MEMORANDUM

May 10, 2013

TO: County Council

FROM: Jean Arthur, Legislative Analyst

SUBJECT: Action: Resolution to approve the following abandonment:
AB735, portion of Edgevale Road, Woodside Park Subdivision, Silver Spring, 13th Election District

Vincent Checchi and Mary Jane Checchi, the Applicants, submitted a request dated June 4, 2012 to abandon a portion of the dedicated but unbuilt, Edgevale Road right-of-way. Marc E. Johnson and Sarah R. Knight, joined the request as co-applicants by letter dated September 18, 2012.

As is customary, this matter is going directly to the full Council because there is no controversy and no party has raised objections to the abandonment.

The County Executive’s designee held a public hearing on October 17, 2012. Prior to the hearing, the County’s Department of Transportation requested comments from the public, government agencies and public utility companies with the following results:

- Montgomery County Fire and Rescue Service, by e-mail dated October 17, 2012, raised no objections to the abandonment provided that sufficient fire department vehicular access to 1102 Edgevale Road would be maintained.
- Verizon, by letter dated April 2, 2012, stated that it has no existing facilities at that section of the road which would conflict with this request.
- Washington Gas submitted a letter dated September 5, 2012, indicated that it has no existing or proposed facilities in the abandonment area so it has no objections.
- Pepco, Montgomery County Public Schools and Montgomery County Police Department did not respond and therefore, we presume, do not have objections.
- Washington Suburban Sanitary Commission, by e-mail dated May 2, 2012, stated that it would require an easement. The width of the easement would depend on the diameter of the pipes at that location.
- The Montgomery County Planning Commission recommended approval with the following condition:
  “The proposed 45-foot long Edgevale Road abandonment will become effective with the recordation of a plat for properties that incorporate the abandoned 50-foot wide right-of-way. The plat must include an easement granted to Montgomery County that provides perpetual access to pedestrians and non-motorized vehicles over an appropriate portion of the abandoned area as determined at preliminary plan review.”
- Surrounding residents and civic associations were notified: fifty citizens signed a petition in support of the abandonment.
The Montgomery County Department of Transportation recommends approval of the abandonment with the following conditions:

1. the Applicant must grant easements to the County for the maintenance of storm drainage facilities and any public utility affected and/or relocate these facilities and grant easements, as applicable;

2. the Applicant must file a new record plat incorporating the former portion of the right-of-way into appropriate lots as directed by the Montgomery County Planning Board in conjunction with Preliminary Plan No. 120070230; and

3. the Planning Board’s approval of Preliminary Plan No. 120070230.

The hearing examiner recommends abandonment of the right-of-way subject to the following conditions which are all part of the resolution attached at ©2-3.

1. the Applicant must grant easements for the maintenance of public storm drainage facilities and any public utilities affected and/or relocate these facilities and grant easements over the relocated facilities;

2. the Applicant must file a new record plat incorporating the former portion of the right-of-way into appropriate lots as directed by the Montgomery County Planning Board in conjunction with Preliminary Plan No. 120070230;

3. the Planning Board’s approval of Preliminary Plan No. 120070230; and

4. the applicant must meet the requirements of the Montgomery County Fire and Rescue Service and the Washington Suburban Sanitary Commission.

This packet contains the following:

- County Executive’s Transmittal Memorandum 1
- Draft Resolution AB735 2-3
- Letter requesting the abandonment from Jonathan A. Russell 4-24
- Executive Order No. 199-12, Effective Date 9/12/2012 25
- Public Hearing Officer’s report 26-30
- Maps noting locations of areas to be abandoned and maps AB735 31-32

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MEMORANDUM
April 29, 2013

TO: Nancy Navarro, President
Montgomery County Council

FROM: Isiah Leggett, County Executive
Office of the County Executive

SUBJECT: DOT Docket No. AB735, Portion of Edgevale Road
Woodside Park Subdivision, Silver Spring, 13th Election District

I am attaching for your consideration a proposed Resolution by which the County Council might approve the abandonment of a portion of Edgevale Road in the Woodside Park Subdivision of Silver Spring. The following supporting materials are also attached to this memorandum:

1. County Council Resolution
2. Letters which initiated the abandonment process dated June 4, 2012 and September 18, 2012
3. Executive Order No. 199-12, Effective Date 9/12/2012, which announced a Public Hearing to be held on October 17, 2012
4. A copy of the Hearing Examiner’s Report and Recommendation
5. A location map and tax map highlighting the area

IL:rg

Attachments

cc: Kathleen Boucher, ACAO
SUBJECT: DOT Docket No. AB735
Abandonment – Edgevale Road
Woodside Park Subdivision, Silver Spring

Background

1. By letter dated June 4, 2012 from Ms. Mary Jane Checchi and Mr. Vincent A. Checchi, the Applicants, a request was made for the County to abandon a portion of Edgevale Road in the Woodside Park Subdivision of Silver Spring. By way of a letter dated September 18, 2012, Dr. Marc E. Johnson and Ms. Sarah R. Knight (the "Co-Applicant") joined the request. The portion of Edgevale Road right-of-way for which abandonment is sought adjoins property owned by the Applicants.

2. A Public Hearing to consider the abandonment proposal was held on October 17, 2012 by the designee of the County Executive.

3. Verizon had no objection.

4. Washington Gas had no objection.

5. Washington Suburban Sanitary Commission objected unless an easement of sufficient width is granted.

6. PEPCO did not respond within 60 days and therefore, concurrence is presumed.

7. The Montgomery County Police Department did not respond within 60 days and therefore, concurrence is presumed.

8. The Montgomery County Planning Board recommended approval conditioned upon: “The proposed 45-foot long Edgevale Road abandonment will become effective with the recordation of a plat for properties that incorporate the abandoned 50-foot wide right-of-way. The plat must include an easement granted to Montgomery County that provides perpetual access to pedestrians and non-motorized vehicles over an appropriate portion of the abandoned area as determined at preliminary plan review.”

9. The Department of Transportation (DOT) recommended approval conditioned upon: a) the Applicant must grant easements to the County for the maintenance of storm drainage facilities and any public utility affected and/or relocate these facilities and grant easements, as
applicable; b) the Applicant must file a new record plat incorporating the former portion of the
right-of-way into appropriate lots as directed by the Montgomery County Planning Board in
conjunction with Preliminary Plan No. 120070230; and c) the Planning Board's approval of
Preliminary Plan No. 120070230.

10. The Department of Fire and Rescue Services conditioned its approval upon the
maintenance of vehicular access to 1102 Edgevale Road from Edgevale Road.

11. The County Executive recommends approval of the proposed abandonment.

**Action**

The County Council for Montgomery County, Maryland, finds that a portion of Edgevale Road
as described on the attached Schedules A and B prepared by MHG in the Woodside Park
Subdivision of Silver Spring proposed for abandonment is no longer necessary for public use,
pursuant to Section 49-63 of the Montgomery County Code, and approves the abandonment
subject to the following conditions which must be satisfied at Applicant's sole cost and expense
prior to the abandonment becoming effective:

1. The Applicants must record a new record plat incorporating the former right-of-way into
the appropriate properties and include an easement granted to Montgomery County that provides
perpetual access to pedestrians and non-motorized vehicles over an appropriate portion of the
abandoned area as determined by the Montgomery County Planning Board.

2. The Applicants must grant easements to the County for the maintenance of any storm
drainage facilities and any public utility affected and/or relocate these facilities and grant
easements, as applicable.

3. The abandonment is conditioned upon the Planning Board's approval of Preliminary Plan
No. 120070230.

4. The abandonment is conditioned upon maintaining the vehicular access to 1102 Edgevale
Road from Edgevale Road.

5. The County Attorney must record among the Land Records of Montgomery County,
Maryland, a copy of this Resolution approving the abandonment of the subject area.

6. Any person aggrieved by the action of the Council for abandonment may appeal to the
Circuit Court within 30 days after the date such action is taken by Council.

This is a correct copy of Council Action.

Linda M. Lauer, Clerk of the Council
SCHEDULE A
DESCRIPTION OF A
PARTIAL ROADWAY ABANDONMENT
PART OF EDGEVALE ROAD
PLAT No. 2188

Being a parcel of land, located in Election District No. 13 of Montgomery County, Maryland, hereinafter described in, through, over and across Edgevale Road, a 50 foot Right-of-Way as delineated on a plat of subdivision entitled "Section 7, WOODSIDE PARK" as recorded among the Land Records of Montgomery County, Maryland as Plat No. 2188 and being more particularly described by Macris, Hendricks and Glascock, P.A. on May 23, 2012 in the Maryland State Plane NAD 83/91 datum as follows:

Beginning at an open pipe found on the southerly right-of-way line of said Edgevale Road; said pipe also being at the northerly common corner of Lots 9 and 10, Block D-2 as delineated on a plat of subdivision entitled "Section 7, WOODSIDE PARK" as recorded among said Land Records as Plat No. 4787, then leaving said pipe and the northerly corner of said Lots 9 and 10, Block D-2 to cross and include part of Edgevale Road

1. North 28°59'37" East, 50.15 feet to a point on and 108.98 feet from a pinched pipe found at the end of the 8th or North 61°00'30" West, 175.80 foot line of a conveyance from Dina A. Davis to Mary Jane Checchi by deed dated June 27, 2008 and recorded among said Land Record in Liber 35799 at Folio 419; said point also being on the northerly right-of-way line of said Edgevale Road, then binding with part of said 8th
line reversed and part of said northerly right-of-way line of said Edgevale Road

2. South 61°00'23" East, 45.00 feet to a point, then leaving said 8th line and part of said northerly right-of-way line of Edgevale Road to cross and include part of said Edgevale Road

3. South 28°59'37" West, 50.20 feet to a point on said southerly right-of-way line of Edgevale Road and the northerly line of said Lot 10, Block D-2, then binding with said southerly right-of-way line of Edgevale Road and the northerly line of said Lot 10, Block D-2

4. North 60°57'06" West, 45.00 feet to the point of beginning; containing an area of 2,258 square feet or 0.0518 acres of land and as delineated on Schedule B, attached hereto and made a part hereof by this reference.

Certified correct to the best of our professional knowledge, information and belief and this description was prepared by me and is in conformance with Title 9, Subtitle 13, Chapter 6, Section .12 of the Minimum Standards of Practice for Land Surveyors. If the seal and signature are not violet colored, the document is a copy that should be assumed to contain unauthorized alterations. The certification contained on this document does not apply to any copies.

[Signature]

Maciel Hendricks & Glaster, P.A.
Jonathan A. Russell, Property Line Surveyor
Maryland Registration No. 350
Expiration Date: 10/15/2012
MARY J. CHECCHI
L.35799 F.419
PT. PARCEL C
SECTION 7
WOODSIDE PARK
P.No. 2188

SCHEDULE B
PROPOSED ROADWAY ABANDONMENT
PART OF EDGEVALE ROAD
PLAT No. 2188

SCALE: 1"= 50'  MAY, 2012
MONTGOMERY COUNTY, MARYLAND

Macris, Hendricks & Glascock, P.A.
Engineers • Planners
Landscape Architects • Surveyors

6270 Wootton Road, Suite 120
Montgomery Village, Maryland
20852-1778

Phone 301.676.0840
Fax 301.676.0893

www.mhgpa.com

JOB NO. 05.304.20
Woodside Park

Right of Way Abandonment
June 4, 2012

The Honorable Isiah Leggett
Office of the County Executive
Executive Office Building
101 Monroe Street
Rockville, MD 20850

Re: Petition for Partial Abandonment
Edgevale Road Right of Way

Dear Mr. Leggett:

We are writing to request abandonment of a portion of the dedicated, but unbuilt, Edgevale Road right of way, as shown on Attachment A, pursuant to Section 49, Article 6 of the Montgomery County Code. We believe that the portion of ROW that we request for abandonment "is no longer necessary for present public use or anticipated public use in the foreseeable future" [Section 49-63(c) (1), Montgomery County Code], and is not "the sole means of access to any property" [Section 49-63(d), Montgomery County Code].

The proposed abandonment serves the public interest in a number of important ways, as described below, and will bring to a close more than five years of effort and negotiation within the affected neighborhood. The issue arises in connection with the application by Mary Jane Checchi and Vincent Checchi to resubdivide an adjacent property known as Woodside Park, Part of Parcel C, located at 9206 Watson Road, in Silver Spring. The application was first filed on October 6, 2006. Construction of this portion of Edgevale Road, in whole or in part, is not necessary to serve the proposed resubdivision.

Edgevale Road is a neighborhood street, in Woodside Park in Silver Spring, connecting to Harvey and Watson and Roads. Portions of Edgevale Road were constructed in approximately 1960, but the portion at issue was never constructed. For the past fifty years, the unbuilt portion has existed as a wooded parcel adjoining two large residential properties, one of which is a designated historical site. This unbuilt portion of dedicated Edgevale Road is deep within an established residential neighborhood just west of Colesville Road, north of Dale Drive (south of the Beltway).

After the resubdivision application was filed in late 2006 to create six lots, it encountered some neighborhood opposition, much of it fueled by opposition to having Edgevale Road paved. None of the neighbors wanted to have the unbuilt portion of Edgevale Road constructed, and some were concerned about the number of new lots being proposed. (The number of proposed lots has
since been reduced.) One tactic employed by the opponents was to seek to have the residence on the property designated as historic. That effort failed before the Planning Board and the County Council.

On October 14, 2008, during a County Council meeting that marked the final stage of a process that ruled that the Watson Road property is not a historic property, Council members urged the owners and neighbors to work together to fashion a solution for the resubdivision application. Since that date, Mary Jane Checchi has met often with interested neighbors, both individually and in groups; exchanged numerous emails and phone calls with neighbors; held two meetings to which all neighbors were invited; met repeatedly with representatives of MNCPPC and Montgomery County Department of Transportation – to fashion an acceptable resolution.

This application represents a consensus resolution of one of the most important issues—the future of the dedicated, but unbuilt, segment of Edgevale Road, as indicated in the memorandum included as Attachment B. Both the neighbors and the Checchis strongly oppose paving the ROW either in whole or in part, and agree that partial abandonment is the most appropriate solution because of its finality. (See Attachment C for letter from the Rev. Mark Farr, an adjacent property owner.)

This portion of Edgevale Road is not needed now or in the future for traffic flow. Five houses are now proposed for the resubdivision; only one would access Edgevale Road (using the existing driveway of a house that will be torn down), and two houses will access Watson Road, which intersects Edgevale Road. (The other two houses will access Greyrock Road.) Current roads suffice to serve these houses: the impact on traffic of this resubdivision will be negligible. Rather, neighbors strenuously object to the potential of Edgevale Road as a through street: drivers already speed dangerously along Watson Road, using it as a frequent short cut to avoid the traffic light at Colesville Road and Dale Drive. If this portion of Edgevale Road were to be paved, now or in the future, this problem would simply be doubled.

The current Edgevale Road unbuilt ROW is an attractive, leafy greenway enjoyed by children and adults, as seen in the photographs included as Attachment D. On November 7, 2006, in response to the initial resubdivision application, DOT called for “full width dedication and construction of Edgevale Road as a tertiary residential roadway ending in a T-turnaround.” This partial paving would result in a dead-end “road to nowhere” and:

- Grades would be cut by more than 5 feet
- Depending on the grading plan, result in the destruction of either 39 or 40 trees; either 27 or 28 of these outside the ROW.
The impact of paving this portion of Edgevale Road would be severe on the historic property (lots 8 and 9) that abuts the Edgevale Road ROW. Because of grading, either a retaining wall 75 feet in length (4 feet at its highest point) would be constructed, partly on the historic property or – if no retaining wall is built – driveway access to the historic property would be extremely steep. This is in addition to the visual impact of replacing grass and trees with pavement, and the negative effect on storm water runoff.

In numerous other ways, the present or future paving of this portion of Edgevale Road, in whole or in part, would conflict with the County’s 2008 Context Sensitive “Road Code” standards that call for “input and participation from local stakeholders”. As called for, local stakeholders – nearby homeowners, including those whose property abuts the ROW – have been invited into and participated in the decision making process.

An important concept incorporated in these standards applies uniquely to the Edgevale Road situation – that “The project contributes to community character, is in harmony with existing communities and preserves environmental, scenic, aesthetic, historic, and built and natural resources of the area.”

Preserving the current unbuilt Edgevale ROW as an unpaved greenway serves each of these goals, while paving directly contradicts them. This grassy area, with mature trees, is a meaningful amenity of this Woodside Forest community. Abandonment of a small portion of the ROW, as we propose, will prevent the paving connection of Edgevale Road and leave the rest of the greenway available for public use, where children can play and dogs be walked. It preserves trees and grass, which is not only visually appealing, but consistent with County efforts to manage drainage and storm water runoff. The historic house will retain its historic, treed setting.

To accommodate pedestrians, we propose a perpetual pedestrian access easement over one of the abandoned outlots, to connect the ROW area with Watson Road. We ask that no improvements be required for the pedestrian path. A county sidewalk built to county standards would not only destroy the beauty and character of the greenway but, due to the steep grade, result in severe damage to the immediate environment, including destruction of numerous trees and impingement on the historic property. Indeed, the damage would be almost as widespread as paving a roadway, and would largely negate the use of the greenway as a play area.

We respectfully urge the partial abandonment of a portion of the currently unbuilt Edgevale Road ROW as the most appropriate means to permanently preserve this green neighborhood amenity.
Thank you very much for your consideration of this matter, and please do not hesitate to contact us if you need any additional information.

Sincerely,

Vincent A. Checchi

Mary Jane Checchi

Attachments:

A. Description of Partial Roadway Abandonment
B. Memorandum of October 2010 Meeting Concerning Partial Abandonment
C. Letter from Rev. Mark Farr, Adjacent Property Owner
D. Photographs (2) of Right of Way
SCHEDULE A
DESCRIPTION OF A
PARTIAL ROADWAY ABANDONMENT
PART OF EDGEVALE ROAD
PLAT No. 2188

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Jonathan A. Russell, Property Line Surveyor
Maryland Registration No. 350
Expiration Date: 10/15/2012

STATE OF MARYLAND
PROPERTY LINE SURVEYOR
MEMORANDUM
Of
October 2010 Meeting Concerning
Partial Abandonment of Edgevale Road Right of Way

BACKGROUND: A 50’ wide unimproved right of way alongside the 9206 Watson Road property runs between Watson Road and Harvey Road. When W.C. & A.N. Miller submitted an application for development of the 9206 property in 2006, it did not address the right of way.

In its November 7, 2006 Development Review Comments in response to the Miller application, Montgomery County DOT called for “full width dedication and construction of Edgevale Road as a tertiary residential roadway ending in a T-turnaround.” Sidewalks would also be required.

Negative neighbor reaction to this requirement – which would have replaced a green space and some 40 trees with an unsightly “road to nowhere” – led to neighbors filing a historic preservation petition for the house at 9206 Watson Road. The petition was not successful, but the process consumed nearly a year’s time.

As co-owner of the property (with my brother), I met repeatedly, and variously, with Cathy Conlon, Rich Weaver, and Greg Leck, as well as with neighbors of the Watson Road property, looking for a solution that would permit development of the property and avoid paving the Edgevale right of way. Neighbors sought a permanent solution: they want assurance that Edgevale will never be paved.

2010 MEETING

At some point in the fall of 2010, two neighbors of the property contacted Council Member Ervin’s office. I was not aware of the call; I believe they were looking for a way to break the impasse. It is my understanding that Council Member Ervin asked Emil Wolanin of DOT to arrange a meeting to address the issue.

The meeting took place on October 13, 2010. Present at the meeting:

- Emil Wolanin, DOT
- Greg Leck, DOT
- Dewa Salihi, DOT
- Rich Weaver, Park and Planning*
- Mary Jane Checchi, property owner
- Rev. Mark Farr (adjacent property owner)
- Steve Crum (Macris, Hendricks, Glascock)

*Mr. Weaver no longer covers the Silver Spring area for Park and Planning
I raised the issue of a waiver on any requirement to pave Edgevale ROW. Mr. Wolanin stated that, if the county did not want to use the road, it would prefer to abandon it. I stated that a problem with abandoning the ROW was the fact that the neighborhood enjoyed using this public space, which has trees and grass; and that I had no desire to acquire extra land through the abandonment. Rev. Farr agreed on both counts. Mr. Wolanin explained that it is possible to abandon only a portion of Edgevale. This would ensure, for all practical purposes, that Edgevale would never be constructed. He sketched out the portion suggested for abandonment.

I left the meeting with the clear impression that this was a consensus resolution to a problem with had long eluded resolution. Neighbors are pleased with the abandonment strategy, as they see it as permanent solution.

I raised the issue of a sidewalk, and stated that the neighbors did not want a county pedestrian walkway because of the damage it would do to trees. Mr. Leck stated that DOT would be "silent" on the sidewalk issue, except to ask for an easement for an unimproved pedestrian path.

DEVELOPMENT REVIEW COMMITTEE

In submitting an amended application to develop the property at 9206 Watson Road, we explained that abandonment of a portion of Edgevale ROW was part of the plan. At DRC (March 19, 2012), the Park and Planning Staff did not express opposition to the abandonment, and is waiting on the outcome of the abandonment process. We agree with P & P staff that an unimproved perpetual pedestrian access easement should be provided for over the abandoned area.

Mary Jane Checchi
I hope you are very well. I have appreciated your brave and innovative stances on both transportation and immigration and your fiscal leadership here in Montgomery County — and indeed had a chance to compliment you on all this once, when we shared a panel together on service and volunteering in Rockville some time back, when I was serving as Senior Director of President G.H.W. Bush’s Points of Light Foundation.

I am writing to you today on another smaller though still important matter. I am the owner of a historic property in Silver Spring that borders a parcel of land owned by Mary Jane Checchi and her brother Vincent Checchi, who seek development of their property. My adjoining land will be significantly affected by any process of alteration. The development of that land has been in sometimes hostile dispute, between her and a large group of most active neighbors for more than six years now. Ms. Checchi and I met when we were both representing opposing sides of that dispute in front of the Montgomery Council in Rockville.

However, this story now takes what might be an unexpected turn.

The Council told us to go away and basically come up with a solution between the different parties. So I led a group of neighbors who met repeatedly with Ms. Checchi, over several years, building a new, better relationship and constructing a joint plan. These negotiations were sometimes tough. Everyone had to give something.

I have sat through many hours of meetings with Montgomery officials, fire, planning and all the rest. Ms. Checchi has sat through more. It is my understanding that all the relevant MC requirements will be met by this plan. A key part requires Montgomery County to abandon a small parcel of the Edgevale
Road right of way between our two properties.

It is also my understanding that the proposal as it now stands would have the joint support of the group of neighbors and the Chechis, and thus will be a worthy solution.

After all this time, coming up with a joint proposal seems to me not only unlikely in these circumstances, but a model of what can be achieved when neighbors try to work together, (rather than as so often, one side winning and one side losing). For this, I credit both the Council and the Office of the County Executive for leading us in this direction, and I would be happy to say so to any interested party. Compromise can sometimes work!

I therefore am respectfully submitting my personal support as a neighbor to the abandonment action and Ms. Checchi’s plan and hope that you will be able to similarly support it. Though I am sure it is not everything to any one side, after all these years, it is a model outcome.

I believe it is time to move on, with this agreement as the basis. I want to underscore how much effort Mary Jane Checchi has put into finding solutions that take into account the diverse views of those who abut the property and fashioning a proposal that is fair to all.

Please support the partial abandonment of Edgevale Road right of way and the plan and let us finally put this small but thorny issue to rest, which is the outcome now surprisingly available to us.

I would be happy to offer any further elucidation upon request.

Thank you for your time and leadership.

Sincerely,

Rev. Mark Farr
June 4, 2012

Dear Mr. Leggett:

I hope you are very well. I have appreciated your brave and innovative stances on both transportation and immigration and your fiscal leadership here in Montgomery County – and indeed had a chance to compliment you on all this once, when we shared a panel together on service and volunteering in Rockville some time back, when I was serving as Senior Director of President G.H.W. Bush’s Points of Light Foundation.

I am writing to you today on another smaller though still important matter. I am the owner of a historic property in Silver Spring that borders a parcel of land owned by Mary Jane Checchi and her brother Vincent Checchi, who seek development of their property. My adjoining land will be significantly affected by any process of alteration. The development of that land has been in sometimes hostile dispute, between her and a large group of most active neighbors for more than six years now. Ms. Checchi and I met when we were both representing opposing sides of that dispute in front of the Montgomery Council in Rockville.

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I have sat through many hours of meetings with Montgomery officials, fire, planning and all the rest. Ms. Checchi has sat through more. It is my understanding that all the relevant MC requirements will be met by this plan. A key part requires Montgomery County to abandon a small parcel of the Edgevale
Road right of way between our two properties.

It is also my understanding that the proposal as it now stands would have the joint support of the group of neighbors and the Checchis, and thus will be a worthy solution.

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I would be happy to offer any further elucidation upon request.

Thank you for your time and leadership.

Sincerely,

Rev. Mark Farr
EDGEVALE RIGHT OF WAY LOOKING EAST
Re: Case #AB735 Edgevale Road

Dear Mr. Leggett:

We are writing to join in the request for abandonment of a portion of the Edgevale Road right of way ("ROW"), as set forth in more detail in the June 4, 2012 letter to you from Vincent Checchi and Mary Jane Checchi. That letter attaches the required technical description of a partial Right of Way abandonment that we support.

We believe that the proposed abandonment serves the public interest in a number of important ways. It is also the product of extensive discussions that took place over a period of years, beginning before and continuing after we purchased and moved into our home at 9204 Watson Road in July of 2011.

We agree with other neighbors who strongly oppose paving the Edgevale ROW either in whole or in part, and agree that partial abandonment is the appropriate solution. A paved addition to Edgevale Road is not needed now or in the future for traffic flow, and we strongly object to the potential configuration of Edgevale as a through street. Drivers already speed dangerously along Watson Road past the front of our home, using it as a frequent short cut between Colesville Road and Dale Drive. If Edgevale were to be paved, now or in the future, this problem would be even worse.

Today, the Edgevale ROW is an attractive green area with trees, enjoyed by children and adults, used as a pedestrian path between Watson Road and Harvey Road. If the Edgevale ROW were to be paved, even as a dead end with a T-turnaround, as called for by Montgomery County Department of Transportation in 2006, the result would be the needless destruction of some 40 trees, many of them outside the ROW. Grass, shrubs and trees would be replaced by an unattractive, useless "road to nowhere."
Montgomery County’s 2008 Context Sensitive “Road Code” calls for “input and participation from local stakeholders.” In this case, local stakeholders – adjacent and nearby homeowners like ourselves – have been invited into and actively participated in the decision making process regarding Edgevale Road.

Road Code standards include the concept that “The project contributes to community character, is in harmony with existing communities and preserves environmental, scenic, aesthetic, historic, and built and natural resources of the area.” Abandonment of a small portion of the ROW, as we propose, leaves the rest of the greenway available for public use. It preserves trees and grass, which are not only visually appealing, but consistent with County efforts to manage drainage and storm water runoff. The historic house will retain its historic, treed setting, and this Woodside Forest community will retain a meaningful and beautiful amenity.

We agree with the proposal for a perpetual pedestrian easement over one of the abandoned outlets. We ask that no improvements be required for the pedestrian path. A county sidewalk built to county standards would not only destroy the beauty and character of the greenway but, due to the steep grade, result in severe damage to the immediate environment, including destruction of numerous trees and impingement on the historic property.

We respectfully urge the partial abandonment of Edgevale ROW. We appreciate your attention, and are happy to answer any questions you may have regarding this letter of support. We can be reached by email at sarahrknight@gmail.com or marcjohnson@hotmail.com.

Sincerely,

Sarah R. Knight and Marc E. Johnson

cc: Mike Cassedy (via email)
**Subject:** Abandonment of Edgevale Road  
Woodside Park Subdivision, Silver Spring

**Originating Department:** Transportation

<table>
<thead>
<tr>
<th>Executive Order No.</th>
<th>AB 199-12</th>
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<tr>
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<td>AB 06-12</td>
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<td>Effective Date</td>
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**AB735**

1. Pursuant to Section 49-62 of the Montgomery County Code (2004) as amended, the County Executive or his Designee shall conduct a Public Hearing:

   at 7:15 p.m. on Wednesday October 17, 2012  
   Montgomery County Planning Board Auditorium  
   First Floor, 8787 Georgia Avenue  
   Silver Spring, Maryland 20910

   to consider an application received from Ms. Mary Jane Checchi and Mr. Vincent A. Checchi, the Applicants, seeking abandonment of an unimproved portion of Edgevale Road adjoining the Applicants' property in the Woodside Park Subdivision of Silver Spring.

2. After the aforesaid Hearing, the Hearing Officer shall report his findings and recommendations to the County Executive for further consideration as prescribed by County Code.

Approved as to Form and Legality  
Office of the County Attorney

By:  
Eric C. Willis  
Assistant County Attorney  
Date: 8/29/12

APPROVED

Ramona Bell-Pearson  
Assistant Chief Administrative Officer  
Date: 9/12/2012

Distribution:  
Department of Transportation  
Department of Finance  
Office of the County Attorney
IN THE MATTER OF: Abandonment Petition AB735

Petition for the Abandonment of a Portion of the Edgevale Road Right-of-Way in the Woodside Park Subdivision of Silver Spring, Maryland

BEFORE: Michael L. Subin, Public Hearing Officer

PUBLIC HEARING OFFICER’S REPORT AND RECOMMENDATION

I. Background

Ms. Mary Jane Checchi and Mr. Vincent A. Checchi (the “Applicant”), submitted a request, dated June 4, 2012, requesting the abandonment of a portion of the Edgevale Road right-of-way (the “ROW”) in the Woodside Park Subdivision of Silver Spring, MD. (Exhibit 1a) By way of a letter dated September 18, 2012, Dr. Marc E. Johnson and Ms. Sarah R. Knight (the “Co-Applicant”) joined the request. (Exhibits 1b and 9) Hereinafter, the Applicant and the Co-Applicant will be addressed as the “Applicants.” The subject area is a ROW, approximately 50-feet by 45-feet (2258 square feet). The abandonment is associated with a residential development plan, Preliminary Plan No. 120070230. The Applicants are the owners of properties adjoining the ROW. The subject ROW and the adjacent areas are in Exhibit 5, a GIS aerial photo. Through the abandonment, the Applicants hope to preserve the rustic nature of an unimproved ROW which includes many mature trees.

Executive Order 199-12, pursuant to § 49-63 of the Montgomery County Code, (2004) as amended, authorizing the hearing, was issued on September 12, 2012. (Exhibit 2) Notices were sent to nearby civic associations, residents, public utilities, and public agencies. (Exhibit 3) Public notice of the hearing appeared in The Montgomery Sentinel on October 4 and 11, 2012. (Exhibit 4) Signage was posted at the site of the proposed abandonment (Exhibit 11) a public hearing was held on October 17, 2012, at approximately 7:17 p.m., in the MRO Auditorium at the Maryland National Capital Park and Planning Commission Headquarters, 8787 Georgia Avenue, Silver Spring, MD 20910. The record was held open until 5:00 pm, October 31, 2012.
II. Summary of Testimony and Evidence

At the hearing on the proposed abandonment, Mr. Michael Cassedy, representing the Montgomery Department of Transportation ("MCDOT"), testified on behalf of the Department. Mr. Cassedy read into the record the evidence and exhibits required by Montgomery County Code (2004) as amended. He then testified as to the elements of the project contained in section I, above. In addition to reading the exhibits into the record, Mr. Cassedy testified that his office requested comments from the public, government agencies, and public utility companies in fulfillment of the requirements of Montgomery County Code, Section 49-62 (2004) as amended. Mr. Cassedy listed MCDOT’s conditions for approval, contained in a memo dated October 17, 2012 (Exhibit 13), of the abandonment as follows:

1. The Applicant must grant easements to the County for the maintenance of storm drainage facilities and any public utility affected and/or relocate these facilities and grant easements, as applicable;
2. The Applicant must file a new record plat incorporating the former portion of the right-of-way into appropriate lots as directed by the Montgomery County Planning Board in conjunction with the aforementioned preliminary plan; and,
3. The Planning Board’s approval of that preliminary plan (No. 120070230).

Ms. Mary Jane Checchi spoke on behalf of the Applicants expressing approval of the request. A petition, signed by 50 citizens, was received supporting the abandonment. (Exhibit 8)

In addition, an e-mail was received from Mr. James Cassell, a neighbor of the Checcis, supporting the request. (Exhibit 14)

Verizon, via an e-mail of September 10, 2012, stated that it has no facilities in the target area and had no objections to the abandonment. (Exhibit 6)

Washington Gas, by letter dated September 5, 2012, stated it had determined there are no existing or proposed Washington Gas facilities in the proposed abandonment. Therefore, it had no objection to the proposed abandonment. (Exhibit 7)

By letter of October 16, 2012, the Montgomery County Planning Board supported approval of the proposed abandonment with the following condition:

"The proposed 45-foot long Edgevale Road abandonment will become effective with the recordation of a plat for properties that incorporate the abandoned 50-
foot wide right-of-way. The plat must include an easement granted to Montgomery County that provides perpetual access to pedestrians and non-motorized vehicles over an appropriate portion of the abandoned area as determined at preliminary plan review.” (Exhibit 10)

The Montgomery County Department of Fire and Rescue Services, by e-mail dated October 17, 2012, offered no objections to the petition. However, it conditioned its approval upon the following:

The maintenance of vehicular access to 1102 Edgevale Road from Edgevale Road. (Exhibit 12)

Verizon, by letter April 2, 2012, stated that it has no existing facilities at that section of the road which conflict with this request. (Exhibit 6)

The Washington Suburban Sanitary Commission (WSSC), by e-mail dated May 2, 2012, stated that if the public space were to be abandoned, they would require an easement. The width of the easement would depend on the diameter of the pipes at the location. (Exhibit 6) During their testimony, Applicant agreed to grant the easement.

Neither Pepco, the Montgomery County Public School System, nor the Montgomery County Police Department provided any comments.

III. Conclusions and Recommendations

The abandonment of road rights-of-way is governed by the provisions of section 49-63, Montgomery County Code (2004) as amended. Section 49-63 permits application for abandonment of a right-of-way by any person or government agency, provides for public agency and utility company review, and requires a public hearing with notice. I find that the hearing and notice procedures have been satisfied, and that the public, public agencies, and utility companies have been given an opportunity to review the petition for abandonment and closure as described above.

Section 49-63 allows abandonment if the right-of-way is not needed for public use or if the abandonment is necessary to protect the health, safety and welfare of the residents in the neighborhood. In determining health, safety and welfare issues, the Council may consider: 1) any adopted land use plan applicable to the neighborhood; 2) the safe and efficient pedestrian and vehicular traffic patterns and flows, together with alternatives in the immediate neighborhood for local and through traffic; or, 3) changes in fact and circumstances since the
original dedication of the right-of-way. In this case, the abandonment and partial closure turn on whether or not the right-of-way is needed for public use and changes in fact and circumstance. I find that, based on the testimony and evidence presented on the record and at the public hearing, the right-of-way is not needed for public use and that there have been changes in fact and circumstances since the right-of-way was created. Therefore, the application meets the criteria of section 49-63.

However, approval is predicated on the satisfaction of the conditions as set forth above by MCDOT, the Montgomery County Planning Board, and the Montgomery County Department of Fire and Rescue Services.

Signature Page Follows
The Public Hearing Officer’s Recommendations regarding AB 735 have been reviewed and are APPROVED.

Respectfully submitted,

Michael L. Subin

Date

Isiah Leggett, County Executive

Date