

Resolution No.: 17-220
Introduced: July 19, 2011
Adopted: July 19, 2011

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: County Council

SUBJECT: DOT Docket No. AB715
Abandonment - Lincoln Street
Huntington Terrace Subdivision
Bethesda, Maryland

Background

1. By letter dated April 21, 2008, from Linowes and Blocher on behalf of its client, Suburban Hospital, Inc. (the Applicant), Montgomery County was requested to abandon a portion of Lincoln Street in the Huntington Terrace Subdivision in Bethesda. The portion of Lincoln Street is one block long from Old Georgetown Road (Route 187) on the east to Grant Street on the west, and it consists of approximately 36,126 square feet. The Applicant owns all properties adjoining the subject right-of-way.
2. A Public Hearing was held by the designee of the County Executive to consider the request for abandonment on August 26, 2008, pursuant to Executive Order No. 127-08, dated May 29, 2008.
3. Washington Suburban Sanitary Commission conditioned its approval upon being granted an easement for its facilities.
4. Washington Gas objected to the abandonment unless granted an easement for its facilities.
5. VERIZON objected to the abandonment unless granted an easement for its facilities.
6. PEPCO did not respond within 60 days and therefore, concurrence is presumed.
7. The Police Department approved of the proposed abandonment.
8. The Department of Fire and Rescue Services has no objection to the proposed abandonment.
9. The Department of Transportation (DOT) provided the following comments on the proposed abandonment:

- a. The Applicant's traffic consultant had satisfactorily demonstrated that the nearby roadway network has sufficient capacity to handle traffic which would be displaced if the abandonment is approved.
 - b. DOT reserves the right to require adjustments for operational and safety considerations to the plans of the Hospital to improve McKinley Street at the Site Plan/or permit stage.
 - c. DOT discussed that the Hospital is proposing to construct an on-site network of paths to replace the existing sidewalk and bicycle routes, and recommended that, if the abandonment is approved, then the Hospital must be required to grant and record a perpetual easement along those paths, in location(s) that most closely replicate the Lincoln Street sidewalks and bicycle routes, with appropriate lighting of the paths, and that the Hospital must be responsible for the maintenance and liability of the paths within the limits of the perpetual public access easement.
 - d. DOT recommended that, if the abandonment is approved, it should be conditioned upon the Applicant 1) granting easements for the County storm drains and public utility facilities or at the Applicant's sole expense relocating these facilities and granting easements, and 2) recording a new record plat that incorporates the former right-of-way.
10. The Montgomery County Planning Board recommended approval of the proposed abandonment subject to the following two conditions: 1) that the Special Exception application (Case No. S-274-D) for the Suburban Hospital expansion is approved and includes a condition that the on-site sidewalk network be made available for public use; and 2) that the proposed abandonment become effective simultaneously with the complete record plat for the proposed Hospital preliminary plan that consolidates all parcels fronting Lincoln Street between Old Georgetown Road and Grant Street.
11. The County Executive recommends approval of the proposed abandonment.

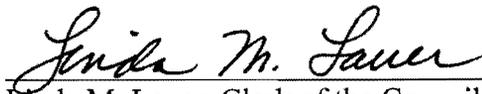
Action

The County Council for Montgomery County, Maryland, finds that the one block section of Lincoln Street in the Huntington Terrace Subdivision from Old Georgetown Road to Grant Street and consisting of approximately 36,126 square feet that is proposed for abandonment is no longer necessary for present public use or anticipated public use in the foreseeable future, pursuant to Section 49-63 of the Montgomery County Code, and approves the abandonment subject to the following conditions which must be satisfied at Applicant's sole cost and expense prior to the abandonment becoming effective:

1. The Applicant must grant, prepare, and record any necessary easements for County Storm drains and public utility facilities, including but not limited to gas lines, electric facilities, and water and sewer facilities to the satisfaction of the County or the public utility, as applicable, allowing facilities to remain at their current location or relocated locations, and providing perpetual right of ingress

- and egress from the easement area at any time (which rights must not be subordinate to other interests).
2. The Applicant must at its sole cost prepare and record a new record plat incorporating the Abandonment Area into the existing lots.
 3. The Special Exception application (Case No. So-274-D) for the Suburban Hospital Expansion must be finally approved with no further appeals.
 4. If Condition #3 is met, the proposed abandonment will become effective simultaneously with the complete record plat for the proposed Hospital preliminary plan that consolidates all parcels fronting Lincoln Street between Old Georgetown Road and Grant Street, with the exception of Lot 12 if it remains a separate recorded lot, and including a condition that the on-site sidewalk network must be available for public use when the Special Exception Addition is substantially complete.
 5. Suburban Hospital must grant and record a perpetual access easement for the on-site network of paths that will replace the Lincoln Street sidewalk and bicycle routes and the perpetual access easement area must have appropriate lighting on the paths. Suburban Hospital must be responsible for the maintenance and legal liability of the paths within the limits of the perpetual public access easement.
 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 the Council.

This is a correct copy of the Council Action.



Linda M. Lauer, Clerk of the Council