

Resolution No.: 16-1058
Introduced: July 28, 2009
Adopted: July 28, 2009

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By County Council

SUBJECT: DPWT Docket No. AB698
Abandonment - Unnamed Right-of-Way
Marywood Subdivision
Bethesda, Maryland

Background

1. By letter dated January 18, 2007, from Ms. Mimi Kress, the Applicant, a request was made to the County to abandon an unimproved and unnamed right-of-way adjoining property owned by the Applicant in the Marywood Subdivision in Bethesda.
2. A Public Hearing to consider the abandonment proposal was held on January 28, 2008, by the designee of the County Executive.
3. Washington Gas had no objection.
4. Washington Suburban Sanitary Commission was unclear if it had facilities in the area.
5. VERIZON had no objection.
6. The Montgomery County Planning Board had no objection.
7. The Department of Public Works and Transportation (now Department of Transportation) recommended approval conditioned upon the Applicant granting easements for County storm drains and public utilities, or at Applicant's expense relocate any such facilities. Additionally, if any part of an existing paved path is within the area proposed for abandonment, the abandonment should provide for the retention of sufficient right-of-way for any such path.
8. The Office of the Fire Marshal indicated that Marywood Road does not have a sufficient turnaround, and therefore requested that if abandoned, a condition be the installation of a Fire Department compliant turnaround in some form, but that the turnaround would not necessarily have to be on the right-of-way.

9. The Police Department did not respond within 60 days and therefore, concurrence is presumed.
10. PEPCO had no objection.
11. The County Executive recommends approval of the proposed abandonment.

Action

The County Council for Montgomery County, Maryland, finds that the 30-foot wide right-of-way extending approximately 172.31 feet and adjacent to Lot 5 in a Resubdivision of Lots 2 and 4, Block 3 in the Marywood Subdivision 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 area proposed for abandonment must be subject to an easement for a Fire Department compliant turnaround, the form of which must be approved by the Office of the Fire Marshal.
2. To the extent that any part of an existing paved path is within the area proposed for abandonment, the Applicant must prepare, grant and record an easement to the County for such path.
3. Applicant must grant, prepare and record any necessary easements for County storm drains and public utility facilities to the satisfaction of the County or the utility, as applicable, allowing facilities to remain at their current or relocated locations and providing the perpetual right of ingress to and egress from the easement area at any time.
4. The Applicant must bear all costs for the preparation and recordation of all necessary legal documents and plats that must incorporate the abandoned area into Lot 5.
5. 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.
6. 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.



Linda M. Lauer, Clerk of the Council