

Resolution No.: 17-665
Introduced: February 12, 2013
Adopted: February 12, 2013

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By County Council

SUBJECT: DPWT Docket No. AB729
Abandonment – Portion of Waters Road
Town Sector, Germantown

Background

1. By letter dated February 3, 2012 from Miles & Stockbridge on behalf of its client, M SQ., LLC, the Applicant, a request was made for the County to abandon a portion of Waters Road in the Town Sector of Germantown. The portion of Waters Road right-of-way for which abandonment is sought adjoins property owned by the Applicant.
2. A Public Hearing to consider the abandonment proposal was held on May 16, 2012 by the designee of the County Executive.
3. Verizon objected unless an easement is granted for its facilities.
4. Washington Gas did not respond within 60 days, and therefore, concurrence is presumed.
5. Washington Suburban Sanitary Commission objected unless an easement is granted.
6. Neither PEPCO nor Allegheny Power responded within 60 days, and therefore, concurrence is presumed.
7. The Montgomery County Planning Board did not comment but rather requested additional time to consider the abandonment request with the Applicant's Preliminary Plan No. 120120250.
8. The Department of Transportation (DOT) recommended approval conditioned upon: a) the applicant must dedicate a new alignment for Waters Road to intersect with Germantown Road (MD 118) and build that segment to County standards; b) applicant must grant easements to the County for the maintenance of storm drainage facilities and any affected utilities and/or relocate these facilities and grant easements; c) applicant must pay fair market value for that portion of the right-of-way owned in fee by the County; and d) the abandonment is conditioned upon the Planning Board's approval of Preliminary Plan No. 120120250, Chestnut Ridge.

9. The Department of Fire and Rescue Services advised that Preliminary Plan No. 120120250 associated with the abandonment request must provide code compliant fire department vehicular access as approved by the Montgomery County Office of the Fire Marshal.
10. The Police Department did not respond within 60 days and therefore, concurrence is presumed.
11. The County Executive recommends approval of the proposed abandonment.

Action

The County Council for Montgomery County, Maryland, finds that a portion of Waters Road as described on the attached Schedules A and B prepared by MHG in the Town Sector of Germantown 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 which must be satisfied at Applicant's sole cost and expense prior to the abandonment becoming effective:

1. The Applicant must dedicate a new alignment for Waters Road to intersect with MD 118, obtain a permit from Montgomery County Department of Permitting Services to build the road, and post a performance bond;
2. The abandonment would not be effective until condition 1, above, has been met;
3. The Applicant must grant easements to the County for maintenance of storm drainage facilities and public utilities affected, and/or relocate these facilities and grant easements;
4. The Applicant must pay fair market value for that portion of the right-of-way that the County owns in fee simple;
5. The Montgomery County Planning Board's approval of Preliminary Plan No. 120120250, Chestnut Ridge, and any conditions thereof;
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; and
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.



Linda M. Lauer, Clerk of the Council