

CORRECTED

Resolution No.: 16-235
Introduced: July 3, 2007
Adopted: July 3, 2007

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By County Council

SUBJECT: DPWT Docket No. AB692
Abandonment – Portion of Gardiner Avenue
Carroll Knolls Subdivision
Wheaton, Maryland

Background

1. By letter dated August 18, 2006, from Holland & Knight on behalf of its client, Kaz Brothers L.C., the applicant, application to the County was made to abandon a portion of Gardiner Avenue in the Carroll Knolls subdivision of Wheaton. The subject area is shown on the attached drawing by GLW.
2. A Public Hearing to consider the abandonment proposal was conducted on April 19, 2007, by the designee of the County Executive.
3. Washington Suburban Sanitary Commission conditioned its approval upon being granted an easement.
4. The Department of Fire and Rescue Services had no objection.
5. The Montgomery County Planning Board conditioned approval of the proposed abandonment upon:
(1) the Petitioner must record a record plat incorporating the rights-of-way into lots or HOA parcels, and (2) the abandoned area of Douglas Avenue shall retain a 20-foot wide public easement to connect Douglas Avenue and Lillian Drive.
6. Verizon conditioned approval upon being granted an easement.
7. Washington Gas conditioned approval upon being granted an easement.
8. Verizon approved the proposed abandonment.
9. PEPCO did not respond.

10. The Department of Public Works and Transportation conditioned approval upon: (1) the applicant must grant necessary easements for County storm drains and public utility facilities within the rights-of-way or at applicant's expense, relocate any of these facilities and grant easements; (2) applicant must obtain an approved Preliminary Plan of Development for which these abandonments are associated; and (3) applicant must record a new record plat incorporating the former rights-of-way within 24 months of the County Council approval of the abandonment.
11. The County Executive recommends approval of the proposed abandonment.

Action

The County Council for Montgomery County, Maryland, finds that the portion of Gardiner Avenue proposed for abandonment is no longer necessary for public use, pursuant to Section 49-63 of the Montgomery County Code, and approves the abandonment, subject to the following conditions:

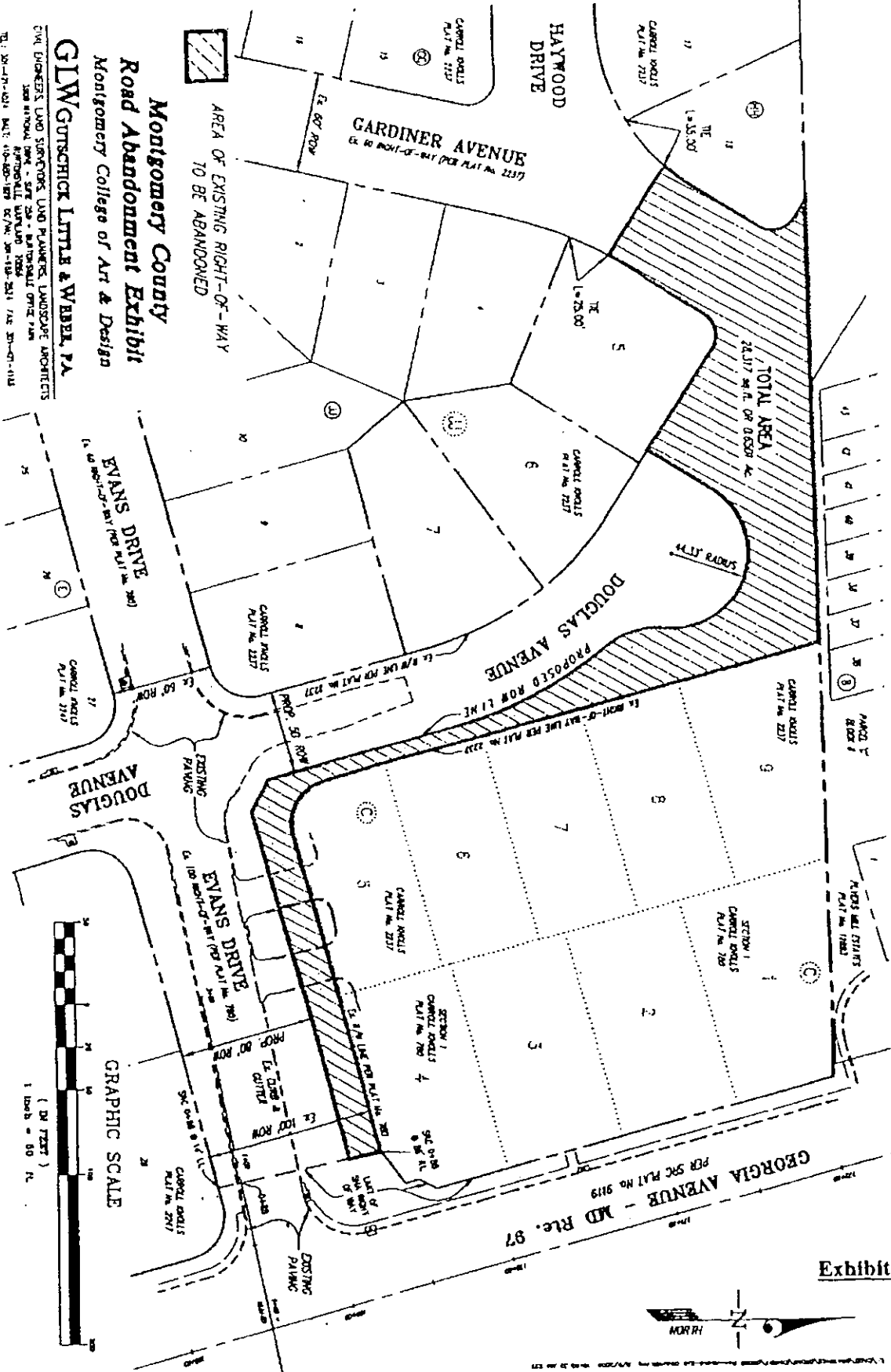
1. The applicants must convey and record all necessary easements for affected public utility facilities (existing and relocated) and Montgomery County for storm drainage facilities in place, as well as relocated, for purposes of repair and maintenance.
2. The abandonment shall not become effective until the following conditions have been met: (1) within 24 months from the date of the County Council's approval the applicant must record a new record plat of abandonment incorporating the former right-of-way into lots or HOA parcels except for a 20-foot wide public easement to connect Douglas Avenue and Lillian Drive, and (2) applicant must obtain an approved Preliminary Plan of Development for which these abandonments are associated.
3. Petitioner must bear all costs for the preparation and recordation of all necessary legal easement documents and plats.
4. 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.
5. 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.



Elda M. Dodson, Acting Clerk of the Council

CLERK'S NOTE: Corrected to reflect Gardiner Avenue in action clause.



Montgomery County
Road Abandonment Exhibit
 Montgomery College of Art & Design

GIWGUTSCHICK LITTLE & WEBER, P.A.
 CIVIL ENGINEERS, LAND SURVEYORS, LAND PLANNERS, LANDSCAPE ARCHITECTS
 2000 BROADWAY, SUITE 200, BETHESDA, MARYLAND 20814
 TEL: 301-477-0211 FAX: 301-485-1875 E-MAIL: GWL@GIWGUTSCHICK.COM

Exhibit "B"