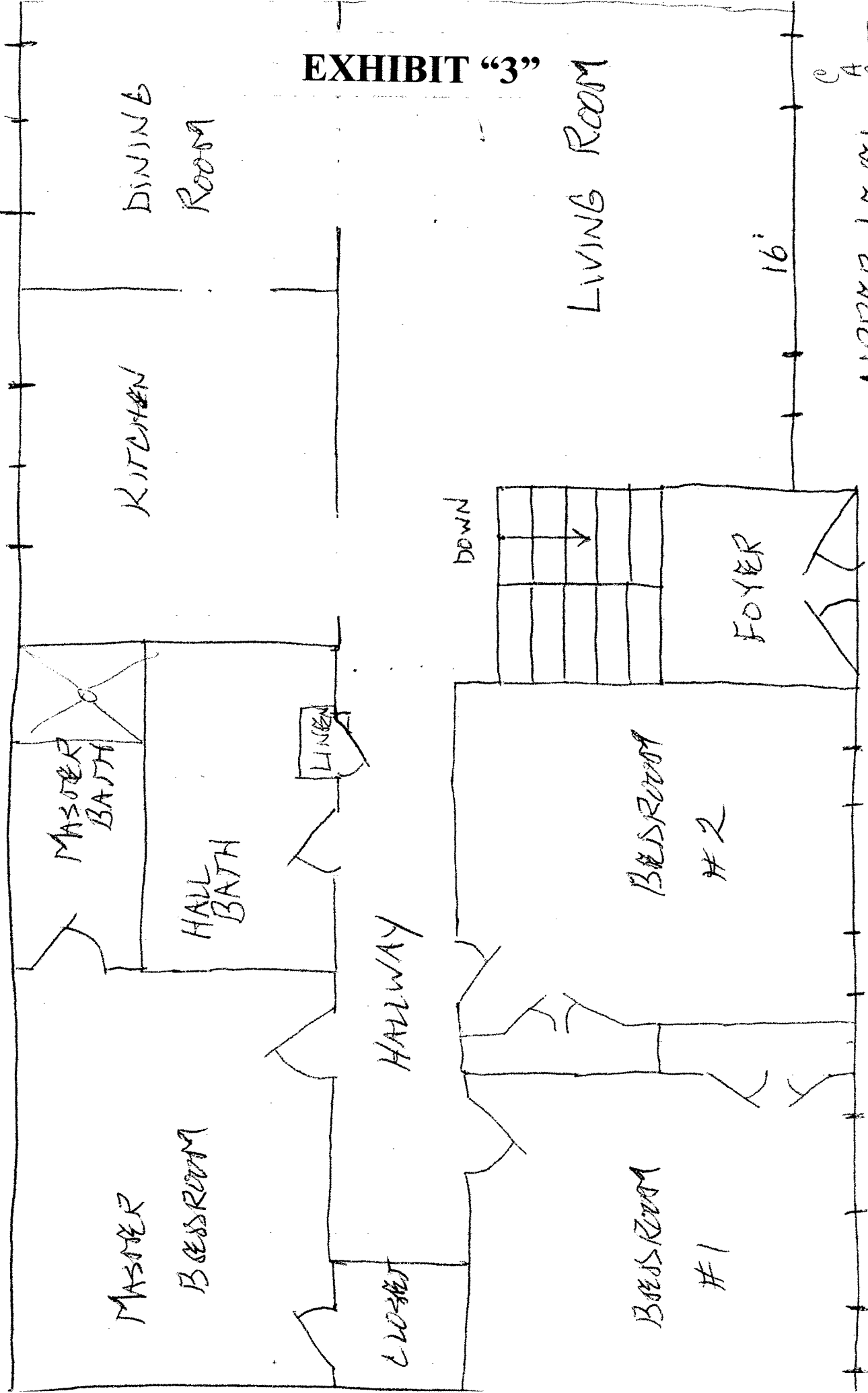
EXHIBIT "3"

CARPORT →

UPPER LEVEL

16'

LIVING ROOM



SCALE = 1/4" = 1' 0"