

## MONTGOMERY COUNTY HISTORIC PRESERVATION COMMISSION

<b>Address:</b>	9925 Sutherland Rd., Silver Spring	<b>Meeting Date:</b>	8/17/2022
<b>Resource:</b>	Contributing Resource <b>Polychrome Historic District</b>	<b>Report Date:</b>	8/10/2022
<b>Applicant:</b>	Meera Kanhouwa	<b>Public Notice:</b>	8/3/2022
<b>Review:</b>	HAWP	<b>Tax Credit:</b>	n/a
<b>Case No.:</b>	1000091	<b>Staff:</b>	Dan Bruechert
<b>Proposal:</b>	RETROACTIVE window and door replacement		

## RECOMMENDATION

Staff recommends the HPC **approve with one (1) condition** the HAWP application:

1. The vinyl windows and fiberglass doors do not qualify for the general in-kind replacement provision of Chapter 24A that would allow these features to be replaced without HAWP in the future. All window and door work at the subject property shall require a full HAWP review.

## PROPERTY DESCRIPTION

SIGNIFICANCE: Contributing Resource to the Polychrome Park Historic District  
 STYLE: Art Deco  
 DATE: 1935



*Figure 1: The subject property is the northernmost of the three two-story Polychrome houses.*

The subject property is a two-story Art Deco styled house with a low-pitched pyramidal roof and concrete walls.

From Places from the Past: “Master craftsman John Joseph Earley (1881-1945) built the five single-family dwellings that comprise the Polychrome Historic District in 1934- 5. These unique houses are outstanding examples of the Art Deco style and reflect Earley’s artistry and craftsmanship. Earley developed and patented a process whereby conventional wood frames were clad with prefabricated mosaic concrete panels. The concrete was stripped to expose brilliantly colored aggregate particles, creating an effect similar to impressionist or pointillist painting. In addition to their striking, richly ornamented appearance, these houses represent a relatively rare example of precast concrete panel construction in single-family housing for the time period. Earley’s patented structural system led to widespread use of precast architectural concrete as a major exterior cladding material. The legacy of the Polychrome houses can be seen in thousands of curtain-wall buildings nationwide. In 1996, the historic district was listed on the National Register of Historic Places.

The Polychrome houses are located on contiguous lots with adjoining back yards in a middle-class suburban neighborhood in Silver Spring. Polychrome I was the prototype house; I I.B designed in collaboration with Washington architect J. R. Kennedy, and completed in 1934. Located on Colesville Road, Polychrome I (shown below) is a one-story dwelling, with a detached garage. Its immediate neighbor Polychrome II, is also one story yet has an attached garage. The houses on Sutherland Road are two stories tall with attached carports.”

## **BACKGROUND**

The window and door replacement at the subject property has a long administrative record. Staff presents this additional background to place the proposed work within this context.

**September 2018:** Historic Preservation staff noted several violations and property maintenance issues at the subject property. HP staff filed a report with the Department of Housing and Community Affairs (DHCA). A DHCA inspection found several property maintenance and code violations including window and door replacements. The original steel windows had been removed and replaced with sliding vinyl windows and the doors were replaced with half-lite fiberglass doors. DHCA referred the owner to HP staff to resolve work completed without the required Historic Area Work Permits.

**October 2018:** DHCA inspected the site and resolved issues of trash dumping, litter, and dead trees. All other issues were referred to HP for resolution.

**January 2019:** The HPC held a preliminary consultation to consider the window and door replacement, replacing the historic glass block wall, and alterations to the garage.

**July 2019:** A service request for replacing the windows and doors was referred to the Department of Permitting Services (DPS).

**September 2019:** A citation was issued for the violation and a court date was set. DPS experiences difficulty serving process on the property owner, a Florida resident, because he is outside of the jurisdiction.

**January 2020:** The initial court date is postponed because service has not occurred.

**March 2020:** Courts are effectively shut down (except for criminal cases and civil violations involving health and safety) and all cases are pending on rescheduled dockets.

**December 2020:** The property is sold to a new owner (the deed is not recorded until March 2021). The court case has not yet been placed on a new docket.

**February 2021:** The property is sold to its current owner (the deed is not recorded until June 2021).

**August 2021:** A new citation is issued to the current owner and the court case begins anew.

**August 16, 2022:** After several continuances the case is scheduled for trial.

## **PROPOSAL**

The applicant proposes to replace the steel windows and several historic doors. This work has been completed.

## **APPLICABLE GUIDELINES**

Proposed alterations to buildings in the Polychrome Historic District are reviewed under Montgomery County Code Chapter 24A (Chapter 24A) and the *Secretary of the Interior's Standards for Rehabilitation*. Rehabilitation is defined as the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features, which convey its historical, cultural, or architectural values.

### ***Montgomery County Code, Chapter 24A Historic Resources Preservation***

(a) The commission shall instruct the director to deny a permit if it finds, based on the evidence and information presented to or before the commission that the alteration for which the permit is sought would be inappropriate, inconsistent with or detrimental to the preservation, enhancement or ultimate protection of the historic site or historic resource within an historic district, and to the purposes of this chapter.

(b) The commission shall instruct the director to issue a permit, or issue a permit subject to such conditions as are found to be necessary to insure conformity with the purposes and requirements of this chapter, if it finds that:

- (1) The proposal will not substantially alter the exterior features of an historic site or historic resource within an historic district; or
- (2) The proposal is compatible in character and nature with the historical, archeological, architectural or cultural features of the historic site or the historic district in which an historic resource is located and would not be detrimental thereto or to the achievement of the purposes of this chapter;
- (5) The proposal is necessary in order that the owner of the subject property not be deprived of reasonable use of the property or suffer undue hardship; or
- (6) In balancing the interest of the public in preserving the historic site or historic resource located within an historic district, with the interest of the public from the use and benefit of the alternative proposal, the general public welfare is better served by granting the permit.

### ***Secretary of the Interior's Standards for Rehabilitation***

2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, space and spatial relationships that characterize a property will be avoided.
5. Distinctive materials, features, finishes and construction techniques or examples of craftsmanship that characterize a property will be preserved.
6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in



design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.

### **STAFF DISCUSSION**

The applicant seeks approval for replacing the historic steel windows with vinyl sliding windows and replacing the doors with half-lite fiberglass doors. This work was completed in 2018 and Staff has been working to resolve the issue since that time.

The historic windows were steel casements with divisions that aligned with the decorative concrete banding (see Fig. 2 and 3 below). Based on images from Google StreetView, it appears that some of the exterior doors may have been replaced, however, we do not have clear photographs that detail the materials and configuration of those doors. The rear first-floor doors were replaced, however, we don't know if the historic French doors (see Fig 3.) were still extant or if other doors had been installed in the historic openings.



*Figure 2: Front elevation of 9925 Sutherland (c.1993) before the window replacement.*

Staff's site visits to the subject property and to 9923 Sutherland showed that the properties had suffered from deferred maintenance and required significant work. The casement windows at 9923 Sutherland, which have been replaced, had warped frames, surface corrosion, and rust and were found to have deteriorated beyond repair. Those windows were replaced with aluminum windows in a matching configuration. Unfortunately, Staff was not able to evaluate the windows at the subject property before they were replaced.





*Figure 3: Rear of 9919 Sutherland (not the subject property), showing the historic steel doors. (photo c.1993).*



*Figure 4: Front elevation showing the new vinyl windows.*

Staff finds the new windows and doors are incompatible in their materials and design. The historic window design is integrated with the exterior decorative banding and single-lite sliding windows are an inappropriate replacement. Additionally, the vinyl frames and casements lack the profile depth of the historic windows. The fiberglass doors are also an incompatible replacement for the steel rear doors and



wood first and second-floor side doors. Staff finds this proposal is inconsistent with 24A-8(b)(2).

As stated above, Staff does not find that the new windows and doors are compatible with the architectural character of the historic house. The neighboring property, 9923 Sutherland, was able to find a replacement window the HPC found to be compatible, thereby demonstrating that it is possible to replace the unique windows when they have degraded beyond repair.



*Figure 5: 2022 photo of 9923 Sutherland with the replacement windows.*

Having determined that the new windows and doors are architecturally incompatible with the historic character of the house does not help identify a solution. Staff finds there are three potential outcomes for the proposal:

1. The HPC could deny the project and either identify acceptable windows and/or doors or direct the applicant to work with Staff to select appropriate replacements<sup>1</sup>; or
2. The HPC could identify changes to portions of the proposal (such as replacing the three windows in the front elevation) that, when evaluated in their totality would allow the project to be approved; or
3. Approve the HAWP as submitted.

Of the three options, Staff recommends Option #3 above, that the HPC approve the HAWP as submitted

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<sup>1</sup> Staff has some outstanding questions about the whether correcting the violation is covered by the owner's title insurance. However, due to the adversarial nature of the ongoing legal proceeding, it would inappropriate for Staff to pose those questions directly to the applicant.

under 24A-8(b)(5). HP Staff, DHCA, and DPS have been working to resolve several violations at this property for nearly four years. Over that period, the house has had three owners and no resolution has been reached because the court system was virtually shut down for two years due to COVID-19. The HPC could make an affirmative finding to approve the HAWP using 24A-8(b)(5), which states that approving the proposal is necessary so the owner does not have to suffer any ‘undue hardship.’ Staff is sympathetic to the owner’s position and finds that requiring a property owner, who did not cause the work to be done—and who would not own the property until three years after the work had been completed—to replace five exterior doors and ten windows constitutes an undue hardship. For this reason, Staff reluctantly recommends the HPC approve the HAWP under 24A-8(b)(5).

Considering the other two outcomes, Staff does not believe that there is a way to modify the existing windows or doors to change their appearance to something more compatible with the house. Additionally, because of the house’s visibility from the public right-of-way, Staff does not find replacing only the front three windows would be sufficient to bring the project into conformance with 24A-8(b)(1) or (2).

Staff recommends the HPC add a condition to the approval of this HAWP for the record, that states the vinyl windows and fiberglass doors do not qualify for the general in-kind replacement provision of Chapter 24A that would allow these features to be replaced without HAWP. All window and door work at the subject property needs a full HAWP review.

### **STAFF RECOMMENDATIONS**

Staff recommends that the Commission **approve** the HAWP application with one condition:

1. The vinyl windows and fiberglass doors do not qualify for the general in-kind replacement provision of Chapter 24A that would allow these features to be replaced without HAWP in the future. All window and door work at the subject property shall require a full HAWP review; under the Criteria for Issuance in Chapter 24A-8(b)(5);

and with the general condition that final project design details, not specifically delineated by the Commission, shall be approved by HPC staff or brought back to the Commission as a revised HAWP application at staff’s discretion;

and with the general condition that the applicant shall notify the Historic Preservation Staff if they propose to make **any alterations** to the approved plans. Once the work is completed the applicant will contact the staff person assigned to this application at 301-563-3400 or [dan.bruechert@montgomeryplanning.org](mailto:dan.bruechert@montgomeryplanning.org) to schedule a follow-up site visit.





FOR STAFF ONLY:  
HAWP# 1000091  
DATE ASSIGNED \_\_\_\_\_

**APPLICATION FOR  
HISTORIC AREA WORK PERMIT**  
HISTORIC PRESERVATION COMMISSION  
301.563.3400

**APPLICANT:**

Name: meera kanhouwa  
Address: 9925 Sutherland Avenue  
Daytime Phone: 253-961-2806

E-mail: meerakan@gmail.com  
City: Silver Spring Zip: 20901  
Tax Account No.: \_\_\_\_\_

**AGENT/CONTACT (if applicable):**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Daytime Phone: \_\_\_\_\_

E-mail: \_\_\_\_\_  
City: \_\_\_\_\_ Zip: \_\_\_\_\_  
Contractor Registration No.: \_\_\_\_\_

**LOCATION OF BUILDING/PREMISE:** MIHP # of Historic Property \_\_\_\_\_

Is the Property Located within an Historic District? Yes/District Name Polychrome Historic District  
No/Individual Site Name \_\_\_\_\_

Is there an Historic Preservation/Land Trust/Environmental Easement on the Property? If YES, include a map of the easement, and documentation from the Easement Holder supporting this application.

Are other Planning and/or Hearing Examiner Approvals /Reviews Required as part of this Application? (Conditional Use, Variance, Record Plat, etc.?) If YES, include information on these reviews as supplemental information.

Building Number: \_\_\_\_\_ Street: \_\_\_\_\_

Town/City: \_\_\_\_\_ Nearest Cross Street: \_\_\_\_\_

Lot: \_\_\_\_\_ Block: \_\_\_\_\_ Subdivision: \_\_\_\_\_ Parcel: \_\_\_\_\_

**TYPE OF WORK PROPOSED: See the checklist on Page 4 to verify that all supporting items for proposed work are submitted with this application. Incomplete Applications will not be accepted for review. Check all that apply:**

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> New Construction   | <input type="checkbox"/> Deck/Porch          | <input type="checkbox"/> Shed/Garage/Accessory Structure |
| <input type="checkbox"/> Addition           | <input type="checkbox"/> Fence               | <input type="checkbox"/> Solar                           |
| <input type="checkbox"/> Demolition         | <input type="checkbox"/> Hardscape/Landscape | <input type="checkbox"/> Tree removal/planting           |
| <input type="checkbox"/> Grading/Excavation | <input type="checkbox"/> Roof                | <input type="checkbox"/> Window/Door                     |
|   |  | <input type="checkbox"/> Other: _____                    |

I hereby certify that I have the authority to make the foregoing application, that the application is correct and accurate and that the construction will comply with plans reviewed and approved by all necessary agencies and hereby acknowledge and accept this to be a condition for the issuance of this permit.

\_\_\_\_\_  
Signature of owner or authorized agent

14 July 2022

\_\_\_\_\_  
Date

Adjacent and Confronting Properties:

Silver Spring, MD 20901

9923 Sutherland Road

306 Lanark Way

9908 Colesville Road

9904 Colesville Road

9926 Sutherland Road

Description of Property: Please describe the building and surrounding environment. Include information on significant structures, landscape features, or other significant features of the property:

replacement of windows and all doors was completed by prior owner, Mr. Thomas Bass. I purchased the home without knowing that he had never gone through proper approvals before doing this work.

I am filling out this form because I was told to by Ms. Rebecca Ballo.

Description of Work Proposed: Please give an overview of the work to be undertaken:

no work is proposed at this time.

replacement of windows and all doors was completed by prior owner, Mr. Thomas Bass. I purchased the home without knowing that he had never gone through proper approvals before doing this work. The work was completed sometime prior to October 2020 by the owner at that time.

I am filling out this form because I was told to by Ms. Rebecca Ballo.



Work Item 1: _____	
Description of Current Condition:	Proposed Work:

Work Item 2: _____	
Description of Current Condition:	Proposed Work:

Work Item 3: _____	
Description of Current Condition:	Proposed Work:

# HISTORIC AREA WORK PERMIT CHECKLIST OF APPLICATION REQUIREMENTS

	Required Attachments						
Proposed Work	I. Written Description	2. Site Plan	3. Plans/ Elevations	4. Material Specifications	5. Photographs	6. Tree Survey	7. Property Owner Addresses
New Construction	*	*	*	*	*	*	*
Additions/ Alterations	*	*	*	*	*	*	*
Demolition	*	*	*		*		*
Deck/Porch	*	*	*	*	*	*	*
Fence/Wall	*	*	*	*	*	*	*
Driveway/ Parking Area	*	*		*	*	*	*
Grading/Excavation/ Landscaping	*	*		*	*	*	*
Tree Removal	*	*		*	*	*	*
Siding/ Roof Changes	*	*	*	*	*		*
Window/ Door Changes	*	*	*	*	*		*
Masonry Repair/ Repoint	*	*	*	*	*		*
Signs	*	*	*	*	*		*







