

AGENDA ITEM #2F  
October 20, 2009  
**Action**

**MEMORANDUM**

October 16, 2009

TO: County Council

FROM: Sherry Kinikin, Legislative Analyst *SK*

SUBJECT: **Action**—Abandonment – Portion of Ronald Drive, Potomac, Maryland

A portion of Ronald Drive has been proposed for abandonment. This memorandum is to request additional time to comply with conditions of the above referenced County Council Resolution No. 15-1096, adopted July 26, 2005 (see © 2-3). Condition No. 2 of the Resolution required the applicants (Ahmad and Mahtab Habibi and Lloyd and Virginia Potter) to file a new record plat incorporating the former right-of-way, unimproved Ronald Drive, except for a 20-foot wide area to remain as right-of-way for a future bike path within two years of the Council's action. The time expired on July 26, 2007.

The requirement to file a new record plat within two years of the Council's action was imposed by the Department of Public Works and Transportation (now Department of Transportation) because previous Council resolutions of abandonment did not contain time limits for applicants to meet conditions of the resolutions of abandonment. Problems arose in a few cases due to this. In 2007, the Montgomery County Code was amended to provide five years from the date of the Council action for conditions to be met.

To remedy this problem, it is recommended that the Council amend Resolution No. 15-1096 by extending the deadline for meeting the conditions to five years from the date of the Council action.

**Council staff recommendation: Concur with the Executive.**

Attachments

Executive's transmittal  
Draft adoption resolution

©1-4  
©5



051739

OFFICE OF THE COUNTY EXECUTIVE  
ROCKVILLE, MARYLAND 20850

Isiah Leggett  
County Executive

MEMORANDUM

October 7, 2009

TO: Phil Andrews, President  
Montgomery County Council

FROM: Isiah Leggett, County Executive 

SUBJECT: Amendment to County Council Resolution of Abandonment No. 15-1096  
Additional Time for Compliance

2009 OCT -8 PM 2:02

RECEIVED  
MONTGOMERY COUNTY  
COUNCIL

The purpose of this memorandum is to request additional time to comply with conditions of the above referenced County Council Resolution No. 15-1096, adopted July 26, 2005 (Attachment No. 1). Included for your consideration is a Council Resolution (Attachment No. 2) to amend the previous Resolution by extending the deadline for meeting conditions to five years from the date of the Council Action.

Condition No. 2 of County Council Resolution No. 15-1096, adopted July 26, 2005, required the Applicants (Ahmad and Mahtab Habibi and Lloyd and Virginia Potter) to file a new record plat incorporating the former, unimproved Ronald Drive right-of-way except for a 20-foot wide area to remain as right-of-way for a future bike path within two years of the Council's action. Time expired on July 26, 2007.

The requirement to file a new record plat within two years of the Council's action was imposed by the Department of Public Works and Transportation (now Department of Transportation), because previous Council Resolutions of Abandonment did not contain time limits for Applicants to meet conditions of the Resolutions. Problems arose in a few cases due to this. In 2007, Section 49-65 of the Montgomery County Code was amended to provide five years from the date of the Council action for conditions of Abandonment Resolutions to be met.

To remedy this problem it is recommended that the Council amend Resolution No. 15-1096 by extending the deadline for meeting the conditions of that Resolution to five years from the date of the Council action.

Thank you for your consideration of this matter.

IL/rg

Attachments

Resolution No.: 15-1096  
Introduced: July 26, 2005  
Adopted: July 26, 2005

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

By County Council

**SUBJECT:** DPWT Docket No. AB663  
Abandonment - Portion of Ronald Drive  
Potomac, Maryland

TOTAL 8.00  
RESERVED RPT#333333  
HOR GAS BIK#5135  
SEP 19 2005 02:44 PM

**Background**

1. By letter dated May 18, 2004, from Linowes and Blocher, on behalf of its clients, Ahmad and Mahtab Habibi and Lloyd and Virginia Potter, the Applicants, application to the County was made to abandon a portion of Ronald Drive at its intersection with Falls Road in Potomac. The subject area is immediately east of and adjoining another section of Ronald Drive which was partly abandoned except for a 20-foot wide portion for a future pedestrian/bikeway path in AB395, County Council Resolution No. 8-2101.
2. A Public Hearing to consider the abandonment proposal was conducted on December 13, 2004, by the Designee of the County Executive.
3. The Police Department had no objection to the proposed abandonment.
4. Washington Suburban Sanitary Commission conditioned approval upon Applicant granting any necessary easements to protect the integrity of its existing eight inch sewer line.
5. Washington Gas had no objection to the proposed abandonment.
6. Potomac Electric Power Company had no objection to the proposed abandonment.
7. Verizon had no objection to the proposed abandonment.
8. Maryland-National Capital Park and Planning Commission conditioned its approval upon Applicants recording a plat of abandonment reserving a 20-foot wide pedestrian/bike path as right-of-way in an area to be approved by the Department of Public Works and Transportation.

*N.A. G.S.*

FILED  
HOLLY O. RUIH  
CLERK'S OFFICE  
MONTGOMERY CO. MD.

2005 SEP 19 P 2:45

NO FEE - MONTG. CO. MD.

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9. The Department of Public Works and Transportation conditioned approval upon Applicants recording a plat of abandonment on which a 20-foot wide area is to remain as right-of-way for a future bike path in an area to be approved by the department. Approval of the abandonment is further conditioned upon the County's reservation of rights for any necessary easements for County storm drain facilities or public utility facilities within the area.
10. The Department of Fire and Rescue Services had no objection to the proposed abandonment.
11. The County Executive recommends approval of the proposed abandonment subject to the agency and public utility conditions.

Action

The County Council for Montgomery County, Maryland, finds that the portion of Ronald Drive described on Exhibit A is no longer necessary for public use, pursuant to Section 49-62 and Section 49-63 of the Montgomery County Code (2004), as amended, and approves the abandonment subject to the following conditions:

1. The Applicant shall record all necessary easements and if necessary relocate facilities for any affected public utility companies and Montgomery County for storm drainage facilities in place.
2. The Applicant shall bear all costs for the preparation and recordation of all necessary easement documents and plats. Within twenty-four months from the date of this Resolution Applicant must record a plat of abandonment incorporating the former right-of-way except for a 20-foot wide area to remain as right-of-way for a future bike path in a location to be approved by the Department of Public Works and Transportation prior to recordation of the plat.
3. The County Attorney shall record among the Land Records of Montgomery County, Maryland, a copy of the Resolution approving abandonment of the subject area, subject to the reservation of rights specified in this Resolution.
4. 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.

*Linda M. Lauer*

Linda M. Lauer, Clerk of the Council

I HEREBY CERTIFY THAT THE FOREGOING  
IS A TRUE AND CORRECT COPY.

*Linda M. Lauer*

CLERK OF THE COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND

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## OFFICE OF THE COUNTY ATTORNEY

Douglas M. Duncan  
*County Executive*

Charles W. Thompson, Jr.  
*County Attorney*

SEP 19 2005

Molly Q. Ruhl, Clerk  
Circuit Court for Montgomery County, Maryland  
Courthouse  
Rockville, Maryland 20850

Dear Ms. Ruhl:

Please record the attached document on behalf of Montgomery County, Maryland, and waive the usual recording fee.

Thank you for your attention to this matter.

Sincerely,

Eileen T. Basaman  
Assistant County Attorney

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

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

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By County Council

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**SUBJECT:** Amendment to County Council Resolution No. 15-1096  
Additional Time for Compliance with Condition of Abandonment  
Ronald Drive, Potomac Hills Subdivision, Potomac, Maryland

**Background**

1. Montgomery County Council Resolution No. 15-1096, adopted July 26, 2005, approved the abandonment of a portion of Ronald Drive in the Potomac Hills Subdivision with conditions. Action No. 2 required the Applicant to file a new record plat incorporating the former right-of-way except for a 20-foot wide area to remain as right-of-way for a future bike path in a location to be approved by the Department of Public Works and Transportation (now Department of Transportation) within twenty-four (24) months from the date of the Resolution.
2. The County Executive has recommended to the County Council that County Council Resolution No. 15-1096 be amended by extending the time limit to five years from the date the Resolution was adopted for compliance with Action No. 2.

**Action**

1. The County Council for Montgomery County, Maryland approves amending County Council Resolution No. 15-1096 by allowing five years from the date of adoption, July 26, 2005, for the Applicant to comply with Action No. 2.
2. The County Attorney must record among the Land Records of Montgomery County, Maryland, a copy of this Resolution.
3. Any person aggrieved by the action of the Council for amending County Council Resolution No. 15-1096 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