

AGENDA ITEM #2H

October 20, 2009

**Action**

**MEMORANDUM**

October 16, 2009

TO: County Council

FROM: Sherry Kinikin, Legislative Analyst *SK*

SUBJECT: **Action**—abandonment – Portion of Unimproved Legion Drive  
Montco Addition Subdivision, Damascus, Maryland

A portion of unimproved Legion 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. 15-1537, adopted July 11, 2006 (see © 2-4). Condition No. 2 of the Resolution required the applicants (Joseph Mullaney, Daniel and Kelly Sennewald, and Richard Redman) to file a new record plat incorporating the former unimproved Legion Drive right-of-way within two years of the Council's action. The time expired on July 11, 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 to be met.

To remedy this problem, it is recommended that the Council amend Resolution No. 15-1537 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

©1 - 6

Draft adoption resolution

©7

*Trans*



051769

*SAR*  
*CC*  
*SAR*  
*LA*  
*GO*

OFFICE OF THE COUNTY EXECUTIVE  
ROCKVILLE, MARYLAND 20850

Isiah Leggett  
County Executive

2009 OCT -9 PM 2:46

RECEIVED  
MONTGOMERY COUNTY  
COUNCIL

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. 15-1537  
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. 15-1537, adopted July 11, 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. 15-1537, adopted July 11, 2006, required the Applicants (Joseph Mullaney, Daniel and Kelly Sennewald, and Richard Redman) to file a new record plat incorporating the former, unimproved Legion Drive right-of-way within two years of the Council's action. Time expired on July 11, 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. 15-1537 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

①

32879 451

Resolution No.: 15-1537  
Introduced: July 11, 2006  
Adopted: July 11, 2006

COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND

By County Council

**SUBJECT:** DPWT Docket No. AB673  
Abandonment - Portion of Unimproved Legion Drive  
Montco Addition Subdivision, Damascus, Maryland

Background

1. By letter dated April 19, 2005, from Joseph Mullaney, Daniel and Kelly Sennewald, and Richard Redman, the Applicants, application to the County was made to abandon a portion unimproved Legion Drive in the Montco Addition of Damascus. The subject area is shown on the attached Tax Map FX33.
2. A public hearing to consider the abandonment proposal was conducted on February 23, 2006, by the designee of the County Executive.
3. The Police Department did not object.
4. The Washington Suburban Sanitary Commission had no objection.
5. Washington Gas did not object.
6. Allegheny Power had no objection.
7. Verizon did not comment within 60 days.
8. The Maryland-National Capital Park and Planning Commission recommended approval.
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.
10. Department of Fire & Rescue Services did not comment within 60 days.
11. The County Executive recommends approval of the proposed abandonment.

2006 AUG 21 P. 1:19

FILED  
MOLLY D. RUHL  
CLERK'S OFFICE  
MONTGOMERY CO., MD.

TOTAL 8.00  
Res#1007 Rcr#999993  
MGR YHM BIL#5104  
AUG 21, 2006 01:19 PM

NO FEE

3

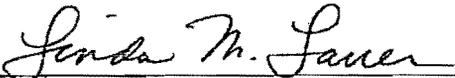
Action

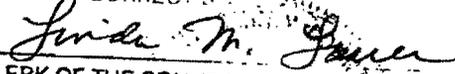
The County Council for Montgomery County, Maryland, finds that the portion of unimproved Legion Drive in the Montco Addition subdivision of Damascus as shown on the attached Tax Map FX33, is no longer necessary for public use, pursuant to Section 49-62 and Section 49-53 of the Montgomery County Code (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.
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.
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.

Attachment – Tax Map FX33

This is a correct copy of Council Action.

  
Linda M. Lauer, Clerk of the Council

I HEREBY CERTIFY THAT  
THIS IS A TRUE AND CORRECT COPY  
  
CLERK OF THE COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND

32879 453

HALL

93.06 Ac.  
P333

(See Map Grid  
FX33P333)

P507

P565

P623

P673

P676

P726

P720

P605

N637

SCUDER

LEGION DRIVE

19.33 Ac.  
P800

MONTCO'S  
ADD.

MONTCO'S  
ADD.

J.M. McGovern et al  
7683/136  
6.78 Ac.  
P891

(See Map Grid  
FX23P891)

P807

P840

P868

P915

P874

P875

P907

P906

Map Grid FX22P150

(See Map Grid FX32P111)

(See Map Grid FX32P111)

F 2  
MONTGOMERY CO.,  
MARYLAND

MAP FX  
W.S.S.C. 23  
Location: DA

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Tax Map FX 33

MO CIRCUIT COURT (Land Records) [MSA CE 63-32836] MQR 32879, p. 0453.

4



32879 454

OFFICE OF THE COUNTY ATTORNEY

Douglas M. Duncan  
County Executive

Charles W. Thompson, Jr.  
County Attorney

AUG 21 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\lilaj\RE Settlement Forms\settlements-1-clerk-rec. letter.wpd

Mr. Mike Cassidy,

7/8/08

You assisted us in the beginning of this process and would appreciate your help again. As per our phone conversation a few weeks before the dead line, here is a letter asking the county council to extend our dead line.

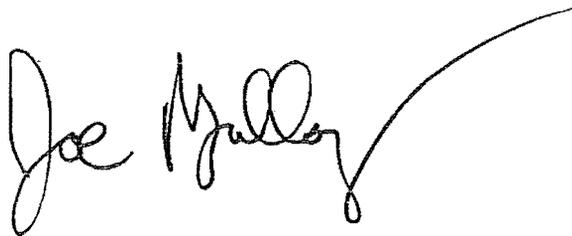
ISSUE: Abandonment of Unimproved Legion Drive Resolution #:15-1537

REQUEST: More time needed:

Reason: Started the process of submitting plans 6 months before dead line and was unaware of the number of agencies and the time needed for comments.

This is a plea for extra time needed for the recording. Both my neighbor, Daniel & Kelly Sennewald, and I, Joseph Mullaney, after receiving the council letter of approval of abandment dated July 11,2006, were advised that the survey/permit fees would be about \$8000, so we waited until we could afford it. We now, much to our dismay, have spent that money and were in the final process of approval, when the last agency return our plan a second time for what they said were the last revisions needed for approval. We are now in the home run and are hoping to be granted a few more months so that we can complete the process of recording.

Being as this would place a huge financial burden on us, we ask you grant our request.

A handwritten signature in black ink that reads "Joe Mullaney". The signature is written in a cursive style with a long, sweeping underline that extends to the right.

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. 15-1537  
Additional Time for Compliance with Condition of Abandonment  
Legion Drive, Montco Addition of Damascus Subdivision, Damascus, Maryland

**Background**

1. Montgomery County Council Resolution No. 15-1537, adopted July 11, 2006, approved the abandonment of a portion of Legion Drive in the Montco Addition of Damascus Subdivision 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.
2. The County Executive has recommended to the County Council that County Council Resolution No. 15-1537 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. 15-1537 by allowing five years from the date of adoption, July 11, 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. 15-1537 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