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Transcript of Public Hearing

Date: January 25, 2024

Case: AB 784 – Washington Grove Ln, In Re:

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MONTGOMERY COUNTY DEPARTMENT OF TRANSPORTATION

-----x
IN RE: :
ABANDONMENT PETITION CASE AB 784 :
TO CONSIDER A REVISED PETITION :
OF ABANDONMENT RECEIVED FROM :
GORDON REES SCULLY MANSUKHANI :
-----x

PUBLIC HEARING
Conducted Virtually
Thursday, January 25, 2024
2:03 p.m. EST

Job No.: 523530
Pages: 1 - 57
Recorded By: Shannon Hayes

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Hearing, conducted virtually

Pursuant to agreement, before Shannon Hayes,
Court Reporter.

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A P P E A R A N C E S

- MICHAEL PAYLOR (HEARING OFFICER)
- TIARA MCCRAY (MCDOT)
- ROB BIRENBAUM (OCA)
- FRANCOISE CARRIER (Applicant)
- TIMOTHY WARNER (Applicant)
- JAY SHEPHERD (Applicant)
- MIKE FITZGERALD (Applicant)
- GORDON WOODWARD (Applicant)
- DAVID AGER (Applicant)

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1 P R O C E E D I N G S

2 (Whereupon, the court reporter was duly
3 sworn.)

4 MS. MCCRAY: Good afternoon everybody.
5 If you could please mute yourself until called upon
6 or asked to make a statement that would be helpful.
7 Thank you. Mr. Paylor, it looks like we have
8 everyone here. We can go ahead and get started.
9 All right.

10 AUTOMATED: Recording in progress.

11 HEARING OFFICER: Thank you, Tiara. So
12 greetings and good afternoon to everyone on the
13 Zoom call. It's now 2:03 on Thursday, January the
14 25th, 2024. We're conducting this hearing
15 virtually, obviously, by Zoom. And we're
16 conducting the public hearing for the Abandonment
17 Petition Case AB 784 to consider a revised petition
18 of abandonment received from Gordon Rees Scully
19 Mansukhani -- I hope I pronounced that correctly --
20 and this firm represents the Housing Opportunities
21 Commission of Montgomery County. And we're looking
22 at two abandoned areas -- or, rather, we're looking
23 to abandon the -- their -- your -- your group is
24 looking to abandon two areas along Washington Grove
25 Lane between Midcounty Highway and Sandy Spring

1 Drive in Gaithersburg, Maryland.

2 And as Ms. McCray mentioned, my name is
3 Michael Paylor. I am the County Executive's
4 designated Hearing Officer with the County's
5 Department of Transportation, and this particular
6 abandonment hearing is being conducted pursuant to
7 Section 49-62(f) of the Montgomery County Code. My
8 role in this particular abandonment process is to
9 receive testimony concerning the abandonment
10 petition, and then to draft a report and
11 recommendation to the County Executive concerning
12 the Applicants' petition for abandonment.

13 And so in order to do this, I will
14 consider statements made during this hearing, as
15 well as written comments received within the
16 comment period, and documents that are submitted to
17 Ms. McCray to support or explain a position on this
18 abandoned case. Comments will be accepted until
19 February the 9th, 2024 at 5:00 p.m, and my report
20 and recommendation will then be forwarded to the
21 County Executive for consideration, and then the
22 County Executive will, in turn, forward that report
23 and his recommendation to the County Counsel. It
24 is the County Counsel that will ultimately decide
25 whether to grant or to deny the Applicants'

1 petition for abandonment.

2 All parties of record will receive notice
3 of the report and recommendation only after the
4 report has been submitted to the County Council.
5 And we certainly do, in advance, appreciate your
6 patience with this process. To reiterate, those
7 who wish to submit written comments, please submit
8 them to Ms. Tiara McCray at Montgomery County
9 Department of Transportation, 100 Edison Park
10 Drive, 4th floor, Gaithersburg, Maryland, 20878, or
11 email them to Tiara.McCray@MontgomeryCountyMaryland
12 .gov by February 9th, 2024.

13 I'll lay down a few housekeeping rules
14 before Ms. McCray introduces the abandonment
15 petition in the record. First, please turn off or
16 silence your mobile phones. And then second, as an
17 issue of decorum, all participants must be given
18 due consideration. So those seeking to offer
19 comment following the case -- the close of the
20 Petitioner's case for abandonment are asked to be
21 mindful of that time and limit their comments to
22 relevant matters.

23 I would appreciate no interruptions, but
24 if an interruption does occur, I'll give the
25 individual or individuals their first warning. If

1 there is a second interruption, I will give that
2 individual or individuals a second warning, and
3 then they will be muted. And, unfortunately, if
4 that same individual or individuals continue to
5 interrupt and receive a third warning, those
6 persons will be removed from this call. And if
7 there are several people making repeated
8 interruptions, I do reserve the right to close the
9 hearing.

10 So following Ms. McCray's introduction,
11 the Applicant will submit its case for abandonment.
12 And after the Applicant has completed its case,
13 those who have registered to speak will be afforded
14 the opportunity to make relevant comments. So now,
15 with all that behind us, I'd like to introduce Ms.
16 Tiara McCray from Montgomery County's DOT. Ms.
17 McCray is Acting Chief for Property Acquisition,
18 and she will present this case. Ms. McCray?

19 MS. MCCRAY: Thank you, Mr. Paylor, and
20 good afternoon, everyone. As Mr. Paylor previously
21 noted, my name is Tiara McCray. I am the Acting
22 Section Chief for the Property Acquisition section
23 for Montgomery County DOT. My section is
24 responsible for administering requests for the
25 abandonment of public rights-of-way.

1 And as Mr. Paylor noted earlier, this
2 process is governed by County Code 49-62. The
3 County Code details the County Council's authority
4 to abandon a public right-of-way if it finds that
5 (1) the right-of-way is no longer needed for public
6 use or anticipated future public use, or (2) the
7 abandonment is necessary to protect the health,
8 safety, and welfare of the residents near the
9 right-of-way to be abandoned, Section 49-63.

10 This abandonment case considers a revised
11 petition to abandon two areas along Washington
12 Grove Lane between Midcounty Highway and Shady --
13 Shady Spring Drive, Area 1, a total of
14 approximately 56,826 square feet on the east side
15 of Washington Grove Lane between Midcounty Highway
16 and Shady Spring Drive, and Area 2, approximately
17 2,946 square feet on the west side of Washington
18 Grove Lane between Midcounty Highway and Emory
19 Grove Road.

20 The proposed abandonment is sought in
21 connection with the redevelopment of HOC's Emory
22 Grove Village Property, which is a part of a larger
23 development plan for the Emory Grove community.
24 The right-of-way on the east side of Washington
25 Grove Lane Area 1 was established through two

1 subdivision plats, Numbers 9277, filed in April of
2 1969, entitled Lot 1 of Emory Grove Village, and
3 Plat Number 9635, filed in July of 1970, entitled
4 Lot 2 Emory Grove Village. As noted on the plat,
5 the right-of-way was dedicated for the relocation
6 of Route 124. The Applicant asserts in its
7 petition that Area 2 on the west side of Washington
8 Grove Lane is the former road bed for Washington
9 Grove Lane.

10 As part of the administrative process, we
11 have provided the requisite notices to other public
12 agencies, abutting property owners, and the public
13 at large. During this process, we have collected a
14 number of exhibits that I will now introduce into
15 the record. Give me one moment. And if you could,
16 please let me know when you can see my screen.

17 MR. WOODWARD: Yes, I can see that.

18 MS. MCCRAY: Thank you. All right.

19 We've got a pretty long record or list of exhibits
20 to read into record, so thank you for your patience
21 in advance.

22 Exhibit A is the Applicants' revised
23 abandonment petition dated September 27th, 2023
24 from Gordon Woodward on behalf of the Housing
25 Opportunities Commission of Montgomery County HOC,

1 the Applicant, requesting the abandonment of two
2 areas along Washington Grove Lane. The package
3 includes Exhibits A through K, which is Page
4 Numbers 1 through 38. And for the sake of time,
5 I'll scroll through them.

6 Exhibit B is the Applicants' original
7 abandonment petition dated November 1st from Gordon
8 Woodward on behalf of HOC requesting the
9 abandonment of five areas along Washington Grove
10 Lane between Midcounty Highway and Pepper Ridge
11 Road. That's Pages 39 through 44.

12 Exhibit C is the revised abandonment area
13 survey for the two petition areas, Area 1 and
14 Area 2, previously noted in my introduction, which
15 is on Page 45.

16 Exhibit D is the original abandonment
17 area survey, which is a survey of five petitioned
18 areas for abandonment and, as I noted, has been
19 revised recently, which is Pages 46 through 47.

20 Exhibit E are the relevant plats, as I
21 mentioned, the Plat Numbers 9277 and 9635, entitled
22 Lot 1, Emory Grove Village and Lot 2 Emory Grove
23 Village, respectively, Pages 48 through 49.

24 Exhibit F is Executive Order Number
25 197-23, authorizing the rescheduled hearing for

1 today's date, January 25th. That's on Page 50.

2 Exhibit G is Executive Order Number 3-23,
3 the Executive Order authorizing the hearing for
4 March 23rd, which was later rescheduled at the
5 Applicants' request. That's Page 51.

6 Exhibit H is the state request dated --
7 excuse me -- June 26th, 2023, from Gordon Woodward
8 requesting the abandonment be stayed as they
9 continue conversations with Montgomery County DOT
10 and Maryland National Capital Park and Planning,
11 Montgomery -- Montgomery Planning. That's Pages 52
12 to 53.

13 Page 54, Exhibit I, is a comment
14 solicitation email, the original petition, an email
15 dated January 3rd, 2023 to county agencies and
16 public utility companies seeking input on the
17 abandonment request.

18 Exhibit J is the revised email alerting
19 county agencies and public utility companies of the
20 Applicants' revised petition, Page 56.

21 Exhibit K, Washington Times Ad Number
22 79901, noting advertisement for today's hearing to
23 run for January 12th and January 19th, 2024, Page
24 57.

25 Exhibit L is the MCDOT calendar

1 submission confirmation, Page 57.

2 Exhibit M is the general public hearing
3 notice submitted to the Emory Grove United
4 Methodist Church and noted housing -- excuse me,
5 homeowners association and civic associations
6 registered with the Planning Board. Any of those
7 entities that did not have an email address on file
8 here highlighted in green received this general
9 public notice, in addition to those who are
10 highlighted in red as their email addresses
11 returned back every failure notice.

12 Exhibit -- oops. Sorry. I might
13 have skipped through that. Sorry. Exhibit N is
14 the comments solicitation email that was dated
15 January 20, 2023. That was an original email
16 submitted to all of the HOAs and CAS registered
17 with the Planning Board. That's Pages 60 to 62.
18 Apologies. I jumped ahead.

19 Exhibit O is a comment solicitation
20 email alerting all the HOAs and civic associations
21 that the petition had been revised and submitted
22 all of the revised information. That is Pages 63
23 to 65, which includes the list of HOAs and civic
24 associations that had received the mailing as a
25 result of a lack of email or a failed -- or having

1 had their email returned.

2 Exhibit P is the Montgomery County
3 Planning Board, MCPB, comment memorandum dated
4 March 3rd -- oh, hold on. I think I may have
5 gotten out here. There we go. Apologies -- dated
6 January 3rd, 2024, noting the Planning Board's
7 recommendation for approval of the abandonment,
8 noting that they would like to see consistent
9 information with a complete streets and safe
10 pedestrian and vehicular access for the
11 intersection redesigned in the development plan to
12 be submitted in the future.

13 Exhibit P is relatively long. It's
14 from Pages 68 to 112. So for the sake of time,
15 I'll go ahead and scroll down.

16 All right. Exhibit Q, Montgomery
17 County DOT Division of Traffic, Engineering, and
18 Operations, an email dated January 7th, 2023, from
19 Mark Terry (phonetic), chief of the traffic
20 engineering studies noting no comment on the
21 abandonment case, Page 113.

22 Exhibit R is the Montgomery County
23 DPS Fire Department Access and Water Supply, the
24 revised comment dated January 17th, 2024, from
25 Marie LaBaw (phonetic) noting no objection based on

1 additional information provided from HOC, the
2 revised petition being subject to Fire Department
3 access and water supply review and approval, Pages
4 114.

5 My computer is thinking about it, so
6 apologies. Okay. All right. I'm going to
7 continue reading them into the record so that we
8 don't delay it here, but I will make sure that a
9 copy of the full record is uploaded on the property
10 acquisition website here, just so that we, you
11 know, don't delay the hearing any longer. Again,
12 that's Fire and Rescue.

13 So Exhibit S, Montgomery County DOT
14 Development Review Team, is a Letter dated December
15 21st, 2023, from Manager Rebecca Torma (phonetic)
16 recommending approval of the petition subject to
17 conditions pertaining to property and street access
18 and utility easements and/or relocation expenses
19 for the -- from the Applicant should relocation of
20 utility -- utility lines be necessary. That's Page
21 116.

22 Exhibit T is a WSSC water comment,
23 a letter dated January 25th, 2024, from Catalina
24 Minoza (phonetic), Project Manager, recommending
25 approval subject to the Applicant granting two

1 easements to the Commission as outlined in their
2 letter no later than 60 days after a record plan
3 has been recorded. That's Pages 117 to 121.

4 Exhibit U is the Emory Grove United
5 Methodist Church comment, a letter dated December
6 5th, 2023 from Senior Pastor Timothy Warner asking
7 that the church join HOC in its request to abandon
8 the areas along Washington Grove, Pages 122 to 123.

9 Exhibit V is a public hearing traffic
10 sign and posting of two traffic signs installed
11 within the proposed Area 1 and 2, advertising
12 today's hearing, Pages 124 to 127.

13 Exhibit W is the public hearing
14 registration list indicating 13 registrants for
15 today's hearing.

16 Exhibit X is the Applicants' hearing
17 presentation, a PowerPoint presentation that Mr.
18 Woodward will later demonstrate for us.

19 And then Exhibit Y, the Applicant
20 presentation, exhibits, a list of the combined
21 Exhibits A through T.

22 I will stop sharing my screen. Thank you
23 all for your patience during that technical
24 challenge, and your understanding. Mr. Paylor, I
25 turn this hearing back in your direction, sir.

1 (Exhibits A - Y were marked.)

2 HEARING OFFICER: Well, thank you so
3 much, Ms. -- Ms. McCray. So at this time, the
4 Applicants may submit their case.

5 MR. WOODWARD: Okay. Thank you. I'm
6 Gordon Woodward for the Housing Opportunities
7 Commission of Montgomery County, Maryland. With me
8 today is Co-Counsel Ed Donohue, and also
9 representatives from Emory Grove United Methodist
10 Church, including Pastor Warner and Counsel
11 Francois Carrier.

12 And let me say up front, sorry for
13 the size of the record in this case. I Hope it
14 doesn't take up too much of your time to go
15 through. I will -- I think maybe I'll truncate my
16 comments a little bit because you guys have covered
17 a lot of stuff in the beginning, and I appreciate
18 that, but I'm going to start with the end in mind
19 here.

20 As you know, the Code allows that a
21 right-of-way may be abandoned if the right-of-way
22 is no longer necessary for public use or
23 anticipated public use in the foreseeable future or
24 is necessary to protect the health and welfare of
25 the community. We'll address these more

1 specifically later. But again, starting with the
2 -- the end in mind, I want to note that we have no
3 objection from -- we've not received any objection
4 from the relevant agencies at this point.

5 They had concerns up front that we
6 took time to work through with them. And the long
7 and the short of it is, now -- and -- is that they
8 approve of the requested abandonment. And then,
9 you know, by way of example, Park and Planning has
10 specifically indicated the proposed abandonment
11 areas are not necessary for future -- present or
12 future public use, therefore, Staff supports the
13 subject abandonment petition. We received similar
14 comments from the other agencies involved.

15 Having said that, I would like to
16 take a little time to step back and review the
17 history of the request, because I think it's
18 important to -- to -- you know, to understanding
19 this and what's going on here. So we'll take a
20 quick look at the location, review the history of
21 the community, which is very important here, how
22 these right-of-ways came to be, also very relevant,
23 the history of the abandonment request, and then
24 the -- the legal standard, then I'll wrap up with a
25 -- a brief conclusion. Would you -- is it possible

1 for -- Ms. McCray, for you to share your screen
2 with me? Can I take that now and --

3 MS. MCCRAY: Yes, sir. You should --

4 MR. WOODWARD: -- the materials?

5 MS. MCCRAY: You should be able -- yep.

6 You should be able to share your screen if you'd
7 like, pressing the green share screen button.

8 MR. WOODWARD: Can you see my screen?

9 MS. MCCRAY: Yes, sir. We can.

10 MR. WOODWARD: Okay. I, unfortunately,
11 cannot, but that's all right. Or at least I can't
12 see what you're seeing, but that -- that's okay.

13 All right. I -- right now, I have the PowerPoint
14 presentation up there. I've made our
15 introductions. As you know, you know, we're here
16 to request that the County abandon certain
17 road-widening interests that it no longer needs
18 along Washington Grove Lane. I think, let me start
19 with the area, just so we are oriented here.

20 Okay. So I assume you can see the
21 revised survey? All right. This is Washington
22 Grove Lane. We are talking about this -- these two
23 shaded areas here, which are right-of-way easements
24 on property held by HOC, the Housing Opportunities
25 Commission, which I'll refer to as we go along as

1 HOC or the Commission, and this small -- very small
2 area to the north side of the road, which is on or
3 adjacent to properties held by the church.

4 As you pointed out earlier, the --
5 and this I'll refer to as Area 1. I'll get this up
6 here. All right. There was a reservation for
7 right-of-way easement that was dedicated by plat
8 for Area 1. And I -- I don't know how well you can
9 see this, but it specifically indicates on here for
10 the relocation of Route 124, and similarly on Lot
11 2, and, again, specifically indicates for the
12 relocation of Route 124. As we'll discuss in a
13 moment, that's -- that's no longer necessary.

14 Going back to Exhibit A here, with
15 regard to the portion on the north side -- and --
16 and by the way, Washington Grove Lane was
17 originally a stage coach road. So this goes back
18 years to the early 1800s, which explains why it can
19 be difficult at times to determine or find
20 references in the -- the -- the public record.
21 What we have here is an area that, circumstantial
22 evidence is pretty clear, was part of the road bed
23 at one time. And we know that the County has
24 asserted a right-of-way interest in -- in this
25 area, because areas that were adjacent to the road,

1 for example -- and we're not requesting abandonment
2 here. I'll explain that in a moment. But this is
3 adjacent to the road and there is some public
4 infrastructure here, including there's a bus stop
5 here, sidewalk goes along here.

6 So through the course of discussions with
7 DOT, we limited our abandonment request. And what
8 we did was we have the -- the scope of the right-
9 of-way. What would be the future right-of-way,
10 will include the public infrastructure that is
11 established there. And this remaining little
12 portion -- and DOT agrees with this -- doesn't have
13 above-ground public infrastructure and is -- is no
14 longer necessary as right-of-way. So as they
15 indicate in their comments, they are -- they are
16 willing to abandon this area to the extent that
17 they have any right-of-way interest, and it -- this
18 is important to the church because this -- for
19 going forward, this really needs to be cleaned up
20 so they understand what their rights are with
21 regard to working in -- in this area. Now --

22 MR. BIRENBAUM: Sorry. Mr. Paylor, do
23 you mind if I just ask a question here?

24 HEARING OFFICER: Yes, certainly. Mr.
25 Birenbaum. Please go ahead.

1 MR. BIRENBAUM: Hi. This is Robert
2 Birenbaum. I'm the -- with the County Attorney's
3 Office. I just wanted to ask a question just to
4 try to understand why -- the land that's
5 immediately adjacent to the -- the church property,
6 why you're contending its right-of-way -- started
7 to say that it was -- that the County asserted a
8 right-of-way interest there. And so, I wanted to
9 know if you could elaborate how the County asserted
10 a right-of-way interest, and, in addition to that,
11 do you have any sort of title search or anything
12 like that that would indicate who the owner is of
13 that land?

14 MR. WOODWARD: So short answer to your
15 question is there's no -- there's no written
16 dedication for this. And -- and no. I mean, we've
17 had a -- a -- a title search going back quite a
18 ways. We do not have a clear title to that -- to
19 this -- this shaded area here. And I guess what I
20 was saying earlier, and -- and this isn't the best
21 -- I guess I -- I could pull up an older one, but
22 this area, including this shaded area and this
23 little bit in -- in here below that, which would be
24 another about 3,000 square feet, the -- the County
25 has been using this area or has established some

1 public infrastructure in what you see immediately
2 below the shaded area. And again, there's no --
3 there's no dedication for the road here.

4 MS. CARRIER: Mr. Paylor, may I interject
5 here?

6 HEARING OFFICER: Oh, please do. Thank
7 you.

8 MS. CARRIER: Thank you. Francoise
9 Carrier for the record. Mr. Birenbaum, the -- the
10 -- the area that's identified here as Area 2 is
11 shown as public right-of-way on the County's GIS
12 map and zoning map. So the -- the church is going
13 to have a very difficult time having that treated
14 as part of a development application, because, you
15 know, the GIS is considered authoritative and it
16 shows it as public right-of-way. It has been used
17 as public right-of-way for many -- many years.

18 Right now, it doesn't -- in the modern --
19 sort of the modern, you know, construction of the
20 road, it doesn't have improvements on it, but,
21 historically, it was part of the road and, as I
22 say, it's shown as public right-of-way. So our
23 concern is that if that land -- if the County
24 doesn't affirmatively abandon any right-of-way
25 interest in that land, we may end up having to

1 bring a quick claim action, and that seems like a
2 -- a waste of time and resources that could go into
3 a project that is very strongly supported by the
4 leadership of the County as a -- a -- a -- a
5 redevelopment project in an area that is sorely in
6 need of it.

7 So I -- I don't -- it's -- it's
8 true that there's no -- you know, searches have
9 been done. They can't find anything showing when
10 it was dedicated. But I also said because of that,
11 I don't have anything to show the County, the --
12 the Park and Planning Commission, to say, please
13 stop showing this as public right-of-way on your
14 maps.

15 MR. BIRENBAUM: Right. So that's -- I
16 guess that's the question, is does the GIS map
17 depict lot lines or does the -- does the GIS map
18 depict a right-of-way? And so between the lot --
19 between the lot lines, I think that you're making
20 an assumption that that's right-of-way, but I think
21 that the GIS maps is probably constructed showing
22 the boundaries of lot lines, and that's sort of
23 just --

24 MS. CARRIER: It --

25 MR. BIRENBAUM: -- my -- that's just my

1 question as to --

2 MS. CARRIER: Okay.

3 MR. BIRENBAUM: -- if it wasn't
4 dedicated. And there's not presently a road bed
5 there, and it's not in the public uses of as -- as
6 right-of-way. You know, I -- I was just
7 questioning whether it's -- you know, if it
8 continues to be right-of-way, particularly if it
9 hasn't been dedicated and accepted by the County.
10 You're probably familiar with that prescriptive
11 right-of-way that ceases to be used as right-of-way
12 is no longer right-of-way. So that's why I was --
13 that's why I was questioning that and why I was
14 asking who the -- who has title to that, because,
15 ultimately --

16 MS. CARRIER: Well --

17 MR. BIRENBAUM: -- there's going to have
18 to be a determination if you want to incorporate
19 that area into the adjacent -- into the adjacent --

20 MS. CARRIER: Yes.

21 MR. BIRENBAUM: -- lots.

22 MS. CARRIER: Precisely.

23 MR. BIRENBAUM: Right. You'd need to --

24 MS. CARRIER: We're just looking for the
25 simplest way to be able to do that.

1 MR. BIRENBAUM: Right. But the abandon
2 -- but the abandonment does not mean that the
3 adjacent, I guess, lot owners have title to it, so
4 that's why I was asking that question. That's
5 something that I -- I think you're going to have to
6 figure out down the road. So --

7 MS. CARRIER: Well, I mean, normally,
8 the -- the -- once there's -- when there's
9 abandonment, the -- so -- well, let me step back.
10 I mean, dedication is not the same thing as
11 conveyance of title.

12 MR. BIRENBAUM: Correct.

13 So it -- normally, if the right-of-way is
14 abandoned, the ownership remains with the property
15 that did the dedication; I agree with that.

16 MS. CARRIER: So I think that's our
17 first step -- a first step to clarifying that for
18 us would be for the County to say, if there's any
19 right-of-way on this property, we abandon it, we
20 don't need it, so then we can go forward to deal
21 with just ownership issues, if they arise. The
22 ownership issue is not going to be a big issue for
23 Park and Planning. They -- I mean, we -- I guess I
24 don't know for certain where the lot lines exactly
25 go on those properties, if they cover that little

1 bit of right-of-way. I just haven't seen the
2 paperwork. I've been --

3 MR. BIRENBAUM: I -- I think that --

4 MS. CARRIER: It hasn't made its way to
5 me. But my understanding is that what they show in
6 the GIS maps, you know, they show public
7 right-of-way. I mean, they have information about
8 the right-of-way, not just the lot lines, but I --
9 I -- I could be wrong.

10 MR. BIRENBAUM: Right.

11 MS. CARRIER: I can't swear to that.

12 MR. BIRENBAUM: What you -- what -- what
13 you often find on -- in public rights-of-way are
14 deed lines that actually go into the middle of the
15 -- the right-of-way when there hasn't been a
16 dedication. We don't have that here; that's why
17 I'm asking the -- the question. So I understand
18 that you're asking the County to abandon whatever
19 interest it may have in the right-of-way. Again,
20 the County can only abandon right-of-way. And --
21 and one of the things that I just did want to
22 correct is that sometimes right-of-way is owned by
23 the County and fee simple --

24 MS. CARRIER: Sometimes.

25 MR. BIRENBAUM: Right -- in which case

1 an abandonment does not -- can -- doesn't -- it
2 simply doesn't revert to -- to the owner. So
3 having --

4 MS. CARRIER: I'm aware of that, yes.

5 MR. BIRENBAUM: Right. So understanding
6 who is the owner of that land is probably important
7 to being able to incorporate it into whatever
8 future development is thought to happen on the --
9 on the northern side. And so, you may very well
10 still need to bring some sort of quiet title
11 action. I think -- I think I heard you say quick
12 claim action; I wasn't sure.

13 MS. CARRIER: Oh, yeah. Sorry. That's
14 wrong.

15 MR. BIRENBAUM: So to -- to establish
16 that --

17 MS. CARRIER: I meant quiet title.

18 MR. BIRENBAUM: -- I'm just not -- I'm
19 just not sure. But I -- I do think that one of the
20 issues is that we do not actually see those lot
21 lines calling into the right-of-way, at least on --
22 as depicted on this -- on this -- on this survey
23 here, or -- or on these plans. And so, again, I'm
24 just going to say that as opposed to a regular
25 dedication, if it were prescriptively acquired --

1 because I don't know how this -- how Washington
2 Grove Lane was established in -- in these areas --
3 if it was prescriptively acquired, it's no longer
4 used, it's just simply no longer right-of-way
5 already.

6 So I -- that's -- that's just what
7 I -- what I just -- was just wondering if that
8 could be established, if there is any information
9 that you could share additionally. If you don't
10 have it, you don't have it. And, obviously, you'll
11 have time to, you know, put things together before
12 the -- the hearing closes before the comment
13 deadline, but it would be good to -- good to have
14 and certainly, I think, will be necessary to have
15 for whatever future plans that you have.

16 HEARING OFFICER: And maybe to bridge
17 this discussion, perhaps we could have the
18 Applicant submit the title report they've conducted
19 into the record, in addition to a letter explaining
20 the -- the scope of this search to at least be a
21 partial facilitation of that -- this discussion.
22 And then any other information that you can muster
23 up that would be appropriate.

24 MR. WOODWARD: Okay. Mr. Birenbaum,
25 your point is well taken. We appreciate that. Ms.

1 Carrier's point, I think, is -- is also well taken
2 in that it would be enormously useful if the County
3 were willing to say that it abandons whatever
4 right-of-way it may have in that shaded area. Do I
5 understand that that's -- that's a possibility?

6 MR. BIRENBAUM: I mean, up to -- it's up
7 to the County Council, ultimately, to determine
8 whether, you know, the right-of-way continues to be
9 needed for public use. Here you've got a situation
10 where I don't think you -- I don't believe there's
11 any public infrastructure in there presently. I
12 don't believe it's paved. I don't know that the
13 public is actually using it. So that certainly is
14 evidence of indicia that there is either no
15 right-of-way there or that it's no longer necessary
16 for right-of-way. And that's the case that I think
17 you're trying to make here, but, ultimately, it's
18 for the County Council to make the decision. Mr.
19 Paylor is only making a recommendation to the
20 County Executive, who would then forward that
21 report, if he agrees with it, to the County Council.

22 MR. WOODWARD: And -- right.
23 Understood. And I guess I would make the point
24 that there -- we acknowledge there's some ambiguity
25 there with regard to that 2,800 square feet, but

1 the thing that's not ambiguous and that the
2 agencies agree with is the fact that to the extent
3 there is -- is or was right-of-way, it's no longer
4 necessary. And the efficient thing, from our point
5 of view, would be for the County Council to agree
6 to waive whatever right-of-way it may -- rights it
7 may hold there.

8 MR. BIRENBAUM: Right. And -- and I
9 understand what you're asking for. I'm just also
10 alerting to you to that, you know, it doesn't
11 establish title -- a title interest in the property
12 to the adjacent owners. You know, even if that
13 were to happen, I think that that's going to be an
14 issue. So that's just -- that's just one -- one
15 thing.

16 Typically what happens is when there's a
17 subdivision plat after a -- a right-of -- after an
18 abandonment goes through and is approved by the
19 Council, one of the conditions is that the
20 right-of-way -- or the former right-of-way be
21 incorporated into the adjacent subdivision. You
22 can't do that if you can't demonstrate who the
23 owner of -- of the land is. So if you're not going
24 to be able to do that at the -- at the conclusion
25 of all of this, I think that the only thing that

1 could happen, again, this is all subject to County
2 Counsel approval, would be that there would be this
3 parcel of land on the northern side that's going to
4 be depicted as abandoned, but it's still going to
5 be up to the Applicant to, you know, determine how
6 it's going to incorporate that land into the
7 adjacent Emory church. So that's -- I just want to
8 point all of that -- that out now so as -- so that
9 you can be -- be aware of it.

10 MR. WOODWARD: Appreciate that. And one
11 -- one thing I might add is, yeah, there -- there
12 are questions here that we're not certain that need
13 -- needed to be answered now.

14 MR. BIRENBAUM: Right.

15 MR. WOODWARD: It may sort of depend on
16 -- on how things move forward, you know?

17 MR. BIRENBAUM: Right. No. Right. I
18 understand. What -- what's -- this hearing is
19 limited to determining if there's right-of-way and
20 if it's necessary for public use. My question was
21 initially really supposed to be about, hey, how is
22 this public -- public right-of-way; could you
23 please demonstrate to us that it is public
24 right-of-way or that it was public right-of-way,
25 and that is still a little bit unclear. I think

1 what we've heard from Ms. Carrier is that it's
2 depicted on a GIS map as right-of-way. And so, you
3 know, obviously Mr. Paylor can take that for -- for
4 what it's worth. I was questioning whether what's
5 depicted on a GIS map is showing just lot lines,
6 and everything between the lot lines is whatever it
7 is, and so, it doesn't necessarily mean
8 right-of-way. That's all I was trying to -- to --
9 to suggest.

10 So I just wanted to -- to make sure
11 that, again, you know, without -- I'm not taking a
12 position here, but so that -- I just want to make
13 sure that you're able to put your case forward as
14 best as you can to demonstrate that it is
15 right-of-way and it's no longer necessary for
16 public use so that we're not -- I -- you know, I
17 don't -- I don't think the County wants to be in
18 the position of saying -- or just guessing or
19 saying, well, to the extent it's right-of-way, you
20 know, we don't think we need it anymore, you know.
21 It's just because we could get petitions for all
22 other types of petitions where people are doing
23 things that are clearly not right-of-way, and here,
24 it's -- it's still not clear to me. So just wanted
25 to put that forward for whatever it's worth.

1 And I didn't mean to interrupt your case.
2 And so, I just want you to be able to continue
3 forward and just -- and to the extent that my
4 comments went beyond what's necessary just for
5 determining a recommendation for the County -- for
6 the County Executive, you can take those additional
7 comments and just perhaps think about what would be
8 necessary in order to go ahead and perfect whatever
9 you need to do to, you know, move forward with your
10 -- your -- your plans.

11 MR. WOODWARD: Understood.

12 MR. BIRENBAUM: Thanks.

13 MR. WOODWARD: Mr. Paylor, did I -- I
14 didn't mean to talk over you.

15 HEARING OFFICER: No, you -- you didn't,
16 sir. I was just going to say thank you all for the
17 robust discussion. I'm certainly hopeful it's --
18 it's helpful for your team. So you can continue on.

19 MR. WOODWARD: It's quite helpful. All
20 right. Well, that covers the -- the location, the
21 areas. I would like to just hop forward now to a
22 little bit of background about the reason for the
23 requested abandonment. We're comfortable moving
24 ahead, or are there further questions?

25 HEARING OFFICER: You may proceed.

1 MR. WOODWARD: All right. Well, this
2 request is a necessary precursor to a project
3 involving the Commission, the -- the church, and
4 the local community. The project is referred to as
5 Heritage Emory Grove. And we don't need to spend a
6 lot of time on this, but I'm just going to show you
7 a -- a conceptual drawing of what Heritage Emory
8 Grove will -- will look like.

9 Historical aspects of this community have
10 been identified again in the concept plan, and we
11 have provided a document that addresses that this
12 is a -- a long-standing community. It -- it -- it
13 developed in about 1865 at the conclusion of the
14 Civil War. It was founded by recently emancipated
15 men and women who acquired land from Quaker farmers
16 and began building a community. It's a community
17 that was centered around what is now the Emory
18 Grove United Methodist Church, and you can see some
19 reference to that here.

20 The church is right here at the heart of
21 the community. It's a community that was built on
22 collaboration, progress, resilience. And much of
23 this history still exists in the community,
24 spiritually and physically, and -- but it's
25 incumbent on us to -- to honor this history, this

1 rich history, and to build on it in a way that
2 continues to promote these values and -- and serves
3 the next generations.

4 So the vision for Heritage Emory
5 Grove, it -- it started on a small parcel adjacent
6 to the church. And let me see if I can -- it would
7 be this area here. It -- it catalyzed -- the
8 Housing Opportunities Commission needed to
9 undertake some renovation and modernization of its
10 properties, and -- and these projects came together
11 and catalyzed into a vision for community building,
12 which became an effort, a joint effort between the
13 Commission and Emory Grove United Methodist Church.

14 I will -- much of what is anticipated is,
15 I guess, set forth in the conceptual master plan,
16 and, again, we've -- we've attached some outtakes
17 from that. And I'm -- I'm not going to read all of
18 this to you, but I will -- I will quote a little
19 bit here: The plans and proposals contained within
20 the conceptual master plan attempt to preserve the
21 history of Emory Grove while introducing new
22 housing that meets the needs of today's population.

23 Of course, party objectives are --
24 are set forth in detail in Exhibit F, attached to
25 our amended petition, and, again, I'm not -- I'm

1 not going to read it all to you. There's --
2 there's a lot in there, including maintaining the
3 historical integrity of the land and the community,
4 adding housing, encouraging green space, minimizing
5 vehicular traffic, and including at least 30
6 percent moderately-priced dwelling units.

7 And I -- I guess we could -- you
8 know, there's a couple ways we could sum it up,
9 but, The Emory Grove United Methodist Church has
10 been the one stabilizing force for Emory Grove
11 since its inception. The importance of this
12 institution and the spiritual ethos of the
13 congregants cannot be understated. Throughout this
14 plan there's been a conscious attempt to
15 incorporate that ethic of the original community
16 while, at the same time. providing growth in new
17 housing, and this ethic is a critical component
18 that has informed and influenced all aspects of
19 this proposed project.

20 All right. I'm going to -- I want
21 to spend just a little bit of time here on the --
22 the dedicated right-of-way interests. Let me see
23 here. I'll come back to B1. In the '50s, the
24 County was contemplating a -- a state highway
25 through Gaithersburg. It was not initially clear

1 where exactly it would go. As a result, the
2 decision was made to acquire right-of-way in
3 various different locations. One of the areas was
4 along Washington Grove Lane, as we can see in the
5 -- in the plats here.

6 Now, by -- fortunately, by 1986, the
7 rights of ways for the extension were dedicated.
8 Route 124 was fixed in its current location at
9 Woodfield Road. Unfortunately, the right-of-way
10 dedications for 124 still exist today, although
11 they are not necessary. They are essentially
12 vestigial and would no longer be needed for 124. I
13 should add that, you know, 124 is established.
14 It's not going to go in Washington -- Washington
15 Grove Lane, and it couldn't at this point, just
16 given the development around there. So in short,
17 it's no longer needed. And I -- I should add the
18 area to the north that we've spent significant time
19 discussing, the shaded area, also not necessary.
20 And I, again, acknowledge some ambiguity around
21 dedication, but one thing that everybody agrees on
22 is that to the extent that there's right-of-way
23 there, it's no longer necessary; it's -- it's just
24 vestigial.

25 All right. A little bit about the

1 history of this abandonment request. And sorry,
2 let me -- it might be easier if I -- I -- I got
3 away from the PowerPoint there. But let me jump
4 forward, because we have a decent summary here.
5 So, originally, the request was filed November 1st,
6 2022, set for hearing on March 23rd. The
7 Department of Transportation had some significant
8 comments regarding the survey that was submitted at
9 that time. There were a number of things. I -- I
10 think the most significant was the alignment of
11 this intersection, and -- and also the -- the width
12 of the road, the -- the envelope -- right-of-way
13 envelope here for the future road or the -- the --
14 the future dedication line, I should say.

15 In any event, we spent some significant
16 time working on that with the County. A -- a plan
17 was developed, and I will -- let me see if I can
18 pull that up for you really quick. Not there.
19 Okay. So this was -- what -- we stayed the
20 abandonment petition, we filed a concept plan, and
21 ultimately went to a Development Review Committee
22 meeting. This is what was proposed. Now, the
23 County -- the Department of Transportation is not
24 saying that this will be or will be required, but
25 what they were saying is, in terms of evaluating

1 our abandonment requests, they wanted to make sure
2 that they retained a sufficient area to realign the
3 intersection, if that was something that they
4 decided was necessary in the future.

5 So this was ultimately what was presented
6 and was accepted by DOT. Based on that, we
7 produced the -- that and some other items. We
8 produced the Revised Survey that -- that we have
9 been discussing. Let me see if I can pull that
10 back up. This was -- this is what was submitted.
11 And based on approval at the Development Review
12 Committee meeting, we filed the amended petition
13 with that -- with that survey.

14 Now, we did receive several comments in
15 response to the amended petition. One was from
16 WSSC reminding us that they would -- wanted us to
17 submit their easement package, which we did and was
18 ultimately approved, and another was from the Fire
19 Department, and again, wanting assurance that there
20 would be no change to the water supply, and that --
21 that would -- you know, to the extent that there
22 was any development, it would be submitted for
23 their approval. The forthcoming plans would be
24 submitted subject to the department's review and
25 approval of water supply and access, which was a

1 condition that we, of course, agreed to.

2 With that, those parties agreed to
3 the request and indicated there as sent that the
4 abandonment move forward. And I guess I could say
5 in summary there, all the agency comments have been
6 addressed with the exception of Mr. Birenbaum's
7 comment, and all of the agencies have approved
8 subject to the conditions which are set forth in
9 the exhibits that Ms. McCray pointed to earlier.

10 Now, the abandonment standard, as
11 you know -- I won't belabor this point, but -- is
12 that the right-of-way is no longer necessary -- no
13 longer necessary for present public use or
14 anticipated public use in the foreseeable future or
15 that the abandonment is necessary to protect the
16 health and safety and welfare of the residents in
17 the community. We think we meet this standard.

18 With -- with regard to the first
19 standard, there's no present public use. The --
20 the first thing I would say is that, again, Route
21 124 has been placed elsewhere. It's -- it's not
22 going there. It couldn't go there at this point,
23 so it's not necessary for that. And it is not --
24 we're not aware of any anticipated future or public
25 use in -- in either of the areas -- shaded areas

1 that we show on the survey.

2 The Petition has been submitted to all
3 the relevant agencies. They have all indicated --
4 or I should say have not expressed any opposition.
5 They've all indicated that it's not necessary for
6 present public use or future anticipated public
7 use. And again, I'll quote from Park and Planning:
8 Planning Staff has reviewed the petition and
9 concludes that the proposed abandonment areas are
10 not necessary for present or future public use,
11 therefore, Staff supports the subject abandonment
12 petition.

13 Again, with regard to Number 2,
14 Requirement Number 2 of the Code, necessary to
15 protect the health safety and welfare of residents
16 in the right-of-way area to be abandoned, again, we
17 think we meet this as well. The proposal -- the
18 redevelopment proposal here is going to improve
19 pedestrians' safety, you know, consistent with the
20 increased pedestrian foot traffic that is -- and
21 bicycle traffic that's expected. And a couple of
22 things that are going to happen here, parties are
23 going to, you know, implement vision zero
24 strategies; provide crosswalk maintenance;
25 formalize on street parking, where feasible; create

1 a -- a walkable street, generally speaking, with
2 enhanced pedestrian -- pedestrian traffic safety.

3 So we think we meet the standard
4 for abandonment. Aside from the -- the comment
5 from Mr. Birenbaum, there's no further outstanding
6 comments. The relevant agencies support the
7 petition. Route 124 won't be widened. It will
8 improve safety. And the -- the relevant agencies
9 concur that there is no -- is -- the right-of-way
10 areas are not necessary for present public use or
11 for future anticipated public use. So we -- you
12 know, we would submit that we meet the
13 qualifications and we would ask that -- that the
14 petition be approved.

15 Now I understand that pursuant to
16 Mr. Birenbaum's comments, you would like some
17 further information. You suggested a letter, along
18 with the research that's already been done on the
19 area. We're happy to submit that, and we will get
20 it in o you as -- as quickly as we can. And, I
21 guess, I would -- I would make the point again that
22 while there may be ambiguity about title, there's
23 no ambiguity that -- that that area is -- is needed
24 for right-of-way. And to the extent that the
25 County has an interest in it, we would ask -- and I

1 think this is doable -- that the County agree to
2 abandon that interest, and that -- that would be
3 enormously useful, I think, for us moving this
4 forward.

5 The last thing that I will mention is a
6 comment that I would like to make about timing of
7 any decision in this matter. And again, we
8 understand the record will be open for two weeks,
9 but we would -- we would request that, to the
10 extent it's possible, that we get a decision, I
11 guess, as quickly as possible. There is, as you
12 all know, a shortage of affordable housing in the
13 County. This has been recognized by the Executive,
14 the County Council, senior leadership, by HOC, and
15 by the church. Everybody would like to address
16 this quickly. And for the church in particular,
17 it's important to address it locally in this area.

18 So we -- there are deadlines that
19 we face that could imperil our ability to move
20 forward. And, you know, one of them I'll just
21 point out is the development impact tax credit.
22 There was some demolition on the HOC sites that
23 occurred in January of 2002 (sic). I believe we
24 have about four years in order to take advantage of
25 the -- the tax credit to apply for building

1 permits. And we're on a tight time frame at this
2 point.

3 So to the extent it's possible, we
4 will get you whatever you -- you know, whatever
5 supplements we can put together, we'll get them to
6 you as quick as you (sic) can. And if there's
7 anything else you need, please let us know; we'll
8 get it to you as quickly as we can. And to the
9 extent that we can keep the ball moving on this
10 forward quickly, we would -- we would deeply
11 appreciate that. So with that, I will say thank
12 you and see the floor to whoever else might have
13 comments.

14 HEARING OFFICER: Well, thank you so
15 much, Mr. Woodward. As a -- as a supplement to our
16 request for that easement package that we discussed
17 earlier, I would appreciate it if you would submit
18 that to the record, a copy of the easement package
19 to WSSC. So at least get them a copy of that as
20 well.

21 MR. WOODWARD: Okay. Well, the -- you
22 mean -- so we -- we -- oh, would you like the
23 easement package that was -- we submitted an
24 easement package to WSSC. Are you asking for that
25 to be made part of the record?

1 HEARING OFFICER: Yes.

2 MR. WOODWARD: Okay.

3 HEARING OFFICER: Thank you.

4 MR. WOODWARD: Yep. Okay.

5 HEARING OFFICER: And with that, I'm
6 going to allow anybody or anyone on the call who is
7 registered to speak on the this abandonment case to
8 -- case to do so right now. So Ms. McCray, do you
9 have that individual queued up?

10 MS. MCCRAY: Yes, sir. We have one
11 person that has elected to speak, others noting
12 maybe, so we'll allow that person to -- that
13 individual --

14 MS. CARRIER: Excuse --

15 MS. MCCRAY: -- to go first.

16 MS. CARRIER: Excuse me. Mr. Paylor, I
17 -- I believe that Pastor Warner would like to speak
18 on behalf of the Applicant.

19 HEARING OFFICER: Oh, certainly.

20 MS. MCCRAY: Yes. Yes, ma'am. I -- I
21 have a list of those individuals that have
22 indicated, and it's a part -- all a part of the
23 Applicant team, but the Applicant --

24 MS. CARRIER: Oh, okay.

25 MS. MCCRAY: I -- I have -- I have it

1 queued up, so not to worry.

2 MS. CARRIER: I didn't realize that was
3 an Applicant list; I thought that was people from
4 the community. Okay.

5 HEARING OFFICER: Thank you.

6 MS. MCCRAY: So the first -- the first
7 representative I -- that I have is Jay Shepherd.
8 Mr. Shepherd?

9 MR. SHEPHERD: Thank you, Ms. McCray.
10 And good afternoon, Mr. Paylor and everybody. My
11 name is Jay Shepherd and I'm with -- I'm a housing
12 acquisition manager with HOC, and I'll be super
13 brief. I thought Gordon did a good job laying this
14 out for you all. But, you know, we're -- we're
15 really excited about this.

16 One point I'll just make and -- and
17 that it just caught my ear -- and maybe I misheard
18 it, but Emory Grove, the -- the development that we
19 have on the south side of that street, was actually
20 demolished in January of 2022, not 2002. I don't
21 -- I -- I probably mis -- heard that incorrectly.
22 But it's -- it's these WSSC system development
23 charge credits that get associated with the
24 fixtures that were at that development that we
25 would like to replace in the new development coming

1 forward. So those have timeframes associated with
2 them, and we're -- we're very sensitive to that,
3 because they're valuable and we don't want to lose
4 them.

5 But real quick, you know, we're --
6 we're super excited about this. We're excited
7 about our partnership with the -- the church as --
8 as -- as evidenced as -- by the team here. We also
9 really appreciate the fact that Planning and DOT
10 and Fire and WSSC all took the time to weigh in on
11 this. And -- and I think that -- that was helpful.
12 It helped refine the application and -- and bring
13 us, really, to a -- a -- a really good application.
14 So with that, you know, I -- I thank you for your
15 time and -- and consideration. And, you know, we
16 hope that the steps subsequent to this and getting
17 to the County Council and all that, you know,
18 happens quickly. Thank you.

19 HEARING OFFICER: Thank you, Jay.

20 MS. MCCRAY: Up next we have Pastor
21 Warner.

22 PASTOR WARNER: Thank you very much, and
23 good afternoon, everyone. I -- I -- I'll -- I'll
24 try and also be super brief. I think the history
25 was -- was mentioned. Maybe just to put a finer

1 point on it, these are former slaves who -- who
2 built a -- not a wealthy, but thriving and very
3 functional community on this land. And hence the
4 history of it has to do with the -- the camp
5 meeting that -- that lasted for almost a century on
6 the ground in Johnson Park nearby, the community
7 that was -- that was established around it, and of
8 course, the church. But there are also very many,
9 sort of, community cultural sites that -- that were
10 alluded to.

11 The -- the -- the -- the point, though,
12 that I wanted to drive at is that the history of
13 this community is what was destroyed. Not the
14 history, the -- the -- the sense of community, the
15 ethnical community was destroyed with urban renewal
16 in -- in -- in the '60s. And so, this entire
17 project is unique in that our -- our church is
18 helping to -- in partnership with HOC, to drive a
19 change that has -- has to do with -- with equity
20 now in this community.

21 Several generations now have been locked
22 out of homeownership, and on our side of the street
23 and -- and throughout this entire development, we
24 are providing a full range of affordable housing
25 for community, and the energy around this effort,

1 for both the community and for -- and -- and for
2 the church, and -- and, I think, in the County in
3 general, is really very, very, very high.

4 We have formed a nonprofit, Heritage
5 Emory Grove, a Community Development Corporation,
6 that has been doing a lot of the community
7 engagement and outreach for this, and we're talking
8 to County agencies and various community members.
9 The structure of -- of the board requires that the
10 community come together to make these decisions
11 together. So -- so the energy level and the
12 visibility of it is -- is very high in both the
13 community and -- and throughout all government
14 agencies that we've been talking to now for years
15 about this development.

16 One of the things that was said about
17 this community is that -- that we wanted to
18 recapture the ethic of the old community and what
19 we were building, and part of that is walkability.
20 And so, these abandonments will be essential for
21 that because we want to have a sense of community
22 that really has -- has been lost since urban
23 renewal, and -- and the physical aspects of that
24 have to do with sidewalks and closeness in -- in
25 proximity to the road. So -- so those are very,

1 very important parts of this.

2 The work that we've done so far has
3 been exemplary enough that the County -- County
4 Council has just introduced legislation, zoning
5 text amendment, that sort of codifies and -- and
6 simplifies the ability of faith communities to use
7 their land for the development of affordable
8 housing. So the importance of this cannot be
9 underestimated. I -- I hope that we'll be able to
10 work through what -- what seemed to me to be fairly
11 minor issues that have come up, and our -- our
12 church certainly -- and community certainly would
13 -- would urge you to do so. So thank you.

14 HEARING OFFICER: Thank you so much,
15 Pastor Warner.

16 MS. MCCRAY: Up next we have several
17 members that were a part of the Applicant team that
18 were noted they wanted to speak. I'll just go
19 through the list and you can let me know if you'd
20 like to make a statement or if you'll relinquish
21 the time back. David Ager?

22 MR. AGER: It's Dave Ager.

23 MS. MCCRAY: Ager. Apologies. No?
24 Okay. Hearing nothing. Alexis Velagrin
25 (phonetic)? I don't think we have Alexis on the

1 call, so I'll move on. Alicia Romero (phonetic)?

2 Okay. I see no Alicia on the call either.

3 Francoise, would you like to make any additional
4 statements here, or are we fine to move on?

5 MS. CARRIER: Nothing additional needed
6 from me. Thank you.

7 MS. MCCRAY: Thank you, ma'am.

8 MS. CARRIER: And Ed Donohue? I'm not
9 sure if we have Ed on the call.

10 MR. DONOHUE: I'm here, but no, I --
11 nothing to add. Thank you.

12 MS. MCCRAY: All right. Mr. Paylor,
13 that's all that I have on my list. Thank you.

14 HEARING OFFICER: Okay. Thank you very
15 much, Ms. McCray. So that if there are no
16 additional comments on this to be placed in the
17 record, I should declare this hearing closed at the
18 -- at the -- at this point. Please be reminded
19 that the record will remain open until February the
20 9th, 2024, at 5:00 p.m., and this time frame will
21 be held open to accommodate additional comments for
22 the record. And those comments and any other
23 correspondence may be addressed to Ms. Tiara McCray
24 at the Montgomery County Department of
25 Transportation as I've cited before. The address

1 is 100 Edison Park Drive, that's the 4th floor,
2 Gaithersburg, Maryland, 20878, or they may be
3 emailed to Tiara at
4 Tiara.McCray@MontgomeryCountyMD.gov by February 9,
5 2024, at 5:00 p.m. That said, the hearing is
6 closed.

7 MR. WOODWARD: May I ask one more
8 question before you close this out? I'm looking
9 over my notes.

10 HEARING OFFICER: Only one.

11 MR. WOODWARD: I'm sorry.

12 HEARING OFFICER: No, it's all good.

13 MR. WOODWARD: I wasn't clear. I -- I
14 -- I understood that a copy of the report will be
15 prepared, and -- and after it's transmitted to the
16 Executive, we are entitled to see a copy of it; is
17 that right?

18 MR. BIRENBAUM: No. When the Executive
19 transmits to Council, you'll be able to get a copy
20 of it.

21 MR. WOODWARD: Okay.

22 HEARING OFFICER: Thank you, Mr.
23 Birenbaum.

24 MR. WOODWARD: That's -- that's all I
25 have. Thank you.

1 HEARING OFFICER: All right. Thank you,
2 Mr. Woodward. Okay. No further questions. The
3 hearing is closed. Have a good afternoon.

4 MR. WOODWARD: Thank you all.

5 MS. MCCRAY: Thank you, everyone.

6 MS. CARRIER: Thank you very much.

7 (Off the record at 3:09 p.m.)
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2 I, Shannon Hayes, the officer before whom
3 the foregoing proceedings were taken, do hereby
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11 neither counsel for, related to, nor employed by
12 any of the parties to this case and have no
13 interest, financial or otherwise, in its outcome.

14

15

Shannon Hayes

16

17 SHANNON HAYES, NOTARY PUBLIC

18 FOR THE STATE OF MARYLAND

19 February 8, 2024

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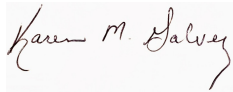
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KAREN M. GALVEZ
PLANET DEPOS, LLC
February 8, 2024

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