

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

**MEMORANDUM**

October 16, 2009

TO: County Council

FROM: Sherry Kinikin, Legislative Analyst *SKK*

SUBJECT: **Action**—abandonment of a wide alley, Block D, Silver Spring, Maryland

A wide alley in Block D in Silver Spring has been proposed for abandonment. This memorandum is to request additional time to comply with conditions of the above referenced County Council Resolution No. 15-1360, adopted March 14, 2006 (see © 2-5). Condition No. 2 of the Resolution required the applicant (RST Development) to file a new record plat incorporating the former right-of-way, an alley within Block D of Silver Spring between 13<sup>th</sup> Street and King Street in the Central Business District, within two years of the Council's action. The time expired on March 4, 2008.

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. 15-1360 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

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©7

TRAN



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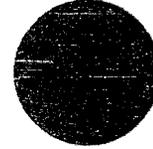
SAK  
CC  
SEP  
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SAK

OFFICE OF THE COUNTY EXECUTIVE  
ROCKVILLE, MARYLAND 20850

Isiah Leggett  
County Executive

MEMORANDUM

October 7, 2009



2009 OCT -8 PM 2:02

RECEIVED  
MONTGOMERY COUNTY  
COUNCIL

TO: Phil Andrews, President  
Montgomery County Council

FROM: Isiah Leggett  
County Executive

SUBJECT: Amendment to County Council Resolution of Abandonment No. 15-1360  
Additional Time for Compliance

The purpose of this memorandum is to request additional time to comply with conditions of the above referenced County Council Resolution No. 15-1360, adopted March 14, 2006 (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. 15-1360, adopted March 14, 2006, required the Applicant (RST Development) to file a new record plat incorporating the former right-of-way, an alley within Block D of Silver Spring between 13<sup>th</sup> Street and King Street in the Central Business District, within two years of the Council's action. Time expired on March 14, 2008.

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 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. 15-1360 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

2006 JUL 14 P 12:19

Resolution No.: 15-1360

Introduced: March 14, 2006Adopted: March 14, 2006

FILED  
MOLLY D. RUHL  
CLERKS OFFICE  
MONTGOMERY CO. MD.

COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND

By County Council

SUBJECT: DPWT DOCKET NO. AB667  
ABANDONMENT - WIDE ALLEY, BLOCK D  
SILVER SPRING, MARYLAND

RECORDING FEE 0.00  
TOTAL 0.00  
Res#1006 Acct#999999  
MGR BOH BIK#2678  
Jul 14, 2006 12:17 PM

NO FEE - MONTG. CO. MD.

Background

1. By letter dated July 23, 2004, from Holland & Knight, on behalf of its client, RST Development, the Applicant, application to the County was made to abandon an alley within Block D of Silver Spring between 13<sup>th</sup> Street and King Street in the Central Business District. The subject area is shown on the attached Tax Map JN32 as highlighted.
2. A Public Hearing to consider the abandonment proposal was conducted on February 23, 2005, by the Designee of the County Executive.
3. The Police Department had no objection.
4. Washington Suburban Sanitary Commission had no objection.
5. Washington Gas had no objection but noted that if a gas line is discovered in the subject area that Applicant must grant an easement to protect its line or fully cover the cost of a relocation of the gas line.
6. PEPCO conditioned approval upon the Applicant granting an easement for its facilities or paying to relocate its facilities and granting an easement.
7. Verizon conditioned approval upon the Applicant granting an easement to cover its existing and future facilities or pay for the relocation of its facilities.
8. Maryland-National Capital Park and Planning Commission conditioned its approval upon Applicant filing a record plat for the proposed subdivision contained in Galaxy RST development, Preliminary Plan No. 1-05089.

AA

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Resolution/Abandonment  
AB667 – Alley in Block D  
Silver Spring CBD

Resolution No.: 15-1360

9. The Department of Public Works and Transportation conditioned approval upon the County's reservation of rights for any County storm drain facilities or public utility facilities within the area and upon the condition that the abandonment not take place until Lot 16 is sold and conveyed to the Applicant in exchange for a public parking garage in accordance with the terms of a General Development Agreement on file in the department.
10. The Department of Fire and Rescue Services had no objection.
11. The County Executive recommends approval of the proposed abandonment with the aforesaid conditions.

Action

The County Council for Montgomery County, Maryland, finds that the alley in Block D of the Silver Spring CBD shown on the attached Tax Map JN32 as highlighted 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, as well as proposed facilities, for purposes of repair and maintenance. The abandonment shall not take effect until Lot 16 is sold and conveyed in accordance with a General Development Agreement on file in the Department of Public Works and Transportation.
2. The Applicant shall bear all costs for the preparation and recordation of all necessary easement documents and plats. Within twenty-four (24) months from the date of this Resolution applicant must file a plat of abandonment incorporating the former right-of-way and pursuant to the proposed subdivision contained in Galaxy RST development, Preliminary Plan No. 1-05089.
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.

Resolution/Abandonment  
AB667 – Alley in Block D  
Silver Spring CBD

Resolution No.: 15-1360

- 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.

Attachment – Tax Map JN32

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.

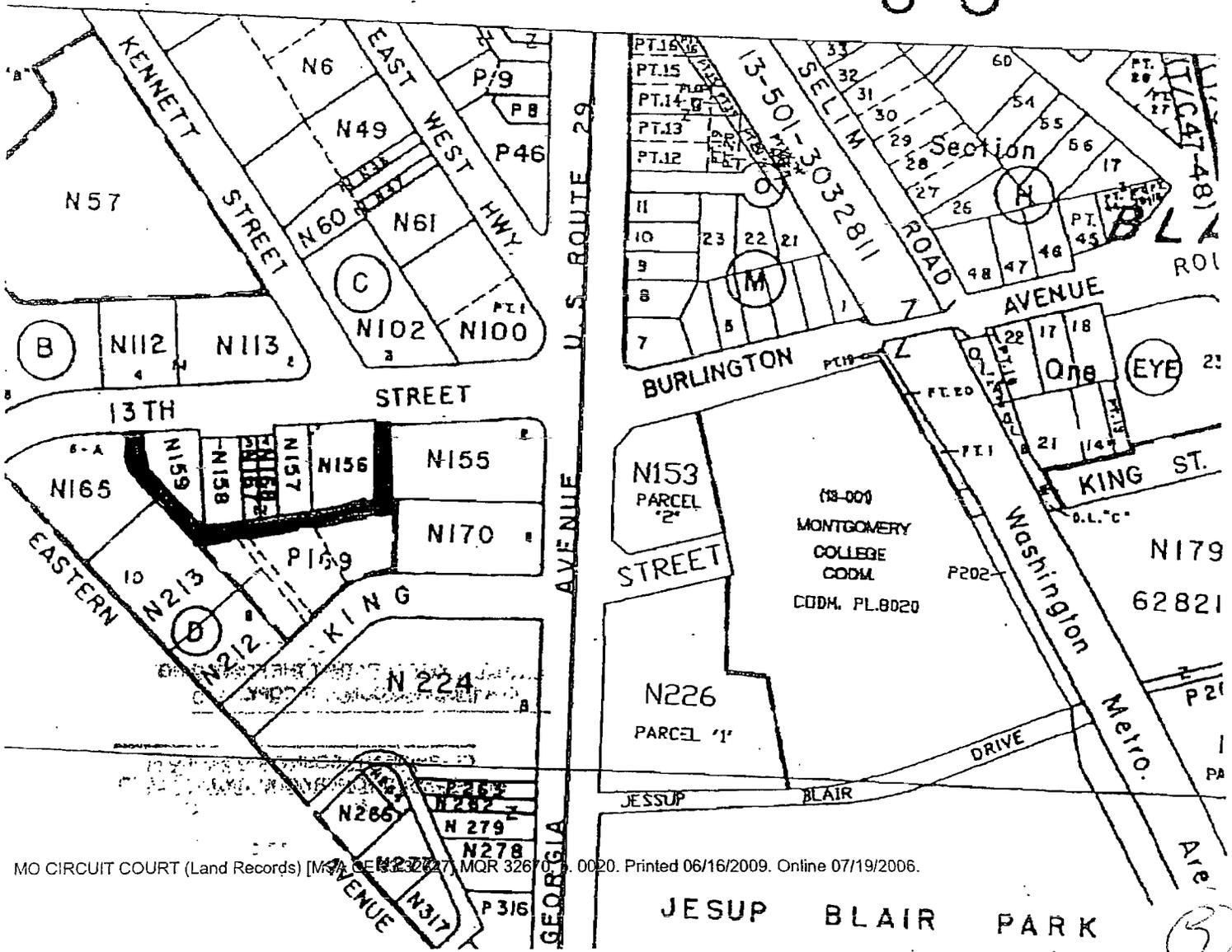
*Linda M. Lauer*

CLERK OF THE COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND



JN 32

J 3





## OFFICE OF THE COUNTY ATTORNEY

Douglas M. Duncan  
*County Executive*

Charles W. Thompson, Jr.  
*County Attorney*

**JUL 14 2006**

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  
Associate County Attorney

I:\KQL\lila\RE Settlement Forms\settlements-1-clerk-rec. letter.wpd



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. 15-1360  
Additional Time for Compliance with Condition of Abandonment  
Alley in Block D of Silver Spring (CBD), Maryland

**Background**

1. Montgomery County Council Resolution No. 15-1360, adopted March 14, 2006, approved the abandonment of an Alley in Block D of Silver Spring between 13<sup>th</sup> Street and King Street in the Central Business District with conditions. Action No. 2 required the Applicant to file a new record plat incorporating the former right-of-way within twenty-four (24) months from the date of the Resolution and pursuant to the proposed subdivision contained in Galaxy RST Development, Preliminary Plan No. 1-05089.
2. The County Executive has recommended to the County Council that County Council Resolution No. 15-1360 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. 15-1360 by allowing five years from the date of adoption, March 14, 2006, 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. 15-1360 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