

ACTION

MEMORANDUM

January 15, 2010

TO: Montgomery County Council

FROM: Sherry Kinikin, Legislative Analyst *SK*

SUBJECT: **ACTION:** DPWT Docket No. AB724, Closure of Pedestrian Tunnel under Stedwick Road, Montgomery Village, 9th Election District

A pedestrian tunnel under Stedwick Road in Montgomery Village is proposed for closure.

The area proposed for closure consists of about 1,472 square feet of tunnel. In connection with the review of the "Montgomery Village Marketplace" Preliminary Plan and Site Plan by the Maryland-National Capital Park and Planning Commission (M-NCPPC), JDC Village Development, LLC (JDC) was requested to make application to the County to close the existing pedestrian path/tunnel underneath Stedwick Road and to provide an alternative means of access across Stedwick Road. The path/tunnel has become a serious security concern for the residents of Montgomery Village and its retention is inconsistent with good community design principles for the new retail center. Planning Board Staff reports that 37 street robberies and 161 assaults were reported between June 2006 and June 2009.

JDC intends to permanently close and seal the underpass in connection with its Development Plans. JDC will incrementally brick up the end points and fill the underpass with gravel and "flowable fill", ultimately filling to the crown of the pipe and thus providing structural support to Stedwick Road. JDC plans to use soil to match the slope on either end of the underpass.

Attached here is a proposed Resolution whereby the County Council may approve the closure of the pedestrian tunnel under Stedwick Road in Montgomery Village subject to the conditions in the Public Hearing Officer's report and recommendation.

During its review of Bill 31-96 (Abandonments-Procedures) more than a decade ago, the T&E Committee indicated that a proposed abandonment or road closure should proceed directly to the Council unless there is some disagreement expressed over the abandonment. There is no disagreement about this abandonment.

Council staff recommends that this abandonment be approved.

Attachments

Executive's transmittal letter	© 1
Draft adoption resolution	© 2-7
Application letter	© 8-11
Public hearing notice	© 12
Hearing Examiner's report	© 13-27
Map A	© 28
Map B	© 29
Public Hearing Transcript	© 30-61

f: kinikin/road closure/AB 724

Trans



GO
cc
SBF
LL
JAK

053090

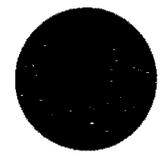
In File

Isiah Leggett
County Executive

OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

MEMORANDUM

December 9, 2009



2009 DEC 11 AM 9:18

RECEIVED
MONTGOMERY COUNTY
COUNCIL

TO: Nancy Floreen, President
Montgomery County Council

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

SUBJECT: DPWT Docket No. AB724 Closure of Pedestrian Tunnel under
Stedwick Road, Montgomery Village
Gaithersburg 9th Election District

For your consideration, attached herewith is a proposed Resolution whereby the County Council may approve the closure of a pedestrian tunnel under Stedwick Road in Montgomery Village, Gaithersburg. Supporting data are submitted as follows:

1. Council Resolution
2. Letter requesting the closure from Miller, Miller & Canby, LLP, on behalf of JDC Village Development, LLC, the Petitioner.
3. A Public Hearing was held on July 13, 2009, as announced by Executive Order No. 143-09.
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**

By County Council

SUBJECT: DPWT Docket No. AB724
Closure of Pedestrian Tunnel under Stedwick Road
Montgomery Village, Gaithersburg, Maryland

Background

1. By letter dated March 27, 2009, from Miller, Miller & Canby on behalf of its client, JDC Village Development, LLC, the Petitioner, a request to the County was made to close a pedestrian tunnel under Stedwick Road in the Montgomery Village section of Gaithersburg.
2. A Public Hearing to consider the closure proposal was held on July 13, 2009 by the designee of the County Executive.
3. PEPCO did not respond within 60 days, and therefore, concurrence is presumed.
4. Washington Gas had no objection.
5. VERIZON did not respond within 60 days, and therefore, concurrence is presumed.
6. The Department of Transportation recommended conditional approval.
7. The Department of Fire and Rescue Services had no objection.
8. The Montgomery County Planning Board recommended conditional approval.
9. The Police Department approves the closure.
10. The County Executive recommends approval of the proposed abandonment.

Action

The County Council for Montgomery County, Maryland, finds that the pedestrian tunnel under Stedwick Road (see attached description and drawing by GLW) is no longer necessary for public use, pursuant to §49-63 of the Montgomery County Code, and approves the closure of the underpass, subject to the following conditions of closure:

1. Petitioner must structurally fill and seal the tunnel at both ends as described by Petitioner's engineer at the public hearing, or using some other means of structural fill acceptable to the Department of Transportation.
2. Petitioner must enter into an agreement with the Center Court Condominium Association providing for the right of access to its property to fill and seal the underpass and to allow a portion of the filled and sealed tunnel that extends beyond the right-of-way for Stedwick Road to remain in place with the filled and sealed area being regarded and seeded, sodded or landscaped.
3. Petitioner must provide new ADA compliant pedestrian path connections to the designated pedestrian crossings of Stedwick Road.
4. Petitioner must show on the plat for its property the extent of the closed underpass beyond the limits of the right-of-way for Stedwick Road.
5. Petitioner must construct two opposing mid-block chokes with handicap ramps, restripe Stedwick Road in front of Petitioner's project to narrow travel lanes, calm traffic and reduce pedestrian crossing distance in accordance with plans to be approved by the Department of Transportation.
6. Petitioner must stripe the crosswalks in accordance with plans to be approved by the Department of Transportation.
7. Petitioner must prepare and submit for Department of Transportation approval a signing and marking plan for the improvements it will make along Stedwick Road.
8. Petitioner must obtain necessary approvals and coordinate its plans for transportation management components that might be impacted by its work in connection with implementation of the closure of the underpass and creation of the new pedestrian crossings and work described in condition number 5 above.
9. Petitioner must remove or provide for removal of existing lighting fixtures, conduit and electricity within the underpass.

10. Petitioner must construct a new pad for a future bus shelter for a consolidated bus stop at a to-be-determined location to relocate the existing bus stops on Stedwick Road.
11. Any person aggrieved by the action of the Council for closure of the pedestrian tunnel under Stedwick Road 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, Clerk of the Council

Attachment: Description and Drawing by GLW

GLWGUTSCHICK, LITTLE & WEBER, P.A.

CIVIL ENGINEERS, LAND SURVEYORS, LAND PLANNERS, LANDSCAPE ARCHITECTS

JULY 29, 2009

DESCRIPTION OF

CLOSURE OF PEDESTRIAN TUNNEL

UNDER STEDWICK ROAD PLAT BOOK 80 PLAT NO. 8208

2009 AUG -7 PM 12:00
BEING a strip of land hereinafter described as running in, through, over and across Stedwick Road as shown on a Plat of Subdivision entitled "PLAT - 9, SHOWING A PLAN OF DEDICATION OF PART OF STEDWICK ROAD THROUGH MONTGOMERY VILLAGE" and recorded among the Land Records of Montgomery County, Maryland in Plat Book 80 as Plat No. 8208 and being more particularly described in the meridian as established by the Maryland State Grid as defined by the North American Datum of 1983 and adjusted in 1991 (NAD 83/91) as follows:

BEGINNING for the said strip of land at the northwesterly end of the southwesterly or North $76^{\circ}08'02''$ West, 216.00 feet line of Lot 19 as delineated on a Plat of Subdivision entitled "PLAT 364, LOTS 19 & 20, A RESUBDIVISION OF LOT 16, VILLAGE CENTER, MONTGOMERY VILLAGE" and recorded among the aforesaid Land Records as Plat No. 13328, said point also being on the northeasterly or South $76^{\circ}08'02''$ East, 1135.88 feet right of way line of said Stedwick Road, and thence running reversely with and along a part of said southwesterly line of Lot 19 and also running with and along a part of said northeasterly right of way line, the following course and distance

1. South $76^{\circ}06'40''$ East, 10.88 feet to a point; thence leaving said southwesterly line and northeasterly right of way line and running in, through, over and across said Stedwick Road, the following course and distance
2. South $14^{\circ}31'08''$ West, 80.01 feet to a point on the northeasterly or South $76^{\circ}08'02''$ East, 620.00 feet line of Center Court Condominium as delineated on a Condominium Plat entitled "SECTION - TWO, CENTER COURT CONDOMINIUM, MONTGOMERY VILLAGE" and recorded among the aforesaid Land Records as Condominium Plat No. 1349, 564.00 feet from the southeasterly end thereof, said point also being on southwesterly or North $76^{\circ}08'02''$ West, 1135.88 feet right of way line of said Stedwick Road; thence running with and along a part of said southwesterly right of way line and also running reversely with and along a part of said northeasterly line of Center Court Condominium, the following course and distance

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Description of Closure of
Pedestrian Tunnel

July 29, 2009

3. North $76^{\circ}06'40''$ West, 18.40 feet to a point; thence leaving said northeasterly line and southwesterly right of way line and running in, through, over and across said Stedwick Road, the following course and distance
4. North $14^{\circ}31'08''$ East, 80.01 feet to a point on the southwesterly or North $76^{\circ}08'02''$ West, 270.33 feet line of Lot 15 as delineated on a Plat of Subdivision entitled "PLAT 343, LOTS 15 & 16, BEING A RESUBDIVISION OF LOT 1 M.V. PLAT 74, PART OF SECTION II-A, VILLAGE CENTER, MONTGOMERY VILLAGE", 7.52 feet from the southeasterly end thereof, said point also being on the northeasterly or South $76^{\circ}08'02''$ East, 1135.88 feet right of way line of said Stedwick Road; thence running reversely with and along a part of said southwesterly line of Lot 15 and also running with and along a part of said northeasterly right of way line, the following course and distance
5. South $76^{\circ}06'40''$ East, 7.52 feet to the point of beginning containing a computed area of 1,472 square feet or 0.0338 of an acre of land.

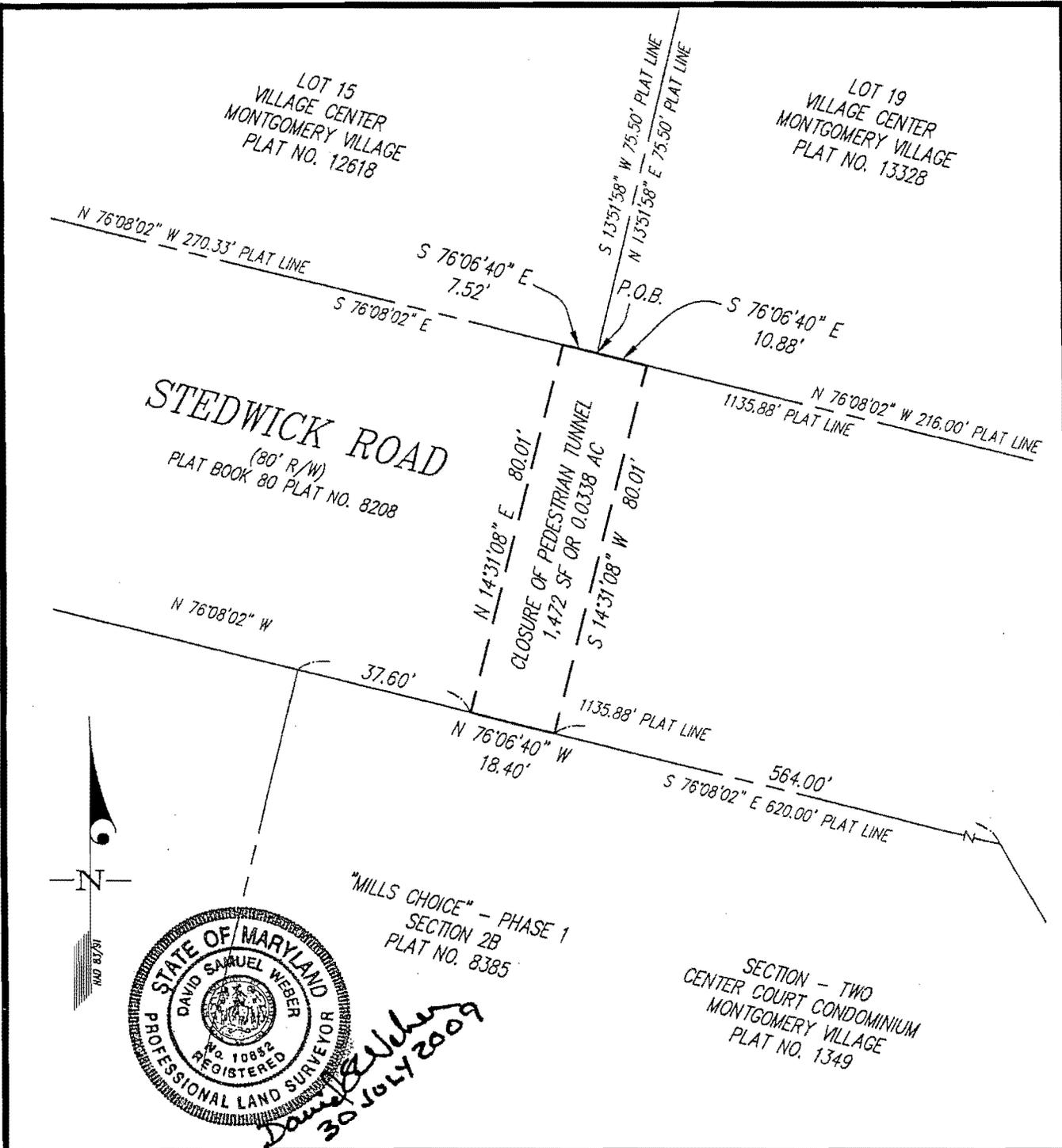
The licensee below was in responsible charge over the preparation of this metes and bounds description and the surveying work reflected in it, all in compliance with requirements set forth in COMAR Title 09, Subtitle 13, Chapter 06, Regulation .12.



David Samuel Weber
30 JULY 2009

6

L:\CADD\DRAWINGS\07049\SKETCHES\07049 TUNNEL ABAND-1_REV.dwg 7/29/2009 7:43:24 AM EDT



IDENTIFICATION PLAT		GLW GUTSCHICK LITTLE & WEBER, P.A.	
CLOSURE OF PEDESTRIAN TUNNEL		CIVIL ENGINEERS, LAND SURVEYORS, LAND PLANNERS, LANDSCAPE ARCHITECTS	
STEDWICK ROAD PLAT BOOK 80 PLAT NO. 8208		3909 NATIONAL DRIVE - SUITE 250 - BURTONSVILLE OFFICE PARK BURTONSVILLE, MARYLAND 20866	
GAITHERSBURG DISTRICT NO. 9 MONTGOMERY COUNTY, MARYLAND		TEL: 301-421-4024 BAL: 410-880-1820 DC/VA: 301-989-2524 FAX: 301-421-4186	
REFERENCE :			
		PLAT BOOK	80 PLAT NO. 8208
DRAWN BY :	<i>PWC</i>	DATE :	JULY, 2009
CHECKED BY :		SCALE :	1"=30'
		G.L.W. FILE No. 07-049	

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AB 724

Exhibit 1

LAW OFFICES



MILLER, MILLER & CANBY

CHARTERED

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MICHAEL G. CAMPBELL (DC, VA)
SOO LEE CHO (CA)
AMY C. GRASSO

** All attorneys admitted in Maryland and where indicated*

JSKLINE@MMCANBY.COM
SLCHO@MMCANBY.COM

March 27, 2009

Montgomery County Executive
Honorable Isiah Leggett
Executive Office Building
101 Monroe Street, 2nd Floor
Rockville, MD 20850

RE: Application for Closure of Pedestrian Path Underneath Stedwick Road in Montgomery Village

2009 MAR 27 AM 8:50

Dear Mr. Leggett:

This letter is an application seeking closure of a pedestrian path/tunnel located beneath the Stedwick Road right-of-way located within Montgomery Village, Maryland.

We represent JDC Village Development, LLC (hereinafter "JDC"), owner/developer of property located adjacent to the northern end of the pedestrian path/tunnel. JDC has submitted Preliminary Plan (No. 120090090) and Site Plan (No. 820090060) applications for approval by the Maryland-National Capital Park & Planning Commission for redevelopment of its property. The proposed redevelopment consists of three (3) commercial structures, totaling 26,222 square feet of floor area. (A reduced copy of the Site Plan for the proposed "Montgomery Village Marketplace" is enclosed for your information). The plans contemplate closure of the existing pedestrian tunnel.

In connection with the review of the above referenced Preliminary Plan and Site Plan by M-NCPPC, JDC has been requested to make application to the County to close the existing pedestrian path/tunnel underneath Stedwick Road and to provide an alternative means of pedestrian access across Stedwick Road. (Improvements to the area pedestrian circulation system are incorporated in the Applicant's plans.) In the past several years, the path/tunnel has become a serious security concern for the residents of Montgomery Village and its retention is inconsistent with good community design principles for the new retail center. Therefore, it is hereby requested that the existing pedestrian

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path/tunnel be permanently closed by the County for the safety and welfare of residents in the surrounding neighborhood, pursuant to the provisions and procedures of Chapter 49, Article 6 of the Montgomery County Code.

In support of this application, enclosed is a legal description and sketch of the pedestrian path/tunnel in question, along with a check for the required filing fee of \$2,500.00 (the original of which is being sent directly to Michael Cassedy of MCDOT for processing). Also enclosed is a copy of Montgomery Village, Plat 9, which shows a plan of dedication for Stedwick Road extending from Watkins Mill Road to Montgomery Village Avenue. (Note: The pedestrian path/tunnel is not referenced on this plat nor does it appear on any other plat that we have researched relative to the surrounding properties, but nonetheless, the path/tunnel exists and has been confirmed by the County Department of Transportation to be part of the public right-of-way.)

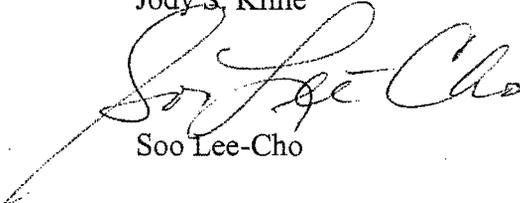
Thank you for your attention to this matter.

Sincerely yours,

MILLER, MILLER & CANBY

JODY KLINE

Jody S. Kline

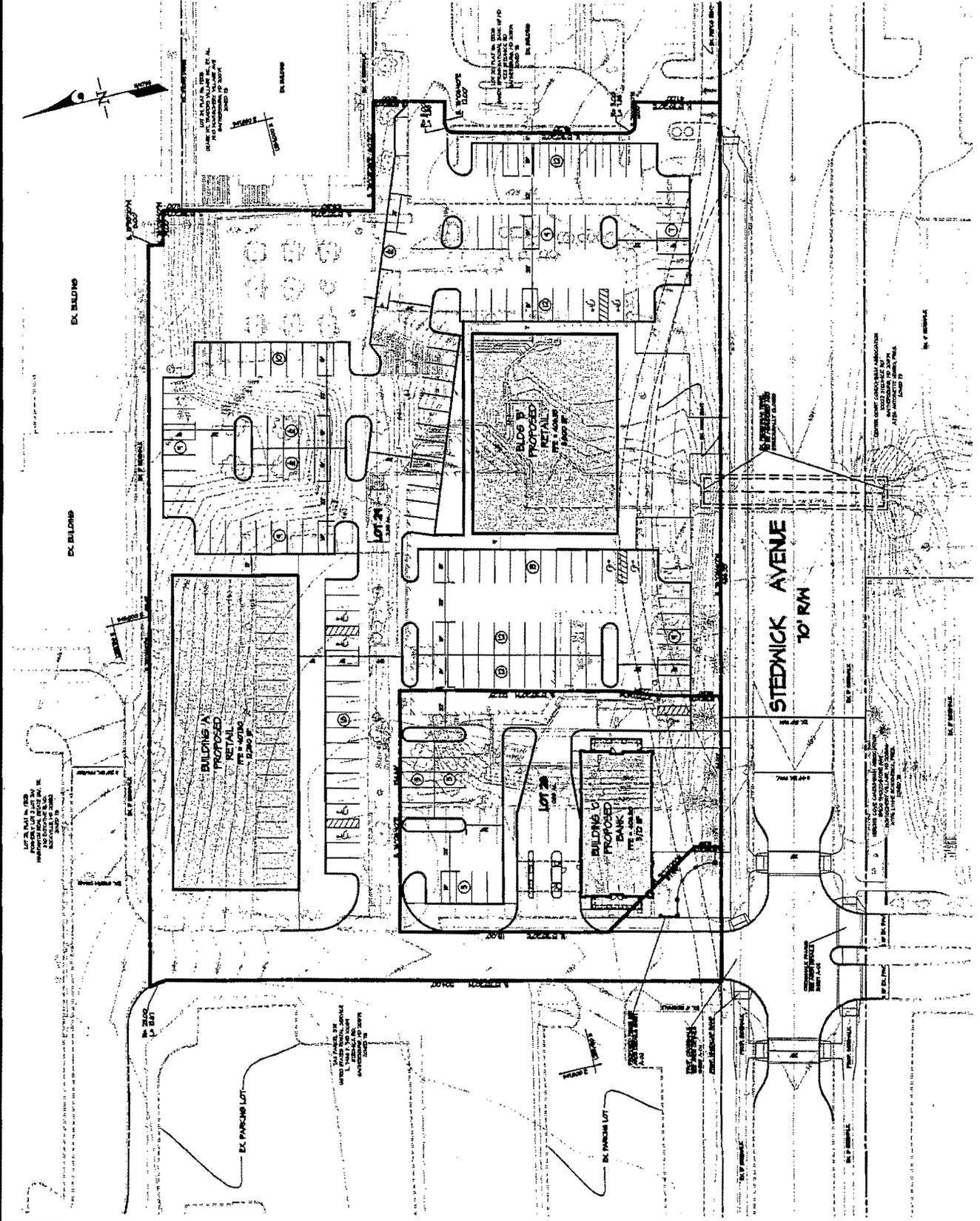

Soo Lee-Cho

cc: Michael Cassedy
Linda Duhamel
Cathy Conlon
Erin Grayson
Leslie Saville
David Humpton
Sharon Levine
Jay Donegan
David Weber
Frank Watkins
Mike Workosky
Seth Fisher

9

MASS UTILITIES
 1-800-897-1777
 CALL TOLL FREE

- LEGEND**
- PROPOSED CURB & GUTTER
 - PROPOSED LIGHT
 - PROPOSED SPOT GRADE
 - PROPOSED STREET DRAIN, SLOPE & WATER
 - STEP BLOCKS
 - EXISTING TOPOGRAPHY
 - PROPOSED TOPOGRAPHY
 - EXISTING STRUCTURES
 - PROPOSED PAVING
 - PROPOSED SCENARIOS
 - LINE OF PERFORMANCE
 - PROPOSED TREES & SHRUBS
 - PROPOSED STRUCTURE
 - PROPOSED SIGN
 - POLE BOLLARD



NOTES:
 1. ALL UTILITIES SHOWN ARE TO BE MAINTAINED.
 2. ALL UTILITIES TO BE MAINTAINED SHALL BE SHOWN ON THIS PLAN.

THE UNDERSIGNED HEREBY CERTIFIES THAT THE INFORMATION CONTAINED HEREIN IS TRUE AND CORRECT TO THE BEST OF HIS KNOWLEDGE AND BELIEF.

DATE: 08/15/2007

PREPARED FOR:
 MONTGOMERY VILLAGE MARKETPLACE
 10000 STEADWICK AVENUE
 WASHINGTON, DC 20004

PREPARED BY:
 JACQUES BOUQUARD, INC.
 10000 STEADWICK AVENUE
 WASHINGTON, DC 20004

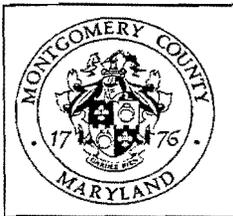
SHEET NO. 1 OF 1
 DATE: 08/15/2007

SITE PLAN
 MONTGOMERY VILLAGE MARKETPLACE
 PROPOSED LOTS 2A & 2B, VILLAGE CENTER MONTGOMERY VILLAGE
 WASHINGTON COUNTY, MARYLAND

PREPARED FOR:
 JACQUES BOUQUARD, INC.
 10000 STEADWICK AVENUE
 WASHINGTON, DC 20004

SHEET NO. 1 OF 1
 DATE: 08/15/2007

GLW CONSULTING, INC. & ASSOCIATES, INC.
 10000 STEADWICK AVENUE
 WASHINGTON, DC 20004



MONTGOMERY COUNTY EXECUTIVE ORDER

COPY

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

Subject: Closure of Stedwick Road Pedestrian Tunnel Montgomery Village	Executive Order No 143-09	AB
Originating Department: Transportation	Department Number AB 06-09	Effective Date 6/23/09

AB724

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

at 2:00 p.m. on Monday July 13, 2009
101 Monroe Street, EOB Lobby Auditorium
Rockville, Maryland 20850

to consider an application received from Miller, Miller & Canby on behalf of its client, JDC Village Development, LLC, the Applicant, seeking the closure of the pedestrian tunnel under Stedwick Road in Montgomery Village.
- 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: Alexander Thayer
~~Eric C. Willis~~ Alexander Thayer
Assistant County Attorney

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

Distribution:
Department of Transportation
Department of Finance

12

OFFICE OF THE COUNTY EXECUTIVE
EXECUTIVE OFFICE BUILDING
ROCKVILLE, MARYLAND

IN THE MATTER OF: * DEPARTMENT OF
* TRANSPORTATION
PETITION OF JDC Village Development, LLC *
* PETITION NO. AB 724
*
* BEFORE:
* DIANE SCHWARTZ JONES
* PUBLIC HEARING OFFICER
*
* * * * *

PUBLIC HEARING OFFICER'S REPORT AND RECOMMENDATION

I. Background

On March 27, 2009, Miller, Miller & Canby, LLP, on behalf of JDC Village Development, LLC applied for permanent closure of a pedestrian path and tunnel ("Underpass") beneath the Stedwick Road right-of-way located within Montgomery Village, Maryland. Petitioner is the owner and developer of the former Y.M.C.A. site adjacent to the Underpass. In connection with Petitioner's development of its property it has submitted applications for preliminary plan and site plan approvals with the Maryland National Capital Park and Planning Commission ("MNCPPC") (respectively Nos. 120090090 and 820090060 and collectively referred to as "Development Plans"). Petitioner represents that in connection with its Development Plans, MNCPPC has asked Petitioner to apply for legal closure of the Underpath and to provide an alternative pedestrian crossing across Stedwick Road. Ex. 1.¹ Petitioner states that the closure is for the safety and welfare of residents in the surrounding neighborhoods.

¹ Exhibits refer to exhibits submitted as part of the Hearing Record and Tr. refers to the hearing transcript.

Executive Order No. 143-09, dated June 23, 2009, authorized the holding of a public hearing on the petition for closure of the Underpass. Ex. 2. The public hearing was held on July 13, 2009 at approximately 2:00 pm in the lobby auditorium of the Executive Office Building, 101 Monroe Street, Rockville, Maryland. The record was held open for a period of three weeks until 5:00pm, August 3, 2009 to provide an opportunity for public agencies and interested persons to submit comments for the record. Tr. P. 7. The record was reopened for one week beginning September 7, 2009 and closing on September 14, 2009 to receive additional written information from the Department of Transportation and any other comments. Ex. 24.

Public notice of the hearing was provided by newspaper publication in the *Montgomery County Sentinel* for two consecutive weeks on July 2 and 9, 2009. Ex. 4. Notice was provided to the following community associations: Montgomery Village Foundation; Heron's Cove Condominium Association; and the Center Court Condominium Association.² Ex. 3. A sign was posted at the Underpass. Ex.6. Notice of the reopening of the record for the week of September 7 – 14, 2009 was published in the *Montgomery County Sentinel* for two consecutive weeks on August 20, 2009 and August 27, 2009. Ex. 24.

In addition to the testimony given at the public hearing, the record includes written comments from various public agencies, public utility companies, including the Montgomery County Planning Board, community associations and private individuals.

II. Summary of Testimony and Evidence of Record

At the public hearing, Mike Cassidy, Montgomery County Department of Transportation, described the request for closure of the Underpass and summarized the steps taken by his agency to meet the requirements of Montgomery County Code 2004, as amended,

² Center Court Condominium is a residential community of 132 units located at the intersection of Montgomery Village Avenue and Stedwick Road. See, Ex. 11.

sections 49-62 and 49-63 Mr. Cassidy's office requested comments from the public, appropriate governmental agencies, and public utility companies that might be affected by the closure. Mr. Cassidy noted that, at the time of the public hearing, comments had not been received from the Department of Transportation, the Police Department, the Montgomery County Planning Board, Verizon, Washington Suburban Sanitary Commission, and PEPCo. Mr. Cassidy listed the Exhibits that were contained in the hearing record. The complete list of Exhibits, including exhibits entered into the record at and after the public hearing, is incorporated herein as Attachment 1.

Jody Kline, an attorney with Miller, Miller & Canby, represents the Petitioner. He presented an overview of the origin of the Underpass, its current condition, and the Petitioner's plans for closure of the Underpass. Mr. Kline indicated through his testimony and submission of supporting documentation that Stedwick Road was created by plat and that the Underpass was constructed pursuant to a building permit issued by the County for construction within the right-of-way and that the Underpass is maintained – to whatever degree that may be – by the County. According to Mr. Kline the Underpass serves the Center Court Condominium and was for the purpose of providing pedestrian access to the Y.M.C.A. and retail across Stedwick Road. With the closure of the Y.M.C.A., Mr. Kline stated that the Underpass is no longer needed for public use and urged the closure of the tunnel to facilitate Petitioner's development and to "solve an eyesore, a safety problem and a nuisance for the folks who live south of the road." Tr. Pps. 18-19.

Mr. David Weber, the principal engineer for Petitioner's Development Plans, testified that no utilities extend through the Underpass and provided insight into how Petitioner would close the Underpass to ensure the structural stability of the road. Mr. Weber described a process

where Petitioner will incrementally brick up the ends of the Underpass, and alternate with injections of gravel and a substance called “flowable fill” until the Underpass is filled. Tr. P.24. At Petitioner’s end of the Underpass, the property will be graded and Petitioner’s project will be constructed over the area. At the other end of the Underpass, it was initially proposed that stairs will be necessary due to the grade to connect the pedestrian path to Stedwick Road and with a ramp to provide ADA access. Landscaping will be added to supplement what is there. Tr. Pps. 25 and 30. In subsequent comments it appears that stairs will not be constructed.

Letters in support of the closure of the Underpass were received from the Montgomery Village Foundation (Ex. 8), Christina Devlin, a resident homeowner in the Heron’s Cove Condominium (Ex. 9), the Center Court Condominium (Ex. 11). The letter from the Center Court Condominium spoke of the benefits the Underpass once provided the community but ultimately concluded that the Underpass has suffered from neglect and lack of maintenance and has become an area where people congregate and purportedly engage in illegal and questionable activities. For these reasons the Center Court Condominium supports the closure of the Underpass.

Comments were sought from the government agencies and public utility companies listed in Section 49-62(h) of the Montgomery County Code. The record indicates that the relevant public agencies and public utilities have reviewed the petition for closure or foregone the opportunity to provide comments. The Montgomery County Police Department supports the closure of the Underpass noting safety concerns including use of the Underpass by fleeing suspects, inaccessibility of the Underpass for patrol vehicles, and the fact that there have been numerous assaults and robberies that have occurred in and around the Underpass. Ex. 20. The Montgomery County Fire and Rescue Service has no objections to the closure. Ex. 10.

The MNCPPC's Planning Board recommended approval of the proposed closure of the Underpass subject to the following conditions:

1. As a condition of Site Plan no. 820090060, the Petitioner must structurally fill and seal the tunnel at both ends and provide marked crosswalks across Stedwick Road subject to the approval of the Department of Transportation.
2. Petitioner must enter into an agreement with the Center Court Condominium Association providing for the right of access to its property to fill and seal the Underpass and to allow a portion of the filled and sealed tunnel that extends beyond the right-of-way for Stedwick Road to remain in place with the filled and sealed area being regraded.
3. Petitioner must provide a new pedestrian path connection to the designated pedestrian crossing of Stedwick Road.
4. Petitioner must provide for the removal of PEPCO's electric line that is no longer needed to light the Underpass.
5. Petitioner must show on the plat for its property the extent of the closed Underpass beyond the limits of the right-of-way for Stedwick Road.

Ex. 22. The Planning Board included the report from its staff along with its recommendation.

Planning Staff noted in its report that from the inception of the Underpass, residents have expressed concerns about the tunnel because of inadequate sight lines and limited escape routes.

A photo of the Underpass is on page 3 of the staff report and reflects a corrugated steel tunnel with limited visibility and sight line. It is reported that the Underpass was cleaned by the Y.M.C.A. and Center Court Condominium Association until funds ran short. The Underpass has deteriorated with poor lighting, trash accumulation, and extensive graffiti. Ex. 22, pps. 4-5.

Planning Staff further points out that the closure of the Underpass meets principles of Crime Prevention through Environmental Design. Ex. 22, p.5. Planning Staff notes that redirection of pedestrians will provide circulation at street level which will increase visibility of pedestrians, create positive social interaction and increase awareness of safety concerns as disincentives to potential criminal activity. Petitioner proposes to create two pedestrian crossings of Stedwick

Road in connection with its Development Plans which Planning Staff finds will encourage pedestrian circulation and activity at street level, slow traffic and result in a safer and more vibrant area for pedestrians. Ex. 22, p. 6.

The Montgomery County Department of Transportation submitted an initial set of comments on the proposed closure and then followed up with a memorandum of amended comments. The initial comments from the Department of Transportation are contained in Ex. 19 and express nine different conditions to closure of the Underpass, including:

- 1) Requirements for striping of Stedwick Road to narrow lanes and reduce pedestrian crossing distance.
- 2) Striping of crosswalk areas.
- 3) Requirement that the Petitioner submit for Department of Transportation approval a signing and marking plan for improvements along Stedwick Road.
- 4) Coordination of plans for transportation management components that might be impacted.
- 5) Relocation of a bus stop and construction of a pad for a future bus shelter.
- 6) Requirement for a dedication of right-of-way or a public improvement easement for a bus operator's restroom adjacent to the Petitioner's retail project.
- 7) Construction of ADA compliant stairways and connections of existing private paths and sidewalks.
- 8) Removal of existing lighting fixtures, conduit and electricity within the underpass.
- 9) Grant of necessary public utility easements for existing or proposed facilities within the closure area.

While both the Montgomery Village Foundation and Center Court Condominium expressed initial support for the proposed closure of the Underpass³, comments were received from both in opposition to initial recommendations from the Department of Transportation.

³ See, Ex. 8 and 11, respectively.

Montgomery Village Foundation objected to the recommendation that would have placed bus facilities in front of Petitioners proposed project. The Foundation noted that the recommendation would interfere with the objective of creating an “attractive, pedestrian-friendly retail center” and stressed that the existing center is in need of a new, vibrant retail area. Ex. 26. Center Court Condominium objected to the stairway the Department was requiring for Center Court Condominium stressing the intent that the existing pathway be modified to be ADA compliant. Ex. 27.

By memorandum dated October 5, 2009, the Department of Transportation amended its recommendation on closure of the Underpass.⁴ Ex. 28. The Department indicates that its earlier recommendations 1, 5, 6 and 7 were modified based upon dialogue between the Petitioner and the Department of Transportation. As a result of that dialogue the Department’s recommended conditions for closure were modified as follows:

- 1) Petitioner must construct two opposing mid-block chokes with handicap ramps, restripe Stedwick Road in front of Petitioner’s project to narrow travel lanes, calm traffic and reduce pedestrian crossing distance.
- 5) Petitioner must relocate the existing bus stops on Stedwick Road and construct a new pad for future bus shelter for a consolidated bus stop at a to-be-determined location.
- 6) Before issuance of the first building permit for Petitioner’s project, Petitioner must enter into an agreement with the Department of Transportation to construct a transit layover and a bus operator restroom facility on Club House Road in substantial conformance with a concept plan dated September 28, 2009 and in exchange for this, the Department will not locate a bus layover facility adjacent to Petitioner’s site frontage on Stedwick Road and Petitioner’s expenditure for which shall be creditable towards Petitioner’s impact tax obligation.
- 7) Petitioner must construct an ADA compliant walkway in the vicinity of Heron’s Cove and Center Court Condominium developments to provide connectivity between the new crosswalk on Stedwick Road and the existing private path.

The Center Court Condominium expressed its concurrence with the Department of

⁴ The record was reopened and then extended so that the amended comments from the Department of Transportation were timely received. See, Exs. 24 and 25.

Transportation's amended recommendations for closure of the Underpass pointing out deficiencies with the original recommendations from the Department and noting that the revised recommendation would result in a better pedestrian environment and be more compatible with the adjacent residential community. The Center Court Condominium expressed pleasure with plans to modify the pedestrian walkway and make it ADA compliant and noted that its Board of Directors has agreed to provide the Petitioner with access to its property to make the necessary modifications. Ex. 29.

Likewise, the Heron's Cove Condominium expressed support for the revised recommendation of the Department of Transportation to provide the bus layover area on Clubhouse Road pointing out that it had safety concerns about the original proposal. Ex. 30.

Washington Gas indicated that it has no conflict with the proposed closure and does not object to the closure. Ex. 7. No other utility comments were received. Pursuant to Section 49-62(g) of the Montgomery County Code, these entities are presumed not to oppose the proposed abandonment because the required sixty days has elapsed from the date of the notices of the public hearing which were published on July 2 and 9, 2009 in the *Montgomery County Sentinel*. (Ex. 4).

III. Findings

Stedwick Road between Watkins Mill Road and Montgomery Village Avenue was created by Plat of Dedication number 8208 signed on behalf of the Kettler Brothers, Inc. on February 21, 1966. The dedication was in connection with the development of Montgomery Village. Ex. 13. By permit number 66-218 dated October 20, 1966, Kettler Brothers, Inc. was authorized to construct a pedestrian underpass of corrugated aluminum pipe under Stedwick Road at centerline station 6+73.00. Ex. 14. On April 15, 1969 the Underpass was deemed to be

completed and recommended for inclusion in the County transportation system. Ex. 14, p.2.

The Underpass was created to serve the Y.M.C.A., the Village Mall shops and the residences of Montgomery Village. Ex. 15. It has entrances on the Center Court Condominium property and the former Y.M.C.A. property (now owned by the Petitioner). Ex. 5.

The Underpass has fallen into a state of disrepair over the years. Electrical lights have dislodged and hang down, the tunnel is covered with graffiti. Ex. 16. While the Petitioner now seeks legal closure of the Underpass, it was boarded up at the Y.M.C.A. end and closed to public use when the Y.M.C.A. was demolished in July, 2008. Ex. 22, p. 5. The Underpass is deemed unsafe by both the Montgomery County Police Department and the Montgomery County Planning Board Staff. The Underpass does not have a clear line of sight. It is isolated and police on patrol cannot see the tunnel. There have been numerous incidents reported where criminal suspects have fled through the tunnel from the shopping center and numerous assaults and robberies have been reported in the area around the Underpass. Planning Board Staff reports that 37 street robberies and 161 assaults were reported between June 2006 and June 2009. Exs. 22, p. 4 and 20.

Petitioner intends to permanently close and seal the Underpass in connection with its Development Plans. The Petitioner will incrementally brick up the end points, fill the Underpass with gravel and "flowable fill", ultimately filling to the crown of the pipe and thus providing structural support to Stedwick Road. Tr. P. 24. Petitioner plans to use soil to match the slope on either end of the Underpass.

IV. Conclusions and Recommendations

The closure of rights-of-way, including sidewalks and pedestrian paths, is governed by Sections 49-62 and 49-63 of the Montgomery County Code. Section 49-62 permits an

application for closure of a right-of-way by any person or government agency and provides for public agency and utility company review of the proposed closure. County law also requires notice of the proposed closure be given to certain parties and that a public hearing be held. In this case, the hearing and notice provisions have been satisfied, and the required public agencies and utility companies have been given the opportunity to review and comment on the petition for closure as described above.

Section 49-62 permits closure if 1) the right-of-way is no longer necessary for present public use or anticipated public use in the foreseeable future, or 2) the closure is necessary to protect the health, safety and welfare of the residents near the right-of-way to be closed. In assessing the health, safety and welfare issues, the County Council may consider 1) any adopted land use plan applicable to the neighborhood; 2) the safe and efficient pedestrian and vehicular traffic patterns and flows, together with alternatives, in the immediate neighborhood, for local and through traffic; and 3) changes in fact and circumstances since the original dedication of the right-of-way.

The evidence presented supports closure of the Underpass to protect the health, safety and welfare of the community. The Underpass creates opportunities for criminal activity because it is hidden from view by the passing public and police patrols. It has served as an escape route for fleeing criminal suspects and a high number of assaults and robberies have occurred over the years in the vicinity of the tunnel. Moreover, with the replacement surface level pedestrian crossings, closure of the Underpass will result in safer and more efficient pedestrian traffic flows. In connection with the closure and the Petitioner's Development Plans, and conditions imposed by the Department of Transportation, the Petitioner will create two opposing mid-block chokes with handicap ramps, restripe Stedwick Road in front of Petitioner's

project to narrow travel lanes, calm traffic and reduce pedestrian crossing distance. The undersigned hearing officer agrees that the closure with the crossings, handicap ramps and restriping required by the Department of Transportation will provide pedestrian crossing alternatives that will result in safer and more efficient pedestrian patterns in the immediate neighborhood. The closure will also eliminate an isolated area and crossing design that is inconsistent with CPTED principles and that has proven over the years to be unsafe and a magnet for criminal activity.

Both the Department of Transportation and the Planning Board have recommended conditions to be imposed on the closure of the Underpass. Most of the recommended conditions go to the creation of pedestrian connectivity, the provision of new, safer pedestrian crossings and the proper closure of the Underpass. Therefore, the undersigned hearing officer recommends that closure of the Underpass be approved subject to the following conditions of closure:

1. Petitioner must structurally fill and seal the tunnel at both ends as described by Petitioner's engineer at the public hearing, or using some other means of structural fill acceptable to the Department of Transportation.
2. Petitioner must enter into an agreement with the Center Court Condominium Association providing for the right of access to its property to fill and seal the Underpass and to allow a portion of the filled and sealed tunnel that extends beyond the right-of-way for Stedwick Road to remain in place with the filled and sealed area being regraded and seeded, sodded or landscaped.
3. Petitioner must provide new ADA compliant pedestrian path connections to the designated pedestrian crossings of Stedwick Road.
4. Petitioner must show on the plat for its property the extent of the closed Underpass beyond the limits of the right-of-way for Stedwick Road.
5. Petitioner must construct two opposing mid-block chokes with handicap ramps, restripe Stedwick Road in front of Petitioner's project to narrow travel lanes, calm traffic and reduce pedestrian crossing distance in accordance with plans to be approved by the Department of Transportation.
6. Petitioner must stripe the crosswalks in accordance with plans to be approved by the

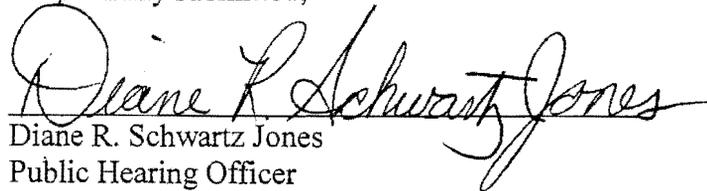
Department of Transportation.

7. Petitioner must prepare and submit for Department of Transportation approval a signing and marking plan for the improvements it will make along Stedwick Road.
8. Petitioner must obtain necessary approvals and coordinate its plans for transportation management components that might be impacted by its work in connection with implementation of the closure of the Underpass and creation of the new pedestrian crossings and work described in condition number 5 above.
9. Petitioner must remove or provide for removal of existing lighting fixtures, conduit and electricity within the Underpass.
10. Petitioner must construct a new pad for a future bus shelter for a consolidated bus stop at a to-be-determined location to relocate the existing bus stops on Stedwick Road.

The Department of Transportation, in its amended comments reports that it has reached an agreement with the Petitioner that the Department will not locate a bus layover facility adjacent to Petitioner's site frontage on Stedwick Road in exchange for Petitioner's agreement to construct a transit layover and a bus operator restroom facility on Club House Road in substantial conformance with a concept plan dated September 28, 2009 and that Petitioner's expenditure for which shall be creditable towards Petitioner's impact tax obligation. These terms, while raised in connection with this closure proceeding, are to be reflected in a separate written agreement between the Department of Transportation and the Petitioner which is to be concluded outside of this closure proceeding.

For the foregoing reasons and subject to conditions 1-10, the undersigned recommends that the permanent closure of the Underpass be approved.

Respectfully submitted,


Diane R. Schwartz Jones
Public Hearing Officer

11/12/2009
Date

The Public Hearing Officer's Recommendations in Petition AB724 have been reviewed and are approved.

Nov 12, 2009
Date

Isiah Leggett
Isiah Leggett, County Executive

ATTACHMENT 1

EXHIBITS

AB724 CLOSURE OF STEDWICK ROAD PEDESTRIAN TUNNEL

1. LETTER DATED MARCH 27, 2009, FROM MILLER, MILLER & CANBY ON BEHALF OF ITS CLIENT, JDC DEVELOPMENT, LLC, THE APPLICANT, REQUESTING THE CLOSURE OF A PEDESTRIAN TUNNEL UNDER STEDWICK ROAD
2. EXECUTIVE ORDER NO. 143-09, EFFECTIVE DATE 6/23/09, AUTHORIZING A PUBLIC HEARING
3. LIST OF CIVIC ASSOCIATIONS THAT WERE SENT NOTICES OF THE PUBLIC HEARING
4. NEWSPAPER ADVERTISING – PROOF OF PUBLICATION FROM THE MONTGOMERY SENTINEL ON JULY 2 AND JULY 9, 2009
5. GIS AERIAL PHOTO OF THE AREA SHOWING ROW LINES
6. SIGNAGE – PHOTO OF SIGN POSTED ON 6/05/09 AND E-MAIL
7. WASHINGTON GAS – E-MAILS AND LETTERS DATED 6/15/09 AND 7/08/09 – NO OBJECTION
8. MONTGOMERY VILLAGE FOUNDATION LETTER DATED JUNE 17, 2009, EXPRESSING SUPPORT FOR THE CLOSURE
9. CHRISTINA M. DEVLIN – LETTER DATED 6/29/09 – SUPPORT FOR CLOSURE
10. DEPARTMENT OF FIRE AND RESCUE SERVICES – E-MAIL DATED 7/06/09 – NO OBJECTION
11. CENTER COURT CONDOMINIUM BOARD OF DIRECTORS – LETTER DATED 7/02/09 – SUPPORT FOR CLOSURE
12. AERIAL PHOTO OF AREA WITH RECTANGLE SUPERIMPOSED IDENTIFYING TUNNEL
13. PLAT NO. 8208 – STEDWICK ROAD DEDICATION
14. TUNNEL PERMIT TO KETTLER BROS.
15. a. LIST OF TUNNELS IN MONTGOMERY VILLAGE

15. b. MONTGOMERY VILLAGE NEWS DATED 3/02/07 ARTICLE "OWNERSHIP OF VILLAGE TUNNELS FINALLY RESOLVED"
16. PHOTOS (6) OF TUNNEL
17. MONTGOMERY VILLAGE MARKETPLACE SITE RENDERING
18. MONTGOMERY VILLAGE MARKETPLACE PEDESTRIAN CROSSING STUDY AT STEDWICK ROAD
19. DEPARTMENT OF TRANSPORTATION MEMORANDUM DATED JULY 13, 2009 – APPROVAL WITH CONDITIONS
20. POLICE DEPARTMENT E-MAIL AND LETTER DATED JULY 16, 2009 – APPROVAL
21. NEWSPAPER ADVERTISING OF REOPENING OF RECORD 5/22/09 TO 6/5/09, PROOF OF PUBLICATION 5/21/09 AND 5/28/09 IN THE MONTGOMERY SENTINEL
22. MONTGOMERY COUNTY PLANNING BOARD LETTER DATED 7/27/09 – APPROVAL WITH CONDITIONS
23. MILLER, MILLER & CANBY LETTER DATED 8/03/09 WITH REVISED METES AND BOUNDS DESCRIPTION OF THE TUNNEL
24. NEWSPAPER ADVERTISING OF REOPENING OF RECORD 9/7/09 TO 9/14/09, PROOF OF PUBLICATION 8/20/09 AND 8/27/09 IN THE MONTGOMERY SENTINEL
25. NEWSPAPER ADVERTISING OF EXTENSION OF RECORD TO 10/5/09, PROOF OF PUBLICATION 9/17/09 AND 9/24/09 IN THE MONTGOMERY SENTINEL
26. MONTGOMERY VILLAGE FOUNDATION E-MAIL AND LETTER DATED 9/25/09 – OPPOSITION TO PART OF DEPARTMENT OF TRANSPORTATION RECOMMENDATIONS DATED 7/13/09
27. CENTER COURT CONDOMINIUM E-MAIL DATED 9/14/09 – OPPOSITION TO CONDITION NO. 7 OF DEPARTMENT OF TRANSPORTATION RECOMMENDATIONS DATED 7/13/09
28. DEPARTMENT OF TRANSPORTATION MEMORANDUM DATED 10/05/09 AMENDING THE DOT RECOMMENDATIONS DATED 7/13/09
29. CENTER COURT CONDOMINIUM E-MAIL AND LETTER DATED 10/04/09 SUPPORTING DOT RECOMMENDATION TO RELOCATE BUS REST AREA TO CLUB HOUSE ROAD
30. HERON'S COVE CONDOMINIUM E-MAIL DATED 10/05/09 – SUPPORTING DOT RECOMMENDATION TO RELOCATE BUS FACILITIES AND LAYOVER AREA TO CLUB HOUSE ROAD

MAP 5047

A 12 NW

B

C

11 NW D

E

F

G 10 NW

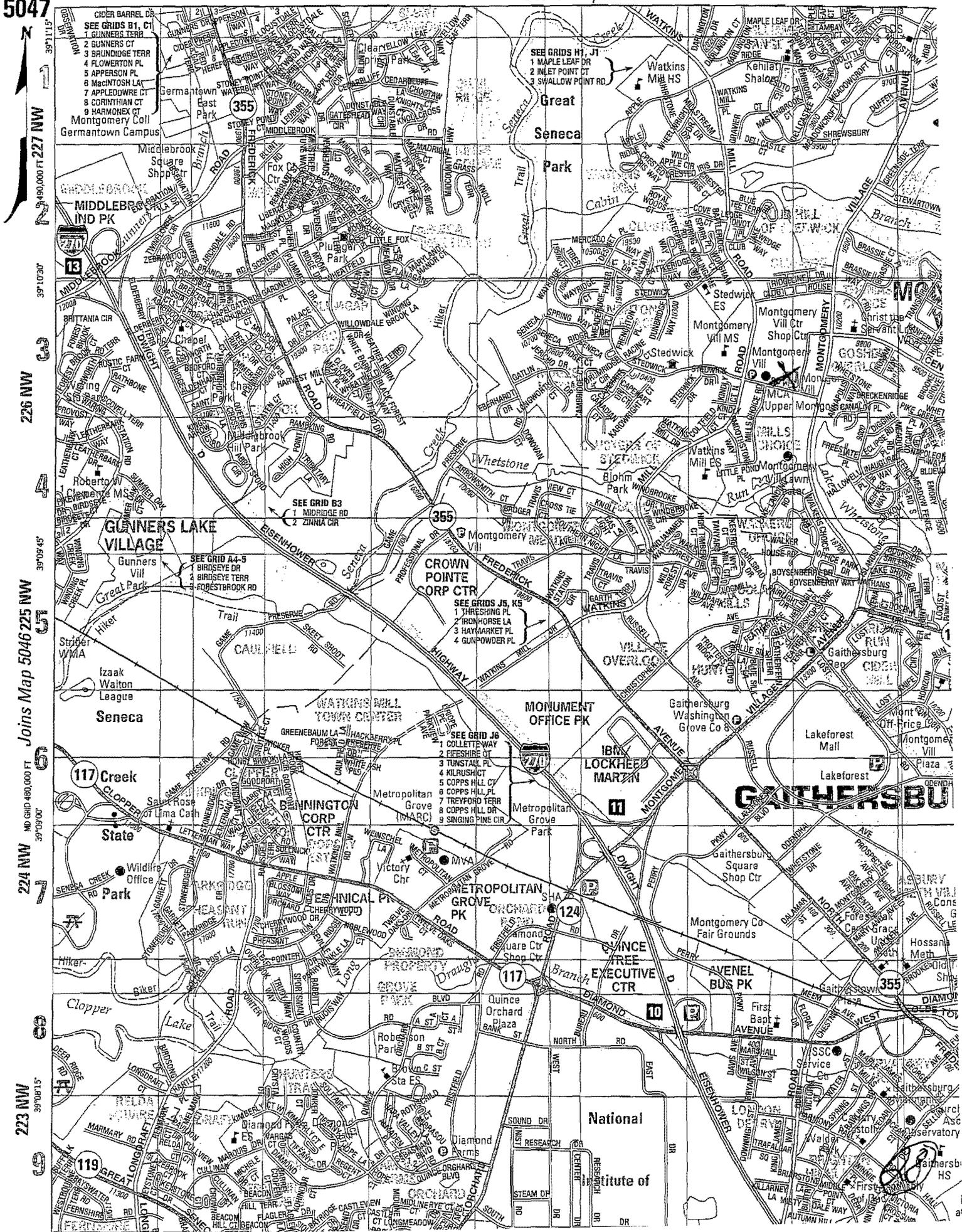
H

ADC 5047

77°15'00" 730,000 FT 77°14'15" 77°13'30" 77°12'45" 77°12'00"

Joins Map 4929

740,000 FT



Joins Map 5046 225 NW 224 NW 223 NW

227 NW 226 NW

490,000 FT

480,000 FT

39°08'15"

39°09'45"

39°10'30"

39°11'15"

1 MONTGOMERY COUNTY DEPARTMENT OF TRANSPORTATION
2 MONTGOMERY COUNTY, MARYLAND

3 -----x
4 CLOSURE OF STEDWICK ROAD :
5 PEDESTRIAN TUNNEL IN : Case No. AB724
6 MONTGOMERY VILLAGE :
7 -----x

8 Monday, July 13, 2009

9 Rockville, Maryland

10 A hearing in the above-entitled matter was held on
11
12 Monday, July 13, 2009, commencing at 2:04 p.m., at 101 Monroe
13 Street, Lobby Auditorium, Rockville, Maryland 20850, before:

14 HEARING EXAMINER:

15
16 Mohammad Siddique

17 STAFF:

18 Michael Cassedy
19
20
21
22
23
24
25

Deposition Services, Inc.

6245 Executive Boulevard

Rockville, MD 20852

Tel: (301) 881-3344 Fax: (301) 881-3338

info@DepositionServices.com www.DepositionServices.com



ORIGINAL

30

APPEARANCES:

<u>STATEMENT OF:</u>	<u>PAGE</u>
Jody Kline, Esquire	9
Miller, Miller & Canby	
200-B Monroe Street	
Rockville, Maryland 20850	
David Weber	25
Gutschick, Little and Weber	
3909 National Drive, Suite 250	
Burtonsville, Maryland 20866	

EXHIBITS

<u>Exhibit No.</u>		<u>Page</u>
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Exhibit No. 8	Montgomery Village Foundation letter	6
Exhibit No. 9	Letter from Christina M. Devlin	6
Exhibit No. 10	Dept. of Fire and Rescue e-mail	6
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Exhibit No. 18	Pedestrian crossing sign	20

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1 neighborhood.

2 At the conclusion of the hearing I will make
3 recommendations to the County Executive who, in turn, will
4 make his recommendations to the County Council. The ultimate
5 decision on the matter will be made by the County Council.

6 It is my intention to hold the hearing record open
7 until July 27, 2009, so that those who could not be here with
8 us 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 fully considered. Submissions should be
11 sent to Michael Cassedy with the Montgomery County Department
12 of Transportation. Mr. Cassedy will maintain the official
13 hearing record through the close of the comment period.
14 Comments should be sent to Mr. Cassedy's attention at 100
15 Edison Park Drive, 4th Floor, Gaithersburg, Maryland 20878.
16 Faxed transmissions should be sent to (240) 777-7259. You can
17 also e-mail him your comments at
18 michael.cassedy@montgomerycountymd.gov. All comments should
19 reference the closure petition number 724 in the subject line.
20 Submissions must reach Mr. Cassedy by 5:00 p.m., Monday,
21 July 27, 2009. And, with that I will request Mr. Cassedy to
22 give us the background of the closure abandonment and then the
23 petitioner if they have an rationale for seeking this
24 abandonment. Mr. Cassedy.

25 MR. CASSEDY: Thank you, Mr. Siddique. I'm Mike

1 Cassidy of the Department of Transportation. My office is
2 charged with administering the closure process. As mentioned,
3 this public hearing is being held to consider the County's
4 closing a pedestrian tunnel under Stedwick Road in Montgomery
5 Village. The applicant is JDC Village Development, LLC and
6 represented by Miller, Miller and Canby.

7 The GIS aerial photo, which is Exhibit No. 5, to
8 your far left there shows the subject area and the vicinity.
9 I'd ask to call your attention to Exhibit 6 in the record
10 which contains several photos of the signage announcing this
11 public hearing and shows the subject pedestrian tunnel from
12 several perspectives.

13 The purpose of the closure is for security reasons.
14 The applicant intends to develop his adjoining property on the
15 north side of Stedwick Road and believes that his future
16 customers would be safer if the tunnel were to be closed.

17 In fulfillment of conditions of Section 49-62 and
18 49-63 of the Montgomery County Code, my office requested
19 comments from the public, appropriate governmental agencies
20 and public utility companies that might be affected by the
21 proposed closure. I will now read into the record the
22 evidence required by County Code.

23 Exhibit 1 is a letter dated March 27, 2009 from
24 Miller, Miller & Canby on behalf of its client, JDC
25 Development, LLC, the applicant, requesting the closure of the

1 pedestrian tunnel under Stedwick Road.

2 Exhibit 2 is Executive Order No. 143-09, effective
3 date June 23, 2009, announcing this public hearing.

4 Exhibit 3 is a list of civic associations that were
5 sent notices of the public hearing.

6 Exhibit 4 is proof of advertising, newspaper
7 advertising in the Montgomery County Sentinel on two separate
8 dates. I'll have to get those for you. The record didn't
9 print them here.

10 Exhibit 5 is the previously referenced GIS aerial
11 photo of the area showing right-of-way lines.

12 Exhibit 6 are photos of the signage in place and
13 work order that indicates they were placed on June 5, 2009.

14 Exhibit 7 from Washington Gas, e-mails and letters
15 dated June 15, 2009 and July 8, 2009 expressing no objection.

16 Exhibit 8, a letter dated June 17, 2009 from
17 Montgomery Village Foundation expressing support for the
18 closure.

19 Exhibit 9, a letter dated June 29, 2009 from a
20 Christina M. Devlin in support of the closure.

21 Exhibit 10, an e-mail dated July 6, 2009 from the
22 Department of Fire and Rescue Services expressing no
23 objection.

24 Exhibit 11, a letter dated July 2, 2009 from Center
25 Court Condominium Board of Directors expressing support for

1 the closure.

2 (Exhibit Nos. 1-11 were made
3 a part of the record.)

4 Missing are the comments from the Department of
5 Transportation, the planning board, police department,
6 Verizon, PEPCO and WSSC. Prior to the record closing I will
7 endeavor to get all of those. I'd like to request --

8 MR. SIDDIQUE: Did you mention police in that?

9 MR. CASSEDY: I did mention police. I had spoken
10 with the police and I know what's coming, but I don't have
11 that in writing. I would like to ask, however, you said that
12 you wanted to hold the record open two additional weeks from
13 today. I'd ask if you'd add a third week to August 3, and the
14 reason being is that the planning board is considering this
15 matter. I believe it's not this Thursday but the following
16 Thursday. Now, that would be in time ordinarily, but they
17 need to get the chairman's letter on the decision. I'd feel
18 more comfortable if it was one more week to get their input.

19 MR. SIDDIQUE: Okay, let's make it August 3 as the
20 closing of the record.

21 MR. CASSEDY: Thank you. And, that's all I have.
22 If the hearing officer has any questions for me regarding the
23 closure process, I'd be glad to answer them. And, if he has
24 any questions for the applicant, he and his attorney are
25 represented here and can answer those questions.

1 MR. SIDDIQUE: You are done. I'll let them speak
2 directly on this one then. You're okay with that then?

3 MR. CASSEDY: I'm fine.

4 MR. SIDDIQUE: Would you please identify yourself
5 and your address and information for the record.

6 MR. KLINE: Good afternoon. For the record my name
7 is Jody Kline, K-L-I-N-E. I'm attorney with the law firm of
8 Miller, Miller and Canby with offices at 200-B Monroe Street
9 here in Rockville, much too close to Mr. Cassedy's old office.
10 I represent the owner of the property across Stedwick Road
11 from the location of the abandonment and along with the
12 engineers for the project will make a brief presentation for
13 you today.

14 You did have the exhibit, the aerial photograph that
15 Mr. Cassedy provided. I draw your attention to the exhibit we
16 have on the easel to the right, a little bit different
17 graphics. The only real difference, Mr. Siddique, of these
18 two exhibits is this one covers a little larger area. But,
19 the one on the right that we brought with us today super
20 imposes the area to be abandoned over the right-of-way of
21 Stedwick Road. So, you have on the far right a north-south
22 direction of Montgomery Village Avenue. I realize you're
23 familiar with this. Stedwick Road basically running from
24 Montgomery Village Avenue over to Watkins Mill Road, landmarks
25 you already pointed out yourself, the post office, the

1 background because for sometime I tried to Mr. Cassedy that we
2 didn't even need to have this hearing because my thought was
3 that the general public is not necessarily the beneficiaries
4 of the tunnel. It's primarily those people who are residents
5 of Montgomery Village moving from the residential to the south
6 as you pointed to the commercial to the north and back and
7 forth.

8 MR. SIDDIQUE: But, they're still general public.

9 MR. KLINE: They're still public and everything.

10 But, when we were able to secure the support of the foundation
11 and the homeowners associations and condominium associations
12 to the south, I was trying to convince Mr. Cassedy that we
13 don't really need to have a hearing because the only public
14 that gives a darn about this has already said it's okay. So,
15 let's not go through all this stuff. But, he felt the Code
16 required it and so that brought us here today.

17 I did bring copies of the identification plat and it
18 meets the description --

19 MR. SIDDIQUE: Let me ask another question.

20 MR. KLINE: Yes, sir.

21 MR. SIDDIQUE: Whether you can answer or your
22 engineer might be able to answer. Is this a tunnel where
23 people step down into the tunnel and then step up or it's just
24 graded into the tunnel?

25 MR. KLINE: At the landings on either end of the

1 tunnel they are at grade with the area south and north.
2 However, you basically do have to move -- it's a change in
3 topography on both sides. In our case, when we actually
4 develop our property, I'll show this in a little bit more
5 detail in a second, when we develop our property to the north
6 we will actually be filling in everything to bring it up to
7 the grade of Stedwick Road. So, the tunnel mouth will be
8 absolutely eliminated.

9 MR. SIDDIQUE: And, if it is not abandoned then
10 you'll have to have steps down into it?

11 MR. KLINE: You would have to have steps down into
12 it, yes, sir.

13 MR. CASSEDY: If I could interject, gentlemen, both
14 of you are referring to this as an abandonment. It is a
15 closure.

16 MR. KLINE: Thank you. You are correct and my
17 mistake because --

18 MR. CASSEDY: Which is understandable. This is the
19 first closure case I've ever dealt with.

20 MR. SIDDIQUE: Since it's a tunnel that's why you
21 call it a closure. If it was a road what would you call it?

22 MR. CASSEDY: There could be a closure of a road.

23 MR. SIDDIQUE: Okay. So, they're not used for any
24 other purpose once it's done.

25 MR. CASSEDY: An abandonment connotes giving up

1 rights to certain things, which in this case don't apply.

2 MR. KLINE: And, I appreciate the clarification
3 because I, myself when we were sitting at what's called a
4 development review committee at park and planning commission,
5 when they said you have to go through an abandonment hearing,
6 I went we're not abandoning Stedwick Road. And, it took me a
7 little while to understand that closure was the proper term.

8 MR. CASSEDY: Virtually, the same procedure.

9 MR. KLINE: Correct. Just a little bit more
10 background beyond the permits if I can give you this also,
11 Mr. Siddique.

12 MR. CASSEDY: Would this be Exhibit 15 then?

13 (Exhibit Nos. 15 (a) and (b)
14 were made a part of the record.)

15 MR. KLINE: Yes, sir, probably (a) and (b) because
16 there's two parts to it. What I just handed you is, the
17 interesting situation even though the applicant to construct
18 the tunnel was Kettler Brothers, a private entity, after it
19 was completed there was a question about who should have
20 maintenance responsibility. And, I have a feeling that that
21 went on back and forth for a while where there was a question
22 on maintenance. I've given you two things. One is a document
23 that talks about all of the tunnels in Montgomery Village and
24 their status. And, I'm not sure if that was prepared by the
25 Department of Transportation and given to the Foundation who

1 in turn gave it to me, or whether the Foundation prepared it
2 itself. But, it does list, and the first one actually in the
3 upper lefthand corner is Stedwick Road. So, it just describes
4 it.

5 I also included, probably not necessarily what
6 lawyers call best evidence, but an article from the Montgomery
7 Village newspaper describing the research efforts of
8 Mr. Edgar Gonzales of the Department of Transportation to
9 track down historically which of the tunnels in Montgomery
10 Village were supposed to be county maintained and which were
11 going to be Foundation maintained. Presumably, -- well, not
12 presumably. Obviously, the county, this was determined to be
13 a county maintained facility. If it hadn't been, again, I
14 guess the question would be do we really need to have the
15 hearing. But, this paperwork gives you a little bit more of
16 the history about how eventually the county felt that --

17 MR. SIDDIQUE: Anything county maintained does not
18 need or requires a closure to be done.

19 MR. KLINE: Correct. I'm not trying to make it a
20 legal argument about that, I guess. I've only got two of
21 these. The next thing I'm going to give you, and I think it
22 probably goes along with some photographs that Mr. Cassedy
23 provided, and that's the condition of the tunnel. And, I'll
24 say it in a humorous vein. But, if the county had maintenance
25 responsibility it didn't exercise it as aggressively as

1 probably is needed. These are photographs a little bit more
2 detailed than maybe you had in the ones that Mr. Cassedy
3 provided.

4 But, the latter ones in the bundle, Mr. Siddique,
5 you will see have a tremendous amount of graffiti on the
6 inside of the tunnel. The electrical equipment that's in the
7 tunnel has all been either ripped out or is hanging and is no
8 longer operational. At site visits that I personally made
9 there were grocery carts and trash accumulated in the tunnel
10 which my client has periodically had to clean out. And,
11 leading up to the question about is this pedestrian pathway no
12 longer needed for public use, there's sort of, I guess, three
13 parts to that.

14 MR. SIDDIQUE: Before you get into that.
15 Mr. Cassedy, do we have a record from the Department of
16 Transportation of maintenance of this place?

17 MR. CASSEDY: To my knowledge, no.

18 MR. SIDDIQUE: And, not even from the start, ever or
19 nobody kept a record probably?

20 MR. CASSEDY: I just don't know the answer to that,
21 Mr. Siddique. These six photos will be Exhibit 16.

22 (Exhibit No. 16 was made a
23 part of the record.)

24 MR. KLINE: Thank you.

25 MR. SIDDIQUE: If you need this back, I can give it

1 back to you.

2 MR. KLINE: That's fine. Mr. Siddique, what's kind
3 of triggered all this is our client's desire to, again going
4 back to that aerial photograph. Our client has bought the old
5 YMCA property that extends all the way from where my finger is
6 here around the word abandon, all the way over to --

7 MR. SIDDIQUE: Where the bank is on that site?

8 MR. KLINE: The bank is right here underneath my
9 finger. That's Sandy Spring Bank there. This is the driveway
10 into Montgomery Village Center and then this is the driveway
11 into the Giant shopping center.

12 MR. SIDDIQUE: So, between the two --

13 MR. KLINE: So, we own everything from Sandy Spring
14 Bank all the way down to this driveway and all the way up to
15 kind of the top of the hill up the beside the shops up there.
16 And, our client has acquired that. As I mentioned, demolished
17 the old YMCA building and now proposes to redevelop property
18 with a retail center with various -- we've had various
19 proposals. But, down here in the lower lefthand corner is a
20 bank, in the upper lefthand corner a row of shops and then
21 down in the lower right-hand corner a building that will
22 probably be split down the middle and will have restaurants
23 and/or retail shops in it. The idea is to try and have some
24 kind of a destination location with restaurants to attract the
25 people who are already shopping in the shopping center or live

1 close and can get there.

2 And, the arc that's shown right in the front here
3 underneath this building B is representative of two things.
4 It's representative of a utility line easement that's
5 underneath this which had to be curved around the mouth of the
6 tunnel itself. So, the tunnel is actually coming out right in
7 the middle of our site.

8 MR. SIDDIQUE: So, where do the utilities come from?
9 The tunnel is not used for utility purposes?

10 MR. KLINE: There is an electrical line to support
11 the lights in there and I know that Mr. Weber who might be
12 answer it, was checking to see if there any other utilities.
13 But, there are no service that will be provided to our
14 property from utilities in that line.

15 Our goal, because of the grade differential, quite
16 high up in this area to all the way down here where the tunnel
17 is, our goal is to basically build up the site, fill this in
18 so it's a relatively flat surface --

19 MR. SIDDIQUE: And, then get up to the grade.

20 MR. KLINE: Bring it up essentially to grade.

21 Mr. Weber can give you the specifics about how close it would
22 need to grade with Stedwick Road or Stedwick Avenue. But, it
23 would require basically sealing the mouth of the tunnel on
24 this side certainly, and then we would have to do something on
25 the south side in order to address that, and I'll kind of come

1 back to that. But, it was this development proposal that sort
2 of started the idea of how do we develop our property. And,
3 when -- did you have something you wanted to say, Mr. Cassedy?

4 MR. CASSEDY: Just did you want to have that as an
5 exhibit too?

6 MR. KLINE: We brought it so you can have it.

7 MR. CASSEDY: That will be Exhibit 17 and what
8 should we call that, development plan?

9 MR. KLINE: Yes, we're calling it site rendering.

10 MR. CASSEDY: Site rendering, okay.

11 (Exhibit No. 17 was made a
12 part of the record.)

13 MR. KLINE: When we started in our dialog with
14 Montgomery Village Foundation about how this should be
15 developed, it was both the preferred engineering solution was
16 to basically seal off the tunnel, but we were pleased that we
17 got a lot of support from the Foundation. There is a letter I
18 know in the file. I haven't had a chance to read it myself,
19 but I believe it has a lot of anecdotal information about
20 crime, ugliness, people uncomfortable. I've been given the
21 crime statistics for this district and the tunnel is
22 considered to be an attractor. So, that's why I went and told
23 you go during daylight when you make your site visit tonight.

24 But, the closure of the tunnel basically allowed to
25 facilitate our development and solve an eyesore, a safety

1 problem and a nuisance for the folks who live south of the
2 road. So, in the context of is this tunnel no longer needed
3 for public use, there is support in the file from the
4 foundation which is the umbrella group plus the homeowners
5 associations to the south who were the primary beneficiaries
6 of the tunnel to get rid of it. We thought that it was
7 incumbent upon us though not only to just block it off. We
8 had to come up with a good alternative of how to get people
9 from where they live south to the shopping center itself.
10 Could I put an exhibit number on this Mr. Cassedy?

11 MR. CASSEDY: That would be number 18, Jody. How
12 should we identify it?

13 (Exhibit No. 18 was made a
14 part of the record.)

15 MR. KLINE: I'm going to suggest it's called
16 pedestrian crossing study. This represents the current state
17 of discussions with the Department of Transportation about
18 what is the appropriate pedestrian improvements to be made
19 north and south of Stedwick Road when the tunnel is abandoned.
20 In our initial discussions, you can see there's a sidewalk
21 coming from the lowest level here that already existed
22 previously that basically - you right into the tunnel. You
23 came out on the north side of the road and you went wherever
24 you wanted to go. So, taking this part of the existing system
25 we had proposed initially basically to bring everybody up to

1 the west so they would connect. Looking at your Exhibit
2 No. 5, we were going to bring them right up to the
3 intersection of Stedwick and this road that leads --

4 MR. SIDDIQUE: From the post office.

5 MR. KLINE: Yes, diagonally across from the post
6 office and then have them cross right at that location, for
7 two reasons. One, the Department of Transportation thought
8 that a mid block crossing would probably be an attractive
9 alternative and that people would have to do it anyway, so
10 that we ought to accommodate for it.

11 MR. SIDDIQUE: And, you said mid block meaning not
12 next to the post office, something between Montgomery Village
13 Avenue and the post office?

14 MR. KLINE: What I'm leading up to is there's going
15 to be alternatives. There will be both the original one that
16 I just described here and with this plan we have added on a
17 second crossing. And, basically, because of the grade
18 differential to get you up Stedwick, we're talking about one
19 steps that will take people up to the upper level of Stedwick.
20 We will then have special pavers for while you cross Stedwick
21 Road in this location. And, then this loop over here is
22 basically the ADA required accessible five percent so people
23 in wheelchairs or otherwise handicapped can basically go this
24 way if they want or they can go up this way.

25 MR. SIDDIQUE: You guys are building this at your

1 cost?

2 MR. KLINE: We are building it at our cost.

3 MR. SIDDIQUE: But, that distance for the ADA one is
4 a pretty long ramp in looking at that.

5 MR. KLINE: Because of the grade differential it
6 required that much of a loop in order to be able to maintain
7 the five percent. This was essential, having these attractive
8 alternatives to get the people who today just go right
9 straight through the tunnel.

10 MR. SIDDIQUE: And, then you would still cross the
11 road there?

12 MR. KLINE: Yes, sir. Exactly.

13 MR. SIDDIQUE: And, that will be, of course, ADA
14 compliant too, the connection with the sidewalk?

15 MR. KLINE: Yes, sir. Correct. Mr. Weber can
16 answer that in more detail, but I assume there is basically it
17 drops and everything to get you across that. This special
18 paver treatment or let me rephrase that, maybe not paver
19 treatment, some special treatment so vehicles will recognize
20 that there is a crossing there and slow down for people to be
21 able to make --

22 MR. SIDDIQUE: Is there some kind of signage or
23 speed bumps?

24 MR. KLINE: Well, we're waiting for the Department
25 of Transportation to tell us what it is that they feel are the

1 improvements that they will be able to approve. This was a
2 design that we did for them as to what we thought they were
3 suggesting at our last meeting and is presently being reviewed
4 by DOT. So, presumably, when Mr. Lake's office comments to
5 you, they will tell you what it is they will accept.

6 But, the punch line of all of that was there are now
7 going to be two points of crossing and that was thought to be
8 a more than satisfactory alternative to the tunnel which
9 today, because of its condition, is basically a discouragement
10 to that pedestrian movement from the north, south and vice
11 versa back and forth. I indicated that you have letters of
12 support from both the foundation and the citizens, or I'm
13 sorry, the homeowners associations which we feel --

14 MR. CASSEDY: One of the two and I'm expecting the
15 second one. I don't have Heron Cove yet.

16 MR. KLINE: Okay. Oh yes, I'm sorry, there are two
17 associations.

18 MR. CASSEDY: But, the reason for that is I've
19 spoken with the president but the board needs to sign it as
20 did the other, and I can't think of the name right now.

21 MR. KLINE: Padulsky?

22 MR. CASSEDY: No, the other condominiums. There are
23 two condominiums on the south side of Stedwick, Mr. Siddique,
24 and I have as Exhibit No. 11 the Center Court Condominium
25 board of directors has signed a letter in support of the

1 closure. There is another condominium called Heron Cove where
2 I'm expecting the same thing.

3 MR. SIDDIQUE: Where are they located?

4 MR. CASSEDY: On the south side of Stedwick.

5 MR. SIDDIQUE: Can you point this out?

6 MR. CASSEDY: The south is the bottom part.

7 MR. KLINE: I'm not sure I know which is -

8 MR. CASSEDY: I don't know which is which either.

9 MR. KLINE: Heron Cove which is --

10 MR. SIDDIQUE: So, these are two different places?

11 MR. CASSEDY: Yes.

12 MR. SIDDIQUE: And, this mid block crossing is it
13 going to come up to the Sandy Spring Bank?

14 MR. KLINE: It comes in, probably going to line up
15 right about here. Actually, I take that back. It's kind of
16 over in here. So, here's the Sandy Spring Bank building.

17 MR. SIDDIQUE: Got it.

18 MR. KLINE: Plus, you still have the other one over
19 here. The last thing I was going to say, Mr. Siddique, it
20 seemed to me if we were asking for closure, we tried to
21 demonstrate that it meets the standards. But, we figured you
22 were going to say okay, if you close it up what are you going
23 to do with the inside of the tunnel? So, Mr. Weber was going
24 to come up and explain to you how we're going to basically
25 stabilize the tunnel so that it does not become a negative

1 from a maintenance point of view for the Department of
2 Transportation. Mr. Weber, if you could introduce yourself.

3 MR. SIDDIQUE: That was going to be my next
4 question.

5 MR. KLINE: This is actually the interesting part.
6 This is a new one for most of us. Mr. Weber.

7 MR. WEBER: Good afternoon. For the record my name
8 is David Weber. I am a principal engineer and land surveyor
9 with Gutschick, Little and Weber. Office is in Burtonsville,
10 Maryland. We are the site development engineer for the
11 property owner and we are currently working on all the site
12 development plans which include closure of this tunnel.

13 The tunnel is constructed of corrugated metal pipe
14 similar to the storm drain pipes that you see as culverts
15 under roads. This is just a very large piece of storm drain
16 pipe that's so large people can walk through it. In closing
17 off the ends normally you'd create a void in the middle which
18 would be very bad under a public road. We are proposing to
19 fill in that void. We're going to incrementally brick up the
20 end points, fill in with gravel and a substance called
21 flowable fill, which is a non-shrink structural material, that
22 as we bring it up layer by layer ultimately filling up to the
23 crown of the pipe it will provide a structural support for the
24 road rather than having a void of air in between the two ends.

25 On the north end of the tunnel where our property

1 is, we will be filling in with soil and constructing our site
2 over the top. On the south end where the condominiums are
3 right in here where this grove of trees is the tunnel empties
4 into the property approximately 14 feet below the surface of
5 the road. So, along the road --

6 MR. SIDDIQUE: When you say empties, what does it
7 empty?

8 MR. WEBER: The pedestrians. There's a slope along
9 the length of the road. So, we're going to brick up the south
10 end, again after filling the interior and then we will use
11 soil again to match the slope on the east and west sides of
12 the tunnel so it looks consistent as you move from west to
13 east or east to west.

14 MR. SIDDIQUE: The topography of the area.

15 MR. WEBER: Exactly. The stairs, as Jody described,
16 will be necessary to connect the pedestrian path from the
17 southern area up to Stedwick and for the handicap or ADA
18 accessible issues there will be a ramp that will go up to the
19 west side. There are no public utilities within the tunnel.
20 The only utility that is in the tunnel --

21 MR. SIDDIQUE: That you know of?

22 MR. WEBER: We have investigated this.

23 MR. SIDDIQUE: Okay.

24 MR. WEBER: And, the only utility that is in the
25 tunnel is low voltage electric lights and all the lights that

1 are inside have been broken.

2 MR. SIDDIQUE: So, that power which is going in
3 there is only for the use of the tunnel?

4 MR. WEBER: Exactly.

5 MR. SIDDIQUE: There's nothing on the other side?

6 MR. WEBER: That is correct. And, that is also part
7 of the permit with PEPCO to have that removed prior to filling
8 in the tunnel. The water line and the public electric --

9 MR. SIDDIQUE: By the way, who maintains those
10 lights?

11 MR. CASSEDY: The lights?

12 MR. SIDDIQUE: DOT is supposed to.

13 MS. CASSEDY: If we're going to look at the chart
14 here.

15 MR. WEBER: It was our understanding from our
16 research that DPWT was also supposed to maintain those.

17 MR. CASSEDY: To answer your question, Mr. Siddique,
18 on this tunnel DPWT or Department of Transportation now,
19 responsible for the structural maintenance, safety inspections
20 and street lights.

21 MR. SIDDIQUE: Okay.

22 MR. WEBER: As far as public utilities in the
23 general vicinity there is a water line and an electric line
24 that parallels but does not go through the tunnel, parallels
25 Stedwick. There's a sanitary sewer line and a storm drain

1 line that cross Stedwick to the west side of the tunnel. Out
2 in the road there is a Washington Gas line, again that does
3 not go through the tunnel.

4 MR. SIDDIQUE: It is above the tunnel?

5 MR. WEBER: Yes. So, the closure of this tunnel
6 will have no effect on the public utilities.

7 MR. SIDDIQUE: Just one technical problem. When you
8 put in the fill material is it going to be in the form of
9 slurry or just the material itself will be soft like
10 quicksand?

11 MR. WEBER: It is a slurry, yes. And, I'd be happy
12 to answer any questions.

13 MR. SIDDIQUE: No, I think that's a sufficient
14 answer, I guess, in here.

15 MR. CASSEDY: I'd just like as a sidebar, when I
16 heard not that much detail of what was going to go on I was
17 impressed. Because I sort of saw it as perhaps big iron gates
18 on either side with locks. And, I know what bolt cutters can
19 do. Those locks wouldn't be in place very long.

20 MR. SIDDIQUE: When I think that safety is involved
21 you have to do a little bit more permanent thing than gates.

22 MR. WEBER: Agreed. Being the engineer for the site
23 we have been out there literally dozens of times. And, I will
24 say without exaggeration more than three-quarters of the time
25 we have seen people smoking dope in there and conducting drug

1 deals.

2 MR. SIDDIQUE: Once you are done with the tunnel
3 nobody will notice it ever existed, right?

4 MR. WEBER: Exactly. That will eliminate both a
5 nuisance and a problem for the police department.

6 MR. SIDDIQUE: Actually, I really an interested in
7 finding out what the police department's recommendations are
8 about this -

9 MR. CASSEDY: I can tell you unofficially. I think
10 that that's okay to do because --

11 MR. SIDDIQUE: Let their letter of comment come in
12 and we'll go from there.

13 MR. WEBER: I can offer some firsthand anecdotal
14 information. One of the times that I was out there, a police
15 officer stopped and asked me what I was doing. I handed him
16 my business card and he said okay, do you have an explanation.
17 And, I went through our intentions and he had a big smile on
18 his face. He said good, I'll be very happy when this gets
19 closed.

20 MR. SIDDIQUE: We'll wait for official comment from
21 the police department on that one. Anything else you want me
22 to --

23 MR. KLINE: If you didn't have any other technical
24 questions for Mr. Weber, I guess I'll just sort of conclude
25 with I'm saying.

(57)

1 MR. SIDDIQUE: Thank you, Mr. Weber.

2 MR. WEBER: You're welcome.

3 MR. KLINE: I hope that we've given you enough facts
4 to demonstrate that the tunnel is no longer needed for public
5 use. That universe, I guess, of people for whom it was
6 primarily intended, the residents and the shoppers feel that
7 they are getting as good if not better alternative
8 improvement. And, that eliminating the tunnel eliminates a
9 security, eyesore problem from their point of view. And,
10 based on Mr. Weber's testimony you are now going to get
11 basically the tunnel in such a manner when it's closed that it
12 will not have any kind of a structural problem for the long
13 range maintenance of Stedwick Road. So, in that regard, we
14 would proffer that it's in the public interest to grant the
15 closure and would ask that you so recommend to the County
16 Executive and, hopefully, that he would so recommend to the
17 County Council.

18 MR. SIDDIQUE: When the tunnel is closed the end
19 result will be very pleasing to the eyes?

20 MR. KLINE: The way I understand from Mr. Weber
21 describing it, I know on our side, yes. Because we're going
22 to have a patio out in front where we're going to have
23 restaurant tables. On the south side he's talking about
24 blending it into the hillside. So, it should look very
25 attractive.

1 MR. WEBER: If I may?

2 MR. KLINE: And, you're looking at exhibit number?

3 MR. WEBER: This is Exhibit 18 that shows the
4 pedestrian path plan. Alongside of Stedwick Road we're going
5 to be filling the slope and as we recreate the pedestrian path
6 system we're going to be supplementing the landscaping in this
7 area. So, it will be a very pleasant environment.

8 MR. SIDDIQUE: On both sides of the tunnel?

9 MR. WEBER: On both sides, the north and the south
10 side.

11 MR. KLINE: And, I guess I could proffer that that's
12 not just our opinion because all that has to be the subject of
13 a site plan review by the Montgomery County Planning Board and
14 the staff. And, they're not going to let us do it on the
15 cheap.

16 MR. SIDDIQUE: I understand that.

17 MR. KLINE: Any further questions, Mr. Siddique?

18 MR. SIDDIQUE: I don't have any questions. If you
19 have nothing else to say then we can --

20 MR. KLINE: Nothing else to say, sir.

21 MR. SIDDIQUE: Then with that we -- Mr. Cassedy, do
22 you have anything to add?

23 MR. CASSEDY: It would be hearsay right now, but
24 we'll have some more evidence for you before the record
25 closes.

59

1 MR. SIDDIQUE: Okay. And, with that we'll close
2 this hearing. The time is 2:45 p.m.

3 (Whereupon, at 2:45 p.m., the proceedings were
4 concluded.)

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Digitally signed by Donna J. Escobar

ELECTRONIC CERTIFICATE

DEPOSITION SERVICES, INC., hereby certifies that the foregoing pages represent an accurate transcript of the electronic sound recording of the public hearing on the closure of Stedwick Road pedestrian tunnel in Montgomery Village, on Monday, July 13, 2009.

Donna J Escobar

Transcriber

July 21, 2009
Date

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