

**BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

KINGMAN PARK CIVIC ASSOCIATION :

Appellant, : Case No.: 21110

v.

**DISTRICT OF COLUMBIA DEPARTMENT :
TRANSPORTATION and DISTRICT
OF COLUMBIA DEPARTMENT OF
BUILDINGS**

**Permit Nos: PA11036705
PA382395
TA89767**

Appellees. :

**APPELLANT'S OPPOSITION TO THE DEPARTMENT OF TRANSPORTATION'S
MOTION TO DISMISS**

Kingman Park Civic Association (KPCA) opposes the D.C. Department of Transportation's motion to dismiss KPCA's appeal of Building Permit No. PA11036705, PA382395, and TA89767 for lack of jurisdiction. The opposition is based upon the following reasons:

I. PROCEDURAL HISTORY AND BACKGROUND FACTS

Kingman Park Civic Association (KPCA) files this appeal against the D.C. Department of Buildings and Department of Transportation based upon of fraud, waste and abuse and violation of DC Zoning Laws. The appeal is based upon the transformation of a traffic triangle to a triangle "park" to obtain a One Hundred and Twenty-Five Thousand Dollar (\$125,000.00) grant award by a group known as "Friends of Kingman Park Civic Association (FOKP)."

Kingman Park was established in 1928. Kingman Park Civic Association was founded at the inception of the neighborhood in 1928. The association has preserved the history, culture, and

architecture of the neighborhood for over 94 years. In 2012, Kingman Park Civic Association applied for and nominated Spingarn Senior High School as an historic landmark. On November 29, 2012, the D.C. Historic Preservation Review Board (HPRB) approved KPCA's nomination and designated Spingarn as a historic landmark placing it on the DC Inventory of Historic Places. On May 12, 2014, Spingarn was placed on the National Register of Historic Places.

Thereafter, KPCA nominated Browne Junior High School, Phelps Vocational High School, Spingarn Senior High School, and Young Elementary School as an Educational Campus. On May 28, 2015, HPRB approved the application and designated Browne, Phelps, Spingarn, and Young as an Historic District Educational Campus.

On the application and nomination of KPCA, the D.C. Historic Preservation Review Board designated the Kingman Park neighborhood as an historic district and placed Kingman Park on the D.C. Inventory of Historic Places on May 3, 2018. The neighborhood was subsequently placed on the National Register of Historic Places. In 2020, KPCA filed an application for the expansion of the Kingman Park Historic District. The HPRB approved KPCA's expansion nomination on July 30, 2020. The four KPCA nominations were approved after public hearings before the DC Historic Preservation Review Board.

In 2015, a new neighborhood group calling itself the Friends of Kingman Park Civic Association (FOKP) was formed. The group confused both neighborhood residents and city government officials by naming its group with the almost original name of the Kingman Park Civic Association (KPCA). The newly formed Friends group strongly opposed the historic designation of Kingman Park because "Friends" (FOKP) had little or no knowledge of the history, culture, and

significance of Kingman Park. However, during year 2021, FOKP and Robert Coomber received a \$125,000 grant from the DC Arts and Humanities Commission.¹

In year 2021, the grant awardees (Robert Coomber and the Friends of Kingman Park Civic Association) filed an application with the D.C. Historic Preservation Review Board seeking approval of the \$125,000 grant construction art project in the Kingman Park Triangle. The applicants falsely and maliciously asserted in Section 1 of the application that the Triangle's address 320 21st Street NE (Triangle Park bound by 21st NR Oklahoma, and D Streets NE).

The applicants further listed the Lot and Square as N/A. In Section 7 of the application, the applicants falsely maintained that the art, benches, bleachers and new sidewalk would not cause a change in the building footprint or lot occupancy. They also maintained that a **zoning variance or special exception** would not be required. *See, Exhibit # 1, – Application for Referral to the Historic Preservation Review Board.*

The D.C. Department of Transportation (DDOT) issued three (3) permits related to a "Swept Yard Installation construction, alteration and repair. PA382395, a public space construction permit for the construction and installation of metal benches, bleachers and walkways effective May 14, 2023; PA11036805; a public space occupancy permit for the project effective January 1, 2024, and TA89767, a permit issued by DDOT to itself to move one bush in anticipation of the project effective June 24, 2022.

¹ Ebony Payne, is and was the 7D (ANC) Advisory Neighborhood Commissioner during the relevant period was and is a member of the "Friends of Kingman Park Civic Association." Ms. Payne's mother serves as the President of FOKP. The ANC was and is engaging in a "conflict of Interest" by supporting this \$125,000 construction proposal.

I. THE BZA HAS JURISDICTION AND AUTHORITY OVER THE INSTANT APPEAL OF PERMITS ISSUED BY DDOT

D.C. Code § 6-641.07(f) provides in part that “Appeals to the Board of Adjustment may be taken by any person aggrieved, or organization authorized to represent such person, or by any office or department of the government of the District of Columbia or the federal government affected, by any decision of the Director of the Department of Buildings granting or refusing a building permit or granting or withholding a certificate of occupancy, or any other administrative decision. . . .” Section (g) and (g)(1) further provides Upon appeals the Board of Adjustment shall have the following powers:

(1) To hear and decide appeals where it is alleged by the appellant that there is Error in any order, requirement, decision, determination, or refusal made by the Director of the Department of Buildings or the Mayor of the District of Columbia Or any other administrative officer or body in the carrying out or enforcement of Any regulation adopted pursuant to this chapter. . . .

Emphasis added.

In this matter, the Board of Zoning Adjustment has the power and authority to review the issuance of permits that affect the validity and designation of real property Lots and Squares in the District of Columbia. The BZA also has the authority to review the issuance of certificates of occupancy and their affect upon the zoning laws within the District of Columbia.

Title 11 DCMR § 302.1, states that [A]ny person aggrieved or any officer or department of the government of the District of Columbia or the federal government affected by an order, requirement, decision, determination, or refusal made by an administrative officer or body, including the Mayor of the District of Columbia, in the administration or enforcement of the Zoning Regulations may file a timely zoning appeal with the Board. For the purposes of this subsection, a discretionary decision not to bring an enforcement action for a violation of the Zoning Regulations shall not be deemed a “refusal.”

1. DDOT PERMIT NO. PA11036705
PUBLIC SPACE OCCUPANCY PERMIT

On January 1, 2023, the D.C. Department of Transportation (**DDOT**) issued a permit to Bob Coomber under Permit No. PA11036705. *See, Appellee's Exhibit 1.* DDOT initially listed the address as 320 21st Street, N.E. Near the middle of the permit, DDOT indicated the location description: Will be installing a public artwork in the triangle park bounded by 21st, D St and Oklahoma Avenue.

The permit was titled “Public Space Occupancy Permit” but there was no indication of the Lot and Square designation of the Kingman Park Triangle. Interestingly, there is no official Lot and Square designation for the Kingman Park Triangle. *See, DC Office of Surveyor Maps.* Therefore, prior to the issuance of an official public space occupancy permit, it was incumbent upon the applicant and the DDOT to apply for an official lot and space designation with the Office of the Surveyor and seek approval of the land use designation with the BZA. None of these steps were taken. Therefore, the permit was issued in error.

2. DDOT PERMIT NO. PA382395
PUBLIC SPACE CONSTRUCTION PERMIT

On May 14, 2023, DDOT issued a public space construction permit to Robert Coomber. The Work Location was and is listed as 320 21st Street NE, Washington, DC 20002. The Ward is listed as 7, the Lot number is 0033, and the Square is listed as 4558. The lot and square are the address of St. Benedict the Moor Roman Catholic Church. This is not the location of the Kingman Park Triangle because there is no address or lot and square designation for the triangle. The property owner's name and address, and the lot and square designation is not associated with Bob Coomber, nor is it correct. *See, Exhibit No. 2, St. Benedict Church, Lot 0033, Square 4558.*

This was an attempt by Friends of Kingman Park Association, Mr. Coomber and other unnamed employees within DDOT to circumvent the filing of an application before the Board of Zoning and Adjustment. Because there was no designated lot and square for the triangle, it was the responsibility of the BZA to determine the appropriateness of the construction within the triangle in accordance with DC Zoning regulations.

The applicants attempted and did pass this off as the address location of the permitted construction. Their actions were intentionally false, and a misrepresentation of the truth. How do we know this? Because DDOT substituted the Church's address for a vacant triangle that has no address, Lot and Square numbers. Instead, the applicants and DDOT used the Church's Lot and Square that is Lot 0033, Square 4558. There was no mistake in DDOT's decision to falsify the Permit. Even if it was an unintentional error, the permit should be revoked. However, KPCA maintains that it was done to and quickly obtain \$125,000 dollars surreptitious from the D.C. Government.

3. DDOT PERMIT NO. TA89767
URBAN FORESTRY ADMINISTRATION
SPECIAL/HERITAGE TREE PERMIT

On June 24, 2022, DDOT issued Permit No. TA89767 to itself. DDOT listed the initial location as 320 21st Street NE. In the middle of the Permit, DDOT noted the Location Description as "The triangle park across the street bounded by 21st St. NE, Oklahoma Ave. NE, and D St. NE. DDOT was fully aware that the triangle had no actual mailing address or lot and square numbers and used the address of 320 21st NE to get swift approval of the construction without the need to appear before the DC Surveyor Office and the Board of Zoning Adjustment for the project's approval. Friends, Bob Coomber, DOB and DDOT all agreed to proceed in this way in order to

facilitate the payment of \$125,000 to the grantees without the necessity of obtaining the proper identification and clarification of the property's zoning land use. This is a construction project involving the construction of steel benches, bleachers, boxes and walkways. Because the construction was opposed by many residents of the community, the aforementioned parties worked together to avoid complying with city regulations and the law.

A review of this appeal is fully within the jurisdiction of the BZA, and are based upon the regulatory provisions and law cited below.

Title 11 DCMR 100.4, provides that [T]he Board pursuant to § 8 of the Zoning Act, D.C. Official Code §§ 6-641.07(f) and (g)(1), shall also hear and decide zoning appeals where it is alleged by the appellant that there is error in any order, requirement, decision determination, or refusal made by any administrative officer or body, including the Mayor, in the administration and enforcement of the Zoning Regulations.

The alleged art installation is the construction of metal benches, bleachers, metal boxes, and new walkways. This is an alteration of the site.

Title 12A – Building Codes Supplement, § 101.5 Jurisdiction, provides that, The *Construction Codes* shall apply to buildings, structures and premises within the limits of the District of Columbia, including buildings, structures and premises owned, occupied or controlled by the government of the District of Columbia or any of its independent agencies.

The DC Department of Transportation and the DC Department of Buildings are agencies of the District of Columbia Government, and the triangles are a premises within the city. Further, the DOB permit admits that the construction is an “addition, Alteration Repair.” This would require an application and approval by the BZA for any change in the character of the triangle. Kingman Park Triangle has served as a “**Traffic Triangle**” approximately (88) eighty-eighty years. The longstanding Traffic Triangle has served as a safety device providing pedestrians and vehicular

drivers with an unobstructed view of approaching vehicles from the intersecting roadways between Oklahoma Avenue, D Street, and 21st Street. Any change or designation of the traffic triangle requires the review and approval of the BZA. This would require an application and approval by the BZA for any change in the character of the triangle. *See, Exhibit # 3 and # 4.*

The applicants falsely and intentionally stated that they were not required to go before the DC Board of Zoning Adjustment. The applicants made this false assertion because they were fully aware that the triangle did not have a designated Lot or Square number. Unfortunately, DDOT was willing to allow this misapplication of the law and accommodate the applicants by sidestepping BZA application process.

Title 12A – Form and content of application, § 105.3.2.10, provides in part, [I]nclude the applicant's certification that the information provided in the application is true and correct to the best of the applicant's knowledge, and acknowledging that a false statement in an application may subject the applicant to penalties as listed in Section 105.3.3. . .

DDOT and DOB have asserted that there is no need to apply for permission to get the project approved before the Board of Zoning Adjustment. That is incorrect. The applicants, Friends of Kingman Park Civic Association and Bob Coomber applied for a \$125,000 grant and listed the DC Department of Transportation as the property owner, but the permit is issued to Wm W Baum Roman Catholic Archbishop of Washington with the owner's address listed as 320 21st Street, N.E. This was all done to surreptitiously and untruthfully facilitate the immediate award and release of \$125,000 to FOKP and Bob Coomber. This was and is a false certification.

Title 12A Board of Zoning Adjustment Order, § 105.6.1.3, provides in part that, [W]hen a written order of the Board of Zoning Adjustment concludes that a permit was issued in error, the permit shall be revoked, effective ten (10) days after the Board of Zoning Adjustment Order is served upon the permit holder.

CONCLUSION

KPCA respectfully moves the BZA to deny DOB's motion. District of Columbia law must be complied with by the private and public sector, therefore the decision of DOB to issue this erroneous permit should be reversed and revoked.

Respectfully submitted,

/s/Frazer Walton, Jr.
Frazer Walton, Jr.
President
Kingman Park Civic Association
1913 D Street, N.E.
Washington, D.C. 20002
(202) 398-8920
Frawalton@verizon.net

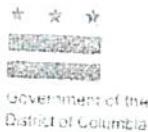
/s/Veronica E. Raglin
Veronica E. Raglin
Secretary/Treasurer
Kingman Park Civic Association
408 – 21st Street, N.E.
Washington, DC 20002
(202) 396-7653
Veronica.Raglin@gmail.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the forgoing was served by electronic mail to Brian W. Lampert, Office of the DOB General Counsel (brain.lampert1@dc.gov) on the 6th day of October 2024, and Kathleen Miskovsky, Attorney Advisor (Kathleen.miskovsky@dc.gov), DC Department of Transportation, ANC 7D 7D@anc.dc.gov, and SMD 7D05, 7D05@anc.dc.gov.

/s/ Frazer Walton, Jr.
Frazer Walton, Jr.

EXHIBIT # 1



APPLICATION AND REFERRAL TO THE HISTORIC PRESERVATION REVIEW BOARD



The DC Historic Landmark and Historic District Protection Act of 1978 requires the Mayor to refer construction plans to the Historic Preservation Review Board (HPRB) for consideration before issuing a building permit affecting a designated historic landmark or property within a historic district. To initiate a historic preservation review with HPRB, please submit this form with all required attachments as directed below.

THIS IS A REQUEST FOR THE FOLLOWING REVIEW BY THE HISTORIC PRESERVATION REVIEW BOARD:

- CONCEPTUAL REVIEW to receive HPRB guidance at the early stages of design and to enable delegation of final permit review to the Historic Preservation Office (HPO)
- PERMIT REVIEW to receive final historic preservation review of the building permit plans for a project / have confirmed with the HPO staff that the proposed work needs to be submitted for HPRB review

1. OWNER, APPLICANT, AND PROPERTY INFORMATION

Property Owner's Name: DC Department of Transportation

Applicant's Name (if different from owner): Friends of Kingman Park

Project Address: 320 21st Street NE (Triangle Park bound by 21st NE, Oklahoma, and D Streets NE)

Square: N/A Lot: N/A Historic District: Kingman Park

To find your square, lot and historic district, see www.propertyquest.dc.gov

- I am currently the owner of the property
- I am a homeowner currently receiving the DC homestead deduction for this property
- I am an authorized representative of the property owner
- I am or represent a potential purchaser of the property

2. SUBMISSION MATERIALS FOR HPRB

Please provide an electronic version (3MB maximum size, by email or flash drive) and one print copy of the following:

- Comprehensive exterior photographs of the building, site and its context showing adjacent buildings, immediate surroundings, and the areas of proposed work
- Site plan showing the existing footprint of the property and all other buildings on the block or square
- Building plans, elevations, and site plans sufficient to illustrate the footprint, height, massing, design, and materials of the proposed work and its surrounding context

3. PROJECT DESCRIPTION (CHECK ALL THAT APPLY)

- Addition Exterior Alteration New Construction Subdivision Other

Briefly describe the nature of the project: The design involves two elements. First, a series of custom powder coated steel and HDPE benches winding through the park. Second, per the two opponents' input, a number of commemorative portals of steel and perforated metal sheets among the benches. The portals will have Kingman Park's stories written on them by residents with embossable aluminum tags.

Is the proposed work visible from a public street?

Yes No Unsure

Will there be work on the front of the building or in the front yard?

Yes No Unsure

Does the project include work in public space?

Yes No Unsure

Does the project include removal of roof or floor framing or bearing walls?

Yes No Unsure

Is this a Fair Housing Act request for "reasonable accommodation"?

Yes No Unsure

(over)

4. ADDITIONAL INFORMATION FOR LARGER PROJECTS

For renovation or new construction projects exceeding 20,000 square feet, attach a full narrative description indicating the general nature of the project, program of uses, estimated gross floor area by use, number of residential units, scope of preservation work, and any other pertinent features or benefits, including aspects of sustainability. *Homeowners proposing work on their own house do not need to provide this information.*

5. EASEMENTS

Is there a conservation easement on the property?

YES NO UNSURE

If yes, have you discussed the project with the easement holder?

YES NO UNSURE

6. COMMUNITY CONSULTATION

Have you shared project information with abutting neighbors?

YES NO UNSURE

Have you contacted the affected Advisory Neighborhood Commission (ANC)?

YES NO UNSURE

Have you contacted any neighborhood community organizations?

YES NO UNSURE

To locate your ANC, see www.anc.dc.gov/anc/site

7. ZONING REGULATIONS AND CONSTRUCTION CODE

Will the project cause a change in building footprint or lot occupancy?

YES NO UNSURE

Are any zoning variances or special exceptions required for the project?

YES NO UNSURE

If yes, have you discussed the project with the Zoning Administrator?

YES NO UNSURE

If yes, have you discussed the project with the Office of Planning?

YES NO UNSURE

Is any building code relief required for the project?

YES NO UNSURE

Briefly describe the nature of any zoning variances or code relief being sought: _____

8. CONTACT INFORMATION

Owner Address (if different from project address): Attn Stephen Varga; 250 M Street SE; Washington, DC 20003

Owner Phone: 202-763-8635 Owner Email: Stephen.Varga@dc.gov

Agent's Capacity: Tenant Architect Contractor Contract Purchaser Expediter Other

Agent Address (if different from owner): 2002 E Street NE; Washington, DC 20002

Agent Phone: 202-368-5407 Agent Email: fokpcivic@gmail.com

9. CERTIFICATION

I hereby certify that the information given in this application is true and accurate. If applying as an agent of the owner, I certify that I have the owner's permission to make this application.

Signature: Melissa Geekley Martin

Date: 7/6/2021

When completed, submit this form with all plans, photographs, and other attachments to the Historic Preservation Office desk at the DC Permit Center, Department of Consumer and Regulatory Affairs, 1100 4th Street SW, 2nd floor. Upon review of this submission, HPO staff may contact the owner or agent for consultation, and may request additional information if determined necessary to review the project.

Referral to HPRB may be deferred if information is not received within sufficient time to allow staff evaluation and preparation for review. All application materials are part of the public record and are made available to the public for inspection. For more information, see www.preservation.dc.gov.



Historic Preservation Office
DC Office of Planning
(202) 442-8800
historic.preservation@dc.gov

Historic Preservation
Office of Planning



EXHIBIT # 2

DC Zoning Map



Office
COLUMBIA

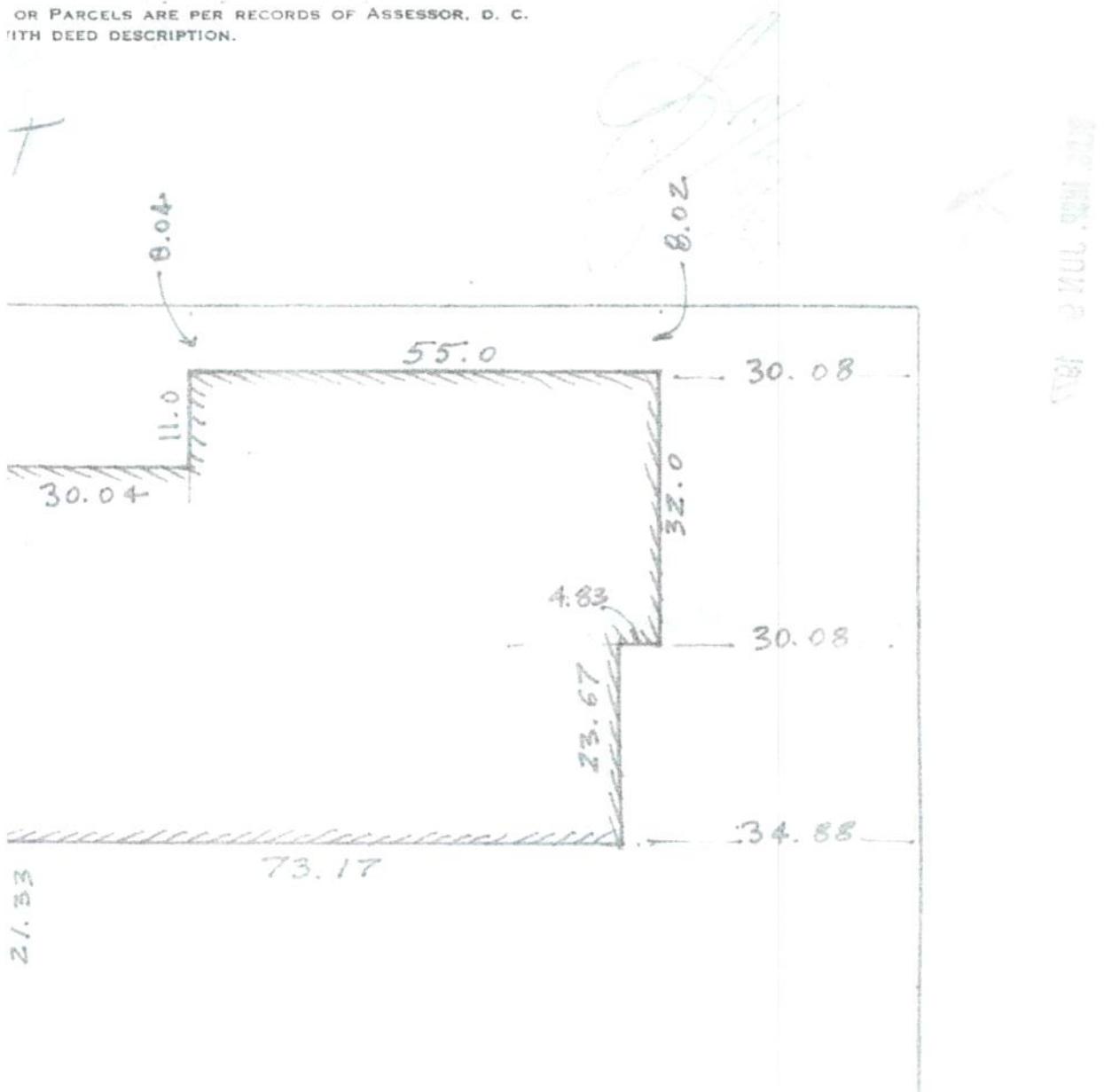
R. L. K.
6/2/77

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 plan 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 or 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 18% 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 _____

(Signature of owner or his authorized agent)

OR PARCELS ARE PER RECORDS OF ASSESSOR, D. C.
WITH DEED DESCRIPTION.



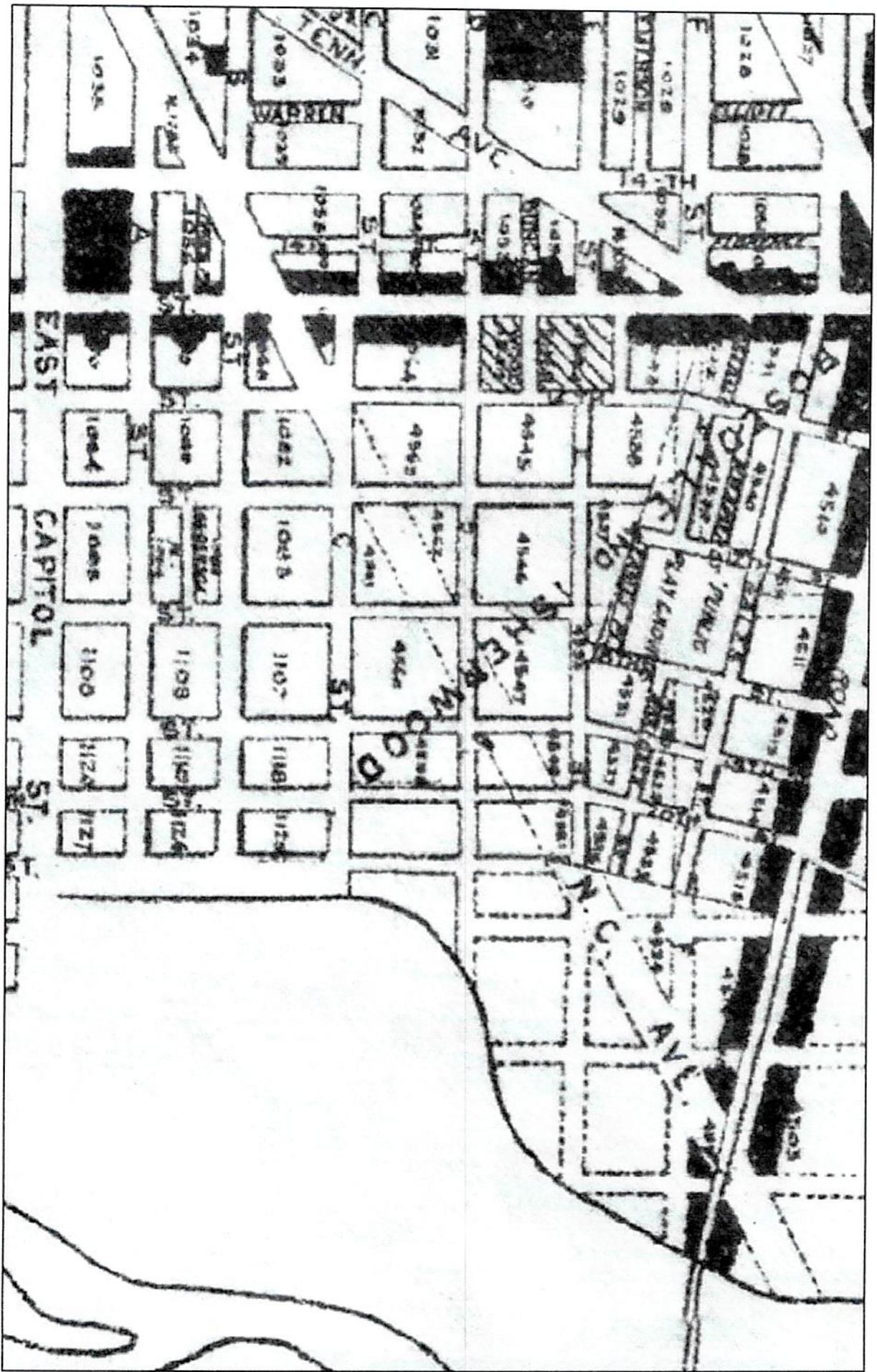
21.33

卷之三

EXHIBIT # 3

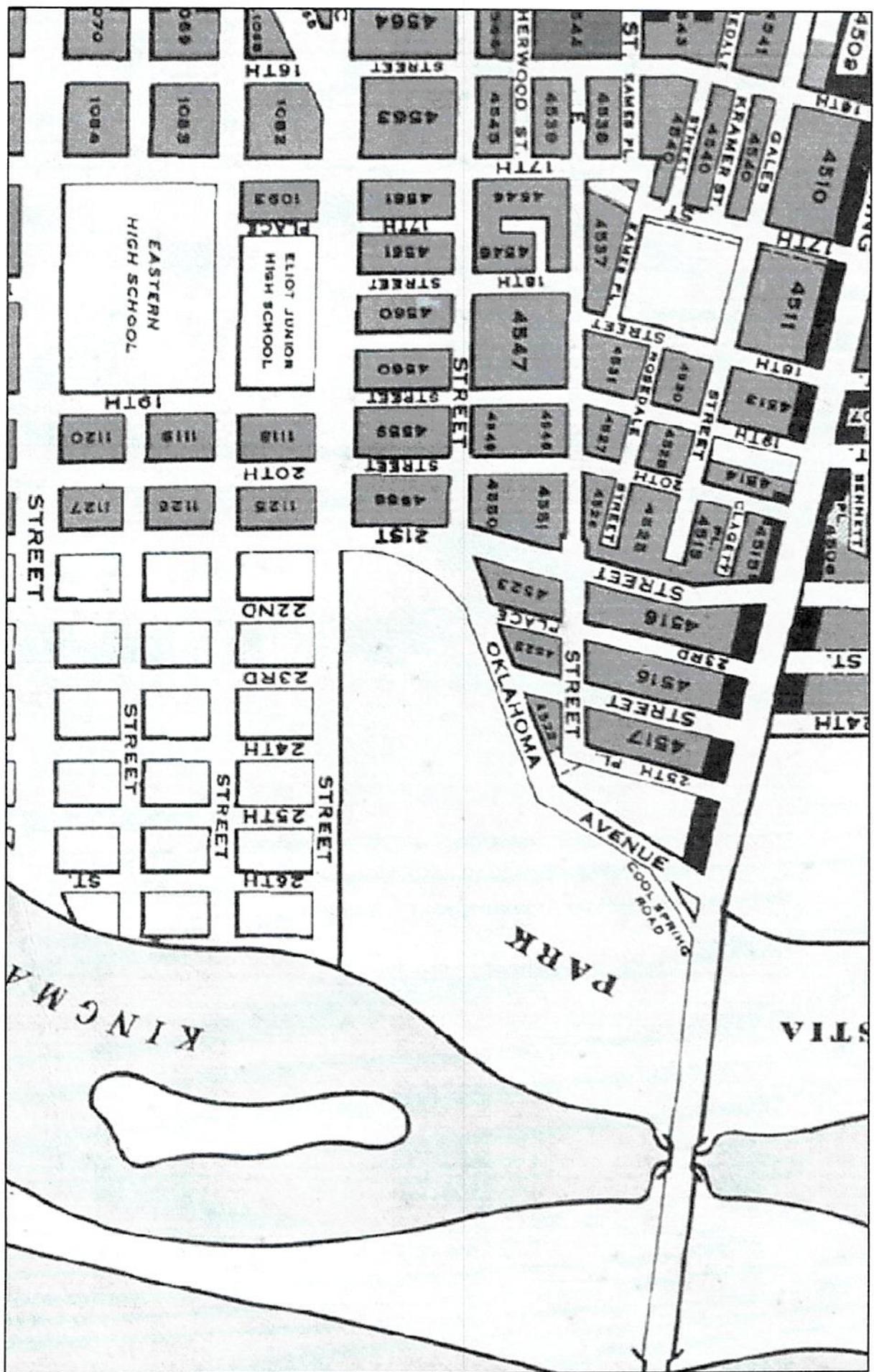
1924

10/5/2024



Esri, NASA, NOAA, USGS, FEMA, Esri Community Maps Contributors, DCGIS, M-NCPPC, VGIN, © OpenStreetMap, Microsoft, Esri, TomTom.

1936



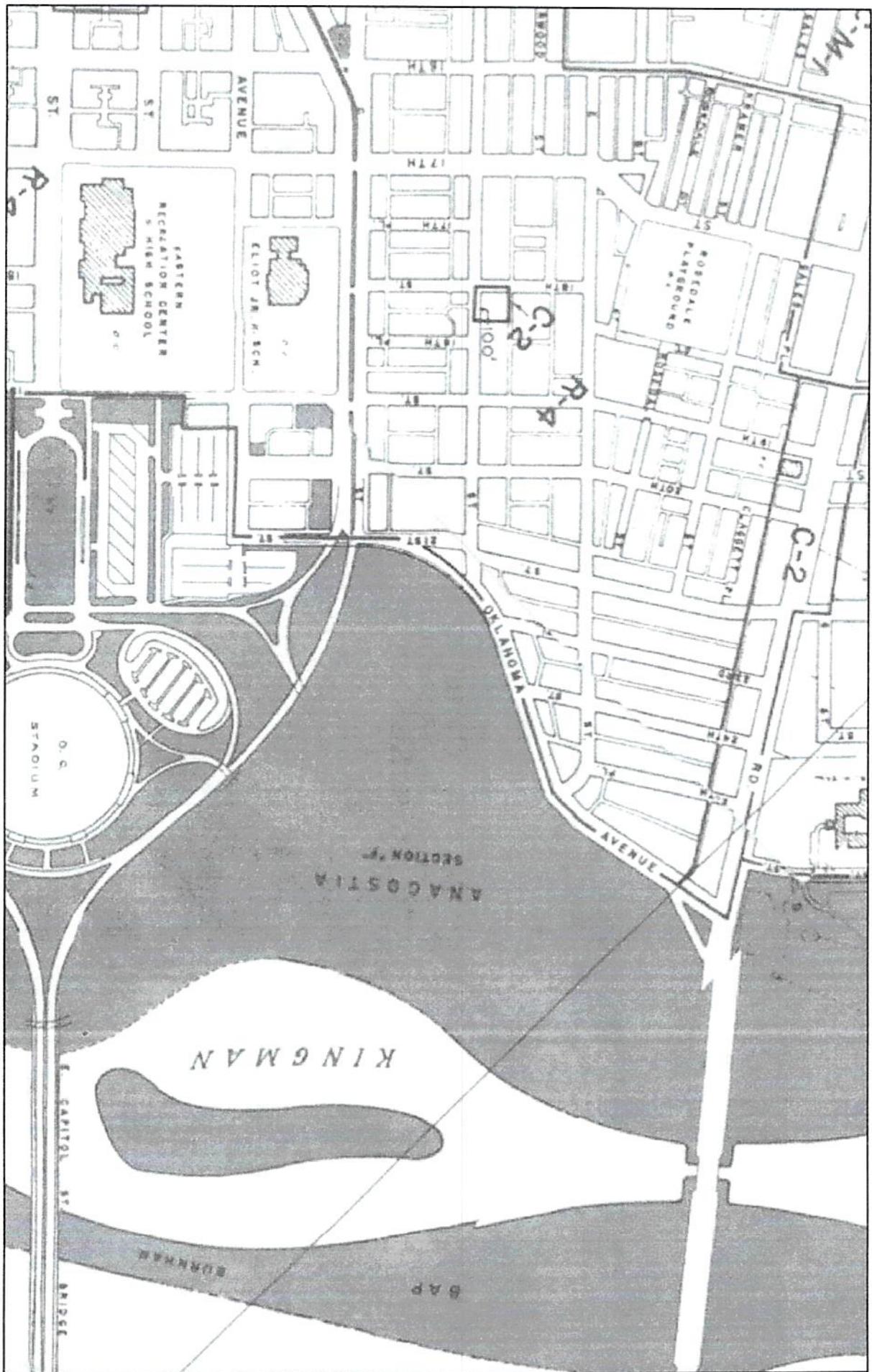
10/5/2024

1:9,019

Esri, NASA, NGA, USGS, FEMA, Esri Community Maps, Contributors, DCGIS, MNCPPC, VGIN, © OpenStreetMap, Microsoft, Esri, TomTom.

1958

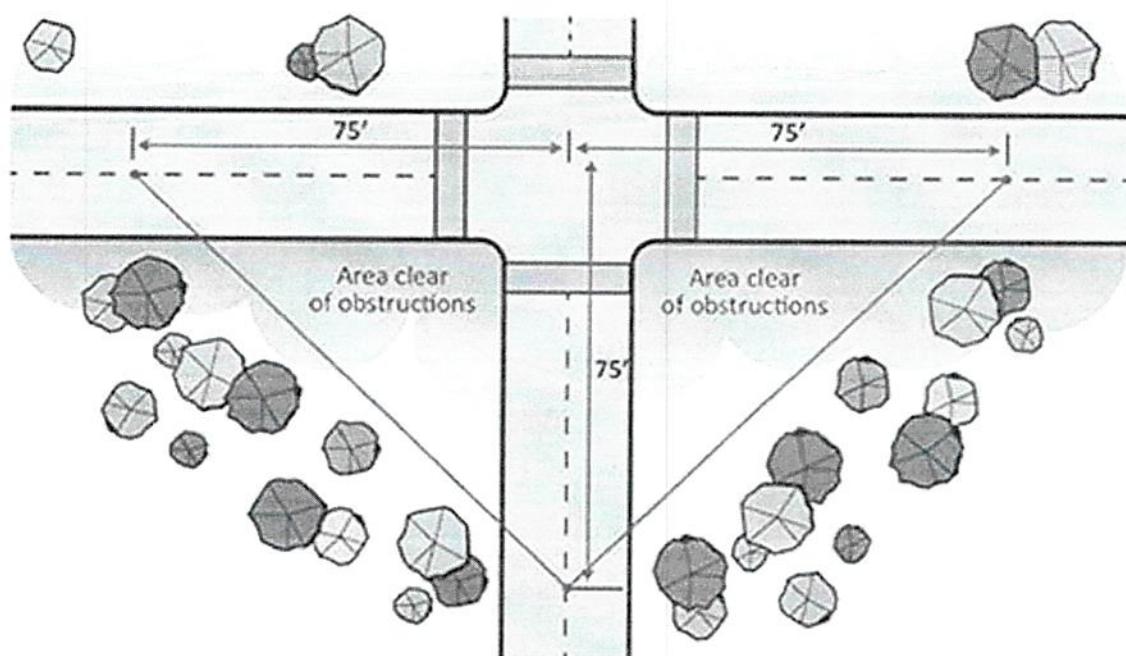
10/5/2024



Esri, NASA, NGA, USGS, FEMA, Esri Community Maps, Contributors, DCGIS, M-NCPPC, VGIN, © OpenStreetMap, Microsoft, Esri, TomTom,

EXHIBIT # 4

Figure 1: Sight Triangle Example



<http://www.landscapes2.org/transportation/circulation/20-Intersections.cfm>

Approach Sight Triangles

- "Each quadrant of an intersection should contain a triangular area free of obstructions that might block an approaching driver's view of potentially conflicting vehicles. The length of the legs of this triangular area, along both intersecting roadways, should be such that the driver can see any potentially conflicting vehicles in sufficient time to slow or stop before colliding within the intersection"
- Sight distance should be provided along intersection approach legs to allow drivers to view potential conflicting vehicles/objects on the intersecting roadway, and complete a safe stopping maneuver.

Departure Sight Triangles

- "(Departure sight triangles) provides sight distance sufficient for a stopped driver on a minor-road approach to depart from the intersection and enter or cross the major road"
- The sight distance for a stopped vehicle, at an intersection junction, should be enough for the vehicle to view conflicting vehicles/objects approaching on the adjacent/crossing roadway to proceed on or through the intersection without conflict.

Providing sufficient sight distance measures along roadways and intersections is a pretty clear cut way to improve the safety of roadways, intersections, and pedestrian crossings and benefits all users of our transportation system.



Jonah Finkelstein, EIT

Jonah is a traffic engineer with Spack Consulting, an engineering services company that is part of the Spack Enterprise family of companies.

He previously worked as a project engineer at Alliant Engineering. Currently he leads traffic signal services and traffic studies for clients and is a regular contributor to MikeOn Traffic.