

MEMORANDUM

November 25, 2009

TO: Transportation, Infrastructure, Energy and Environment Committee

FROM: Sherry Kinikin, Legislative Analyst *Sherry Kinikin*

SUBJECT: Abandonment of Evans Parkway  
DPWT Docket No. AB717  
Northbrook Estates Subdivision  
Silver Spring 13<sup>th</sup> Election District

Evans Parkway in Silver Spring has been proposed for abandonment at the unimproved Evans Parkway in the Northbrook Estates Subdivision in Silver Spring. There is no opposition to this abandonment.

This property, known as Evans Parkway Neighborhood Park, is scheduled for major renovation. To facilitate the planned renovation work, the Commission intends to record a subdivision plat to unify the eight parcels which make up the park, plus portions of two previously dedicated but unbuilt road rights-of-way, into a single parcel.

Staff recommends that this abandonment be approved.

Department of Transportation staff will be available for questions at the worksession.

Attachments

Executive's transmittal letter	©1
Draft adoption resolution	©2-3
Application letter	©4
Maps noting location of proposed abandonment	©5-6
Public hearing notice	©7
Hearing Examiner's report	©8-13
General Location Map	©14
Property Proposed for Abandonment	©15
Exhibit One	©16
Public Hearing Transcript	©19-27

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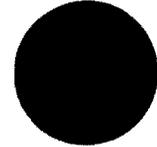
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Isiah Leggett  
County Executive

OFFICE OF THE COUNTY EXECUTIVE  
ROCKVILLE, MARYLAND 20850

MEMORANDUM

November 3, 2009



TO: Phil Andrews, President  
Montgomery County Council

FROM: Isiah Leggett, County Executive  
Office of the County Executive

ENCLS IN FILE

SUBJECT: DPWT Docket No. AB717 Portion of Evans Parkway  
Northbrook Estates Subdivision  
Silver Spring 13<sup>th</sup> Election District

For your consideration, attached herewith is a proposed Resolution whereby the County Council may approve the abandonment of a portion of unimproved Evans Parkway in the Northbrook Estates Subdivision in Silver Spring. Supporting data are submitted as follows:

1. Council Resolution
2. Letter requesting the abandonment from the Montgomery County Department of Parks of the Maryland-National Capital Park and Planning Commission, the Applicant
3. A Public Hearing was held on October 20, 2008, as announced by Executive Order No. 209-08.
4. The Hearing Examiner's Report and Recommendation
5. A location map and tax map for reference

IL/rg

Attachments

①

Resolution No: \_\_\_\_\_  
Introduced: \_\_\_\_\_  
Adopted: \_\_\_\_\_

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

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By County Council

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**SUBJECT:** Subject: DPWT Docket No. AB717  
Abandonment – Portion of Evans Parkway  
Northbrook Estates Subdivision  
Silver Spring, Maryland

**Background**

1. By letter dated July 2, 2008, from Montgomery County Department of Parks (Maryland-National Capital Park and Planning Commission), the Applicant, a request was made to the County to abandon a portion of Evans Parkway in the Northbrook Estates Subdivision in Silver Spring, Maryland.
2. A Public Hearing to consider the abandonment proposal was held on October 20, 2008, by the designee of the County Executive.
3. Washington Gas objected to the abandonment, subject to Applicant locating any gas lines in the abandonment area and creating an easement to maintain any gas lines found in the abandonment area .
4. Washington Suburban Sanitary Commission did not object.
5. PEPCO did not object.
6. The Police Department did not respond within sixty (60) days after receiving notice, and therefore, concurrence is presumed.
7. The Montgomery County Planning Board recommended approval.
8. The Department of Fire and Rescue Services had no objection.
9. The Department of Transportation recommended approval conditioned upon the Applicant granting easements for County storm drains and public utilities, if any, and recording a new record plat incorporating the former right-of-way into the unified park parcel.
10. VERIZON did not respond within sixty (60) days after receiving notice, and therefore, concurrence is presumed.

11. The County Executive recommends approval of the proposed abandonment.

**Action**

The County Council for Montgomery County, Maryland, finds that a portion of Evans Parkway consisting of a triangular area containing approximately 5,331 square feet of unimproved right-of-way in the Northbrook Estates Subdivision (the "Abandonment Area"), is no longer necessary for public use, pursuant to Section 49-63 of the Montgomery County Code, and approves the abandonment, subject to the following conditions:

1. Applicant must at its sole cost prepare and record against the Abandonment Area a permanent and perpetual public improvements easement sufficient in form and substance to allow for the current and future placement, maintenance and repair of utilities and storm drainage, the form and substance of which must be approved by the Office of the County Attorney for Montgomery County, Maryland; and
2. Applicant must prepare and record a new record plat in accordance with the requirements of Montgomery County Code Section 49-65(d), which plat must incorporate the Abandonment Area into the unified parcel that will comprise the Evans Parkway Neighborhood Park.
3. The Applicants must bear all costs for the preparation and recordation of all necessary legal documents and plats.
4. The County Attorney must record among the Land Records of Montgomery County, Maryland, a copy of this Resolution approving the abandonment of the subject area.
5. Any person aggrieved by the action of the Council for abandonment may appeal to the Circuit Court within 30 days after the date such action is taken by Council.

This is a correct copy of Council Action.

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Linda M. Lauer, Clerk of the Council



**MONTGOMERY COUNTY DEPARTMENT OF PARKS**  
 THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

AB 717

Exhibit 1

July 2, 2008

RECEIVED  
 JUL 07 2008

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JUL 03 2008

OFFICE OF THE  
 COUNTY EXECUTIVE

The Honorable Isiah Leggett  
 Montgomery County Executive  
 Executive Office Building  
 101 Monroe Street, 2<sup>nd</sup> Floor  
 Rockville, Maryland 20850

Re: Abandonment Request for a portion of Evans Parkway  
 Silver Spring, Maryland

Dear Mr. Leggett:

The Maryland-National Capital Park and Planning Commission owns the property shown outlined in green on Map "A", attached. This property, known as Evans Parkway Neighborhood Park, is scheduled for major renovation in the not too distant future.

To facilitate the planned renovation work, the Commission intends to record a subdivision plat to unify the eight parcels which make up the park, plus portions of two previously dedicated but unbilt road rights-of-way, into a single parcel. One of the road rights-of-way, a portion of dedicated but unbilt Amherst Avenue, shown in blue on Map "A", was previously abandoned in 1982 by Council Resolution No. 9-1658 and is clear for incorporation into the park. The second road right-of-way, a portion of dedicated but unbilt Evans Parkway, shown in red on Map "A", needs to be officially abandoned to accomplish the Commission's objective. This correspondence is the Commission's official request that Montgomery County's Department of Transportation take whatever steps are necessary to effect the abandonment of this portion of Evans Parkway.

In anticipation of submitting this abandonment request, the Commission had the abandonment area surveyed to identify its exact limits. Map "B", attached, which is a portion of our proposed subdivision plat for unifying the Commission owned properties and the unbilt road rights-of-way into one parcel, shows the proposed abandonment area as containing 5,331 square feet.

The Commission understands that as a government agency any normal application and/or processing fees for this abandonment request will be waived.

Thank you for your help and attention to this matter.

Sincerely,

William E. Gries  
 Land Acquisition Specialist

cc: Michael Cassidy, DOT



# GLENVIEW

M. N. C. P. & R. C.  
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5.13

P452

P 500

# EVANS

# PARKWAY

DENNIS AVENUE  
ELEMENTARY SCHOOL

Board of Education  
2510/321  
6.97 Ac.  
P682

(13-246)  
THE BURKLAND  
CONDOMINIUM  
PLATS 2790-2793  
PAR. "C"

N 775  
WOLF  
MEDICAL CENTER

MEDICAL  
PARK

ST. JOHN'S

ST. JOHN'S

FLOWER

PARCEL "A"

PARCEL "B"

PARCEL "C"

PARCEL "D"

PARCEL "E"

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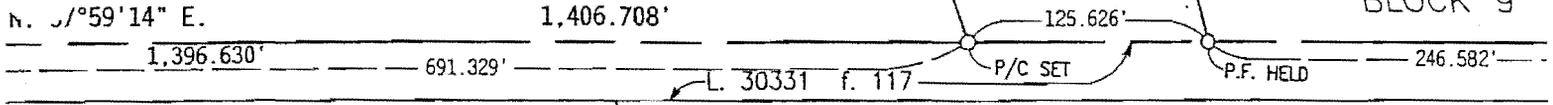
PT. 231



Map "B"

GLENVIEW  
PLAT No. 1632  
BLOCK 5

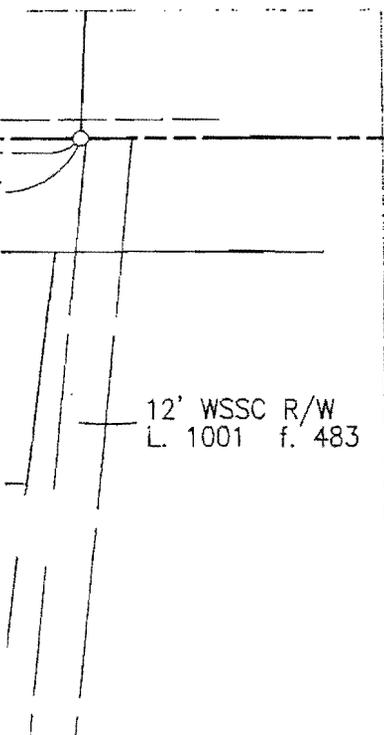
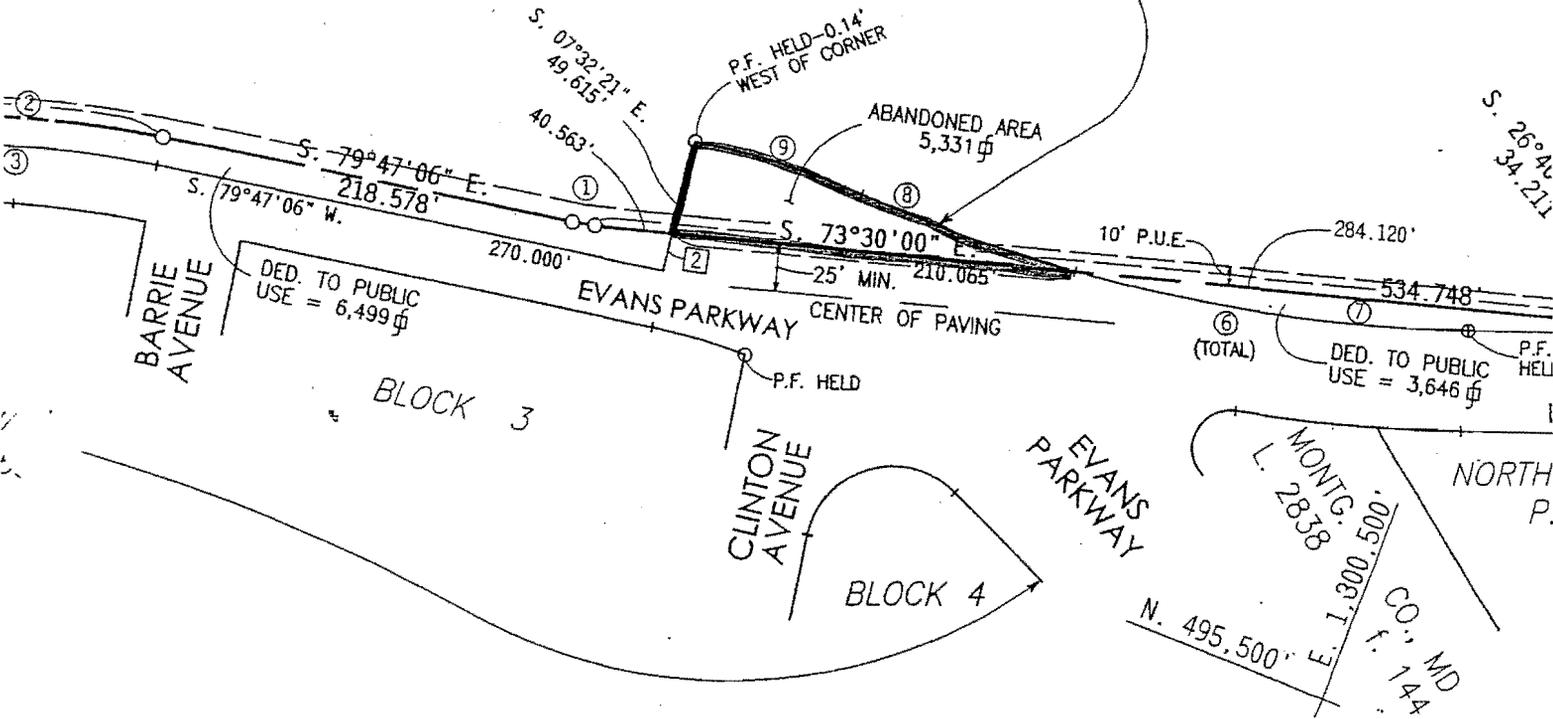
GLENVIEW  
PLAT No. 3309  
BLOCK 9



VS PARKWAY  
T No. 10258  
30331 f. 117

PARCEL A  
332,442  $\square$  OR  
7.63182 ACRES

L. 2001 f. 360



LINE TABLE "I"

1	N. 11°10'50" W.	6.072'
2	S. 07°32'21" E.	20.124'
3	N. 20°12'52" W.	15.034'

RADIUS POINT COORDINATES

RADII	NORTH	EAST
1	495,693.199'	1,300,026.546'
8	496,467.763'	1,300,211.541'
9	495,250.161'	1,300,164.000'
2.3	494,960.611'	1,299,936.461'
10,11,12	496,762.450'	1,299,118.207'
13,14,15		
16,17,18		

OWNER'S CERTIFICATION:

6



# MONTGOMERY COUNTY EXECUTIVE ORDER COPY

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

<b>Subject:</b> Abandonment of Portion of Evans Parkway Northbrook Estates Subdivision, Silver Spring	209-08	AB
<b>Originating Department:</b> Transportation	<b>Department Number</b> AB 06-08	<b>Effective Date</b> 08/19/08

AB717

- Pursuant to §49-62 of the Montgomery County Code (2004) as amended, the County Executive or his Designee shall conduct a Public Hearing

at 1:00 p.m. on Monday October 20, 2008  
 101 Monroe Street, EOB Lobby Conference Room  
 Rockville, Maryland 20850

to consider an application received from the Department of Parks, Maryland-National Capital Park and Planning Commission, the Applicant, seeking abandonment of a portion of Evans Parkway in the Northbrook Estates Subdivision in Silver Spring.

- After the aforesaid Hearing, the Hearing Officer shall report his or her findings and recommendations to the County Executive for further consideration as prescribed by County Code.

Approved as to Form and Legality  
 Office of the County Attorney

APPROVED

By: Eileen J. Basaman  
 Eileen Basaman  
 Associate County Attorney

Thomas J. Street  
 Thomas J. Street  
 Assistant Chief Administrative Officer

Distribution:  
 Department of Transportation  
 Department of Finance

7

**OFFICE OF THE COUNTY EXECUTIVE  
ROCKVILLE, MARYLAND**

**IN THE MATTER OF:**

PETITION OF MONTGOMERY COUNTY	*	DEPARTMENT OF
DEPARTMENT OF PARKS	*	TRANSPORTATION
MNCPPC	*	
Applicant	*	
	*	
ABANDONMENT OF A PORTION OF	*	
EVANS PARKWAY in the	*	PETITION NO. AB 717
Northbrook Estate Subdivision, Silver Spring	*	
An unimproved right-of-way	*	

BEFORE: Diane Schwartz Jones, Public Hearing Officer

**PUBLIC HEARING OFFICER'S REPORT AND RECOMMENDATION**

**I. Background**

The hearing and public comments in the captioned matter pertain to a request dated July 2, 2008, from the Montgomery County Department of Parks of the Maryland-National Capital Park and Planning Commission ("Parks" or "Applicant") to abandon a portion of Evans Parkway in the Northbrook Estate Subdivision in Silver Spring, Maryland.

Abandonment Petition No. AB717 seeks abandonment of a portion of Evans Parkway, triangular in shape and containing approximately 5331 square feet of unimproved area (the "Abandonment Area"). See Exhibit 5 and the area identified as circle 14 on Exhibit 6. The Abandonment Area was created by Plat No. 2495 dated January 1950 in which the Owners dedicated the streets to public use. (Exhibit 6) The Abandonment Area is part of a larger

area currently designated by Parks as the Evans Parkway Neighborhood Park. Parks has plans for a major renovation of the Evans Parkway Neighborhood Park and in connection with that renovation seeks to unify all of the parcels comprising the park into a single parcel. Parks has thus sought the subject abandonment on the basis that the Abandonment Area is no longer necessary for public use as a road under Montgomery County Code 49-63(c)(1) and should be incorporated into the to-be established Evans Parkway Neighborhood Park parcel. See, Exhibit 1.

Pursuant to section 49-62(f) of the Montgomery County Code, a public hearing on the proposal was held at approximately 1:00 pm on October 20, 2008, in the Lobby Level Auditorium of the Executive Office Building, 101 Monroe Street in Rockville, Maryland. Notice of Hearing was mailed to neighboring properties and was published in the *Montgomery County Sentinel* newspaper on October 9, 2008 and October 16, 2008. Exhibit 4. Testimony was received at the hearing and Exhibits 1-13 were entered into the record. The record was held open for two weeks until 5:00 pm on November 3, 2008. One additional comment was received from the Montgomery County Planning Board prior to closing of the record, which comment is included in the hearing record as Exhibit 14.

## **II. Summary of Testimony and Comments**

Mike Cassidy of the Montgomery County Department of Transportation identified the proposed Abandonment Area and the reason given by Parks for the proposed abandonment. Mr. Cassidy described that his office requested comments from the public, appropriate governmental agencies, and public utility companies that might be affected by the proposed abandonments. Mr. Cassidy listed Exhibits 1 – 13 that were entered as part of the hearing record. Mr. Cassidy noted that, at the time of hearing, comments were missing from the

Police Department and that comments were expected from the Montgomery County Planning Board. See, Hearing Transcript pps. 4-7.

Mr. William Gries appeared on behalf of Parks and confirmed Parks' reason for seeking the abandonment. Mr. Gries also clarified that the Abandonment Area consists of approximately 5,331 square feet. See, Hearing Transcript, p. 8. The record also includes a report from Larry Cole, Highway Coordinator with the Montgomery County Planning Department, in which he reports that the Abandonment Area "functions as part of Evans Parkway Neighborhood Park and is bordered to the north by a play structure, to the south by the roadway and the remaining right-of-way of Evans Parkway, to the east by a stormwater culvert and to the west by a parking area that serves the park." See Exhibit 10.

In administering the abandonment provisions of Chapter 49, the County Executive is required to solicit a response on the abandonment proposal from a variety of public agencies including each public utility authorized by the Public Service Commission to provide service within the area and any grantee of a franchise if the grantee is authorized to use or install facilities in the right-of-way. In response to a request for comments, Washington Gas objected to the abandonment because it has a gas line in the right of way; however it will not object if Parks will relocate any gas lines and/or guarantee that it will execute an easement for the gas line.<sup>1</sup> Exhibit 9.

Washington Suburban Sanitary Commission ("WSSC") indicated that it has no facilities within the proposed Abandonment Area and granted its approval of the abandonment conditioned upon the Maryland-National Capital Park and Planning Commission

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<sup>1</sup> The Washington Gas letter reads that "Washington Gas could lift the objection if the petitioner would *locate* the gas lines in conflict and guarantee they would grant and execute an easement for these lines." This statement does not make sense and the Hearing Officer understands the intent of Washington Gas to be that it have a legal right in the form of an easement to locate and maintain its line within the Abandonment Area or that the line must be *relocated* and be subject to a legal right in the form of an easement to locate and maintain its line elsewhere.

("Commission") formally approving the abandonment within 180 days. Exhibit 8. The WSSC letter was issued on August 26, 2008 and the Commission's approval of the abandonment was issued on October 23, 2008 which was well within the designated 180 days. Exhibit 14. Similarly, PEPCO identified that it has no equipment or facilities in the Abandonment Area and therefore has no objection to the abandonment. Exhibit 13.

Montgomery County Department of Fire and Rescue Services has no objection to the abandonment. See Exhibit 11. The Montgomery County Department of Transportation recommended approval of the abandonment conditioned upon Parks granting easements for County storm drains and public utility facilities, if any, and recording a new record plat the former right-of-way into the larger Parks parcel. Exhibit 12.

The Montgomery County Police Department at the time of this Report and Recommendation has not submitted any comment. Under Montgomery County Code 49-62(g), if an agency or other party does not respond within 60 days after notice is first published pursuant to section 49-62(e), the County Executive must presume that the agency or other party does not oppose the proposal. More than 60 days have elapsed since comments were requested from the Police Department and therefore it must be presumed that the Police Department does not oppose the proposed abandonment.

No comments were received opposing the proposed abandonment.

### **III. Conclusions and Recommendations**

The abandonment of rights-of-way is governed by the provisions of Montgomery County Code sections 49-62 and 49-63. Section 49-62 permits application for abandonment of a right-of-way by any person or government agency, provides for public agency and utility company review, and requires a public hearing with notice. The hearing and notice

procedures have been satisfied, and the public agencies and utility companies have been given an opportunity to review the petition for abandonment as described above.

Section 49-63 allows abandonment if the right-of-way is not needed for public use or if abandonment is necessary to protect the health, safety and welfare of the residents in the neighborhood. Section 49-63(d) precludes abandonment of a right of way which is the sole means of access to any property.

Parks has requested this abandonment in connection with major renovation work it seeks to do on the Evans Parkway Neighborhood Park and for which it desires to create a single parcel. The Abandonment Area is triangular in shape, unpaved and indistinguishable from the rest of the Evans Parkway Neighborhood Park. See, Exhibit 5 which reflects the Abandonment Area and the surrounding environment reflecting the park within an established neighborhood.

Based on a thorough review of the testimony and evidence of record, I find that the Abandonment Area is not needed for roadway purposes as it was initially dedicated and that it is in the public interest for Parks to formally incorporate the Abandonment Area into the Evans Neighborhood Local Park thereby creating consistency between the legal documentation for the Abandonment Area and its actual use.

For the foregoing reasons and based on a full consideration of the information presented, I recommend that the request for abandonment be granted subject to the following conditions:

1. Applicant must at its sole cost prepare and record against the Abandonment Area a permanent and perpetual public improvements easement sufficient in form and substance to allow for the current and future placement, maintenance and repair of

utilities and storm drainage, the form and substance of which must be approved by the Office of the County Attorney for Montgomery County, Maryland; and

2. Applicant must prepare and record a new record plat in accordance with the requirements of Montgomery County Code Section 49-65(d), which plat must incorporate the Abandonment Area into the unified parcel that will comprise the Evans Parkway Neighborhood Park.

Respectfully submitted,

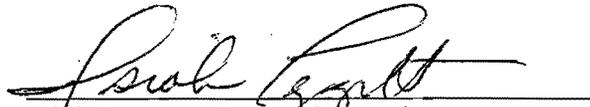
August 18, 2009

  
Diane Schwartz Jones  
Public Hearing Officer

The Public Hearing Officer's Recommendation for AB717 has been reviewed and the recommendation for approval of the abandonment request is approved with the stated conditions.

Date:

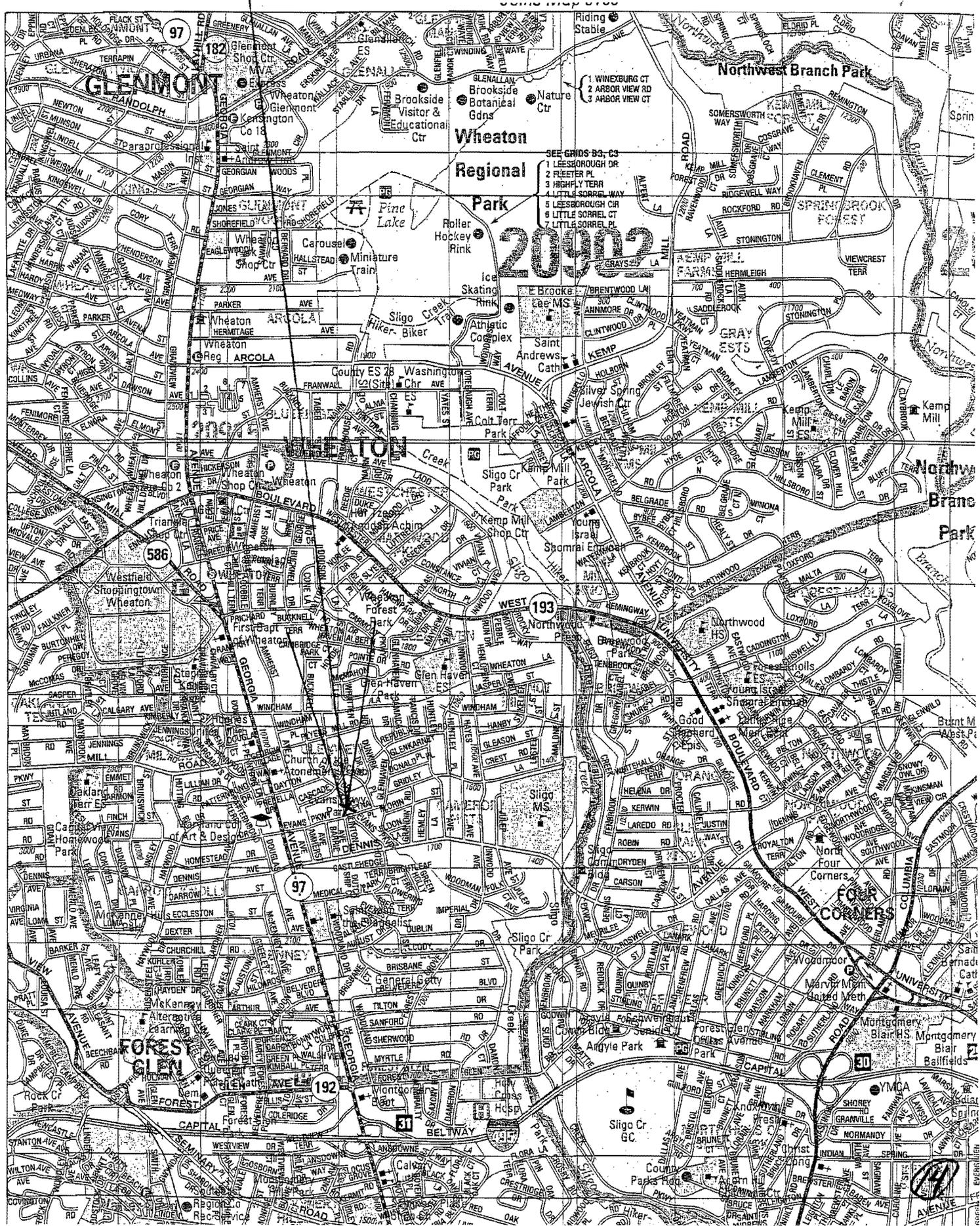
Aug 19, 2009

  
Isiah Leggett, County Executive

13

ADC Map 52 86  
Evans Parkway

AB 717



# GLENVIEW

M. N. C. P. & R. C.  
2001/360  
5.13

# EVANS PARKWAY

DENNIS AVENUE  
ELEMENTARY SCHOOL

Board of Education  
2510/321  
6.97 Ad.  
P682

N 775.  
WOLF  
MEDICAL CENTER

ST. JOHN'S

ST. JOHN'S

PARCEL "A"

P 500

P452

ETNA PL.

P515  
117064F

(13-246)  
THE BURKLAND  
CONDOMINIUM  
PLATS 2790-2793  
PAR. "C"

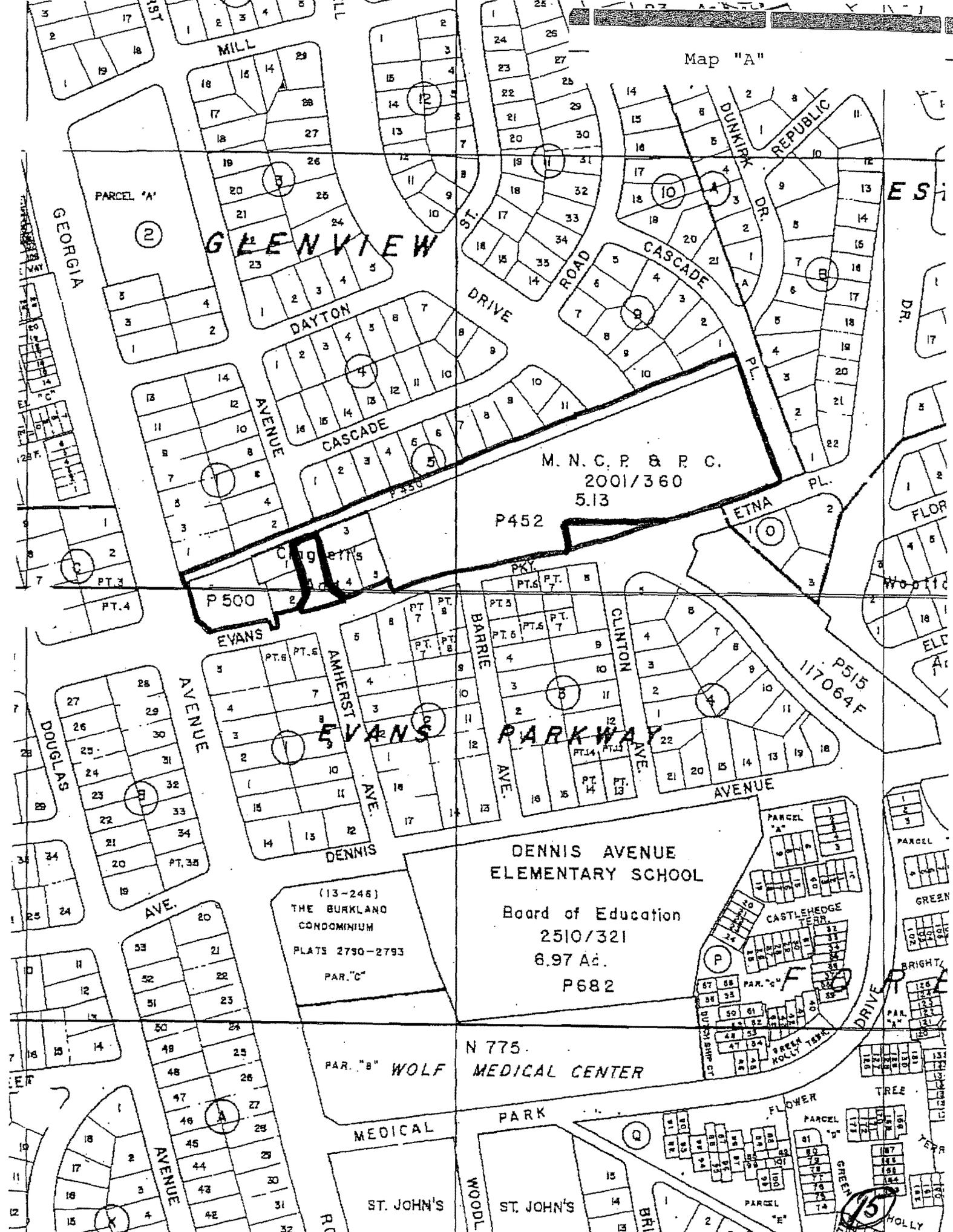
PAR. "B"

CASTLEHEDGE  
TRAIL

PAR. "F"

GREEN HOLLY  
TRAIL

PARCEL "E"





**MONTGOMERY COUNTY DEPARTMENT OF PARKS**  
 THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

AB 717

Exhibit 1

July 2, 2008

RECEIVED  
 JUL 07 2008

RECEIVED

JUL 03 2008

OFFICE OF THE  
 COUNTY EXECUTIVE

The Honorable Isiah Leggett  
 Montgomery County Executive  
 Executive Office Building  
 101 Monroe Street, 2<sup>nd</sup> Floor  
 Rockville, Maryland 20850

Re: Abandonment Request for a portion of Evans Parkway  
 Silver Spring, Maryland

Dear Mr. Leggett:

The Maryland-National Capital Park and Planning Commission owns the property shown outlined in green on Map "A", attached. This property, known as Evans Parkway Neighborhood Park, is scheduled for major renovation in the not too distant future.

To facilitate the planned renovation work, the Commission intends to record a subdivision plat to unify the eight parcels which make up the park, plus portions of two previously dedicated but unbilt road rights-of-way, into a single parcel. One of the road rights-of-way, a portion of dedicated but unbilt Amherst Avenue, shown in blue on Map "A", was previously abandoned in 1982 by Council Resolution No. 9-1658 and is clear for incorporation into the park. The second road right-of-way, a portion of dedicated but unbilt Evans Parkway, shown in red on Map "A", needs to be officially abandoned to accomplish the Commission's objective. This correspondence is the Commission's official request that Montgomery County's Department of Transportation take whatever steps are necessary to effect the abandonment of this portion of Evans Parkway.

In anticipation of submitting this abandonment request, the Commission had the abandonment area surveyed to identify its exact limits. Map "B", attached, which is a portion of our proposed subdivision plat for unifying the Commission owned properties and the unbilt road rights-of-way into one parcel, shows the proposed abandonment area as containing 5,331 square feet.

The Commission understands that as a government agency any normal application and/or processing fees for this abandonment request will be waived.

Thank you for your help and attention to this matter.

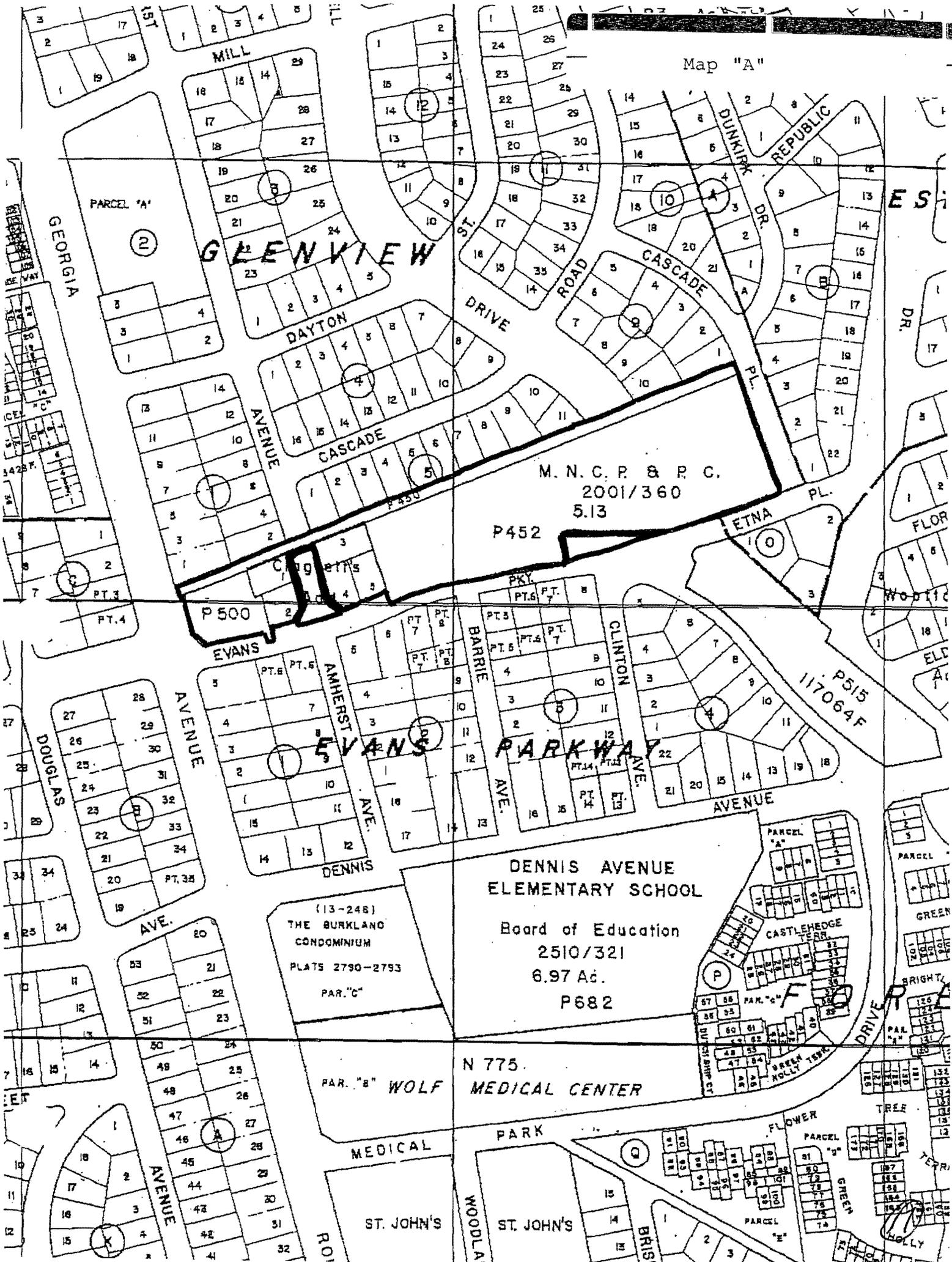
Sincerely,

*William E. Gries*

William E. Gries  
 Land Acquisition Specialist

cc: Michael Cassidy, DOT

16



# GLENVIEW

M. N. C. P. & R. C.  
2001/360  
5.13

P 500

# EVANS

# PARKWAY

DENNIS AVENUE  
ELEMENTARY SCHOOL

Board of Education  
2510/321  
6.97 Ac.  
P682

(13-248)  
THE BURKLAND  
CONDOMINIUM  
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WOLF  
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ST. JOHN'S

ST. JOHN'S

CASTLEHEDGE  
TERRACE

GREEN  
HOLLY TERRACE

FLOWER  
GREEN

PARCEL "E"

PARCEL "F"

PARCEL "G"

E S

DR.

FLO

WOOD

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PARCEL

PARCEL

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TREE

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HOLLY

PARCEL "A"

GEORGIA

DAYTON

AVENUE

PT. 3

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DOUGLAS

AVE.

PT. 3B

AVE.

ET

AVENUE

ROI

MILL

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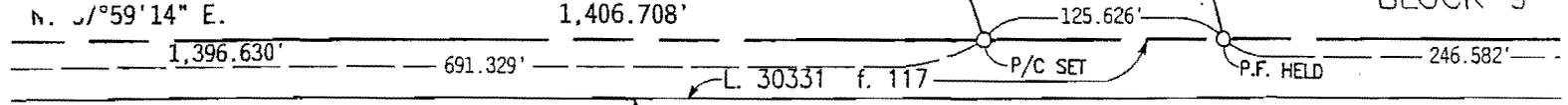
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Map "B"

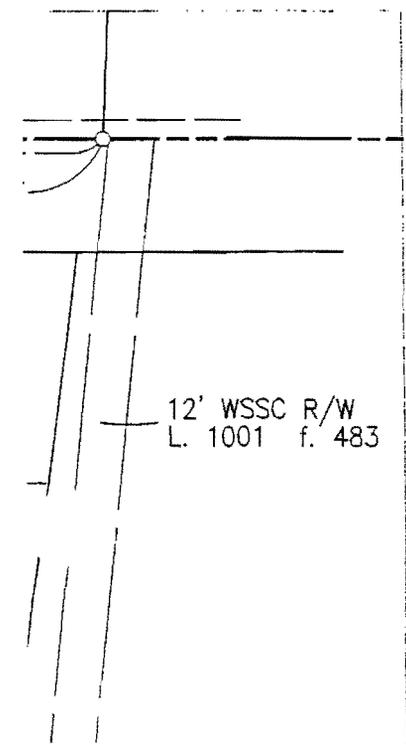
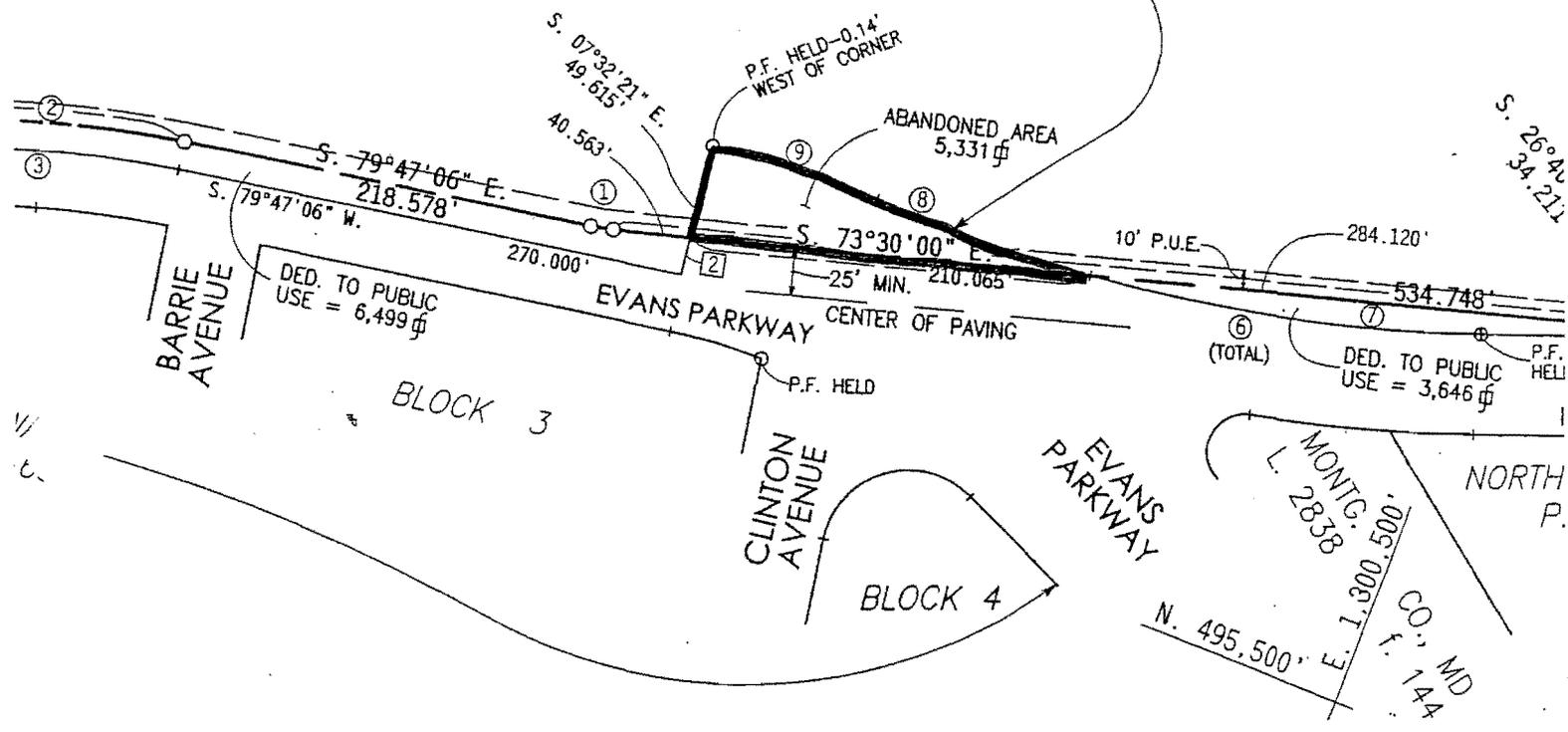
GLENVIEW  
PLAT No. 1632  
BLOCK 5

GLENVIEW  
PLAT No. 3309  
BLOCK 9



EVANS PARKWAY  
AT No. 10258  
30331 f. 117

PARCEL A  
332,442  $\square$  OR  
7.63182 ACRES



LINE TABLE "1"		
1	N. 11°10'50" W.	6.072'
2	S. 07°32'21" E.	20.124'
3	N. 20°12'52" W.	15.034'

RADIUS POINT COORDINATES		
RADII	NORTH	EAST
1	495.693.199'	1,300.026.546'
8	496.467.763'	1,300.211.541'
9	495.250.161'	1,300.164.000'
2,3	494.960.611'	1,299.936.461'
10,11,12		
13,14,15	496.762.450'	1,299.118.207'
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OWNER'S CERTIFICATION:

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DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION  
MONTGOMERY COUNTY, MARYLAND

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AB717 - ABANDON PORTION OF :  
EVANS PARKWAY, NORTHBROOK :  
ESTATES SUBDIVISION :  
SILVER SPRING :  
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-----X

A hearing in the above-entitled matter was held on  
Monday, October 20, 2008, commencing at 1:09 p.m., in the  
County Office Building, First Floor Auditorium, 100 Maryland  
Avenue, Rockville, Maryland 20850, before:

DIANE R. SCHWARTZ JONES  
Hearing Examiner

 **COPY**

*Deposition Services, Inc.*  
6245 Executive Boulevard  
Rockville, MD 20852  
Tel: (301) 881-3344 Fax: (301) 881-3338  
info@DepositionServices.com www.DepositionServices.com

APPEARANCES

MICHAEL CASSEDY, Department of Transportation

WILLIAM GREIS, Department of Parks

P R O C E E D I N G S

1  
2 MS. SCHWARTZ JONES: Good afternoon. Today is  
3 Monday, October 20, 2008. The time is approximately 1:10  
4 p.m. and we are assembled in the Executive Office Building  
5 Lobby Auditorium located at 101 Monroe Street in Rockville,  
6 Maryland. I am Diane Schwartz Jones, an Assistant Chief  
7 Administrative Officer for Montgomery County assigned as the  
8 designee of the County Executive to conduct this public  
9 hearing.

10 The subject of this hearing is the application of  
11 the Montgomery County Planning Board of the Maryland National  
12 Capital Park and Planning Commission to abandon a portion of  
13 Evans Parkway in the Northbrook Estate Subdivision in Silver  
14 Spring, Maryland. This hearing is being held pursuant to  
15 Section 49-62(f) of the Montgomery County Code, and Executive  
16 Order No. 20908 effective August 19, 2008.

17 The purpose of the hearing is to obtain public  
18 input to provide the County Executive with a sound factual  
19 record, and with the full benefit of citizen and community  
20 recommendations in his decisionmaking process. Under Section  
21 49-63(e) of the County Code, the County may close or abandon  
22 the right of way if that right of way is no longer needed for  
23 present or future public use, or if the abandonment or  
24 closing is necessary to protect the health, safety and  
25 welfare of the residents in the neighborhood.

1           At the conclusion of the hearing and the receipt of  
2 any comments following the closure of the record, I will make  
3 recommendations to the County Executive who, in turn, will  
4 make his recommendation to the County Council. The ultimate  
5 decision on abandonment will be made by the County Council.  
6 It is my intention to hold the hearing record open for a  
7 period of two weeks so that those who could not be with us  
8 today, and those who would like to respond to what they hear  
9 today can have an opportunity to get their comments on the  
10 record and have them duly considered.

11           Submissions should be sent to Michael Cassedy with  
12 the Montgomery County Department of Transportation. Mr.  
13 Cassedy will maintain the official hearing record through the  
14 close of the comment period at 5 p.m. on Monday, November  
15 3rd, 2008. Comments should be sent to Mr. Cassedy's  
16 attention at 101 Monroe Street, 10th Floor, Rockville,  
17 Maryland 20850, or they can be sent by a facsimile to Mr.  
18 Cassedy at (240) 777-

19           MR. CASSEY: 7259.

20           MS. SCHWARTZ JONES: All comments should reference  
21 the abandonment petition number which is Abandonment Petition  
22 No. 717 and that should be referenced in the subject line.  
23 With that, we will hear from Mr. Cassedy and then, Mr. Gries,  
24 do you intend to make a statement?

25           MR. CASSEY: Thank you. I am Mike Cassedy of the

22

1 Department of Transportation. My office is charged with  
2 administering the abandonment process. As mentioned, this  
3 public hearing is being held to consider the county's  
4 abandoning a portion of unimproved Evans Parkway in the  
5 Northbrook Estates Subdivision in Silver Spring. The  
6 applicant is the Montgomery County Department of Parks.

7 The purpose of the abandonment is for the  
8 Department of Parks to unite at several parcels and this  
9 portion of the right of way into a new record plat and to  
10 further develop its neighborhood park. In fulfillment of the  
11 conditions of Section 49-62 of the Montgomery County Code, my  
12 office requested comments from the public, appropriate  
13 governmental agency and public utilities companies that might  
14 be affected by the proposed abandonment.

15 I will now read into the record the evidence  
16 required by County code. Number one is a letter dated July  
17 2nd, 2008 from the Department of Parks, the applicant,  
18 requesting the abandonment of this portion of Evans Parkways.

19 Exhibit 2 is Executive Order 209-08 effective date  
20 August 19, 2008 authorizing a public hearing.

21 Exhibit 3 is a list of citizens that were sent  
22 notices of the public hearing.

23 Number 4 is proof of newspaper advertising in the  
24 Montgomery Sentinel on October 9th and October 16th, 2008.

25 Number 5 will be a GIS aerial photo of the area

1 showing right of way lines.

2 Exhibit 6 is Plat No. 2495 showing the right of way  
3 dedication in Northbrook Estates.

4 Exhibit 7 is a photograph of the sign in place and  
5 a work order indicating that it was put in place actually on  
6 August 12.

7 Number 8 is a letter from WSSC dated August 26  
8 expressing no objection.

9 Number 9 is an e-mail and letter dated August 26,  
10 also from Washington Gas, expressing an objection which can  
11 be lifted by the applicant granting an easement.

12 Number 10 is the Montgomery County Planning Board  
13 staff memorandum recommending approval. The Planning Board  
14 will be meeting this Thursday on this. It was with no  
15 condition, so I do not yet have the Chairman's letter that  
16 would normally accompany the staff report. But when I have  
17 that, I will enter that as an exhibit as well.

18 Number 11 is an e-mail from the Department of Fire  
19 and Rescue Services dated September 8, 2008 expressing no  
20 objection.

21 Exhibit 12 is a memorandum dated October 20, 2008  
22 from the Department of Transportation recommending approval  
23 conditioned upon the applicant granting easements for county  
24 storm drains and public utilities, if any, and recording a  
25 new record plat incorporating the former right of way.

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1           Lastly, Number 13 is a letter from Pepco dated  
2 September 2nd, 2008 expressing no objection.

3           Missing are comments from the police department,  
4 which I will endeavor to get before the close of the record.  
5 I might add that I have only, I have had no contact save one  
6 phone call from the sign just wanting to know what an  
7 abandonment was in this matter. If the hearing officer has  
8 any questions for me regarding the abandonment process, I  
9 would be glad to answer them. And, if she has any questions  
10 for the applicant, a representative from the Department of  
11 Parks is here and can answer those.

12           MS. SWARTZ JONES: That is it?

13           MR. CASSEDY: That is it.

14           MS. SWARTZ JONES: Just one point of clarification.  
15 The applicant I had indicated was the Montgomery County  
16 Planning Board. It is actually the Montgomery County  
17 Department of Parks of the Maryland National Capital Park and  
18 Planning Commission. And, Mr. Bill Gries is here to speak on  
19 their behalf.

20           MR. GRIES: For the record, my name is Bill Gries,  
21 I am with the Park Development Division of the Department of  
22 Parks. As the requested abandonment was related to you  
23 through Mr. Cassidy, all the information is correct. The  
24 only thing I wanted to point out is that, when we originally  
25 applied for this abandonment, we had the abandonment area

1 surveyed, and it was 5,331 square feet, a relatively small  
2 amount of property. But that size might be reduced as we  
3 meet the minimum right of way requirements for Evans Parkway.  
4 So we are not going to, when we abandon, have a complete new  
5 survey to know exactly what that will be, but it will not be  
6 any more than the 5,331 square feet. Okay, and that is all  
7 we have. All right. Thank you.

8 MS. SWARTZ JONES: Thank you, Mr. Gries. There is  
9 no one else here to speak at this hearing. There is no need  
10 therefore for me to repeat the instructions on where to send  
11 comments. It is 1:16 and this hearing is now concluded.  
12 Thank you.

13 (Whereupon, at 1:16 p.m., the hearing was  
14 concluded.)

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✓ Digitally signed by Keena Lukacinsky

ELECTRONIC CERTIFICATE

DEPOSITION SERVICES, INC., hereby certifies that the attached pages represent an accurate transcript of the electronic sound recording of the proceedings before the Department of Public Works and Transportation in the matter of:

AB717 - ABANDON PORTION OF EVANS PARKWAY

By:



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Keena Lukacinsky, Transcriber