

# 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

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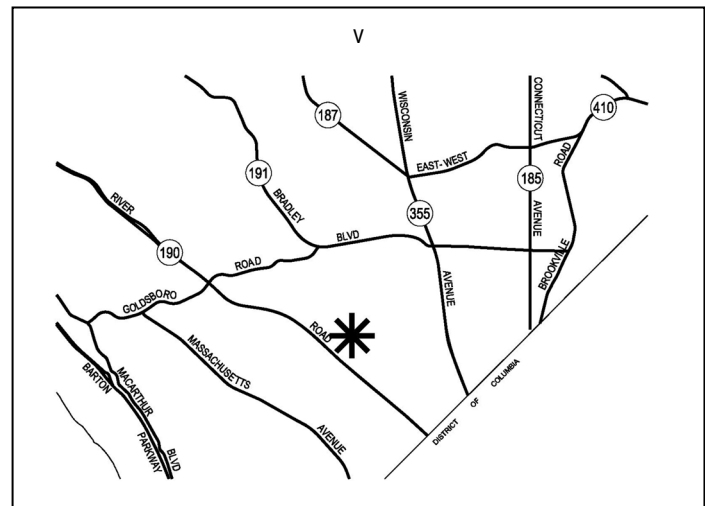
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### Description

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.

## REQUEST FOR COMMENTS BY THE MONTGOMERY COUNTY DEPARTMENT OF TRANSPORTATION

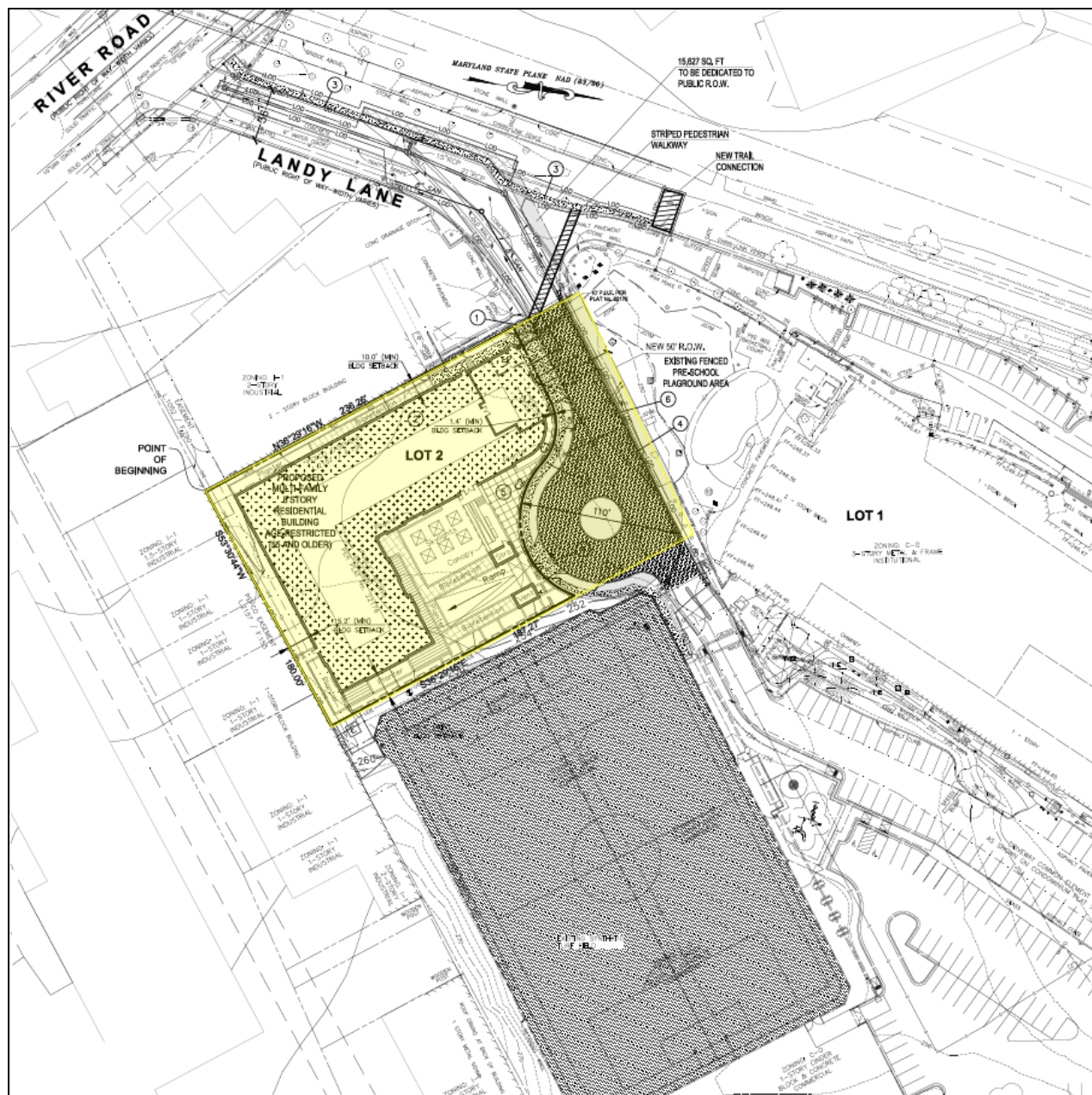
On September 10, 2021, the Maryland-National Capital Park and Planning Commission (M-NCPPC) received Abandonment Petition AB 780 (Attachment A), in accordance with Section 49-62(h) of the County Code. The Subject Petition requests abandonment of the Public Access Easement (PAE) covering approximately 1.3 acres at the terminus of Landy Lane (Figure 1)(the “Subject Abandonment”). The Petition seeks abandonment of the PAE for the purpose of redeveloping the Site in conformance with Preliminary Plan No. 120150160 and Site Plan No. 820150080, and to rededicate the area needed to construct Landy Lane Extended as master-planned in the 2016 *Westbard Sector Plan*. The Subject Abandonment and design of Landy Lane Extended is shown in Figure 2.



Figure 1: Vicinity Map

Miller Development Corporation (the “Petitioner”) owns the property containing approximately 1.3 acres covered by the Public Access Easement (Figure 2). The surrounding properties are zoned CRT-0.5 C-0.5 R-0.5 H-55, CRT 0.25 C-0.25 R-0.5 H-35, and IM-1.5 H-45.





A public hearing has been scheduled for Monday, November 11, 2021 at 1:00 PM (virtual format) in accordance with Section 49-62(f) of the County Code. This Staff Report summarizes Staff's review of the Subject Application and seeks permission from the Planning Board to transmit comments to MCDOT for consideration by the County Council.

## SITE DESCRIPTION AND BACKGROUND

The Subject Abandonment is located at the terminus of Landy Lane within the Westbard community. It shares two lot lines with the Washington Episcopal Day School. The Subject PAE pertains to the surface parking lot, primarily serving the adjacent turf field of the Washington Episcopal School (shaded in yellow in Figures 2 and 3).

The Kenwood neighborhood is located directly to the north and west. To the south, along River Road, is a mix of low-density commercial and higher density multi-family residential uses.

Landy Lane is classified as a Business District Street with a one lane in each direction for a total master-planned right-of-way width of 54 feet. Currently the roadway connects to River Road. Today much of the northeastern segment continues within the Episcopal Day School parking lot. The ultimate, master-planned vision of Landy Lane is to extend from its current terminus north of River Road through to Little Falls Parkway, but that is contingent upon redevelopment of the Washington Episcopal Day School Site (page 86, 2016 Westbard Sector Plan).

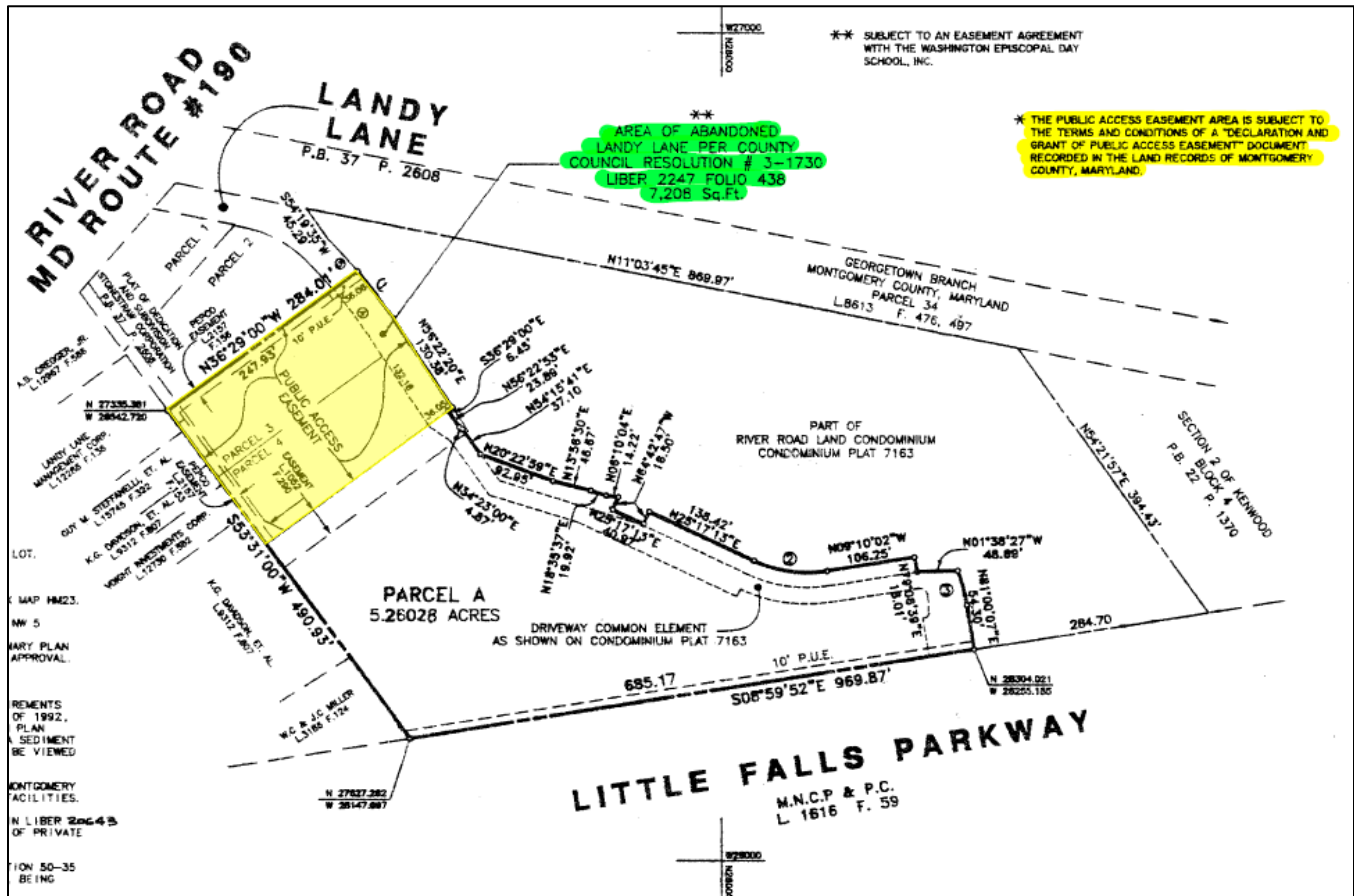


Figure 3: Subject Public Access Easement Shown (in yellow) on Plat 22176





*Figure 4: Landy Lane looking towards River Road (included in Public Access Easement)*

#### Relevant Regulatory Approvals

The PAE was originally established in connection with Preliminary Plan No. 1-98045, approved March 23, 1999 and a related abandonment of the roadway extending from the current terminus of Landy Lane to the frontage of the parking lot opposite the present-day Episcopal Day School turf field. As noted in the PAE, in order to avoid the need for rededication of this area, the then-property owner was required to grant a non-exclusive easement for Montgomery County allowing continuous public vehicular access through the private driveway and adequate access for Montgomery County emergency vehicles. The PAE was recorded in 2002, but the Property was never redeveloped in accordance with the 1999 Preliminary Plan and has remained a surface parking lot.

In September of 2016 the Planning Board voted to approve Preliminary Plan No. 120150160 and Site Plan No. 820150080 on the Site of the Washington Episcopal Day School, which allowed the subdivision of the lot into two distinct lots and the construction of an age-restricted multi-family residential building with up to 121 dwelling units within the majority of the area overlaid with the present-day PAE.

In compliance with the vision of the 2016 *Westbard Sector Plan*, the approval included conditions with the Preliminary Plan No. 120150160 (Condition No. 9) and the Site Plan No. 820150080 (Condition No. 8) requiring the property owner to construct an extension of Landy Lane to the east of the existing School playground and along the western edge of the proposed Lot 2 in the form of a cul-de-sac, as shown on the certified plans, and dedicate it to public right-of-way. The roadway extension would be constructed as a secondary residential street within a reduced 50-foot wide public right-of-way. Constructed in this manner, the street will measure 26-feet wide with a 5-foot wide sidewalk on the east side of the roadway (along the frontage of Lot 2). This design is reflected in Figure 2 of this report.

#### Right of Way Abandonment Petition

As stated previously, conditions of approval associated with Preliminary Plan No. 120150160 and Site Plan No. 820150080, require the Applicant to extinguish the existing Public Access Easement, comprised of approximately

1.3 acres to pursue the development approved for the Site. The County Attorney's Office has determined that the PAE constitutes a public right-of-way that can only be extinguished through the formal abandonment process set forth in Section 49-62 of the Montgomery County Code.

If the Subject Abandonment is approved, the Applicant will dedicate 50 feet of public right-of-way to MCDOT and construct the roadway with a cul-de-sac and vehicular connection to the Washington Episcopal Day School (Figure 2). As recommended in this staff report, the Subject Abandonment would not be in effect until after the Applicant dedicates and constructs the extension of Landy Lane.



*Figure 5: Existing Parking Lot Included in PAE, looking north*

The construction of this roadway extension and cul-de-sac will provide the continuous public vehicular access and emergency access sought by the PAE within a smaller, more efficient and publicly dedicated area, allowing for the balance of the area currently encumbered by the PAE to be released and redeveloped with the Project.



*Figure 6: Approved Age-restricted Multi-family Building (Site Plan 820150080)*



## ANALYSIS AND FINDINGS

### Conformance to the Master Plan

The 2016 *Westbard Sector Plan* recommended extension of Landy Lane from its current terminus such that it would connect River Road to Little Falls Parkway (pages 35, 37, 42, and 85-87).

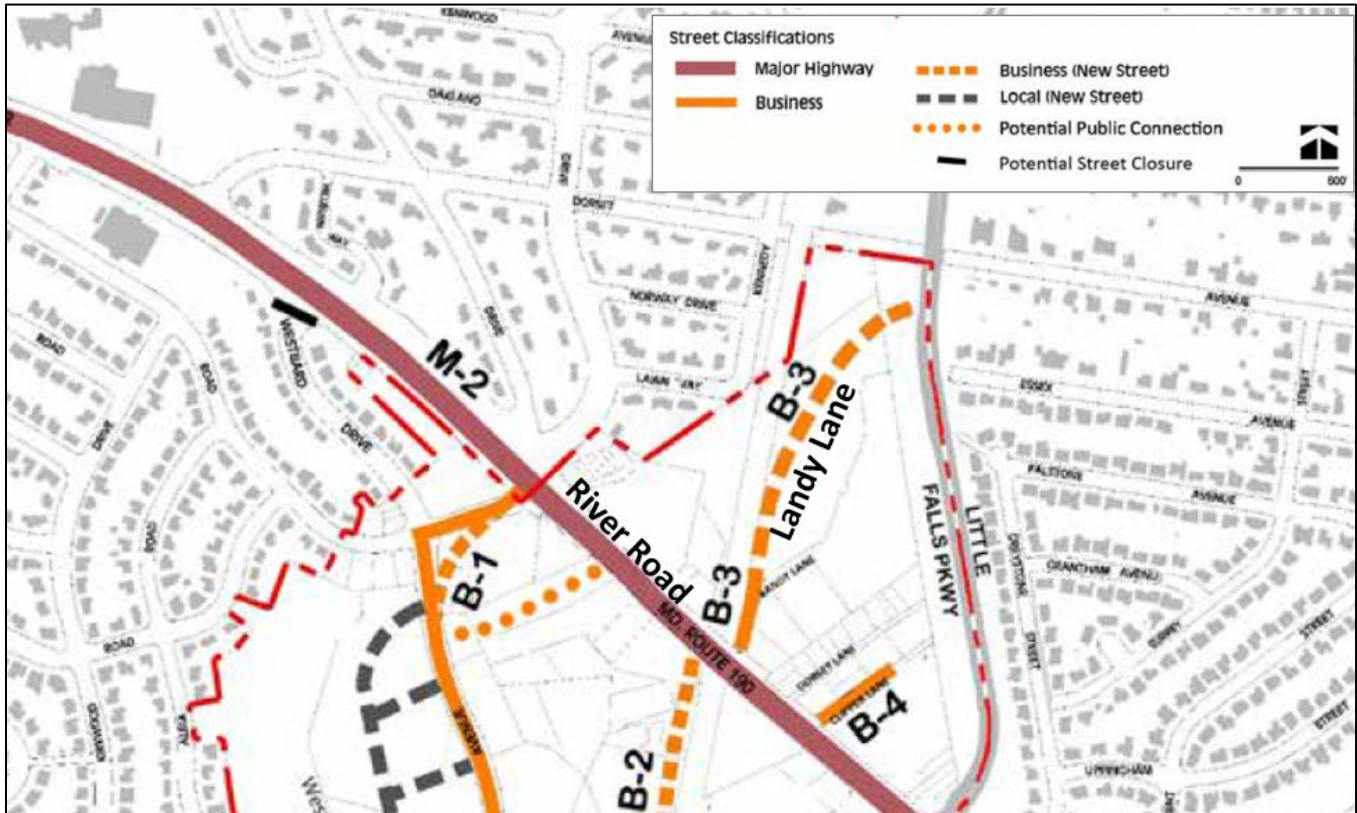


Figure 7: Roadway Classifications from the 2016 Westbard Sector Plan (Landy Lane shown as B-3)

Landy Lane is master-planned as a Business District Street, that will ultimately connect River Road to Little Falls Parkway. The recommendation was included in the Sector Plan for the purpose of improving local connectivity and to provide an alternative to cut-through traffic through the Kenwood neighborhood. Its addition to the local travel network, it will also provide relief to the intersection of Little Falls Parkway at River Road. As envisioned, the roadway would consist of two 11-foot travel lanes (one in either direction), an on-road shared bikeway, on-street parking on the west side and buffered sidewalks on both sides.

During review of the Preliminary Plan No. 120150160 and Site Plan No. 820150080, MCDOT agreed to a modified cross section that still meets the intent of the Sector Plan, with the recognition that final design of the roadway could be achieved when the Washington Episcopal Day School redevelops, and the northern/eastern segment of Landy Lane will be constructed. As approved in Site Plan No. 820150080, the Applicant will construct the interim condition of Landy Lane extended. Therefore, the Subject Petition demonstrates intent to conform with the conditions of approvals in the Preliminary and Site Plans and conforms with the applicable master plan.

#### Chapter 49 Findings

Section 49-63(c)(1) -(2) of the Montgomery County Code (the “Code”) authorizes the County Council to abandon a right-of-way, including a public road, upon a finding 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 or closing is necessary to protect the health, safety and welfare of the residents near the right-of-way to be abandoned or closed.

Furthermore, Section 49-62(a) of the Code defines right-of-way, as the following:

*any road, street, alley, crosswalk, pedestrian walkway, shared use path, water main, sanitary sewer, storm sewer, or storm drainage right-of-way used at any time by the public, including use by pedestrians and bicyclists.*

The Subject Abandonment meets all of the listed criteria. First, the extinguishment of the PAE is a necessary step towards achieving the master-planned extension of Landy Lane and the applicable development approvals for the Site. Once Landy Lane is constructed as conditioned, the remaining portion of the PAE (the surface parking lot) will no longer be necessary for public use by vehicles turning around or emergency access.

A parking lot is not the ideal facility for public vehicles to use when turning around at a roadway’s terminus. While parking lots are navigable by motor vehicles of varying sizes, by the nature of their design, they introduce many conflict points. The Applicant is proposing to construct the cul-de-sac design which was reviewed and vetted by MCDOT staff. This design is preferable to the existing condition because it reduces traffic speeds and conflicts, while ensuring connectivity today and in the future, should the Washington Episcopal Day School redevelop.

Furthermore, the conditioned design of Landy Lane extended will include a new sidewalk, where none are present today. A sidewalk will be necessary to improve the safety of the future residents of the multi-family building and the current patrons of the Washington Episcopal Day School. As already stated, extinguishing the current PAE is a necessary step towards achieving the master-planned vision of Landy Lane and the Preliminary and Site Plans approved by the Planning Board. For these reasons the PAE is no longer needed for public use and extinguishing the PAE is necessary to protect the health, safety and welfare of the residents near the Subject Abandonment.

#### Citizen Correspondence and Issues

The Petitioner has complied with all submittal and noticing requirements. As of the date of this Report’s posting staff has received no correspondence.

#### **CONCLUSION**

Staff recommends the Planning Board support the Petition, with the recommended condition of approval included in the staff report and transmit comments to the Montgomery County Department of Transportation.

#### **Attachments**

Attachment A – Petition for Abandonment of a Public Access Easement at the Terminus of Landy Lane

Attachment B – Plat 22176

Attachment C – Preliminary Plan No. 120150160 (MCPB No.16-057) Resolution

Attachment D – Site Plan Amendment No. 821050080 (MCPB No. 16-104) Resolution