



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB  
Item No. 3  
2-14-02

February 8, 2002

**MEMORANDUM**

TO: Montgomery County Planning Board

VIA: Daniel Hardy, Supervisor *DKH*  
Transportation Planning

FROM: Shahriar Etemadi, Coordinator  
Transportation Planning *[Signature]*

SUBJECT: AB 651- Proposed Abandonment of a Portion of an Alleyway in the  
Crestview Subdivision, Bethesda

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**RECOMMENDATION:**

Staff recommends that the Planning Board recommend denial of the abandonment of a portion of the alleyway in the Crestview subdivision as the right-of-way is currently used for property access.

**BACKGROUND**

The portion of the alleyway proposed for abandonment was originally recorded as part of the Crestview Subdivision plats in 1957. The alleyway traverses behind the properties abutting Berkley Street and Bayard Boulevard. The alleyway connects Berkley Street to Allan Place. The portion of the alleyway proposed for abandonment is an area between lot 18 on one side and lots 19 through 23 on the other side. Please refer to Exhibit 1 for location of these properties and the alleyway. This portion of the alleyway has approximately 20-foot width and is the area proposed for abandonment. Except for a narrow walkway, the owners of lots 24-29 have built fences in majority of the alley right-of-way.

Ms. Maryalys Huston Hopkins, petitioner of this application, is the owner of the property at 4910 Berkley Street (lot 18) who is requesting the abandonment of this portion of the alleyway. Attachment "A" is the petition to the Department of Public Works and Transportation (DPWT).

## DISCUSSION

The portion of the alleyway proposed for abandonment should be denied for two reasons.

1. It is a public right-of-way that is presently serving the adjacent neighbor for accessing their property. Ms. Yingjie Shu, the owner of the property at 4912 Berkley Street (lot 19,20, and 21) gains her access to her garage only from the alleyway that is the subject of proposed abandonment. The garage has been in existence since 1943 and adjacent to the alleyway. The garage is six feet inside her property line. If the alleyway is abandoned, Ms. Shu will not be able to access her garage to park her car or easily access it for storage area. Attachment "B" is Ms. Shu's letter to staff including exhibits showing the use of her garage and the alleyway.
2. For the reason stated above, we are faced with disagreements between two adjacent property owners along the alleyway regarding this petition. Public agencies traditionally have denied petitions where property owners of adjacent public right-of-way do not agree on the abandonment because it gives an impression of favoring one over the other.

The petitioner has fenced in part of the alleyway into her property and has indicated to staff that she intended to use the portion of the alleyway that would convey to her for finishing her deck. Without the additional property, the deck encroaches on the public right-of-way and fails to meet setback requirements.

### Master Plan implication

There is no reference to the alleyways in this section of Chevy Chase in the Master Plan of Bethesda-Chevy Chase. This alleyway was recorded in the 1957 recorded plat of Crestview Subdivision.

The Community-Based Planning Division has reviewed this application and does not support it. The February 6, 2002 memorandum from Margaret Kaii-Ziegler, included as Attachment "C" states that, "The subject area is covered by the Bethesda-Chevy Chase Master Plan Area which does not address the abandonment of specific alleyways. However, it does point out that, decisions to abandon or dispose of such right-of-way must be weighed against needs for local access and safety.

It is clear that the resident of 4912 Berkley Street needs access over this public right-of-way to enter into the freestanding garage on the south side of the lot. Since this property owner is not a co-applicant and could not access the garage without crossing the subject right-of-way, Community-Based Planning staff find that there is a public need for access on this alleyway."

## Traffic Circulation and Safety

Staff finds that the alleyway is not needed for the access and circulation needs of the community at large. Should all affected property owners concur that abandonment is an appropriate action, staff would be inclined to support that abandonment petition. However, since the affected property owners do not agree, staff must find that the abandonment of this alleyway has a negative impact on access to an individual property. One of the property owners will be deprived of using her garage that has been in existence and used since 1943. The property owner at 4912 Berkley Street uses her garage only if the alleyway is open. The garage will be useless and the owner must park her car on street due to lack of access to the garage.

## **JUSTIFICATION**

Staff finds the request to abandon a portion of the alleyway between Berkley Street and Allan Place NOT JUSTIFIED for the reasons stated above, namely, denial of a property owner to use the public right-of-way as the only access to her garage, and disagreement among affected property owners.

Staff recommends denial of this petition.

SE:cmd

## **Attachments**

AB-651- Proposed Abandonment Crestview Subdiv.doc

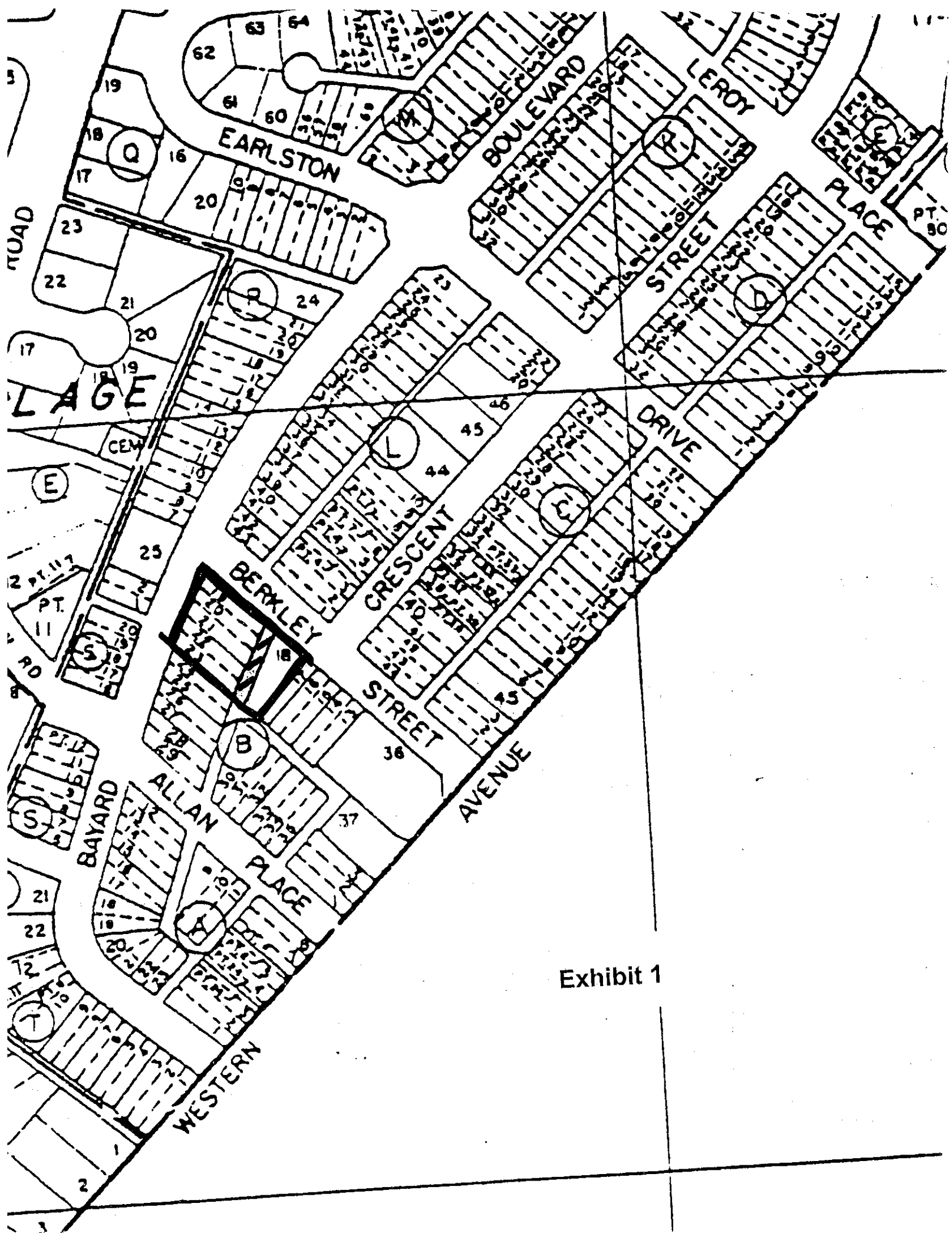


Exhibit 1



# MONTGOMERY COUNTY EXECUTIVE ORDER

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

<b>Subject:</b> AB 651: Abandonment of a Portion of an Alleyway in the Crestview Subdivision	<b>Executive Order No.</b> 305-01	<b>Subject Suffix</b> PAS
<b>Originating Department</b> Public Works and Transportation	<b>Department Number</b> AB 3-02	<b>Effective Date</b> 12/05/01

AB 651

## ABANDONMENT OF A PORTION OF AN ALLEYWAY IN THE CRESTVIEW SUBDIVISION

- Pursuant to Section 49-62 of the Montgomery County Code 1994, the County Executive or his Designee shall conduct a Public Hearing

at 11:00 a.m. on Wednesday, February 20, 2002  
101 Monroe Street, EOB Lobby Auditorium  
Rockville, Maryland 20850

to consider a petition submitted by Maryalys Huston Hopkins, to abandon a portion of an alleyway in the Crestview Subdivision, between lot 18 and lot 19, 20, 21, 22 and 23; somewhat perpendicular to Berkley Street, described on Tax Map HM 122, 7<sup>th</sup> Election District, as more fully described on Exhibits, which are available for examination at the office of the Montgomery County Department of Public Works and Transportation, Division of Engineering Services, Property Acquisition Section, 101 Monroe Street, 6th Floor, Rockville, Maryland 20850.

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

Approved as to Form and Legality  
Office of the County Attorney

APPROVED

By:

Date:

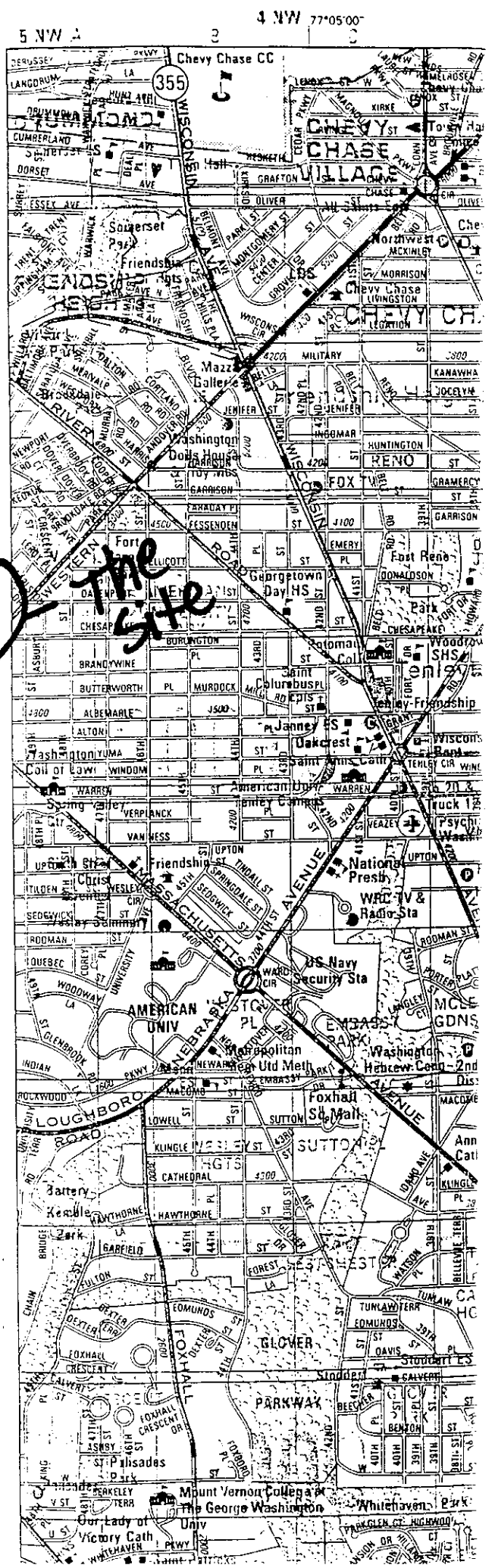
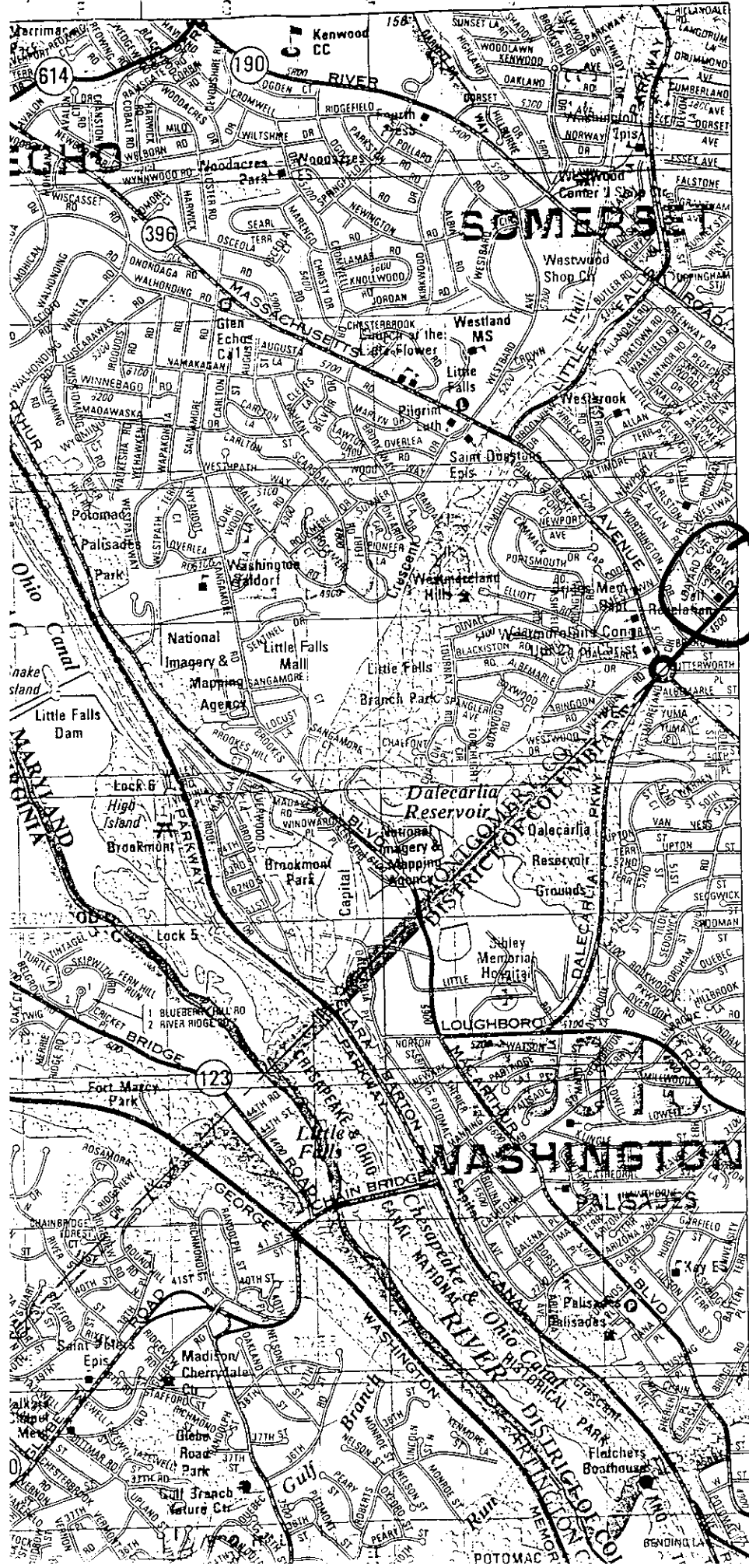
*Gileen T. Bussan*  
11/30/2001

*William M. Mooney, Jr.*  
William M. Mooney, Jr.

Assistant Chief Administrative Officer

Distribution:

Department of Public Works and Transportation  
Department of Finance

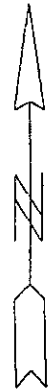
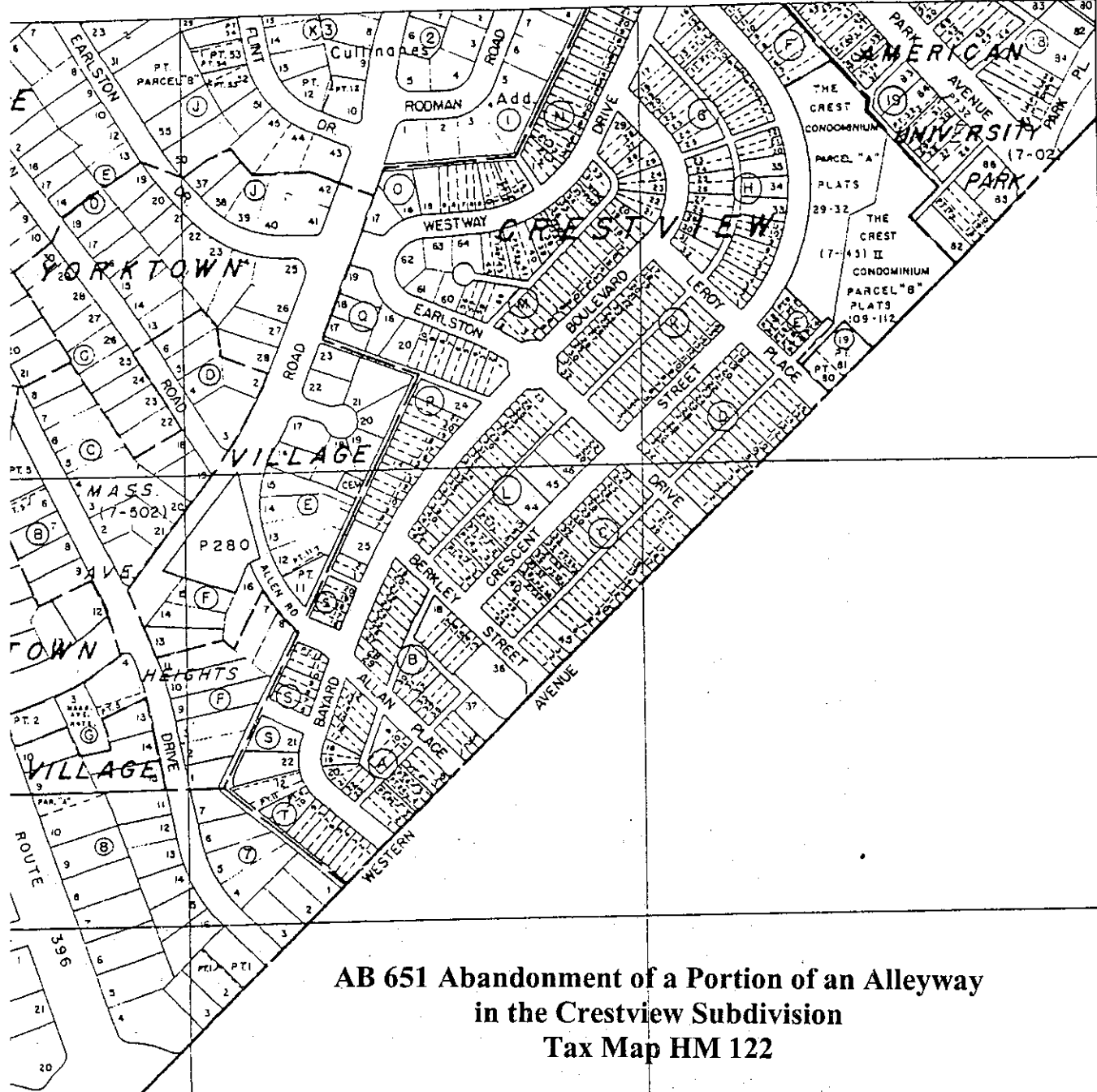


*Handwritten text:* The site

H 2

W24000

N24000



**AB 651 Abandonment of a Portion of an Alleyway  
in the Crestview Subdivision  
Tax Map HM 122**

HM 342

M 2

WESTMORELAND  
CIRCLE

Our residence since  
June 1963.

4910 Berkeley Street  
Bethesda, Md. 20816

August 29, 2001

Department of Public Works and Transportation  
Executive Office Building  
101 Monroe Street, 6th floor  
Rockville, Md. 20850

Dear Mr. Curtis,

I am enclosing the surveyor's diagram indicating the alley I am referring to and my \$2500. check for your fee.

The alley is no longer used by the public for anything but a short-cut because garbage is no longer picked up anywhere but along the streets. Therefore, I would like to have the alley declared abandoned and the  $\frac{1}{2}$  adjoining my property deeded to me, as indicated by my red line on the diagram.

My <sup>fairly new</sup> neighbor at 4912 Berkeley Street is trying to usurp the whole alley section next to Berkeley Street, putting down blue chip stone and claiming it as her driveway and forbidding to let anyone else park there or use it in anyway. I do not wish to argue with my neighbors,



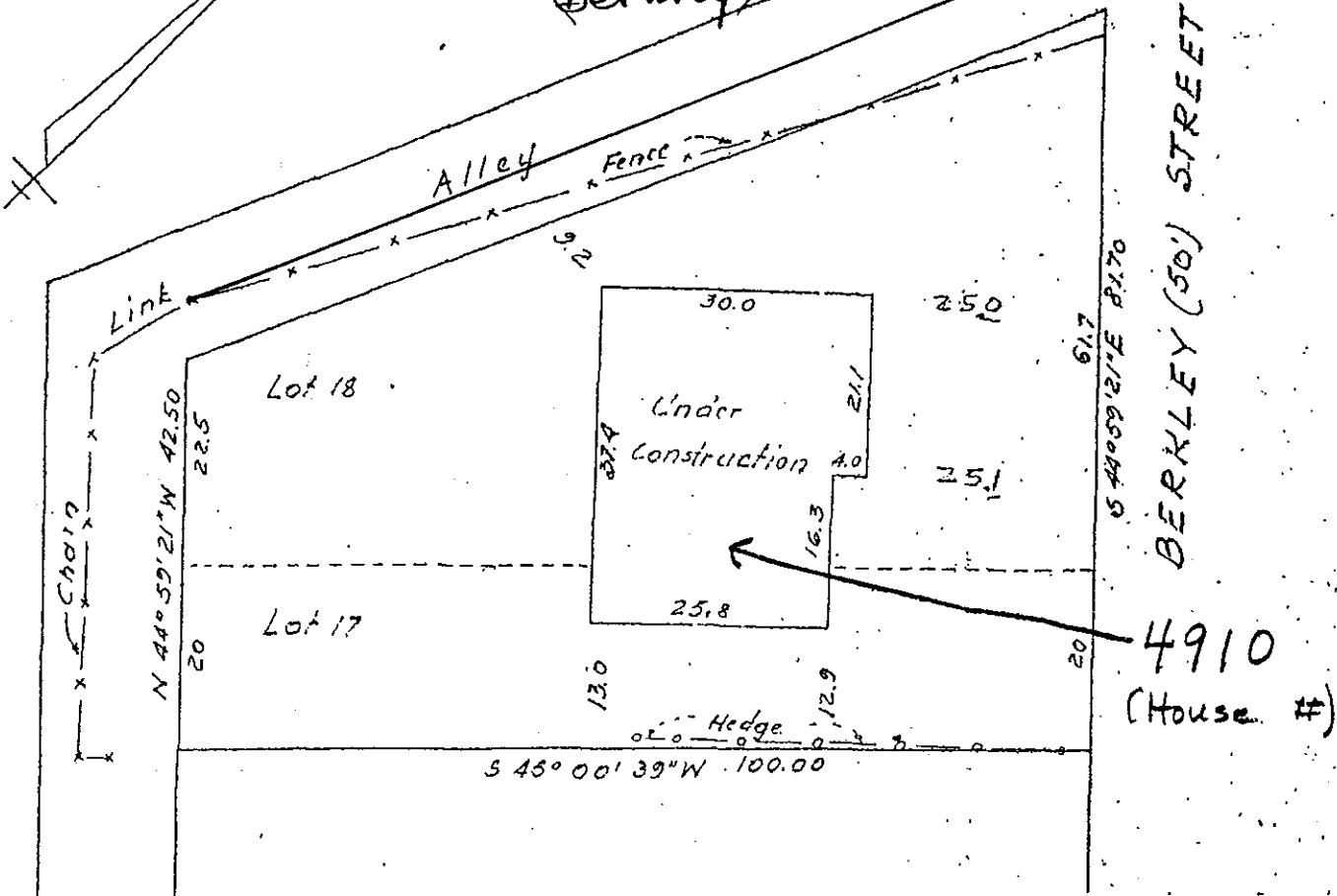
MONTGOMERY COUNTY, MARYLAND  
 Department of Inspection and Licenses  
 Division of Building Inspection

SEYBOLT & GEORGE  
 CIVIL ENGINEERS AND LAND SURVEYORS  
 8404 RAMBEY AVENUE  
 SILVER SPRING, MARYLAND  
 JUNIPER 9-1111

38704

Approved: *[Signature]*  
 Date: 12-5-57

(4912  
 Berkley)



I hereby certify that the position of the improvements shown hereon have been carefully located by a transit and tape survey and are located as shown. On account of the inconsistencies and the deficiency of information on the Plat of Crestview, recorded among the Land Records of Montgomery County, Maryland in Plat Book 3 as Plat No. 213 the lot lines of these lots have been fixed by holding the lot frontages from District of Columbia - Maryland Boundary line. The west line of Lot 18, Block B shown hereon was fixed by holding the record frontages of Lot 18, Block B and Lot 11, Block A. The chains link fence indicates limit of holdings by lot owners to the west.

OK  
 epl.  
 12-5-57

Location of House  
 Lots 17 & 18 Block B  
 Crestview  
 Montgomery County, Md.  
 Scale: 1"=20' Nov. 1957

11/27/57 *[Signature]*  
 James M. Seybolt Registered Professional  
 Engineer and Land Surveyor Md. No. 1187

## Attachment "B"

### RESPONSE TO PETITION FOR ABANDONMENT OF A PORTION OF AN ALLEY WAY IN THE CRESTVIEW SUBDIVISION (Executive Order No. 305-01)

My name is Yingjie Shu. I have lived at 4912 Berkley Street (lot 19, 20, and 21) since April 1991.

I oppose the proposed abandonment by Ms. Maryalys Hopkins of the portion of the alley way between lot 18 and lot 19, 20, 21, 22, and 23 (referred to as "alleyway" hereafter) for the following reasons:

**1. My garage has been in existence since 1943 (see exhibit 1). It is adjacent to the alley and is about 6 feet inside my property line. The alleyway is the only access for me to park my car in the garage (see exhibit 2 and 3). If the County abandons the alleyway, I would no longer be able to use my garage to park my car.**

2. Ms. Hopkins has the history of encroaching public property. More than half of the public alley way between Lot 17, 18 and lot 30 has been fenced inside her backyard illegally, as the county never abandoned this portion of this alley. A small storage room was built on this public property (see exhibit 4 and 5). Ms. Hopkins not only took public land in her backyard, she also took the easement in front of her house. Logs are set along the edge of Berkley Street (about 6 or 7 feet away from her property line) in front of her house. As a result, the easement looks like part of her property (see exhibit 6).

3. Ms. Hopkins had construction work (a room, a deck and a stairway) done in the fall of 2000 without a building permit. After complaints by multiple neighbors, the county suspended the construction.

4. Ms. Hopkins rented her basement in the summer of 2000 without a permit. After complaints by multiple neighbors to the county, the renting apparently stopped.

5. From 1991 until 1999 I recall nothing unusual occurring between Ms. Hopkins and myself. In 1999 my husband and I separated, and my son and I have remained the sole residents of 4912 Berkley Street. I tend to associate the absence of my ex-husband with the aggressiveness of Ms. Hopkins and Ms. Ivy Harper. In 1999, Ms. Harper moved in at 4700 Crescent Street (lots 1, 2, and 3). At some point late in 1999, Ms. Hopkins encouraged Ms. Harper to dump trash (many beer bottles, large and small pieces of plasters, many pieces of wood board, old metal pipes, old clothing, old rugs, etc) in the alleyway. Some of the trash was in a trash can, but most of it was dumped loose on the ground. The trash remained there for weeks and became a danger to my then 5-year-old child. It took me more than three hours to clean it up. Ms. Harper stated that Ms. Hopkins gave her "permission" to dump trash in the alleyway because Ms. Hopkins claimed to own half of the alleyway.

I am concerned, based on my experience with Ms. Hopkins, that if her petition for the County to abandon the alleyway is approved, not only will I lose access to my garage, but also the treatment/use of the alleyway by Ms. Hopkins (and potentially others) will be inappropriate.

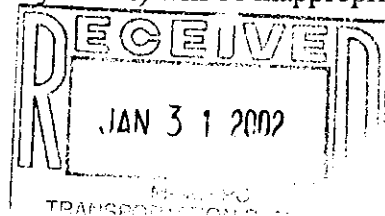




exhibit 2



exhibit 3

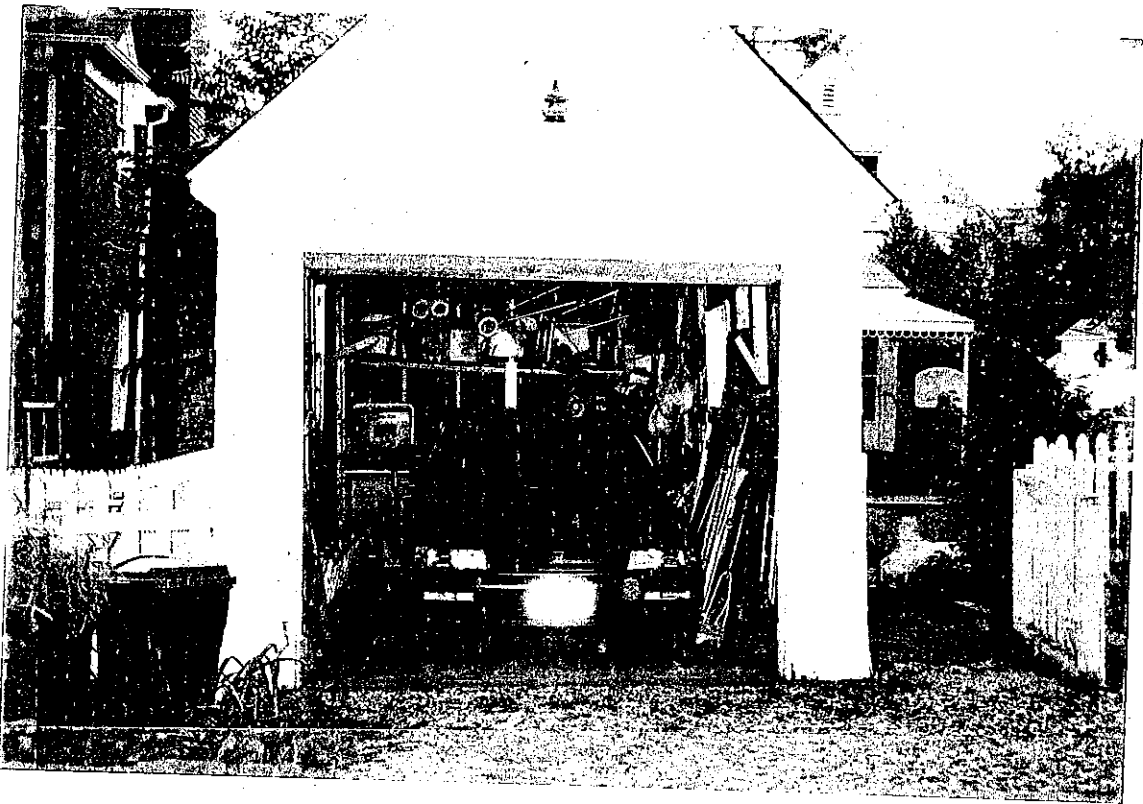
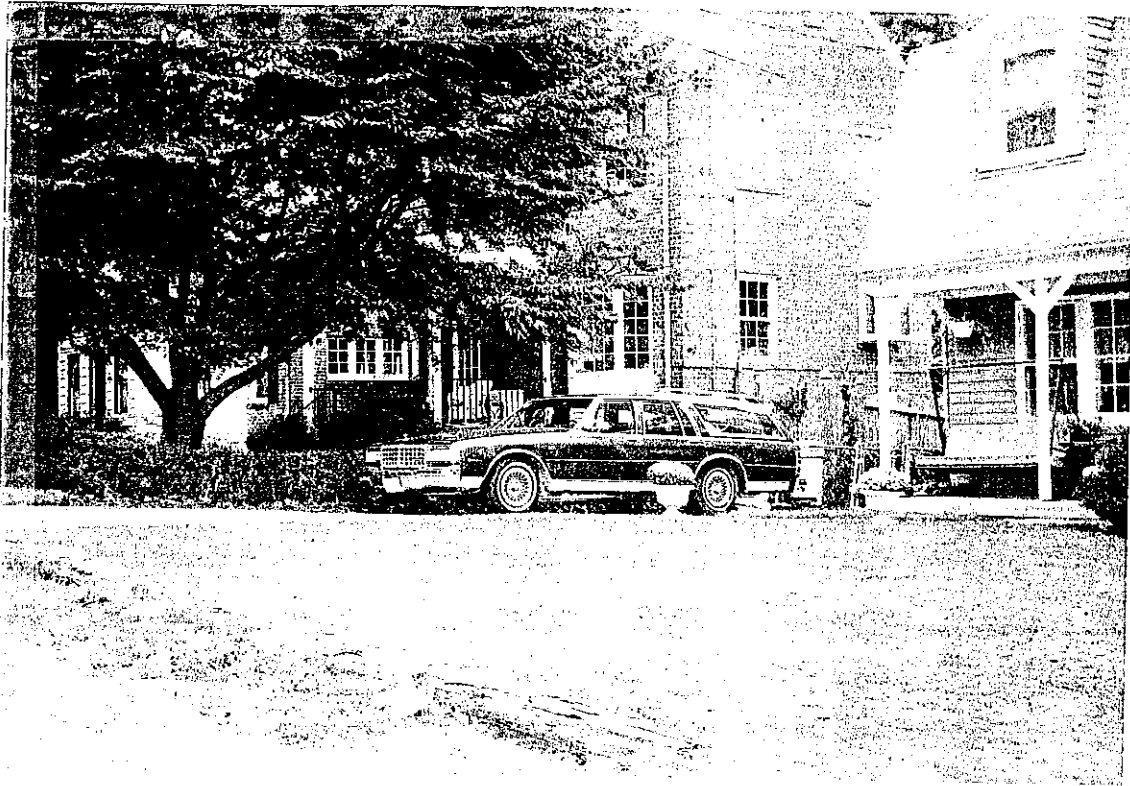




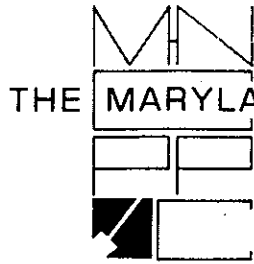
exhibit 5



exhibit 6



## Attachment "C"



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

### MEMORANDUM

**DATE:** February 5, 2002

**TO:** Shahriar Etemadi, Transportation Planning

**FROM:** Margaret Kaii-Ziegler, Planner Coordinator 301-495-2183 *MKZ*  
Bethesda-Chevy Chase, North Bethesda Team

**SUBJECT:** AB651 – Proposed Abandonment of a portion of an Alleyway  
in the Crestview Subidvision, Bethesda.

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The Community-Based Planning Division does not support this application. The subject area is covered by the Bethesda-Chevy Chase Master Plan. The Master Plan does not address the abandonment of specific alleyways, however does point out that, "Decisions to abandon or dispose of such rights-of-way must be weighed against needs for local access and safety."

It is clear that the resident of 4912 Berkley Street needs access over this public right-of-way to enter into the freestanding garage on the south side of the lot. Since this property owner is not a co-applicant and could not access the garage without crossing the subject right-of-way, staff find that there is a public need for access on this alleyway.