

use, and shall not thereafter, on any pretext whatsoever, be altered or taken for private use; provided, however, that nothing herein contained shall affect the rights of any person owning or claiming any interest in such land derived by, from or under any persons other than the maker of such plat, or by, from or under such maker prior to such subdivision; and provided further, that the maker of any such plat, his heirs or assigns, shall have the right to apply by petition to the Circuit Court for the County for the leave to abandon the subdivision of lands so made by him, or any part thereof, and reconvert the same into one tract or parcel; provided the area to be abandoned has not been used by the general public or accepted for maintenance by Montgomery County and the court, if convinced upon such proof, and after such notice by publication or otherwise, or as it shall direct, that no damage can be in any wise sustained by the general public or persons other than the petitioners, shall have power to pass an order authorizing and empowering such petitioner to abandon such subdivision either in whole or in part; and the proceedings had under such petition shall be docketed in the equity dockets and recorded in the equity or judgment records of the court, the petitioners in all cases paying the fees, costs and charges for like work. In addition to the above authorized petitioners, Montgomery County is hereby authorized to file a petition to abandon any dedicated areas above described pursuant to a resolution of the County Council finding that the area is no longer necessary or suitable for public use, and the court, upon a finding that no damage will be sustained by the general public or any person, may order the area abandoned in whole or in part.

Upon filing in court of the initial petition for abandonment, the petitioner shall serve a copy of such petition upon the following agencies, municipal corporations, and public utilities in accordance with the Maryland Rules of Procedure for service upon parties after the initial pleading:

- (1) The Montgomery County Executive;
- (2) The Maryland National Capital Park and Planning Commission, or Montgomery County Planning Board;
- (3) The Washington Suburban Sanitary Commission if any part of the property is in the Washington Suburban Sanitary Commission District, and
- (4) The governing body of such incorporated towns or special taxing areas (as specified in Article II, Section 4 of the Montgomery County Charter) in which any of the property to be abandoned may be located.
- (5) All gas, electric and telephone utility companies franchised by the State of Maryland or Montgomery County to service Montgomery County.

In arriving at its decision, the court shall consider any recommendation on the proposed abandonment filed in the proceeding by any of the above municipal corporations, agencies, and utility companies; provided, however, that, if such agency, utility company, or municipal corporation has not filed a recommendation with the court within sixty days from the date of service upon such agency, utility company, or municipal corporation, the consent to the proposed abandonment by the agency, utility company or municipal corporation shall be presumed. The court shall not grant any petition for abandonment until ten days after the expiration of the aforementioned sixty days or such other time subsequent thereto as directed