

MAYOR & COUNCIL AGENDA COVER SHEET

MEETING DATE:

September 17, 2007

CALL TO PODIUM:

Jacqueline Marsh

RESPONSIBLE STAFF:

Jacqueline Marsh, Planner

AGENDA ITEM:

(please check one)

	Presentation
	Proclamation/Certificate
	Appointment
	Public Hearing
	Historic District
	Consent Item
X	Ordinance Introduction
	Resolution
	Policy Discussion
	Work Session Discussion Item
	Other:

PUBLIC HEARING HISTORY:

(Please complete this section if agenda item is a public hearing)

Introduced	9/17/2007
Advertised	
Hearing Date	
Record Held Open	
Policy Discussion	

TITLE: ABANDONMENT APPLICATION AB-57

Introduction of Ordinance
 An Ordinance to Abandon 6,509 square feet of existing land area adjacent to Parcel P-936, east of North Summit Avenue; 3,851 square feet of land area abutting the southern boundary of Gaithersburg Elementary School; and 7,044 square feet of land previously dedicated for a 25-foot public alley adjacent to Lot 1, East Diamond Avenue, in the City of Gaithersburg, Montgomery County, Maryland

SUPPORTING BACKGROUND:

The applicants, Archstone-Smith, have submitted an Abandonment of Public Rights of Way request for three separate public right-of-ways. Attached is the proposed ordinance and exhibits for the request to remove existing rights-of-way to be replaced by new and additional right-of-way for realigned Teacher's Way and to remove an unnecessary private alley to facilitate redevelopment for the Olde Towne Archstone project. A map showing the location of the proposed area of this three part abandonment request is enclosed.

Part One of the abandonment request contains 6,509 square feet of land, adjacent to Parcel P-936; Part Two contains 3,851 square feet of land, abutting the southern boundary of Gaithersburg Elementary School; and Part Three contains 7,044 square feet of land in current use as a 25-foot public alley located adjacent to Lot 1, on East Diamond Avenue.

Staff is introducing this in order to get the notice of public hearing out so that responses, especially those of the utilities are received prior to the Planning Commission's recommendation and the public hearing.

The public hearing for this abandonment request will be scheduled for the Mayor and City Council Meeting on October 15, 2007.

Attachments:
 Map
 Ordinance
 Index of Memorandum and Exhibits

DESIRED OUTCOME:

Introduce the Ordinance

AN ORDINANCE TO ABANDON, RELEASE AND VACATE 6,509 SQ. FT. OF EXISTING LAND AREA ADJACENT TO PARCEL P-936, EAST OF NORTH SUMMIT AVENUE; 3,851 SQ. FT. FOR LAND AREA ABUTTING THE SOUTHERN BOUNDARY OF GAITHERSBURG ELEMENTARY SCHOOL; AND 7,044 SQ. FT. OF LAND PREVIOUSLY DEDICATED FOR A 25-FOOT PUBLIC ALLEY ADJACENT TO LOT 1, EAST DIAMOND AVENUE, IN THE CITY OF GAITHERSBURG, MONTGOMERY COUNTY, MARYLAND

ABANDONMENT AB-57

WHEREAS, the applicants, Archstone-Smith, represented by Miller, Miller, and Canby, as proper parties to initiate these abandonments, applied pursuant to Article III of Chapter 19 of the City of Gaithersburg Code for the abandonments of portions of property dedicated to public use as reflected on Plat Numbers 1315 and 17485, recorded among the Montgomery County Land Records;

WHEREAS, the areas of abandonment are described in three parts: Part One of the abandonment request, 6,509 square feet of land, adjacent to Parcel P-936; Part Two, 3,851 square feet of land, abutting the southern boundary of Gaithersburg Elementary School; and Part Three, 7,044 square feet of land in current use as a 25-foot public alley adjacent to Lot 1, East Diamond Avenue; and

WHEREAS the alley to be abandoned is described herein by bearings and distances given in Exhibit "A," attached hereto and made a part hereof by this reference, and being more particularly described as follows:

BEING three (3) strips or parcels of land being hereinafter described Parts 1, 2 and 3, being parts of an existing Public Alley located in the City of Gaithersburg, Montgomery County, Maryland and being more particularly described in the meridian as established by the Maryland State Grid as defined by the North American Datum of 1983 and adjusted in 1991 (NAD 83/91) as follows:

PART 1:

BEGINNING for the said strip or parcel of land at the southwesterly end of the westerly or North 11°55'10" East, 7.0 feet line of said existing Public Alley as shown on a plat entitled "PLAT SHOWING ABANDONMENT AND DEDICATION OF PUBLIC ALLEY THROUGH PART OF A TRACT OF LAND CALLED "DEER PARK"" and recorded among the Land Records of Montgomery County as Plat No. 1315, said point also being on the easterly right of way line of North Summit Avenue and thence running with the westerly line of said Public Alley and with part of said easterly right of way line, the following two (2) courses and distances

1. North 10°05'49" East, 7.14 feet to the southwesterly end of the westerly or South 17°31' 05" West, 13.2 feet of said existing Public alley; thence running reversely with and along said westerly line, the following course and distance

2. North 13°14'50" East, 13.20 feet to a point; thence leaving said westerly line and easterly right of way line and running reversely with and along northerly and westerly lines of said existing Public Alley, the following four (4) courses and distances
3. South 88°20'45" East, 45.81 feet to a point; thence
4. South 86°36'10" East, 117.77 feet to a point; thence
5. 72.30 feet along the arc of tangential curve deflecting to the left, having a radius of 46.00 feet and a chord bearing and distance of North 48°22'15" East, 65.08 feet to the point of tangency; thence
6. North 03°20'40" East, 44.30 feet to a point on the proposed southerly right of way of Teacher's Way (variable width); thence leaving said westerly line of said existing Public Alley and running so to cross and divide said existing Public Alley and running with and along said proposed southerly right of way, the following two (2) courses and distances
7. South 88°59'55" East, 4.12 feet to a point; thence
8. 15.92 feet along the arc of tangential curve deflecting to the left, having a radius of 300.00 feet and a chord bearing and distance of North 89°28'52" East, 15.92 feet to a point on the easterly or North 03°08'50" East, 144.02 feet line of said existing Public Alley as shown on said Plat No. 1315, 98.01 feet from southerly thereof; thence leaving said proposed southerly right of way and running reversely with the easterly and southerly lines of said existing Public Alley, the following five (5) courses and distances
9. South 03°20'40" West, 98.01 feet to a point; thence
10. North 89°39'10" West, 30.57 feet to a point; thence
11. South 03°02'29" West, 11.96 feet to a point; thence
12. North 86°36'10" West, 153.33 feet to a point; thence
13. North 88°20'45" West, 48.94 feet to the Place of Beginning containing a computed area of 6,509 square feet or 0.1494 of an acre of land.

PART 2:

BEGINNING for the said strip or parcel of land at a point on the 2nd or North 81°25' West, 338.19 feet line of a conveyance to The Board of County School Commissioners of Montgomery County, by a deed dated July 1, 1904 and recorded among aforesaid Land Records in Liber 178 at Folio 222, 150.73 feet from the easterly end thereof, said point also being on the northerly line of an existing Public Alley and thence running reversely with and along said 2nd deed line, the following course and distance and also running with and along the said northerly line of said existing Public Alley, the following three (3) courses and distances

1. South 86°40'30" East, 150.73 feet to the westerly end of 2nd or South 81°25' East, 125 feet line of a conveyance to The Board of Education of Montgomery County, by a deed dated March 24, 1926 and recorded among the aforesaid Land Records in Liber 391 at Folio 445; thence running with and along said 2nd deed line
2. South 86°40'38" East, 125.00 feet to the westerly end of the 5th or North 82°11'30" West, 813.54 feet line of a conveyance to The Board of Education of Montgomery County, Maryland, by a deed dated December 16, 1929 and recorded in Liber 494 at folio 457; thence running reversely with and along a part of said 5th deed line

3. South 87°27'00" East, 108.66 feet to a point on the proposed northerly right of way of Teacher's Way (variable width); thence leaving said 5th deed line and said northerly line of the existing Public Alley and running so to cross and divide said existing Public Alley and with and along said proposed northerly right of way of Teacher's Way, the following two (2) courses and distances
4. 44.03 feet along the arc of non-tangential curve deflecting to the right, having a radius of 267.00 feet and a chord bearing and distance of South 86°16'48" West, 43.95 feet to a point of tangency; thence
5. North 88°59'55" West, 341.05 feet to a point on the westerly or South 07°08' 50" West, 20.0 feet line of the said existing Public Alley as shown on a plat entitled "PLAT SHOWING ABANDONMENT AND DEDICATION OF PUBLIC ALLEY THROUGH PART OF A TRACT OF LAND CALLED "DEER PARK"" and recorded among the aforesaid Land Records as Plat No. 1315; thence running reversely with and along a part of said westerly line
6. North 03°20'40" East, 17.74 feet to the Place of Beginning containing a computed area of 3,851 square feet or 0.0884 of an acre of land.

PART 3:

BEGINNING for the said strip or parcel of land at the southerly end of the 2nd or North 07°00' East, 348.50 feet line of a conveyance to Thomas O. Crown and Mary Louise Crown, by a deed dated April 18, 1968 and recorded among the Land Records in Liber 3729 at Folio 621, said point also being on the westerly line of an existing Public Alley; thence running with and along a part of said 2nd deed line and part of the said westerly line

1. North 03°19'09" East, 347.87 feet to a point on the proposed southerly right of way of Teacher's Way (variable width); thence leaving said 2nd deed line and westerly line and running so as to cross and divide said existing Public Alley and running with and along the said proposed southerly right of way, the following two (2) courses and distances
2. 5.71 feet along the arc of non-tangential curve deflecting to the right, having a radius of 315.00 feet and a chord bearing and distance of South 87°22'20" East, 5.71 feet to a point of tangency; thence
3. South 86°51'11" East, 15.29 feet to the northwest corner of Lot 1 as shown on Plat of Subdivision entitled "SANDERS PROPERTY, EAST DIAMOND AVE." and recorded among the aforesaid Land Records in Plat Book 54 as Plat No. 17485, said point also being on the easterly line of said existing Public Alley; thence running reversely with and along the westerly line of said Lot 1 and the said easterly line of the existing Public Alley
4. South 03°28'38" West, 338.40 feet to a point on the northerly right of way line of East Diamond Avenue (variable width); thence leaving said westerly line and easterly line and running with and along the said northerly right of line and the southerly line of the said existing Public Alley
5. South 67°46'51" West, 22.24 feet to the Place of Beginning; containing a computed area of 7,044 square feet or 0.1617 of an acre of land.

WHEREAS, the removal of the existing rights-of-way shall be replaced by new and additional right-of-way for the realigned Teacher's Way; and

WHEREAS, the abandonment of a private alley will be necessary to facilitate redevelopment;

WHEREAS, the Mayor and City may abandon the right of way if it shall find from the evidence that the right of way is no longer necessary for present or anticipated future public use;

WHEREAS, a duly advertised public hearing on said application was held by the Mayor and City Council on _____, 2007, and the Planning Commission has submitted on _____, 2007, a recommendation supporting the abandonment to the Mayor and City Council; and

WHEREAS, the Mayor and City Council have received no request for further hearings on this matter, and there have been no further objections to the abandonment; and

WHEREAS, the Mayor and City Council have concluded that no further hearings are necessary to resolve this matter:

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of Gaithersburg, Maryland, that the above-described areas dedicated to public right-of-way use containing approximately 17,404 square feet of land are hereby abandoned, vacated, and released.

ADOPTED by the City Council of Gaithersburg this ___ day of _____, 2007.

DELIVERED to the Mayor of the City of Gaithersburg this ___ day of _____, 2007.
APPROVED/VETOED by the Mayor of the City of Gaithersburg this ___ day of _____, 2007.

SIDNEY A. KATZ, MAYOR

THIS IS TO CERTIFY that the foregoing Ordinance was adopted by the City Council of Gaithersburg, in public meeting assembled, on the ___ day of _____, 2007, and the same was approved/vetoed by the Mayor of the City of Gaithersburg on the ___ day of _____, 2007. This ordinance will become effective on the ___ day of _____, 2007.

David B. Humpton, City Manager

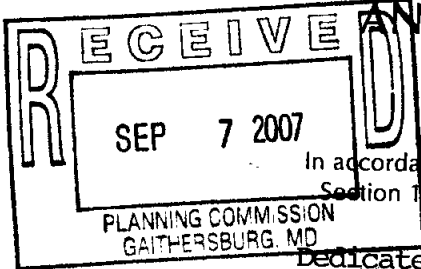
Mayor and Council
September 17, 2007

INDEX OF MEMORANDUM
AB-57

No.

1. Application for AB-57
2. Letter from Jody Kline, dated August 31, 2007
3. Total Square Footage/Acreage of land area to be abandoned
4. List of Adjacent Property Owners
5. Public Alley Abandonment – Part 1
6. Public Alley Abandonment – Part 2
7. Public Alley Abandonment – Part 3
8. Metes and Bounds Description of Abandonment Request
9. Statement in Support of Abandonment of Public Rights-of-Way
10. Plat Showing Abandonment and Dedication of Public Alley Through Part of a Tract of Land Called “Deer Park,” Plat No. 1315
11. Sanders Property, East Diamond Avenue, Plat No. 17485

ABANDONMENT OF PUBLIC RIGHTS-OF-WAY AND EASEMENTS



In accordance with Chapter 19, Article III,
Section 19-18 thru 27 of the City Code

Application Number	<u>AB-57</u>
Filing Date	<u>9/7/07</u>
Fee Paid	<u>0</u>
Legal Ad	_____
P.C. Review	_____
M&C Review	_____
Decision	_____
Date of Decision	_____
Effective Date	_____

SUBJECT PROPERTY Dedicated right-of-way for Teacher's Way
and dedicated right-of-way for
private alley **TAX ACCOUNT NO.** N/A

LOCATION See attached Abandonment Map

ABANDONMENT OF

DEDICATED STREET ALLEY UTILITY EASEMENT OTHER _____

*WIDTH _____ FEET *LENGTH _____ FEET *TOTAL SQ. FT./ACREAGE *See Schedule Attached

REASON FOR REQUEST TO ABANDON To remove existing rights-of-way to be replaced by
new and additional right-of-way for realigned Teacher's Way; to remove unnecessary
private alley to facilitate redevelopment.

APPLICANTS

1. NAME Archstone-Smith **TELEPHONE** 703-920-8500
 ADDRESS 2345 Crystal Drive, Arlington, VA 22202
 LOT _____ BLOCK _____ SUBDIVISION _____ **TAX ACCOUNT NO.** _____

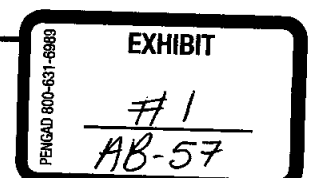
2. NAME _____ **TELEPHONE** _____
 ADDRESS _____
 LOT _____ BLOCK _____ SUBDIVISION _____ **TAX ACCOUNT NO.** _____

3. NAME _____ **TELEPHONE** _____
 ADDRESS _____
 LOT _____ BLOCK _____ SUBDIVISION _____ **TAX ACCOUNT NO.** _____

SUBMISSION REQUIREMENTS

- Survey with vicinity map.
- Metes and bounds description.
- Written consent of owner if applicable.
- Required fee (fee schedule available at the Planning Department).
- Record plat (if required).

continued on reverse side



ADJACENT PROPERTY OWNERS OF SUBJECT AREA

See attached Schedule B

1. NAME _____
ADDRESS _____
TAX ACCOUNT NO. _____

2. NAME _____
ADDRESS _____
TAX ACCOUNT NO. _____

3. NAME _____
ADDRESS _____
TAX ACCOUNT NO. _____

4. NAME _____
ADDRESS _____
TAX ACCOUNT NO. _____

5. NAME _____
ADDRESS _____
TAX ACCOUNT NO. _____

6. NAME _____
ADDRESS _____
TAX ACCOUNT NO. _____

If the right-of-way provides the only access to a property, the applicant shall provide written consent of that property owner along with his name and address specifically identified here:

NAME N/A
ADDRESS _____

SIGNATURES OF SPONSORING APPLICANTS

~~ARCHSTONE-SMITH~~

1. Signature By  Date 8.31.07

2. Signature _____ Date _____

3. Signature _____ Date _____

LAW OFFICES

MILLER, MILLER & CANBY

CHARTERED

200-B MONROE STREET
ROCKVILLE, MARYLAND 20850

(301) 762-5212
FAX (301) 762-6044

JSKLINE@MMCANBY.COM

JAMES R. MILLER, JR.
PATRICK C. MCKEEVER
JAMES L. THOMPSON
LEWIS R. SCHUMANN
JODY S. KLINE
ELLEN S. WALKER
MAURY S. EPNER
JOSEPH P. SUNTUM
SUSAN W. CARTER
ROBERT E. GOUGH
DONNA E. McBRIDE
GLENN M. ANDERSON*
MICHAEL G. CAMPBELL
SOO LEE-CHO

**Licensed in Maryland and Florida*

August 31, 2007

Mr. Greg Ossant
City of Gaithersburg
Gaithersburg City Hall
31 South Summit Avenue
Gaithersburg, MD 20877-3016

Re: Abandonment Application for Public Rights-of-Way
in Conjunction with the "Archstone at Olde Towne" Project

Dear Greg:

Enclosed for further processing by the City is an abandonment application for three separate rights-of-way associated with the "Archstone at Olde Towne" redevelopment project.

Please note that there is no filing fee enclosed with the attached papers since those fees were waived by agreement with the City.

Please schedule the abandonment application to be processed in conjunction with the concept plan for the proposed project which is to be filed imminently.

Sincerely yours,

MILLER, MILLER & CANBY



Jody S. Kline

Enclosures

cc: Fred Felton
Tony Tomasello
Jeff Harris
Todd Redden
Steve Moriak
Seth Fisher

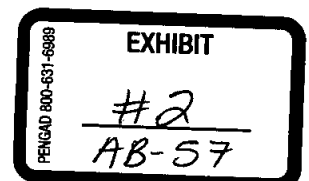


EXHIBIT A

**TOTAL SQUARE FOOTAGE/ACREAGE
OF LAND AREA TO BE ABANDONED**

AREA

PART 1

[Area adjacent to Parcel P-936 to be
claimed by City]

6,509 SF / 0.1494 ac.

PART 2

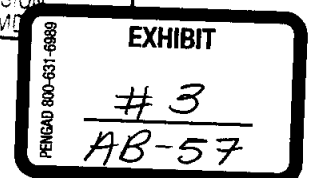
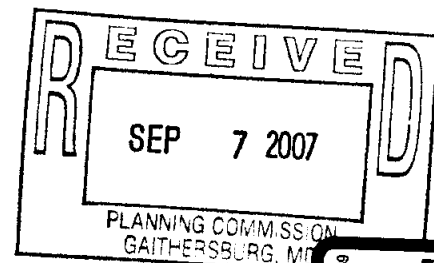
[Area abutting southern boundary of
School site to be claimed by Montgomery
County Public Schools]

3,851 SF / 0.0884 ac.

PART 3

[Public alley, 25 feet wide, adjacent to
"Lot J, East Diamond Avenue"]

7,044 SF / 0.1617 ac.



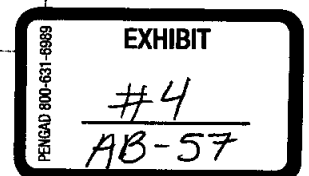
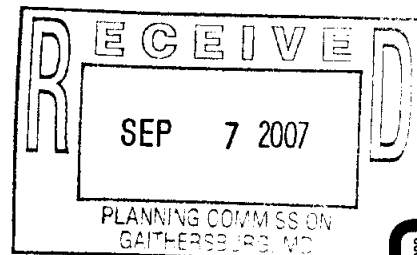
SCHEDULE B

**LIST OF ADJACENT PROPERTY OWNERS
ARCHSTONE/OLD TOWNE**

NAME	ADDRESS	LOT/BLOCK
Diamond Court Apartments LLC	c/o Summit Management 8701 Georgia Avenue, Suite 602 Silver Spring, MD 20910-3713	P-953
Helen M. Verzi, Et Al	P. O. Box 2882 Hagerstown, MD 21741-2882	P-940
Southern, Inc.	330 East Diamond Avenue Gaithersburg, MD 20877-3029	P-950 & P-951
Victor Litz Music Center, Inc.	507 N. Frederick Avenue Gaithersburg, MD 20877	P-989
Steven S. Schulman and Patricia Freiberg	7501 Spring Lake Drive, Apt. C1 Bethesda, MD 20817-6515	P-990
James R. Clifford, Sr., Et Al	320 East Diamond Avenue Gaithersburg, MD 20877-3016	P-954 & P-991
City of Gaithersburg	31 South Summit Avenue Gaithersburg, MD 20877-2038	N-948
Board of Education	850 Hungerford Drive Rockville, MD 20850-1718	P-883, P-884, P-888, & P-901
Mayor & Council of Gaithersburg	31 South Summit Avenue Gaithersburg, MD 20877-2038	P-936
Lawson W. King	9300 Edgewood Drive Gaithersburg, MD 20877-1537	P-902

APPLICANT'S REPRESENTATIVE

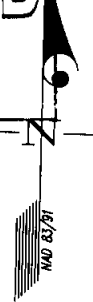
Jody S. Kline, Esquire
Miller, Miller & Canby
200B Monroe Street
Rockville, MD 20850



RECEIVED
SEP 7 2007

PLANNING COMMISSION
GAITHERSBURG, MD

PROPERTY OF
THE BOARD OF COUNTY SCHOOL
COMMISSIONERS OF MONTGOMERY COUNTY
LIBER 178 FOLIO 222



NORTH SUMMIT AVENUE

PROPOSED TEACHER'S WAY R/W

PUBLIC ALLEY
P.N. 1315

S 88°59'55" E 4.12'
L=15.92' R=300.00'
CHD: N 89°28'52" E 15.92'

PART 1: PUBLIC ALLET TO BE
ABANDONED - 6,509 SF OR 0.1494 AC.

L=72.30' R=46.00'
CHD: N 48°22'15" E 65.08'
R=46.0'
PLAT LINE

S 07°08'50" W 102.13' PLAT LINE

N 03°20'40" E 44.30'

S 03°20'40" W 98.01'

N 03°08'50" E 144.02' PLAT LINE

N 84°40'45" W 45.81'
PLAT LINE

N 82°56'10" W 117.77'
PLAT LINE

N 89°39'10" W

S 88°20'45" E 45.81'

S 86°36'10" E 117.77'

PUBLIC ALLEY 30.57'
P.N. 1315

N 88°20'45" W 48.94'

N 86°36'10" W 153.33'

S 82°56'10" E 153.33' PLAT LINE

S 84°40'45" E 48.94'
PLAT LINE

S 03°02'29" W
11.96'

N 9°33'30" E
12.0' PLAT LINE

S 85°51' E 30.0'
PLAT LINE

P.O.B.

SKETCH OF
PUBLIC ALLEY ABANDONMENT
PART 1

CITY OF GAITHERSBURG
ELECTION DISTRICT NO. 9
MONTGOMERY COUNTY, MARYLAND

GLW GUTSCHICK LITTLE & WEBER, P.A.

CIVIL ENGINEERS, LAND SURVEYORS, LAND PLANNERS, LANDSCAPE ARCHITECTS
3909 NATIONAL DRIVE - SUITE 250 - BURTONSVILLE OFFICE PARK
BURTONSVILLE, MARYLAND 20866
TEL: 301-421-4024 BALT: 410-880-1820 DC/VA: 301-989-2524 FAX: 301-421-4186

REFERENCE :	PLAT No. <u>1315</u>
DRAWN BY :	DATE : <u>AUGUST 2007</u>
CHECKED BY :	SCALE : <u>1"=50'</u>
	G.L.W. FILE No.

EXHIBIT
#5
AB-57

L:\CADD - DRAWINGS\050-631\SWITCH\02042-ALLEY-ABAND-1.dwg 8/24/2007 9:04:21 AM EDT

PUBLIC ALLEY

S 07°08'50" W 20.0' PLAT LINE P.N. 1315

P.O.B.

NAD 83/91

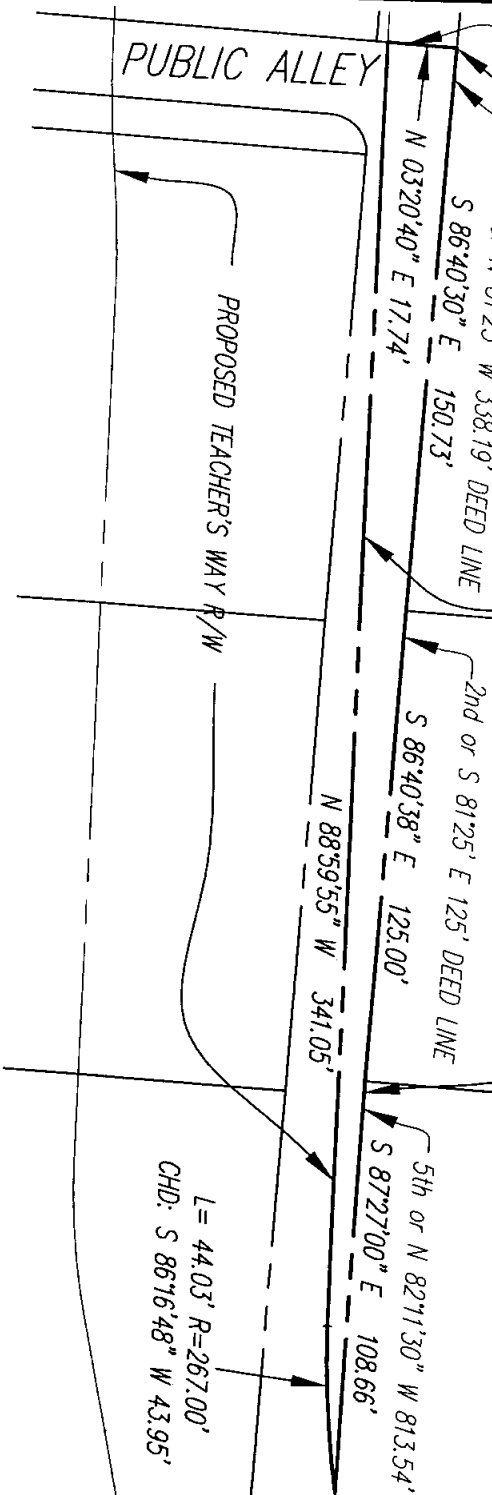
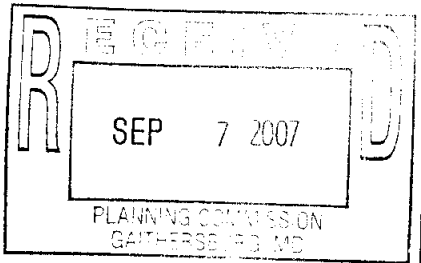


PROPERTY OF
THE BOARD OF COUNTY SCHOOL
COMMISSIONERS OF MONTGOMERY COUNTY
LIBER 178 FOLIO 222

PART 2: PUBLIC ALLEY TO BE
ABANDONED - 3,851 SF OR 0.0884 AC.

PROPERTY OF
THE BOARD OF EDUCATION
OF MONTGOMERY COUNTY
LIBER 394 FOLIO 445

PROPERTY OF
THE BOARD OF EDUCATION
OF MONTGOMERY COUNTY
LIBER 494 FOLIO 457



SKETCH OF
PUBLIC ALLEY ABANDONMENT
PART 2

CITY OF GAITHERSBURG
ELECTION DISTRICT NO. 9
MONTGOMERY COUNTY, MARYLAND

GLWGUTSCHICK LITTLE & WEBER, P.A.

CIVIL ENGINEERS, LAND SURVEYORS, LAND PLANNERS, LANDSCAPE ARCHITECTS
3909 NATIONAL DRIVE - SUITE 250 - BURTONSVILLE OFFICE PARK
BURTONSVILLE, MARYLAND 20866
TEL: 301-421-4024 BAL: 410-880-1820 DC/VA: 301-989-2524 FAX: 301-421-4186

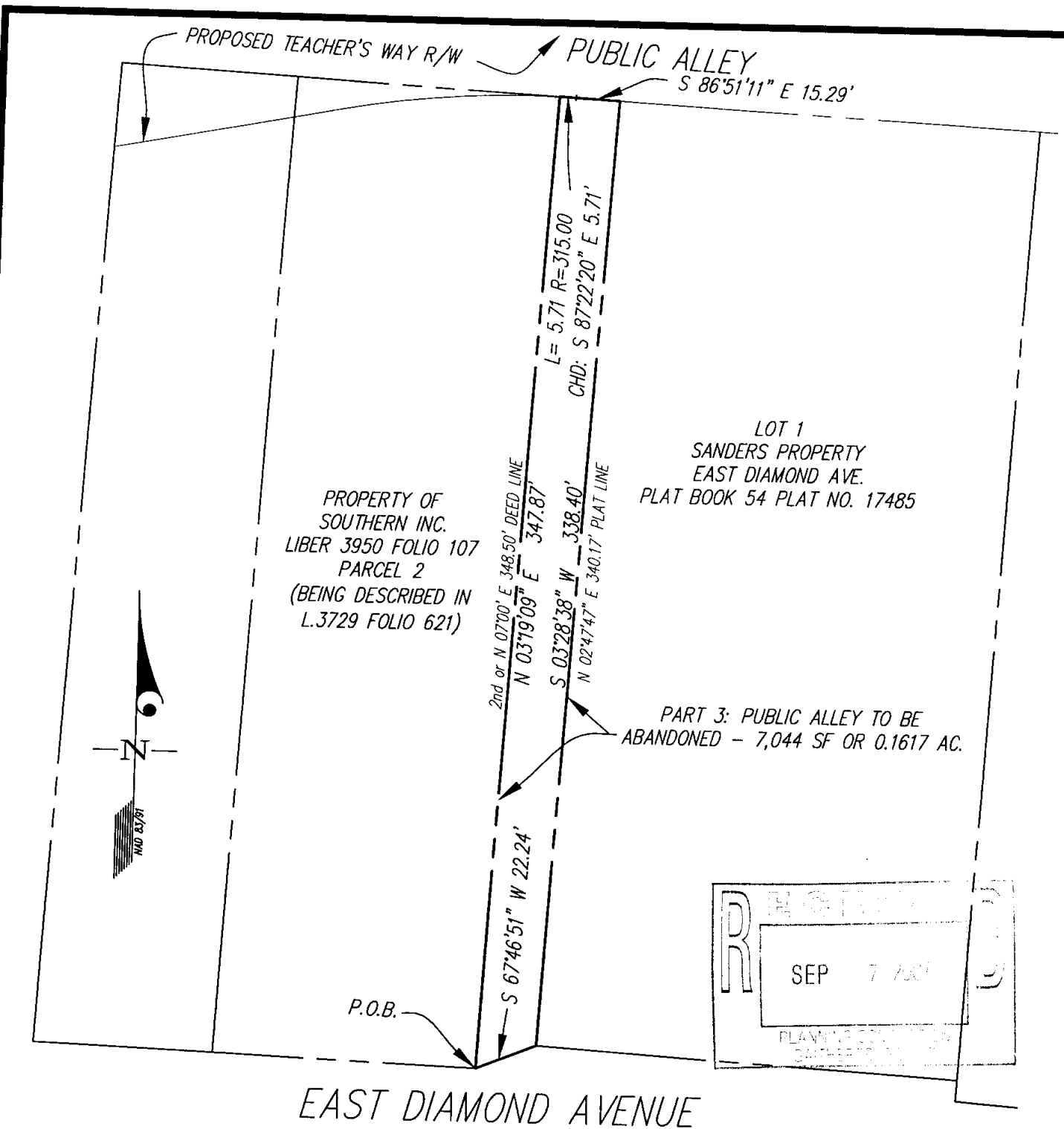
REFERENCE :

DRAWN BY :	DATE : AUGUST 2007	G.L.W. FILE No.
CHECKED BY :	SCALE : 1"=50'	

EXHIBIT
#6
AB-57

L:\CADD\DRAWINGS\05043\SKETCHES\05043-ALLEY-ABAND-2.dwg 8/24/2007 9:08:15 AM EDT

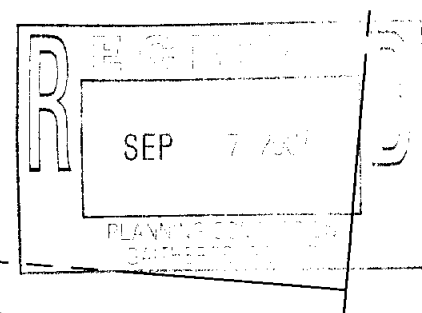
L:\CADD\DRAWINGS\05043\SKETCHES\05043-ALLEY-ABAND-3.dwg 8/24/2007 9:08:52 AM EDT



PROPERTY OF
SOUTHERN INC.
LIBER 3950 FOLIO 107
PARCEL 2
(BEING DESCRIBED IN
L.3729 FOLIO 621)

LOT 1
SANDERS PROPERTY
EAST DIAMOND AVE.
PLAT BOOK 54 PLAT NO. 17485

PART 3: PUBLIC ALLEY TO BE
ABANDONED - 7,044 SF OR 0.1617 AC.



EAST DIAMOND AVENUE

SKETCH OF
**PUBLIC ALLEY ABANDONMENT
PART 3**

CITY OF GAITHERSBURG
ELECTION DISTRICT NO. 9
MONTGOMERY COUNTY, MARYLAND

GLW GUTSCHICK LITTLE & WEBER, P.A.

CIVIL ENGINEERS, LAND SURVEYORS, LAND PLANNERS, LANDSCAPE ARCHITECTS
3909 NATIONAL DRIVE - SUITE 250 - BURTONSVILLE OFFICE PARK
BURTONSVILLE, MARYLAND 20866
TEL: 301-421-4024 BALT: 410-880-1820 DC/VA: 301-989-2524 FAX: 301-421-4186

REFERENCE :		
DRAWN BY :	DATE : AUGUST 2007	G.L.W. FILE No.
CHECKED BY :	SCALE : 1"=50'	

PENNSYLVANIA
 REGISTERED PROFESSIONAL ENGINEER
 900-631-6889
EXHIBIT
 # 7
 AB-57

August 24, 2007

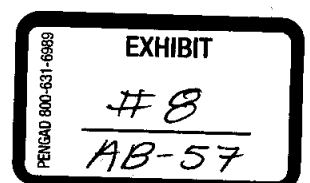
DESCRIPTION OF
PUBLIC ALLEY ABANDONMENT
CITY OF GAITHERSBURG
MONTGOMERY COUNTY, MARYLAND

BEING three (3) strips or parcels of land being hereinafter described Parts 1, 2 and 3, being parts of an existing Public Alley located in the City of Gaithersburg, Montgomery County, Maryland and being more particularly described in the meridian as established by the Maryland State Grid as defined by the North American Datum of 1983 and adjusted in 1991 (NAD 83/91) as follows:

PART 1:

BEGINNING for the said strip or parcel of land at the southwesterly end of the westerly or North 11°55'10" East, 7.0 feet line of said existing Public Alley as shown on a plat entitled "PLAT SHOWING ABANDONMENT AND DEDICATION OF PUBLIC ALLEY THROUGH PART OF A TRACT OF LAND CALLED "DEER PARK"" and recorded among the Land Records of Montgomery County as Plat No. 1315, said point also being on the easterly right of way line of North summit Avenue; thence running with westerly line of said Public Alley and said easterly right of way line

1. North 10°05'49" East, 7.14 feet to the southwesterly end of the westerly or South 17°31' 05" West, 13.2 feet of said existing Public alley; thence running reversely with and along said westerly line and easterly right of way line
2. North 13°14'50" East, 13.20 feet to a point; thence leaving said westerly line and easterly right of way line and running reversely with and along northerly and westerly lines of said existing Public Alley, the following four (4) courses and distances
3. South 88°20'45" East, 45.81 feet to a point; thence
4. South 86°36'10" East, 117.77 feet to a point; thence
5. 72.30 feet along the arc of tangential curve deflecting to the left, having a radius of 46.00 feet and a chord bearing and distance of North 48°22'15" East, 65.08 feet to the point of tangency; thence
6. North 03°20'40" East, 44.30 feet to a point on the proposed southerly right of way of Teacher's Way (variable width); thence leaving said westerly line of said existing Public Alley and running so to cross and divide said existing Public Alley and running with and along said proposed southerly right of way, the following two (2) courses and distances
7. South 88°59'55" East, 4.12 feet to a point; thence
8. 15.92 feet along the arc of tangential curve deflecting to the left, having a radius of 300.00 feet and a chord bearing and distance of North 89°28'52" East, 15.92 feet to a point on the easterly or North 03°08'50" East, 144.02 feet line of said



existing Public Alley as shown on said Plat No. 1315, 98.01 feet from southerly thereof; thence leaving said proposed southerly right of way and running reversely with the easterly and southerly lines of said existing Public Alley, the following five (5) courses and distances

9. South 03°20'40" West, 98.01 feet to a point; thence
10. North 89°39'10" West, 30.57 feet to a point; thence
11. South 03°02'29" West, 11.96 feet to a point; thence
12. North 86°36'10" West, 153.33 feet to a point; thence
13. North 88°20'45" West, 48.94 feet to the point of beginning; containing a computed area of 6,509 square feet or 0.1494 of an acre of land.

PART 2:

BEGINNING for the said strip or parcel of land at a point on the 2nd or North 81°25' West, 338.19 feet line of a conveyance to The Board of County School Commissioners of Montgomery County, by a deed dated July 1, 1904 and recorded among aforesaid Land Records in Liber 178 at Folio 222, 150.73 feet from the easterly end thereof, said point also being on the northerly line of an existing Public Alley; thence running reversely with and along said 2nd deed line, the following course and distance and also running with and along the said northerly line of and existing Public Alley, the following three (3) courses and distances

1. South 86°40'30" East, 150.73 feet to the westerly end of 2nd or South 81°25' East, 125 feet line of a conveyance to The Board of Education of Montgomery County, by a deed dated March 24, 1926 and recorded among the aforesaid Land Records in Liber 391 at Folio 445; thence running with and along said 2nd deed line
2. South 86°40'38" East, 125.00 feet to the westerly end of the 5th or North 82°11'30" West, 813.54 feet line of a conveyance to The Board of Education of Montgomery County, Maryland, by a deed dated December 16, 1929 and recorded in Liber 494 at folio 457; thence running reversely with and along a part of said 5th deed line
3. South 87°27'00" East, 108.66 feet to a point on the proposed northerly right of way of Teacher's Way (variable width); thence leaving said 5th deed line and said northerly line of the existing Public Alley and running so to cross and divide said existing Public Alley and with and along said proposed northerly right of way of Teacher's Way, the following two (2) courses and distances
4. 44.03 feet along the arc of non-tangential curve deflecting to the right, having a radius of 267.00 feet and a chord bearing and distance of South 86°16'48" West, 43.95 feet to a point of tangency; thence
5. North 88°59'55" West, 341.05 feet to a point on the westerly or South 07°08' 50" West, 20.0 feet line of the said existing Public Alley as shown on a plat entitled "PLAT SHOWING ABANDONMENT AND DEDICATION OF PUBLIC ALLEY THROUGH PART OF A TRACT OF LAND CALLED "DEER PARK"" and recorded among the aforesaid Land Records as Plat No. 1315; thence running reversely with and along a part of said westerly line

6. North $03^{\circ}20'40''$ East, 17.74 feet to the point of beginning; containing a computed area of 3,851 square feet or 0.0884 of an acre of land.

PART 3:

BEGINNING for the said strip or parcel of land at the southerly end of the 2nd or North $07^{\circ}00'$ East, 348.50 feet line of a conveyance to Thomas O. Crown and Mary Louise Crown, by a deed dated April 18, 1968 and recorded among the Land Records in Liber 2729 at Folio 621, said point also being on the westerly line of an existing Public Alley; thence running with and along a part of said 2nd deed line and part of the said westerly line

1. North $03^{\circ}19'09''$ East, 347.87 feet to a point on the proposed southerly right of way of Teacher's Way (variable width); thence leaving said 2nd deed line and westerly line and running so as to cross and divide said existing Public Alley and running with and along the said proposed southerly right of way, the following two (2) courses and distances
2. 5.71 feet along the arc of non-tangential curve deflecting to the right, having a radius of 315.00 feet and a chord bearing and distance of South $87^{\circ}22'20''$ East, 5.71 feet to a point of tangency; thence
3. South $86^{\circ}51'11''$ East, 15.29 feet the northwest corner of Lot 1 as shown on Plat of Subdivision entitled "SANDERS PROPERTY, EAST DIAMOND AVE." and recorded among the aforesaid Land Records in Plat Book 54 as Plat No. 17485, said point also being on the easterly line of said existing Public Alley; thence running reversely with and along the westerly line of said Lot 1 and the said easterly line of the existing Public Alley
4. South $03^{\circ}28'38''$ West, 338.40 feet to a point on the northerly right of way line of East Diamond Avenue (variable width); thence leaving said westerly line and easterly line and running with and along the said northerly right of line and the southerly line of the said existing Public Alley
5. South $67^{\circ}46'51''$ West, 22.24 feet to the point of beginning; containing a computed area of 7,044 square feet or 0.1617 of an acre of land.

The licensee below was in responsible charge over the preparation of this metes and bounds description and the surveying work reflected in it, all in compliance with requirements set forth in COMAR Title 09, Subtitle 13, Chapter 06, Regulation .12

STATEMENT IN SUPPORT OF ABANDONMENT OF PUBLIC RIGHTS-OF-WAY

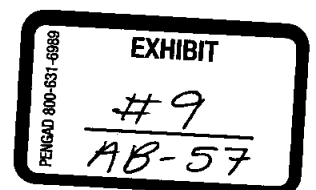
The Applicant for approval of the “Archstone Olde Towne” mixed-use project has petitioned the City of Gaithersburg for abandonment of three distinct public rights-of-way containing 6,509 (Part 1), 3,851 (Part 2), and 7,044 (Part 3) square feet, respectively. Essentially, the rights-of-way include a public alley that extends from East Diamond Avenue northward to the existing alignment of Teacher’s Way (Parcel 901) and parts of the existing right-of-way of a street known as Teacher’s Way.

The basis for abandonment of a right-of-way is that it is no longer necessary for public use. The “Archstone Olde Towne” project will satisfy this standard in two ways.

First, the new mixed-use project will eliminate the need for access to any properties that may have been originally intended to be served by the alleyway (Part 2 & Part 3). Existing structures on properties abutting Parts 2 and Part 3 (south side only) will be removed and replaced with integrated residential and retail uses, with newly designated points of ingress and egress to the project (which will cover the properties that originally abutted the public alley).

Second, the “Archstone Olde Towne” project will facilitate construction of a new public street (Teacher’s Way) that would serve as an east-west corridor paralleling East Diamond Avenue, thereby eliminating the need for Parts 1 & 2. This new street will improve circulation in the area surrounding the “Archstone” project. Thus, the rights-of-way of the existing public alley that are proposed to be abandoned will be replaced by a more direct east-west throughway providing better circulation in the northeast quadrant of this core area of Gaithersburg.

In summary, the changes that will occur as a result of the development of the “Archstone Olde Towne” project eliminate the need for retention of these public rights-of-way. The presence of the “Olde Towne” project means that these streets and alley are no longer necessary for public use and transportation improvements to be created or stimulated by the Applicant will create a better access and circulation situation in this sector.



PLAT SHOWING
 ABANDONMENT AND DEDICATION OF
 PUBLIC ALLEY THROUGH PART OF A
 TRACT OF LAND CALLED
 "DEER PARK"

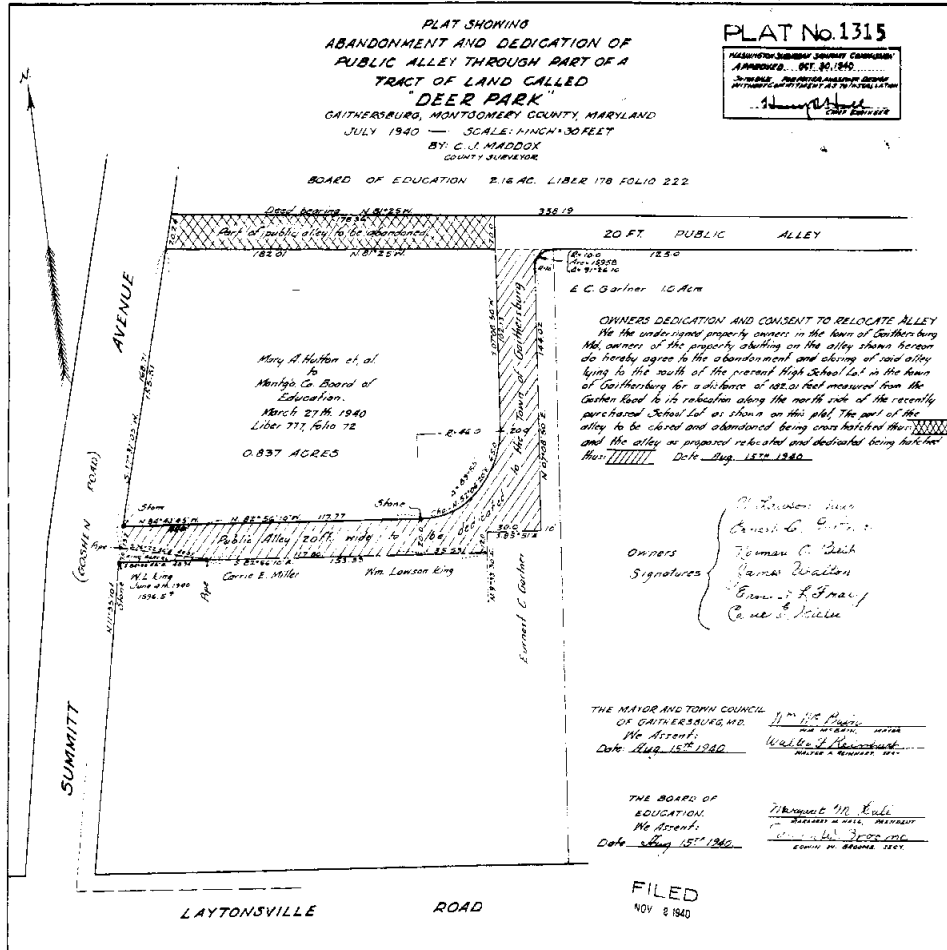
GAITHERSBURG, MONTGOMERY COUNTY, MARYLAND
 JULY 1940 — SCALE: HUNCH 30 FEET

BY: E. J. MADDOX
 COUNTY SURVEYOR

BOARD OF EDUCATION 2.16 AC. LIBER 178 FOLIO 222

PLAT No. 1315

RECORD FOR THE BOARD OF EDUCATION
 A. MADDOX, S.W. 80, 1940
 IN WASH. DISTRICT AS TO INSTALLATION
 E. J. MADDOX
 COUNTY SURVEYOR



PENGAD 800-631-6989

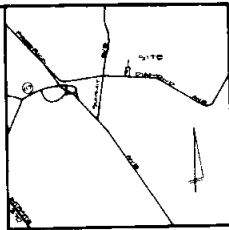
EXHIBIT
 # 10
 48-57

Maryland State Archives

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE PLAN SHOWN HEREON IS CORRECT, THAT IT IS A SUBDIVISION OF THE LAND COMBINED TO LARRY D SANDERS AND ANGELA M SANDERS, HIS WIFE BY DEED DATED APRIL 17, 1982 IN LIBERTY BEING AS FOLLOWS FROM SAID DEED: (1) PARCELS AND INTERESTS IN PARCELS AND WERE BY DEED DATED APRIL 17, 1982 IN LIBERTY BEING AS FOLLOWS: (2) LARRY D SANDERS AND ANGELA M SANDERS, BY DEED DATED AUGUST 17, 1982 IN LIBERTY BEING AS FOLLOWS: (3) ALL RECORDED IN MONTGOMERY COUNTY, MARYLAND FROM DEED DATED APRIL 17, 1982 AND MONUMENTS MARKED FROM FIELD SURVEY INDICATED TOTAL AREA OF THIS PLAT IS 50,000 S.F.

DATE: July 12, 1988
 H. D. [Signature]
 PROFESSIONAL LAND SURVEYOR # 11111

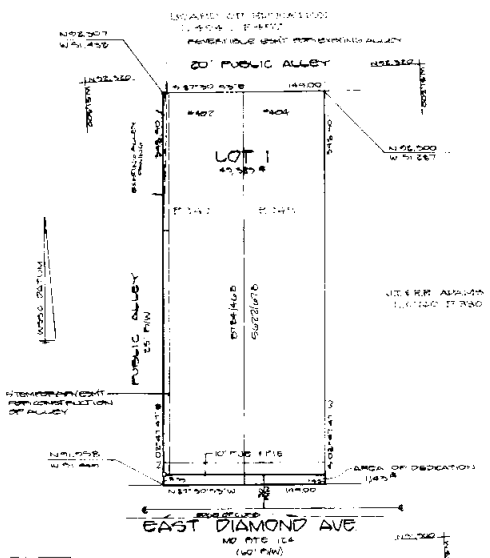


VICINITY MAP
SCALE: 1" = 2000'

OWNER'S DECLARATION

WE, THE UNDERSIGNED, OWNERS OF THE PROPERTY SHOWN AND DESCRIBED HEREON, HEREBY ADOPT THE PLAN OF SUBDIVISION, DEDICATE THE STREETS TO PUBLIC USE, ESTABLISH THE NEARLY BUILDING RESTRICTION LINES, UNLESS OTHERWISE SHOWN AND GRANT TO THE CITY OF GAITHERSBURG, ITS SUCCESSORS, AGENTS, AND HEIRS (1) A TEN (10) FOOT WIDE PUBLIC IMPROVEMENTS EASEMENT (P.I.E.) AS SHOWN HEREON IN ACCORDANCE WITH THE TERMS AND PROVISIONS SET FORTH IN A DOCUMENT ENTITLED "DECLARATION OF EASEMENT" RECORDED AMONG THE LAND RECORDS OF MONTGOMERY COUNTY, MARYLAND IN LIBERTY AT FILE # [blank] FURTHER, WE GRANT TO FUTURE SUCCESSORS OF MARYLAND, QUEENSMOOR AND POTOMAC TELEPHONE COMPANY OF MARYLAND, AND WASHINGTON GAS LIGHT COMPANY A TEN (10) FOOT WIDE PUBLIC UTILITY EASEMENT (P.U.E.) AS SHOWN HEREON IN ACCORDANCE WITH THE DECLARATION OF TERMS AND PROVISIONS OF PUBLIC UTILITIES EASEMENT RECORDED IN LIBERTY BEING AT FILE # [blank] AMONG THE LAND RECORDS OF MONTGOMERY COUNTY, MARYLAND. THERE ARE NO EASEMENTS, RIGHTS, OR INTERESTS IN THE EASEMENTS OR RIGHTS OF ANY KIND AFFECTING THE PLAN OF SUBDIVISION.

DATE: 7/12/88 Michael [Signature] [Signature]
 WITNESS: Angela M Sanders
 DATE: 7/12/88 Deanna [Signature] [Signature]
 WITNESS: Angela M Sanders
 DATE: 7/12/88 [Signature] [Signature]
 PROFESSIONAL LAND SURVEYOR # [blank]



AREA TO BE DEDICATED
 LOT AREA: 45,000 S.F.
 AREA OF DEDICATED LANE: 1,200 S.F.
 TOTAL AREA OF PROPERTY: 46,200 S.F.

RECORDED: _____
 PLAT BOOK: _____
 PLAT NO: _____

CITY OF GAITHERSBURG PLANNING COMMISSION
 APPROVED: July 12, 1988
 [Signature] [Signature]
 CLERK SECRETARY

PROPOSED PROPERTY
EAST DIAMOND AVE
 GAITHERSBURG CITY DISTRICT
 CITY OF GAITHERSBURG, MONTGOMERY COUNTY, MARYLAND
 SCALE: 1" = 50'

DEVELOPMENT CONSULTANTS GROUP, INC.
 1700A GEORGETOWN BLVD SUITE 202
 COLLEGE PARK, MARYLAND 20740
 PHONE: (301) 224-4400

PENGAD 800-631-6989
 # 11
 AB-57
 EXHIBIT