

***STAFF COMMENTS FOR HISTORIC DISTRICT COMMISSION***

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**Meeting Date:** Wednesday, November 30, 2016

**Title:** **Historic Area Work Permit Application:  
HIST-7453-2016, retroactive reviews of fence,  
sheds, and tree removal**

**Request:** **CONDUCT REVIEW OF HISTORIC AREA  
WORK PERMIT APPLICATION**

**Address/Name:** 11 Russell Avenue / Brewster-Lipscomb House

**Zone:** CBD (Central Business District)

**Historic Property:** Individually designated as the Brewster-Lipscomb House (HD-27) and Contributing to the Brookes, Russell, and Walker Historic District (HD-14)

**Applicant/Owner:** Brendan O'Neill/O'Neill Land, LLC

**Staff Liaison:** Chris Berger, Planner

**Enclosures:**

Staff Comments and Location Map

Exhibits

- Exhibit 1: Application
- Exhibit 2: Applicant's Supporting Materials
- Exhibit 3: Correspondence with Applicant
- Exhibit 4: HAWP 68 and AFP-00-031 Approved Site Plan
- Exhibit 5: HAWP 68B
- Exhibit 6: Existing photos 11.22.16
- Exhibit 7: HIST-4605-2016 Staff Report
- Exhibit 8: Notifications



**Figure 1.** Location aerial of 11 Russell Avenue.

## ***STAFF COMMENTS***

### **I. Purpose and Objective**

The purpose and objective of this agenda item is for the Historic District Commission (HDC) of the City of Gaithersburg to conduct a review of Historic Area Work Permit (HAWP) Application: HIST-7374-2016, retroactive review of the construction of the fence and sheds and removal of a tree at 11 Russell Avenue. The building is both individually designated and contributes to the Brookes, Russell, and Walker Historic District.



**Exhibit 6.** The residence at 11 Russell Ave., facing east (November 2016).

### **II. Scope of Review**

In accordance with § 24-227(a) of *The City Code*, a HAWP is required for work on public or private property that would affect the historic, archaeological, or architectural significance of a designated historic resource, any portion of which is visible or intended to be visible from the public-right-of-way, must be issued pursuant to the provisions of this chapter before:

- (1) Constructing, reconstructing, moving, relocating, demolishing or in any manner modifying, changing or altering the exterior features of any designated historic site or historic resource located within the city;

- (2) Performing any grading, excavating, constructing or substantially modifying, changing or altering the environmental setting of a historic site or a historic resource located within the city;

Section 24-227.2 of *The City Code* specifies the following with respect to HAWP reviews:

- (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 mayor and city council, 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.

### **III. Description/History**

The building at 114 Meem Avenue, known as the Brewster/Lipscomb House, is a two-story Colonial Revival style building that was constructed circa 1890. In 2000 the City locally designated the property as the Brewster/Lipscomb House (HD-27). The building also contributes to the Brookes, Russell, and Walker Historic District (HD-14).

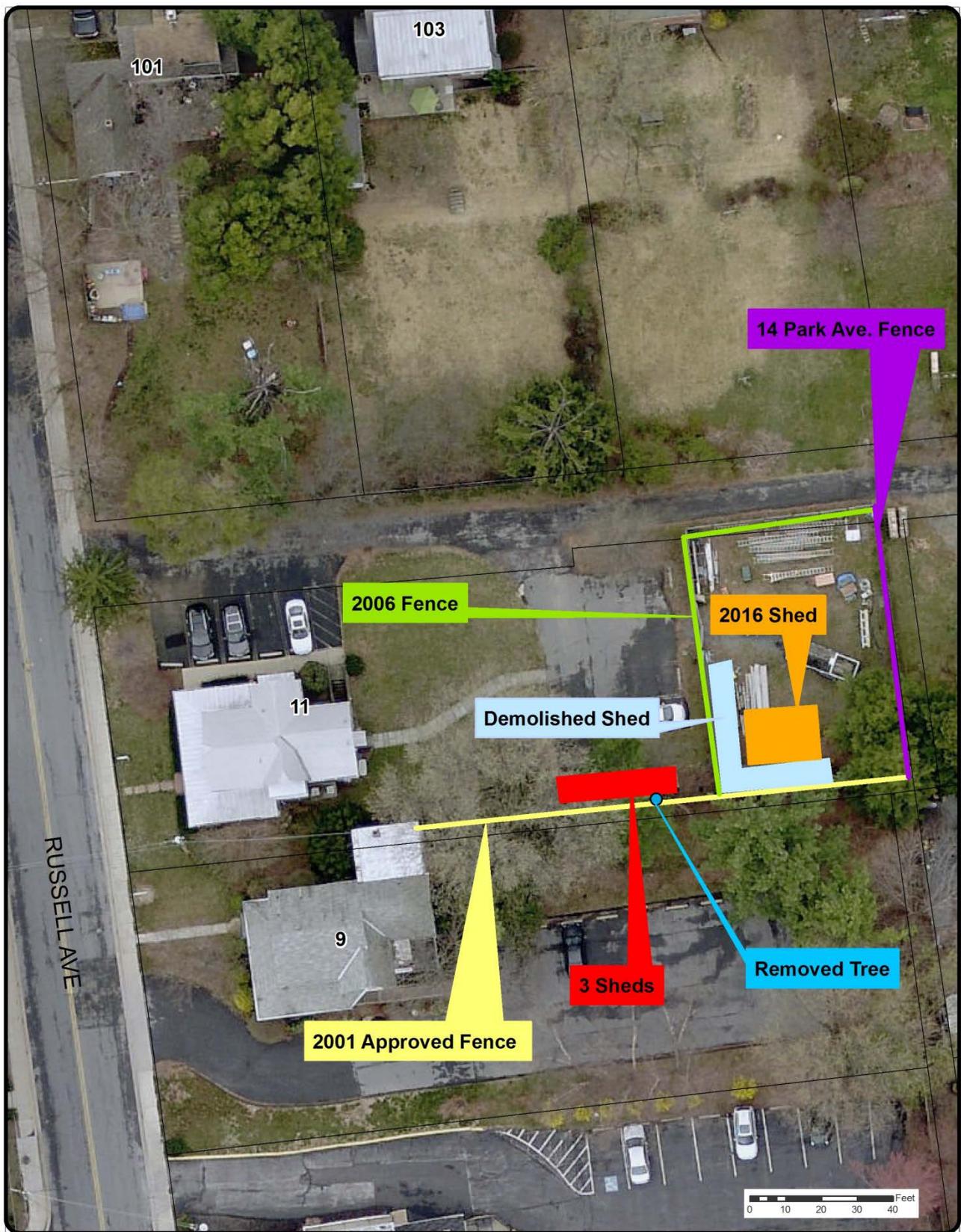
In 2000, the HDC approved HAWP 68, which proposed the rehabilitation of the building into office use and its relocation on to a new foundation 12.3 feet forward and 10 feet to the south on the parcel. Also that year, the Planning Commission approved AFP-00-031.

In 2001, the HDC approved HAWP 68B, which allowed the construction of a six (6)-foot tall fence

measuring 144 feet long on the south property line.

#### **IV. Project Design/Guidelines**

The project includes three (3) work items: 1.) retroactive approval of the fence; 2.) retroactive approval of four (4) sheds; and 3.) retroactive review of a tree removal. The *Historic District Guidelines for the Brookes, Russell, and Walker Historic District and Individually Designated Sites* apply.



**Figure 2.** Aerial of 11 Russell Avenue showing the discussed changes.

## 1. Retroactive Review of Fence

In 2001, the HDC approved HAWP 68B, which allowed the construction of a six (6)-foot tall wood, board-abutting-board fence measuring 144 feet long on the south property line. It appears to Staff this section of the fence was built.

According to the applicant, the rear section of the property was enclosed by a six (6)-foot tall fence in 2006. A HAWP was not procured prior to construction for this section of the fence. A construction company has offices in the main building, and the fence protects construction equipment stored on the property. This pine wood board-abutting-board fence measures 129 feet long and includes four (4) inch wide boards and 4-by-4 treated posts. Entry is through a pair of six (6) foot wide gates.

According to Page 26 of the Guidelines, “The fence style should be appropriate for the architectural style and scale of the house.” The Guidelines state that board-abutting-board fences may be constructed “for rear yards only.” The Guidelines also require that fence posts and framework are located within the fence, and a fence can be no more than six (6) feet tall.



**Exhibit 6.** The gate and fence that encloses the rear section of the property at 11 Russell Ave., facing east (November 2016).



**Exhibit 6.** The interior portion of the fence at 11 Russell Ave., facing west (November 2016).



**Exhibit 6.** The exterior portion of the fence at 11 Russell Ave., facing north (November 2016).

## 2. Retroactive Review of Four (4) Sheds

The applicant seeks retroactive review of four (4) sheds that are located on the property. Three of the sheds are located in a row along the south property line. The sheds are identical in appearance with cinder block foundations, wood walls, centered double wood doors, and shed roofs covered with asphalt shingles. The two (2) sheds to the east both measure approximately 70 square feet, and the third shed farthest to the west measures about 56 square feet. All the sheds are approximately seven (7) feet tall. These three (3) sheds are first evident in an aerial taken in 2014.

The fourth shed is located within the fenced-in area at the rear of the property and was constructed earlier this year. It replaced a previous shed in the same location that was built circa 2007. No HAWP or shed permit was procured prior to the construction or demolition of the previous shed.

The existing structure is a 20-by-16 foot pole shed open on the north elevation. The pole shed is supported by treated 6-by-6 wood posts resting on concrete sunk 30 inches into the ground. The walls are covered on three sides by 6-inch wide cedar boards, and the shed roof is covered with corrugated metal. According to the applicant, the roof shape reflects the design of the rear of the Brewster/Lipscomb House.

According to Page 40 of the Guidelines, accessory structures must only be located in the rear yard and must adhere to § 24-163 of the City Code. According to the § 24-163(a), “The total ground area of all accessory structures shall occupy no more than twenty-five (25) percent of the rear yard.” The rear yard of 11 Russell Avenue measures approximately 11,500 square feet; the four (4) sheds measure approximately 500 square feet. § 24-163(a) also states that the footprint of an accessory structure must not be larger than fifty (50) percent of the footprint of the primary structure. The footprint of the primary structure is approximately 1,500 square feet; the largest shed is 320 square feet. Further, the subject property, zoned CBD, has no setback requirements per § 24-160F.4(b).



**Exhibit 6.** The three sheds located at south boundary of the property at 11 Russell Ave., facing southeast (November 2016).



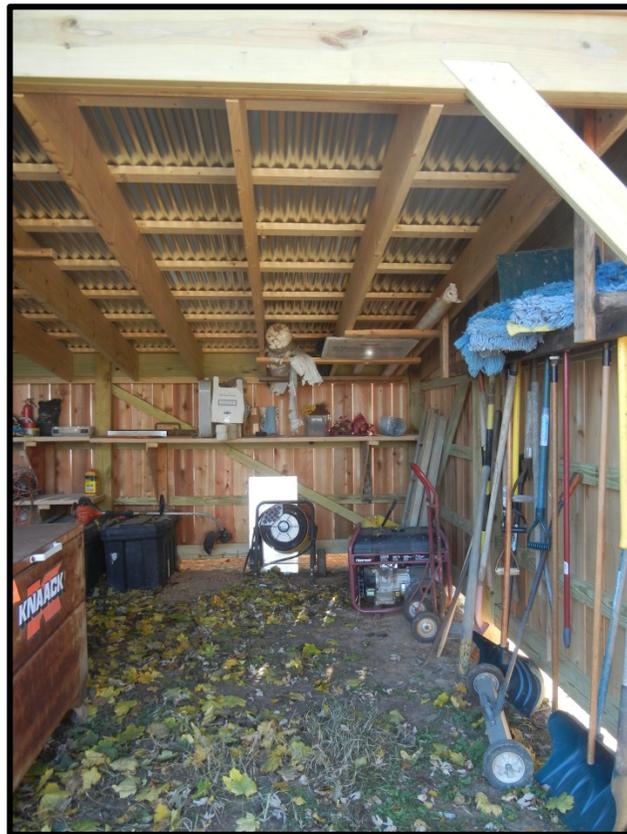
**Exhibit 6.** The three sheds located at the south boundary of the property at 11 Russell Ave., facing southwest (November 2016).



**Exhibit 6.** The newly constructed pole shed located at the rear of the property at 11 Russell Ave., facing southeast (November 2016).



**Exhibit 6.** The newly constructed pole shed located at the rear of the property at 11 Russell Ave., facing southwest (November 2016).

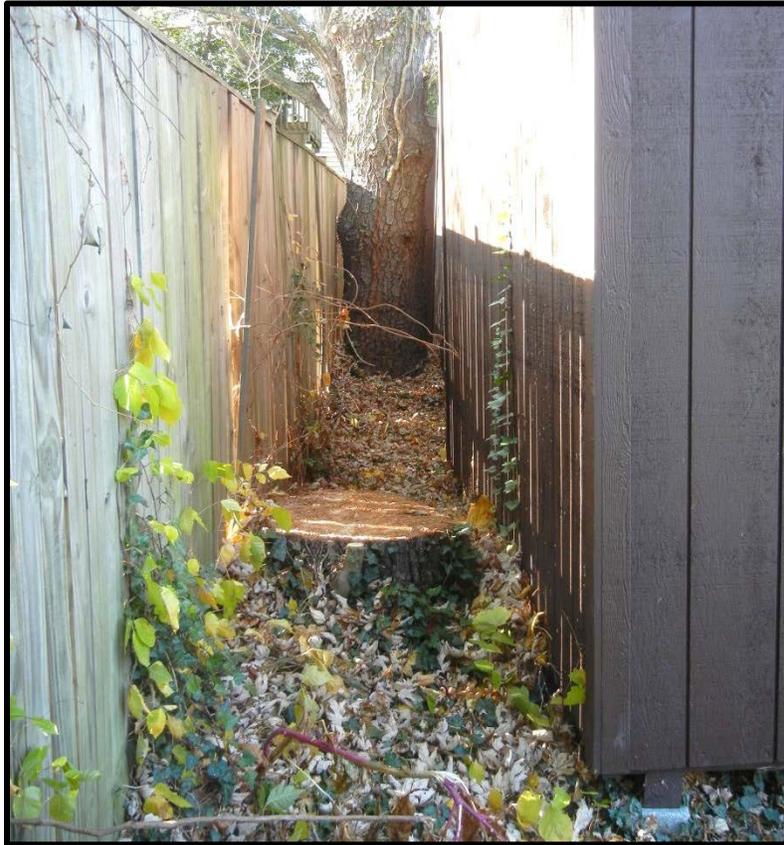


**Exhibit 6.** The interior of the newly constructed pole shed located at the rear of the property at 11 Russell Ave., facing southeast (November 2016).

### 3. Retroactive Review of Tree Removal

In October 2016, the applicant removed a white pine tree that measured approximately 26 inches in diameter. According to the applicant, the “tree was essentially dying and threatening our and our neighbor’s property and our parking lot” (**Exhibit 2**).

The tree was not evaluated in the 1999 Tree Inventory of the Gaithersburg Historic District, because the building was not yet within the Brookes, Russell, and Walker Historic District.



**Exhibit 6:** The stump of the removed pine tree (November 2016).



**Exhibit 6:** The stump of the removed pine tree (November 2016).

## V. Analysis

Staff does not condone the placement of a fence without receiving both HDC and City approval. The existing property owner successfully received a HAWP and a fence permit in 2001 for a section along the south boundary of the property, yet five years later he enclosed the rear of the property without first obtaining the necessary permits. Review is necessary to ensure the fence meets the design standards for the neighborhood and is constructed within the property boundaries. Staff does not dispute the necessity of a fence at the location in order to protect equipment related to the business located in the main building. It should be noted that the fence is about 175 feet from Russell Avenue at the closest point and not readily visible from that street. It also appears to meet the Guidelines' standards for fences. Therefore; Staff supports retention of the 2006 fence section if the applicant applies for a retroactive fence permit within thirty (30) days of the HDC's final action.

Staff also does not condone the placement of four (4) sheds on the property. In all, the current property owner has placed five (5) sheds on the property and demolished one (1)—all without HDC and City review. Review is necessary prior to construction to guarantee the sheds meet design guidelines, City Code requirements, and meet building code safety standards. There is a historical basis for shed-roofed outbuildings in the Brookes, Russell, and Walker Historic District. At the March 26, 2014, the HDC approved HIST-4605-2014 (**Exhibit 7**), the demolition of two shed-roofed outbuildings at 19 Walker Avenue, a contributing building to the district. The main building was constructed in 1923, and the shed-roofed outbuildings likely had a similar construction date. The outbuildings at 19 Walker Avenue were completely enclosed. Therefore, Staff is of the opinion that the 320-square-foot open pole shed constructed at 11 Russell Avenue should also be enclosed in keeping with the traditional agricultural outbuilding designs of the neighborhood.

Finally, Staff supports the removal of the white pine tree so long as the applicant receives a retroactive tree removal permit within thirty (30) days of the HDC's final action and plants a replacement tree of a recommended species listed in the Guidelines.

## VI. Conclusion

**Staff recommends THE HISTORIC DISTRICT COMMISSION, BASED ON THE EXHIBITS SUBMITTED, THE APPLICANT'S TESTIMONY, AND THE STAFF REPORT FINDINGS AND RECOMMENDATION, APPROVE HISTORIC AREA WORK PERMIT HIST-7453-2016, RETROACTIVE REVIEWS OF FENCE, SHEDS, AND TREE REMOVAL, FINDING IT IS IN COMPLIANCE WITH §24-227.2 OF THE CITY CODE, WITH THREE (3) CONDITIONS:**

1. The applicant shall apply for one (1) retroactive fence permit; four (4) retroactive shed permits; one (1) retroactive tree removal permit; and one (1) Amendment to Final Site Plan Staff Approval within 60 days of the HDC's final action on HIST-7453-2016;
2. The applicant shall work with Staff to enclose the existing open pole shed with historically appropriate doors, prior to the issuance of a shed permit; and
3. The applicant shall plant a replacement tree within six (6) months of the HDC's final action of a species listed on the *Historic District Guidelines for the Brookes, Russell, and Walker Historic District and Individually Designated Sites* that measures at least two (2) inches in diameter at breast height (DBH).