

# Petition for Abandonment of Public Access Easement

Case No. AB 780



Figure 1: Vicinity Map

MONTGOMERY COUNTY CLERK COURT (Subdivision Plat) NO. 104 (MC 22176), MCA, SLD, CB, 3/30/04, Case # 04-0204-11, Revised 07/29/2021.



PLAT TOTALS	
NUMBER OF PARCELS	1
AREA OF PARCEL	5.26028 AC.
AREA OF STREET DESIGNER	0.00000 AC.
TOTAL AREA THIS PLAT	5.26028 AC.

CURVE TABLE					
NO.	ARC	DELTA	TA	CHORD	
1	812.98	90.00	177.37	34.50	S67°02'31"E 80.82
2	150.56	90.00	34.27	14.83	N60°01'30"E 80.82
3	200.00	45.43	12.27	21.83	N74°46'23"E 43.43
4	878.48	180.00	187.41	34.48	S172°39'36"E 80.00
5	812.98	90.00	177.37	34.50	S47°22'47"W 52.74

PLAT NO. 22176



**NOTES:**

THE PURPOSE OF THIS PLAN IS TO CREATE A BUILDING LOT. PROPERTY IS ZONED R-50 AND C-50.

THE PROPERTY SHOWN HEREON IS LOCATED ON TAX MAP NO. 3.

THE PROPERTY SHOWN HEREON IS LOCATED ON WOOD SET #P-3.

THIS PLAN IS IN ACCORDANCE WITH APPROVED PRELIMINARY PLANNING AND IS SUBJECT TO THE CONDITIONS OF SUCH APPROVAL FOR PUBLIC WATER AND SEWER SYSTEMS ONLY.

THE PROPERTY SHOWN HEREON IS SUBJECT TO THE REQUIREMENTS OF THE MONTGOMERY COUNTY FOREST CONSERVATION LAW OF 1983, INCLUDING APPROVAL OF A FINAL FOREST CONSERVATION PLAN AND APPROPRIATE CONSERVATION MEASURES TO MAINTAIN OR IMPROVE FOREST ECOSYSTEMS. A COPY OF THE APPROVED PLAN MAY BE VIEWED AT ANY PUBLIC HEARING, HELD FOR PUBLIC COMMENT.

DEVELOPMENT IS SUBJECT TO AN AGREEMENT WITH THE MONTGOMERY COUNTY PLANNING BOARD REGARDING NECESSARY PUBLIC FACILITIES.

THIS PROPERTY IS SUBJECT TO A COVENANT RECORDED IN LIBER 00044666 AT FOLI 112806. FOR THE MAINTENANCE AND OPERATION OF PRIVATE OPEN SPACES, STORM DRAINAGE AND PUBLIC UTILITIES.

THIS PLAN COMPLIES WITH THE REQUIREMENTS OF SECTION 20-208 OF THE MONTGOMERY COUNTY SUBDIVISION REGULATIONS, 2004 CHAPTER 88 OF THE COUNTY CODE.

THIS SUBDIVISION RECORDS PLAT IS NOT INTENDED TO SHOW EVERY DETAIL OF THE USE, DESIGN AND CONSTRUCTION OF THE PROPERTY. THE SUBDIVISION RECORDS PLAT IS NOT INTENDED TO REPLACE AN EXISTING SET OF PLANS OR TO SUPPLY OR CORRECT ALL DEFECTS AFFECTING TITLE.

ALL OTHER CONDITIONS, AGREEMENTS, LIMITATIONS AND RESERVE RIGHTS ARE GOVERNED BY ANY PREVIOUS RECORDS IN THIS COUNTY RECORDS PLAT FOR THIS DEVELOPMENT.

THIS DEVELOPMENT IS APPROVED BY THE MONTGOMERY COUNTY PLANNING BOARD AND IS REFERRED TO AS A PUBLIC ACCESS EASEMENT. THE PLANNING BOARD'S APPROVAL IS LIMITED TO THE PUBLIC ACCESS EASEMENT AS SHOWN ON THE PLAT AS APPROVED. THE SPECIAL PUBLIC UTILITIES AND EASEMENT PLAN AS DEVELOPED BY THE PLANNING BOARD IS AVAILABLE FOR PUBLIC REVIEW DURING PUBLIC HEARINGS.

THE INCLUDES ON THIS PLAN OF THE AREA DESIGNATED AS "DRAINAGE COMMON ELEMENT" ON CONDOMINIUM PLAT NO. 1783 IS NOT INTENDED TO HEREBY OR TO TRANSFER THE OWNERSHIP OF THE DRAINAGE COMMON ELEMENT TO THE OWNERS OF THE PROPERTY. ALL TERMS, CONDITIONS, AND OBLIGATIONS OF THE CONDOMINIUM PLAT SHALL SURVIVE THE RECORDATION OF THIS PLAT.

20211213 1188 1247 03 500 0 0 0

The Maryland-National Capital Park & Planning Commission  
Montgomery County Planning Board

Approved January 24, 2004

Director

Approved APR 4, 2002

Director

M-N-C-P & P.C. Record File No. 617-69

Montgomery County, Maryland  
Department of Permitting Services

RECORDED

PLAT NO.



**OWNER'S CERTIFICATE**

I, THE UNDERSIGNED, OWNER OF THE PROPERTY DESCRIBED HEREIN, HEREBY CERTIFY THAT I AM THE OWNER OF THE SUBDIVISION, TOTAL SIZE OF THE LAND BEING SUBDIVIDED IS 5.26028 ACRES AND I AM THE OWNER OF THE LAND DESCRIBED IN THIS PLAN. I HEREBY CERTIFY THAT THE PUBLIC ACCESS EASEMENT AREA IS SUBJECT TO THE TERMS AND CONDITIONS OF A DECLARATION AND DEED OF PUBLIC ACCESS EASEMENT RECORDED IN THE LAND RECORDS OF MONTGOMERY COUNTY, MARYLAND.

FURTHER, I AM GRANTING TO FOWLER ASSOCIATES, INC. (FOWLER) THE RIGHT TO USE THE PROPERTY DESCRIBED HEREIN FOR THE PURPOSES OF OPERATING AN OFFICE PARK. I HEREBY CERTIFY THAT FOWLER HAS BEEN ADVISED OF THE TERMS AND CONDITIONS OF THE PUBLIC ACCESS EASEMENT AND HAS ACCEPTED THE SAME.

FURTHER, I AM GRANTING TO FOWLER THE RIGHT TO USE THE PROPERTY DESCRIBED HEREIN FOR THE PURPOSES OF OPERATING AN OFFICE PARK. I HEREBY CERTIFY THAT FOWLER HAS BEEN ADVISED OF THE TERMS AND CONDITIONS OF THE PUBLIC ACCESS EASEMENT AND HAS ACCEPTED THE SAME.

I, FOWLER ASSOCIATES, INC., HEREBY CERTIFY THAT I AM THE OWNER OF THE PROPERTY DESCRIBED HEREIN FOR THE PURPOSES OF OPERATING AN OFFICE PARK. I HEREBY CERTIFY THAT I HAVE BEEN ADVISED OF THE TERMS AND CONDITIONS OF THE PUBLIC ACCESS EASEMENT AND HAVE ACCEPTED THE SAME.

W. Edgar Clark, General Partner  
Date: 2-17-02

Larry C. Baker, Trustee  
Date: 2-17-02

Wanda E. Clark, Trustee  
Date: 3-29-02

Kathleen M. Mallory, Trustee  
Date: 3-29-02

**SURVEYOR'S CERTIFICATE**

I HEREBY CERTIFY THAT THE PLAN SHOWN HEREON IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF AND IS IN ACCORDANCE WITH THE LAWS OF MONTGOMERY COUNTY, MARYLAND AND THE REQUIREMENTS OF THE MONTGOMERY COUNTY SUBDIVISION REGULATIONS, 2004 CHAPTER 88 OF THE COUNTY CODE.

I FURTHER CERTIFY THAT IF CHANGED AS DESCRIBED IN THE OWNER'S CERTIFICATE HEREON, ALL PROPERTY LINES AND OTHER BOUNDARY MARKERS SHOWN HEREON WILL BE SET IN ACCORDANCE WITH SECTION 20-214(a) OF THE MONTGOMERY COUNTY CODE.

THE TOTAL AREA INCLUDED ON THIS PLAN IS 5.26028 ACRES OF WHICH NONE IS DEDICATED TO PUBLIC USE.

DATE

Gail D. Fisher  
Surveyor  
License No. 2582

**SUBDIVISION RECORD PLAT**  
**PARCEL A**  
**LITTLE FALLS**  
**OFFICE PARK**  
BETHESDA ELECTION DISTRICT No. 7  
MONTGOMERY COUNTY, MARYLAND

FOWLER ASSOCIATES, INC.  
300 North Washington Street  
Suite 300, Frederick, MD 21701  
Phone: (301) 790-2377

SCALE 1"=120'

MARCH, 2002

11881 024 1247 03 500 0 0 0

617-69

Montgomery County allowing continuous public vehicular access through the Private Section and part of the Property, including adequate access for Montgomery County emergency vehicles; and

WHEREAS, the Developer desires to grant this Easement to the County, as hereinafter described and under the following terms and conditions, to fulfil its obligations pursuant to Condition 3 of the Opinion.

NOW, THEREFORE, in consideration of the above recitals, which are hereby incorporated into the Easement, and of the mutual promises and undertakings of the Parties, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, with full authority to do so, do hereby covenant and agree as follows:

1. Developer hereby establishes, declares, grants and conveys to the County a permanent, non-exclusive right, privilege and easement on, over and across that certain area more particularly described on Exhibit "B" and shown on Exhibit "C", attached hereto and incorporated herein, (the "Easement Area"), for purposes of (1) permitting the County and general public to utilize the paved areas of the Easement Area for vehicular turnaround out to Landy Lane; and (2) providing the County emergency response personnel (including, without limitation, police, fire and rescue service personnel) with ingress and egress to the Easement Area. If the Developer proceeds with the Project, the Developer will improve the Easement Area at the Developer's expense in accordance with the Proposed Parking Geometry Plan, Revised May 4, 2001 conditionally approved by the MCDPWT on June 6, 2001, attached hereto and incorporated by reference herein as Exhibit "D". The Developer must complete the improvements shown on the Proposed Parking Geometry Plan prior to the issuance of a use and occupancy permit for the Project.

2. The Developer, and/or its successors, transferees, and assigns, hereby reserves a non-exclusive right to use the Easement Area for the conduct of all development, construction, marketing, sales, leasing and related activities as may be deemed necessary or desirable by the Developer and not in conflict with the public's easement to use the Easement Area for ingress, egress, and vehicular turnaround (1) to implement the Preliminary Plan and/or (2) to comply with applicable laws, regulations and requirements imposed by the County or any governmental or quasi-governmental agency or authority having regulatory jurisdiction over the Property.

3. The County may install appropriate signage on the Property and in the Easement Area notifying the public of the access to the Easement Area for the purpose of vehicular turnaround. Prior to installation, the Developer and Montgomery County shall mutually agree on the location of such sign(s). Thereafter, the County may access the Property during normal business hours to maintain the sign(s), and may access the Easement Area at any time to maintain the sign(s).

4. Neither the Developer nor the County shall erect any walls, fences, barriers or other obstructions in the Easement Area or allow any walls, fences, barriers, or other obstructions to

20877 325

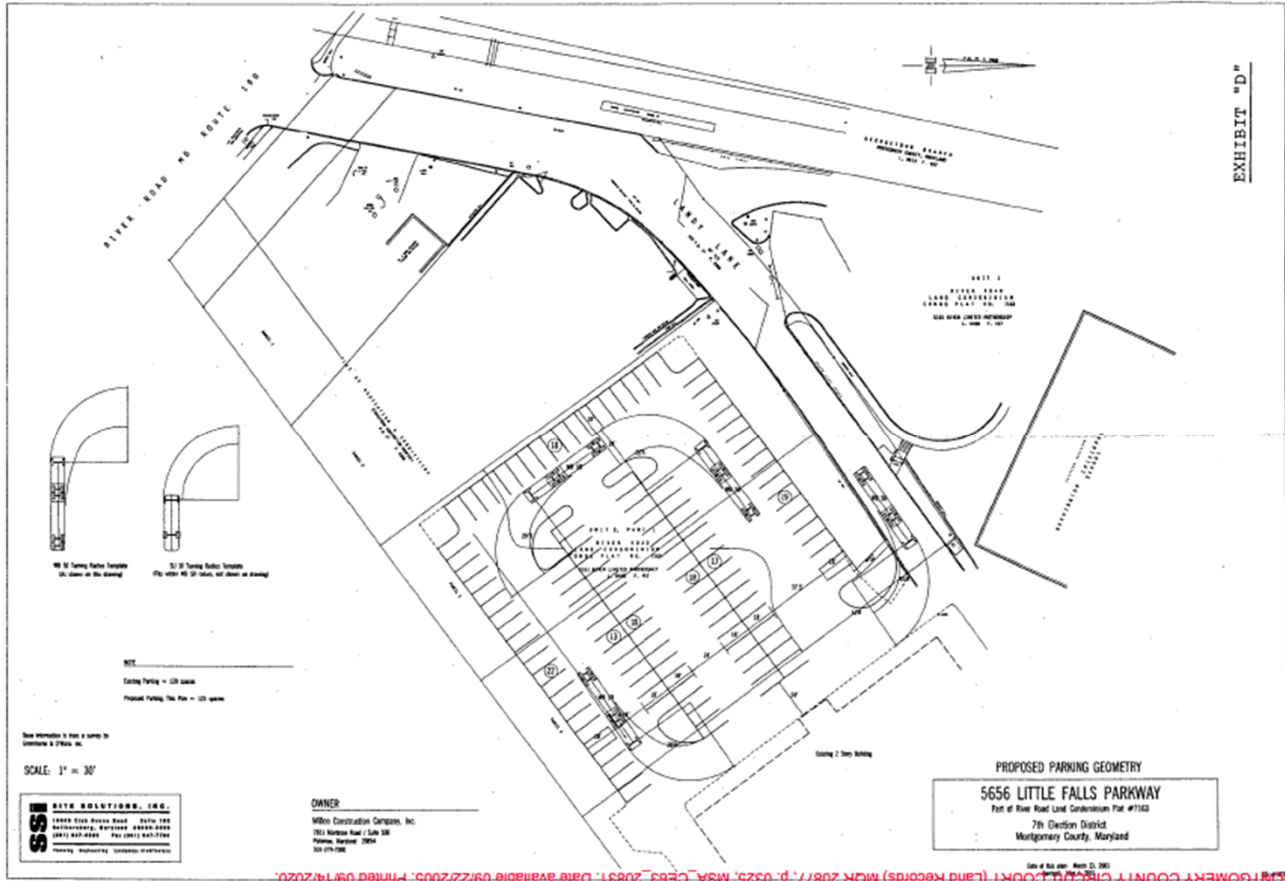
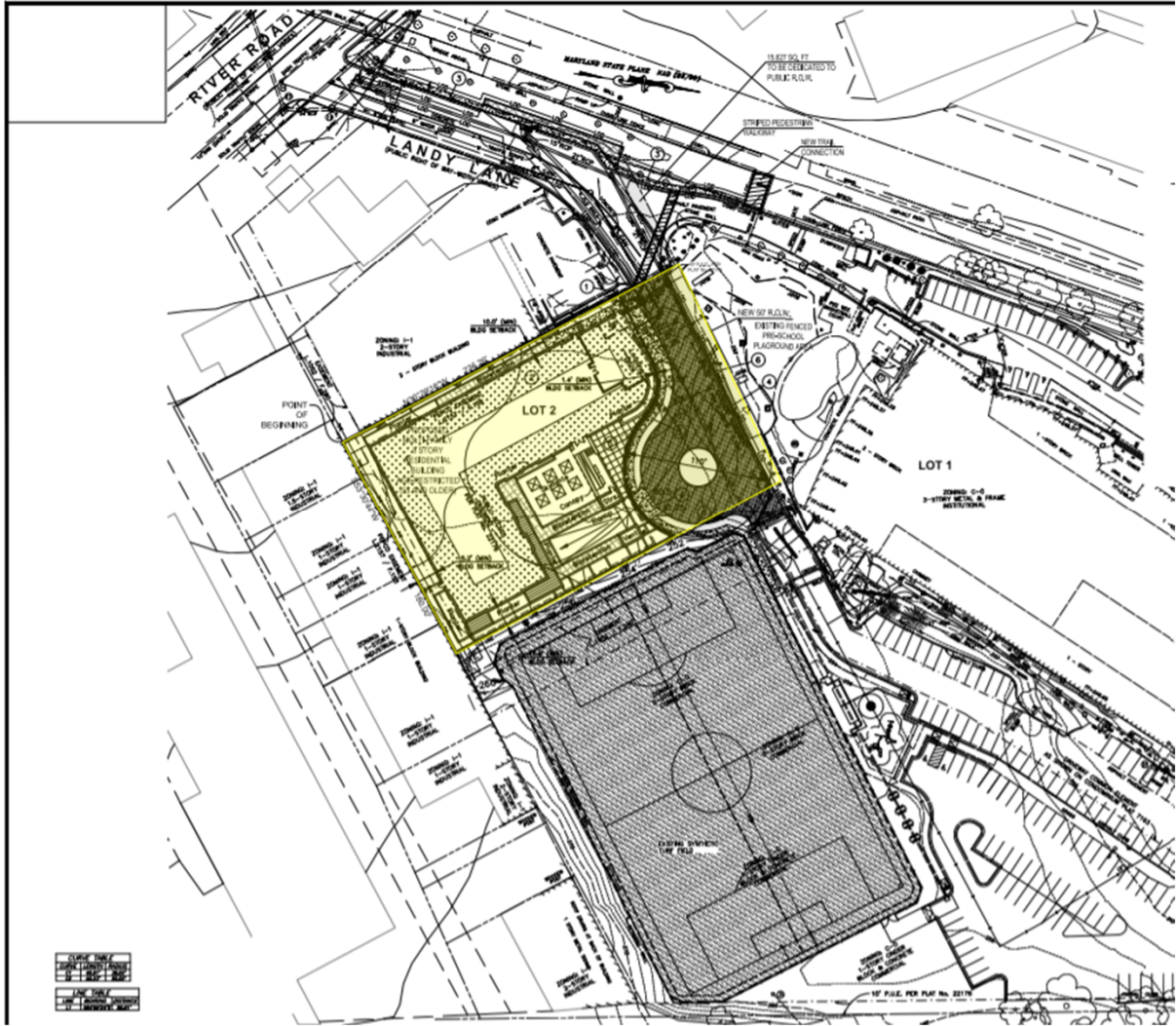


EXHIBIT "D"

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) MOR 20877, p. 0325; MSA\_CE63\_20831 - Date available 09/22/2005 - Printed 09/14/2020



# Montgomery Planning

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Right-of-Way Abandonment, AB-780, Public Access Easement Landy Lane

MCPB  
Item No.  
Date: 11.04.21

 Katie Mencarini, Planner Coordinator, Downcounty, [Katherine.Mencarini@montgomeryplanning.org](mailto:Katherine.Mencarini@montgomeryplanning.org), 301.495.4549  
 Stephanie Dickel, Supervisor, Downcounty, [Stephanie.Dickel@montgomeryplanning.org](mailto:Stephanie.Dickel@montgomeryplanning.org), 301.495.4527  
 Elza Hisel-McCoy, Chief, Downcounty, [Elza.Hisel-McCoy@montgomeryplanning.org](mailto:Elza.Hisel-McCoy@montgomeryplanning.org), 301.495.2115

## Description

Completed: 10.22.21

- Request to abandon an existing public access easement covering approximately 1.3 acres at the terminus of Landy Lane
- Zoned CRT-4.75, C-0.25, R-4.75, H-100'
- Located between River Road and Little Falls Parkway
- Petitioners: Miller Development Corporation
- 2016 *Westbard Sector Plan*
- Review Authority: Chapter 49, Streets and Roads



## Summary

- Staff recommends approval of the abandonment petition with one recommendation.
- Staff requests permission to transmit comments to the Montgomery County Department of Transportation (MCDOT) recommending approval of the request to abandon the subject Public Access Easement (PAE) because the abandonment will not hinder current or future public use.
- The 2016 *Westbard Sector Plan* envisions extending Landy Lane from River Road to Little Falls Parkway which will render the existing PAE unnecessary.
- Condition No. 9 of approved Preliminary Plan No. 120150160 and Condition No. 8 of approved Site Plan No. 820150080 require the Applicant to dedicate and construct the extension of Landy Lane.
- The Abandonment is requested at the direction of other County agencies such as MCDOT so that the necessary area for Landy Lane Extended can be re-dedicated to public right-of-way and the roadway as conditioned by Preliminary Plan No. 120150160 and Site Plan No. 820150080, can be constructed to the applicable Montgomery County Secondary Street structural standards.
- Abandonment of the PAE is necessary to realize the residential development as approved by Preliminary Plan No. 120150160 and Site Plan No. 820150080.

## RECOMMENDED CONDITION OF APPROVAL

1. If approved, the Subject Abandonment will not take effect until the conditioned cul-de-sac as shown in approved Plans for Preliminary Plan No. 120150160 and Site Plan No. 820150080 is dedicated and substantially constructed to base coat asphalt with curbs and gutters.



**MONTGOMERY COUNTY PLANNING BOARD**  
THE MARYLAND NATIONAL CAPITAL PARK AND PLANNING COMMISSION

November 5, 2021

Mr. Eric Willis  
Montgomery County Department of Transportation  
100 Edison Park Drive, 4th Floor  
Gaithersburg, Maryland 20878

**CORRECTED**

RE: Abandonment Request No. AB-780  
Public Access Easement Landy Lane  
2016 Westbard Sector Plan

Dear Mr. Willis:

At the Montgomery County Planning Board's regularly scheduled meeting on November 4, 2021, the Board reviewed Abandonment Request No. ~~AB-778~~ AB-780, for abandonment of the Public Access Easement at the terminus of Landy Lane in Westbard. After a briefing by Planning staff, the Planning Board voted 5-0 in favor of recommending abandonment and transmitting comments to the Montgomery County Department of Transportation. Those present at the meeting, in addition to me, were Commissioners Gerald Cichy, Tina Patterson, Carol Rubin, and Partap Verma.

Thank you for the opportunity to provide comments and a recommendation on this petition. Please contact me or Katie Mencarini with the DownCounty Planning Division of the Planning Department, at 301-495-4549 or [Katherine.mencarini@montgomeryplanning.org](mailto:Katherine.mencarini@montgomeryplanning.org), if you have any questions regarding this letter.

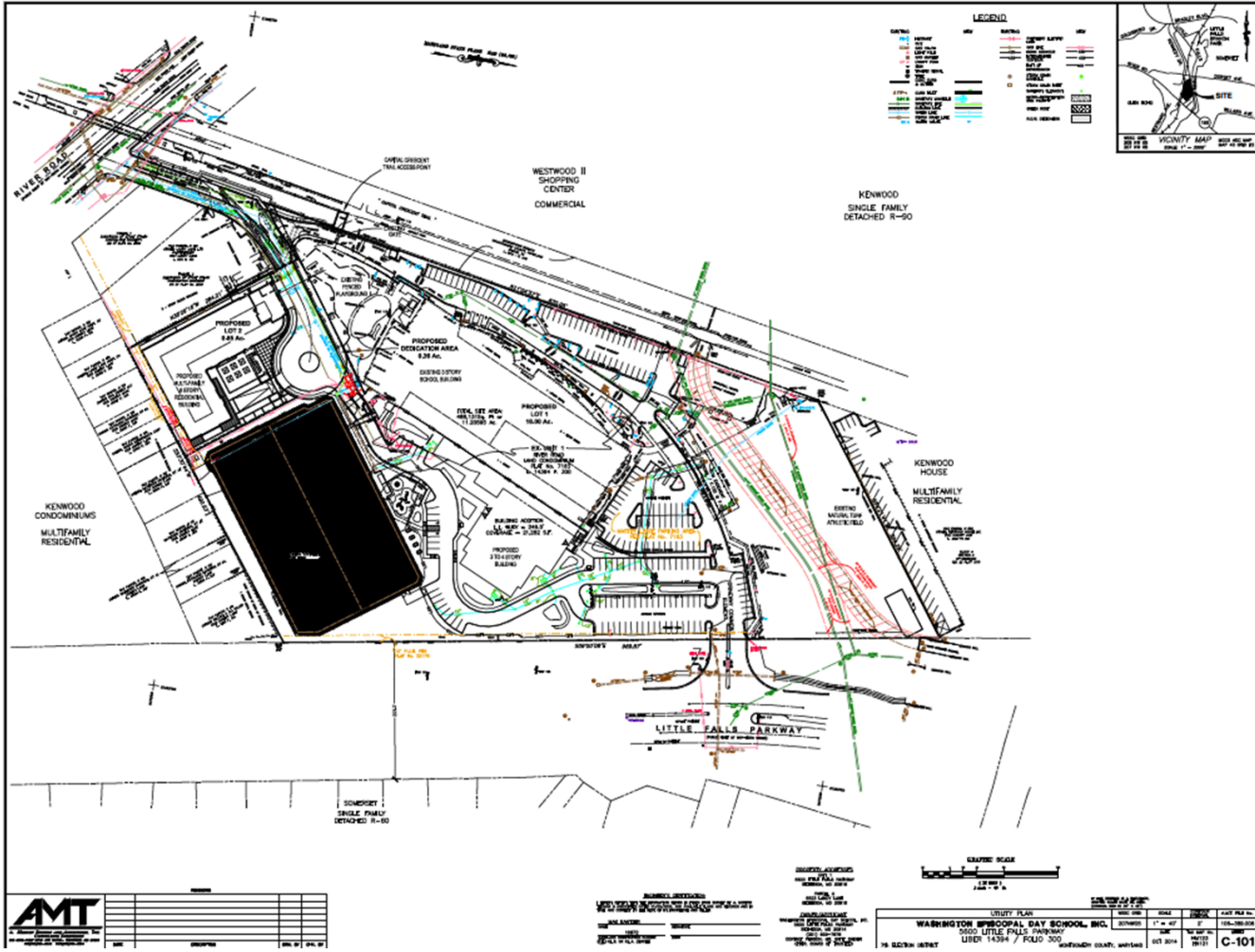
Sincerely,

Casey Anderson  
Chair

Enclosures

cc: Gwen Wright  
Robert Kronenberg  
Elza Hisel-McCoy  
Stephanie Dickel  
Katie Mencarini  
Delisa Coleman  
Chris Conklin, MCDOT  
Rebecca Torma, MCDOT  
Mitra Padoeem, DPS  
Adam Ortiz, DEP  
Raymond L. Crowel, DHHS





# Petition for Abandonment of Public Access Easement

Case No. AB 780