

Resolution No.: 16-782  
Introduced: December 2, 2008  
Adopted: December 2, 2008

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

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By County Council

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**SUBJECT:** DPWT Docket No. AB709  
Abandonment – Walkers Mill Road  
Gaithersburg, Maryland

**Background**

1. By letter dated September 12, 2007, from D'Amore Construction Company, Inc., on behalf of Mr. and Mrs. H. Winfree Irvine, Jr., the Applicants, application to the County was made to abandon a portion of Walkers Mill Road in the unincorporated area of Gaithersburg, MD. The area to be abandoned consists of approximately 12,560 square feet and is approximately 785 feet long by 16 feet wide, and is further described in an Act of Assembly recorded among the Land Records of Montgomery County, Maryland in liber EMP 23 at folio 109.
2. A Public Hearing to consider the abandonment proposal was conducted on June 9, 2008, by the designee of the County Executive.
3. Washington Suburban Sanitary Commission had no objection to the proposed abandonment.
4. Washington Gas had no objection to the proposed abandonment.
5. The Montgomery County Police Department had no objection to the proposed abandonment.
6. The Montgomery County Planning Board approved the abandonment with the conditions that Applicants: 1) provide an access agreement within the area to be abandoned to the side parking area of the adjacent house on Lot 1, Block C in the Sharon Woods Subdivision at 9405 Bac Place; 2) provide an access easement to PEPCO to reach its utility pole for maintenance; and 3) prepare the necessary deed to transfer the County's ownership interests in the Walkers Mill Road public right-of-way to the Applicants.

7. The Department of Public Works and Transportation (“DPWT”), now the Department of Transportation (“DOT”) conditioned its recommendation for approval of the Applicants’ request on: 1) the Applicants must grant easements for any public utilities that might be located within the right-of-way; and 2) the Applicants must record a covenant to run with the land requiring any future owner who would seek subdivision to construct a cul-de-sac.
8. The Department of Fire and Rescue Services concurred with the DPWT /DOT conditions.
9. Verizon had no objection to the proposed abandonment.
10. The County Executive recommends approval of the proposed abandonment.

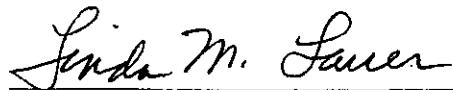
#### Action

The County Council for Montgomery County, Maryland, finds that the portion of Walkers Mill Road proposed for abandonment is no longer necessary for public use, pursuant to §49-63 of the Montgomery County Code (2004), as amended, and approves the requested abandonment, subject to the following conditions:

1. The Applicants must prepare and record a covenant approved as to form and substance by the Department of Transportation and the Office of the County Attorney providing that upon subdivision of Parcel P262 on tax map FT 563, a cul-de-sac must be created and constructed.
2. Provided that the owner(s) of Lot 1, Block “C” of the Sharon Woods Subdivision with a property address of 9405 Bac Place agrees to equally share the costs and responsibility for maintaining and repairing the driveway up to the parking lot on Lot 1, the Applicants must prepare, grant and record an access easement for use of the driveway on the right-of-way to enable the owner of Lot 1, Block “C” of the Sharon Woods Subdivision to continue to have secondary access to its parking lot. This agreement must be in place for as long as there is a parking lot on Lot 1, Block “C” of the Sharon Woods Subdivision; however, the easement may be terminated by the Applicants or their successors-in-interest if the owner(s) of Lot 1, Block “C” fails to contribute to the costs of maintenance and repair of the driveway. This easement will be subject to any existing easements which will remain.
3. The Applicants must prepare, grant and record an access easement for access by PEPCO to its utility pole to allow it to continue to use its utility pole and to provide maintenance, repairs and replacement of the pole. The easement must be in form and substance acceptable to PEPCO.

4. The Applicants must prepare a quit claim or other form of deed for review and approval by the Department of Transportation and the Office of the County Attorney for the right-of-way following the conclusion of any disposition requirements for conveyance of the property and which deed must reflect the terms upon which the right-of-way is to be conveyed to the Applicants.
5. The Applicants must bear all costs for the preparation and recordation of all necessary legal documents and plats, if any.
6. The County Attorney must record among the Land Records of Montgomery County, Maryland, a copy of this Resolution approving the abandonment of the subject area.
7. Any person aggrieved by the action of the Council for abandonment may appeal to the Circuit Court within 30 days after the date such action is taken by Council.

This is a correct copy of Council Action.



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Linda M. Lauer, Clerk of the Council