

MEMORANDUM

November 5, 2015

TO: Transportation, Infrastructure, Energy and Environment Committee
FROM: ^{GO} Glenn Orlin, Deputy Council Administrator
SUBJECT: Resolution to authorize advance taking for Wapakoneta Road Improvements project

On October 13, 2015 the County Executive requested authority to condemn, by the advance taking procedure, parts of three properties in Bethesda for the construction of the Wapakoneta Road Improvements project: a 1,505sf perpetual easement from one property for a drainage facility, and 3,552sf from two other properties for temporary construction easements. The Executive's letter transmitting his request is on ©1-2 and a draft resolution is on ©3-4. Maps showing the location of the proposed advance taking are on ©5-6. Plats showing the proposed acquisitions are on ©7-9.

The Department of Transportation (DOT) wrote to the property owners notifying them of the Executive's request and when the Committee and Council would meet on the matter. One of the letters is on ©10.

Since the Executive made his request, DOT staff has reported that it is settling with the property for which the perpetual easement is needed. Therefore, the advance taking authority needs to be granted only for the two properties for which temporary construction easements are required. An updated draft resolution is on ©11-12.

In response to DOT's letter to affected property owners, the Committee has received letters from Dan Hanfling and Tanvi Nagpal (©13-17) and from Enzo Croce and Ana Maria Jul (©18). Bill Magruder, who initiated the community petition for the project, has shared his perspective (©19).

During the Committee meeting on November 2, Councilmembers Berliner and Hucker indicated they wanted to view photos and videos of Wapakoneta Road and vicinity during a normal rainstorm before rendering a decision. They will be presented at this worksession.



OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

MEMORANDUM

October 13, 2015

TO: George Leventhal, President
Montgomery County Council

FROM: Isiah Leggett, County Executive *Timothy L. Furustovic (acting)*

SUBJECT: Wapakoneta Road Improvements
CIP Project No. 501101

Pursuant to Executive Order No. 074-10, the Department of Transportation (DOT) has authorized the construction of roadway improvements along Wapakoneta Road from Namakagan Road to Walhonding Road within the 8th Election District of Montgomery County, Maryland. The County proposes improvements that include a 24" storm drain pipe to support storm and gutter along Wapakoneta Road.

The planned construction impacts 5 properties and 5 property owners along Wapakoneta Road and Wehawkan Road. Negotiations with the Property Owners for the necessary easement acquisitions began in April 2015 and are continuing. To date, the County has settled with 2 property owners. In order to maintain the County's construction schedule, however, it has become necessary for the County to seek authorization from the Council to obtain immediate possession of portions of those properties for which the County has not yet been able to negotiate an amicable resolution with the Property Owners. Accordingly, the Council is being requested to authorize the County to proceed with its Advance Taking procedures under Montgomery County Code § 49-50 in order to take immediate possession of the remaining properties.

Authorization to commence Advance Taking procedures will not end the County's efforts to continue to negotiate toward an amicable agreement with the subject Property Owners. However, due to construction time constraints, formal authorization to commence Advance Taking procedures is being requested at this time. See attached Resolution.

The following is a status report of the DOT's negotiation efforts to date with the Owners of the properties subject to the proposed Advance Taking.

George Leventhal, President
October 13, 2015
Page 2

1. Alejandro Silva & Maria Claudia Posada – The acquisition consists of a perpetual easement for drainage facility containing 1,505 square feet of land area. Contacts with the Property Owner include initial offer letter, message on their telephone, personal visit to the site and a follow up letter. Met at the property to discuss concerns and agreed to terms. Mr. Silva is currently reviewing the option contract.
2. Enzo Croce & Ana Maria Jul- The acquisition consists of a temporary construction easement of 2,052 square feet. Contacts with the Owner include initial offer letter, 2 email conversations, a phone conversation, and two site visits. Staff has not reached an amicable agreement with the Property Owner.
3. Dan G. Hanfling & Tanvi Nagpal - The acquisition consists of a temporary construction easement of 1,500 square feet. Contacts with the Owner include initial offer letter, a phone conversation, a site visit and a follow up letter. The owners do not want to lose their trees and have refused to make any agreement. We have reviewed the situation and cannot accommodate the owner's request. Staff has not reached an amicable agreement with the Property Owner.

IL:do

Attachment

RESOLUTION _____
INTRODUCED _____
ADOPTED _____

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By County Council

SUBJECT: Optional Procedure for Condemnation of Land, Advance Taking
CIP Project No. 501101

In accordance with Article III, Section 40A, Maryland Constitution and Section 49-50,
2004 Montgomery County Code, as amended.

BACKGROUND

- I. The Council has been requested to authorize the condemnation of the portion of land necessary to construct roadway improvement of Wapakoneta Road from Namakagan Road to Walhonding Road in Bethesda to construct improvements including a curb, gutter, and storm drainage, in accordance with §49-50 of the Montgomery County Code, (2004) as amended.
1. In order to meet the construction schedule, as authorized by the Montgomery County Council, the County must acquire the properties referenced below in a timely manner.
 2. The County has been unable to complete negotiations for Option Contracts with the Property Owners listed below.

RIGHT OF WAY IN SQUARE FEET

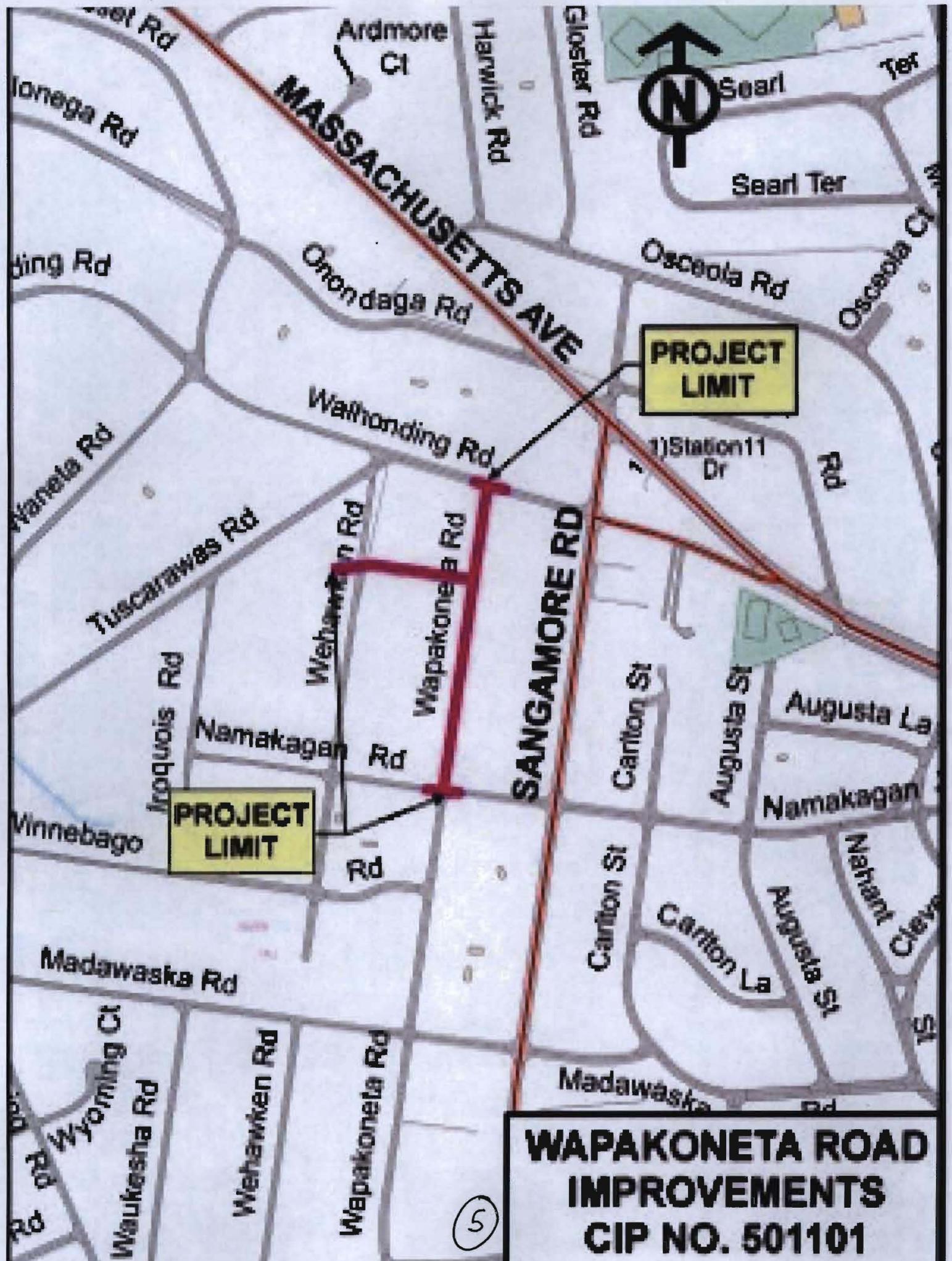
<u>OWNER</u>	<u>ACCT. #</u>	<u>LOT / BLOCK</u>	<u>LIBER / FOLIO</u>	<u>PERPETUAL EASEMENT</u>	<u>TEMPORARY EASEMENT</u>
Alejandro Silva & Maria Claudia Posada	07-00503560	Block 17 / Lot 7	25155 / 470	1,505	0
Enzo Croce & Ana Maria Jul	07-00504325	Block 17 / Lot 6	10741 / 608	0	2,052
Dan G. Hanfling & Tanvi Nagpal	07-00504928	Block 17 / Lot 5	15179 / 156	0	1,500

ACTION

- I. The County Council finds that there is an immediate need to take possession of a portion of the property listed above and approves the Resolution authorizing the condemnation of land under the optional method for condemnation of land for streets or roads specified in Section 49-50 2004 Montgomery County Code for the road improvements of Wapakoneta Road. In furtherance of these actions, the County Council hereby:
 1. Guarantees the payment of any amount above the estimated fair market value later awarded by a jury; and
 2. Appoints Melville E. Peters, ASA CRA Maryland Certified General Appraiser, to appraise the fair market value of the property.
 3. Orders the County Attorney to acquire the listed property under this procedure.
- II. Montgomery County will take immediate possession of the listed property upon filing petitions of advance taking in the Circuit Court for Montgomery County, Maryland and depositing with the Court the fair market value of the property, as determined by the appraiser appointed above. The County may abandon these proceedings at any time prior to payment of the fair market value of the listed property into the Court.
- III. The County Attorney is hereby directed to take all necessary steps to acquire the property.

THIS IS A CORRECT COPY OF COUNCIL ACTION

Linda M. Lauer
Clerk of the Council

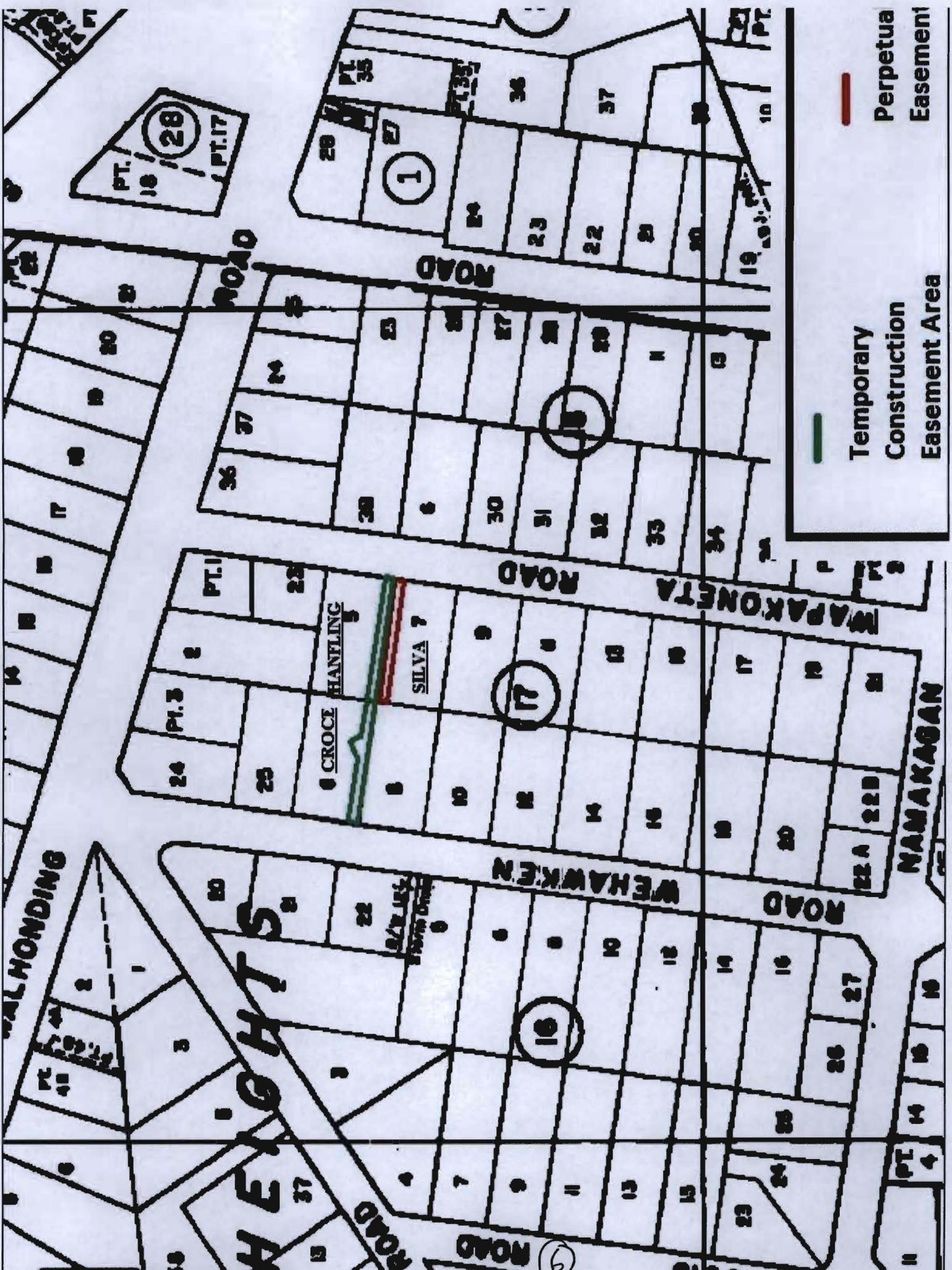


**PROJECT
LIMIT**

**PROJECT
LIMIT**

**WAPAKONETA ROAD
IMPROVEMENTS
CIP NO. 501101**

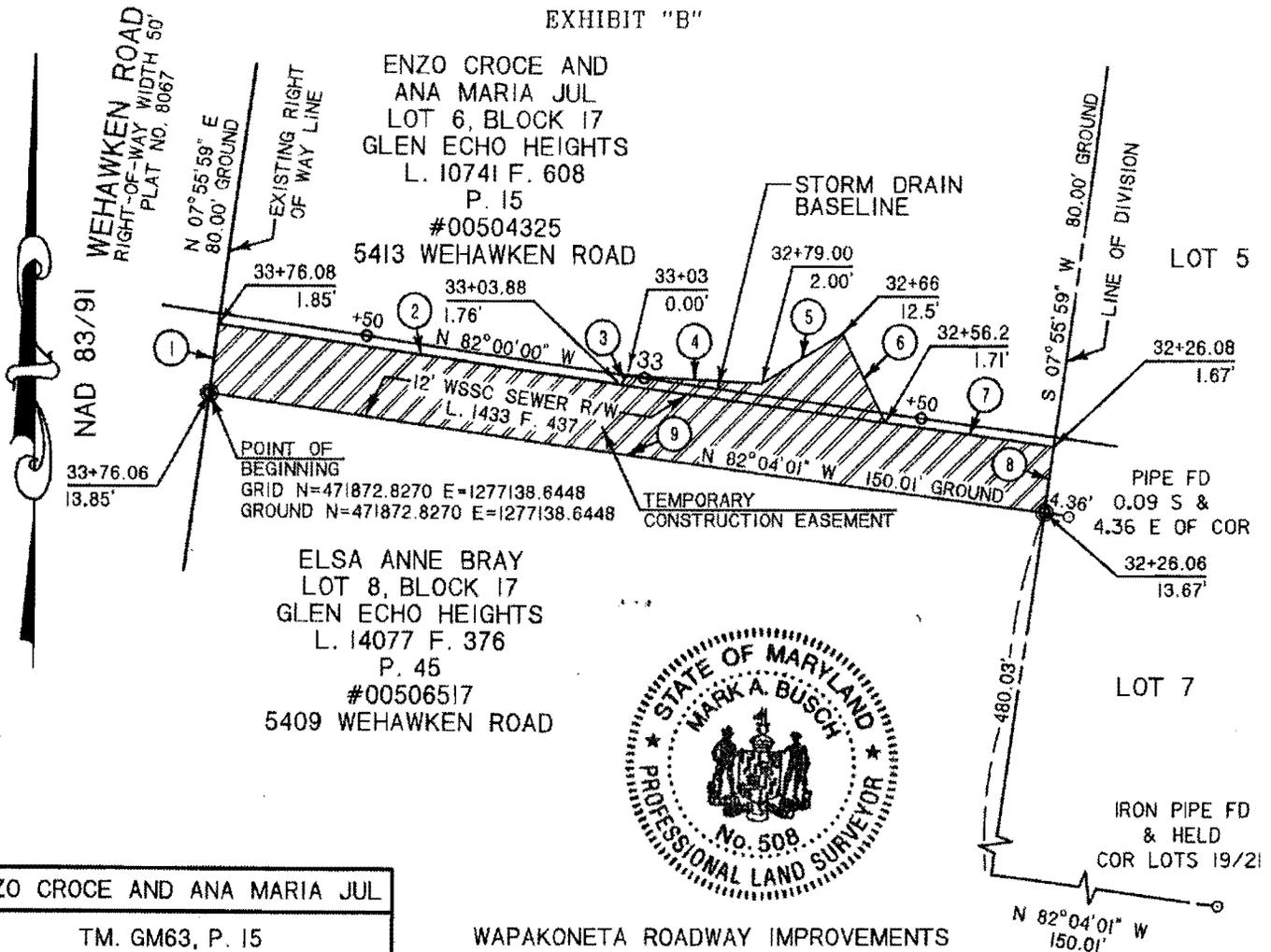
5



 Perpetua Easement
 Temporary Construction Easement Area

EXHIBIT "B"

MARYLAND COORDINATE SYSTEM



ENZO CROCE AND ANA MARIA JUL
LOT 6, BLOCK 17
GLEN ECHO HEIGHTS
L. 10741 F. 608
P. 15
#00504325
5413 WEHAWKEN ROAD

ELSA ANNE BRAY
LOT 8, BLOCK 17
GLEN ECHO HEIGHTS
L. 14077 F. 376
P. 45
#00506517
5409 WEHAWKEN ROAD



ENZO CROCE AND ANA MARIA JUL		
TM. GM63, P. 15 #00504325		
1	N 07°55'59" E	12.00'
2	S 82°04'01" E	72.23'
3	N 34°33'54" E	1.93'
4	S 86°45'49" E	24.08'
5	N 59°04'21" E	16.71'
6	S 26°35'32" E	17.22'
7	S 82°04'01" E	30.14'
8	S 07°55'59" W	12.00'
9	N 82°04'01" W	150.01'
TEMPORARY EASEMENT AREA 2,052 SQ. FT. OR 0.04710 ACRES± SHOWN THUS:		

WAPAKONETA ROADWAY IMPROVEMENTS
CIP NO. 501101

NOTE: GRID/GROUND COORDINATES ARE MD. NAD 83/91
BASED ON A GPS PROJECTION FROM
NGS STATION HV9189 (GPS 12)
N) 472696.66, E) 1275985.29, ELEV. 256.97
A COMBINED SCALE FACTOR 1.00005837 WAS
USED TO OBTAIN GROUND DISTANCES.

POINT OF BEGINNING OF TEMPORARY CONSTRUCTION
EASEMENT HELD AS STATE PLANE COORDINATE
FOR GROUND COMPUTATIONS.

I HEREBY CERTIFY TO MONTGOMERY COUNTY, MARYLAND
THAT THE INFORMATION SHOWN HEREON ARE CORRECT;
THAT IT DEPICTS A PLAT OF EASEMENT; THAT IT IS
BASED ON THE FIELD SURVEY PERFORMED ON APRIL
2014; AND THAT PROPERTY MARKERS HAVE BEEN SET
ON FEBRUARY 27, 2015 WHERE SHOWN MARKED THUS

Mark A. Busch 3/02/15
MARK A. BUSCH PROF. L. S.

MD REG. NO. 508
EXP. DATE 07/25/2015

TEMPORARY CONSTRUCTION EASEMENT ENZO CROCE AND ANA MARIA JUL TO: MONTGOMERY COUNTY, MARYLAND	DIST 07, ACCNT 00504325 TM. GM63, P. 15 LIBER 10741, FOLIO 608	 17830 NEW HAMPSHIRE AVE. SUITE 200 ASHTON, MD 20861 301-260-0090
	DRAWN BY: BCB	
	CHECKED BY: MAB	SCALE: 1" = 30'

7

EXHIBIT "B"

DAN G. HANFLING AND
TANVI NAGPAL
LOT 5, BLOCK 17
GLEN ECHO HEIGHTS
L. 15179 F. 156
P. 45
#00504928

5332 WAPAKONETA ROAD

ALEJANDRO SILVA AND
MARIA CLAUDIA POSADA
LOT 7, BLOCK 17
GLEN ECHO HEIGHTS
L. 25155 F. 470
P. 45
#00503560
5328 WAPAKONETA ROAD

WAPAKONETA ROADWAY IMPROVEMENTS
CIP NO. 501101

NOTE: GRID/GROUND COORDINATES ARE MD. NAD 83/91
BASED ON A GPS PROJECTION FROM
NGS STATION HV9189 (GPS 12)
N) 472696.66, E) 1275985.29, ELEV. 256.97
COMBINED SCALE FACTOR 1.00005837 WAS USED TO
OBTAIN GROUND DISTANCES.
POINT OF BEGINNING OF PERPETUAL DRAINAGE
EASEMENT HELD AS STATE PLANE COORDINATE
FOR GROUND COMPUTATIONS.

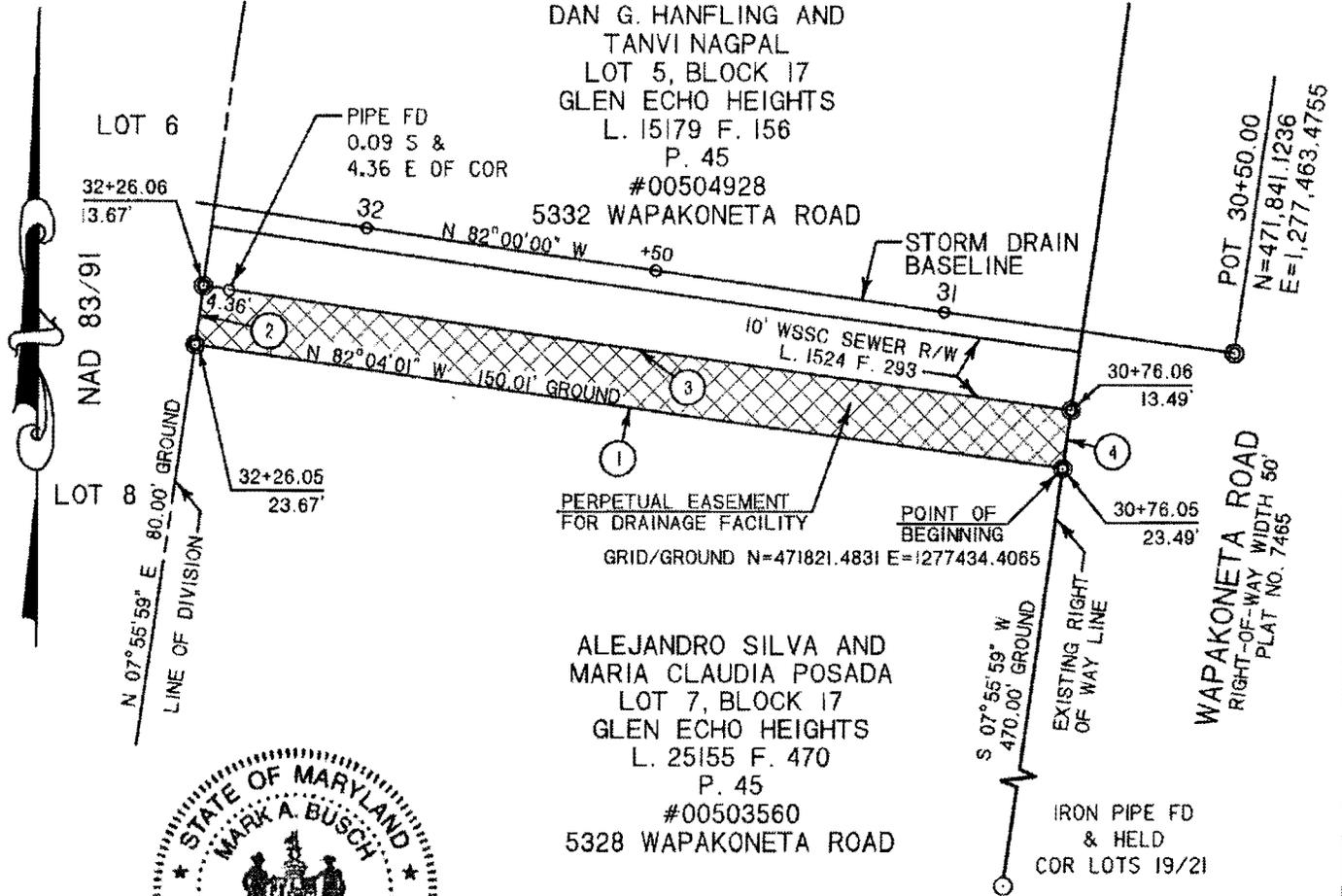
I HEREBY CERTIFY TO MONTGOMERY COUNTY, MARYLAND
THAT THE INFORMATION SHOWN HEREON ARE CORRECT;
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BASED ON THE FIELD SURVEY PERFORMED ON APRIL
2014; AND THAT PROPERTY MARKERS HAVE BEEN SET
ON FEBRUARY 27, 2015 WHERE SHOWN MARKED THUS (C)

Mark A. Busch
MARK A. BUSCH PROF. L. S.

3/6/2015

MD REG. NO. 508
EXP. DATE 07/25/2015

MARYLAND COORDINATE SYSTEM



ALEJANDRO SILVA AND MARIA CLAUDIA POSADA		
TM. GM63, P. 45 #00503560		
1	N 82°04'01" W	150.00'
2	N 07°52'59" E	10.03'
3	S 82°04'01" E	150.01'
4	S 07°55'59" W	10.03'
PERPETUAL EASEMENT AREA 1,505 SQ. FT. OR 0.03455 ACRES± SHOWN THUS:		

PERPETUAL EASEMENT FOR DRAINAGE FACILITY	DIST 07, ACNT 00503560 TM. GM63, P. 45 LIBER 25155, FOLIO 470		 17830 NEW HAMPSHIRE AVE. SUITE 200 ASHTON, MD 20861 301-260-0090
	DRAWN BY: BCB	DATE: 2/27/15	
ALEJANDRO SILVA AND MARIA CLAUDIA POSADA TO: MONTGOMERY COUNTY, MARYLAND	CHECKED BY: MAB	SCALE: 1" = 30'	

EXHIBIT "B"

MARYLAND COORDINATE SYSTEM

LOT 6

NAD 83/91

LOT 8

DAN G. HANFLING AND
TANVI NAGPAL
LOT 5, BLOCK 17
GLEN ECHO HEIGHTS
L. 15179 F. 156
P. 45
#00504928
5332 WAPAKONETA ROAD

ALEJANDRO SILVA AND
MARIA CLAUDIA POSADA
LOT 7, BLOCK 17
GLEN ECHO HEIGHTS
L. 25155 F. 470
P. 45
#00503560
5328 WAPAKONETA ROAD

POT 30+50.00
N=471,841.1236
E=1,277,463.4755

WAPAKONETA ROAD
RIGHT-OF-WAY WIDTH 50'
PLAT NO. 7465



WAPAKONETA ROADWAY IMPROVEMENTS
CIP NO. 501101

NOTE: GRID/GROUND COORDINATES ARE MD. NAD 83/91
BASED ON A GPS PROJECTION FROM
NGS STATION HV9189 (GPS 12)
N) 472696.66, E) 1275985.29, ELEV. 256.97
A COMBINED SCALE FACTOR 1.00005837 WAS
USED TO OBTAIN GROUND DISTANCES.
POINT OF BEGINNING OF TEMPORARY CONSTRUCTION
EASEMENT HELD AS STATE PLANE COORDINATE
FOR GROUND COMPUTATIONS.

I HEREBY CERTIFY TO MONTGOMERY COUNTY, MARYLAND
THAT THE INFORMATION SHOWN HEREON ARE CORRECT;
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BASED ON THE FIELD SURVEY PERFORMED ON APRIL
2014; AND THAT PROPERTY MARKERS HAVE BEEN SET
ON FEBRUARY 27, 2015 WHERE SHOWN MARKED THUS ○

Mark A. Busch
MARK A. BUSCH PROF. L. S.

3/02/15
MD REG. NO. 508
EXP. DATE 07/25/2015

DAN G. HANFLING AND TANVI NAGPAL		
TM. GM63, P. 45 #00504928		
1	N 82°04'01" W	150.01'
2	N 07°55'59" E	10.00'
3	S 82°04'01" E	150.01'
4	S 07°55'59" W	10.00'
TEMPORARY EASEMENT AREA 1,500 SQ. FT. OR 0.03444 ACRES± SHOWN THUS:		

TEMPORARY CONSTRUCTION EASEMENT	DIST 07, ACCNT 00504928 TM. GM63, P. 45 LIBER 15179, FOLIO 156		 17830 NEW HAMPSHIRE AVE. SUITE 200 ASHTON, MD 20861 301-260-0090
	DRAWN BY: BCB	DATE: 2/27/15	
DAN G. HANFLING AND TANVI NAGPAL TO: MONTGOMERY COUNTY, MARYLAND	CHECKED BY: MAB	SCALE: 1" = 30'	



DEPARTMENT OF TRANSPORTATION

Isiah Leggett
County Executive

October 20, 2015

Al R. Roshdieh
Acting Director

Dan G. Hanfling
Tanvi Nagpal
5332 Wapakoneta Road
Bethesda, Maryland 20816

RE: Wapakoneta Road
CIP Project No. 501101
5332 Wapakoneta Road

Dear Mr. Hanfling & Ms. Nagpal:

The County Executive requested, and the Council approved funding for the reconstruction of full depth pavement and construction of the storm drain improvements along Wapakoneta Road from Namakagan Road to Walhonding Road. The Council appropriated funds to acquire the property needed to construct the improvements. Over the last several months, this Department has been working to secure the necessary right of way, but as there are still two properties pending, and in order to avoid any delay in the construction of the project, we are asking the County Council for the authority to acquire those properties under the County's power of eminent domain - advance take procedure.

If the Council approves the request, the County Attorney will file an Advance Take Petition to immediately take possession of the property necessary for the project and will deposit funds with the Circuit Court that correspond to the fair market value of the property rights acquired, as determined by a qualified, licensed real estate appraiser. If an Advance Take Petition is filed, further information will be provided to you regarding how to withdraw those funds deposited with the Circuit Court. Withdrawing the funds deposited with the court does not prejudice your right to seek additional compensation, either as a result of further negotiations or a jury trial, if one is necessary. We can certainly continue to try to reach an agreement for the acquisition of the needed right of way.

The advance take request will be addressed by the Transportation, Infrastructure, Energy, and Environment Committee on November 2, 2015 at 9:30 a.m. in the 7th floor hearing room of the Council Office Building and by the full Council on November 3, 2015. Please call the Council Office on the day of the hearing to learn the precise time and location. You are welcome to attend and listen to the discussion of this matter, but there will not be an opportunity to speak at the Council session. Comments may be sent, either by mail to 100 Maryland Avenue, 5th Floor, Rockville, Maryland 20850; or by e-mail to county.council@montgomerycountymd.gov.

Sincerely,

Demetries Oberc, Real Estate Specialist
Property Acquisition Section

Division of Transportation Engineering

100 Edison Park Drive, 4th Floor • Gaithersburg, Maryland 20878 • 240-777-7220 • 240-777-7277
www.montgomerycountymd.gov

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By County Council

SUBJECT: Optional Procedure for Condemnation of Land, Advance Taking
CIP Project No. 501101

In accordance with Article III, Section 40A, Maryland Constitution and Section 49-50,
2004 Montgomery County Code, as amended.

BACKGROUND

- I. The Council has been requested to authorize the condemnation of the portion of land necessary to construct roadway improvement of Wapakoneta Road from Namakagan Road to Walhonding Road in Bethesda to construct improvements including a curb, gutter, and storm drainage, in accordance with §49-50 of the Montgomery County Code, (2004) as amended.
 1. In order to meet the construction schedule, as authorized by the Montgomery County Council, the County must acquire the properties referenced below in a timely manner.
 2. The County has been unable to complete negotiations for Option Contracts with the Property Owners listed below.

RIGHT OF WAY IN SQUARE FEET

<u>OWNER</u>	<u>ACCOUNT #</u>	<u>LOT/BLOCK</u>	<u>LIBER/FOLIO</u>	<u>PERPETUAL EASEMENT</u>	<u>TEMPORARY EASEMENT</u>
Enzo Croce & Ana Maria Jul	07-00504325	Block 17/Lot 6	10741/608	0	2,052
Dan G. Hanfling & Tanvi Nagpal	07-00504928	Block 17/Lot 5	15179/156	0	1,500

ACTION

- I. The County Council finds that there is an immediate need to take possession of a portion of the property listed above and approves the Resolution authorizing the condemnation of land under the optional method for condemnation of land for streets or roads specified in Section 49-50 2004 Montgomery County Code for the road improvements of Wapakoneta Road. In furtherance of these actions, the County Council hereby:
 1. Guarantees the payment of any amount above the estimated fair market value later awarded by a jury; and
 2. Appoints Melville E. Peters, ASA CRA Maryland Certified General Appraiser, to appraise the fair market value of the property.
 3. Orders the County Attorney to acquire the listed property under this procedure.
- II. Montgomery County will take immediate possession of the listed property upon filing petitions of advance taking in the Circuit Court for Montgomery County, Maryland and depositing with the Court the fair market value of the property, as determined by the appraiser appointed above. The County may abandon these proceedings at any time prior to payment of the fair market value of the listed property into the Court.
- III. The County Attorney is hereby directed to take all necessary steps to acquire the property.

THIS IS A CORRECT COPY OF COUNCIL ACTION

Linda M. Lauer, Clerk of the Council

October 29, 2015

Transportation, Infrastructure, Energy and Environment Committee
Montgomery County Council
100 Maryland Avenue
Rockville, Maryland 20850

Re: Wapakoneta Road
CIP Project No. 501101
5332 Wapakoneta Road

Dear Committee Chair,

Thank you for your willingness to accept our written remarks regarding the proposed reconstruction of full depth pavement and construction of the storm drain improvements along Wapakoneta Road. I would first like to commend the professional demeanor of all those staff at the Department of Transportation who we have been meeting with recently and over the past two years in the discussion and planning of this project, in particular Mr. Jon Hutchings, Mr. Frank Kingsley and Mr. Demetries Oberc.

It is quite clear that the County plans to move forward with this project. Despite our objections and reluctance to grant an easement onto our property to allow the work to commence, it is imperative that you understand the reasoning for our decision. While the overwhelming majority of residents have petitioned in favor of this project, it is our lot (5332 Wapakoneta) that is most significantly and adversely impacted.

The property on Wehawken Road, which sustained basement flooding, was torn down, and a new house has been constructed. Indeed, the very reason that neighborhoods like ours have been experiencing issues with water runoff is because huge houses with large impervious surface areas (roofs, driveways) are being constructed on small lots, with the resultant decrease in vegetative cover (please see attached Photo A). Over the 17 years that we have lived at this residence, we have mitigated the water runoff issue in an environmentally sustainable manner. We have maintained a channel for runoff water, which drains into a stream, and does not cause flooding to anyone's property. What we have put into place has been sufficient to manage the issue of storm water drainage from below and beyond where it flows away from Wapakoneta Road. We are fully supportive of the roadway re-grading, and placement of curbs and gutters. However, because the project would result in a storm water drainage pipe laid adjacent to our yard, and thus result in the removal of more than 10 mature trees (of which six are on our property), we cannot support this project (please see attached Photo B).

These actions will result in the destruction of the tree canopy that provides shade, significant aesthetic attributes and monetary value to our home and our neighborhood. This will result in the direct loss of property value, which is simply not compensable by investments in landscaping and replanting of trees. The loss of mature trees means that there will be a bald landscape for the foreseeable future, perhaps extending as long as 15 to 30 years onwards, before which any trees are likely to reach some degree of height that will provide the visual cover desired, enjoyed, and relied upon to shade our house from the southern exposure of sunlight. The consequences of this action are environmentally unsound, and will result in a loss of property value as well as increase in electricity costs to cool a sun baked house during the spring, summer and fall seasons.

A review of existing Montgomery County (Maryland) documents available on the website demonstrates that some of the key principles described in “Guidelines for Environmental Management in Montgomery County” (January 2000) [available at, <https://www.montgomerycountymd.gov/OLO/Resources/Files/clarksburg/h150.pdf>] are being completely disregarded with regards to the solutions proposed for this project. The guidelines call for the “application of judicious land uses that allow for limiting impervious surfaces and maintaining wetlands, floodplains, seeps, springs, etc., in their natural condition.” Specifically, it details the following:

- Protection of healthy forest and tree cover for the purpose of maintaining water quality, preserving wildlife habitat, preventing erosion, mitigating air pollution, controlling stream temperate, and enhancing community amenity in an urbanizing environment (p.4).
- Adherence of land-disturbing activities to the State erosion and sediment control standards. Provision of storm-water management devices, storm drainage systems, septic fields, and other structural facilities in a manner that respects the integrity and does not impair the natural equilibrium of stream systems (p.4).

Pertaining to tree conservation, these planning guidelines refer to another Montgomery County document, “Trees: Approved Technical Manual” (September 1992) [available at, http://www.montgomeryplanning.org/environment/forest/trees/toc_trees.shtm]. The fact that this is the most recent official guidance on tree conservation (1992) could perhaps be indicative of why the County Council allows critical infrastructure improvement projects such as these to proceed, without any regard to its affects on the environment and long term sustainability. We are taking away trees, the very things that are meant by nature to manage water runoff.

Finally, we feel that every home on Wapakoneta that is benefiting from this project, and all new home construction in the future, should be **mandated** to replace existing concrete/asphalt driveways with pervious paver bricks, as we are being made to do. Sustainable solutions that decrease the square footage of impervious surfaces and allows for the recharging of groundwater in our neighborhood should be supported to the fullest extent allowable by law. Our neighbors should share in the disruption that this project will bring us, and share in the sustainable mitigation of the water run-off that is at the root cause of this problem.

Again, thank you very much for the opportunity to provide these comments as you engage in the review and deliberation of the County's intent to invoke the power of eminent domain – advance take procedure.



Dan Hanfling
Tanvi Nagpal
5332 Wapakoneta Road
Bethesda, MD 20816

Attachments:

- Photo A: Example of neighbor driveway, newly constructed home, impervious concrete driveway
- Photo B: View from side of 5332 Wapakoneta Road (our property) looking towards Wehawken Road; every tree viewed in this picture, including a 100 foot tall mature oak tree will be removed, resulting in continuous southern exposure to the back and side of our dwelling.



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17

Re: Wehawken Road
CIP Project No. 501101
5413 Wehawken Road

Dear Committee Chair,

Thank you for accepting our written remarks regarding the proposed construction of a pipe alongside our property line for drain storm improvements. Despite our disagreement with the project, we have been negotiating with the County on an agreement that would allow us to sign off on the project. We have agreed on the easement compensation but not on the compensation for the damage that the project will cause to our property, for which we have been offered \$3,500. This amount does not even cover the cost of replacing one of the four trees that could be cut down, with trees that are less than a fourth the size of the ones that would be taken down, let alone other damages to the irrigation and lightening systems and other planting. We have been negotiating with the County on this issue for the past three months, and have complied with all the requirements from the County, including obtaining estimates of the cost of the damages by landscaping professionals. In regard to the latter, the County's response to the estimates sent on September 23, was that they wanted to visit the property a third time to determine what the offer would be. It was agreed that the visit would take place on October 29. Despite this agreement, the County proceeded to request the County Council for the authority to acquire an easement on our property under the County's power of eminent domain-advance take procedure, informing us of that action in a letter dated October 20, notwithstanding the pending meeting with us which did take place on October 29. We understand that the County will move forward with this project whether it reaches or not an agreement with us on a compensation amount for the damages that the project will cause to our property. However, because the negotiations between us and the County have not concluded or reached an impasse, we request that the County Council, in its meeting on November 2, 2015, rejects at this time the County's request to acquire the easement on our property, and only accepts the request if eventually no agreement is reached between the two parties. By accepting the County's request at this time, the Council will be stripping us of our right to negotiate a more appropriate compensation for the damages to be done by the project to our property, as there will no longer be a reason for the County to reach an agreement with us.

Thank you for your consideration of our petition to postpone a decision on granting the County's request to invoke the power of eminent domain-advance take procedure on acquiring an easement to our property until negotiations between the County and us have been concluded or reached an impasse.

Enzo Croce
Ana Maria Jul
5413 Wehawken Road
Bethesda, MD 20816

From: Bill Magruder [mailto:bill@magrudercos.com]
Sent: Wednesday, November 04, 2015 11:20 AM
To: Hutchings, Jon
Subject: RE: Wapakoneta Road Improvements - T&E Committee meeting

John,

Per our conversation this morning I am writing you regarding my thoughts on the Wapakoneta Road Improvements project that is currently in jeopardy of being defunded or halted indefinitely. To give a bit of background on the nexus of this project, my wife and I initiated a petition of signatures from residents on our block of Wapakoneta Rd in response to the Glen Echo Heights Citizen Association's denial of Montgomery County's offer to improve many of the streets around Glen Echo Heights with curb and gutter and sidewalks. It was the overwhelming opinion then as well as now that the antiquated road sections and culvert designs that exist are inadequate to control the storm water run-off and resulting erosion and asphalt deterioration.

That said, the petition only contemplated road repairs and addition of curb and gutter with the potential for underground stormwater pipe to replace existing open section culverts located beside the road. The resulting plan appears to be a case study in progressive storm water management practices which in theory seem fine but increase the amount of disruption to several of the residents along the street. Although I see this project as a necessary improvement to a problem that has existed for decades I do recognize that some of my neighbors are being asked to bear a significantly higher burden as it pertains to the area of the storm water pipe that is planned for the area between Wapakoneta Rd and Wehawken Rd.

I would like to see this project proceed forward with a logical solution to the loss of trees resulting from the work leading to Wehawken Rd. so that the burden of the work is shared equally by those that the eventual finished project will serve. We may not be able to have a solution that is equal to today's rigorous standards but anything would be an improvement for the current condition that most likely dates back to post WWII. I ask that you please consider a way to complete the project without unduly burdening any one of my neighbors.

In the event that the project does not move forward I would request that attention be paid to the condition that our street is currently in. There are several yards that were disturbed in the process of lowering gas lines and not regraded to their previous condition. The water/gas line work that was completed in the roadway has left several temporary patches and there are multiple utility poles where there should only be one. I would expect that all of these conditions would be rectified if the project does not proceed. Thank you for your consideration of my opinion of the matter of the Wapakoneta Road improvements.

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