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FILE NO: 66266.000002

February 25, 2005

By Hand Delivery

Geoffrey Griffis, Chairman
Board of Zoning Adjustment
Room 210
441 4th Street, N.W.
Washington, D.C. 20001

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D.C. OFFICE OF ZONING
2005 FEB 25 PM 12:35

**Re: Appeal of Patrick Carome
BZA No. 17285
(4825 Dexter Terrace, N.W.)**

Dear Chairman Griffis and Board Members:

Enclosed is my opposition, on behalf of the property owners Frank and Dina Economides, to the appeal of Mr. Carome in this case and in support of the Zoning Administrator's denial of that appeal.

Please note that my opposition contains a preliminary matter to dismiss the appeal for lack of timeliness under the relevant zoning regulations, which I ask the Board to hear before reaching the merits of the appeal. The hearing date is March 1, 2005 at 1:00 p.m.

Sincerely,

Richard L. Aguglia

Enclosure

cc: By Mail
ANC 3D
Attn: Alma Gates, Chair

BZA
Case No. 17285
Exhibit No. 31



Geoffrey Griffis, Chairman
February 25, 2005
Page 2

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Toye Bello, Zoning Administrator
Lisa Bell, Esq., DCRA General Counsel's Office
Frank & Dina Economides

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**OPPOSITION OF PROPERTY OWNERS
TO THE
APPEAL OF PATRICK CAROME,
BZA APPEAL NO. 17285
(4825 DEXTER TERRACE, N.W.)**

On behalf of the property owners, Frank and Dina Economides, I respectfully oppose the appeal of Mr. Carome in this case and support the decision of the Zoning Administrator to deny that appeal.

Executive Summary

The massive appellate type brief filed by Mr. Carome fails to rebut the rather basic zoning principles underlying this case in favor of DCRA and the property owners. Retaining walls that are built in accordance with the building code may occupy any part of a yard. See Section 2503.3 of the Zoning Regulations. DCRA's long standing position that retaining walls are considered part of the landscape and not subject to set back requirements is consistent with Section 2503.3 of the zoning regulations and case law. There is no doubt that the wall built by the property owners is a retaining wall in actuality and under accepted definitions. Even Carome's own engineering experts describe the structure as "a large geostructure type wall relying on earth characteristics and gravity for support in an acceptable bootstraps approach" (KCE) and "a rear yard retaining wall." (Neubauer) (Emphasis supplied). The retaining wall design was prepared by a professional engineer certified in the District and approved by DCRA. During construction of the wall, an engineer was present daily to assure that the integration of the wall with the specially imported freely draining soil it retained as part of a geogrid design was properly implemented. Upon completion of the wall, a professional engineer certified in the District approved its structural integrity consistent with its design plans and the building code. In addition, a very elaborate and effective storm water management plan, approved by DOH

Watershed Protection Division, will be installed on the property to prevent rainwater falling on the house and on the steeply sloped side of the house from reaching the wall or the park.

Moreover, Mr. Carome's standing to make this appeal is suspect and the appeal itself to the BZA is untimely, as it fails both the 10 day "under roof" and 60 day "decision" rule.

Mr. Carome is neither an adjacent property owner nor is his house within 200 feet of the wall.

Further, the construction of a new home on this property has been under intense scrutiny by the neighborhood and local officials since inception in 2002. In June and July of 2002, both D.C. and federal investigations were undertaken respecting construction on the property and cutting of trees allegedly on federal parkland. Several stop work orders were issued by DCRA regarding the house in mid-2003. The application for a retaining wall was filed in February of 2004 and approved in April of 2004. Work commenced on the wall in the summer of 2004 and was completed in November of 2004. Yet, Mr. Carome's appeal over the retaining wall was inexplicably not filed until December 13, 2004.

Overview

Mr. Carome misconstrues the role of the Board in this case and also attempts to prejudice the Board against the property owners by introducing extrinsic facts. (In doing so, Mr. Carome only highlights his detailed knowledge of the retaining wall and underscores why the appeal is untimely.) The Board's role in this case is to confirm whether the building permit issued for the retaining wall, upheld by the Zoning Administrator, violated zoning and/or building regulations. It is not the Board's role to determine if the retaining wall has an adverse effect on federal parkland but that of NPS; it is not the board's role to determine if public space violations exist, but that of the Public Space Committee; it is not the Board's role to determine whether the wall has, subsequent to code compliance, become unsafe, but that of DCRA, permits branch. In fact,

the Board has no jurisdiction to even hear any discussion on the safety of the wall post the finding of its code compliance.

Mr. Carome indicates on page 4 that his case relates to the validity of the retaining wall permit in light of zoning and building code violations (“the focus of this appeal is narrow”). Nevertheless, most of the first 24 pages of the brief detail certain federal and D.C. charges involving one of the property owners not in any way related to the issue of the retaining wall. These facts are listed to prejudice the Board against the property owners and should be stricken. Further, Mr. Carome is given to gross hyperbole and misstatements in an attempt to further prejudice the Board against the property owners, using exaggerated and provocative terms such as the owners “quietly” filing their application for the retaining wall, that the wall is “oozing” with mud and is “encroaching” on federal property when no such finding has ever been made, and that the owners converted private and public property into a “sterile and largely tree-less wasteland.”¹

When Mr. Carome is unable to explain away a document that does not support his position, it must be a fraud (e.g. the raze permit). When DCRA indicated to Mr. Carome that it was pursuing several administrative actions against one of the property owners for alleged infractions related to the construction of the house on the subject property, except the retaining wall issue, his characterization of the agency is one of “unfathomable incompetence” and capable of graft. Brief at 18. He implies that the former DCRA Director was fired over this

¹ It is anticipated that the owners in conjunction with NPS and NPS will plant new trees and vegetation in this fairly small area.

case, and that named DCRA officials are criminally suspect, including the inspector who issued stop work orders to the property owners.²

However, a careful review of Carome's brief indicates that his essential gripe, obsessive beyond reason, is the size and appearance of the new house, level rear yard and retaining wall which supplanted a "reasonably" sized house with a steeply sloped and unusable rear yard; that it was constructed by "wealthy" people who were involved in a web of intrigue. Of course, all of these actions, properly permitted (as the property owners will contend is the case in the appropriate forum) are matter of right zoning.

Preliminary Matter

As a preliminary matter, the appeal is untimely and should therefore be dismissed without need to reach the alleged merits of Mr. Carome's case. A summary of the facts in this case follows in support of the proposition that the appeal should be dismissed as untimely, as well as why the appeal is not meritorious.

Background Facts

The property owners, Frank and Dina Economides, lived at the house on the subject property for approximately 12 years (1990-2002). Starting in 2002, the owners decided to renovate the house then, due to emergency circumstances, raze the house and build a new house.³ The raze of the existing house and construction of the new house are not matters before this

² Mr. Carome even gratuitously offers that the same inspector's actions in a case not involved in this appeal are criminally suspect (Footnote 3 at p. 20).

³ The need to raze the house was two-fold. One, a bulldozer being delivered to the site slipped off a flat bed truck and because of the steeped sloped driveway crashed into one of the few existing walls that the owners intended to retain as part of their addition. Second, a large tree fell onto the roof of the house causing significant damage. The new house became more expensive, not less, to construct after the razing, since concrete slabs and footers had to be removed from the original dwelling.

Board. As part of the new house construction, the owners desired to level a steeply sloped and largely unusable backyard, see Carome's Exhibit 23 which demonstrates the steep slope, buttressed by a retaining wall, which is the subject of this appeal. The property owners with their three children desire to live in the new house as their permanent residence upon completion.

1. **Fill and Grading.** The property owners, per their agent, filed an application to "fill rear yard and regrade rear yard" with DCRA on August 28, 2002, with approved soil erosion control plans. See Exhibit A. The subject property is zoned WH/R-1-A as indicated on the application. As Mr. Carome himself conceded at the ANC hearing on February 2, 2005, the rear yard of the subject property was steeply sloped and unusable as shown on Carome Exhibit 23. DCRA issued building permit No. B422839 to "fill rear yard and regrade rear yard" on September 5, 2002. See Exhibit B.

2. **SWM Study.** On October 9, 2002, Specialized Engineering, professional engineers certified in the District of Columbia, submitted a storm water management (SWM) infiltration rate study to the property owners for the construction of the house on the subject property. That study, based on various soil borings, indicated that infiltration for the proposed storm water management facilities in the rear yard would generally appear to be feasible in the areas proposed. The study dictated the method of site preparation, fill selection and placement including compaction. See Exhibit C. DOH, Watershed Protection Division, approved the SWM. See Carome Exhibit 23. The SWM system would include three catch basins, dry wells and drains/gutters from the house leading to the basins. Specially trucked in freely draining soil would be used. The end result would be less soil erosion from water run off than before. The

owners also signed a declaration of covenants for the maintenance of a SWM facility on the property with DOH which is attached as Exhibit D.⁴

3. In 2003, the property owners decided to extend the fill and grading to their property line. Because of the steep slope at the edge of their property line, bordering on federal parkland, a retaining wall would be needed. A professional survey was conducted on at least two occasions to assure that the retaining wall, when constructed, would be entirely on the subject property. See Exhibits E and I. Subsequent surveys by NPS also demonstrate that the retaining wall is not on federal parkland. On February 23, 2005, counsel for the property owners and a representative of the builder met with U.S. Park Service representatives. One of those representatives, Mr. Joseph Kish, reiterated that there was no finding that the wall encroached over federal parkland. See Exhibit F, Park Service drawing, which was also submitted by Mr. Carome to the Board in a late supplemental filing. Note this drawing indicates that the portion of the wall facing the park runs from 0.5 feet or 6 inches up to 2.5 feet from park property. Mr. Kish did indicate that he was investigating whether the underground footers of the wall encroached under the parkland by a matter of inches, which is contrary to the drawings for the wall design prepared for the owners in Carome Exhibit 24. On average, such footers would extend outside the wall no more than 3 inches to 6 inches. See Exhibit I. It should be noted that the footers are gravel with no concrete or bonding material and thus become part of the soil. We draw to the Board's attention that "Detail 1" in the Park Service drawing (Exhibit F) shows a discarded piece of pipe "over the line" (on federal parkland), which was not attached to the wall, and which was subsequently removed with other debris from the site, as evidenced by the

⁴ The covenant calls for quarterly (in the first year of operation) and then annual monitoring of the infiltration system and sediment build up.

inspection of February 23, 2005. So, Carome Exhibit 44 shows nothing more than discarded material.

4. **Retaining Wall Application and Permit.** On February 23, 2004, the property owners through an agent filed an application to build a retaining wall on the subject property with DCRA. See Exhibit G. The application indicated that the height of the proposed retaining wall varied from 0' to 30' ft. and would be entirely on the owner's land. The application was approved by DCRA for zoning, erosion control and structural engineering. The plat of the subject property attached to the application clearly indicated that the retaining wall was near the property lines and not within the 25' rear yard set back or the 8' side yard set back requirements for buildings. (See last page of Carome Exhibit 51 and our Exhibit H). The plat was also signed as approved by the reviewing D.C. zoning official.

The remarks by DCRA at the time the application was submitted indicated the following:

- “(1) Based on top and bottom of wall elevation, the wall is higher than 3 feet. Correct the height shown on application (Note: application shows 0 - 30’)⁵
- (2) provide structural detail for proposed wall - D.C. registered structural engineer shall sign and seal the drawings.
- (3) provide all information relevant to this wall design including Soil condition (soil boring, or test pits, soil classifications, direct shear test and slope analysis.”

The following circled notation follows these remarks: “Done” (footnote supplied)

For reference, see Carome Exhibit 24, Final Designs for Economides Residence N.W., Washington, D.C., Mesa Site Retaining Wall, prepared, signed and sealed by Ryan & Associates,

⁵ It appears from the handwriting that the words “(Note: application shows 0-30’)” were added by another DCRA official to correct this statement as the application and plans do indeed show heights from 0' to 30'.

a registered District of Columbia professional engineering company, dated January 27, 2004. That comprehensive report indicates soil parameters, bearing capacity, slopes and surcharges, building specifications, factors of safety, geogrids, civil plans, wall batter, wall profile, embedment, construction oversight, block system, and tangent angle.

This final design was approved by a DCRA structural permit official by a stamp and signature on the cover page, attached as part of Carome Exhibit 24.

On April 23, 2004, DCRA issued a building permit to “construct new retaining wall around rear yard as per plans entirely on owner’s land.” See Exhibit H.

5. **Commencement and Completion of Work.** Work started on the retaining wall in the summer (June) of 2004. See attached affidavit of Hugo Ardon, Exhibit I. Specialized Engineering representatives monitored the construction daily. Existing soil where the retaining wall would be constructed was replaced with better, integrated, and free draining soil. The last “cap” was placed on the wall in early November, 2004.⁶ Again, refer to Exhibit I, affidavit of Hugo Ardon. Special Engineering gave its final verification in a letter dated December 15, 2004 to the property owner that those items observed by its agents (fill placement and compaction, foundation design bearing capacity and geogrid lengths) were in substantial compliance with the design plans and specifications which had been previously approved by DCRA. See Exhibit J.

On December 16, 2004, DCRA requested that the structural certification be sealed and signed by a D.C. registered professional engineer on the form provided. See Exhibit K. On

⁶ Contrary to the allegations in Mr. Carome’s brief at 28, there was no SWO issued specifically for the retaining wall that we can find and his Exhibit 46, the letter from DCRA issued on December 9, 2004, confirms this fact as he concedes on page 31 of his brief. It is unknown who wrote “stop work” on the retaining wall application, and when it was written. Further, the D.C. criminal case filed against one of the property owners does not reference construction of the retaining wall as an alleged infraction of law.

December 17, 2004, Ryan & Associates executed, signed and sealed the structural certification form and sent same to DCRA. See Exhibit L.

The Appeal is Not Timely

Under Section 3112 of the Board's rules of procedure, any person aggrieved by any decision made by an administrative officer or body (here DCRA permits section) in the administration or enforcement of the Zoning Regulations (the issuance of the retaining wall permit) may file a timely appeal with the Board as follows:

1) Within 60 days from the date the person appealing the administrative decision (to issue the retaining wall permit) had notice or knowledge of the decision complained of, or reasonably should have had notice or knowledge of the decision complained of, whichever is earlier (the "60 day rule").

2) If the decision complained of involves the issuance of a permit for the construction of a structure, the latest date on which an appeal may be filed is not later than 10 days after the date on which the structure or part thereof in question is "under roof" (the "10 day rule").

Construction of the retaining wall in issue in this case commenced in June of 2004, after the issuance of the building permit on April 23, 2004, and was completed on or about November 14, 2004. The appeal to this Board by Mr. Carome was not filed until December 13, 2004.

Assuming, without conceding, that the retaining wall is a "walled platform structure" or "warehouse platform structure" as alleged by Mr. Carome, it was "under roof", that is "capped off" on November 14, 2004. Accordingly, the appeal of December 13, 2004 fails the 10 day rule. The obvious rationale for this rule is to prevent late filed appeals after a structure has been

substantially completed under an approved permitting process by DCRA where removal of the structure will cause substantial economic harm to a property owner.⁷

In addition, the appeal fails the 60 day rule. The permit for the retaining wall was issued on April 23, 2004 and posted on the site. See Exhibits E and I. Yet, Mr. Carome's appeal from that issuance was not filed until December 13, 2004, almost eight (8) months later, and some ten (10) months after the application was filed in February of 2004. As evidenced by Carome's Exhibit No. 2, affidavit of Harry Gates (husband of ANC 3D chair Alma Gates) at para. 4: "As was the case for many persons in our general neighborhood, I was aware that the house was demolished starting sometime in December of 2002," construction at this site has been under intense scrutiny by the neighborhood including the ANC since 2002. Federal and District investigations commenced in the summer of 2002 over construction at the site and cutting of trees allegedly on federal parkland. SWOs were issued by DCRA at the request of the neighbors/ANC in 2003. The application for the retaining wall was filed in February of 2004. The retaining wall permit was posted in the window of the house on the subject property in April of 2004. See Exhibits E and I. Work started in June of 2004. It is evident from Mr. Carome's brief and exhibits including pictures that the progress of all construction at the site was monitored on a regular basis, at least as far back as December 2002.

It is inconceivable from his own extremely detailed brief including pictures of the site that Mr. Carome could not have known that a retaining wall was being built on the subject property more than 60 days in advance of his appeal on December 13, 2004. Accordingly, the appeal also fails the 60 day rule.

⁷ As set forth herein, we believe that removal of the wall will cause more damage to the parkland because of the steep slope of the rear yard of the subject property.

Standing

Mr. Carome's home on Fulton Street, N.W. is not adjacent to the subject property nor within 200 feet of it⁸. Accordingly, we question his standing to file this appeal, since he has failed to demonstrate an injury in fact to a legally protected interest which is concrete and particularized. See Lujan v. Defenders of Wildlife, 504 U.S. 555 (1992) and Friends of Tilden Park v. D.C., 806 A.2d 1201 (2002).

Another significant part of Mr. Carome's brief is directed to the safety of the wall post completion. Mr. Carome has no standing to raise this issue before the BZA. If there is a perception that the wall is not safe⁹, the proper cause of action is to file a complaint with DCRA. If DCRA finds that the wall is not safe, the property owners must correct the problem within the time allotted. Should DCRA find that the wall is safe, then Mr. Carome has the option of filing an appeal with the Board. However, this case is not the proper forum for such an appeal, which has no foundation.

We draw to the Board's attention documents submitted to Mr. Carome by KCE engineers and Neubauer Consulting Engineers which in fact attest to the structural integrity of the retaining wall at completion. See Exhibit M.

⁸ According to informal information from the D.C. Surveyor's Office, Wesley Heights Park is 260 feet (+/-) from Fulton Street and according to the Public Space Office, Fulton Street is 50 feet wide at its narrowest point, totalling 310 feet. A plat of computations is on order.

⁹ Assuming, as alleged by Mr. Carome, that 1.1% (100 ÷ 9000) of the mesa blocks have cracks, then this is a result of natural settlement after construction was complete. The 1% cracking/gapping settlement is considered industry standard and acceptable. See Exhibit P. Also, the engineer approved a change at Section 2-27 from a radius or curve to interlocking blocks that were glued due to the pie shape irregularity of the site which made it too tight for a curve. See Exhibit I.

The Appeal is Without Merit

There is no specific definition of the term “retaining wall” in the zoning regulations. Further, we were unable to find a definition of the term in reported BZA decisions or D.C. case law. Accordingly, the zoning regulations rely on dictionary definitions. See Section 199.2.

Webster’s Third New International Dictionary (unabridged edition) defines a “retaining wall” as follows:

a wall to resist lateral [side] pressure other than wind pressure; esp: one to prevent an earth slide - compare breast wall (brackets supplied)¹⁰

A review of case law from other jurisdictions defines a retaining wall as a:

wall designed primarily to withstand lateral pressures of earth or other filling or backing deposited behind it after construction.¹¹

We submit that the structure on the subject property fits the classic definition of a retaining wall and is indeed a retaining wall. Mr. Carome’s own experts call it a wall. (KCE - “a huge geostructure type wall;” Neubauer - “rear yard retaining wall”) See Exhibits E and M (pictures of subject property and retaining wall and letters from Mr. Carome’s engineers). In addition, there are several such retaining walls in the neighborhood and immediate vicinity as large as that on the subject property also bordering federal parkland. See Exhibit E. Thus, there is no need to review Mr. Carome’s distorted definitions of “warehouse”, “platform”, or “fence wall” as he has no basis for this premise.

¹⁰ Definitions of a retaining wall on the Web generally define a retaining wall as one that is constructed to hold soil in place, to resist lateral pressure to prevent the advance of a mass of earth.

¹¹ Sterling Management - Orchard Ridge Apts. v. State Board of Tax Assessors, 730 N.E. 2d 828 (Tax Court of Indiana 2000).

Mr. Carome correctly states that the zoning regulations will adopt Webster's definition of an undefined term, but then relies on his own definition of retaining wall without citation ("... to retain soils in a pre-existing location ..."). Brief at 9.

The Zoning Regulations define a "structure" to include a retaining wall as follows:

anything constructed, including a building, the use of which requires permanent location on the ground, or anything attached to something having a permanent location on the ground and including, among other things, radio or television towers, reviewing stands, platforms, flag poles, tanks, bins, gas holders, chimneys, bridges, and retaining walls. ***
§ 199.1 (Definitions)

A "building", in turn, is defined in the Zoning Regulations as:

a structure having a roof supported by columns or walls for the shelter, support, or enclosure of persons, animals, or chattel.

§ 199.1 (Definitions)

It must be noted that under Section 2503.3 of the Zoning Regulations that:

A fence or retaining wall constructed in accordance with the D.C. Building Code may occupy any yard required under the provisions of this title.

Thus, it is clear under the Zoning Regulations that a retaining wall, as here, is a structure, but not a building, that may occupy any portion of a yard, if built in accordance with the D.C. Building Code.

We have attached a recent case on point, decided in 1999, by the Wisconsin Appellate Court, which reinforces DCRA policy on this question. The case stands for the proposition that a retaining wall is part of landscaping that may occupy any portion of a yard and is therefore not

subject to setback or other requirements associated with buildings. See Exhibit N. In contradistinction, the West Virginia case cited by Mr. Carome involved a wall built around a property at grade level as a play area for the owner's children and to confine a vicious dog; no plan for approval was ever submitted which indicated that the wall was a retaining wall, and the owner simply pushed some dirt up against the wall in an attempt to claim that it was a retaining wall. See Exhibit O. None of the other cases cited by Mr. Carome are on point; for example, the New Jersey case cited prohibits retaining walls in excess of 7' in height in a rear yard. See Carome Exhibit 20, opinion at 10-11. This is the opposite from the D.C. regulations.

In addition, the subject retaining wall is below the grade of the house on the subject property. See Exhibit E.

Reply to Specific Objections in the Appeal in Order Presented

- Rear and Side Yard Setbacks. The subject retaining wall does not violate the zoning regulations applicable to rear yard (§ 404.1)¹², or side yard setbacks (§ 405.9)¹³ as none is required for a retaining wall under § 2503.3.

- Open Yard to the Sky. Appellant Carome indicates that the retaining wall violates Section 2503.1 related to a yard being open and unobstructed to the sky from the ground up. However, that section states that except for § 2503.3, which includes fences and retaining walls, every part of a yard . . . shall be open and unobstructed to the sky from the ground up. In any event, the retaining wall is below grade level of the house. Therefore, there is no merit to this contention.¹⁴

¹² Appeal para. 22.1.

¹³ Appeal para 22.2.

¹⁴ Appeal para. 22.3.

- Accessory Building. The retaining wall is not an accessory building that violates the zoning regulations in terms of height, light or ventilation. An accessory building is a subordinate building (that is, a structure having a roof supported by columns or walls for shelter or support of person, animals or chattels) located on the same lot as the main building, incidental to the use of the main building.¹⁵

- Retaining Wall. As we have shown, the structure is a retaining wall in actuality, as supported by the property owners exhibits and as conceded by Mr. Carome's own experts, and as defined by the zoning regulations consistent with Webster's Dictionary definition. It is to be noted that while Mr. Carome recognizes that the zoning regulations rely on Webster's dictionary for undefined terms, he fails to read out that definition of "retaining wall." Instead, he relies on his own strained and misinformed interpretations of the retaining wall as a "walled platform structure" or "warehouse platform building" for his argument.¹⁶

- Building and Accessory Building. The retaining wall is not a building or accessory building with four walls and a roof for the shelter or support of persons, animals or shelters under the D.C. Zoning Regulations.¹⁷

- GFA and Maximum Lot Occupancy. For the reasons already stated, the retaining wall is not a structure/building or accessory building which violates the maximum lot occupancy under Section 1543.2 of the Wesley Heights Overlay District.¹⁸

¹⁵ Appeal para. 22.4, 22.5 and 22.7.

¹⁶ "Warehouse" is defined in the zoning regulations as any building or premises where goods or chattels are stored.

¹⁷ Appeal para. 22.7.

¹⁸ Appeal para. 22.8 and 22.9.

- Fence. Mr. Carome argues that a fence will need to be erected for safety reasons on the filled and leveled back yard because of the 30 foot slope below in Wesley Heights Park:

“... some form of fence will need to be erected atop the exterior walls of the Illegal Warehouse - Platform building ...”

He then goes on to state that such a fence when constructed will violate the 7' height restriction for a fence within 10' of a property line. This argument is, of course, premature. Second, it tacitly admits that what we have here is a retaining wall at or below grade and, of course, a fence meeting the D.C. building and zoning codes will need to be erected for the safety of the property owners' family and guests.¹⁹

- Unconventional building or structure in R-1-A or Wesley Heights Overlay. No support is given for this proposition. As our exhibits indicate, there is precedent for the size and height of the retaining wall.²⁰

- Not built in accord with Building Code. This allegation is rebutted by the arguments and exhibits in this brief, to wit, that the design and construction of the retaining wall meets D.C. Building Codes as attested to by various professional engineers certified in the District of Columbia.²¹

Mr. Carome insists in this portion of his appeal that the so called retaining wall is actually a “fence wall” which must meet the 7' height restrictions if within 10' of a property line. Again, the retaining wall is at or below the grade of the house and does not constitute a fence or a fence wall violative of this 7' height requirement.

¹⁹ Appeal para. 22.10.

²⁰ Appeal para. 22.11 and 22.12.

²¹ Appeal para. 22.13.

Further, in response to this part of his appeal, it is to be noted that:

- the safety of the structure (post code compliance) is not before this board
- a structural engineer approved the compliance of the retaining wall with the building code both in terms of design and upon completion
- DOH, Watershed Protection Division, approved the SWM facility and the owners entered into a covenant regarding same with DOH
- the Board has no jurisdiction over public space issues; the public space discussed in this section relates to federal parkland and is therefore under the jurisdiction of NPS
- the owners obtained a fill and grading permit as set forth in this opposition brief, nevertheless, this issue is not before the Board in this appeal.
- Wall Checks. Wall checks were performed as discussed supra.²²
- WHOD. See discussion which follows.²³
- Current Application Form. We can find no regulation which requires the owners to

use the application form set forth in Carome's Exhibit 22.

- Fill Contaminated with Foreign Substances. The retaining wall blocks are made of concrete and filled with gravel for absorption and the "fill" or soil is clean, integrated and freely draining which was required by the project engineers to insure that the retaining wall was built correctly.²⁴ See Exhibits C and I and Carome Exhibit 24.

²² Appeal para. 23.1.

²³ Appeal para. 23.2.

²⁴ Appeal para. 23.4.

- Environmental Damage. DOH, Watershed Prevention Division, has approved an effective and elaborate SWM facility for the rear yard of the house, bordering on the retaining wall, to guard against environmental damage.²⁵ See Carome Exhibit 23.
- Other Permit Activity. The applicant on the retaining wall application was not required to disclose other work on the subject property (house construction) because that work is subject to other application reviews and approvals which had been obtained prior to the retaining wall permit.²⁶
- Application to Construct a Retaining Wall. The description of the work to be performed to construct a retaining wall was and is accurate.²⁷ The retaining wall is not an elevated platform. Webster's defines a "platform" as a horizontal flat surface usually higher than the adjoining area "as of floor or ground."²⁸
- EIS, Supp. Env. Questionnaire. The retaining wall, in conjunction with the SWD facility, will in fact prevent increased sediment from disturbing rivers, streams or wetlands because the 2 to 1 "pitch" or slope of the previous rear yard has been leveled and drained to reduce such run off.²⁹
- Fencing. Discuss supra and as noted, is premature and irrelevant.³⁰

²⁵ Appeal para. 23.5.

²⁶ Appeal para. 23.6.

²⁷ Appeal para. 23.7

²⁸ Appeal para. 23.8.

²⁹ Appeal para. 23.9, 23.10 and 23.12.

³⁰ Appeal para. 23.11.

ANC 3D Resolution Supporting the Appellant

ANC 3D has submitted a resolution to the Board supporting Mr. Carome's appeal. While the Board is required to give "great weight" to the ANC's position, the Board should note the following. At the February 2, 2005 ANC hearing on this matter, two of the Board members (Sara Shapely and Richard Hamilton) stated on the record that they had problems with Mr. Carome's legal arguments. However, the Chair, Alma Gates, indicated that it was the BZA's role to make this legal decision and not the ANC's and the purpose of the ANC meeting was either to support Mr. Carome's appeal or not. Since indeed this is a legal/administrative decision to be made by the Board, and since the ANC deliberately decided to base its decision on the politics of the situation, the ANC's vote should be given little or no weight by the Board.

WHOD

The major purpose of the WHOD is to regulate construction and alteration of residential and other buildings in the area so zoned. (Emphasis supplied). Sec. 1541.1 The subject property is in the WHOD.³¹ The WHOD does not restrict retaining walls since they are allowed in the underlying R-1-A district. Sec. 1542.2. It is clear that the use of the term "structure" for purposes of lot occupancy limitations in Section 1543.2 refers to a "building", since it is modified by the term "accessory building."

Similarly, by analogy, the reference to front yard setbacks in the WHOD involves residential buildings. Section 1543.4.

³¹ All of the other applications and permits in this case indicate WH/R-1-A zoning. It is unclear whether DCRA itself noted the zoning on the top of the application, as the official records are not reviewable at this time. In any event, a review of the entire file at DCRA on this case makes it abundantly clear that the property was recognized by DCRA officials as being in the WH overlay, as further indicated by DCRA's letter to Mr. Carome on December 9, 2004. See Carome Exhibit 64.

In short, Mr. Carome's argument with respect to the WHOD boils down to his subjective opinion, without reliable support, that the retaining wall is not harmonious in design with the existing neighborhood, is not attractive and inhibits access to air and light. If the Board adheres to such subjective opinions, virtually every house to be built in the WHOD would be subject to attack.

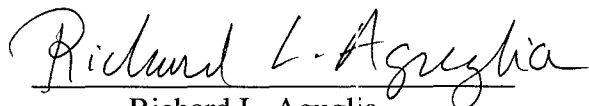
In an effort to make the exterior of the retaining wall blend in with the park setting, the owners anticipate planting vines known as Virginia Creepers on the wall (See Exhibit E) in coordination with the NPS. Virginia Creepers have an open canopy structure, energetic growth and are useful for erosion control and watershed protection, particularly in shaded areas.

CONCLUSION

The retaining wall meets the zoning regulations and building code. Further, the appeal is late. Mr. Carome has no standing to bring the appeal. Therefore, the appeal should be dismissed.

Respectfully submitted,

HUNTON & WILLIAMS LLP

By: 
Richard L. Aguglia

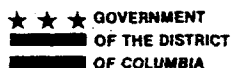
INDEX OF EXHIBITS

EXHIBIT A	Application for Fill and Grade Permit
EXHIBIT B	Permit for Fill and Grade Permit
EXHIBIT C	SWM Study and Sample Daily Report
EXHIBIT D	Declaration of Covenants
EXHIBIT E	Various Pictures of Subject Property 1 - front yard 2 - rear yard 3 - retaining wall 4 - survey sticks 5 - construction phases 6 - retaining wall permit 7 - other neighborhood retaining walls
EXHIBIT F	U.S. Park Service Drawing Showing Retaining Wall and Park Boundaries
EXHIBIT G	Application to Build a Retaining Wall
EXHIBIT H	Retaining Wall Permit
EXHIBIT I	Affidavit of Hugo Ardon
EXHIBIT J	Engineering Approval of fill placement and foundation

EXHIBIT K	Request by DCRA for signed and sealed sealed approval of structure of wall
EXHIBIT L	Signed and sealed structural certification of approval by engineer
EXHIBIT M	Letter to Carome from KCE Structural Engineers and Neubauer Consulting Engineers
EXHIBIT N	Wisconsin Court Case
EXHIBIT O	West Virginia Court Case
EXHIBIT P	Article on Unit Cracking/ Gapping Settlement from Engineer

02-00145

PRE-FILE NUMBERS		ZONING DISTRICT	FILE NUMBER	PERMIT NUMBER	
P.A.D.C. No.:	O.G. No.:	WHD/R-1A		By:	
H.P.A. No.:	S.L. No.:	Ward No.:	Receipt No.:	Date:	Receipt No.:



BLRA-33
(Rev. 10/91)

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION; PERMIT PROCESSING DIVISION (727-7050)

APPLICATION FOR CONSTRUCTION PERMITS ON PRIVATE PROPERTY

(PRINT IN INK OR TYPE; DO NOT WRITE IN SHADED AREAS OR ON PAGE 4)

CLEARANCE TO FILE

By: _____ Date: _____

ERASING, CROSSING OUT, WHITING OUT, OR OTHERWISE ALTERING ANY ENTERED INFORMATION WILL VOID THIS APPLICATION

(A) ALL APPLICANTS MUST COMPLETE ITEMS 1 THRU 27

1. Address of Proposed Work: 4825 DEXTER TERR., NW		Suite No.:	2. Lot: 806	3. Square: 1381	4. Application Date: 8/28/02												
5. Owner of Building or Property: ECONOMIDES	6. Address: (include Zip) 4825 DEXTER TERR., NW WASHINGTON, DC 20007			7. Phone: Work: (202) Home: 365-3334													
8. Agent for Owner: (if applicable) KAREN MARTINO @ CASEY	9. Address: (include Zip) 108 W. RIDGEVILLE BLVD MT. AIRY, MD 21771			10. Phone: Work: (202) Home: 744-2375													
11. Type of Proposed Work (check all applicable boxes): <table border="0"><tr><td>☐ New Building</td><td>☐ Retaining Wall</td><td>☐ Garage</td></tr><tr><td>☐ Addition</td><td>☐ Fence</td><td>☐ Sign</td></tr><tr><td>☐ Alteration and Repair</td><td>☐ Shed</td><td>☒ Other (Specify) GRADING</td></tr><tr><td>☐ Raze Building</td><td>☐ Awning</td><td></td></tr></table>						☐ New Building	☐ Retaining Wall	☐ Garage	☐ Addition	☐ Fence	☐ Sign	☐ Alteration and Repair	☐ Shed	☒ Other (Specify) GRADING	☐ Raze Building	☐ Awning	
☐ New Building	☐ Retaining Wall	☐ Garage															
☐ Addition	☐ Fence	☐ Sign															
☐ Alteration and Repair	☐ Shed	☒ Other (Specify) GRADING															
☐ Raze Building	☐ Awning																
12. Description of Proposed Work: FILL REAR YARD & REGRADE REAR YARD																	
13. Existing Use(s) of Building or Property: SFD		14. Ex. No. of Stories of Bldg.: 2	15. Ex. No. of Dwelling Units: 1	Official Use Only Miscellaneous FEE \$ 250.00 By: [Signature] Date: 8/28													
16. Proposed Use(s) of Building or Property: SFD		17. Prop. No. of Stories of Bldg.: 2	18. Prop. No. of Dwelling Units: 1														
19. Starting Date of Work: 8/30/02	20. Completion Date of Work: 8/30/03	21. Method of Removing Construction Debris: ☒ Pick-up Truck ☐ Dumpster ☐ Other (specify):		22. Does the proposed work involve disturbing the earth or razing a building? ☒ Yes, answer q. 23 ☐ No, SKIP q. 23-27													
23. Is the area of disturbed earth more than 50 sq. ft.? ☒ Yes, answer q. 24-25 ☐ No, SKIP q. 24-25	24. Soil Erosion Control Methods: PER APPROVED PLANS		25. Area of Offsite Drainage: N/A sq. ft.	26. No. of Footings or Columns: N/A	27. Size of Footings of Columns: N/A sq. ft.												

ALWAYS SIGN THE APPLICATION ON PAGE 3 (SECTION I).

Complete Section B if the proposed work is **new building, addition or alteration.** (Page 2)
Complete Section C if the proposed work is **razing a building.** (Page 2)
Complete Section D if the proposed work is a **retaining wall.** (Page 2)
Complete Section E if the proposed work is a **fence.** (Page 3)
Complete Section F if the proposed work is a **shed/garage.** (Page 3)
Complete Section G if the proposed work is an **awning.** (Page 3)
Complete Section H if the proposed work is a **sign.** (Page 3)

2-0307 wd-375

OFFICIAL USE ONLY				
	R	F	H	A
M				
P				
E				
F				
S				
w ☐ Yes ☐ No				
PLANS				
☐ No ☐ Sm ☐ Lg				

(B) NEW BUILDING, ADDITION, & ALTERATION (COMPLETE ITEMS 28 THRU 60)

28. Architect's Name: N/A		29. Lic. No.:	30. Architect's Address: (include Zip)		31. Phone:
32. Engineer's Name: CAS ENGINEERING		33. Lic. No.:	34. Engineer's Address: (include Zip)		35. Phone: (301) 607-8031
36. Building Contractor's Name: FRANK ECONOMIDES		36A. Lic. No.:	37. Contractor's Address:		38. Phone: (202) 365 3334
39. Type of Construction	40. Fire Suppression:		41. Booster Pump:	42. Total Lot Area:	43. Breakdown of Lot Area (= 100%):
☐ Masonry ☐ Steel ☐ Wood ☒ Other: ☐ Concrete EARTH	☐ Fully Sprinklered ☐ Standpipe System ☐ Partially Sprinklered ☒ None ☐ Other:		☐ New ☐ Existing ☒ None	26811 sq. ft.	a. Building: 12 % b. Paved Area: 10 % c. Greenery: 78 %
44. Present Gross Floor Area of Bldg.: EXISTING sq. ft.		45. Proposed Gross Floor Area of Bldg.: EXISTING sq. ft.		46. Floors involved in this permit: ☐ All ☐ Floors: NONE	
48. Number and type of projection: N/A		49. Distance of projection: N/A		50. Width of projection: N/A	
				51. Width of building frontage: N/A ft.	
				52. Signature of Owner (projection only): N/A	
53. Water or Sewer Excavation? ☐ Yes ☒ No	54. Driveway Construct on? ☐ Yes ☒ No	55. Sheeting/Shoring Necessary? ☐ Yes ☒ No	56. Elevators involved? ☐ Yes, answer q. 57 ☒ No, SKIP q. 57	57. No. and type of elev.: 0	58. Plans Certified by Engineer? ☒ Yes, cert. is attached ☐ No
59. Estimated Cost of Work:		OFFICIAL USE ONLY			
a) New/Add.: \$		Alter/Repair FEE		New Const. FEE	Filing Fee
b) Alt/Rep.: \$ 5000.00					
Total: \$ 5000.00		\$ N/A		\$	\$
60. Volume of New Bldg. or Addition: 0 cubic ft.		By: [Signature]	Date:	By:	Date:

(C) RAZING A BUILDING (COMPLETE ITEMS 61 THRU 83)

61. Raze Contractor's Name:		62. Contractor's Address: (include Zip)		63. Phone:	
64. Insurance Company:		65. Policy or Certif. No.:		66. Expir. Date:	
67. Raze Method:					
68. Building Material:	69. Raze Entire Building? ☐ Yes ☐ No	70. Building Condemned? ☐ Yes ☐ No	70A. Building Vacant? ☐ Yes ☐ No	71. Public Space Vault? ☐ Yes ☐ No	72. Disconnect Water and/or Sewer? ☐ Yes ☐ No
73. Size of Water Connection: in.					
74. Plumber's Name:		75. Lic. No.	76. Length: ft.	77. Width: ft.	78. Height: ft.
					79. Volume: cu. ft.
80. Party Wall? ☐ Yes ☐ No					
81. Asbestos in the Building? ☐ No ☐ Yes, Location		82. Raze Contractor Signature:		OFFICIAL USE ONLY	
		83. Owner's Signature:		FEE By: Date:	

(D) RETAINING WALL (COMPLETE ITEMS 84 THRU 93)

The retaining wall will not obstruct any accessible parking required by D.C. Zoning Regulations

84. Cost of Work: \$	85. Material:	86. Height: ft.	87. Color:	88. Location: ☐ Entirely on Owner's Land ☐ Party Line with Adjacent Neighboring Land*	
9. Signature of Adjoining Owner:				90. Phone: Work _____ Home _____	
1. Address of Adjoining Owner:				92. Lot:	93. Square:
				OFFICIAL USE ONLY	
				FEE By: Date:	

* If party wall, the owner of the adjoining property must agree to the erection of the retaining wall and this application.

(J) APPROVALS (DO NOT WRITE ON THIS PAGE; OFFICIAL USE ONLY):**A. PERMIT CONTROL**

- ☐ 1. Fine Arts by: _____ Date: _____
- ☐ 2. Historic by: _____ Date: _____
- ☐ 3. PADC by: _____ Date: _____
- ☐ 4. Cap. Gateway by: _____ Date: _____
- ☐ 5. W.H./ Obs. Precinct by: _____ Date: _____
- ☐ 6. Flood Control by: _____ Date: _____
- ☐ 7. WMATA by: _____ Date: _____
- ☐ 8. Condem. by: _____ Date: _____
- ☐ 9. RLA by: _____ Date: _____
- ☐ 10. Rental Accom. by: _____ Date: _____
- ☐ 11. Chinatown Distr. by: _____ Date: _____
- ☐ 12. Utility Clearance by: _____ Date: _____
- ☐ 13. General Liability Ins. Policy
Clearance by: _____ Date: _____

B. CLEARANCE TO FILE PLANS

- ☐ 1. Zoning by: _____ Date: _____
- ☐ 2. DPW — Permit and Records Division
Access to Parking Street ☐ Street ☐ Alley
Cleared by: _____ Date: _____
- ☐ 3. DPW - Consumer Engineer
Cleared by: _____ Date: _____
- ☐ 4. ERA - Erosion Control
Cleared by: _____ Date: _____

Restrictions of the Permit: 8.23.02
CLEARED FOR EIS WMP

C. PLANS AND APPLICATION APPROVAL

- ☐ 1. Information Counter by: WMP Date: 8/28/02
- ☐ 2. Information Center by: _____ Date: _____
- ☐ (a) ABC Board by: _____ Date: _____
- ☐ (b) Noise Control by: _____ Date: _____
- ☐ (c) Industrial Safety by: _____ Date: _____
- ☐ (d) Vector Control by: _____ Date: _____
- ☐ (e) D.C. Animal by: _____ Date: _____
- ☐ (f) Police Dept. by: 8/28/02 Date: 8/28/02
- ☒ 3. Zoning by: 8/28/02 Date: 8/28/02
Zoning Update by: _____ Date: _____
- ☐ 4. DPW - Permit and Records Division/Deposit #
Sidewalk Deposit \$ _____ Driveway Deposit \$ _____
by: _____ Date: _____
- ☐ 5. Water/Sewer Design Branch
Consumer Eng. by: _____ Date: _____
- ☐ 6. Environmental Regulation Administration
☐ Environmental Policy Review
Control No.: _____
by: WMP Date: 8/28/02
- ☒ Erosion Control by: WMP Date: 8/28/02
- ☐ Storm Water Mgmt. by: _____ Date: _____
Plan No. _____
- ☐ 7. Mechanical Eng. Review by: _____ Date: _____
- ☐ 8. Plumbing Eng. Review by: _____ Date: _____
- ☐ 9. Electrical Eng. Review by: _____ Date: _____
- ☐ 10. Health Plan Review
☐ (a) Food Plan Review by: _____ Date: _____
☐ (b) Medical X-ray Plan Rev.
by: _____ Date: _____
- ☐ 11. D.C. Fire Dept. (Fire Prevention Plan Review Section)
by: _____ Date: _____
- ☐ 12. Elevator Plan Rev. Sec. by: _____ Date: _____
- ☐ 13. Plumbing Insp. Rev. by: _____ Date: _____
- ☐ 14. Construction Insp. Branch (Field Check)
by: _____ Date: _____
- ☐ 15. Historic Pres. Div. by: _____ Date: _____
- ☒ 16. Structural Eng. by: WMP Date: 8/28/02
- ☐ 17. Permit and Certificate Issuance Counter
By: _____ Date: _____

TO REPORT WASTE, FRAUD, OR ABUSE BY ANY
D.C. GOVERNMENT OFFICE OR OFFICIAL, CALL THE
D.C. INSPECTOR GENERAL AT 1-800-521-1639

D.C. By: WMP Date: 9.03.02

ZONING

C of O Number _____ Date: _____

Existing Use(s) SFD

Graduated

- ☐ New bldg.
- ☐ P.O.D.
- ☐ File in
room 329

DPW — PUBLIC SPACE

Street Name: _____

Street Width: _____

Road Width: _____

Sidewalk Width: _____

Parking: _____

Restrictions: _____

Job No.: _____ BZA Case No.: _____ PUD Order No.: _____

(E) FENCE (COMPLETE ITEMS 94 THRU 102)

The fence will not obstruct any accessible parking required by D.C. Zoning Regulations

94. Material and type:	95. Height: ft.	96. Color:	97. Location: ☐ Entirely on Owner's Land ☐ Party Line with Adjacent Neighboring Land *
------------------------	-----------------	------------	--

* If party fence, the owner of the adjoining property must agree to the erection of the fence and this application.

98. Signature of Adjoining Owner:	99. Phone: Work _____ Home _____	OFFICIAL USE ONLY <table border="1"> <tr> <td>FEE</td> <td>By:</td> <td>Date:</td> </tr> <tr> <td>\$</td> <td></td> <td></td> </tr> </table>	FEE	By:	Date:	\$		
FEE	By:		Date:					
\$								
100. Address of Adjoining Owner:	101. Lot: 102. Square:							

(F) SHED OR GARAGE (COMPLETE ITEMS 103 THRU 113)

103. Number:	104. Length: ft.	105. Width: ft.	106. Area: sq. ft.	107. Height: ft.	108. Volume: cu. ft.	109. Estimated Cost of Work: \$	OFFICIAL USE ONLY <table border="1"> <tr> <td>FEE</td> </tr> <tr> <td>\$</td> </tr> </table>	FEE	\$
FEE									
\$									
110. Material of Roof:	111. Material of Sides:	112. Wall thickness: ☐ External () inches ☐ Party () inches		113. Color:		By: Date:			

(G) AWNING (COMPLETE ITEMS 114 THRU 123)

114. Number:	115. Color:	116. Type: ☐ Folding ☐ Fixed	117. Projections: Beyond bldg. line _____ in. Beyond pt. of attachm. _____ in.	118. Height of lowest part of awning: (a) _____ ft above sidewalk (b) _____ ft above parking (c) _____ ft above grade	OFFICIAL USE ONLY <table border="1"> <tr> <td>FEE</td> </tr> <tr> <td>\$</td> </tr> </table>	FEE	\$
FEE							
\$							
119. Material of Frame:	120. Material of Covering:	121. Lettering on Awning? ☐ Yes ☐ No	122. Fixed posts? ☐ Yes ☐ No	123. Over sidewalk cafe? ☐ Yes ☐ No			

(H) SIGN (COMPLETE ITEMS 124 THRU 144)

124. Number:	125. Electric Signs? ☐ Yes, answer q. 126-132 ☐ No, SKIP q. 126-132	126. Type: ☐ Incandes. ☐ Fluoresc. ☐ Neon	127. Power _____ VA	128. Electrical Contractor: Lic. No.: _____									
129. Address of Electrical Contractor (include Zip)		130. Signature of Licensed Electrician:		131. Phone: 132. License No.:									
133. Height relative to building and ground: (a) _____ ft _____ in above sidewalk (b) _____ ft _____ in above roof (c) _____ ft _____ in is bldg height (d) _____ ft _____ in above projection or window (e) _____ ft _____ in from roof to sign's bottom		134. Material of Sign:	135. Type of Sign:	136. Color:									
137. Width: ft.	138. Length: ft.	139. Area of Sign: sq. ft.		140. Width of Business Frontage: ft.									
41. C of O Number for Building:	142. Sign Contractor Lic. No.: _____		OFFICIAL USE ONLY <table border="1"> <tr> <td>Sign FEE</td> <td>Elect. FEE</td> <td>Total FEE</td> </tr> <tr> <td>\$</td> <td>\$</td> <td>\$</td> </tr> <tr> <td>By: Date:</td> <td>By: Date:</td> <td>By: Date:</td> </tr> </table>		Sign FEE	Elect. FEE	Total FEE	\$	\$	\$	By: Date:	By: Date:	By: Date:
Sign FEE	Elect. FEE	Total FEE											
\$	\$	\$											
By: Date:	By: Date:	By: Date:											
43. Sign Contractor's Address:		144. Phone:											

(I) APPLICANT'S SIGNATURE:

A. **OWNER:** I hereby certify that I am the owner of the property; that the application and plans are complete and correct to the best of my knowledge; and that if a permit (or permits) is issued, the construction will conform to the D.C. Construction Codes, the Zoning Regulations, and other applicable laws and regulations of the District of Columbia.

Signature of Owner: _____ Address: _____ Date: _____

B. **AGENT:** I hereby certify that I have the authority of the owner to make this application. I declare that the application and plans are complete and correct to the best of my knowledge. The owner has assured me that if a permit (or permits) is issued, the construction will conform to the D.C. Construction Codes, the Zoning Regulations, and other applicable laws and regulations of the District of Columbia.

Signature of Agent: *Ken Martine* Address: CAS Engineering Date: 8/26/02

108 W. Ridgeville Blvd.
Mt. Airy MD 21771

CONTRACT AGREEMENT

Name of Contractor/Owner FRANK ECONOMIDES Contractor's License No. _____

Address of Contractor/Owner 4825 DEXTER TERR., NW Date: 8/26/02
WASHINGTON DC 20007

ADDRESS OF PROPOSED WORK <u>4825 DEXTER TERR., NW</u>	LOT: <u>806</u> SQUARE: <u>1381</u>
OWNER OF BUILDING OR BUSINESS: <u>FRANK ECONOMIDES</u>	PHONE No: <u>(202) 365-3334</u>
DESCRIPTION OF PROPOSED WORK: <u>REGRADE & FILL REAR YARD</u>	

COST ESTIMATE		
CONSTRUCTION e.g drywall, ceilings, framing, carpentry etc	\$	
ELECTRICAL	\$	
MECHANICAL	\$	
PLUMBING	\$	
FIRE PROTECTION e.g sprinkler system, fire alarm system, generator etc.	\$	
DEMOLITION	\$	
MISC/OTHER (please specify) <u>GRADING</u>	\$	<u>5000.00</u>
TOTAL	\$	<u>5000.00</u>

The labor and material costs of counter tops, kitchen cabinets, floor coverings, tile work, caulking, patching and plaster repair, painting other than fire retardant paint, gutters and downspouts, not more than 160 square feet of gypsum board shall not be included in the cost estimate for permitting purposes. The entire list can be seen in the 1999 D.C Building Supplement Chapter 1 Section 107.3.

The foregoing terms, specifications and conditions are satisfactory and hereby agreed to. You are authorized to work as specified and payment will be made in the amount as outlined. Upon signing this agreement, the owner represents and warrants that he or she is the owner or the authorized agent of the owner of the aforesaid premises and that he or she has read this agreement.

CONTRACTOR For Frank Economides KAREN MARTINO Date: 8/26/02
 Signature & print

OWNER OF BUILDING/BUSINESS _____ Date: _____
 Signature & print

Upon signing this document, the owner and contractor declare that the cost of construction as specified above for the referenced project is true and correct to the best of their knowledge

Please fill out this agreement form in accordance with D.C. Construction Code Supplement 1999, Chapter 1 Section 112.1.

**DEPARTMENT OF HEALTH
ENVIRONMENTAL HEALTH ADMINISTRATION
LEAD HAZARD CONTROL PERMIT QUESTIONNAIRE AND EXEMPTION FORM**

Project Address: 4825 DEXTER TERR, NW

Name of Owner(s): FRANK ECONOMIDES Name of Contractor: _____

Phone Number: 202 365-3334 Square #: 1381 Lot #: 806 Ward #: _____

Project Start Date: 8/30/02 Project End Date: 8/30/03

Building Type: Commercial - ☐ Office ☐ Federal ☐
Mixed Use (Explain) _____ ☐ District ☐
Residential - ☐ Institutional - ☐
Multi-family ☐ Hospital ☐
Single-Family ☒ Museum ☐
Elderly or handicapped ☐ School/Child Development ☐

1. Is the project planned in response to a child being identified as lead poisoned? YES ☐ NO ☒
2. Is the project designed to eliminate or reduce lead-based paint hazards in a pre-1978 building or structure? YES ☐ NO ☒

If you answer "YES", contact the Lead Division at 51 N Street, N.E., 3rd Floor (202) 535-2637 for a lead-based paint control permit application and notification form, unless an exemption listed below applies. If you answer "NO", a permit is not required, but you are required to answer the following questions:

SCOPE OF PROJECT	YES	NO	COMMENTS
1. Is the project disturbing deteriorated lead based paint on surfaces totaling more than 2 square feet per room, or 20 square feet on exterior surfaces, or 10% of a building component with a small surface (such as a small painted window frame) involving the following:			
A. Removal and replacement of lead-based paint components, e.g. windows, doors and baseboards?		☒	
B. Onsite stripping and removal of lead-based paint?		☒	
C. Partial demolition or gutting of building?		☒	
2. Does the project involve the removal and covering of lead-contaminated soil?		☒	

EXEMPTIONS

Please indicate the applicable exemption from the following list:

- ☐ Individuals who perform lead-based paint activities at residences which they own, unless the residence is occupied by a person or persons other than the owner or the owner's immediate family; unless any child under the age of 8 years resides, is expected to reside in, or regularly visits such housing.
- ☐ Housing for the elderly or persons with disabilities; unless any child under the age of 8 years resides, is expected to reside in, or regularly visits such housing.
- ☐ Any (0)-bedroom unit, such as an efficiency apartment.

AFFIDAVIT

I declare that the information provided is accurate, true and complete to the best of my knowledge and belief, and/or I have the authority to represent the owner of the property to answer this application and sign on behalf of the company and/or persons listed as owners. I understand that if such information contained in this application false, I am subject to the penalty provisions of D.C. Law 11-221. Any fraud or misrepresentation on an application shall be grounds for automatic rejection and/or civil administrative penalties. I understand that failure to provide full disclosure of any of the requested or required information may result in rejection of this application for approval.

Karen Martino
SIGNATURE

Karen Martino
PRINT NAME

8/26/02
DATE

For Official Government Use Only

PERMIT REQUIRED YES ☐ NO ☐ Reviewed By: _____ Date: _____

**ENVIRONMENTAL HEALTH ADMINISTRATION
CONSTRUCTION PERMIT APPLICATION – SUPPLEMENTAL FORM – ENVIRONMENTAL QUESTIONNAIRE**

PROJECT ADDRESS: 4825 DEXTER TERRACE LOT: 806 SQUARE: 1381
PROJECT DESCRIPTION: RE GRADE & FILL BACK YARD

Note: please answer all 12 questions in this questionnaire, by checking either column "Yes" or "No" for each question. If you answer "Yes" to any of the questions, you should contact the corresponding office(s) indicated in column 'contact person/office' as soon as possible. Until this application is reviewed and approved by the concerned office(s), the permit will not be issued.

SCOPE OF PROJECT	YES	NO	CONTACT PERSON/OFFICE	OFFICE USE (Initial/Date)
1. Will the proposed use involve the construction of a facility for the handling, transfer, storage, disposal or treatment of solid waste, medical waste, or recyclable materials?		X	(202) 535-2269, EIS Coordinator, EHA	
2. Will the work to be performed involve the assessment or clean-up of soils associated with the release of materials from an underground storage tank (UST)?		X	(202) 535-2525, Underground Storage Tank Division, EHA (202) 535-2250, Air Quality Division, EHA	
3. Will the work to be performed involve the assessment or clean-up of groundwater associated with the release of materials from an underground storage tank (UST)?		X	(202) 535-2525, Underground Storage Tank Division, EHA (202) 535-2190, Water Quality Division, EHA (202) 535-2250 Air Quality Division, EHA	
4. Will the proposed project involve the installation or drilling of wells other than for the purposes stated in questions 3 and 4?		X	(202) 535-2190, Water Quality Division, EHA	
5. Will the proposed project involve the generation, treatment, storage, disposal or transportation of chemicals or other substances which may be considered hazardous?		X	(202) 535-2290, Hazardous Waste Division, EHA	
6. Will the proposed project involve construction that will disturb the sediment in rivers, streams or wetlands?		X	(202) 535-2190, Water Quality Division, EHA	
7. Will the work to be performed involve the installation, removal, abandonment, or repair of an underground storage tank (UST) system?		X	(202) 535-2525, Underground Storage Tank Division, EHA	
8. Will the proposed project result in the discharge into the air of gases, dust, or the creation of any objectionable odors?		X	(202) 535-2250, Air Quality Division, EHA	
9. Will the proposed project involve the removal, handling, transportation, disposal, or encapsulation of asbestos? **Please bring with you a copy of your asbestos survey, ten-day notification form, and asbestos abatement permit fee		X	(202) 535-2250, Air Quality Division, EHA	
10. Was the building built before 1978? (Lead paint may be present.)		X	If you answer "Yes" to this question, please answer the questions and follow the instructions on the "Lead Hazard Control Questionnaire" to determine if you need a permit to conduct a Lead Abatement Project	

AFFIDAVIT

I hereby certify that I have the authority of the owner of the property to make this application. I declare that the answers to the above questions in this Questionnaire are complete and correct to the best of my knowledge.

Signature: Karen Martino Name (print): Karen Martino
Address: CAS Engineering 108 W. Ridgely Blvd Mt Airy MD 21771 Phone: 202 744-2375

OFFICE USE ONLY

COMMENTS AND PERMIT RESTRICTIONS:

Scope of the Project	Yes	No	Instructions
12. Is an exemption claimed from the requirement to submit an Environmental Impact Screening Form pursuant to Title 20, Sec. 7202 that is not referred to in this form? If yes, describe the exemption and cite the relevant section of the regulations on an attachment.			If yes, describe on an attachment and submit to EIS Coordinator, DCRA.
13. Does the total cost of the project exceed \$1.42 million, including site preparation and construction?			If yes, and no exemption claimed, Environmental Impact Screening Form (EISF) required. If no, indicate actual project cost.
14. Is the cost of this project \$1.42 million or less? If yes, please answer all of the following questions:			If yes, complete A through G.
A. Does the project site contain any species of plant or animal that is identified as threatened or endangered?			If yes, EISF required.
B. Are any streams, lakes, ponds, springs or wetlands within 100 feet of the project site?			If yes, EISF required.
C. Will the project result in an emission of odorous or other air pollutants from any source, including VOCs?			If yes, EISF required.
D. Will this action involve the use, production or disposal of hazardous substances as defined in 20 DCMR 72.99?			If yes, EISF required.
E. Will construction be on land where the depth to the water table is less than 3 feet?			If yes, EISF required.
F. Will blasting occur as part of the project?			If yes, EISF required.
G. Will the project generate medical, infectious, radioactive or hazardous waste?			If yes, EISF required.

I certify that all of the statements on this application are true and complete to the best of my knowledge and belief. I agree to comply with all applicable laws and regulations of the District of Columbia. The making of false statements on this application is punishable by criminal penalties. (DC Code Sec. 22-2514)

Signature of Owner/Authorized Agent

Date

OFFICIAL USE ONLY

Environmental Impact Screening Form required: Yes ☐ No ☒ Referred to EIS Coordinator ☐

DCRA Reviewer

Date

If yes, submit to EIS Coordinator
Department of Consumer and Regulatory Affairs
Building and Land Regulation Administration

Comments

NOTE: APPROVAL OF A BUILDING PERMIT IS NOT SYNONYMOUS WITH APPROVAL OF AN ACTION OR ENTIRE PROJECT UNDER THE ENVIRONMENTAL POLICY ACT OF 1989. IF THE APPLICANT BUILDS ON THE SAME, ADJACENT OR ABUTTING PROPERTY OR EXPANDS UPON THE WORK DESCRIBED IN THE INSTANT APPLICATION OR PLANS AND SPECIFICATIONS WITHIN THREE YEARS, AN ENVIRONMENTAL IMPACT SCREENING FORM MAY BE REQUIRED FOR THE ENTIRE PROJECT, INCLUDING THE PORTION ENCOMPASSED BY THIS APPLICATION AND PERMIT APPROVAL. FURTHER, IF THE ACTION IS IN VIOLATION OF ANY FEDERAL OR DISTRICT LAWS PERTAINING TO THE ENVIRONMENT, AN EISF CAN BE REQUIRED.

TO REPORT WASTE, FRAUD, OR ABUSE BY ANY DC GOVERNMENT OFFICE OR OFFICIAL, CALL THE INSPECTOR GENERAL ON 1- 800- 521-1639

5/2002

DEPARTMENT OF CONSUMER & REGULATORY AFFAIRS
Building and Land Regulation Administration
941 North Capitol Street NE, Suite 2000
Washington DC 20002

ENVIRONMENTAL INTAKE FORM

806 1381

Project Name:	Project Address: Lot: Square:
	4825 DEXTER TERR, NW
Filed Job Application # (if applicable):	Project Description:

Owner: _____ Date: 8/26/02

Owner's address and phone #: _____

Authorized agent: Karen Martino

Address and Phone # of authorized agent: 108 W. Ridgeville Blvd, Mt Airy MD 21771

Scope of the Project	Yes	No	Instructions
1. Does the owner of this site own adjacent or abutting property?		✓	If yes, submit a site plan to EIS Coordinator, DCRA. If no plan exists, submit written explanation to EIS Coordinator, DCRA.
2. Does the owner of this site plan to acquire property that is adjacent to or abutting this site within the next three years?		✓	If yes, submit a site plan to EIS Coordinator, DCRA. If no plan exists, submit written explanation to EIS Coordinator, DCRA.
3. Is additional activity planned by the applicant for this site or any site within the same square during the next three years that requires a permit?		✓	If yes, submit a site plan to EIS Coordinator, DCRA. If no plan exists, submit written explanation to EIS Coordinator, DCRA. UNKNOWN
4. Is this a residential project within the R-1 through R-5-A zoning districts?	✓		If yes, skip to signature line.
5. Is this project a single-family residence that is not in conjunction with the building of two or more units?			If yes, skip to signature line.
6. Is this project an accessory structure such as a garage, patio, swimming pool or fence?			If yes, skip to signature line.
7. Is the project solely an interior renovation with no change in the use or capacity of the structure being renovated?			If yes, skip to signature line.
8. Is the project located in an Economic Development Zone, as defined in DC Code 5-1401 et seq (DC Law 7-177)?			If yes, skip to signature line.
9. Is the project located within the Central Employment Area as defined in DC Zoning Regulations? (Title 11DCMR)			If yes, skip to signature line.
10. Does the project involve only the operation, repair, maintenance, or minor alteration of public structures, facilities, mechanical equipment, or topographical features and involve negligible or no expansion of use beyond that previously existing?			If yes, skip to signature line.
11. Has an Environmental Impact Statement (EIS) been prepared pursuant to the National Environmental Policy Act of 1969 (NEPA), or a determination made that no EIS is needed, or has the functional equivalent of an EIS been prepared?			If yes, submit documentation to EIS Coordinator, DCRA.

-OVER-

PERMIT NO. **B422839**

BUILDING PERMIT/MISC.

~~PLUMBING GASFITTING REFRIGERATION PERMIT~~

LOT **0806** SQUARE **1381**

OWNER: **ECONOMIDES**

ADDRESS: **4825 DEXTER TERR. N.W.**

PHONE: **9/5/02**

PERMIT FEE
\$250.00

CONTRACTOR:

ADDRESS:

FILL REAR YARD & REGRADE REAR YARD

ZONE: **WHOD/R-1-A**

2 STORES

OWNER'S ADDRESS: **SAME AS ABOVE** EB22001215 BUILD. STRUCTURE & EQUI

to perform the work described herein at the address shown above under the conditions stated on BOTH sides of this permit. Authorized work and conditions of performance thereof:

THIS PERMIT MUST ALWAYS BE CONSPICUOUSLY DISPLAYED AT ADDRESS OF WORK UNTIL WORK IS COMPLETED.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
FOR INSPECTIONS CALL 727-7511

D. CLARK
DIRECTOR

By

Permit Clerk

442-4641 OFFICE COPY

BUILDING PERMIT/MISC.
PLUMBING-GASEFITTING-REFRIGERATION PERMIT

OWNER: **ECONOMIDES**
ADDRESS: **4825 DEXTER TERR. N.W.**

PHONE:

CONTRACTOR:

ADDRESS:

9/5/02

PERMIT FEE
\$250.00

STORE# 0001 D.C. GOVERNMENT
Reg# 1 09/05/02 at 14:49 CLK# 18
2 STORE# 276569 Amount ***250.00**
ZONE: WHOD/R-1-A
OWNER'S ADDRESS: SAME AS ABOVE EB22001215 BUILD. STRUCTURE & EQUI

to perform the work described herein at the address shown above under the conditions stated on BOTH sides of this permit. Authorized work and conditions of performance thereof:

THIS PERMIT MUST ALWAYS BE CONSPICUOUSLY DISPLAYED AT ADDRESS OF WORK UNTIL WORK IS COMPLETED.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
FOR INSPECTIONS CALL 727-7518X

D. CLARK
DIRECTOR

442-4641

OFFICE COPY

Chief, Permit Issuance Branch
By *[Signature]*
Permit Clerk

**SPECIALIZED
ENGINEERING**

Engineers • Geologists • Inspectors

Project No: 021625
Client: Economides
Project: 4825 Dexter Terrace, NW

Date: 9/15/04
Weather: Cloudy
Temperature: 80°F

Daily Field Inspection Report

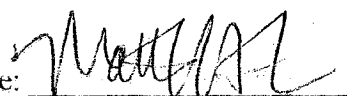
TYPE OF INSPECTION: Soil Compaction and geogrid verification

LOCATION(S) INSPECTED: Keystone block wall approximately 2+07 and 3+05

ACTIVITY & REMARKS: (Spot Check ☐ Full Time ☒)

A Specialized Engineering representative arrived on site as requested. The purpose of this visit was to perform the inspections listed above at the specified locations. Material was placed in approximately 8" lifts. Compactive effort was applied using a sheeps foot roller. Compaction met requirements of 95% in areas tested. Testing was performed using a nuclear density gauge. Observations and test results were in general conformance with the drawings and site specifications. The contractor and foreman were notified of the test results. For additional test information, refer to the field density summary report.

Field Inspector: J. Root





SPECIALIZED ENGINEERING

Engineers • Geologists • Inspectors

Field Density Summary

File No.: 026125
Client: Economides
Project: 4825 Dexter Terrace, NW
Date: 9/15/04

Nuclear Gauge: 11

Test No.	Test Type*	Field Density	Field (%) Moisture	Optimum (%) Moisture	Maximum Density	Percent Compaction	Required Compaction
1.	N	110.9	13.2	15.4	115.2	96.3	95
2.	N	112.3	10.5	15.4	115.2	97.5	95
3.	N	106.8	16.5	15.4	107.8	99.1	95
4.	N	106.1	15.1	15.4	107.8	98.4	95
5.	N	103.7	13.6	15.4	107.8	96.2	95
6.	N	103.6	15.3	15.4	107.8	96.1	95
7.	N	111.6	13.3	15.4	115.2	96.8	95
8.	N	106.8	15.5	15.4	107.8	99.1	95
9.	N	104.6	15.8	15.4	107.8	97.0	95
10.	N	107.7	14.3	15.4	107.8	99.9	95

TEST LOCATIONS: Keystone wall 2+07 to 3+05

1.	Station 2+00
2.	Station 1+80
3.	Station 3+05
4.	Station 2+40
5.	Station 2+80
6.	Station 3+05
7.	Station 3+05
8.	Station 3+05
9.	Station 3+05
10.	Station 3+05

NOTE: The above tests represent spot tests only at the locations noted. Full-time visual observation of materials placed or methods of placement should not be inferred. Densities reported in pcf, dry.

* N= Nuclear Density Method (ASTM D2922/D3017); SC= Sand Cone (ASTM D1556/D4959)

Maximum density in accordance with: ASTM D698

Testing Technician: J. Root

Specialized Engineering Form S02 (Rev. 02/04)

Reviewer's Signature:



SPECIALIZED ENGINEERING

Engineers • Geologists • Inspectors

Field Density Summary

File No.: 026125
Client: Economides
Project: 4825 Dexter Terrace, NW
Date: 9/15/04

Nuclear Gauge: 11

Test No.	Test Type*	Field Density	Field (%) Moisture	Optimum (%) Moisture	Maximum Density	Percent Compaction	Required Compaction
11.	N	105.9	15.7	15.4	107.8	98.2	95
12.	N	104.7	15.3	15.4	107.8	97.1	95
13.	N	106.7	13.9	15.4	107.8	98.9	95
14.	N	105.6	15.0	15.4	107.8	97.9	95
15.	N	107.4	14.1	15.4	107.8	99.6	95
16.							
17.							
18.							
19.							
20.							

TEST LOCATIONS: Keystone wall 2+07 to 3+05

11.	Station 2+20
12.	Station 2+27
13.	Station 1+90
14.	Station 3+05
15.	Station 2+27
16.	
17.	
18.	
19.	
20.	

NOTE: The above tests represent spot tests only at the locations noted. Full-time visual observation of materials placed or methods of placement should not be inferred. Densities reported in pcf, dry.

* N= Nuclear Density Method (ASTM D2922/D3017); SC= Sand Cone (ASTM D1556/D4959)

Maximum density in accordance with: ASTM D698

Testing Technician: J. Root

Specialized Engineering Form S02 (Rev. 02/04)

Reviewer's Signature: _____

**INFILTRATION RATE STUDY
STORMWATER MANAGEMENT FACILITIES
PROPOSED RESIDENTIAL DWELLING
4825 DEXTER TERRACE, NW
WASHINGTON, DC
SPECIALIZED ENGINEERING #021625**

Prepared for:

**Mr. Frank Economides
Economides Development
4825 Dexter Terrace, NW
Washington, D. C. 20007**

Prepared by:

**Ronald L. Pyles, P. E.
Specialized Engineering
9607 Dr. Perry Road, Suite 102
Ijamsville, Maryland 21754**



SPECIALIZED ENGINEERING

Geotechnical - Environmental - Materials

SPECIALIZED ENGINEERING

Engineers • Geologists • Inspectors

October 9, 2002

Mr. Frank Economides
Economides Development
4825 Dexter Terrace, N.W.
Washington, D. C. 20007

Principals

David I. Wiegand, P.G.
Charles R. Mitchell, P.E.
Gregory S. Seldon
Ronald L. Pyles, P.E.

**Re: Infiltration Rate Assessment
Stormwater Management Facilities
Proposed Residential Dwelling**
4825 Dexter Terrace, N. W.
Washington, D. C.
Specialized Engineering #021625

Dear Mr. Economides:

Specialized Engineering is pleased to submit our report concerning the infiltration testing for the stormwater management facilities proposed to accommodate the development at 4825 Dexter Terrace, N. W., Washington, D. C.

The report explains the exploration procedures and presents conclusions relevant to infiltration rate considerations for the project. The project civil engineers provided the siting and project characteristics used in the evaluation. If site or project characteristics are changed, this office should be notified so that the conclusions may be reviewed and revised, if necessary.

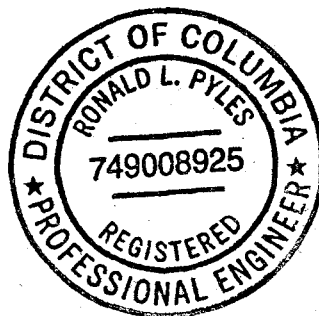
Soil samples obtained during the field investigation phase of the study will be stored for a period of 30 days from the date of this report. It will be necessary to discard the samples at the end of this period unless an alternate disposition for the samples is specified prior to the termination of the storage period.

We appreciate the opportunity to be of service to you in the subsurface investigation phase of this project. If you have any questions concerning this report or if we can be of further assistance on the project, please do not hesitate to contact this office.

Respectfully,
Specialized Engineering



Ronald L. Pyles, P. E.
Principal



CC: Mr. Curt Schreffler, P.E.
CAS Engineering

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INFILTRATION RATE ASSESSMENT
STORMWATER MANAGEMENT FACILITIES
PROPOSED RESIDENTIAL DWELLING
4825 DEXTER TERRACE, N. W.
WASHINGTON, D. C.
SPECIALIZED ENGINEERING #021625

AUTHORIZATION

In accordance with the approval of our proposal dated September 10, 2002, Specialized Engineering has conducted an infiltration rate assessment for the stormwater management facilities proposed to accommodate the development at 4825 Dexter Terrace, N. W. located in Washington, D. C.

PURPOSE AND SCOPE

The purpose of the study was to define and evaluate the generalized subsurface conditions in the areas of and to the depths of various test borings and conduct in-situ infiltration testing at appropriate levels based on the results of the test borings.

To accomplish these tasks, the following scope of services was performed:

- a. Review the site developmental plan.
- b. Implement an exploration and testing program defined by the civil engineer for the project.
- c. Obtain a total of three (3) test borings in accessible areas in areas proposed to accommodate the stormwater management facilities.
- d. Determine the generalized subsurface conditions in the area of and to the depth of the test borings.
- e. Conduct in-situ infiltration testing based on an assessment of the findings from Item d above.
- f. Evaluate all the data obtained and submit this report of findings, conclusions, and recommendations.

SITE CONDITIONS

Site Vicinity and Location maps are attached to the end of the text portion of this report as Figures 1 and 2 respectively. As shown, the site is located in the northwest portion of Washington, D. C. The site is bordering on the north, east, and west by private property, while Dexter Terrace borders the site to the south.

At the time of the investigation, the project site was an active residential facility. As a result, the subject areas consisted of a combination of domestic grass growth, planter areas, and wooded land.

PROJECT DESCRIPTION

Stormwater management is required for the project site for water quality and water quantity control purposes. Stormwater management is proposed to consist of infiltration trenches that will be situated within a northern or southern portion of the rear yard of the project site.

Based on discussions with the project civil engineers, it is understood that the base level of the trenches can be varied and will be situated at applicable depths wherein infiltration is established to be feasible (based on test boring results).

PROJECT SITE GEOLOGY

An excerpt of the geological map for the project site is included on Figure 3 to this report. A review of the Geological Map will indicate that the parent bedrock formation for the project site is the Paleozoic aged (300 +/- million year old) Kensington Quartz Diorite member of the Eastern Piedmont Plutonic Province.

In-situ chemical decomposition of the materials generally occurs as the result of percolating groundwater charged with carbon dioxide. The process typically produces a surficial layer of residual soils (soils formed in place and hence a resident of the area) having variable thickness and situated over the parent bedrock materials. Typically, the residual soils are silty and generally quite high in mica content. With depth, the soils generally increase in density and develop a remnant rock structure.

FIELD EXPLORATION

To establish an approximation of the generalized subsurface conditions in applicable areas of the site, a total of three (3) test borings (A, B, and C) were drilled in various potential proposed infiltration areas. The test borings were drilled in the approximate areas depicted in plan on Figure 4 of the attached.

For the test borings, samples were taken by driving a 1-3/8 inch ID (2 inch OD) split-spoon sampler in accordance with ASTM D-1586 specifications. The sampler was first seated 6 inches, to penetrate any loose cuttings, then driven an additional foot with blows of a 140-pound hammer falling 30 inches. The number of hammer blows required for driving the sampler the final foot often is designated as the "Penetration Resistance" or "N" value. The N-value is an indication of soil density and excessively dense materials are generally not considered feasible for infiltration. Therefore, in-situ testing was done at depths as deep as feasible provided that excessively dense materials were not encountered.

Samples of the subsurface materials from the test borings were examined by a geotechnical engineer and visually classified in accordance with the Unified Soil Classification system. The estimated Unified Soil Classification Symbols and a description of the materials encountered for the test borings appear on the Records of Subsurface Exploration contained in Appendix A of this report.

After assessing the test boring information, PVC pipe was installed in areas slightly offset from the test boring location for each of the A, B, and C locations. The holes were then presoaked with a minimum of 2.5 gallons of water.

Subsequent to a 24-hour time interval following the drilling operation, in-situ infiltration testing was done in each of the borings. Infiltration test results are included in Appendix B. A review of the results will indicate that the residual infiltration rates were 0.96 inches per hour, 0.96 inches per hour, and 1.44 inches per hour respectively for Locations A, B, and C.

Groundwater observations were made during the fieldwork at the project site. Groundwater was not encountered in any of the borings at the time of the investigation or at the time of the infiltration testing. Long-term readings have not been obtained to date. Variations in the presence and the depth to groundwater should be expected to occur due to seasonal changes and fluctuations in rainfall intensities during a particular season.

CONCLUSIONS AND RECOMMENDATIONS

General ----

In summary, infiltration for the proposed stormwater management facilities would generally appear to be feasible in the potential areas proposed. Groundwater is generally not anticipated to impact the proposed construction, based on the results of the various test borings.

For the design of the facilities, the following rates are recommended:

Location	Maximum Infiltration Rate, inches/hour	Base Level of the Facility Beneath Existing Grades
A	1.00	From 7+/- feet to up to 10 +/- feet*
B	1.00	Up to 10 +/- feet
C	1.50	Up to 9 +/- feet

*Fill present above the 7-foot depth level

Site Preparation ----

Prior to the construction of the facilities, all organic, frozen, wet, soft or loose soils, existing fill, and other deleterious materials should be removed.

After the excavating has been completed the geotechnical engineer should inspect the exposed subgrade soils. The purpose of the inspection would be to ascertain that the facilities are based in naturally occurring materials suitable to accommodate the various design infiltration rates. All unsuitable areas should be modified as defined by the geotechnical engineer.

Rains prior to or during construction could significantly impact the progress of work at the site due to excessively wet soils. Due to the fine-grained nature of the on-site soils, the action of equipment and foot traffic may very well create pumping and a general deterioration of the soils if conducted in the presence of high moisture contents. The work should, therefore, be carried out during a dry season, if at all possible. If problems arise, the geotechnical engineer should be consulted for an evaluation of the conditions.

Fill Selection and Placement ----

After construction of the various facilities, it is anticipated that backfill for the project typically will consist of on-site materials. At the time of construction, the

various soil materials may have moisture contents either dry or wet of the optimum moisture level. Accordingly, the contractor may have to adjust moisture levels by adding water, air drying the soils, or stabilizing (wet) soils to permit construction to continue in a satisfactory manner.

All backfill should be placed in horizontal loose lifts not in excess of 8 inches thick and compacted with a heavy walk-behind sheepsfoot roller or similar approved equipment. Smaller, confined areas may necessitate the use of 4 inch or thinner loose lifts and a J-tamper. Backfill should be compacted to at least 95% of the standard Proctor maximum dry density value. Moisture content levels for the soil materials should be maintained within +/- 3 % of the optimum level as defined using the standard Proctor procedure.

All lift depths, compaction equipment, moisture levels, and compactive effort should be monitored and approved by the geotechnical engineer. Also, the work should be done in accordance with applicable governmental criteria, if more stringent than required herein.

Groundwater and Drainage ----

Based on the results of the borings, groundwater related problems are generally not anticipated during construction.

ADDITIONAL SERVICES RECOMMENDED

Additional engineering, testing, and consulting services recommended for this project are summarized below:

General Review ----

It is recommended that Specialized Engineering be given the opportunity to review the final design drawings and specifications in order to ascertain that our recommendations are properly implemented.

Site Preparation and Proofrolling ----

The geotechnical engineer should inspect the site after it has been excavated. The Inspector should determine if any modifications to the proposed construction are necessary.

Fill Placement and Compaction

The geotechnical engineer should witness any required backfill operations and should verify that an adequate degree of compaction is achieved. The Inspector should observe and approve all on-site or borrow materials used and should determine if they are suitable.

REMARKS

This report has been prepared for the sole and exclusive use of Economides Development and CAS Engineering to aid in the evaluation of the infiltration rate for the proposed stormwater management facilities. It is considered that adequate recommendations have been provided to serve as a basis for design and preparation of plans and specifications. Additional recommendations can be provided as needed or as established to be necessary in the field.

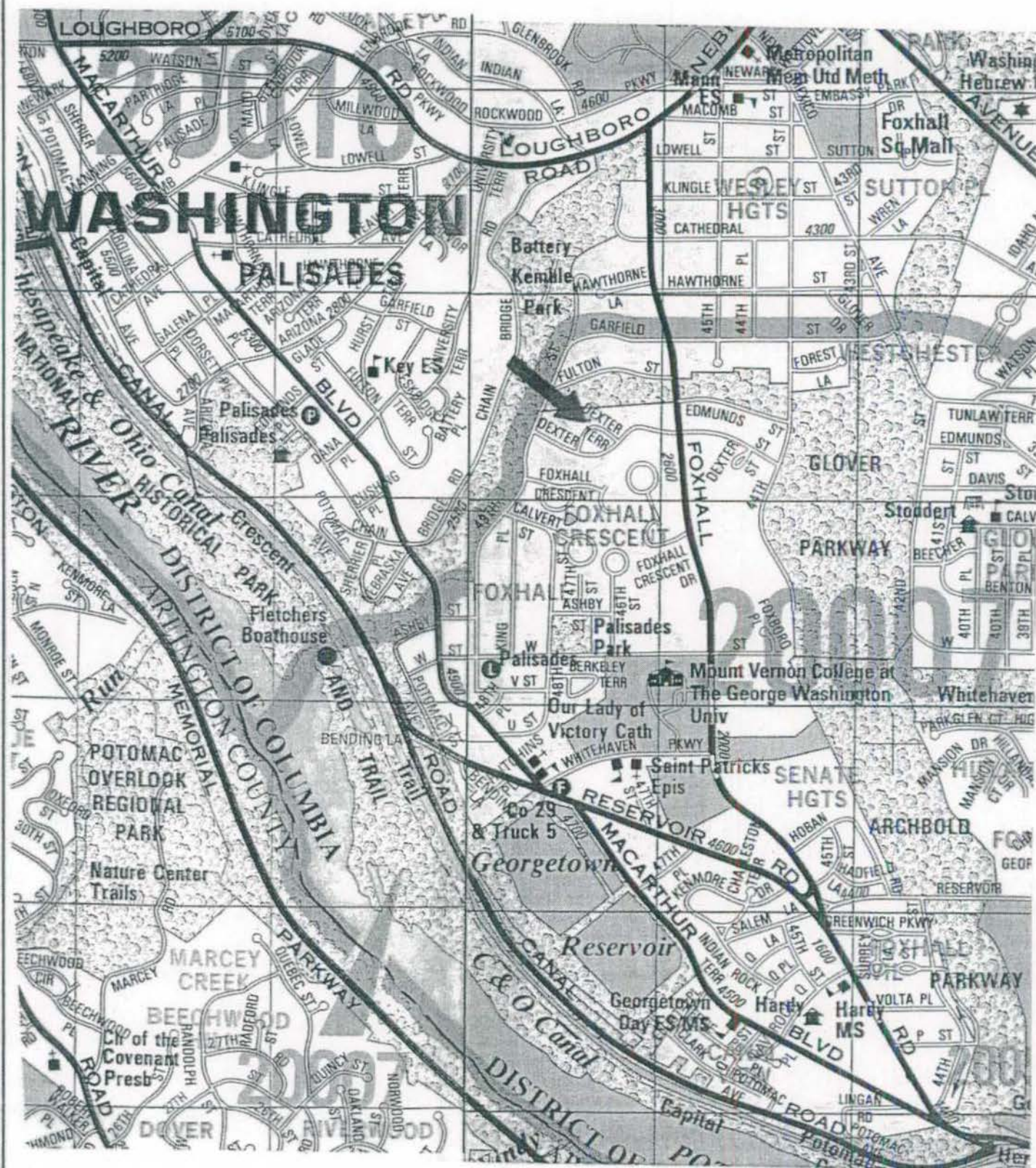
Due to the fact that our study is for design guideline purposes only, potential contractors should be required to conduct their own individually tailored studies to assess soils conditions, excavation slope gradients, and groundwater/perched water levels and conditions. Specifically, our report has been prepared for generalized design and planning purposes not for bid preparation purposes.

These analyses and recommendations are, of necessity, based on the information made available to us at the time of the actual writing of the report and the on-site conditions, surface and subsurface, that existed at the time the exploratory investigation was made. Further assumption has had to be made that the limited exploratory techniques, in relation both to the areal extent of the site and to the depth, are representative of conditions across the site. Subsurface conditions may be present, and encountered, that differ significantly from those reported herein. If this occurs, this office should be notified immediately so that the analyses and recommendations can be reviewed and/or revised as necessary.

Our professional services have been performed, our findings obtained, and our recommendations prepared in accordance with generally accepted engineering principles and practices. No warranty is either expressed or implied. Specialized Engineering assumes no responsibility for interpretations made by others based upon work or recommendations made by us.



Figure No.: 1



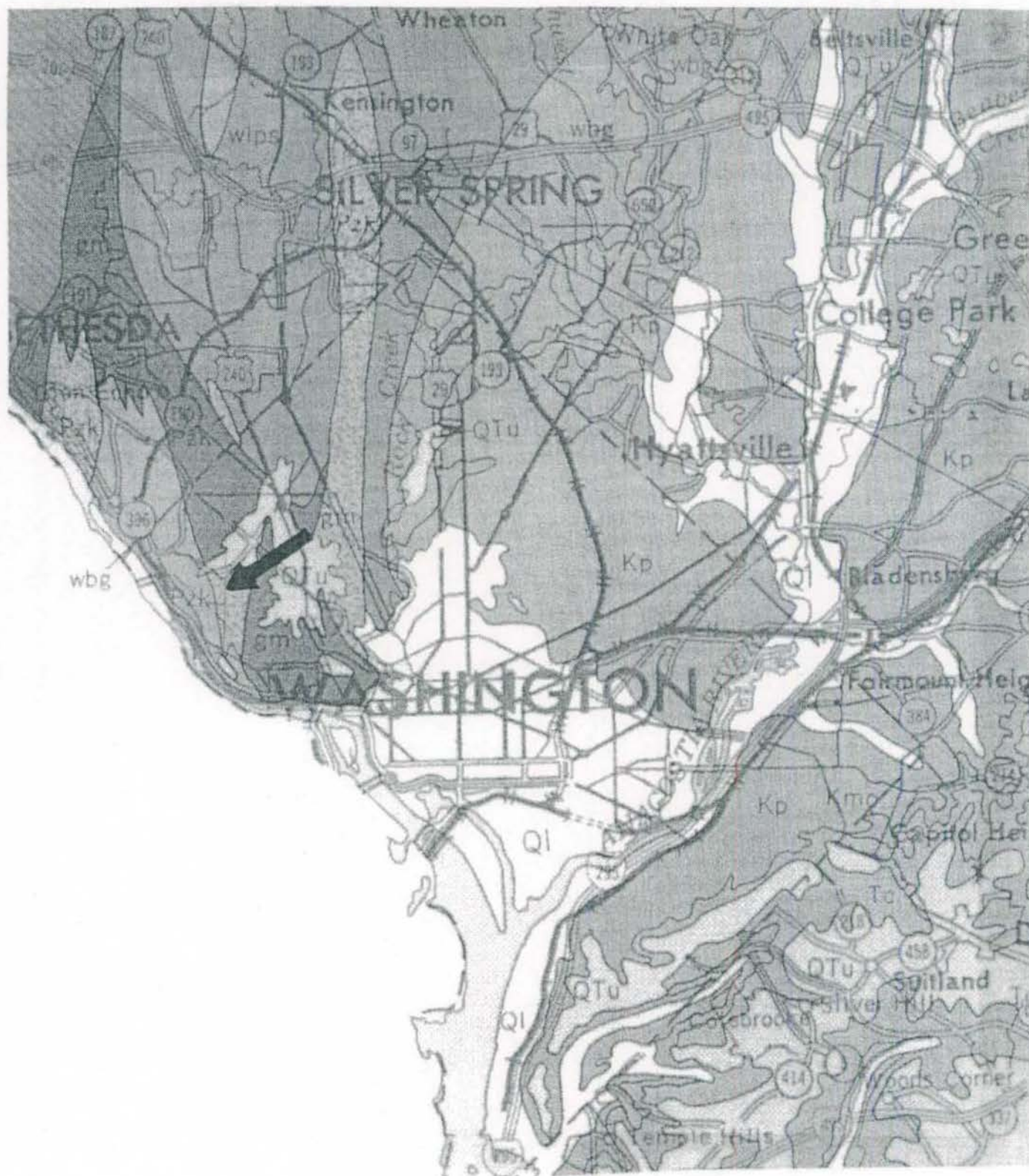
SPECIALIZED ENGINEERING

Geotechnical - Environmental - Materials

Project Location

Project No.: 021625

Figure No.: 2



SPECIALIZED ENGINEERING

Geotechnical - Environmental - Materials

Geological Map Excerpt

Project No.: 021625

Figure No.: 3

Figure No.: 4

APPENDIX A

RECORDS OF SUBSURFACE EXPLORATION



SPECIALIZED ENGINEERING

Geotechnical - Environmental - Materials

Major divisions		Group symbol	Typical names	Classification criteria for coarse-grained soils			
Coarse-grained soils (more than half of material is larger than No. 200)	Gravels (more than half of coarse fraction is larger than No. 4 sieve size)	Clean gravels (little or no fines)	GW	Well-graded gravels, gravel-sand mixtures, little or no fines		$C_U = D_{60}/D_{10} > 4$ $C_C = 1 < D_{30}^2/D_{10} \times D_{60} < 3$	
			GP	Poorly graded gravels, gravel-sand mixtures, little or no fines		Not meeting all gradation requirements for GW	
		Gravels with fines (appreciable amount of fines)	GM	$d \geq u$	Silty gravels, gravel-sand-silt mixtures	Atterberg limits below A line or $I_p < 4$	Above A line with $4 < I_p < 7$ are borderline cases requiring use of dual symbols
			GC	Clayey gravels, gravel-sand-clay mixtures		Atterberg limits above A line with $I_p > 7$	
	Sands (more than half of coarse fraction is smaller than No. 4 sieve size)	Clean sands (little or no fines)	SW	Well-graded sands, gravelly sands, little or no fines		$C_U = D_{60}/D_{10} > 6$ $C_C = 1 < D_{30}^2/D_{10} \times D_{60} < 3$	
			SP	Poorly graded sands, gravelly sands, little or no fines		Not meeting all gradation requirements for SW	
		Sands with fines (appreciable amount of fines)	SM	$d \geq u$	Silty sands, sand-silt mixtures	Atterberg limits below A line or $I_p < 4$	Limits plotting in hatched zone with $4 \leq I_p \leq 7$ are borderline cases requiring use of dual symbols
			SC	Clayey sands, sand-clay mixtures		Atterberg limits above A line with $I_p > 7$	
Fine-grained soils (more than half of material is smaller than No. 200)	Silt and clays (liquid limit < 50)	ML	Inorganic silts and very fine sands, rock flour, silty or clayey fine sands, or clayey silts with slight plasticity		1. Determine percentages of sand and gravel from grain-size curve. 2. Depending on percentages of fines (fraction smaller than 200 sieve size), coarse-grained soils are classified as follows: Less than 5%—GW, GP, SW, SP More than 12%—GM, GC, SM, SC 5 to 12%—Borderline cases requiring dual symbols		
		CL	Inorganic clays of low to medium plasticity, gravelly clays, sandy clays, silty clays, lean clays				
		OL	Organic silts and organic silty clays of low plasticity				
	Silt and clays (liquid limit > 50)	MH	Inorganic silts, micaceous or diatomaceous fine sandy or silty soils, elastic silts				
		CH	Inorganic clays of high plasticity, fat clays				
		OH	Organic clays of medium to high plasticity, organic silts				
	Highly organic soils	Pt	Peat and other highly organic soils				

SPECIALIZED ENGINEERING

Geotechnical - Environmental - Materials

Unified Soil Classification System

<u>NON COHESIVE SOILS</u> (Silt, Sand, Gravel and Combinations)		<u>COHESIVE SOILS</u> (Clay, Silt and Combinations)	
<u>Density</u>	<u>SPT VALUE</u>	<u>Consistency</u>	<u>SPT VALUE</u>
Very loose	5 blows/ft. or less	Very Soft	3 blows/ft. or less
Loose	6 to 10 blows/ft.	Soft	4 to 5 blows/ft.
Medium Dense	11 to 30 blows/ft.	Medium Stiff	6 to 10 blows/ft.
Dense	31 to 50 blows/ft.	Stiff	11 to 15 blows/ft.
Very Dense	51 blows/ft. or more	Very Stiff	16 to 30 blows/ft.
		Hard	31 blows/ft. or more

<u>Relative Proportions</u>	
<u>Descriptive Term</u>	<u>Percent</u>
Trace	1-10
Little	11-20
Some	21-35
And	36-50

Classification on logs are made by visual inspection of samples.

Ground Water Observations were made at the times indicated. Porosity of soil strata, weather conditions, site topography, etc., should be expected to cause changes in the water levels indicated on the logs.

*Standard Penetration Test (SPT Value) - Driving a 2.0" O.D., 1-3/8" I.D. sampler a distance of 1.0 foot into undisturbed soil with a 140 pound hammer free falling a distance of 30.0 inches. It is customary to drive the spoon 6.0 inches to seat into undisturbed soil, then perform the test. The number of hammer blows for seating the spoon and making the test are recorded for each 6.0 inches of penetration on the drill log (Example-6/8/9). The standard penetration test result, or N-value, can be obtained by adding the last two figures (i.e. 8 + 9 = 17 blows/ft.; ASTM D-1586-67).



SPECIALIZED ENGINEERING

Geotechnical - Environmental - Materials

Test Boring Information Explanation

SPECIALIZED ENGINEERING

RECORD OF SOIL EXPLORATION

Project Name	4825 DEXTER TERRACE	Boring #	B-A
Location	4825 DEXTER TERRACE, NW, WASHINGTON, DC	Job #	21625

			SAMPLER						
Datum	<u>MSL</u>	Hammer Wt.	<u>140</u>	Lbs.	Hole Diameter	<u>2.25"</u>	I.D.	Foreman	<u>S. Connelly</u>
Surf. Elev.	<u></u>	Hammer Drop	<u>30</u>	Inches	Rock Core Dia.	<u>N.A.</u>		Inspector	<u></u>
Date Started	<u>10.07.02</u>	Pipe Size	<u>2.0</u>	Inches O.C.	Boring Method	<u>HSA</u>		Date Complete	<u>10.07.02</u>

ELEV.	SOIL DESCRIPTION Color,Moisture,Density,Size,Proportion	STRA. DEPTH	DEPTH SCALE	SAMPLE		REC.	E ORING & SAMPLING
				CON	BLOWS 6"		
	SURFACE		0.0				
	Brown moist medium dense to loose Silty SAND (FILL)						
			5				
	Light brown, moist, medium dense, Silty fine to medium SAND (SM)						
			10				
			15				

SAMPLER TYPE
DRIVEN SPLIT SPOON UNLESS
OTHERWISE NOTED.
PT-PRESSED SHELBY TUBE
CA-CONTINUOUS FLIGHT AU-
RC-ROCK CORE

SAMPLE CONDITIONS
D-DISINTEGRATED
I-INTACT
U-UNDISTURBED
L-LOST

GROUND WATER DEPTH
AT Completion Dry ci at 9.0 FT.
AFTER _____ FT.

BORING METHOD
HSA-HOLLOW STEM AUGERS
CFA-CONT. FLIGHT AUGERS
DC-DRIVING CASING
MD-MUD DRILLING

STANDARD PENETRATION TEST-DRIVING 2" OD SAMPLER 1' WITH 140# HAMMER FALLING 30":COUNT MADE AT 6" INTERVALS

SPECIALIZED ENGINEERING

RECORD OF SOIL EXPLORATION

Project Name 4825 DEXTER TERRACE Boring # B-B
 Location 4825 DEXTER TERRACE, NW, WASHINGTON, DC Job # 21625

SAMPLER

Datum MSL Hammer Wt. 140 Lbs. Hole Diameter 2.25" I.D. Foreman S. Connelly
 Surf. Elev. _____ Hammer Drop 30 Inches Rock Core Dia. N.A. Inspector _____
 Date Started 10.07.02 Pipe Size 2.0 Inches OC Boring Method HSA Date Complete 10.07.02

ELEV.	SOIL DESCRIPTION Color, Moisture, Density, Size, Proportion	STRA. DEPTH	DEPTH SCALE	CON	SAMPLE BLOWS 6"	NO.	REC. in.	BORING & SAMPLING NOTES
	SURFACE		0.0					
	Light brown, moist, medium dense Silty SAND (SM)			I	1,2,4	1	10	
				I	2,4,5	2	10	
		5		I	13,13,15	3	18	
			10	I	8,11,9	4	18	
			15	I	15,35,56	5	6	
			20					

SAMPLER TYPE
 DRIVEN SPLIT SPOON UNLESS OTHERWISE NOTED.
 PT-PRESSED SHELBY TUBE
 CA-CONTINUOUS FLIGHT AUGER
 RC-ROCK CORE

SAMPLE CONDITIONS
 D-DISINTEGRATED
 I-INTACT
 U-UNDISTURBED
 L-LOST

GROUND WATER DEPTH
 AT Completion Dry ci at 9.0 FT.
 AFTER _____ FT.

BORING METHOD
 HSA-HOLLOW STEM AUGERS
 CFA-CONT. FLIGHT AUGERS
 DC-DRIVING CASING
 MD-MUD DRILLING

STANDARD PENETRATION TEST-DRIVING 2" OD SAMPLER 1' WITH 140# HAMMER FALLING 30". COUNT MADE AT 6" INTERVALS

SPECIALIZED ENGINEERING

RECORD OF SOIL EXPLORATION

Project Name 4825 DEXTER TERRACE Boring # B-C
 Location 4825 DEXTER TERRACE, NW, WASHINGTON, DC Job # 21625

SAMPLER

Datum MSL Hammer Wt. 140 Lbs. Hole Diameter 2.25" I.D. Foreman S. Connelly
 Surf. Elev. Hammer Drop 30 Inches Rock Core Dia. N.A. Inspector
 Date Started 10.07.02 Pipe Size 2.0 Inches OC Boring Method HSA Date Complete 10.07.02

ELEV.	SOIL DESCRIPTION Color, Moisture, Density, Size, Proportion	STRA. DEPTH	DEPTH SCALE	CON	SAMPLE BLOWS 6"	NO.	REC. in.	BORING & SAMPLING NOTES
	SURFACE		0.0					
	Light brown, moist, medium dense Silty SAND (SM)			I	2,4,5	1	8	
				I	3,3,7	2	10	
			5	I	11,12,14	3	18	
			10	I	10,12,15	4	18	
			15	I	13,25,36	5	12	
			20					

SAMPLER TYPE
 DRIVEN SPLIT SPOON UNLESS
 OTHERWISE NOTED.
 PT-PRESSED SHELBY TUBE
 CA-CONTINUOUS FLIGHT AUGER
 RC-ROCK CORE

SAMPLE CONDITIONS
 D-DISINTEGRATED
 I-INTACT
 U-UNDISTURBED
 L-LOST

GROUND WATER DEPTH
 AT Completion Dry cl at 9.0 FT.
 AFTER FT.

BORING METHOD
 HSA-HOLLOW STEM AUGERS
 CFA-CONT. FLIGHT AUGERS
 DC-DRIVING CASING
 MD-MUD DRILLING

STANDARD PENETRATION TEST-DRIVING 2" OD SAMPLER 1' WITH 140# HAMMER FALLING 30". COUNT MADE AT 6" INTERVALS

APPENDIX B

IN-SITU INFILTRATION TEST RESULTS



SPECIALIZED ENGINEERING

Geotechnical - Environmental - Materials

INFILTRATION FIELD LOG

Project: 4825 Dexter Terrace NW Date: Oct 8, 2002

Project No.: 021625

Infiltration Test No.: A

Time	Depth to Water Level, feet*	Time Change, Minutes	Depth change, feet	Rate, inches/hour
1150	10.00	15	—	—
1205	10.13		0.13	6.24
1220	10.22		0.09	4.32
1235	10.24		0.02	0.96
1250	10.26		0.02	0.96
1305	10.29		0.03	1.44
1320	10.32		0.03	1.44
1335	10.36		0.04	1.92
1350	10.40		0.04	1.92
1405	10.43		0.03	1.44
1420	10.46		0.03	1.44
1435	10.50		0.04	1.92
1450	10.54		0.04	1.92
1505	10.57		0.03	1.44
1520	10.62		0.05	2.40
1535	10.64		0.02	0.96
1550	10.66		0.02	0.96
1605	10.68		0.02	0.96
1620	11.00	Y	0.02	0.96
1635	—	—	—	—

* As measured from top of pipe.

Total depth of pipe below existing grade = 10 feet

INFILTRATION FIELD LOG

Project: 4825 Dexter Terrace, NW Date: Oct 8, 2002

Project No.: 021625 Infiltration Test No.: B

Time	Depth to Water Level, feet*	Time Change, Minutes	Depth change, feet	Rate, inches/hour
1152	7.52	—	—	—
1206	7.62	15	0.10	4.80
1221	7.64		0.02	0.96
1236	7.67		0.03	1.44
1251	7.71		0.04	1.92
1306	7.73		0.02	0.96
1321	7.76		0.03	1.44
1336	7.78		0.02	0.96
1351	7.82		0.04	1.92
1406	7.86		0.04	1.92
1421	7.89		0.03	1.44
1436	7.93		0.04	1.92
1451	7.95		0.02	0.96
1506	7.98		0.03	1.44
1521	8.01		0.03	1.44
1536	8.03		0.02	0.96
1551	8.05		0.02	0.96
1606	8.07		0.02	0.96
1621	8.09	Y	0.02	0.96
1636	8.11		0.02	0.96

* As measured from top of pipe.

Total depth of pipe below existing grade = 10 feet

INFILTRATION FIELD LOG

Project: 4825 Dexter Terrace, NW Date: Oct 8, 2002

Project No.: 021625

Infiltration Test No.: C

Time	Depth to Water Level, feet*	Time Change, Minutes	Depth change, feet	Rate, inches/hour
1155	9.60	—	—	—
1210	9.67	15	0.07	3.36
1224	9.75		0.08	3.84
1239	9.77		0.02	0.96
1254	9.80		0.03	1.44
1309	9.85		0.05	2.40
1324	9.89		0.04	1.92
1339	9.91		0.02	0.96
1354	9.95		0.04	1.92
1409	10.01		0.06	2.88
1424	10.04		0.03	1.44
1439	10.08		0.04	1.92
1454	10.11		0.03	1.44
1509	10.14		0.03	1.44
1524	10.16		0.02	0.96
1539	10.19		0.03	1.44
1554	10.22		0.03	1.44
1609	10.25		0.03	1.44
1624	10.28	Y	0.03	1.44
1639	10.31		0.03	1.44

* As measured from top of pipe.

Total depth of pipe below existing grade = 9 feet

APPENDIX C

ASFE GEOTECHNICAL BULLETIN



Important Information About Your Geotechnical Engineering Report

Subsurface problems are a principal cause of construction delays, cost overruns, claims, and disputes.

The following information is provided to help you manage your risks.

Geotechnical Services Are Performed for Specific Purposes, Persons, and Projects

Geotechnical engineers structure their services to meet the specific needs of their clients. A geotechnical engineering study conducted for a civil engineer may not fulfill the needs of a construction contractor or even another civil engineer. Because each geotechnical engineering study is unique, each geotechnical engineering report is unique, prepared *solely* for the client. *No one except you* should rely on your geotechnical engineering report without first conferring with the geotechnical engineer who prepared it. *And no one—not even you*—should apply the report for any purpose or project except the one originally contemplated.

Read the full report

Serious problems have occurred because those relying on a geotechnical engineering report did not read it all. Do not rely on an executive summary. Do not read selected elements only.

A Geotechnical Engineering Report Is Based on A Unique Set of Project-Specific Factors

Geotechnical engineers consider a number of unique, project-specific factors when establishing the scope of a study. Typical factors include: the client's goals, objectives, and risk management preferences; the general nature of the structure involved, its size, and configuration; the location of the structure on the site; and other planned or existing site improvements, such as access roads, parking lots, and underground utilities. Unless the geotechnical engineer who conducted the study specifically indicates otherwise, *do not rely on a geotechnical engineering report* that was:

- not prepared for you,
- not prepared for your project,
- not prepared for the specific site explored, or
- completed before important project changes were made.

Typical changes that can erode the reliability of an existing geotechnical engineering report include those that affect:

- the function of the proposed structure, as when

it's changed from a parking garage to an office building, or from a light industrial plant to a refrigerated warehouse,

- elevation, configuration, location, orientation, or weight of the proposed structure,
- composition of the design team, or
- project ownership.

As a general rule, *always* inform your geotechnical engineer of project changes—even minor ones—and request an assessment of their impact. *Geotechnical engineers cannot accept responsibility or liability for problems that occur because their reports do not consider developments of which they were not informed.*

Subsurface Conditions Can Change

A geotechnical engineering report is based on conditions that existed at the time the study was performed. *Do not rely on a geotechnical engineering report* whose adequacy may have been affected by: the passage of time; by man-made events, such as construction on or adjacent to the site; or by natural events, such as floods, earthquakes, or groundwater fluctuations. *Always* contact the geotechnical engineer before applying the report to determine if it is still reliable. A minor amount of additional testing or analysis could prevent major problems.

Most Geotechnical Findings Are Professional Opinions

Site exploration identifies subsurface conditions *only* at those points where subsurface tests are conducted or samples are taken. Geotechnical engineers review field and laboratory data and then apply their professional judgment to render an *opinion* about subsurface conditions throughout the site. Actual subsurface conditions may differ—sometimes significantly—from those indicated in your report. Retaining the geotechnical engineer who developed your report to provide construction observation is the most effective method of managing the risks associated with unanticipated conditions.

A Report's Recommendations Are *Not* Final

Do not overrely on the construction recommendations included in your report. *Those recommendations are not final*, because geotechnical engineers develop them principally from judgment and opinion. Geotechnical engineers can finalize their recommendations only by observing actual subsurface conditions revealed during construction. *The geotechnical engineer who developed your report cannot assume responsibility or liability for the report's recommendations if that engineer does not perform construction observation.*

A Geotechnical Engineering Report Is Subject To Misinterpretation

Other design team members' misinterpretation of geotechnical engineering reports has resulted in costly problems. Lower that risk by having your geotechnical engineer confer with appropriate members of the design team after submitting the report. Also retain your geotechnical engineer to review pertinent elements of the design team's plans and specifications. Contractors can also misinterpret a geotechnical engineering report. Reduce that risk by having your geotechnical engineer participate in prebid and preconstruction conferences, and by providing construction observation.

Do Not Redraw the Engineer's Logs

Geotechnical engineers prepare final boring and testing logs based upon their interpretation of field logs and laboratory data. To prevent errors or omissions, the logs included in a geotechnical engineering report should *never* be redrawn for inclusion in architectural or other design drawings. Only photographic or electronic reproduction is acceptable, *but recognize that separating logs from the report can elevate risk.*

Give Contractors a Complete Report and Guidance

Some owners and design professionals mistakenly believe they can make contractors liable for unanticipated subsurface conditions by limiting what they provide for bid preparation. To help prevent costly problems, give contractors the complete geotechnical engineering report, *but* preface it with a clearly written letter of transmittal. In that letter, advise contractors that the report was not prepared for purposes of bid development and that the

report's accuracy is limited; encourage them to confer with the geotechnical engineer who prepared the report (a modest fee may be required) and/or to conduct additional study to obtain the specific types of information they need or prefer. A prebid conference can also be valuable. *Be sure contractors have sufficient time to perform additional study.* Only then might you be in a position to give contractors the best information available to you, while requiring them to at least share some of the financial responsibilities stemming from unanticipated conditions.

Read Responsibility Provisions Closely

Some clients, design professionals, and contractors do not recognize that geotechnical engineering is far less exact than other engineering disciplines. This lack of understanding has created unrealistic expectations that have led to disappointments, claims, and disputes. To help reduce such risks, geotechnical engineers commonly include a variety of explanatory provisions in their reports. Sometimes labeled "limitations", many of these provisions indicate where geotechnical engineers' responsibilities begin and end, to help others recognize their own responsibilities and risks. *Read these provisions closely.* Ask questions. Your geotechnical engineer should respond fully and frankly.

Geoenvironmental Concerns Are Not Covered

The equipment, techniques, and personnel used to perform a *geoenvironmental* study differ significantly from those used to perform a *geotechnical* study. For that reason, a geotechnical engineering report does not usually relate any geoenvironmental findings, conclusions, or recommendations; e.g., about the likelihood of encountering underground storage tanks or regulated contaminants. *Unanticipated environmental problems have led to numerous project failures.* If you have not yet obtained your own geoenvironmental information, ask your geotechnical consultant for risk management guidance. *Do not rely on an environmental report prepared for someone else.*

Rely on Your Geotechnical Engineer for Additional Assistance

Membership in ASFE exposes geotechnical engineers to a wide array of risk management techniques that can be of genuine benefit for everyone involved with a construction project. Confer with your ASFE-member geotechnical engineer for more information.



8811 Colesville Road Suite G106 Silver Spring, MD 20910

Telephone: 301-565-2733 Facsimile: 301-589-2017

email: info@asfe.org www.asfe.org

DECLARATION OF COVENANTS

For a Storm Water Management Facility

WHEREAS, in order to accommodate and regulate changes in storm water flow conditions resulting from certain improvements the Owner (will make) (~~has made~~) to the Property the Owner (will construct) (~~has constructed~~) and agrees to maintain, as its sole expense a storm water management facility ("the facility") identified as PROPOSED INFILTRATION TRENCH A, approved by the District on _____, attached hereto as Exhibit B as the Site Plan and showing the location of the storm water management facility and applicable easements; and

WHEREAS, 21 DCMR §§534.2, 534.3 AND 534.4 require that the Owner execute and record with the Recorder of Deeds of the District this Declaration;

NOW, THEREFORE, for and in consideration of the issuance of construction permits and approval of his or her plans by the District; and for the benefit of and limitation upon the Owner and all future owners of the Property, and for the benefit of the District, the Owner for itself, its successors and assigns, does hereby covenant and agree as follows:

1. The Owner (shall construct) (~~has constructed~~) and shall perpetually maintain, at its sole expense, the above-referenced storm water management facility in strict accordance with the plan approved by the District. The approved plan requires, among other things, adherence to the following maintenance schedule.

INFILTRATION TRENCH MAINTENANCE SCHEDULE

DURING THE FIRST YEAR AFTER CONSTRUCTION OF THE INFILTRATION SYSTEM SHOULD BE MONITORED ON A QUARTERLY BASIS AND AFTER SIGNIFICANT STORMS. A LOG BOOK SHALL BE MAINTAINED AND SHALL INDICATE: DATE, TIME, AND DEPTH OF WATER IN THE OBSERVATION WELL AT 8 TO 12 HOUR INTERVALS FOR 72-HOUR PERIODS. ONCE THE PERFORMANCE CHARACTERISTICS OF THE SYSTEM HAVE BEEN VERIFIED, THE MONITORING SCHEDULE CAN BE REDUCED TO AN ANNUAL BASIS.

SEDIMENT BUILD-UP IN THE TOP FOOT OF STONE AGGREGATE AND IN ALL UPSTREAM STORM DRAIN INLETS SHOULD BE MONITORED ON THE SAME SCHEDULE AS THE OBSERVATION WELL. SEDIMENT DEPOSITS SHALL NOT BE ALLOWED TO BUILD UP TO THE POINT WHERE THEY NEGATIVELY IMPACT THE ABILITY OF THE INFILTRATION SYSTEM TO FUNCTION PROPERLY.

2. The Owner shall, at its sole expense, make such changes or modifications to the storm water management facility as may, in the District' discretion, be

determined necessary to insure that the facility is properly maintained and continues to operate as designed and approved.

3. The District, its agents, employees and contractors shall have the right to enter the Property and the right to inspect, at reasonable times and in a reasonable manner, the storm water management facility in order to insure that the facility is being properly maintained and is continuing to perform in an adequate manner.

4. The Owner also understands and agrees to the following:

- a. Should the Owner fail to correct any defects in the above described facility after notification by the District; or
- b. Should the Owner fail to maintain the facility in accordance with the approved design standards and with the law and applicable regulations; or
- c. Should there be an emergency as determined by the District in its sole discretion,

the District is authorized to enter the Property to make all repairs, and to perform all maintenance, construction and reconstruction the District deems necessary.

The District shall then assess the Owner for the cost of the work and applicable penalties.

5. The provisions of this Declaration shall be deemed covenants running with the land and shall bind and inure to the benefit of the Owner and the District, their respective heirs, successors and/or assigns. When the Owner ceases to own an interest in the Property, the rights and obligations under this Declaration shall become the rights and obligations of the successor-in-ownership and interest as to the Property.

6. The Owner shall, at its cost and expense, properly record this Declaration with the Recorder of Deeds and furnish the District's Department of Health with a copy of this Declaration certified by the Recorder of Deeds as a true copy of the recorded instrument.
7. The owner shall indemnify and save harmless the District of Columbia and all its officers, agents, and employees against all claims or liability arising from, based on, or which might result from: (1) the owner's undertaking of any action required under this covenant and (2) any act, omission, or default of the District, its officers, agents, and employees in the performance of, or in connection with any action authorized by this covenant, or by the regulations pursuant to which it is entered, including, but not limited to, any action authorized by paragraph four (4) herein.
8. The provisions of this Declaration may not be modified, amended, or terminated without the prior written consent of the District, such agreement to be evidenced by a document duly executed and delivered in recordable form and recorded with the Recorder of Deeds at no expense to the District.
9. The District has the right to specifically enforce this Declaration.
10. This Declaration shall be governed by, construed and enforced in accordance with the laws of the District of Columbia.

In Testimony Whereof, FRANK C. ECONOMIDES & CONSTANTIN ^{A. Economides} the Owner, and
_____, has executed this Declaration of Covenants
as of this 22 day of OCTOBER, 2002.

FOR THE OWNER:

[Signature]
(Signature)

[Signature]
(Signature)

Frank C. Economides
(Printed Name and Title)

Constandina A. Economides
(Printed Name and Title)

Signed or attested before me on OCTOBER 22, 2002

By: Frank C. Economides & Constandina A. Economides

[Signature]
(Signature of Notary)

SEAL:

STEVEN M. BUCKMAN
NOTARY PUBLIC, DISTRICT OF COLUMBIA
My Commission Expires September 30, 2005

My commission expires: _____

FOR CORPORATE OWNERS:

In testimony whereof, _____
(Name of Corporation)

has caused this Declaration of Covenants to be signed by _____
(Name)

_____, and has appointed _____
(Title) (Name)

Its attorney in fact to acknowledge and deliver these presents as the act and deed of

_____. According to law, as of the day and year first written
(Name of Corporation)

above.

(Name) (Title)
(Corporate Seal)

Signed or attested before me on _____,

By: _____

(Signature of Notary)

SEAL:

Title (and Rank)

My commission expires: _____

APPROVED AS TO TECHNICAL SUFFICIENCY:

District of Columbia
Department of Health
Environmental Health Administration
Bureau of Environmental Quality
Watershed Protection Division

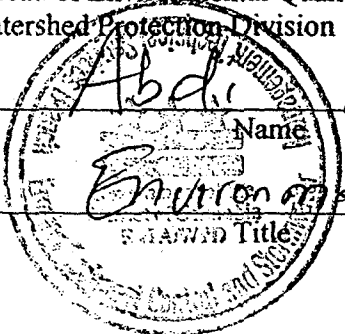
Abdi Musse

Name

Environmental Engineer

STAMPED Title

Date: 11/18/02





Rain water will drain off into
pipes leading to a dry well



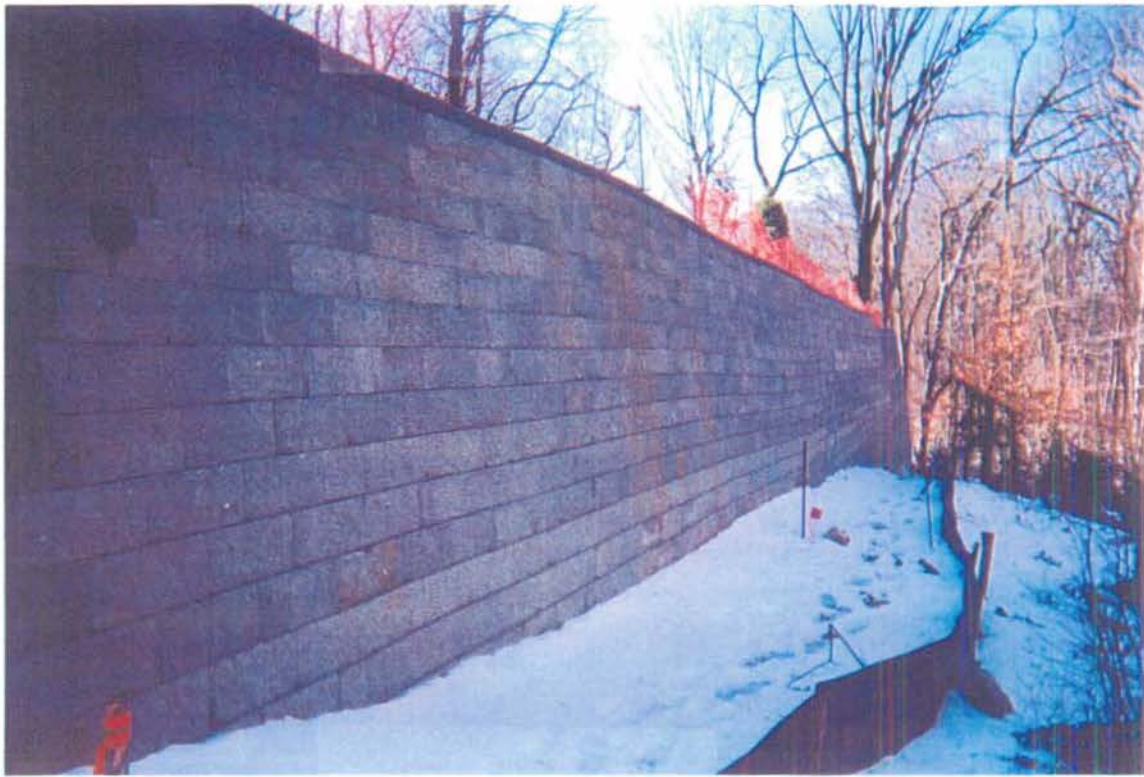
Special soil was used to fill back yard
which is more water ~~absorbent~~ than before
DRAINING











Retaining wall on subject property. Note survey (marker) performed by professional surveyor for owners shows wall is about 3 to 4 feet from federal parkland. Marker to the left & closer to the wall (about 1 foot) is park service survey. Wall is not on parkland.





**P
E
R
M
I
T**

Date: 4/23/04 (Type) RETAINING WALL

Address of work 4825 DEXTER TER., NW.

Permission is hereby granted to
FRANK AND DINA ECONOMIDES
who is authorized to perform the work described herein at the
address shown above in strict accordance with the conditions
stated on BOTH sides of this permit.

Authorized work and conditions of performance herein:

**CONSTRUCT NEW RETAINING WALL AROUND REAR YARD AS PER PLANS.
ENTIRELY ON OWNER'S LAND.**

Builder—
Width of Blggs.
Zone R-1-A Length Height
To be occupied as
Projections:

Height of terrace above grade
Address of owner: SAME
Deposit No. Amount \$
DEPARTMENT OF CONSUMER AND REGULATION AFFAIRS

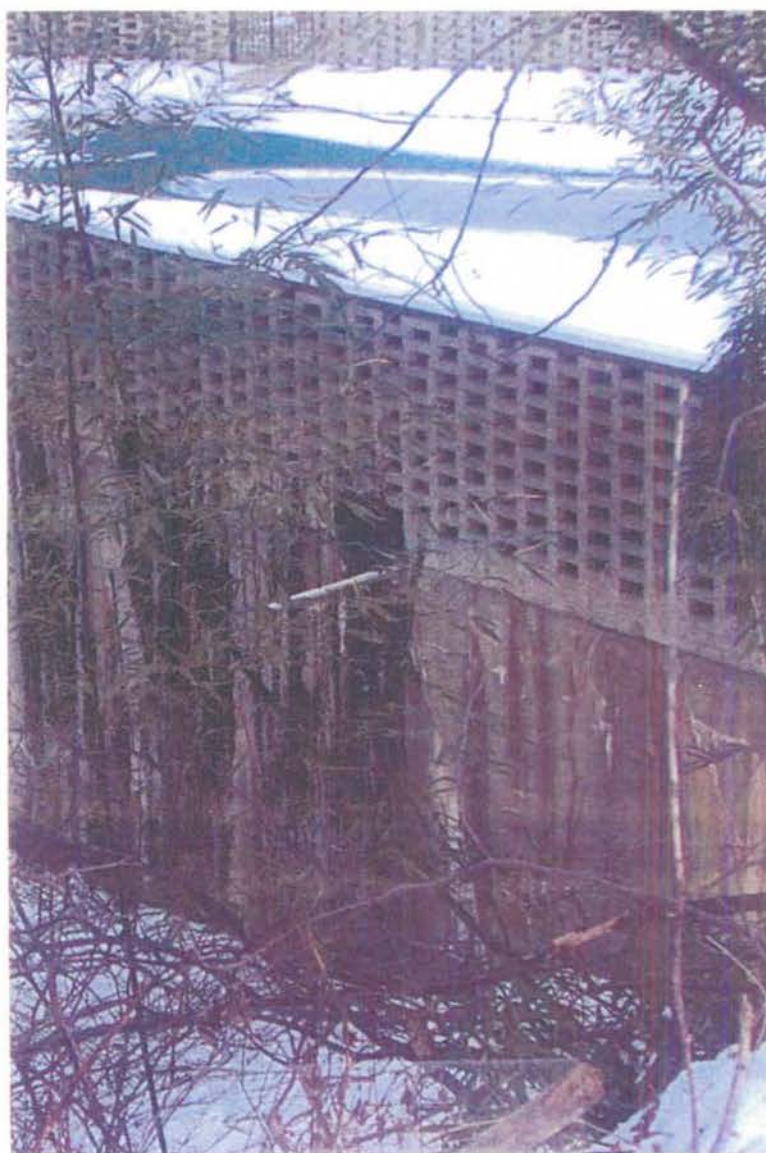
DAVID CLARK
DIRECTOR

Lot 804 Square 1381
TOTAL PERMIT FEE \$
FILING FEE \$
DATE
FEE PAYABLE \$ 1,380.00
FOR INSPECTIONS CALL 462-462

Value \$ No. of Stories 21
: SEP
E. DYER

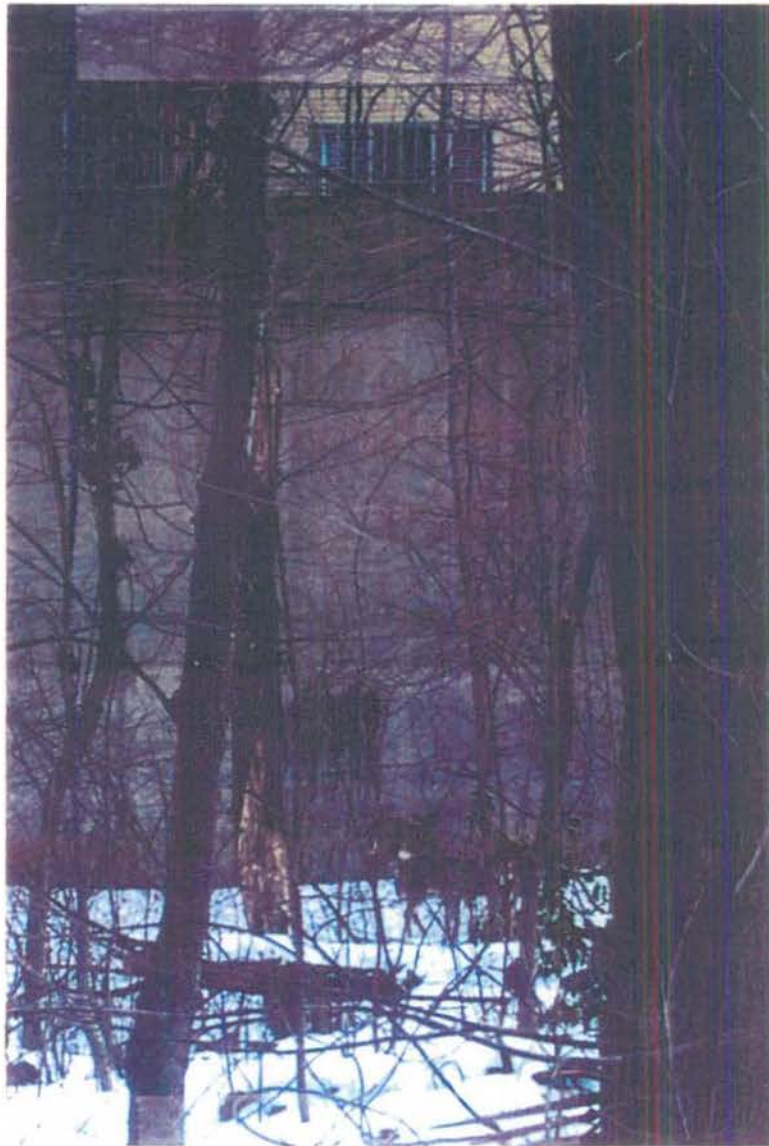


2620 Foxhall RD



Ap't complex
on Rock
Creek
Park

(Note
protruding
DRAIN
Pipe)
Castro
Avenue



apartment complex
at 2001 New Mexico Ave
bordering on park



4825 Dexter Terrace







DRAINAGE
Pipe
from
street
to
stream



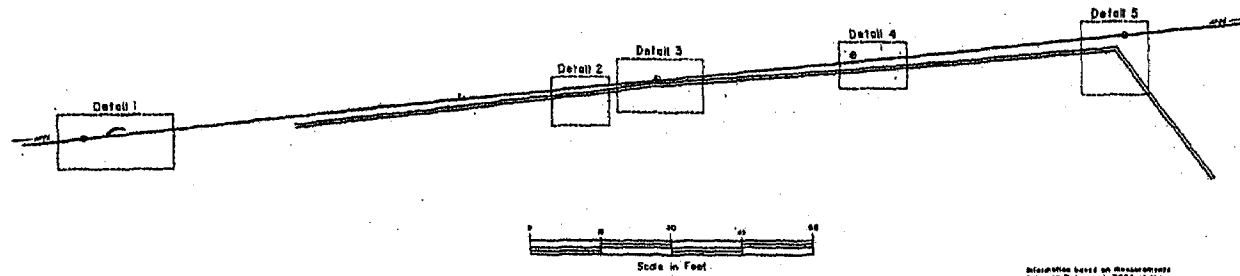
stream



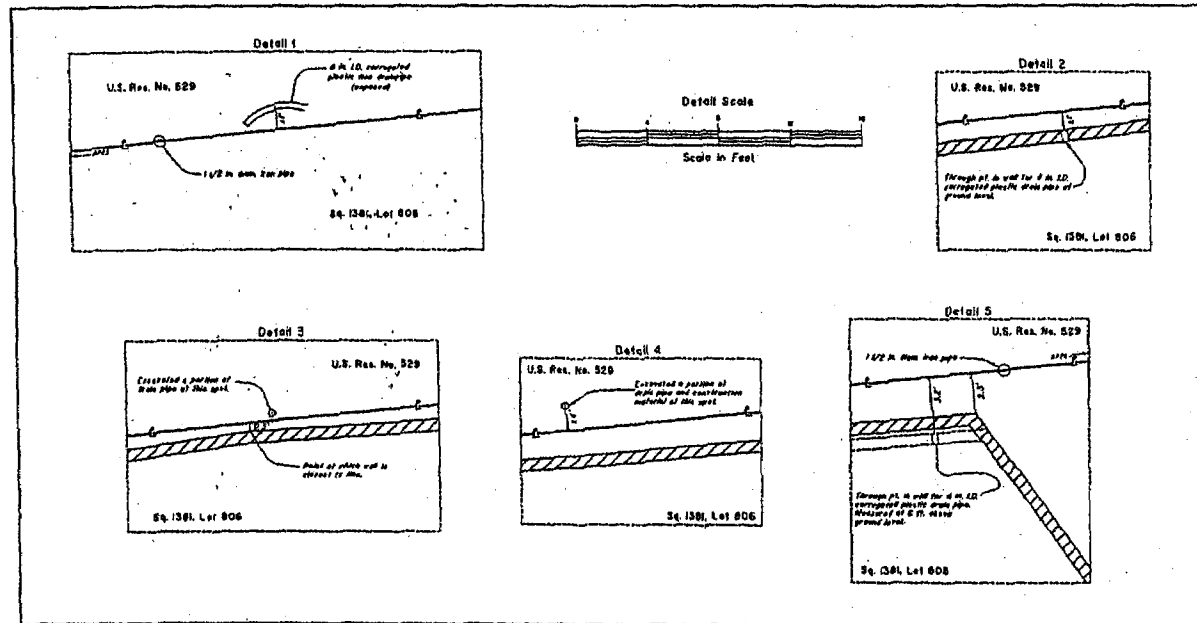
water from Fulton Street runs
off into stream via pipe in
right section of picture, not
from subject property. note that
Crime Exh 43 fails to show
the source of water (the pipe)
running into the stream



U.S. RESERVATION NO. 529, ROCK CREEK PARK, WASHINGTON, DISTRICT OF COLUMBIA



DESCRIPTION based on measurements taken on February 1, 2000 at the request of Joe Kim, WDC.
 All measurements taken at ground level unless otherwise noted.
 For information purposes only.



(2)

PRE-FILE NUMBERS	ZONING DISTRICT	FILE NUMBER	PERMIT NUMBER

★ ★ ★ GOVERNMENT
OF THE DISTRICT
OF COLUMBIA
BLRA-33
(Rev. 10/91)

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION; PERMIT PROCESSING DIVISION (727-7050)

APPLICATION FOR CONSTRUCTION PERMITS ON PRIVATE PROPERTY

(PRINT IN INK OR TYPE; DO NOT WRITE IN SHADED AREAS OR ON PAGE 4)

FSO Page

ERASING, CROSSING OUT, WHITING OUT, OR OTHERWISE ALTERING ANY ENTERED INFORMATION WILL VOID THIS APPLICATION

(A) ALL APPLICANTS MUST COMPLETE ITEMS 1 THRU 27

1. Address of Proposed Work: 4825 Dexter Terrace, NW		Suite No.:	2. Lot: 806	3. Square: 1381	4. Application Date: 2/23/04												
5. Owner of Building or Property: Frank & Dina Economides		6. Address: (include Zip) 4825 Dexter Terrace, NW Washington, DC 20007			7. Phone: Work: 902-341-3334 Home:												
8. Agent for Owner: (if applicable) Tom Hromada		9. Address: (include Zip) RAPID PERMIT SERVICE 7711 Garrison Road #200 Landover Hills, MD 20784 301-731-4767 Tom Hromada			10. Phone: Work: 301-731-4767 Home:												
11. Type of Proposed Work (check all applicable boxes): <table border="0"><tr><td>☐ New Building</td><td>☒ Retaining Wall</td><td>☐ Garage</td></tr><tr><td>☐ Addition</td><td>☐ Fence</td><td>☐ Sign</td></tr><tr><td>☐ Alteration and Repair</td><td>☐ Shed</td><td>☐ Other (Specify) _____</td></tr><tr><td>☐ Raze Building</td><td>☐ Awning</td><td></td></tr></table>						☐ New Building	☒ Retaining Wall	☐ Garage	☐ Addition	☐ Fence	☐ Sign	☐ Alteration and Repair	☐ Shed	☐ Other (Specify) _____	☐ Raze Building	☐ Awning	
☐ New Building	☒ Retaining Wall	☐ Garage															
☐ Addition	☐ Fence	☐ Sign															
☐ Alteration and Repair	☐ Shed	☐ Other (Specify) _____															
☐ Raze Building	☐ Awning																
12. Description of Proposed Work: Construct New Retaining wall around rear yard as per plans STOP WORK																	
13. Existing Use(s) of Building or Property: S.F. Dwelling		14. Ex. No. of Stories of Bldg.: 2 1/2		15. Ex. No. of Dwelling Units: 1													
16. Proposed Use(s) of Building or Property: S.F. Dwelling		17. Prop. No. of Stories of Bldg.: 2 1/2		18. Prop. No. of Dwelling Units: 1													
19. Starting Date of Work: ASAP	20. Completion Date of Work: ASAP	21. Method of Removing Construction Debris: ☒ Pick-up Truck ☐ Dumpster ☐ Other (specify):		22. Does the proposed work involve disturbing the earth or razing a building? ☒ Yes, answer q. 23 ☐ No, SKIP q. 23-27													
23. Is the area of disturbed earth more than 50 sq. ft. ☒ Yes, answer q. 24-25 ☐ No, SKIP q. 24-25	24. Soil Erosion Control Methods:		25. Area of Offsite Drainage: sq. ft.	26. No. of Footings or Columns:	27. Size of Footings of Columns: sq. ft.												

ALWAYS SIGN THE APPLICATION ON PAGE 3 (SECTION I).

Complete Section B if the proposed work is new building, addition or alteration. (Page 2)
Complete Section C if the proposed work is razing a building. (Page 2)
Complete Section D if the proposed work is a retaining wall. (Page 2)
Complete Section E if the proposed work is a fence. (Page 3)
Complete Section F if the proposed work is a shed/garage. (Page 3)
Complete Section G if the proposed work is an awning. (Page 3)
Complete Section H if the proposed work is a sign. (Page 3)

(B) NEW BUILDING, ADDITION, & ALTERATION (COMPLETE ITEMS 28 THRU 60)

28. Architect's Name:		29. Lic. No.:	30. Architect's Address: (include Zip)		31. Phone:
32. Engineer's Name:		33. Lic. No.:	34. Engineer's Address: (include Zip)		35. Phone:
36. Building Contractor's Name:		36A. Lic. No.:	37. Contractor's Address:		38. Phone:
39. Type of Construction ☐ Masonry ☐ Steel ☐ Wood ☐ Other: ☐ Concrete	40. Fire Suppression: ☐ Fully Sprinklered ☐ Standpipe System ☐ Partially Sprinklered ☐ None ☐ Other:		41. Booster Pump: ☐ New ☐ Existing ☐ None	42. Total Lot Area: sq. ft.	43. Breakdown of Lot Area (= 100%): a. Building: _____ % b. Paved Area: _____ % c. Greenery: _____ %
44. Present Gross Floor Area of Bldg.: sq. ft.	45. Proposed Gross Floor Area of Bldg.: sq. ft.		46. Floors involved in this permit: ☐ All ☐ Floors _____		47. Projection beyond building line? ☐ Yes, answer q. 48-52 ☐ No, SKIP q. 48-52
48. Number and type of projection:		49. Distance of projection:	50. Width of projection:	51. Width of building frontage: ft.	
				52. Signature of Owner (projection only):	
53. Water or Sewer Excavation? ☐ Yes ☐ No	54. Driveway Construction? ☐ Yes ☐ No	55. Sheeting/Shoring Necessary? ☐ Yes ☐ No	56. Elevators involved? ☐ Yes, answer q. 57 ☐ No, SKIP q. 57	57. No. and type of elev.:	58. Plans Certified by Engineer? ☐ Yes, cert. is attached ☐ No
59. Estimated Cost of Work: (a) New/Add.: \$ _____ (b) Alt/Rep.: \$ _____ Total: \$ _____					
60. Volume of New Bldg. or Addition: cubic ft.					

(C) RAZING A BUILDING (COMPLETE ITEMS 61 THRU 83)

61. Raze Contractor's Name:		62. Contractor's Address: (include Zip)		63. Phone:	
64. Insurance Company:		65. Policy or Certif. No.:	66. Expir. Date:	67. Raze Method:	
68. Building Material:	69. Raze Entire Building? ☐ Yes ☐ No	70. Building Condemned? ☐ Yes ☐ No	70A. Building Vacant? ☐ Yes ☐ No	71. Public Space Vault? ☐ Yes ☐ No	72. Disconnect Water and/or Sewer? ☐ Yes ☐ No
					73. Size of Water Connection: in.
74. Plumber's Name:		75. Lic. No.:	76. Length: ft.	77. Width: ft.	78. Height: ft.
					79. Volume: cu. ft.
80. Party Wall? ☐ Yes ☐ No					
81. Asbestos in the Building? ☐ No ☐ Yes, Location _____		82. Raze Contractor Signature:			
		83. Owner's Signature:			

(D) RETAINING WALL (COMPLETE ITEMS 84 THRU 93)

The retaining wall will not obstruct any accessible parking required by D.C. Zoning Regulations

84. Cost of Work: \$ 30,000	85. Material: Mesa Block	86. Height: Varies 0' to 30' ft.	87. Color: Toupe/Gray	88. Location: ☒ Entirely on Owner's Land ☐ Party Line with Adjacent Neighboring Land*
--------------------------------	-----------------------------	--	--------------------------	--

* If party wall, the owner of the adjoining property must agree to the erection of the retaining wall and this application.

89. Signature of Adjoining Owner:		90. Phone: Work Home	
91. Address of Adjoining Owner:		92. Lot:	93. Square:

1200 = in 4/23/00

(E) FENCE (COMPLETE ITEMS 94 THRU 102)

The fence will not obstruct any accessible parking required by D.C. Zoning Regulations

94. Material and type:	95. Height: ft.	96. Color:	97. Location: ☐ Entirely on Owner's Land ☐ Party Line with Adjacent Neighboring Land*
------------------------	--------------------	------------	---

* If party fence, the owner of the adjoining property must agree to the erection of the fence and this application.

98. Signature of Adjoining Owner:	99. Phone: Work Home
100. Address of Adjoining Owner:	101. Lot: 102. Square:

(F) SHED OR GARAGE (COMPLETE ITEMS 103 THRU 113)

103. Number:	104. Length: ft.	105. Width: ft.	106. Area: sq. ft.	107. Height: ft.	108. Volume: cu. ft.	109. Estimated Cost of Work: \$
110. Material of Roof:	111. Material of Sides:	112. Wall thickness: ☐ External () inches ☐ Party () inches			113. Color:	

(G) AWNING (COMPLETE ITEMS 114 THRU 123)

114. Number:	115. Color:	116. Type: ☐ Folding ☐ Fixed	117. Projections: Beyond bldg. line _____ in. Beyond pt. of attachm. _____ in.	118. Height of lowest part of awning: (a) _____ ft above sidewalk (b) _____ ft above parking (c) _____ ft above grade	
119. Material of Frame:	120. Material of Covering:	121. Lettering on Awning? ☐ Yes ☐ No	122. Fixed posts? ☐ Yes ☐ No	123. Over sidewalk cafe? ☐ Yes ☐ No	

(H) SIGN (COMPLETE ITEMS 124 THRU 144)

124. Number:	125. Electric Signs? ☐ Yes, answer q. 126-132 ☐ No, SKIP q. 126-132	126. Type: ☐ Incandes. ☐ Fluoresc. ☐ Neon	127. Power _____ VA	128. Electrical Contractor: Lic. No.:	
129. Address of Electrical Contractor (include Zip)		130. Signature of Licensed Electrician:		131. Phone:	132. License No.:
133. Height relative to building and ground: (a) _____ ft _____ in above sidewalk (b) _____ ft _____ in above roof (c) _____ ft _____ in is bldg height (d) _____ ft _____ in above projection or window (e) _____ ft _____ in from roof to sign's bottom		134. Material of Sign:		135. Type of Sign:	136. Color:
		137. Width: ft.	138. Length: ft.	139. Area of Sign: sq. ft.	140. Width of Business Frontage: ft.
141. C of O Number for Building:		142. Sign Contractor Lic. No.:			
143. Sign Contractor's Address:		144. Phone:			

(I) APPLICANT'S SIGNATURE:

A. OWNER: I hereby certify that I am the owner of the property; that the application and plans are complete and correct to the best of my knowledge; and that if a permit (or permits) is issued, the construction will conform to the D.C. Construction Codes, the Zoning Regulations, and other applicable laws and regulations of the District of Columbia.

Signature of Owner: _____ Address: _____ Date: _____

B. AGENT: I hereby certify that I have the authority of the owner to make this application. I declare that the application and plans are complete and correct to the best of my knowledge. The owner has assured me that if a permit (or permits) is issued, the construction will conform to the D.C. Construction Codes, the Zoning Regulations, and other applicable laws and regulations of the District of Columbia.

Signature of Agent: Tom Premada Address: RAPID PERMIT SERVICE
7711 Garrison Road #200
Landover Hills, MD 20784 Date: 2/23/04
301-731-4767
Tom Premada

(J) APPROVALS (DO NOT WRITE ON THIS PAGE; OFFICIAL USE ONLY):

A. PERMIT CONTROL

- ☐ 1. Fine Arts by: _____ Date: _____
☐ 2. Historic by: _____ Date: _____
☐ 3. PADC by: _____ Date: _____
☐ 4. Cap. Gateway by: _____ Date: _____
☐ 5. W.H./ Obs. Precinct by: _____ Date: _____
☐ 6. Flood Control by: _____ Date: _____
☐ 7. WMATA by: _____ Date: _____
☐ 8. Condem. by: _____ Date: _____
☐ 9. RLA by: _____ Date: _____
☐ 10. Rental Accom. by: _____ Date: _____
☐ 11. Chinatown Distr. by: _____ Date: _____
☐ 12. Utility Clearance by: _____ Date: _____
☐ 13. General Liability Ins. Policy
 Clearance by: _____ Date: _____

B. CLEARANCE TO FILE PLANS

- ☐ 1. Zoning by: _____ Date: _____
☐ 2. DPW — Permit and Records Division
 Access to Parking Street ☐ Street ☐ Alley
 Cleared by: _____ Date: _____
☐ 3. DPW - Consumer Engineer
 Cleared by: _____ Date: _____
☐ 4. ERA - Erosion Control
 Cleared by: _____ Date: _____

Restrictions of the Permit:

C. PLANS AND APPLICATION APPROVAL

- ☐ 1. Information Counter by: _____ Date: 2/23/04
☐ 2. Information Center by: _____ Date: _____
☐ (a) ABC Board by: _____ Date: _____
☐ (b) Noise Control by: _____ Date: _____
☐ (c) Industrial Safety by: _____ Date: _____
☐ (d) Vector Control by: _____ Date: _____
☐ (e) D.C. Animal by: _____ Date: _____
☐ (f) Police Dept. by: _____ Date: _____
☒ 3. Zoning by: _____ Date: 4/22/04
 Zoning Update by: _____ Date: _____
☐ 4. DPW - Permit and Records Division/Deposit #
 Sidewalk Deposit \$ _____ Driveway Deposit \$ _____
 by: _____ Date: _____
☐ 5. Water/Sewer Design Branch
 Consumer Eng. by: _____ Date: _____
☐ 6. Environmental Regulation Administration
☐ Environmental Policy Review
 Control No.: _____
 by: _____ Date: _____
☒ Erosion Control by: _____ Date: 4-20-04
☐ Storm Water Mgmt. by: _____ Date: 4-5-04
 Plan No. _____
☐ 7. Mechanical Eng. Review by: _____ Date: _____
☐ 8. Plumbing Eng. Review by: _____ Date: _____
☐ 9. Electrical Eng. Review by: _____ Date: _____
☐ 10. Health Plan Review
☐ (a) Food Plan Review by: _____ Date: _____
☐ (b) Medical X-ray Plan Rev.
 by: _____ Date: _____
☐ 11. D.C. Fire Dept. (Fire Prevention Plan Review Section)
 by: _____ Date: _____
☐ 12. Elevator Plan Rev. Sec. by: _____ Date: _____
☐ 13. Plumbing Insp. Rev. by: _____ Date: _____
☐ 14. Construction Insp. Branch (Field Check)
 by: _____ Date: _____
☐ 15. Historic Pres. Div. by: _____ Date: 4/23/04
☒ 16. Structural Eng. by: _____ Date: _____
☐ 17. Permit and Certificate Issuance Counter
 By: _____ Date: _____
☐ 18. Q.C. By: _____ Date: 4/23/04

ZONING

C of O Number _____ Date _____
 Existing Use(s) _____

- ☐ New bldg.
☐ P.O.D.
☐ File in
 room 329

DPW — PUBLIC SPACE

Street Name: _____
 Street Width: _____
 Road Width: _____
 Sidewalk Width: _____
 Parking: _____
 Restrictions: _____

Job No.:

BZA Case No.:

PUD Order No.:

CONTRACT AGREEMENT

Name of Contractor/Owner Frank & Dina Economides Contractor's License No. _____

Address of Contractor/ Owner 4825 Dexter Terrace, NW. Date: 2/23/04

ADDRESS OF PROPOSED WORK <u>4825 Dexter Terrace, NW</u>		LOT: <u>806</u>
OWNER OF BUILDING OR BUSINESS: <u>Frank & Dina Economides</u>		SQUARE: <u>1381</u>
DESCRIPTION OF PROPOSED WORK: <u>Construct Retaining wall around rear yard.</u>		
COST ESTIMATE		
CONSTRUCTION e.g drywall, ceilings, framing, carpentry etc	\$ <u>30,000</u>	
ELECTRICAL	\$	
MECHANICAL	\$	
PLUMBING	\$	
FIRE PROTECTION e.g sprinkler system, fire alarm system, generator etc.	\$	
DEMOLITION	\$	
MISC/OTHER (please specify)	\$	
TOTAL	\$ <u>30,000</u>	
The labor and material costs of counter tops, kitchen cabinets, floor coverings, tile work, caulking, patching and plaster repair, painting other than fire retardant paint, gutters and downspouts, not more than 160 square feet of gypsum board shall not be included in the cost estimate for permitting purposes. The entire list can be seen in the 1999 D.C Building Supplement Chapter 1 Section 107.3.		
The foregoing terms, specifications and conditions are satisfactory and hereby agreed to. You are authorized to work as specified and payment will be made in the amount as outlined. Upon signing this agreement, the owner represents and warrants that he or she is the owner or the authorized agent of the owner of the aforesaid premises and that he or she has read this agreement.		
CONTRACTOR _____		Date: _____
Signature & print		
OWNER OF BUILDING/BUSINESS <u>Frank & Dina Economides</u>		Date: <u>2/23/04</u>
Signature & print		
Upon signing this document, the owner and contractor declare that the cost of construction as specified above for the referenced project is true and correct to the best of their knowledge		

Please fill out this agreement form in accordance with D.C Construction Code Supplement 1999, Chapter 1 Section 112.1.



Department of Consumer and Regulatory Affairs
Building and Land Regulation Administration - Permit Service Center



April 21, 2004

TIME:

11:41 AM

Engineering Coordinator: Intake5

IQ NUMBER

85

Project Location:

4825 DEXTER, TER, NW

Applicant/Agent

TOM HROMADA, 301-731-4767

REQUIRED REVIEWS (Checked boxes only)	REVIEWER	COMPLETION TIME	REVIEW STATUS
☐ PUBLIC SPACE		☐ AM ☐ PM	☐ Approved ☐ HFC ☐ Ref. to DPW ☐ Conf. w/ Applicant
☒ ZONING	<i>[Signature]</i>	☐ AM ☐ PM	☒ Approved ☐ HFC ☐ Ref. to BZA ☐ Ref. to Zoning Administr. ☐ Conf. w/ Applicant
☐ SOIL EROSION ☐ STORM WATER MGMT		☐ AM ☐ PM	☐ Approved ☐ HFC ☐ Ref. to DOH ☐ Conf. w/ Applicant
☐ AIR QUALITY ? EIS		☐ AM ☐ PM	☐ Approved ☐ HFC ☐ Ref. to DOH
☐ WATER AND SEWER		☐ AM ☐ PM	☐ Approved ☐ HFC ☐ Ref. to WASA ☐ Conf. w/ Applicant ☐ WASA Deposit Required
☐ MECHANICAL/PLUMBING		☐ AM ☐ PM	☐ Approved ☐ HFC ☐ Conf. w/ Applicant
☐ HEALTH		☐ AM ☐ PM	☐ Approved ☐ HFC ☐ Conf. w/ Applicant
☐ ELECTRICAL		☐ AM ☐ PM	☐ Approved ☐ HFC ☐ Conf. w/ Applicant
☐ ELEVATOR		☐ AM ☐ PM	☐ Approved ☐ HFC ☐ Conf. w/ Applicant
☐ FIRE PROTECTION		☐ AM ☐ PM	☐ Approved ☐ HFC ☐ Conf. w/ Applicant
☒ STRUCTURAL	<i>[Signature]</i>	☐ AM ☐ PM	☐ Approved ☒ HFC ☐ Conf. w/ Applicant

REMARKS

SL

① Based on top and bottom wall elevation the wall is higher than 3 feet. Correct the height shown on applicant's drawing (Note: Applicant shows 0-30')

② provide structural detail for proposed wall and DC registered structural engineer shall sign and seal the drawings.

③ provide all information relevant to this wall design including soil condition (soil boring, or test pits, soil classification, direct shear test and slope analysis)

[Signature]



Building and Land Regulation Administration - Permit Service Center

April 23, 2004

TIME:

11:20 AM

Engineering Coordinator: Intake5

IQ NUMBER

86

Project Location:

4825 DEXTER, TER, NW

Applicant/Agent

TOM HROMADA, 301-731-4767

REQUIRED REVIEWS (Checked boxes only)	REVIEWER	COMPLETION TIME	REVIEW STATUS
☐ PUBLIC SPACE		☐ AM ☐ PM	☐ Approved ☐ HFC ☐ Ref. to DPW ☐ Conf. w/ Applicant
☐ ZONING		☐ AM ☐ PM	☐ Approved ☐ HFC ☐ Ref. to BZA ☐ Ref. to Zoning Administr. ☐ Conf. w/ Applicant
☐ SOIL EROSION ☐ STORM WATER MGMT		☐ AM ☐ PM	☐ Approved ☐ HFC ☐ Ref. to DOH ☐ Conf. w/ Applicant
☐ AIR QUALITY ? EIS		☐ AM ☐ PM	☐ Approved ☐ HFC ☐ Ref. to DOH
☐ WATER AND SEWER		☐ AM ☐ PM	☐ Approved ☐ HFC ☐ Ref. to WASA ☐ Conf. w/ Applicant ☐ WASA Deposit Required
☐ MECHANICAL/PLUMBING		☐ AM ☐ PM	☐ Approved ☐ HFC ☐ Ccnf. w/ Applicant
☐ HEALTH		☐ AM ☐ PM	☐ Approved ☐ HFC ☐ Ccnf. w/ Applicant
☐ ELECTRICAL		☐ AM ☐ PM	☐ Approved ☐ HFC ☐ Ccnf. w/ Applicant
☐ ELEVATOR		☐ AM ☐ PM	☐ Approved ☐ HFC ☐ Conf. w/ Applicant
☐ FIRE PROTECTION		☐ AM ☐ PM	☐ Approved ☐ HFC ☐ Conf. w/ Applicant
☐ STRUCTURAL		☐ AM ☐ PM	☐ Approved ☐ HFC ☐ Conf. w/ Applicant

[illegible]

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
PERMIT SERVICE CENTER

BUILDING PERMIT CONTROL BATCH SHEET

Date: 2/23/03 LOG NO. 03 - Review Completion Due: ☐ AM ☐ PM
Intake Time: ☐ AM ☐ PM Time At Engr's. Counter: ☐ AM ☐ PM

Address Including Lot & Square: 4825 Dexter Terrace NW Time Review Completed: ☐ AM ☐ PM

Owner of Building or Property: Owner Address of Property: Phone: Work:

Agent for Owner (if applicable): Agent for Owner Address: Phone: Work:

Circle Type of Proposed work: New Building * Addition * Alt. & Repair * Raze * Retaining Wall * Fence * Shed * Awning * Garage * Sign *

REQUIRED REVIEWS (Checked boxes only)	REVIEWER	TIME		REVIEW STATUS
☐ PUBLIC SPACE		IN	☐ AM ☐ PM	☐ Approved ☐ HFC ☐ Ref. to DPW ☐ Conf. w/ Applicant
☒ ZONING		OUT	☐ AM ☐ PM	☐ Approved ☐ HFC ☐ Ref. to BZA ☐ Ref. to Zoning Administrator ☐ Conf. w/ Applicant
☒ SOIL EROSION	RE	IN	☐ AM ☐ PM	☒ Approved ☐ HFC ☐ Ref. to DOH
☐ STORMWATER MGMT		OUT	☐ AM ☐ PM	☐ Conf. w/ Applicant
☐ AIR QUALITY ☐ EIS		IN	☐ AM ☐ PM	☐ Approved ☐ HFC ☐ Ref. to DOH
☐ WATER AND SEWER		OUT	☐ AM ☐ PM	☐ Conf. w/ Applicant
☐ MECHANICAL/PLUMBING		IN	☐ AM ☐ PM	☐ Approved ☐ HFC
☐ HEALTH (Food & Medical)		OUT	☐ AM ☐ PM	☐ Conf. w/ Applicant
☐ ELECTRICAL		IN	☐ AM ☐ PM	☐ Approved ☐ HFC
☐ ELEVATOR		OUT	☐ AM ☐ PM	☐ Conf. w/ Applicant
☐ FIRE PROTECTION		IN	☐ AM ☐ PM	☐ Approved ☐ HFC
☒ STRUCTURAL		OUT	☐ AM ☐ PM	☐ Conf. w/ Applicant

BUILDING PERMIT

PERMIT NO. **B460927**

Date **4/23/04**

(Type) **RETAINING WALL**

Address of work **4825 DEXTER TER., NW.**

Permission is hereby granted to

FRANK AND DINA ECONOMIDES

at the address shown above in strict accordance with the conditions stated on BOTH sides of this permit.

Authorized work and conditions of performance thereof:

**CONSTRUCT NEW RETAINING WALL AROUND REAR YARD AS PER PLANS.
ENTIRELY ON OWNER'S LAND.**

Builder—

Width of Bldgs.

Length

Height

Value \$

No. of Bldgs.

Zone **R-1-A**

Height of terrace above grade

To be occupied as

No. of Stories

Address of owner

Projections:

SED

Deposit No.

: SAME

Amount \$

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

DAVID CLARK

DIRECTOR

Lot **806** Square **1381**

TOTAL PERMIT FEE \$

REGISTRATION FEE \$

Store# 0001 (Owner) FILING FEE \$

Reg# 1 05/07/04 at 14:22 Clk# 30

Receipt# 085385 Amount *** \$ **1,380.00**

EB22001215 FEE PAYABLE \$ **1,380.00**

BUILD STRUCTURE - EDD1

FOR INSPECTIONS CALL 727-7562

***** 442-461

Chief, Permit Issuance Branch

By **E. DYER** Permit Clerk

BUILDING PERMIT

PERMIT NO. B460927

Date 4/23/04

(Type) RETAINING WALL

Address of work 4825 DEXTER TER., NW.

Permission is hereby granted to

FRANK AND DIANA ECONOMIDIS at the address shown above in strict accordance with the conditions stated on BOTH sides of this permit.

Authorized work and conditions of performance thereof:

CONSTRUCT NEW RETAINING WALL AROUND REAR YARD AS PER PLANS.
ENTIRELY ON OWNER'S LAND.

Builder—

Width of Bldg.

Length

Height

Value \$

No. of Bldgs.

Zone R-1-A

Height of terrace above grade

To be occupied as

No. of Stories

2 1/2

Address of owner

Projections:

: SFD

Deposit No.

: SAME

Amount \$

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

DAVID CLARK

DIRECTOR

Store# 0001

Owner#

Reg# NO 05/07/04

Receipt# 085785

EB22001215

TOTAL PERMIT FEE

FILING FEE

DATE 05/07/04

Amount \$**

FOR INSPECTIONS CALL 22-7782

Lot 806

Square 1381

GOVERNMENT

CLK# 30

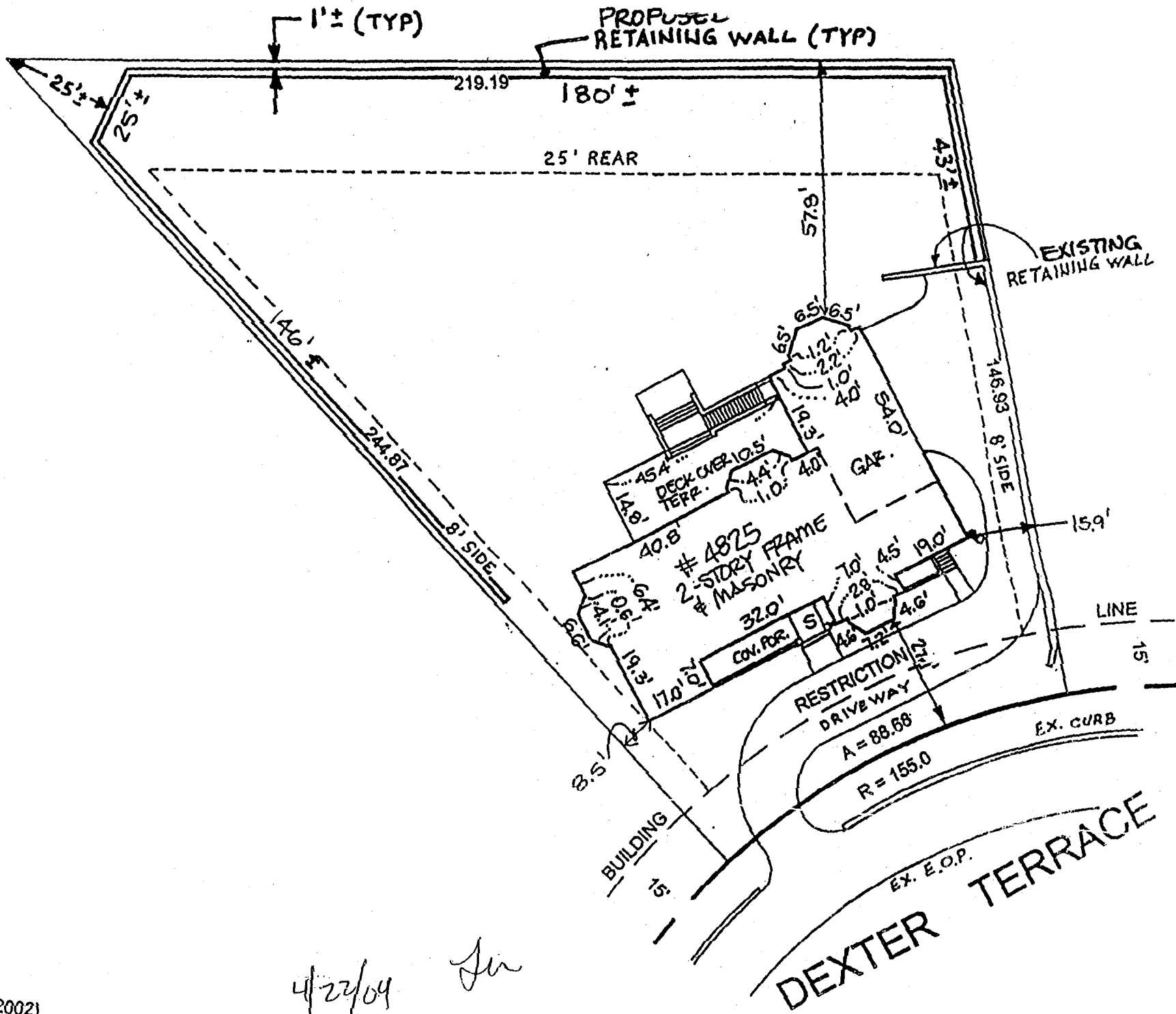
\$ 1,380.00

442-461

Chief, Permit Issuance Branch

Permit Clerk

E. DYER



4/22/04 Jm

DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

February 23, 2004 Robert D. Smith

Washington, D.C., August 12, 2002

Plat for Building Permit of SQUARE 1381 LOT 806

Scale: 1 Inch = 30 feet Recorded in A & T Book Page 2389

Receipt No. ~~00007~~ *9693*

Furnished to: MR. PERMIT

Robert D. Smith
Surveyor, D.C.

By: L.E.S. *SLD*

I hereby certify that all existing improvements shown hereon, are completely dimensioned and are correctly platted; that all proposed buildings or construction, or parts thereof, including covered porches, are correctly dimensioned and platted and agree with plans accompanying the application; that the foundation plans as shown hereon is drawn, and dimensioned accurately to the same scale as the property lines shown on this plat; and that by reason of the proposed improvements to be erected as shown hereon the size of any adjoining lot or premises is not decreased to an area less than is required by the Zoning Regulations for light and ventilation; and it is further certified and agreed that accessible parking area where required by the Zoning Regulations will be reserved in accordance with the Zoning Regulations, and that this area has been correctly drawn and dimensioned hereon. It is further agreed that the elevation of the accessible parking area with respect to the Highway Department approved curb and alley grade will not result in a rate of grade along centerline of driveway at any point on private property in excess of 20% for single-family dwellings or flats or in excess of 12% at any point for other buildings. (The policy of the Highway Department permits a maximum driveway grade of 12% across the public parking and the private restricted property.)

Date: *9-19-2002* *12-10-02*

William P. [Signature] *Karen Martine*
(Signature of owner or his authorized agent)

NOTE: Data shown for Assessment and Taxation Lots or Parcels are in accordance with the records of the Department of Finance and Revenue, Assessment Administration, and do not necessarily agree with deed description.

AFFIDAVIT OF HUGO E. ARDON

I, Hugo E. Ardon, being first duly sworn under oath, deposes and says:

1. My name is Hugo E. Ardon. I am an American citizen over the age of 21 years of sound mind and body.

2. During the construction of the retaining wall which is the subject of BZA Appeal No. 17285, I was employed by Coyco Inc. as a stone mason.

3. My experience as a stone mason is as follows:

I have been a stone mason since approximately 1993. In 1998 and 1999 and again in 2001-2002, I was the Field Supervisor for McHale & McHale, one of the largest landscaping companies in the metropolitan area. I have laid bricks, stones and blocks for many large tract home builders, for as many as 6 houses a week, including patios and retaining walls and many geogrid designs.

4. An independent project engineer from Specialized Engineering was on site every day during the construction of the geogrid retaining wall to assure that every 16 inches to 2 feet of the geogrids being laid were according to code (approved engineer design plans) with clean and properly compacted soil.

5. Further, I can attest that the owners had 2 surveys done to assure that the retaining wall was not on federal property. Also, the footers underneath the wall should not extend out towards the parkland from the owner's property more than a few inches underground, at most average 3 inches to 6 inches. It is important to note that the footers are not concrete, but gravel that becomes part of the soil.

6. There is no pipe leading from the wall onto parkland. The pipe (referred to by the Park Service in a design prepared by Joe Kish and submitted by Mr. Carome to the Board) was simply discarded material and not attached to the wall as a drain and has been subsequently removed from the site. No water was leaking from this pipe as it was not attached to anything.

7. None of the blocks that I laid had cracks. Minor cracks in the mesa blocks are a result of natural settlement (as they are laid on a gravel footing) after construction was complete and have not become larger. These cracks represent only 1% of the blocks in the wall.

8. No mud is oozing from the blocks. This is simply dirt that spilled over the wall from final grading of the yard above.

9. There is 2 feet to 4 feet of gravel on the owner's side of the wall to absorb any water run off from the house/rear yard which is not trapped by catch basins and a dry well to be constructed on the property. Further, in the gravel, there are additional drain tiles (4-inch perforated pipe) as a means of secondary emergency flood control to distribute the water. The blocks are also 2 feet to 4 feet on the owner's side and are partially made of gravel (a cell in the center of each mesa block is filled with gravel) to absorb water and there is not glue between the blocks except corner blocks so that water pressure cannot build up behind the blocks.

10. Work commenced on the retaining wall at the end of June 2004 and was completed in mid November, 2004.

11. When I started this job in June 2004, I saw the retaining wall permit posted on the front window of the owner's house.

12. Absent a hurricane rain over a 3 day period or longer, very little water will run off the subject property onto parkland and then only in trickles. On February 23, 2005, I inspected the wall drains and they were completely dry. It should be noted that it rained the previous night.

13. Based upon information and belief, there was a change in work order, approved by Ryan & Associates Engineers, which allowed me to lay a 90 degree corner at Section 2-27, instead of a radius, which required the corner blocks be glued. Only the corner blocks and the cap are glued. In a conversation with the engineer on February 26, 2005, Doug Slater, Ryan & Associates confirmed that due to the "pie" shaped irregularity of the lot, a radius at this station/corner would be too tight for the height of the wall.

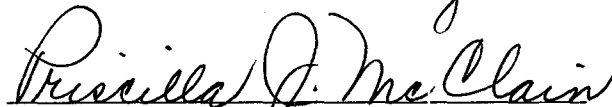
14. The "fill" on the property soil that is clean, water draining, free of debris and rocks and was tested for at least 95% compaction. The soil was tested for chemicals, moisture, quality and compaction before the soil was brought on site.

Further affiant sayeth not.



Hugo E. Ardon

Subscribed to and sworn before me this 24th day of February, 2005.



Notary Public

Priscilla J. McClain
Notary Public, District of Columbia
My Commission Expires 10-14-2008

My commission expires: _____

12/17/2004 10:47 2023378252

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PAGE 04/04

Dec 16 04 08:35a Charles Mitchell

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12/15/2004 16:07 3016074331

SPECIALIZED ENGR

PAGE 02

EXL 5

**SPECIALIZED
ENGINEERING**
Engineers • Geologists • Inspectors
December 15, 2004

Principal:
David J. Wiegand, P.E.
Charles R. Mitchell, P.E.
Gregory S. Salden
David S. Schatz, P.E.
Patrick S. Norton, P.E.

4824 Dexter Terrace, NW
Washington, DC 20007

Attn: Frank Economides

Re: Final Verification - Segmental Retaining Wall
4825 Dexter Terrace, NW
Washington, DC
Specialized Engineering Project No. 021625

Dear Mr. Economides:

This correspondence serves to document that Specialized Engineering has performed construction observation and materials testing for the above referenced project. The items observed and tests performed include:

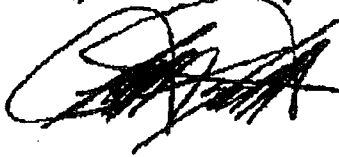
Observation of structural fill placement and compaction;
Verification of foundation design bearing capacity; and
Verification of geogrid lengths.

Our observations were performed in general accordance with ASTM procedures and standard engineering practices. The results of our observations indicate that the items observed by Specialized Engineering were in substantial compliance with the plans and specifications, as interpreted by Specialized Engineering. We have documented our inspections in reports previously submitted to your office, and attached to this report.

We have appreciated being of service in this matter. Should you have any questions concerning this letter, or if we can be of further assistance, please contact us at your convenience.

Respectfully,

Specialized Engineering



Patrick S. Norton, P.E.
Principal



Charles R. Mitchell, P.E.
Principal

JAN-31-2005 13:49 FELDESMAN, TUCKER, LEIFER
DEC-17-2004 10:35 FROM: RYAN AND ASSOCIATES 3013609574

12/17/2004 10:47 2023378252

202 293 8103 P.03
TO: 2023378252 P.002

12/16/2004 14:43 3317850
12/16/04 12:43 FAX 2024424863

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USA MANAGEMENT INC
DCRA/BLRA

PAGE 01/04
PAGE 03
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DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION

941 North Capitol Street, N.E. - Suite 2000
Washington, D.C. 20002
202 442-4455 - Fax: 202 442-4863

ANGIE STEIDL

Fax

2009 / RYAN ASSC.

RECEIVED
12/17/04
10:15 AM
X

To:	Frank Economides	From:	A. Barron
Fax:	202 331 7850	Pages:	3
Phone:	202 331 7100	Date:	12/16/04
Re:		CC:	

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

Comments:

Attached structural certification
should be sealed and signed by
DC registered prof. engineer regarding
the retaining wall. The form shall
be notarized and send it back
to our office.

JF 31-2005 13:49 FELDESMAN, TUCKER, LEIFER
DE 17-2004 10:35 FROM: RYAN AND ASSOCIATES 3013609574
12/17/2004 10:47 2023378252

202 293 8103 P.05
TO: 2023378252 P.004

12/16/2004 14:43 3317850
12/16/04 11:43 FAX 2024424883

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DCRA/BLRA

PAGE 03/04
PAGE 04
002

INSTRUCTIONS TO STRUCTURAL ENGINEERS FILING STRUCTURAL PLANS UNDER THE PROVISIONS OF SECTION 111.5.1.1 OF THE CONSTRUCTION CODES SUPPLEMENT OF 1992 AS AMENDED

1. Certifications will be accepted only from registered professional structural engineers certified by the District of Columbia Board of Registration for Professional Engineers.
2. The Director, DCRA, may in his discretion, approve the structural portion of the plans for the erection or alteration of a building or other structure.
3. Applications with certified structural plans will be assigned for processing in chronological order along with other applications and plans. They will not be processed as a separate group and certification shall not be used as a means of expediting an application through the Department.
4. Portions of plans not certified will be checked as usual.
5. Each sheet of the structural plans shall bear the signature of the certifying engineer under the following statement: "Structural plans certified as provided in Section 111.5.1.1 of the D.C. Construction Codes Supplement of 1992 as amended to date," together with his seal firmly impressed or stamped thereon.
6. Those structural shop details and drawings necessary to complete the structural plans and design shall also bear the signature and seal of the certifying structural engineer.
7. Structural plans so certified shall be on separate sheets from those showing other phase of work, shall be complete in every detail when filed and certified, and shall comply with all the provisions of BOCA Basic National Building Code/1990, as amended by the D.C. Construction Codes Supplement of 1992, as amended, which provisions shall include, but shall not be limited to the following:
 - (a) Complete design with sizes, sections, and relative locations of various members, floor levels, column centers and beam spacing shall be dimensioned
 - (b) Column loads both for direct and bending stresses shall be tabulated
 - (c) Soil values used in design shall be indicated and reports of soil tests shown when required
 - (d) Live loads (uniform and concentrated) shall be shown
 - (e) Wind stresses when required by the D.C. Code shall be shown
 - (f) Working stresses of materials used in the design shall be indicated
 - (g) Method of design shall be indicated
 - (h) Layout analysis and stress diagrams of trusses shall be shown
 - (i) Special system of construction and types of materials which are not specifically covered by the regulations but which have been approved by the Director, DCRA, under authority given in the Code shall be shown
8. When structural plans are filed and certified under the provisions of Section 111.5.1.1 of the D.C. Construction Codes Supplement of 1992 as amended, and it is later found that these plans are in serious conflict with the provisions of BOCA Basic National Building Code/1990, as amended by the D.C. Construction Codes Supplement of 1992, the structural engineer who certified such plans will be referred to the Board of Registration for Professional Engineers, with the recommendation that appropriate action be taken as provided under Section 8, Paragraph (b) of the Professional Engineers Registration Act, Public Law 701, 81st Congress, approved September 19, 1950.

FEB. 17. 2005 12:20PM

KCE STRUCTURAL ENGINEERS

NO. 5624 P. 2

KCE STRUCTURAL ENGINEERS, P.C.**CONSULTING ENGINEERS • 1818 JEFFERSON PLACE, N.W. • WASHINGTON, D.C. 20036 • 202-833-8622**

FAX: 202-833-3877

Web Site: <http://www.kcestructural.com>

February 16, 2005 – (Revised February 17, 2005)

Wilmer Cutler Pickering Hale and Dorr LLP
2445 M Street NW
Washington, DC 20037

Attn: Patrick J. Carome

Re: 4825 Dexter Terrace N.W.

Job No. 2005-00-16

Gentlemen:

You have asked that we review the large wall structure constructed along park service property at the subject project.

The structure is a large geostucture type wall relying on earth characteristics and gravity for support in an acceptable bootstraps approach.

We noted several items of importance regarding this structure:

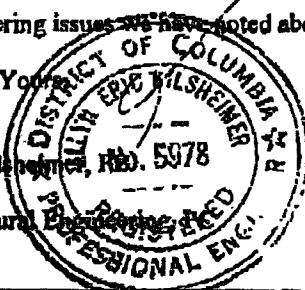
- Was a gravel drainage course installed along the back of the wall as it was constructed with a fabric drainage protective layer?
- Was the backfill material of a classification that was as required by the design?
- Are the weep hole drains (very limited) acceptable to the design engineer for the wall?
- Has the design engineer for the wall viewed the broken wall components especially at the base of the tallest section of the wall?
- We understand the "bulges" evident in the wall have occurred over time and may be increasing overtime in magnitude and number- has the design engineer reviewed the problem?

Our concern with a wall of the height and proximity to a running path is that, should it experience a failure, not only would it affect the space and people below but also the houses and their environs at the high grade behind the wall.

The engineering issues we have noted above should be carefully reviewed and responded to.

Very Truly Yours,

Allyn B. Kilsheimer, No. 5978
President
KCE Structural Engineering, P.C.
ABK/mgh



PROFESSIONAL REGISTRATIONS: COLORADO, CONNECTICUT, DELAWARE, DISTRICT OF COLUMBIA, FLORIDA, GEORGIA, ILLINOIS, LOUISIANA, MARYLAND, MASSACHUSETTS, MISSOURI, N.C.E.E., NEW JERSEY, NEW YORK, NORTH CAROLINA, OHIO, PENNSYLVANIA, RHODE ISLAND, SOUTH CAROLINA, TENNESSEE, VIRGINIA, WEST VIRGINIA, WISCONSIN

NEUBAUER CONSULTING ENGINEERS, P.A.**7825 TUCKERMAN LANE, POTOMAC, MD 20854
(301) 299-7617 FAX (301) 299-6547**February 18th, 2005Patrick Carome
4747 Fulton Street, N.W.
Washington, D.C. 20007

Re: Retaining wall at 4825 Dexter Terrace

Dear Mr. Carome:

On the 14th of February I visited the parkland adjacent to the property at Dexter Terrace to review a newly constructed, approximately 420-foot long, rear yard retaining wall. The wall was built to permit the formerly sloping terrain to be filled in and leveled resulting in a large flat back terrace. During my visit, we discussed the history of the wall construction and you have since sent me the design calculations and drawings for the wall.

The retaining structure is comprised of a concrete masonry wall that is attached at intervals along its height to synthetic fabric mats (also called geogrids) that lay horizontally behind the wall, sometimes extending 27 feet back under the surface of the terrace. Fill soil is compacted atop these mats and it is the weight of this soil, in concert with the wall, which retains the soil of the terrace.

Based on only a visual, post-construction inspection, it is impossible to tell whether or not the wall was built according to the design. Proper compaction of the fill, preparation of the subgrade, installation of the correct length of geogrid and suitability of the existing soil are critical to the long-term success of this structural system. None of these can be verified without the property owner's permission. During our meeting you showed me a letter from a structural engineer stating that these items and others dictated by the wall design specifications had been inspected over the course of construction and were acceptable. Documentation supporting this claim has not been provided. Consider though that the inspectors would have to have visited the site at least twenty times during construction to verify geogrid lengths as that is the total number of layers of geogrid in the design drawings.

The design plans show that the wall is to be straight along its sides. The specifications require that "the wall installer's field construction supervisor shall have demonstrated experience and be qualified to direct all work at the site." However, there are significant bows in the wall that indicate to me the distinct possibility that the contractor was inexperienced. Furthermore, the specifications also state that no block shall be used with cracks longer than one-half of an inch. While I did not count them, I noticed many block with cracks their entire height (eight inches). You showed me a sketch that you and your

NEUBAUER

February 18th, 2005
Patrick Carome

page 2.

wife had made that represents that there are almost 100 of them. In my opinion, since the blocks are supposed to be interlocked with the geogrids, it is virtually impossible to replace the cracked ones.

General Note 13 in the wall design specifications call for the angle point at station 2+27 to be "built as a radius.....to prevent a vertical joint". This obviously was not done. Eliminating the radius should have been brought to the design engineer's attention for his comment. To my knowledge, this was not done.

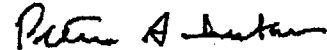
During our visit, you represented to me that counsel for the owner/developer stated, in response to concerns about runoff, that the soil used as fill behind the wall was "of a type that was especially absorbant". Usually, one wants a freely draining soil as fill since that soil will prevent the buildup of hydrostatic (water) pressure. The more water there is in the soil the more pressure it puts on the wall. If this higher soil pressure is not accounted for in the wall's design, the wall could suffer structurally. If you notice in the design documents there is a layer of gravel immediately behind the block wall that runs its full height. This is intended to reduce the build-up of water within the soil adjacent to the wall by providing a passage for any water to a drainage pipe at the base of the wall.

In a few locations, mud has seeped through the block joints. The presence of a gravel drainage layer behind the wall, as shown in the design drawings, should prevent passage of any waterborne silt to the wall so that this seepage does not happen. However, there is no visible evidence that the drainage layer was installed as required.

While none of this conclusively points to a poorly constructed wall, there are a number of issues that cast doubt on the quality of the construction and thus the safety of the wall. This is a significant structure, one that has potentially large public safety issues. To be anything other than extremely conscientious in the design and particularly in the installation of this kind of structure is taking a great risk in my opinion.

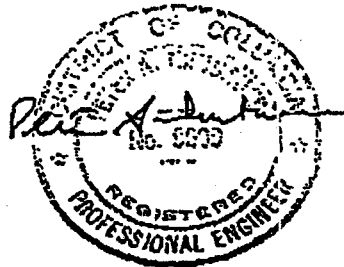
If any further information is desired, please let me know.

Very truly yours,



Peter A. Neubauer, P.E.

File: reside05\carome.1



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TO: 2023378252

P.003

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PAGE 02/04

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USA MANAGEMENT INC

PAGE 05
05 003

TO: THE DIRECTOR, DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS, WASH., D.C.

DATE _____

I hereby request that the plans filed in your office under the name of:

to (erect) (alter) the following structure,
Lot _____ Square _____

premises: _____ be processed as provided
in Section 111.5.1.1 of the D.C. Construction Codes Supplement of 1992, as amended, upon certification of the plans
by _____ who, to the best of my knowledge, is a professional
engineer, practicing in the field of structural engineering, and validly registered in the District of Columbia.

Date _____

Signature _____

(Owner)

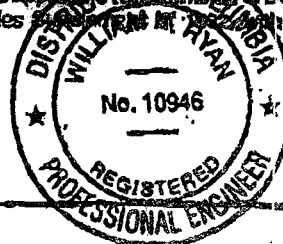
STRUCTURAL CERTIFICATION

I, William K. Ryan, certify that I am a Professional Engineer practicing in the field of structural engineering and duly registered in accordance with the provisions of Public Law 789 of the 81st Congress, approved September 19, 1950, and that such registration is in full force and effect and has not been suspended or revoked, and I do further certify that to the best of my knowledge and belief the structural portion of the attached plans pertaining to the above-inscribed structure complies in every respect with the applicable requirements of BOCA Basic National Building Code/1990, as amended by the DC Construction Codes Supplement of 1992, with particular reference to strength, stresses, loads, stability and type of materials.

Signature _____

Registered Professional Engineer

Reg. No. PE10946



ACKNOWLEDGEMENT

I, Angela L. Steidl, a Notary Public in and for Frederick County, MD, do hereby
certify that William K. Ryan the person(s) who signed the foregoing certificate, personally
appeared before me in said William K. Ryan, the said William K. Ryan he personally well known
to me as the person who signed the said certificate, and acknowledged the same to be his free act and deed.

Given under my hand and seal this 17 day of December, 19 2004

Notary Public Angela L. Steidl

My Commission Expires 5/7/08

(Seal)



TO: THE DIRECTOR, DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS, WASH., D.C.

Application has been made to (erect) (alter) the above mentioned structure. Plans have been filed in accordance with the procedure outlined in your instructions, and a directive as to whether these plans described above should be processed without a structural check as provided in Section 111.5.1.1 of the D.C. Construction Codes Supplement of 1992 is requested.

NOTED AND APPROVED FOR THE DIRECTOR,
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

Structural Engineer

SEE REVERSE SIDE FOR INSTRUCTIONS

Westlaw.

599 N.W.2d 666 (Table)
 229 Wis.2d 251, 599 N.W.2d 666 (Table), 1999 WL 395645 (Wis.App.)
Unpublished Disposition
 (Cite as: 229 Wis.2d 251, 599 N.W.2d 666, 1999 WL 395645 (Wis.App.))

Page 1

NOTICE: UNPUBLISHED OPINION. RULE 809.23(3), RULES OF CIVIL PROCEDURE, PROVIDE THAT UNPUBLISHED OPINIONS ARE OF NO PRECEDENTIAL VALUE AND MAY NOT BE CITED EXCEPT IN LIMITED INSTANCES.

(The decision of the Court is referenced in the North Western Reporter in a table captioned "Wisconsin Court of Appeals Table of Unpublished Opinions".)

Court of Appeals of Wisconsin.
 Ambrose H. WILGER, and Geraldine Wilger,
 Plaintiffs-Respondents,

v.

DODGE COUNTY PLANNING AND
 DEVELOPMENT DEPARTMENT, and Dodge
 County Board of
 Adjustment, Defendants-Appellants.
No. 98-1674.

June 17, 1999.

APPEAL from an order of the circuit court for Dodge County: DANIEL W. KLOSSNER, Judge.
Affirmed and cause remanded with directions..

Before Dykman, P.J., Roggensack and Deininger, JJ.

ROGGENSACK, J.

***1 The Dodge County Board of Adjustment (the board) appeals an order of the circuit court granting summary judgment in favor of Ambrose and Geraldine Wilger and reversing the board's decision denying the Wilgers' request for a "variance" [FN1] to DODGE COUNTY ZONING ORDINANCE § 6.2 (1994). The circuit court reversed the board's decision because it concluded that the board had proceeded on an incorrect theory of law and because its decision represented its will and not its judgment. We conclude that the board did not

proceed on a correct theory of law because it limited its review to whether the Wilgers' retaining wall constituted a detached accessory structure without deciding whether the retaining wall also constituted landscaping, which is excluded from the set-back provisions of § 6.2. Because we conclude that under the undisputed facts of this case, this retaining wall is landscaping, we affirm and remand to the circuit court so that it can order the board to direct the Administrator to issue the land use permit the Wilgers requested.

FN1. The Wilgers, who proceeded *pro se* prior to filing an appeal in circuit court, were told by the Administrator that they needed a land use permit in order to lawfully construct their retaining wall, so they applied for a land use permit. When the Administrator denied their request, they used the standard form for appeals to the board and filled in the first section of the form, which was labeled "VARIANCE." However, their application to the board was not from the denial of a request for a variance, but rather from the denial of the request for a land use permit. On appeal before this court, the imprecise use of the form was noted by their counsel, and we were asked to determine whether the board should have overturned the Administrator's denial of the land use permit the Wilgers requested. The board does not object to this potential procedural irregularity.

BACKGROUND

The Wilgers applied for a land use permit to reconstruct a retaining wall on their property. The retaining wall they proposed was located four inches inside of the Wilgers' north property line and was twenty-eight feet long varying in height from four feet above grade at its tallest, to grade level at its shortest. The Deputy Land Use Administrator denied the land use permit because he determined that the wall was an accessory structure which failed to comply with DODGE COUNTY ZONING

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599 N.W.2d 666 (Table)
 229 Wis.2d 251, 599 N.W.2d 666 (Table), 1999 WL 395645 (Wis.App.)
Unpublished Disposition
 (Cite as: 229 Wis.2d 251, 599 N.W.2d 666, 1999 WL 395645 (Wis.App.))

Page 2

ORDINANCE § 6.2 (1994), which he concluded required accessory structures to be set-back at least three feet from the lot line.

The Wilgers appealed the denial of the land use permit to the board. The board affirmed the Administrator's conclusion that the proposed retaining wall constituted an accessory structure which was subject to the set-back provisions of the ordinance. The board did not explain why the paragraph of the ordinance which exempts landscaping from the set-back provisions should not be applied to the retaining wall.

***2 The Wilgers then commenced an action in the circuit court seeking § 59.694(10), Stats., *certiorari* review of the board's decision. Thereafter, the Wilgers moved for summary judgment. Following a hearing, the circuit court granted summary judgment to the Wilgers and reversed the board's decision on the grounds that the board proceeded on an incorrect theory of law and that its decision represented its will and not its judgment. This appeal followed.

DISCUSSION

Standard of Review.

On *certiorari*, we review the decision of the board, not the circuit court. *Bettendorf v. St. Croix County Bd. of Adjustment*, 224 Wis.2d 735, 738, 591 N.W.2d 916, 918 (Ct.App.1999). Our review in this case is limited to the record [FN2] before the board and includes, among other things, whether the board proceeded under a correct theory of law. *Id.* at 739, 591 N.W.2d at 918.

FN2. Section 59.694(10), Stats., permits the circuit court to take additional evidence, but that was not done here.

The interpretation of a zoning ordinance under a set of uncontested facts is a question of law. *Hansman v. Oneida County*, 123 Wis.2d 511, 514, 366 N.W.2d 901, 903 (Ct.App.1985). Although the board's interpretation is generally entitled to some weight, we are not bound by its interpretation if a more reasonable alternative exists. *Id.*; *Marris v. City of Cedarburg*, 176 Wis.2d 14, 32-33, 498 N.W.2d 842, 850 (1993).

Zoning Ordinance.

The zoning ordinance in question is DODGE COUNTY ZONING ORDINANCE § 6.2 (1994). That section provides:

Accessory Uses and Detached Accessory Structures in aggregate, shall not exceed 960 square feet in platted residential subdivisions or on individual residential lots of one (1) acre or less. On residential lots over one (1) acre in size which are *not* in residential subdivisions, accessory uses and detached accessory structures in aggregate may exceed 960 square feet in area, but in no case shall exceed 1,400 square feet in area.

....

Detached accessory structures shall not be closer than ten (10) feet to the principal structure; shall not exceed fifteen (15) feet in height and shall not be closer than three (3) feet to any lot line or five (5) feet to any alley line.

....

Landscaping and Vegetation are exempt from the yard requirements of this Ordinance.

The board's record includes definitions of the relevant terms. For example, the DODGE COUNTY ZONING ORDINANCE § 12 (1994) defines "accessory structure" as a "detached structure subordinate to the principal use of a structure, land or water, and located on the same lot or parcel serving a purpose customarily incidental to the principal structure," and defines "structure" as "[a]ny erection or construction...." The board also adopted a development book definition of a "retaining wall" as "[a] structure constructed to hold back or support an earthen bank." Based on these definitions, the board concluded that the Wilgers' retaining wall was a detached accessory structure subject to the set-back provisions of DODGE COUNTY ZONING ORDINANCE § 6.2 (1994). While the ordinance did not define "landscaping," the record contains a photocopy of a page from a dictionary, defining [FN3] the term "landscaping," as "adorn [ing] or improv[ing] (a section of ground) by contouring the land and planting flowers, shrubs, or trees." However, the record does not reflect whether the board concluded that landscaping, which also fits the definition of an accessory structure, is nevertheless subject to the ordinance

599 N.W.2d 666 (Table)

229 Wis.2d 251, 599 N.W.2d 666 (Table), 1999 WL 395645 (Wis.App.)

Unpublished Disposition

(Cite as: 229 Wis.2d 251, 599 N.W.2d 666, 1999 WL 395645 (Wis.App.))

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set-back requirements, or whether it did not come to any conclusion in regard to whether the Wilgers' retaining wall was landscaping, in the first instance.

FN3. The rules for the construction of statutes and ordinances are the same. *Bettendorf v. St. Croix County Bd. of Adjustment*, 224 Wis.2d 735, 739, 591 N.W.2d 916, 918 (Ct.App.1999). As such, non-technical terms not defined in the ordinances must be given their ordinary and accepted meaning and that meaning may be ascertained from a recognized dictionary. See *State v. Williquette*, 129 Wis.2d 239, 248, 385 N.W.2d 145, 149 (1986).

***3 Public policy favors the free and unrestricted use of property. *Crowley v. Knapp*, 94 Wis.2d 421, 434, 288 N.W.2d 815, 822 (1980). Accordingly, restrictions contained in a zoning ordinance must be strictly construed. *Id.* A provision in a zoning ordinance, which restricts the use of property, must be in clear, unambiguous, and peremptory terms. *Hansman*, 123 Wis.2d at 514, 366 N.W.2d at 903. In the interpretation of an ordinance, we apply the same rules of construction as we apply with statutory interpretation. *Marris*, 176 Wis.2d at 32, 498 N.W.2d at 850. An ordinance is to be interpreted so none of its provisions are superfluous and to do otherwise is not a reasonable construction of the ordinance. *Id.* at 34, 498 N.W.2d at 851.

The board concluded that the retaining wall was an accessory structure and that decision is not challenged on appeal. However, we must also determine whether it is landscaping, because if it is, the conclusion that it is an accessory structure is not dispositive of whether it must comply with the yard set-back requirements. This is so because DODGE COUNTY ZONING ORDINANCE § 6.2 (1994) unambiguously provides an exclusion from the set-back requirements for accessory structures which also are determined to be landscaping: "Landscaping and Vegetation are exempt from the yard requirements of this Ordinance."

We have been presented with an undisputed description of the particular retaining wall at issue here. We also note that on appeal the board does

not argue that this retaining wall is not landscaping, even though that was the basis on which the circuit court concluded that the board had operated under an incorrect theory of law and the respondent's brief also asserted that the retaining wall is landscaping and therefore excluded from compliance with the set-back requirements of DODGE COUNTY ZONING ORDINANCE § 6.2 (1994). Instead, the board contends only that the terms "landscaping" and "retaining wall" are not defined terms in the ordinance. However, the lack of a definition within the ordinance itself is not conclusive of the issue we must decide.

The dictionary [FN4] definition of "landscaping," which the board had before it, included "contouring the land." The definition of "retaining wall," from the board's development book was "support[ing] an earthen bank." These two definitions are similar. Because the board does not contend that this retaining wall is not landscaping, and because we must give effect to all provisions of an ordinance, it is reasonable to conclude that this retaining wall is landscaping. Furthermore, under the cannons of construction, this conclusion is more reasonable than failing to address the landscaping exclusion in the ordinance, as the board did. *Marris*, 176 Wis.2d at 32-33, 498 N.W.2d at 850. Accordingly, we conclude that the board erroneously interpreted DODGE COUNTY ZONING ORDINANCE § 6.2 (1994), which interpretation must be overturned. Because we have concluded that the Wilgers' retaining wall is landscaping; and therefore exempt from the set-back provisions of § 6.2, we remand to the circuit court with directions that it issue an order requiring the board to direct the Administrator to issue the land use permit the Wilgers requested.

FN4. The dissent contends that the majority opinion has overlooked the dictionary definition of landscaping. However, we have applied the dictionary definition the board had before it.

CONCLUSION

***4 The board did not proceed on a correct theory of law because it limited its inquiry to whether this retaining wall constituted a detached accessory structure without considering whether it also constituted landscaping which is exempt from the

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set-back provisions of DODGE COUNTY ZONING ORDINANCE § 6.2 (1994)))))))))).

By the Court.-- Order affirmed and cause remanded with directions.

Not recommended for publication in the official reports.

DYKMAN, P.J. (*dissenting*).

There are two problems with this case, one procedural and one substantive. The procedural problem began when Wilger presented an application for a variance to the Dodge County Board of Adjustment. The board heard Wilger's evidence and denied the variance. It probably was not until the circuit court heard the case on review that the issue arose as to whether Wilger's wall fell within the "landscaping" exception to the side-yard setback requirements of DODGE COUNTY ZONING ORDINANCE § 6.2 (1994). It is therefore not surprising that the "landscaping" exception played a small part in the board's findings of fact and conclusions of law. Even Wilger concedes that if we conclude that the real issue is whether the board improperly denied his petition for a variance, he cannot prevail.

The majority unfairly criticizes the board and reverses the board's decision because it failed to address the landscaping exclusion to the side-yard setback requirements. I recognize that Wilger was pro se, but in my view, that is no reason to unfairly treat the board as if it had failed to address the issue the majority now concludes is dispositive. The board addressed the issue Wilger raised. Nonetheless, I conclude that the real issue is whether Wilger's wall is subject to Dodge County's side-yard setback requirements. Fairness requires a remand to permit the board to decide the real issue. However, the majority has decided that even were the board to conclude that Wilger's wall was not "landscaping," the majority would decide otherwise. I will therefore explain why, given the choice of affirmance or reversal, I would reverse.

This is a certiorari review. As we noted in *State ex rel. Ortega v. McCaughtry*, 221 Wis.2d 376, 386, 585 N.W.2d 640, 646 (Ct.App.1998), the test on

certiorari review is "whether reasonable minds could arrive at the same conclusion the committee reached." A municipal body's adverse decision in a zoning case may be set aside on certiorari review if the action is arbitrary, oppressive, or unreasonable, representing an act of will instead of judgment. See *Eternalist Found., Inc. v. City of Platteville*, No. 98-1944, slip op. at 8 (Wis. Ct.App. Mar. 18, 1999, order published Apr. 21, 1999). On certiorari review, we determine whether: (1) the board kept within its jurisdiction; (2) the board proceeded on a correct theory of law; (3) the board acted in an arbitrary, oppressive or unreasonable manner, representing its will and not its judgment; and (4) the evidence was sufficient for the board to reasonably make the order or determination in question. See *Schroeder v. Dane County Bd. of Adjustment*, No. 98-3615, slip op. at 6 (Wis.Ct.App. May 13, 1999).

***5 In reviewing decisions of an adjustment board, we are to keep in mind that courts should be hesitant to interfere with administrative decisions. See *Snyder v. Waukesha County Zoning Bd.*, 74 Wis.2d 468, 476, 247 N.W.2d 98, 103 (1976). We are to accord the decision of the board of adjustment a presumption of correctness and validity. See *Miswald v. Waukesha County Bd. of Adjustment*, 202 Wis.2d 401, 408, 550 N.W.2d 434, 436 (Ct.App.1996). Wilger carries the burden of overcoming this presumption of validity and correctness. See *Miswald*, 202 Wis.2d at 411, 550 N.W.2d at 437. We may not substitute our discretion for that committed to the board by the legislature. See *Snyder*, 74 Wis.2d at 476, 247 N.W.2d at 103.

The majority concludes that the board founders on the second of the four appellate rocks, which requires that the board proceed on a correct theory of law. That makes this case really not that difficult. It is undisputed that the wall in question is a "detached accessory structure," as that term is defined in the DODGE COUNTY ZONING ORDINANCE § 6.2. Therefore, the only question is whether the wall is "landscaping," which is exempt from the ordinance's side-yard setback requirements.

While the interpretation of an ordinance is a

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question of law, *see Marris v. City of Cedarburg*, 176 Wis.2d 14, 32, 498 Wis.2d 842, 850 (1993), we give various degrees of deference to a board of adjustment's interpretation of a county zoning ordinance. *See id* at 33, 498 N.W.2d at 850. We are to give due weight to the board's experience, technical competence and specialized knowledge. When a legal question is intertwined with factual determinations or with value or policy determinations, a court should defer to the board. *See Marris*, 176 Wis.2d at 33, 498 N.W.2d at 850 (citing *West Bend Educ. Ass'n. v. WERC*, 121 Wis.2d 1, 12, 357 N.W.2d 534, 539 (1984)).

The board impliedly concluded that Wilger's wall was not "landscaping," and therefore was not exempt from the ordinance's side-yard setback requirements. [FN1] While the board's decision could be clearer, the question is not whether the board repeated some magic language, but whether the evidence was such that the board "might reasonably make the order in question." *Marris*, 176 Wis.2d at 24, 498 N.W.2d at 846 (footnote omitted). If the majority's real disagreement with the board is that it failed to explain itself well enough, the remedy is not to affirm, but to remand so that the board can provide the necessary explanation. *See Thorp v. Town of Lebanon*, No. 98-2358, slip op. at 23 (Wis. Ct.App. Mar. 11, 1999, ordered published, Apr. 21, 1999); *see also State ex rel. Lomax v. Leik*, 154 Wis.2d 735, 741, 454 N.W.2d 18, 21 (Ct.App.1990).

FN1. It is not possible to know whether the board considered the "landscaping" exception, and rejected the majority's conclusion that the wall was "landscaping" or whether, since Wilger requested a variance, it did not consider the question. Certiorari review assumes the former, and therefore, so will I.

***6 The evidence is more than sufficient. The wall in question is twenty-eight feet long and four feet high (at its highest point), and is made of concrete block. A fence is constructed atop the wall. The only question is whether this wall fits the definition of "landscaping." The ordinance does not define "landscaping." We therefore look to standard dictionaries to ascertain its meaning. *See State v.*

Shea, 221 Wis.2d 418, 427, 585 N.W.2d 662, 665 (Ct.App.1998). A dictionary definition of "landscaping" found in the record is: "To adorn or improve (a section of ground) by contouring the land and planting flowers, shrubs or trees." Another dictionary defines "landscaping" as "to modify or ornament (a natural landscape) by altering the plant cover." MERRIAM WEBSTER'S COLLEGIATE DICTIONARY 654 (10th ed.1993). Neither description can reasonably be stretched enough to include a twenty-eight foot long, four foot high concrete block wall, though that is not the test we use on certiorari review.

The majority rejects these definitions, reviewing de novo the board's implied decision accepting them. This ignores the very definition of a certiorari review, as being an inquiry into whether a board *could have* reasonably made the decision that it did. *See Miswald*, 202 Wis.2d at 410-11, 550 N.W.2d at 437. I conclude that it could have. "The necessity of looking to a standard dictionary to ascertain the usual meaning of a word does not render the word ambiguous as used in a statute." *Shea*, 221 Wis.2d at 427, 585 N.W.2d at 665. The board could have used either or both of the dictionary definitions of "landscaping" found earlier in this opinion to conclude that the wall was not landscaping.

Whether we would sustain the board had it used the majority's assumption that there is an identity of meaning between "retaining wall" and "landscaping" is not before us. But whether that assumption is more reasonable than using a dictionary definition implicates the judicial standard of review of board decisions that the supreme court set out in *Marris*. I conclude that a standard dictionary definition of a word, in this case, "landscaping" is a reasonable interpretation of a word. I conclude that an unsupported assertion that "retaining wall" and "landscaping" have the same meaning is not, or at least is not more reasonable than the standard dictionary meaning.

Under the majority's definition of "landscaping," which uses the concept of "supporting an earthen bank," bridge and railroad abutments would qualify as landscaping, as would basements and mine shafts. But piling dirt against a wall does not make the wall "landscaping." I cannot accept that the

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majority's definition, essentially an *ipse dixit*, is more reasonable than the one found in the dictionary. [FN2] And that is the test the majority's decision must pass. Under the standard of review set out in *Marris*, we are to defer to an adjustment board's conclusion as to the meaning of its county ordinance. The majority's review of the board's decision does not do so, and it is not a certiorari review.

FN2. The majority notes "Because the board does not contend that this retaining wall is not landscaping ... it is reasonable to conclude that this retaining wall is landscaping." This is not my understanding of the board's brief. Although the board argues extensively that it properly denied Wilger's request for a variance, it also asserts: "The Court of Appeals must review the board's October 2, 1997 Decision in which the board determined that the ... wall that the Wilgers constructed ... is an 'accessory structure' and not 'landscaping' under the relevant provisions of the Zoning Ordinance." Though perhaps myopic, this assertion cannot be interpreted as a failure to contend that the wall is not landscaping.

***7 Were I writing for the majority, I would remand this case to the trial court to remand to the board with instructions to consider whether Wilger's wall is "landscaping," thereby exempting it from the ordinance's side-yard setback requirements. Failing in that, I would reverse because under the limited review provided by certiorari, the four requirements of certiorari have been met. Because the majority does neither, I respectfully dissent.

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Supreme Court of Appeals of
 West Virginia.
 Steve RANSON and Cheryl Ranson, his wife,
 Plaintiffs Below, Appellants,
 v.
 CITY OF CHARLESTON and the Board of Zoning
 Appeals, Defendants Below,
 Appellees.
 No. 23978.

Submitted Oct. 8, 1997.
 Decided Oct. 24, 1997.

Applicants filed petition for writ of certiorari after city board of zoning appeals (BZA) found that perimeter wall enclosing their residence violated city ordinance governing wall heights and denied applicants' request for a height variance. The Circuit Court, Kanawha County, Herman G. Canady, Jr., J., affirmed decision of BZA, and applicants appealed. The Supreme Court of Appeals held that: (1) BZA did not apply an erroneous principle of law in holding that placing dirt against interior portion of wall did not make it a "retaining wall," and (2) evidence supported factual findings upon which BZA denied request for height variance.

Affirmed.

West Headnotes

[1] Zoning and Planning ¶605
 414k605 Most Cited Cases

[1] Zoning and Planning ¶701
 414k701 Most Cited Cases

While on appeal there is a presumption that a board of zoning appeals (BZA) acted correctly, reviewing court should reverse administrative decision where board has applied an erroneous principle of law, was plainly wrong in its factual findings, or has acted beyond its jurisdiction.

[2] Zoning and Planning ¶255.5

414k255.5 Most Cited Cases

City board of zoning appeals (BZA) did not apply erroneous principle of law in holding that applicant's placing dirt against interior portion of perimeter wall enclosing their residence did not make it a "retaining wall," for purposes of city zoning ordinance governing height restrictions on fences and walls.

[3] Zoning and Planning ¶538

414k538 Most Cited Cases

Evidence supported factual findings upon which city board of zoning appeals (BZA) denied applicant's request for height variance for perimeter wall around their residence on grounds that wall was never intended to be a typical retaining wall exempt from height restrictions; BZA held extensive public hearing, which included testimony from applicants' engineer, city officials, applicants, and concerned citizens, and applicants revealed that enclosed yard was going to be a play area for their children and that they intended to level yard and in doing so, would be placing dirt against interior part of wall making it a "retaining wall."

****192 *242 Syllabus by the Court**

"While on appeal there is a presumption that a board of zoning appeals acted correctly, a reviewing court should reverse the administrative decision where the board has applied an erroneous principle of law, was plainly wrong in its factual findings, or has acted beyond its jurisdiction." Syl. pt. 5, *Wolfe v. Forbes*, 159 W.Va. 34, 217 S.E.2d 899 (1975).

Thomas R. Goodwin, Dennis C. Taylor, Goodwin & Goodwin, Charleston, for Appellants.

Joyce F. Ofsa, Trina L. Leone, Spilman, Thomas & Battle, Charleston, for Appellees.

PER CURIAM: [FN1]

FN1. We point out that a per curiam opinion is not legal precedent. See *Lieving v. Hadley*, 188 W.Va. 197, 201 n. 4, 423 S.E.2d 600, 606 n. 4 (1992) ("Per curiam opinions ... are used to decide only the

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specific case before the Court; everything in a per curiam opinion beyond the syllabus point is merely *obiter dicta*.... Other courts, such as many of the United States Circuit Courts of Appeals, have gone to non-published (not-to-be-cited) opinions to deal with similar cases. We do not have such a specific practice, but instead use published per curiam opinions. However, if rules of law or accepted ways of doing things are to be changed, then this Court will do so in a signed opinion, not a per curiam opinion.").

This action is before this Court upon an appeal from the final order of the Circuit Court of Kanawha County entered on January 18, 1996. Pursuant to that order, the circuit court affirmed the decision of the Charleston Board of Zoning Appeals (hereinafter BZA) holding that a wall built on appellants' property was in violation of a zoning ordinance and that no variance would be granted. This Court has before it the petition for appeal, the designated record, and the briefs and argument of counsel. As discussed below, this Court is of the opinion that the circuit court acted correctly in affirming the decision of the BZA. Accordingly, the final order is affirmed.

I

In 1994, appellants purchased a home on Grosscup Road in Charleston, West Virginia. Shortly thereafter, appellants obtained a building permit and began a renovation project *243 **193 on their new home and surrounding property. As part of the renovations, appellants began constructing a brick wall around the perimeter of their property. Several months later, the City of Charleston (hereinafter City), learned that the appellants' remodeling work was exceeding the costs authorized by their building permit. The City requested that appellants upgrade their permit. When they failed to do so, the City issued a stop work order. In response, appellants applied for and received a new building permit authorizing \$150,000 renovations.

Just over a month later, the City issued a second stop work order. This time the appellants were informed that the wall being constructed was in violation of a city ordinance because portions of the

wall along the front of the property were more than six feet high. [FN2] In order to lift the cease and desist order, appellants applied for a height variance. At this point, appellants also hired an engineer to inspect their wall. The appellants informed the engineer that the planned renovations called for filling depressions on the property with fill dirt. Based upon this information and his inspection of the wall, the engineer issued an opinion that the appellants' wall met the definition of "retaining wall" set forth in the BOCA Code. [FN3] Subsequently, appellants contacted the City and contended that their wall was a "retaining wall" and therefore exempt from the six-foot height restriction.

FN2. The height restriction at issue in this case is found in section 22-3(c) of the Zoning Ordinance of the City of Charleston:

Fences, walls, terraces, steps, or other similar features may project into a required setback, except as provided under Sec. 22-4, Vision field, but shall not exceed six feet in height. However, retaining walls (and fences in commercial and industrial districts) may exceed six feet in height, provided they do not violate the provision of Sec. 22-4, Vision field.

FN3. The BOCA (Building Officials & Code Administrators International, Inc.) National Building Code, § 1812.2 (12 ed. 1993), defines "retaining wall" as "A wall designed to resist the lateral displacement of soils and other materials."

The City's zoning ordinance does not specifically define retaining wall.

On April 10, 1995, appellants received a letter from the City planning director stating that he agreed that the wall was a retaining wall and therefore, in his opinion, the appellants would not need a variance. Accordingly, appellants withdrew their request for a height variance. After learning that appellants were no longer seeking a variance, several of appellants' neighbors, who had expressed dissatisfaction with the wall from the time construction began, appeared at the BZA offices and registered complaints. Thereafter, a third stop work order was issued.

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On May 11, 1995, appellants filed an application with the BZA for a declaration that the wall was a retaining wall and in compliance with the city ordinance. Alternatively, appellants sought a two-foot height variance. Following an evidentiary hearing on the request, the BZA issued its decision on June 19, 1995. The BZA concluded that the wall was "essentially constructed to enclose the perimeter of the applicant's property and provide a barrier between that property and the property of others." The BZA also found that appellants demonstrated no hardship unique to the property and refused to grant a two-foot variance. Appellants sought relief in the circuit court by filing a Petition for Writ of Certiorari and Complaint for Damages. Following hearings and supplementation of the record, the circuit court affirmed the decision of the BZA as reflected in the final order.

II

[1] Our general standard of review presumes that the actions of a board of zoning appeals were proper. We have held that: "While on appeal there is a presumption that a board of zoning appeals acted correctly, a reviewing court should reverse the administrative decision where the board has applied an erroneous principle of law, was plainly wrong in its factual findings, or has acted beyond its jurisdiction." Syl. pt. 5, *Wolfe v. Forbes*, 159 W.Va. 34, 217 S.E.2d 899 (1975). See also syl. pt. 3, *Harding v. Board of Zoning Appeals of the City of Morgantown*, 159 W.Va. 73, 219 S.E.2d 324 (1975); syl. pt. 3, *244*194 *Shannondale v. Jefferson County Planning and Zoning Comm'n*, 199 W.Va. 494, 485 S.E.2d 438 (1997).

Appellants contend that the BZA's interpretation of section 22-3(c) of the city zoning ordinance, [FN4] does not comport with common sense, the BOCA Code's definition of "retaining wall," [FN5] or the opinions of any of the experts who testified at the BZA hearing. Appellants further contend that the BZA erred in its factual findings by concluding that the subject wall was intended either exclusively or primarily as a perimeter wall. In this case, appellants are essentially requesting this Court to assume the role of the BZA and declare that placing dirt against the interior portion of their wall makes it a "retaining wall" which is exempt from the ordinance requirements. Our standard of review requires us to decline that request.

FN4. See note 2, *supra*.

FN5. See note 3, *supra*.

[2] With respect to interpretation of the ordinance at issue, we cannot ignore the BZA's conclusion that declaring the appellants' wall to be a retaining wall would be tantamount to amending the ordinance. The BZA points out that such action would encourage citizens to circumvent the ordinance by building walls of any height and then justifying them as being retaining walls by placing fill dirt against them. We are mindful of our declaration in *Wolfe*, that "[a] board of zoning appeals is not a law-making body and, consequently, has no power to amend the zoning ordinance under which it functions." 159 W.Va. at 45, 217 S.E.2d at 906. Accordingly, we find that the BZA did not apply an erroneous principle of law and acted within its jurisdiction in ruling upon appellants' application.

[3] Regarding the BZA's factual findings, we first note that the BZA held an extensive public hearing. The BZA heard testimony from the appellants' engineer and city officials as well as statements from the appellants and concerned citizens. Based upon information obtained at that hearing, the BZA issued a detailed order setting forth findings of fact and conclusions of law in support of its decision to deny the appellants' request. A crucial finding of the BZA was that the wall was never intended to be a "typical retaining wall." The record reflects that throughout the proceedings in this case, appellants offered different explanations for the wall. In the first instance, the wall was to fence in a vicious pet dog. Eventually, appellants revealed that the enclosed yard was going to be a play area for their children. Appellants stated that they intended to level the yard and in doing so, would be placing dirt against the interior part of the wall making it a retaining wall. We find that the BZA's factual findings are supported by the record and therefore are not plainly wrong.

Based upon all of the above, the final order of the Circuit Court of Kanawha County is affirmed.

Affirmed.

WORKMAN, C.J., deeming herself disqualified, did not participate in the decision of this case.

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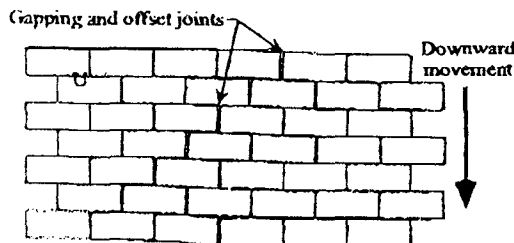


The First. To Last.

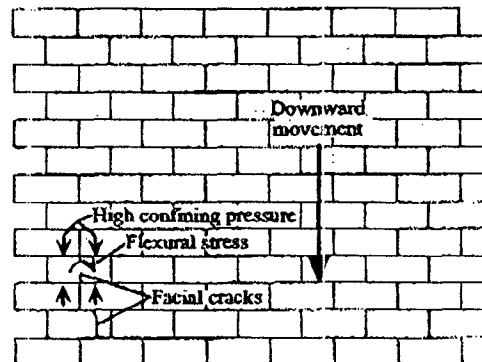
Unit Cracking/Gapping - Settlement

Keystone modular retaining wall structures can tolerate a certain amount of settlement due to the flexible nature of the system and small individual unit size. Differential settlement limits of 1/100 or 1% and 1/200 or 1/2 % have been suggested by NCMA and FHWA respectively for modular block systems. These limits appear to be reasonable for most cases. When greater settlement is anticipated, ground improvement techniques are warranted and possibly the use of slip joints to increase the flexibility of the wall facing system and provide facial stress relief.

Observation of a number of completed structures that have undergone settlement indicates that the wall's tolerance for settlement without cracking is inversely proportional to the wall height. Lower height walls ($H < 15'$) appear to have considerably more facial flexibility than taller walls ($H > 15'$). This increased flexibility is due to lower confining forces and load transfer taking place on each block which permits small individual movements to occur accommodating the settlement experienced without facial distress. Taller walls place the lower wall units under considerable confining pressure, restricting unit movement and permitting shear and flexural stresses to build up to the point where a block cracks as a means of stress relief.



Low Wall Settlement



Tall Wall Settlement

Low wall settlement problems are typically observed in residential projects where soils adjacent to houses are uncompacted and the walls settle differentially over a short distance. Usually gapping or offset joints are visually noted and the settlement is obvious.

Tall wall settlement is not as obvious but occasional facial cracks can be observed in areas of flexural stress concentration, typically in small groupings in the bottom 1/3 of a tall wall. Settlement induced cracks are usually not structurally significant and just a means of facial stress relief for the unreinforced dry-stack facing system.

Cracked units can also be a symptom of other types of more serious problems so a review by a qualified engineer is always recommended.