

Resolution 03-55  
**Programmatic Agreement  
Among The  
City of Newport, Kentucky  
The Kentucky State Historic Preservation Officer,  
And The  
Advisory Council on Historic Preservation  
For The Administration Of The  
City's Community Development Programs**

**WHEREAS**, the City of Newport, State of Kentucky (City) proposes to administer its Community Development Block Grant (CDBG), the HOME Investment Partnership (HOME) and Emergency Shelter Grant programs with funds from the Department of Housing and Urban Development under Title I of the Housing and Community Development Act of 1974 pursuant to 24 CFR Part 58 ("Department of Housing and Urban Development: Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities; Final Rule"); and

**WHEREAS**, the City has determined that the administration of these programs may have an effect on properties included in or eligible for inclusion in the National Register of Historic Places (National Register) and has consulted with the Kentucky State Historic Preservation Officer (SHPO), and the Advisory Council on Historic Preservation (Council) pursuant to 36 CFR 800.14(b) of the regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f); and

**WHEREAS**, the Newport Housing Authority participated in the consultation and has been invited to concur in this Programmatic Agreement;

**NOW, THEREFORE**, the City, the SHPO, and the Council agree that the programs shall be administered in accordance with the following stipulations to satisfy the City's Section 106 responsibilities for all individual undertakings of the programs.

**Stipulations**

The City shall ensure that the following measures are carried out:

**Administration of this Programmatic Agreement**

1. The City shall ensure that all projects covered by this Programmatic Agreement will be reviewed by a person meeting at a minimum the Secretary of the Interior's Professional Qualification Standards (48 FR 44738-9) and who has completed the Council's Section 106 Training Course "Introduction to Federal Projects and Historic Preservation Law" (hereafter, a "Preservation Professional"). This Preservation Professional, who may be an employee of either the City or a City related agency, will review all project plans and specifications, will maintain individual project files showing compliance with this Programmatic Agreement, will monitor projects for conformance to the Secretary of the

Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (hereafter, referred to as the Standards), including making on-site inspections, and will coordinate all Section 106 project reviews with the SHPO staff. The City will consult with the SHPO to determine and ensure that the Preservation Professional meets the professional qualifications specified above.

2. Each year the City will notify the public of its current CDBG, HOME, and Emergency Shelter grant programs, and make available for public inspection documentation on the programs. Included in this documentation will be information on the type(s) of activities undertaken with program funds during the prior year and activities projected for the current year; information on identified historic properties, and/or areas where historic properties may be present which might be affected by these activities; the amount of program funds available in the current program year; and how interested persons can receive further information on the program and advise the City, the SHPO, and the Council of any concerns they may have about program effects on historic properties. The City will document compliance with this provision as part of its annual report as specified in Stipulation 15 (c) below.

#### **Exempt Activities**

3. No further review is required if the Preservation Professional determines that an individual program or covered undertaking is limited to:
  - (a) Repairs/additions to buildings less than 50 years of age which are not located within or adjacent to an Historic District, or near or adjacent to properties individually eligible for the National Register.
  - (b) Non-contributing buildings in a SHPO-approved surveyed historic district; or
  - (c) Projects approved by the SHPO for the Investment Tax Credit Program; or
  - (d) Program activities that are limited solely to those listed below:
    1. Acquisition, provided buildings are secured as needed to avoid neglect, deterioration, and vandalism.
    2. Disposition of historic properties when transferred with appropriate preservation covenants approved by the SHPO requiring rehabilitation according to the Secretary's Standards.
    3. Maintenance, repair, or replacement in place of paving or line painting of streets, not including historic pavements such as brick or cobblestone, etc., except when replaced in kind.
    4. Maintenance, repair, or replacement in place of sidewalks and curbs, not including historic pavements and curb materials such as

cobblestone, limestone, or brick, except when replaced in kind.

5. Maintenance, repair, or replacement in place of street lights, traffic signals, and traffic signs.
6. Maintenance, repair, or replacement in place of existing utility lines, provided no historic pavements are disturbed.
7. Maintenance, repair, or replacement in place of existing drainage systems, provided no historic pavements are disturbed
8. Rehabilitation work including any of the following: rebuilding of existing wheel chair ramps; installation of missing or damaged glass panes; caulking; gutter system if matching existing; painting in complementary color; installation of new furnace; all electrical work; all plumbing work; repair or pouring of existing concrete cellar floor; replacement of asphalt roof shingles or other composite materials; installation of screens; repair of porch ceilings, steps, railings if done in kind to match existing material; repair of cornice if done in kind to match existing material.

#### **Identification and Evaluation**

4. In areas affected by projects covered under this agreement, the City will continue to survey districts, sites, buildings, structures, and objects (hereafter "properties") that may meet the Criteria for listing in the National Register (36 CFR Section 60.6). The survey will be conducted in accordance with the "Guidelines for the Location and Identification of Historic Properties Containing Scientific, Prehistoric, Historical, or Archaeological Data" (36 CFR Part 66, Appendix B); the "Identification of Properties, General" (36 CFR Part 801, Appendix 1), the "Preservation Programs, Final Rule" (36 CFR Part 61), and the Kentucky SHPO's Specifications for Conducting Fieldwork and Preparing Cultural Resource Assessment Reports (June, 2001). All information generated by these surveys will be forwarded to the SHPO, as provided in Stipulation 15 (d) below.
5. Each property or potential district that may be affected by projects covered under this agreement will be evaluated for National Register eligibility by the City's Preservation Professional and in consultation with the SHPO. The SHPO will respond to determination of eligibility requests within 30 days of receipt of adequate documentation.
  - (a) Properties that the City's Preservation Professional and SHPO agree meet the Criteria will be considered and treated as eligible for the National Register. Properties the City's Preservation Professional and SHPO agree do not meet the Criteria will be considered ineligible for the National Register.

- (b) If the City's Preservation Professional and SHPO disagree on eligibility, or if there is any question as to whether a property may meet the Criteria, the City will request a determination of eligibility from the Secretary of the Interior in accordance with 36 CFR Section 800.4 (c).
- (c) The City's Preservation Professional will keep a written record of the National Register evaluation for each property.
- (d) If, after the start of construction, previously unidentified historic resources are discovered, the City will treat those resources in accordance with Section 800.13 of the Council's regulations.

### **Treatment of Historic Properties**

- 6. The City may proceed with demolition of ineligible or noncontributing structures after review and approval by the City's Preservation Professional, and after any SHPO consultation required by Stipulation 5 above.
- 7. The City may proceed with any required rehabilitation of ineligible or noncontributing structures after review and approval by the City's Preservation Professional, and after any SHPO consultation required by Stipulation 5 above.
- 8. All rehabilitation activities on properties listed in or determined eligible for listing in the National Register will be subject to review and approval by the City's Preservation Professional. As part of this review, the Preservation Professional will coordinate with the SHPO staff on a project by project basis to determine if the SHPO wishes to participate in the review of individual rehabilitations. The City will incorporate all recommendations of the Preservation Professional and/or SHPO in order to ensure that project plans conform to the Secretary's Standards.
- 9. If the City proposes rehabilitation that does not conform to the Secretary's Standards, the City's Preservation Professional shall consult with the Kentucky SHPO to determine if the plans can be altered or revised in a way that would avoid or minimize negative impacts to historic properties. If the SHPO and City can not agree on a rehabilitation plan, the City will request the comments of the Council.
- 10. In consultation with the SHPO, the Preservation Professional shall review and evaluate non-emergency demolitions of properties listed in or determined eligible for listing in the National Register. The following information will be provided by the City's Preservation Professional to the SHPO for review and comment:
  - (a) Location and description of the property proposed for demolition or relocation.

- (b) Justification for the proposed demolition, including references to any building code violations that cannot be corrected by rehabilitation, and why rehabilitation is not feasible or prudent.
- (c) An evaluation of stabilizing the building for possible future reuse i.e, "mothballing".
- (d) Comparison of the cost of rehabilitation versus demolition and new construction. This should include the cost of property acquisition, demolition, disposal of demolition debris, any necessary relocation assistance, and the cost of historic mitigation measures such as photography, measured drawings, architectural salvage, or archaeological excavations. The City should clearly demonstrate that rehabilitation is not possible, or that the cost of rehabilitation significantly exceeds the cost of new construction.
- (e) Photographs (3 ½" x 5") of each elevation, including details of deteriorated areas, and any other supporting documentation that will assist the SHPO in evaluating the demolition request.
- (f) A discussion of mitigation measures the City will implement to compensate for the demolition of the historic property. Mitigation measures may include but are not limited to: relocation of the structure; recordation of the structure in accordance with the SHPO's Standard Mitigation Measures for Historic Structures; architectural salvage; archaeological data recovery; and other forms of off-site mitigation.

Within 30 calendar days of receipt of adequate documentation, the Kentucky SHPO will review the information submitted and will either concur or object in writing to the proposed demolition to the City's Preservation Professional. If the SHPO concurs in the demolition, the SHPO will either accept the proposed mitigation, or will specify additional measures that will be needed. Upon receipt of the SHPO's comments, the City will either implement the SHPO's recommended mitigation measures and proceed with the demolition, or the City will continue consultation with the SHPO to see if there are alternate mitigation measures that would be accepted by both City and SHPO. If the City and SHPO can not agree on proposed demolition plans or mitigation measures, the City will request the comments of the Council.

11. Upon receipt of notification from the City's Chief Building Inspector, Fire Marshall, or Director of the Division of Code Enforcement that listed or eligible historic properties within the City have been declared an imminent threat to health and safety, the City will immediately notify the **SHPO** of the emergency and document the structure by taking black and white 35 mm photographs and color slides of **each**

facade and any significant architectural details. The City may take other emergency mitigative actions, when possible and appropriate, such as architectural salvage, simple measured drawings, and archival research. Within 30 days after demolition, the City will provide copies of this documentation to the SHPO. A copy of the appropriate Fire Marshall or Building Inspector report will be placed in the project file. The City shall also notify the Advisory Council in writing of its decisions to demolish contributing structures or individually listed or eligible structures which are declared a significant public hazard in accordance with 36 CFR 800.12. Properties demolished under this Stipulation must be true emergencies resulting, for example, from damage caused by fire, flood, or wind, etc. **Demolition of structures that have gradual deterioration due to lack of maintenance and owner neglect do not qualify for expedited review under Stipulation 11, and should be treated under Stipulation 10.**

12. Within or adjacent to an historic district or a listed or eligible National Register property, new construction or development, new alterations, or additions to existing historic structures will be responsive to the guidelines for new construction and development in the Secretary's Standards.
  - (a) Designs and specifications for all new construction or development covered by the terms of this Programmatic Agreement will be reviewed by the City's Preservation Professional, then submitted to the SHPO for review and approval prior to execution of construction contract documents. Consultation with the SHPO should occur as early in project design as possible, in order to respond to and incorporate SHPO concerns. All new construction or development shall be compatible with the size, scale, color, material, and character of the neighborhood or individual property. If siding is used, either wood or a smooth cementitious product such as Hardiplank © with a four inch overlap is preferred over vinyl. The SHPO will review the documentation within thirty (30) calendar days and respond to the City's Preservation Professional whether or not the new construction and/or development plans meet the Standards, or what modifications to the plans are needed for them to meet the Standards. The City will incorporate the SHPO's recommendations in all final construction documents. If the City and SHPO can not agree on new construction or development plans, the City will request the comments of the Advisory Council.
  - (b) If in-fill construction is based on one of the SHPO approved designs contained in Attachment A, no further review under this agreement is needed other than concurrence by the City's Preservation Professional that a selected in-fill design is appropriate for a specific site. In addition to proper scale, materials and style, in-fill construction should respect the historic street scape of the surrounding neighborhood in terms of setback and lot size. Additional in-fill designs may be added to Attachment A at any time, provided that both the SHPO and City's Preservation Professional concur and a copy of the in-fill design is provided to

the Council.

13. At any time, the City's Preservation Professional may consult with the SHPO concerning treatment of historic properties. Informal consultation is encouraged between the Preservation Professional and the SHPO or SHPO staff, especially concerning large or complex renovation and new construction projects. Technical assistance will be provided by SHPO staff upon request.

#### **Treatment of Archaeological Properties**

14. (a) Prior to any ground disturbance associated with program activities, with the exceptions stated in Stipulation 3(a) and 3(d) above, the City's Preservation Professional shall submit documentation on the site to the Kentucky SHPO and request an opinion as to the need for an archaeological survey. This documentation should include information concerning historic development of the site and details of any prior ground disturbance.
  - (b) If, after reviewing the documentation the SHPO determines that a potential for significant archaeological resources exists that would be impacted by the construction, then the City will employ an archaeological consultant to conduct an archaeological survey and evaluation of the area. This survey must be carried out in accordance with the SHPO's Specifications for Conducting Fieldwork and Preparing Cultural Resource Assessment Reports (June, 2001). The survey and evaluation must be undertaken in consultation with the SHPO, and upon completion, the survey report must be submitted to the SHPO for review and approval.
  - (c) If resources discovered during the survey are determined by the SHPO to meet the National Register Criteria, the City Preservation Professional will continue consultation with the SHPO to determine if these can be avoided and preserved in place. If the City and SHPO agree in-place preservation is not feasible, the City's archaeological consultant will develop a research design and data recovery plan for recovery of the significant information contained in the site. Upon approval by the SHPO, the City will ensure that the plan is implemented. If the City and SHPO cannot agree concerning the treatment of eligible archaeological properties, the City will request the comments of the Council.

#### **Monitoring and Oversight**

15. (a) Copies of all case documentation, including work write-ups, and before and after photographs, will be retained by the City's Preservation Professional in individual case files. The City will allow the Kentucky SHPO to inspect this documentation to verify adherence with the stipulations of this Programmatic Agreement, and upon written request, will provide the Kentucky SHPO and/or

the Council with copies of specific case documentation.

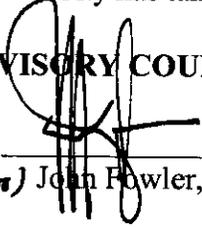
- (b) The SHPO will review the City's performance once a year. At any time should the SHPO determine the City is not satisfactorily carrying out the terms of this Agreement, the SHPO may withdraw the delegation of review responsibilities for all or any individual activities covered by this Agreement for a period of time to be determined by the SHPO and notify the Council accordingly.
- (c) By September 30th each year, a summary report will be prepared and submitted to the Council and the Kentucky SHPO documenting all program activities for the year, including the results of any historic properties treated pursuant to this agreement. The Council or the Kentucky SHPO may conduct an on-site inspection and evaluation of the activities carried out under this Programmatic Agreement.
- (d) In addition, the City will provide to the Kentucky SHPO the following information by September 30 of each year:
  - 1. Official Kentucky Site Inventory forms for each property surveyed pursuant to this Programmatic Agreement;
  - 2. Maps showing areas and properties surveyed;
  - 3. A list by street address of all properties surveyed and found to be ineligible or non-contributing;
  - 4. A list by street address of all properties surveyed and found to be individually eligible or contributing;
  - 5. For each individually eligible or contributing property, the City will submit:
    - a. A statement of significance;
    - b. A list of Contributing and non-contributing elements;
    - c. A map showing the boundaries of the area determined eligible;
    - d. At least one black and white photograph of the property.

### **Dispute Resolution**

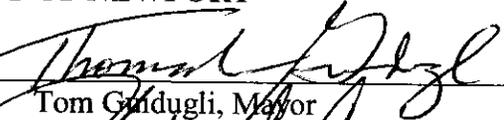
- 16. Should the SHPO or Council object within 30 days to any plans, specifications,

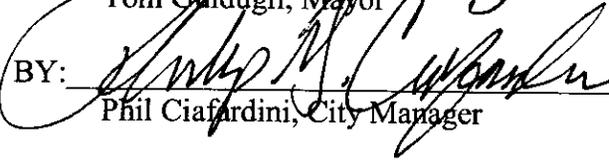
Execution and implementation of this Programmatic Agreement evidences that the City of Newport has afforded the Council a reasonable opportunity to comment on the program and that the City has taken into account the effects of the program on historic properties.

**ADVISORY COUNCIL ON HISTORIC PRESERVATION**

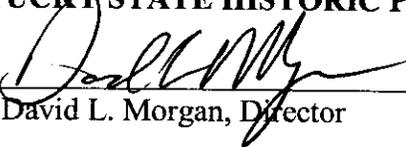
BY:  Date: 12/22/03  
(John) John Fowler, Executive Director

**CITY OF NEWPORT**

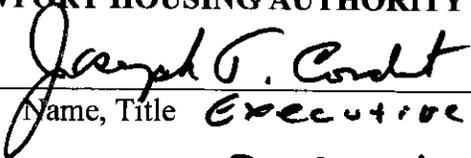
BY:  Date: 10-20-03  
Tom Gaidugli, Mayor

BY:  Date: 10-20-03  
Phil Ciafardini, City Manager

**KENTUCKY STATE HISTORIC PRESERVATION OFFICER**

BY:  Date: 9-25-03  
David L. Morgan, Director

**CONCURRING PARTY:  
NEWPORT HOUSING AUTHORITY**

BY:  Date: 11/10/03  
Name, Title Executive  
Director

Attachment A

SHPO Approved Infill Designs for Newport

COMMISSIONERS ORDER NO. R-03- 146

AN ORDER OF THE BOARD OF COMMISSIONERS OF THE CITY OF NEWPORT, KENTUCKY, AUTHORIZING MAYOR THOMAS L. GUIDUGLI AND CITY MANAGER PHILIP G. CIAFARDINI TO EXECUTE A PROGRAMMATIC AGREEMENT AMONG THE CITY OF NEWPORT, KENTUCKY, THE KENTUCKY STATE HISTORIC PRESERVATION OFFICER, AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION FOR THE ADMINISTRATION OF THE CITY'S COMMUNITY DEVELOPMENT PROGRAMS.

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BE IT ORDERED BY THE CITY OF NEWPORT, KENTUCKY:

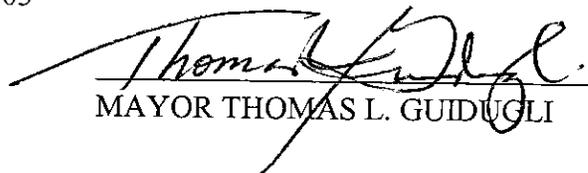
SECTION I

That Mayor Thomas L. Guidugli and City manager Philip G. Ciafardini be, and hereby are, authorized to execute a Programmatic Agreement among the City of Newport, Kentucky, the Kentucky State Historic Preservation Officer, and the Advisory Council on Historic Preservation for the administration of the City's Community Development programs.

SECTION II

That this Order shall be signed by the Mayor, attested by the City Clerk, recorded and effective upon adoption.

ADOPTED: 10/20/2003

  
MAYOR THOMAS L. GUIDUGLI

ATTEST:

  
PAULA D. WILLIAMSON, CITY CLERK



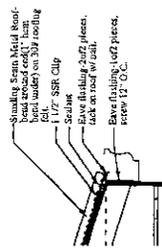




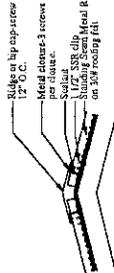








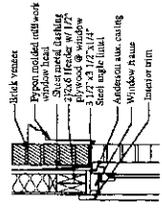
**1 Eave Detail**  
Scale: 1/4" = 1'-0"



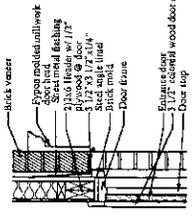
**2 Ridge Detail**  
Scale: 1/4" = 1'-0"



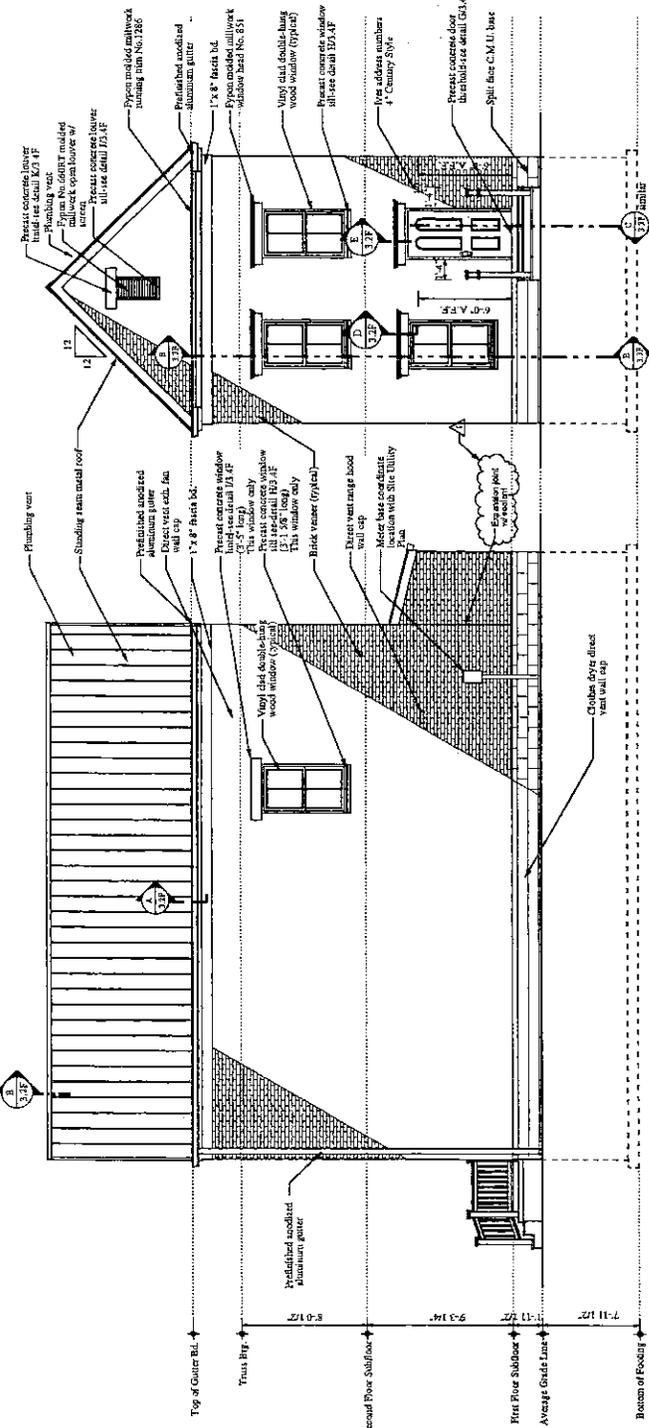
**3 Gable Detail w/Brick**  
Scale: 1/4" = 1'-0"



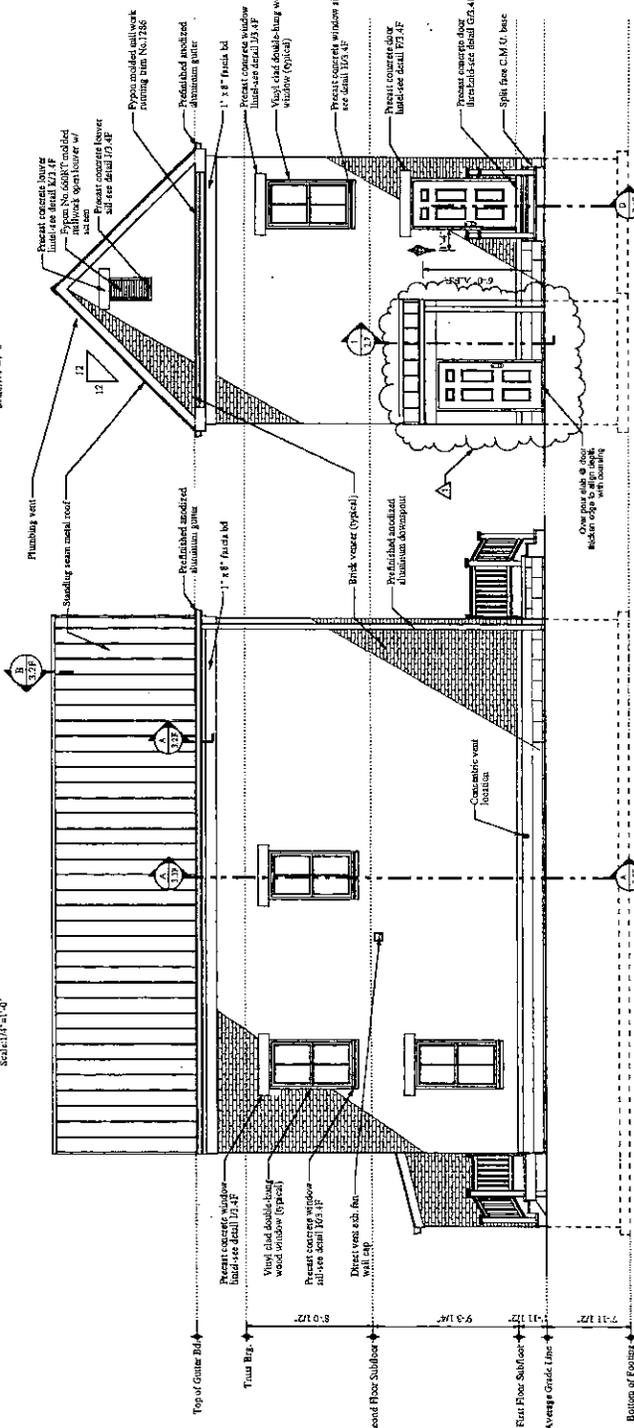
**4 Window Head Detail**  
Scale: 1/4" = 1'-0"



**5 Door Head Detail**  
Scale: 1/4" = 1'-0"



**Prototype F Elevation-Front**  
Scale: 1/4" = 1'-0"



**Prototype F Elevation-Rear**  
Scale: 1/4" = 1'-0"

**Prototype F Elevation-Right**  
Scale: 1/4" = 1'-0"

**Prototype F Elevation-Left**  
Scale: 1/4" = 1'-0"

