

**MEMORANDUM**

October 16, 2009

TO: County Council

FROM: Sherry Kinikin, Legislative Analyst *SK<sub>up</sub>*

SUBJECT: **Action**—abandonment – Portion of 10-Foot Wide Path, Block 8  
Hendry Estates Subdivision, Bethesda, Maryland

A portion of an unimproved 10-foot wide path, Block 8 in the Hendry Estates Subdivision, has been proposed for abandonment. This memorandum is to request additional time to comply with conditions of the above referenced County Council Resolution No. 15-1538, adopted July 11, 2006 (see © 2-4). Condition No. 2 of the Resolution required the applicants (John A. Moore III and Brianna M. Moore) to file a new record plat incorporating the former unimproved 10-foot wide path 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 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. 15-1538 by extending the deadline for meeting the conditions to five years from the date of Council action.

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

Attachments

Executive's transmittal

©1- 5

Draft adoption resolution

©6



051770

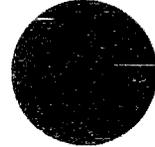
SAK  
cc  
SBF  
LL  
GO

OFFICE OF THE COUNTY EXECUTIVE  
ROCKVILLE, MARYLAND 20850

Isiah Leggett  
County Executive

MEMORANDUM

October 7, 2009



2009 OCT -9 PM 2:46

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. 15-1538  
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. 15-1538, 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. 15-1538, adopted July 11, 2006, required the Applicants (John A. Moore III and Brianna M. Moore) to file a new record plat incorporating the former, unimproved 10-foot wide path 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. 15-1538 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.: 15-1538  
Introduced: July 11, 2006  
Adopted: July 11, 2006

COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND

By County Council

SUBJECT: DPWT Docket No. Ab675  
Abandonment - Portion of 10-Foot Wide Path, Block 8  
Hendry Estates Subdivision, Bethesda, Maryland

Background

1. By letter dated August 16, 2005, from Bulman, Dunie, Burke & Feld, on behalf of its client, John A. Moore III and Brianna M. Moore, the Applicant, application to the County was made to abandon a portion a 10-foot wide, unimproved path in Block 8 between Lot 12 and Lot 13 of the Hendry Estates subdivision in Bethesda. The subject area is shown on the attached Tax Map GP61.
2. A public hearing to consider the abandonment proposal was conducted on March 2, 2006, by the designee of the County Executive.
3. The Police Department did not comment within 60 days.
4. The Washington Suburban Sanitary Commission had no objection.
5. Washington Gas did not comment within 60 days.
6. PEPCO had no objection.
7. Verizon did not comment within 60 days.
8. The Maryland-National Capital Park and Planning Commission recommended denial based upon a possible future need for a pedestrian path.
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.

CERTIFIED COPY 0.00  
TOTAL 0.00  
Res#007 Rcr#499999  
Rcr Yr# Bkr#5104  
AUG 21, 2006 01:20 PM

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FILED  
MOLLY O. RUHL  
CLERK'S OFFICE  
MONTGOMERY CO. MD.

W/C

11. The Wyngate Citizens' Association, after considering the possibility of a paved path through the right-of-way, decided against a paved path and expressed no objection to the abandonment.
12. The County Executive recommends approval of the proposed abandonment.

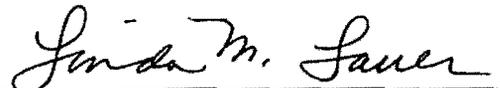
**Action**

The County Council for Montgomery County, Maryland, finds that the portion of a 10-foot wide, unimproved path in Block 8 between Lot 12 and Lot 13 of the Hendry Estates subdivision of Bethesda as shown on the attached Tax Map GP61, 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.
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.

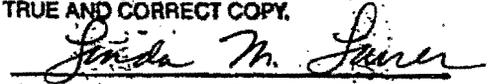
Attachment – Description

This is a correct copy of Council Action.



Linda M. Lauer, Clerk of the Council

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



CLERK OF THE COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND

AB 675 10-Foot Path

32879 462

G 6

W30000

N44000



HP 121

P 1

4



32879 463

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

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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. 15-1538  
Additional Time for Compliance with Condition of Abandonment  
10-Foot Wide Path, Hendry Estates Subdivision, Bethesda, Maryland

**Background**

1. Montgomery County Council Resolution No. 15-1538, adopted July 11, 2006, approved the abandonment of a portion of a 10-foot wide unimproved path in Block 8 between Lot 12 and Lot 13 of the Hendry Estates 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. 15-1538 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. 15-1538 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. 15-1538 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