MEMORANDUM

October 4, 2013

TO: County Council

FROM: Glenn Orlin, Deputy Council Administrator

SUBJECT: Action—resolution to authorize advance taking for Montrose Parkway West project

T&E Committee (and Council staff) recommendation (3-0): Approve a resolution granting the Executive’s request (2-3). The Department of Transportation agreed to work with the Cherington Condominium to resolve how to restore the land where the temporary access from East Jefferson Street will be removed.

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On August 23 the County Executive requested authority to condemn, by the advance taking procedure, two temporary easements totaling 8,825sf from Cherington Condominium for the construction of a portion of the Montrose Parkway West project.

While the road itself was built and opened to traffic several years ago, the planned driveway access from Cherington to Montrose Parkway has not been built. In the interim Cherington has used a temporary access to East Jefferson Street at a point very close to the Montrose Parkway/East Jefferson Street intersection. Once the planned driveway to Montrose Parkway is built and opened to traffic, the interim access to East Jefferson Street would be closed. (Cherington also has access to the north from Montrose Road; that access is unaffected and would remain.)

The Executive’s letter transmitting this request is attached as C1 and a draft resolution is on C2-3. Maps showing the location of the proposed advance taking are on C4-5. A plat showing the 2,588sf temporary easement needed to complete the driveway is on C6. A plat showing the 6,237sf temporary easement needed to close the interim driveway is on C7.

On September 13 the Department of Transportation (DOT) wrote to the Council of Unit Owners of Cherington Condominium notifying it of the Executive’s request and when the Committee and Council would meet on the matter. The letter is on C8.
MEMORANDUM

August 23, 2013

TO: Nancy Navarro, President
Montgomery County Council

FROM: Isiah Leggett, County Executive

SUBJECT: Transmittal of Resolution for Advance Taking
Montrose Parkway West – C.I.P. Project No. 500311

I am transmitting for Council approval a resolution to authorize the condemnation of land. Executive Order Number 24-04, with an effective date of January 30, 2004, authorized the construction of Montrose Parkway West, C.I.P. Project Number 500311. Construction of the parkway has been completed, but the County has yet to build the new access road for Cherington Condominium off of the parkway, north side, between East Jefferson Street and Old Georgetown road. Two temporary construction easements are needed from the condominium board in order to construct the new access road. A copy of Executive Order 24-04 is attached to this memorandum.

In conjunction with the construction of the access road from Montrose Parkway the existing access from Jefferson Street is being closed. This has created different positions among the owners within the condominium and has made it difficult to resolve the property acquisition process.

In order to complete this project, the County requires possession of the needed temporary easements as soon as practicable. Construction section personnel are anxious to begin this work. Therefore, since it appears that an agreement with the property owner is not imminent, an advance taking is requested for the temporary construction easements needed to construct the new road and remove the current temporary entrance on East Jefferson Street. One temporary easement contains 2,588 square feet of land, the other easement is 6,237 square feet.

IL:rg

Attachments (2)

c: Marc Hansen, County Attorney
Art Holmes, Director, Department of Transportation
COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By County Council

SUBJECT: Optional Procedure for Condemnation of Land, Advance Taking
CIP Project No. 500311

In accordance with Article III, Section 40A, Maryland Constitution and Section 49-50,
2004 Montgomery County Code, as amended.

BACKGROUND

The Council has been requested to authorize the condemnation of a temporary construction
 easement needed to construct a portion of an access road in conjunction with the Montrose
 Parkway West Project, in accordance with Section 49-50 of the 2004 Montgomery County Code,
as amended. The road will provide access from Montrose Parkway to Cherington Condominium
 property.

1. Acquisition needs to take place as soon as practicable for construction beginning as soon
as the needed right of way is obtained.

2. The County has been unable to negotiate a temporary construction easement with the
property owner listed below.

RIGHT OF WAY IN SQUARE FEET

<table>
<thead>
<tr>
<th>PROPERTY OWNER</th>
<th>Property Description</th>
<th>TEMPORARY EASEMENT</th>
<th>LIBER/ FOLIO</th>
<th>AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Council of Unit Owners of Cherington Condominium</td>
<td>Parcel “P”, Washington</td>
<td>8,825 sq. ft.</td>
<td>15140//17</td>
<td>$ 52,550.00</td>
</tr>
<tr>
<td></td>
<td>Science Center Plat 20343</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

ACTION

I. The County Council finds that there is an immediate need to take possession of a portion of the
property listed above and approves the Resolution authorizing the condemnation of land under the
optional method for condemnation of land for streets or roads specified in Section 49-50, 2004
Montgomery County Code, for the construction of an access road for Montrose Parkway West. In
furtherance of this action, the County Council hereby:
1. Guarantees the payment of any amount above the estimated fair market value later awarded by a jury;

2. Appoints David Lamb, a Maryland Certified General Appraiser, to appraise the fair market value of the property; and

3. Orders the County Attorney to acquire the listed property under this procedure.

II. Montgomery County will take immediate possession of the listed property upon filing a petition of advance taking in the Circuit Court for Montgomery County, Maryland, and depositing with the Court the fair market value of the property, as determined by the appraiser appointed above. The County may abandon these proceedings at any time prior to payment of the fair market value of the listed property into the Court.

III. The County Attorney is hereby directed to take all necessary steps to acquire the property.

THIS IS A CORRECT COPY OF COUNCIL ACTION

________________________________________
Linda M. Lauer
Clerk of the Council
Eric Erdheim, President  
The Council of Unit Owners of Cherington Condominium  
11901 Grey Hollow Court  
Rockville, MD 20852-5805  

Re: The Council of Unit Owners of Cherington Condominium Property  
Temporary Construction Easements for Montrose Parkway West  
Parcel P, Washington Science Center, Rockville, Maryland  

Dear Mr. Erdheim:  

The County Executive requested, and the Council approved, funding for the construction of Montrose Parkway West a few years ago. The roadway is open, but work remains to be done to provide the permanent access from the roadway to Cherington Condominium. As you know, staff from this department has been working to acquire the necessary right of way to build the access road, but has been unable to do so. Therefore, to avoid any further delay in the construction of the road, the Department of Transportation is asking the County Council for the authority to acquire the two temporary construction easements needed for this project under the County’s power of eminent domain - advance take procedure.  

If the Council approves the request, the County Attorney will file an Advance Take Petition to immediately take possession of the property referenced above and will deposit funds with the Circuit Court that correspond to the fair market value of the property rights acquired, as determined by a qualified, licensed real estate appraiser. If an Advance Take Petition is filed, further information will be provided to you regarding how to withdraw those funds deposited with the Circuit Court. The funds deposited with the Circuit Court do not necessarily dictate the amount of money ultimately received as a result of further negotiations or a jury trial, if one is necessary.  

The advance take request will be addressed by the Transportation, Infrastructure, Energy and Environmental Committee on September 30, 2013, at 10:00 a.m. or shortly thereafter, in the hearing room on the 7th floor of the County Office Building, 100 Maryland Avenue, Rockville, and by the full Council on October 8, 2013, in the hearing room on the 3rd floor of the same building. Please call the Council Office on the day of the hearing at 240-777-7900 to learn the precise time of the meeting. You are welcome to attend and listen to the discussion of this matter, but there will not be an opportunity to speak at the Council session. Comments may be sent, either by mail, to 100 Maryland Avenue, 5th Floor, Rockville, Maryland 20850, or by e-mail to county.council@montgomerycountymd.gov.  

Sincerely,  

Holger Serrano, P.E., Deputy Chief  
Division of Transportation Engineering  

cc: Glenn Loveland  
Division of Transportation Engineering