MAYOR AND COUNCIL AGENDA

NO. 10 DEPT.: Community Planning and Development Services / Legal DATE PREPARED: 6/21/05
STAFF CONTACT: Jeremy Hurlbutt, Planner I FOR MEETING OF: 7/11/05

SUBJECT: Introduction and Adoption of Ordinance to approve the proposed Street Closing and Abandonment Application SCA2005-00093, permanent closing and abandonment of two segments of right-of-way of Moore Drive between Westmore Avenue and Frederick Avenue, Lincoln Terrace, MCU, LLC, applicants.

RECOMMENDATION: Staff recommends that this ordinance be introduced and adopted at the meeting of July 11, 2005. If the Mayor and Council wish to introduce the ordinance and proceed to adoption at the same meeting, the ordinance should first be introduced, then a motion should be made to waive the layover period. If the motion to waive the layover period is approved by an affirmative vote of four members of the Mayor and Council, the Council may then proceed to move to adopt the ordinance.

DISCUSSION: Lincoln Terrace, MCU, LLC has filed this abandonment application for two small segments of Moore Drive totaling 3,606 square feet of land area. The abandonment will allow for a minor reconfiguration of the right-of-way in accordance with the approved detailed application for the final alignment of Moore Drive. At the public hearing on June 20, 2005, the only speaker was the attorney representing the applicant. The record was closed, and the Mayor and Council directed staff to move forward with finalizing the application.

Boards and Commissions Review: The Planning Commission reviewed this application on June 8, 2005 and unanimously recommended approval. Their recommendation is attached.

PREPARED BY:

Jeremy Hurlbutt, Planner I

APPROVED BY:

Jim Wasilak, AICP, Chief of Planning, — Date: 7.5.05

APPROVED BY:

for Arthur D. Chambers, AICP, Director, CPDS — Date: 7/5/05

APPROVED BY:

Scott Ullery, City Manager — Date: 7/6/05

LIST OF ATTACHMENTS:

1. Ordinance Adopting Street Closing
2. Location Map
3. Planning Commission Recommendation
4. Staff Report to the Planning Commission
4. Application for Abandonment

Ordinance No. _____ ORDINANCE: To grant Street Closing and Abandonment Application No. SCA2005-00093, Lincoln Terrace, MCU, LLC, Applicant

WHEREAS, Lincoln Terrace, MCU, LLC, filed application No. SCA2005-00093, requesting that two small segments of the Moore Drive right-of-way, the first segment along the southern edge of the right of way east of the Westmore Avenue intersection (containing 3,572 square feet of land, more or less) and the second segment located on the west side of the southern curve of Moore Drive (containing 34 square feet of land, more or less), both of which are located along Moore Drive, containing a total of 3,606 square feet of land, more or less, lying in the Fourth Election District (City of Rockville), Montgomery County, Maryland, be permanently closed and abandoned pursuant to the provisions of Chapter 21, Division 2 entitled "Permanent Closing and Abandonment," of the Rockville City Code; and

WHEREAS, Rockville Housing Enterprises, the owner, according to the assessment records, of property adjacent to the public right-of-way, which is the subject of the aforesaid application, and all public utility companies authorized by the Public Service Commission to operate within the City of Rockville, were duly notified by certified mail that said application had been filed and that a public hearing thereon would be held as specified in the public advertisement of the Mayor and Council of Rockville, Maryland; and

WHEREAS, the Mayor and Council of Rockville gave notice that a public hearing on said application would be held by the Mayor and Council of Rockville in the Council Chamber, Rockville City Hall, 111 Maryland Avenue, Rockville, Maryland on June 20, 2005, at 7:00 p.m., or as soon thereafter as it may be heard, which notice was published not less

than ten days prior to the time of such hearing in a newspaper of general circulation in the City of Rockville; and

WHEREAS, on June 20, 2005, said application came on for hearing at the time and place provided in said advertisement; and

WHEREAS, the Planning Commission of the City of Rockville recommends that the application be approved as set forth in a memorandum to the Mayor and Council dated June 9, 2005; and

WHEREAS, based upon the testimony presented and other evidence of record in the proceedings, the Mayor and Council determined that the granting of the application would not adversely affect the health, safety, security and best interests of the community of the City of Rockville.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND, as follows:

1. That Street Closing and Abandonment Application No. SCA2005-00093, for the closing and abandonment of two small segments of a public right-of-way known as Moore Drive, the first segment along the southern edge of the right of way east of the Westmore Avenue intersection (containing a 3,572 square feet of land, more or less) and the second segment located on the west side of the southern curve of Moore Drive (containing 34 square feet of land, more or less), both of which are located along Moore Drive, containing a total of

3,606 square feet of land, more or less, be and the same is hereby granted being more fully described on Schedule A, and shown on Exhibits A and B attached hereto.

2. That this ordinance shall become effective upon its recordation in the Land Records for Montgomery County, Maryland.

* *

I hereby certify that the foregoing is a true and correct copy of an ordinance adopted by the Mayor and Council at its meeting of

_____
Claire F. Funkhouser, City Clerk

Apex No. 150034
March 23, 2005

SCHEDULE "A"

DESCRIPTION OF VACATION OF A PORTION OF MOORE DRIVE

PLAT BOOK 69 PLAT NO.6385
ROCKVILLE ELECTION DISTRICT
MONTGOMERY COUNTY, MARYLAND

Being two (2) strips or parcels of land lying in the Rockville Election District of Montgomery County, Maryland, hereinafter described in, through, over and across MOORE DRIVE as shown on a plat of dedication entitled " WESTMORE AVENUE, MOORE DRIVE AND DRAINAGE EASEMENT, LINCOLN TERRACE" recorded among the Land Records of Montgomery County, Maryland, in Plat Book 69 as Plat No. 6385 and being more particularly described as follows:

Said strips or parcels of land containing a total of 3,606 square feet or 0.0829 acres of land, as shown on Exhibits "A and B" as parts one and two, attached hereto and made a part hereof by this reference.

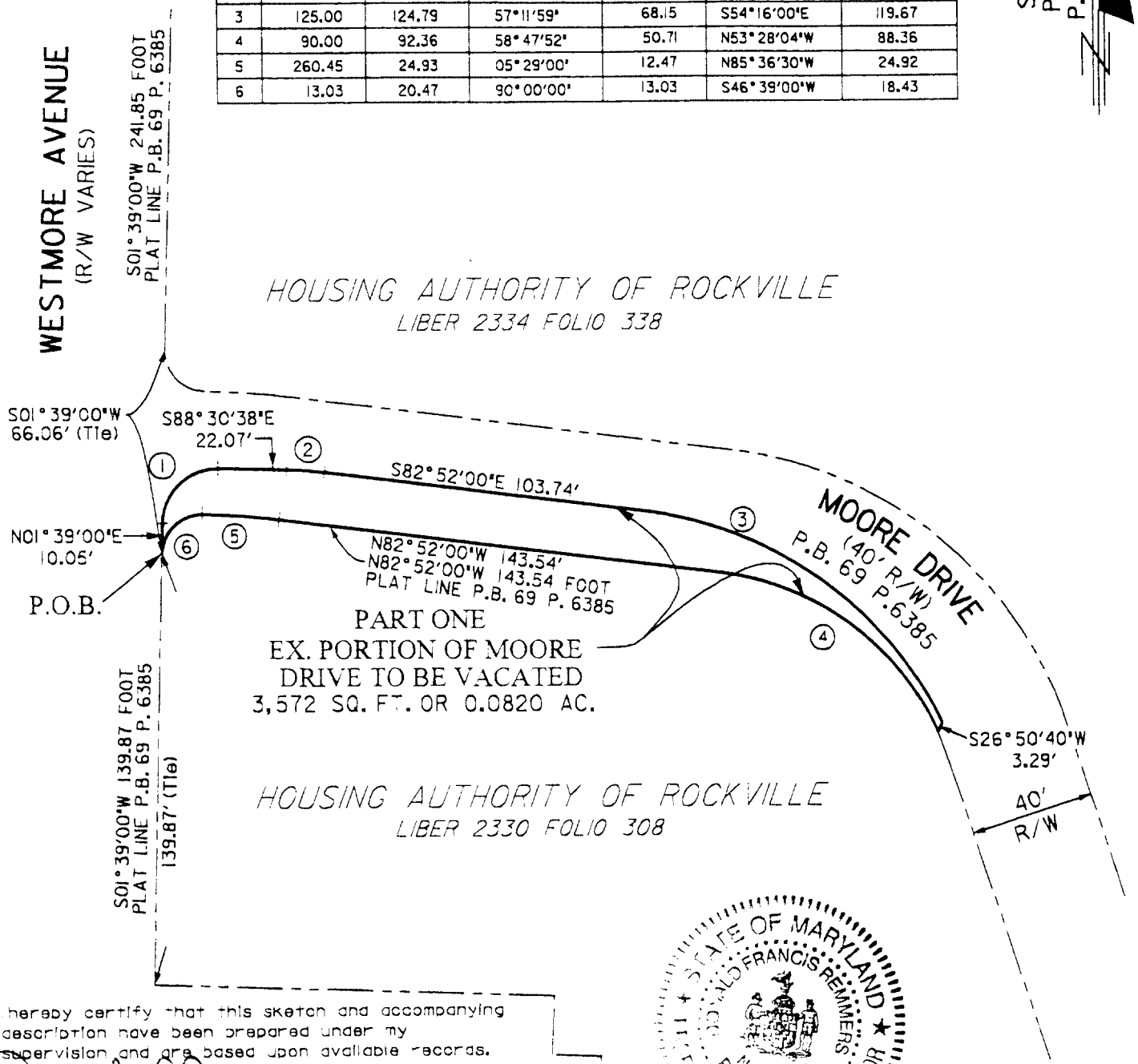
INFORMATION FOR RECORDING

Parcel	Parcel ID No.	Premise Address	Plat Reference
Parcel 133	04-00147356	Moore Drive	P.B. 69 P. 6385
Parcel 190	04-00147345	Moore Drive	P.B. 69 P. 6385

EXHIBIT "A"

CURVE TABLE

◯	RADIUS	LENGTH	DELTA	TANGENT	CHORD BEARING	CHORD DIST.
1	18.00	28.22	89°50'22"	17.95	N46°34'11"E	25.42
2	125.00	12.31	45°50'12"	6.16	S85°41'19"E	12.31
3	125.00	124.79	57°11'59"	68.15	S54°16'00"E	119.67
4	90.00	92.36	58°47'52"	50.71	N53°28'04"W	88.36
5	260.45	24.93	05°29'00"	12.47	N85°36'30"W	24.92
6	13.03	20.47	90°00'00"	13.03	S46°39'00"W	18.43



I hereby certify that this sketch and accompanying description have been prepared under my supervision and are based upon available records.

Donald F. Remmers 3/25/05

DONALD F. REMMERS
Professional Land Surveyor
Maryland Registration No. 0888

STATE OF MARYLAND
DONALD FRANCIS REMMERS
No. 0888
REGISTERED
PROFESSIONAL LAND SURVEYOR

PART ONE
SKETCH SHOWING
VACATION OF A PORTION
OF MOORE DRIVE
(P.B. 69 P. 6385)
ROCKVILLE ELECTION DISTRICT
MONTGOMERY COUNTY, MARYLAND
SCALE: 1"=50' MARCH 2005

Apex engineering
5850 CRABBS BRANCH WAY, SUITE 200
ROCKVILLE, MARYLAND 20855-2622
301-417-0200 FAX 301-975-0169

EXHIBIT "B"

LINE TABLE

◇	BEARING	DIST.
A	N18°09'20"W	21.82
B	S63°09'20"E	3.79

CURVE TABLE

○	RADIUS	LENGTH	DELTA	TANGENT	CHORD BEARING	CHORD DIST.
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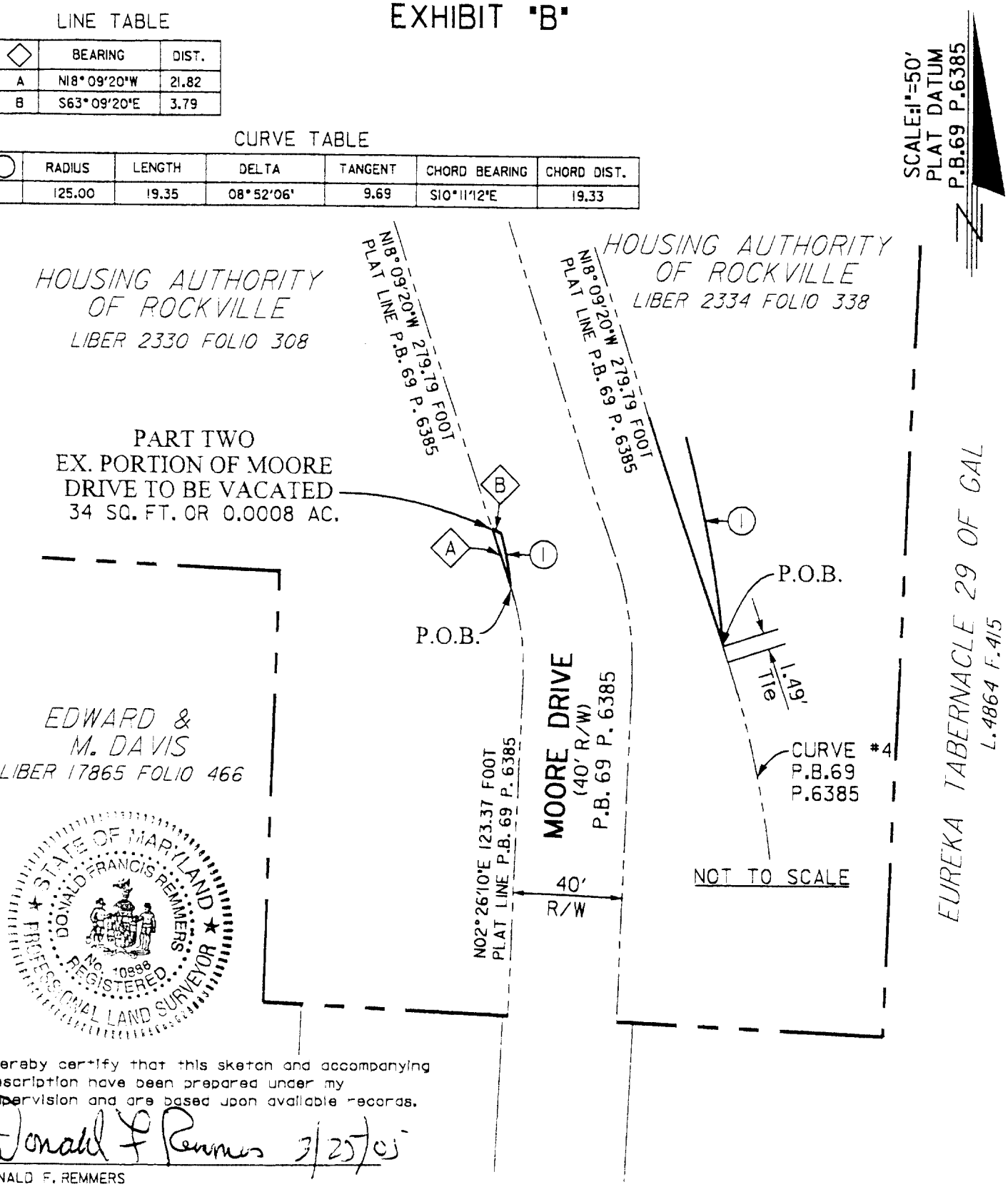

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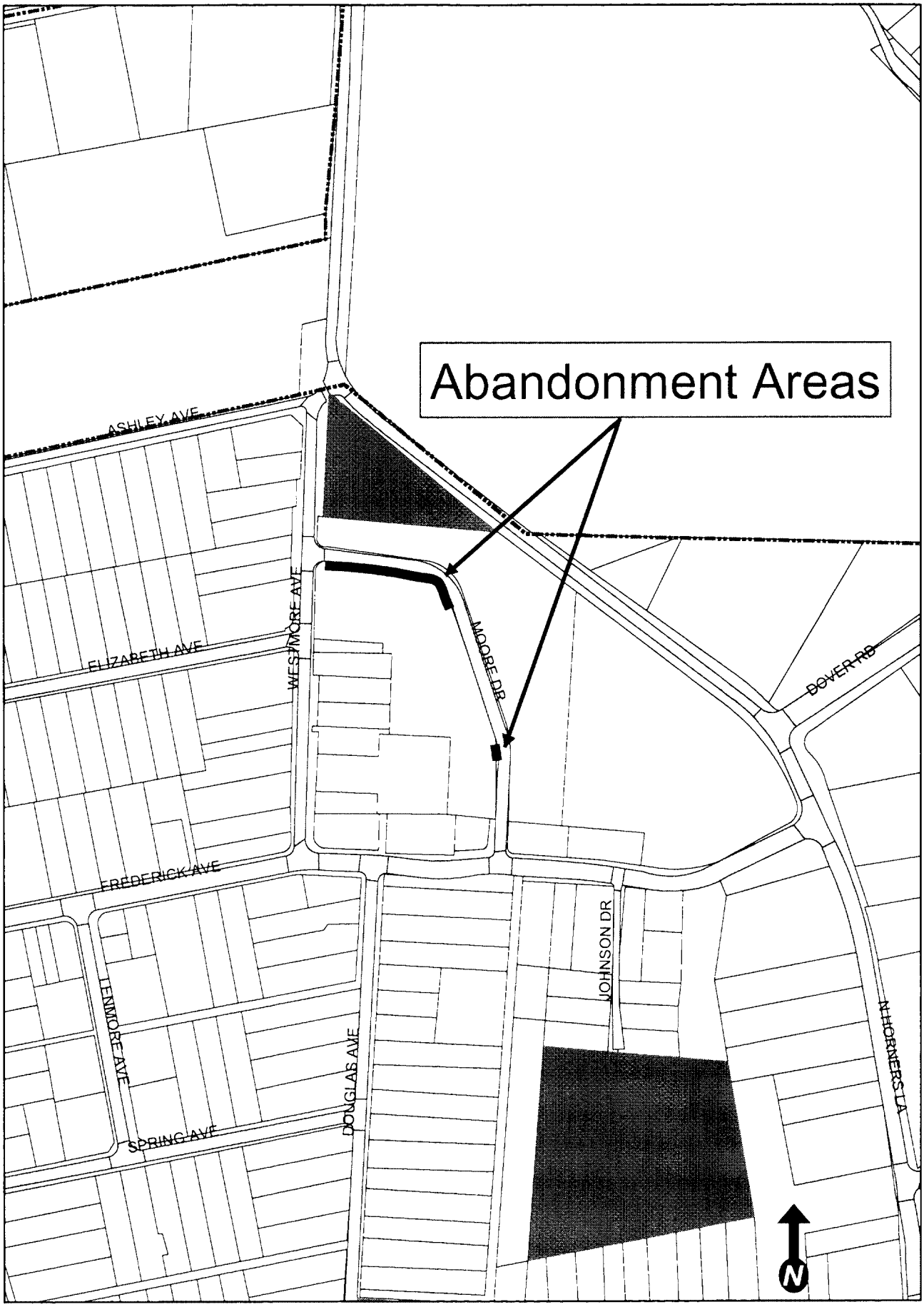
Attachment 2



City of Rockville

MEMORANDUM

June 9, 2005

TO: Mayor and Council

FROM: Planning Commission

SUBJECT: Recommendation on Street Closing and Abandonment application SCA2005-00093, Lincoln Terrace, MCU, LLC, Applicant

At its meeting of June 8, 2005 the Planning Commission reviewed the above referenced street abandonment application. The areas involved are a portion of right-of-way of Moore Drive east of Westmore Avenue and a second smaller portion near the southern curve of Moore Drive.

The Planning Division Staff report recommended approval of the application as being necessary for the ultimate development of Lincoln Terrace project.

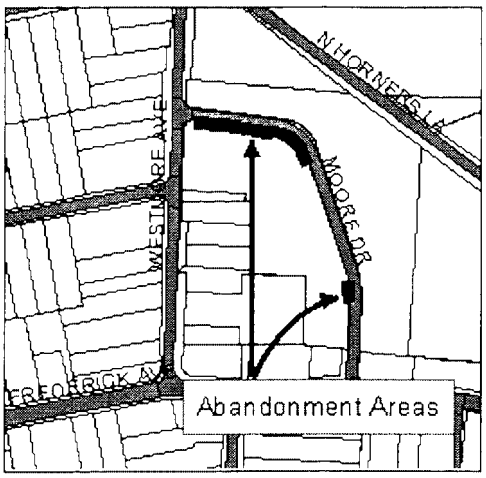
The Planning Commission received comments from the Planning staff and from the applicant. No other comments were received.

The Planning Commission is in agreement with the planning staff recommendation. Therefore the Planning Commission, on motion of Commissioner Johnson, seconded by Commissioner Holtz, recommends approval of the proposed street abandonment by a vote of 5 to 0 with two members absent.

ATTACHMENT 4

CITY OF ROCKVILLE PLANNING DIVISION
STAFF REPORT

June 8, 2005



SUBJECT: Road Abandonment Application SCA2005-00093

Applicant: Lincoln Terrace, MCU, LLC
8403 Colesville Road, Suite 400
Silver Springs, MD 20850

Owner: Rockville Housing Enterprises

Date Filed: April 26, 2005

Public Hearing: June 20, 2005

Location: Moore Drive along the southern edge of the right-of-way east of the Westmore Avenue intersection and on the west side of the southern curve of Moore Drive. (pleases see map)

REQUEST:

The applicant requests the abandonment of portions of the right-of-way for Moore Drive between Westmore Avenue and Fredrick Avenue.

STAFF RECOMMENDATION: Approval

ANALYSIS

Property Description

Application SCA2005-00093 proposes the abandonment of portions of the right-of-way for Moore Drive. One of the portion begins just east of Westmoore Avenue, on the south side, which continues just past the northern curve of Moore Drive. A small portion of right-of-way for Moore Drive between Westmore Avenue and Fredrick Avenue will also be abandoned. The abandonment is needed to allow for changes in the alignment of the roadway and to provide drainage improvements for the approved Lincoln Terrace PRU.

Project Proposal

SCA2004-00093 proposes to abandon the right-of-way along the south and west side of Moore Drive to allow for the alignment of the right-of-way to be shifted. The larger portion of the abandonment is just east of Westmore Avenue on the south side and goes just past the northern curve of Moore Drive. A smaller portion will be abandoned on the west side of Moore Drive near the southern curve. The area encompasses a total land area of 3,606 square feet or 0.0829 acres. The abandonment will convert the abandoned portions of the right-of-way from public to private land in connection with the

redevelopment of the property located on both sides of Moore Drive. The abandonment will help provide drainage improvements and realignment of the right-of-way that is consistent with the approved Exploratory Plan and Detailed Application.

CONCLUSION

Staff recommends approval of the proposed abandonment. The area is surrounded by the applicant's own property and the changes will not have any negative effect on the adjacent community.

Attachment 5

RECEIVED
CITY CLERK'S OFFICE
2005 APR 26 PM 2:22

**APPLICATION TO CLOSE
AND ABANDON
PUBLIC WAY
ROCKVILLE, MARYLAND**

NOTICE This application must be typewritten or printed and filed in duplicate, with attachments, in the office of the City Clerk.

TO BE FILLED IN BY THE CLERK:

Application No: SCA2005-00093

Filing Date: April 26, 2005

Hearing Date: 7/11/05 ??

Decision and Date: _____

Lincoln Terrace, MCU, LLC
Name of Applicant

8403 Colesville Road, Suite 400
Street Address

Silver Spring, Maryland 20910
City State Zip Code

301.562.1600
Telephone No.

The undersigned hereby makes application with the Mayor and Council of Rockville, Maryland, for the permanent closing and abandonment of the public way described herein, and in support of such application supplies the following information:

(a) The name and address of the undersigned are as indicated above.

(b) The public way which is the subject of this application is generally described by name and United States Post Office numbering or intersecting streets as follows: Moore Drive intersecting Westmore Avenue (see attached description on Schedule "A")

(c) The interest of the undersigned in such public way is as follows:

Rockville Housing Enterprises (The Housing Authority of the City of Rockville) is the owner of the property located on both sides of Moore Drive and has authorized the Applicant to submit applications associated with the redevelopment of its property.

(d) The reasons for making such application are as follows:

Pursuant to Condition No. 6 of Resolution No. 3-05, this application is being submitted for a street closing and abandonment for those portions of Moore Drive which will be converted from public to private land in connection with the redevelopment of the property located on both sides of Moore Drive.

(e) **A description by metes and bounds of the public way which is the subject of this application is as follows:**

See attached description on Schedule "A".

(f) According to assessment records, all of the owners of real property immediately adjacent to the public way, which is the subject of this application, are as follows:

Name	Address
1. Rockville Housing Enterprises (The Housing Authority of the City of Rockville)	621 A Southlawn Lane Rockville, Maryland 20850

Yum Yu Cheng
Signature of Attorney
By: Linowes and Blocher LLP
Yum Yu Cheng

Signature of Applicant

By: Lincoln Terrace MCU, LLC
By: Mid-City Urban, LLC,
Its Manager
By: William M. Harvey
Executive Vice President

Subscribed and sworn to before me this 21st day of April 2005.

Notary Public
My Commission Expires: December 19, 2006

ALUANDA R. DRAIN
NOTARY
PUBLIC
MONTGOMERY CO., MD

Apex No. 150034
March 23, 2005

SCHEDULE "A"

DESCRIPTION OF VACATION OF A PORTION OF MOORE DRIVE

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Said strips or parcels of land containing a total of 3,606 square feet or 0.0829 acres of land, as shown on Exhibits "A and B" as parts one and two, attached hereto and made a part hereof by this reference.

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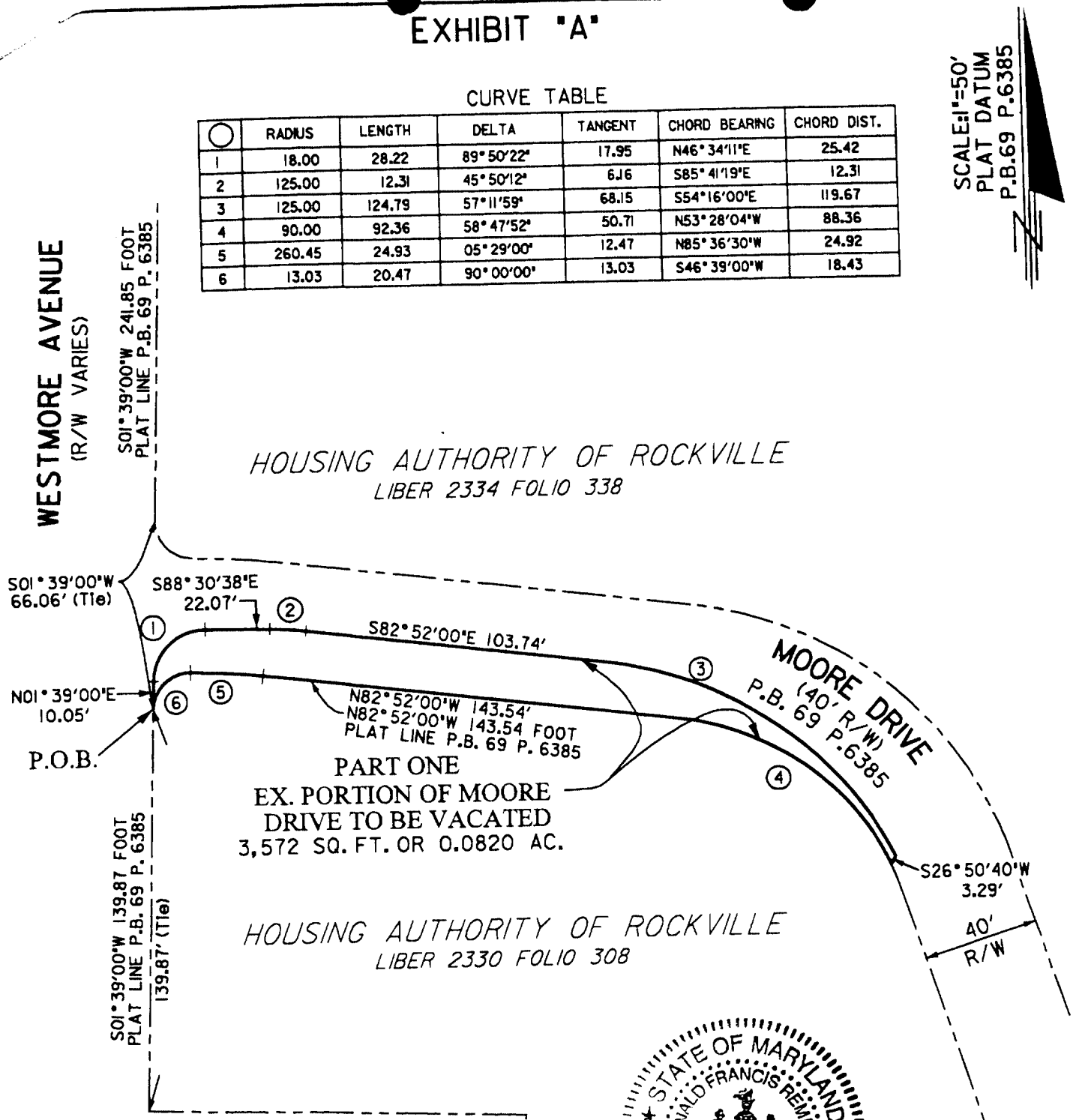

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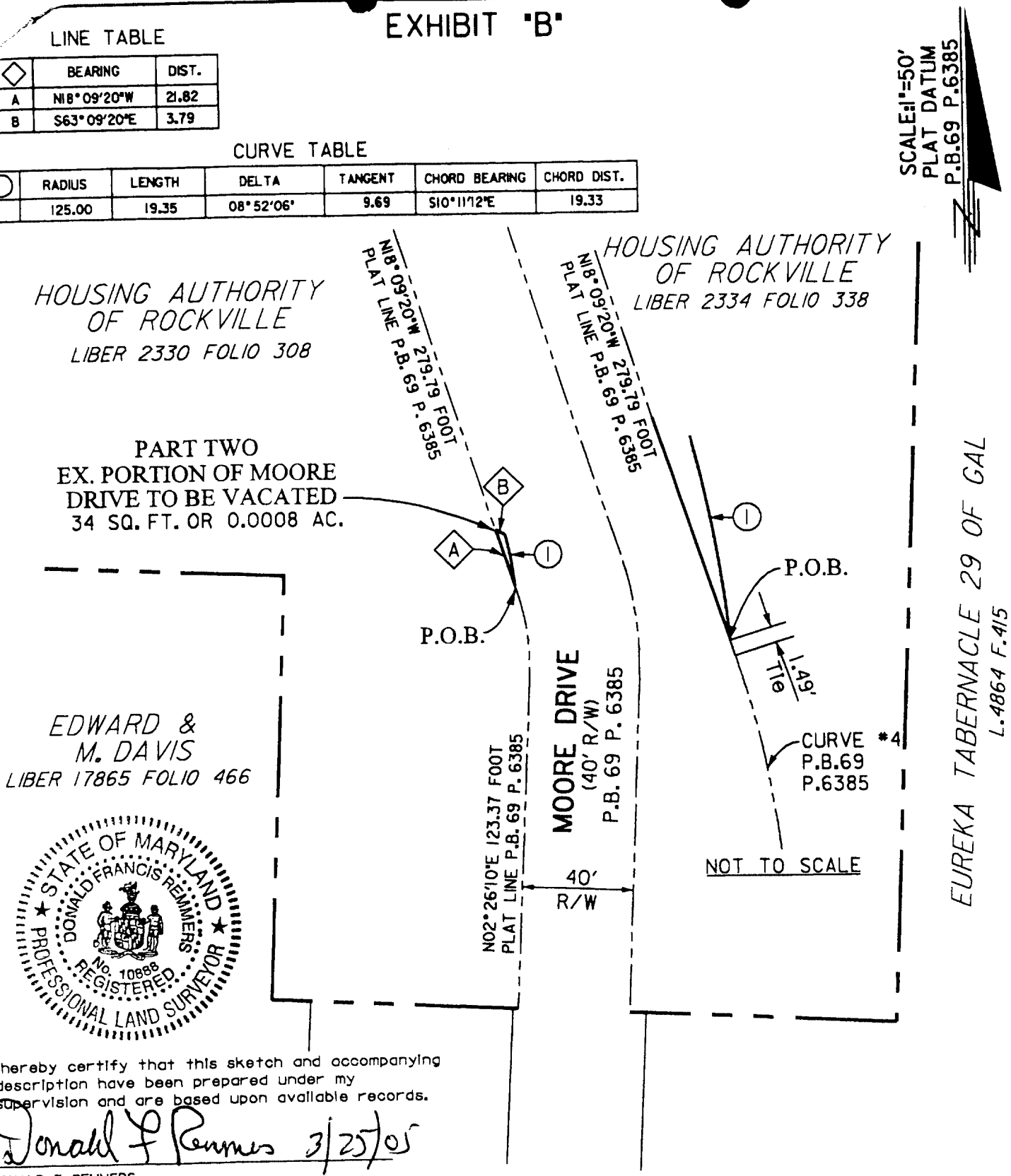

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