

November 1, 2022

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VIA ELECTRONIC AND UPS OVERNIGHT DELIVERY

Christopher Conklin
MCDOT Director
Director's Office
101 Monroe Street, 10th Floor
Rockville, Maryland 20850

Re: Requested Abandonment of Portions of Right-of-Way Easements on either side of Washington Grove Lane, primarily between Mid-County Highway and Pepper Ridge Road in Gaithersburg, Maryland.

Dear Director Conklin:

The Housing Opportunities Commission of Montgomery County (HOC), pursuant to Montgomery County Code Section 49-62 through 49-63, submits this request for the abandonment of any interest the County may retain in several right-of-way road widening easements on either side of Washington Grove Lane, between Mid-County Highway and Pepper Ridge Road in Gaithersburg.

The right-of-way easement areas addressed in this petition are described as Areas 1-5 in the Survey attached as Exhibit A (the Abandonment Areas).¹ In short, Areas 2-5 appear to have been in the former roadbed for Washington Grove Lane, while Areas 1 and 3 were easements dedicated via plat in the event easements were needed to support road widening for the future location of State Highway MD Rt. 124. See Exhibit B. However, MD Rt. 124 was ultimately located to the north along Woodfield Road. This history will be discussed further in Section IV. In any event, it is likely that no right to widen the road for purposes of MD Rt. 124 exists any longer at these locations. Moreover, even if such rights do exist, the road widening interests are no longer necessary for present public use and will not be necessary for any future road widening. For these reasons, HOC requests that any remaining interest in right-of-way road widening easements at these locations be abandoned.²

¹ The affected area is a little over 1.25 acres on the southeast side of Washington Grove Lane and a little over 0.3 acres on the northwest side of Washington Grove Lane. The attached Survey is currently in draft form as the Survey is ongoing for certain additional work related to this project. A metes and bounds description of Survey Areas 1-5 will be provided.

² HOC is not requesting the abandonment of utility or other easements. These will be addressed at a later date.

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I. Background on The Housing Opportunities Commission

HOC operates as an affordable housing agency, a housing finance agency and a housing developer, pursuant to State and County Codes.³ HOC receives funding from the Montgomery County government and is a governmental entity authorized to acquire, own, lease, and operate housing; to provide for the construction or renovation of housing; obtain financial assistance from any public or private source to assist its housing activities; and arrange for social services, resident services and day care. HOC's mission is to "provide affordable housing and supportive services that enhance the lives of low-and moderate-income families and individuals throughout Montgomery County, Maryland."⁴

II. Reason for the Requested Abandonment

This abandonment is sought in connection with the necessary upgrade and replacement of HOC's Emory Grove Village property located at the corner of Washington Grove Lane and Mid-County Highway, which in turn, is being undertaken as part of a larger plan for the development of the Emory Grove community. This project is referred to as Heritage Emory Grove (HEG).

The vision for HEG started as a small proposal on land immediately adjacent to Emory Grove United Methodist Church (EGUMC). This vision catalyzed into a community building effort between HOC, EGUMC and the wider Emory Grove community. As indicated in the Conceptual Master Plan and as attached hereto as Exhibit C:

The plans and proposals contained within [HOC's] conceptual master plan attempt to capture this vision for the new community, preserve the history of Emory Grove, and to the extent possible, incorporate remnants of the old Emory Grove plan, while introducing new housing that meets the needs of today's population.

An overview of the HEG plan can be seen in the conceptual drawings attached as Exhibit D. Historical aspects of the Emory Grove community are identified and summarized in Exhibit E. The conceptual framework for the plan is described in Exhibit F.

HOC's objectives in connection with the HEG project include maintaining the historical integrity of the land and the community and adding housing, retail and community use spaces. In addition, the plan will encourage green space and minimize vehicular traffic while creating more space amenable to pedestrian foot traffic. This project will include at least 30% moderately priced dwelling units. Granting the requested abandonment will facilitate these objectives.

³ Maryland Code Annotated, Housing & Community Development Sections 12-101 through 12-705, 16-101 through 16-407; County Code Sections 25A, 25B, and 56 Article VI.

⁴ HOC's website and full mission statement can be found here: <https://www.hocmc.org/about-hoc.html>.

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Specifically, HOC's Conceptual Master Plan calls for several new amendments to its existing Emory Grove Village property and the other properties identified in the HEG plan. These include:

Implementation of Vision Zero strategies and road diets to modify existing roads for maximum pedestrian safety and comfort, inclusion of urban parks at the intersection of Emory Grove Road, Washington Grove Lane, and Shady Spring Lane in order to create a 'main and main' central feature . . . [and] new walking trails ('lanes') that connect the new community to surrounding neighborhoods and important community features. This would include the pedestrian access to EGUMC [Emory Grove United Methodist Church] cemetery.

See Exhibit F, Conceptual Master Plan, Section 6 pp. 80-81 and 83. Moreover:

The intersection of these streets is planned for specialty treatments and changes in pavement, in order to slow traffic and to reinforce the placemaking goals of the plan. The crosswalks will be improved and formalized on-street parking is proposed. Vision Zero strategies will be employed to slow traffic and improve pedestrian safety. Intersection radii will be modified to decrease pedestrian crossing times. Several pedestrian and bike linkages are proposed. These strategies will be included at other intersections as well.

Id.

In summary, HOC intends to work the unused potential right-of-way interests into its revitalization goals to make this space safer, more pedestrian friendly and better for the community.

III. Further Information Regarding the Status of Heritage Emory Grove

HOC offers the following information in order to provide further context regarding the status of the HEG project.

On March 21, 2002, the Department of General Services (DGS) requested Mandatory Referral review by the Planning Department for the disposition of three parcels located in the Emory Grove area. See Exhibit G. Disposition of these properties is for inclusion in the HEG development. The properties referenced in the DGS letter of March 21, 2022 (as Properties 1, 2 and 3), are shown on Exhibit H (as Properties 6, 3 and 7, respectively).

The Mandatory Referral in support of HEG was approved by the Planning Board on May 19, 2022. See Exhibit I.

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IV. Background and History Relating to the Potential Right-of-Way Interests for which Abandonment is Requested

In the late 1950s a major highway (designated M-21) was contemplated through the center of Gaithersburg. It was intended to connect Quince Orchard Road (MD Rt. 124) to the south with Woodfield Road (MD Rt. 124) to the north. The new highway appears to have been first referenced in the 1960 Rockville-Gaithersburg Master Plan and was intended to bypass Emory Grove. However, the necessary rights-of-ways for this new highway were not available at that time.

As a result, it appears that the decision was made to obtain additional right-of-way dedications in the event that the northern highway alignment did not become a reality. This was done at Gaithersburg-Laytonsville Road (which is now known as Washington Grove Lane).⁵ For example, a 1969 Plat for Lot 1 (at the intersection of what is now Mid-County Highway and Washington Grove Lane) states that dedication was for “Relocation Rte. 124.” See Exhibit B (Plats 9277 and 9635). These excess right-of-way dedications still exist today. However, no such relocation of MD Rt. 124 is necessary or will ever be undertaken.

By 1971, what is now known as Woodfield Road was scheduled to be routed around the north of Gaithersburg (as opposed to through the middle). With respect to Emory Grove, Woodfield Road was still planned to bypass Emory Grove to the north.

By 1986, the rights-of ways for this planned northern relocation of Woodfield Road were either purchased or dedicated in its current location. The MD Rt. 124 state road classification was transferred to Woodfield Road in about 1988 (likely at the end of construction). Under the 2018 Master Highway Plan, Woodfield Road is identified as a Major Highway, and Washington Grove Lane is still a Primary Road (not a Major Highway).

Today, the MD Rt. 124 State Road designation starts at MD Rt. 28 in the south, follows Quince Orchard and Montgomery Village Avenue to the north, then follows Mid-County Highway to the relocated Woodfield Road, then north to Damascus.

As a result, the dedications existing in earlier plats along Washington Grove Lane between Mid-County Highway and Pepper Ridge Road (to the extent they relate to road widening) are vestiges of an old plan and are no longer needed. This Petition seeks abandonment of these vestigial dedications to the extent they are related to road widening right-of-ways. These dedications were originally contemplated for a potential relocation of MD Rt. 124, but were never used and are no longer necessary, as the Major Highway was successfully relocated to the north along Woodfield Road in the 1980s.⁶

⁵ Washington Grove Lane was not designated as a Major Highway. At the time it was designated as a primary Road (which is a lower capacity designation), and it retains the Primary Road designation today.

⁶ It is also worth noting that the properties on the southwest side of Mid-county highway at its intersection with Washington Grove Lane have been developed. Therefore, the road alignment at this location is set

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V. Right-of-Way Abandonment

Pursuant to Section 49-63(c) of the Code, a right-of-way may be abandoned if the County Council finds that, “(1) the right-of-way is no longer necessary for present public use or anticipated public use in the foreseeable future,” or “(2) the Abandonment . . . is necessary to protect the health, safety, and welfare of the residents near the right-of-way to be abandoned.” Only one criterion need be met for approval of an abandonment.

Here, the road widening originally contemplated by the potential right-of-ways was never undertaken. Moreover, no such road widening will take place in the future as MD Rt. 124 was relocated to the north and such widening is inconsistent with the current 2018 Master Plan of Highways and HOC’s Conceptual Master Plan for the Emory Grove community.

Indeed, the abandonment will help HOC to improve pedestrian safety consistent with the increase of pedestrian foot traffic and bicycle traffic expected with the expansion of HEG. Specifically, HOC will use the abandonment to implement Vision Zero strategies in order to slow vehicular traffic and improve pedestrian safety, provide crosswalk maintenance, and formalize on-street parking, where feasible. As a result of the requested abandonment, HOC will be able to create a walkable street and enhanced pedestrian and traffic safety.

Public utilities that currently exist in the Abandonment Areas are shown on the survey attached as Exhibit A. However, these utilities will not be impacted by this abandonment request, and existing public utilities will be accommodated or improved with appropriate dedications as part of the HEG development.

Finally, as required by Section 49-63(d) of the Code, the rights-of-way to be abandoned are not the sole means of access to any property.

For the foregoing reasons, these road widening right-of-way easements are no longer necessary and abandonment of any remaining road widening interest is both appropriate and beneficial to the community.

VI. Conclusion

HOC requests that the County abandon road widening right-of-way interests on either side of Washington Grove Lane, between Mid-County Highway and Pepper Ridge Road in Gaithersburg. The road widening is no longer necessary for the present or future public use of relocating highway MD Rt. 124 and is inconsistent with the current Master Plan of Highways. Moreover, abandonment of any remaining right to the road widening right-of-way interests will allow for the development of Heritage Emory Grove in a way that maintains the historical

and, even if there were interest in relocating the highway to Washington Grove Lane, it would not be possible.

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integrity of the land, encourages green space, and minimizes vehicular traffic, while creating more space amenable to safe pedestrian foot traffic. Therefore, we ask, pursuant to Sections 49-62 through 49-63 of the Code, that this Petition to abandon any remaining road widening right-of-way easements at these locations be granted.

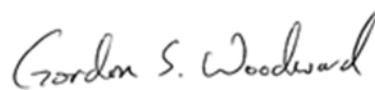
In connection with this abandonment request, enclosed please find the following:

- Survey of Areas subject to abandonment request (Exhibit A);
- Plats reflecting dedication for Relocation of MD Rt. 124 (Exhibit B);
- Summary of Objectives and Emory Grove United Methodist Church statement (Exhibit C – Conceptual Master Plan p. 78);
- Overview of Heritage Emory Grove Plan (Exhibit D – including Sheets 3, 4, 6 and 19 of the Conceptual Master Plan);
- Historical aspects of the Emory Grove community identified and summarized (Exhibit E – Sheet 17 of the Conceptual Master Plan);
- Plan Framework (Exhibit F – Conceptual Master Plan Section 6);
- Department of General Services letter of March 21, 2022 (Exhibit G);
- Project Site Area (Exhibit H – Sheet 2 of the Conceptual Master Plan);⁷
- Planning Board Approval of Mandatory Referral on May 19, 2022 (Exhibit I);
- List of adjoining properties (Exhibit J).

Finally, pursuant to the Code Section 49-62(c), HOC is a government entity and therefore exempt from the \$2,500 filing fee.

Thank you for your consideration of this request. If you have any questions or would like any additional information, please feel free to contact us.

Sincerely,



SCHNADER HARRISON SEGAL & LEWIS LLP

By: Gordon S. Woodward and
Krystal R. Bordoni-Cowley

*On behalf of The Housing Opportunities
Commission of Montgomery County, Maryland*

cc: Eric Willis, *Section Chief*
Tiara McCray, *Real Estate Specialist*

⁷ Exhibit H depicts Property 4 as being owned by the Romero family. However, this property has since been acquired by EGUMC.