

MAYOR & COUNCIL AGENDA COVER SHEET

MEETING DATE:

October 1, 2007

CALL TO PODIUM:

Patricia Patula, Planner

RESPONSIBLE STAFF:

Patricia Patula, Planner

AGENDA ITEM:

(please check one)

<input type="checkbox"/>	Presentation
<input type="checkbox"/>	Proclamation/Certificate
<input type="checkbox"/>	Appointment
<input type="checkbox"/>	Public Hearing
<input checked="" type="checkbox"/>	Historic District Commission
<input type="checkbox"/>	Consent Item
<input type="checkbox"/>	Ordinance
<input type="checkbox"/>	Resolution
<input checked="" type="checkbox"/>	Policy Discussion
<input type="checkbox"/>	Work Session Discussion Item
<input type="checkbox"/>	Other:

PUBLIC HEARING HISTORY:

(Please complete this section if agenda item is a public hearing)

Introduced	
Advertised	8-29-2007
Hearing Date	9-17-2007
Record Held Open	9-24-2007
Policy Discussion	10-1-2007

TITLE: Policy Discussion HAWP-95A (Retroactive)

Historic District Commission

Applicant: Irfan Khan, 112 Meem Avenue, Request for Amendment to HAWP-95 (Retroactive) for a change of Materials/Window Styles/Roof

SUPPORTING BACKGROUND:

This application proposes a retroactive amendment to HAWP-95, approved by the Historic District Commission on June 6, 2005, for a rear and front addition. The application was approved based on the finding that the new additions met the *Chestnut/Meem Historic District Design Guidelines* which dictate that new work harmonize with the scale and character of the house. There was one condition of approval: "that the vertical siding pattern on the front gable be used to match the side gables."

The applicant has proceeded with work on the existing house which does not conform to the approved plans. The applicant is requesting a retroactive amendment to the approved plans to permit the completion of the work as currently constructed. The modifications requested include changes to the proposed windows, roof style, and materials, specifically to the front addition.

At their meeting of September 17, 2007, the Historic District Commission held a public hearing on this request for an amendment. The record closed on September 24, 2007. The additional exhibits added to the record include the transcript, minutes of the HDC meeting of August 20, 2007, and a memorandum from Greg Ossont, Director, Planning and Code Administration referencing the relationship between code enforcement and historic area work permits.

Applicable criteria for the compatibility of additions in the Historic District include the *Design Guidelines for the Chestnut/Meem Historic District* (Ex. 36), Secretary of Interior Standard Nine (Ex. 37), and Sec. 24-228.2 of the City Code (Ex. 38). These all refer to the relationship of the exterior architectural features of the addition to the remainder of the structure. That is, the new work must be in harmony with the character and scale of the existing house, and compatible in height, materials, massing, size, elevations, texture, color and architectural details.

Continued

Attachments: Exhibits 36-38 (Criteria) and 44-46 (New Exhibits)

DESIRED OUTCOME:

Vote to approve or deny HAWP-95A based on findings of the referenced criteria. Direct staff to prepare the appropriate resolution.

HAWP-95A
HDC Meeting October 1, 2007
Page 2

Here is a recommended motion format:

“Mr. Chairman:

**I move that staff draft a resolution
APPROVING/DENYING HAWP-95A (Retroactive),
finding the proposed alterations
IN COMPLIANCE/NOT IN COMPLIANCE**

**with the Chestnut/Meem Historic District Design Guidelines,
the criteria in Section 24-24-228.2 (3) and (4) of the City Code, and
Secretary of Interior Standard Nine, relating to new additions.**

Please provide supporting statements for the decision based on the criteria.



Additions

- New work must harmonize with the character and scale of the existing house. The new work shall be differentiated from the old. It shall be compatible in height, scale, materials, elevations, texture, color, and details.

Second Story Additions

- New work must harmonize with the character and scale of the existing house. It should be compatible in scale, materials, elevations, textures, color, and details.

Reference: Preservation Brief 14: "New Exterior Additions to Historic Buildings: Preservation Concerns."
National Park Service, Department of the Interior, Washington, D.C.
"Respectful Rehabilitation: Answers to your Questions on Historic Buildings." National Trust,
Washington, D.C.

SIGNS

Signage is an important visual entity. A separate sign permit is required for the installation of any sign, except for political, for rent, or for sale signs. The City Code lists size, height and other requirements.

- The signs for home occupations shall be non-illuminated and not exceed a total area of two square feet. They may be affixed to the building and should not protrude more than one foot beyond the building.
- Wood is the preferred material.

Reference: *Gaithersburg City Code*, Section 24-116, c.4.



THE SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION

- Minimal change** 1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
- (Trees)** 2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
- False changes** 3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
- Change over time** 4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
- Distinctive features** 5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.
- Repair first, replace second** 6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
- (Replacement windows)**
- Exterior cleaning** 7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
- Archeology** 8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
- New work, differentiate from old** 9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale and architectural features to protect the historic integrity of the property and its environment.
- Additions** 10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

01/2005



(5) The city manager is responsible for the enforcement of this article.
 (Ord. No. O-12-96, 12-2-96)

Sec. 24-228.2. Historic area work permits; criteria for decision.

(a) The historic district commission, in evaluating an application for a historic area work permit, shall consider and render its decision based on the following factors:

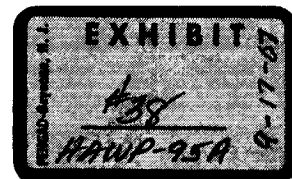
- (1) The preservation of the historic, archaeological, or architectural significance of the site or structure and its relationship to the historic, archaeological or architectural significance of the surrounding area;
- (2) Guidelines for rehabilitation and new construction design for designated sites, structures, and districts adopted by resolution of the historic district commission, including criteria for construction, alteration, reconstruction, moving and demolition which are consistent with the Secretary of the Interior's *Standards for Rehabilitation*.
- (3) The relationship of the exterior architectural features of the structure to the remainder ← of the structure and surrounding area;
- (4) The general compatibility of the exterior design, scale, proportion, arrangement, ← texture and materials proposed to be used; and
- (5) Any other factors, including aesthetic factors, which the commission deems pertinent.

(b) In the case of an application for work on a historic resource, the commission shall be lenient in its judgment on plans for structures of little historical or design significance or for plans involving new construction, unless such plans would seriously impair the historic or architectural significance of surrounding historic resources. The historic district commission shall be strict in its judgment of plans for site or structures determined by research to be of historic, architectural or archaeological significance.

(c) Where the historic district commission deems a structure to be of unusual historic importance, it shall, prior to denial of a historic area work permit, attempt with the owner to formulate an economically feasible plan for its preservation. If no economically feasible plan can be formulated, the commission shall have ninety (90) days from the time it concludes that no economically feasible plan can be formulated to negotiate with the owner and other parties in an effort to find a means of preserving the structure. The ninety (90) day negotiating period may be extended only by mutual consent of all parties.

(d) Notwithstanding anything to the contrary contained in subsection (c) of this section, the commission may approve a historic area work permit if the structure is a deterrent to a major improvement program of substantial benefit to the public or its retention would either cause substantial financial hardship to the owner or its retention would not be in the best interests of the citizens in the community.

(e) The historic district commission shall consider only exterior features of a structure, and shall not consider any interior features or arrangements.



Minutes Aug. 20, 2007 meeting of H.D.C.

Motion was made by Historic District Commissioner Sesma, seconded by Commissioner Alster, that the Historic District Commission grant approval of HAWP-109, with four conditions, and issue the Certificate of Approval, finding, based on the record before HPAC and for the reasons articulated by HPAC, that the application meets Secretary of Interior Standards One and the Chestnut/Meem Historic District Design Guidelines.

Vote: 5-0

POLICY DISCUSSION

- **HAWP-95A - Applicant: Irfan Khan, (Retroactive), 112 Meem Avenue, An Amendment to HAWP-95, Change of Materials/Window Style/Roof**

Planner Patula stated that the application HAWP-95 was approved by the Historic District Commission on June 6, 2005, and site plan approval by the Planning Commission on May 18, 2005. She added that the property is a non-contributing resource in the Chestnut/Meem Historic District. The applicant proceeded with work on the existing house which did not conform to the approved plans. The applicant is now requesting a retroactive amendment to the approved plan to complete the work on the property. The HPAC held a public hearing on the request and vote unanimously to recommend denial of HAWP-95A, finding the completed work a significant deviation from the approved plan and found that it lacked compatibility with the original structure. Due to the unanimous recommendation for denial by the HPAC and the letters of support from neighbors, it was suggested that the Historic District Commission conduct their own public hearing to further review the requested amendment and receive input from neighbors. Mr. Khan agreed to extension of the 45 day limit.

Motion was made by Historic District Commissioner Sesma, seconded by Commissioner Marraffa, that the Historic District Commission extend HAWP-95A to a 45 day limit, and conduct a public hearing at a future meeting.

Vote: 5-0

- **Historic Significance of 201 East Diamond Avenue, Applicant: Charles Blessing, for Inter-Continental Group, Demolition Permit**

Planner Patula stated that staff is seeking a decision whether or not to hold a public hearing on the historic significance of the above or to determine if the demolition permit should be granted. She stated that the Maryland Historical Trust Inventory of Historic Properties Form states that the site is significant. The HPAC visited the site and at their August 2, 2007 meeting, based on the criteria in Section 24-226 for designation of historic sites, voted unanimously that the building does not qualify for historic designation. If the demolition permit is issued, it was suggested that the developer of the new structure place a plaque recognizing the significance of the history of the site.

Motion was made by Historic District Commissioner Marraffa, seconded by Commissioner Alster, that the Historic District Commission directs the City Manager to issue a demolition permit for 201 East Diamond Avenue, with the three conditions of HPAC.

Vote: 5-0



MEMORANDUM TO: HAWP-95A File/Record

FROM: Greg Ossont, Director
Planning and Code Administration

DATE: September 18, 2007

SUBJECT: HAWP-95A – 112 Meem Avenue

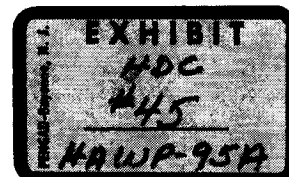
During the recent public hearing for the referenced application, the Historic District Commission requested clarification on inspection procedures for construction related to a Historic Area Work Permit (HAWP). Applicants constructing residential additions in historic districts are required to obtain a residential building permit as well as a historic area work permit.

Generally, the residential building permit is associated with building code requirements and not with elevations and aesthetics whereas the historic area work permit is focused on elevations, materials and other aspects which demonstrate compatibility with the main structure's scale and character as well as harmonious integration into surrounding properties. When building inspections are performed, inspectors maintain copies of both the technical building plans as well as elevations and site details just as the inspectors do for properties in the MXD zone that are subject to design guidelines or regulations.

While Code Administration staff continues to work with the homeowner to correct the remaining issues, it does appear that the rear addition does, in fact, comply with the elevations noted in the original HAWP. However, the latest HAWP-95A is requesting relief from the original obligations for the front addition as it relates to the building elevations and materials.

Regarding the front addition, Code Administration staff is essentially in a holding pattern until such time as the Historic District Commission makes a determination on the application. In the event that the retroactive application is not approved, the materials, windows and other components of the front addition will need to be removed and replaced with the originally approved components and comply with all applicable building codes. If the HDC allows the existing materials and building elevations, staff will then work with the homeowner to simply meet building code requirements and note that the elevations and materials comply with the retroactive HAWP.

I hope this information is helpful. If you have any questions, please contact me directly at 301-258-6330 or gossont@gaitthersburgmd.gov



TRANSCRIPT OF

PUBLIC HEARING

ON

HAWP-95A (Retroactive)

**Applicant: Irfan Khan, 112 Meem Avenue, Request for
Amendment to HAWP-95 (Retroactive), for a Change
of Materials/Window Style/Roof**

BEFORE THE

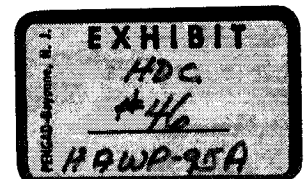
CITY OF GAITHERSBURG

HISTORIC DISTRICT COMMISSION

on

September 17, 2007

Transcribed by
Doris R. Stokes



PARTICIPANTS

HISTORIC DISTRICT COMMISSION

Chair Katz
Vice-Chair Alster
Commissioner Edens
Commissioner Marraffa
Commissioner Schlichting
Commissioner Sesma

CITY ATTORNEY

Cathy G. Borten

STAFF

Planner Patula
Panning and Code Administration Director Ossont

SPEAKERS FROM THE PUBLIC

Irfan Khan, 112 Meem Avenue
Aurangzeb Mughal, 98 Meem Avenue

- Katz The next item that we have and Pat Patula will be explaining that to us. This is a public hearing on HAWP-95A at 112 Meem Avenue, please Pat.
- Patula This is a public hearing on HAWP-95A which is a retroactive request. This hearing has been duly advertised on the *Gaithersburg Gazette* on August 29, 2007 and the property posted. At the present time, there are 43 exhibits in the record file and these are referenced in an exhibit list in the file. The individual exhibits may be reviewed during the course of the meeting or in the Planning Office during regular business hours at City Hall. Any objections to the receipt of any exhibit should be noted prior to the closing of the record; otherwise they will be deemed received in evidence. The property located at 112 Meem Avenue is a non-contributing resource to the Chestnut/Meem Historic District. This application is proposing a retroactive amendment to HAWP 95, which was approved by the Historic District Commission on June 6, 2005, for a rear and a front addition. And it was approved based on the findings that the new addition met the design criteria of the Chestnut/Meem Design Guidelines, which dictate that new work, harmonize with the scale and character of the house. There was one condition of approval at that time which was that the vertical siding pattern on the front gable be used to match that of the side gable. Now the applicant has proceeded with work on the existing house which does not conform with the approved plan, so he is requesting a retroactive amendment to the approved plan to permit the completion of the work he has started. These modifications include changes to windows, roof style and materials. He will go over that in just a moment. I just want to point out to you that applicable criteria for additions to houses in the Historic District include the Design Guidelines for that Historic District. They also include Secretary of Interior Standard Nine and also there is a statement in our City Code, Section 24-228.2 and they all refer to the relationship of the addition to the house. That it is compatible and in harmony with the character and scale of the house. And with that, I

will introduce Mr. Khan who will explain to you what he has done and I also put over here on the board, pictures of the existing work and the approved plan which are exhibits in your package as well.

Katz Thank you very much. Mr. Khan, please.

Khan Good evening. My name is Irfan Khan I live at 112 Meem Avenue. I started this addition about also two years ago. In the original plan, there was a condition that I remove the vertical siding from the gables. But, during the construction, I decided that, in the original plan there was half brick and the vertical siding on the gables. I decided to put all the brick because brick looked better and its permanent finish. There are several houses on Chestnut Street and also on Floral Avenue that have the brick and this kind architecture, all brick and then the gable on the side. It started as unusual which it does not exist in the neighborhood. I think it improves the neighborhood and improve the value of the prices in that neighborhood.

Katz Anything else?

Khan The windows I changed. The original plan had an existing window which I was thinking about using the existing window in the new wall, but I wanted two windows and both the windows were broken during the removal. So I cannot use five foot window with the existing and the new one because I may break it. So I bought new windows and because of its sunroom and its south oriented and get a lot of sun and bigger window that is why I decided to use larger windows.

Katz Ok. Anything else or any questions of Mr. Khan?

Marraffa I have a question. I think it is more directed to Pat or maybe both of you

anyone of you can answer. Our staff works very closely with these and gives you a lot of lead way because I went through the whole process of putting an addition on my house with almost an identical problem that you have. Pat is this the reason it got away from the standards, because it wasn't calling for inspections and we didn't have involvement? It sounds like to me like it got approval and then made some changes, but it never went through the inspections and there is a letter here from July of this year. I think that it said that there was no electrical, no (inaudible), or anything so I am assuming that staff hasn't had a chance to show him the error of his way for building this house.

Patula You are correct; however, Mr. Khan with working with Code Enforcement staff now. Do you want to tell them about what you just did?

Khan I got two pages of comments and I already fixed everything. Mr. Greg and Mr. Wes came last night and they inspected everything and they gave me to the permission to do it.

Sesma Are you talking about the electrical and plumbing too? Can you verify that?

Patula If I can enlarge upon that a little bit. Mr. Khan is referring primarily to the rear addition which is not really under the discussion thus as far as the changes and the roof style and material and what not. And so the Code staff went ahead and worked with the rear addition and is waiting to see what happens with this before they thoroughly check out the front part.

Katz But getting back to what Henry was asking. When our inspectors go out when they know that this is suppose to be a historic structure, do they check for the materials as well as the actual codes?

Ossont Yes. They will do a site check especially when it is a HAWP. The problem here is, this particular property was the inspections were not called in. The applicant never called for inspection and it only until these permits were about to expires did we receive the notification that we need to go out and check on it. That is when the inspectors realized that all of the siding and all of the materials were incorrect. They weren't in concert with the HAWP. Not to mention a bunch of code violations that needed to be corrected. Now those are getting worked out internally, but it really has nothing to do with the materials that were incorrect or the window sizes that were incorrect as well. Really two separate issues. We got the code issues being corrected and Mr. Khan is working with our Code Enforcement Officers. This is really just for the materials, the size of the windows and the fact that the siding doesn't match.

Katz And how long is a permit valid for?

Ossont Permits are good for six months and then we get a notification that it is about to expire so we will renew for another six months. Of course the fact that this had a HAWP makes it even more sensitive when we got calls from the neighbors wanting us to check on this. I think Mr. Khan indicated that he has been working on this for a couple of years.

Katz Any other questions Henry?

Marraffa No that is what I suspected. I appreciate that input. One of the issues and I am very sensitive of this is the front part of this building, there is a (inaudible). I had the identical problem and I had to work it out with the inspectors, I worked it out with Greg of all people and I had to eliminate a window. That's how flexible they are. We worked together and solved the problem. I suspected we haven't had that comradery with our inspectors but they will bend over backwards to help you do the right thing. If they

don't know about the changes, they can't help you. I a little uneasy with that.

Sesma I drove by the site a few weeks ago before we began the original hearing. This is I believe the only building now with a brick façade or venue on the front of it then the entire Meem Avenue from Chestnut down to the other end of it. It is distinctive because of that look and it certainly doesn't match the other architecture. I guess I go back and look at the HAWP and the second paragraph after number one that a vertical siding pattern on the front gable be used to match the side gables. The next paragraph begins, deviation from the plan approved on this date shall not be permitted without submission of an amended plan, etc.

Katz Let me remind everyone that this is a public hearing. We can get into the facts later, but if there are any questions, please.

Sesma Well, I'm assuming you read that, but went ahead and did the work. So those are my comments.

Katz Any other questions? Thank you very much Mr. Khan. This is a time that the Historic District Commission hears from anyone that would like to speak on this public hearing topic. We ask that you please keep your remarks to no more than three minutes. I will advice you when you have thirty seconds left of your three minutes so that you can begin to finish statement. Please note that any additional testimony that you might have can be submitted to the City in written form and will be a part of the record just as your oral testimony. Please state your name and address for the record. Do we have anyone that would like to speak on this topic?

Mughal My name is Aurangzeb Mughal and I live on 98 Meem Avenue. I heard the comments in the neighborhood about Mr. Khan's construction.

Everybody said that it's a nice addition to Meem Avenue. I like also the brick style and we have no objection about that. Thank you.

Katz Thank you. Any other speakers on this topic? It has been suggested by staff that the Historic District Commission hold the record open for seven (7) days and that will be until 5 p.m. on Monday, September 24, 2007, with an anticipated policy discussion on Monday, October 1, 2007. What is the pleasure of the Commission?

Alster I move that we hold the record on HAWP-95A (retroactive) for seven (7) days until 5 p.m. on September 24, 2007.

Edens Second.

Katz It's been moved and seconded. All those in favor please say aye?

Commission Ayes. (6-0)

Katz Opposed? That carries unanimously (6-0).

End of Public Hearing
HAWP-95A (Retroactive)