

100TH REGULAR SESSION AND WORK SESSION – May 26, 2020

In response to the Mayor’s declaration of a Civil Emergency, this Mayor and City Council meeting was held virtually.

Mayor and City Council members and meeting participants were provided with a specific meeting ID prior to the meeting. This meeting ID is required in order to join the meeting as a participant.

The meeting was streamed live through the City of Hagerstown’s Cable Channel 25, Facebook, and YouTube accounts. All members of the public were welcome to view meetings through these platforms, but only able to participate in public meetings virtually.

WORK SESSION – May 26, 2020

Mayor R. E. Bruchey, II called Work Session of the Mayor and City Council to order at 6:01 p.m., Tuesday, May 26, 2020 in the Council Chamber at City Hall. Participating with the Mayor were Councilmembers K. B. Aleshire (remotely), A. Heffernan (remotely), E. Keller (remotely), L. C. Metzner (remotely), and S. McIntire (remotely), City Administrator Scott A. Nicewarner, and City Clerk D. K. Spickler.

On a motion duly made, seconded, and passed, the Mayor and City Council unanimously agreed to suspend the Rules of Procedure as to subsections 6.1, 6.2, and 6.4.

Proposed Next Steps for CDBG-CV CARES Act Funding

Jonathan Kerns (remotely), Community Development Manager, reviewed CDBG-CV CARES Act Funding with the Mayor and City Council.

In early April, the City received written correspondence from the U.S. Department of Housing and Urban Development (HUD) regarding a special allocation of “CDBG-CV” funding being awarded to the City in the amount of \$ 472,845. This CDBG-CV funding was a result of the Federal CARES act legislation in response to the COVID-19 pandemic. The CARES Act legislation did include some high level guidance on requirements for CDBG-CV funding and the HUD Baltimore Field Office has provided staff intermediate guidance on the regulatory aspects of this special funding. This funding must be used via standard CDBG activities to prevent, prepare for, or respond to the COVID-19 pandemic. These activities still must meet CDBG national objective requirements with the primary national objective being a benefit to low/moderate income citizens. Finally, formal CDBG-CV requirements are still in process at this time.

Even without final HUD guidance on CDBG-CV, staff believe enough official information has been provided by HUD to begin certain administrative actions to utilize this funding for the community as soon as possible. Based on communication with the HUD Baltimore Field Office and research on planned CDBG-CV programming being developed by other CDBG entitlement communities, staff recommend targeting CDBG public service activities carried out via non-profit organizations to meet the HUD

required objective of benefiting low/moderate income citizens. All public service programs utilizing CDBG-CV would still need to follow other typical CDBG guidelines AND would need to have a direct relation to the COVID-19 pandemic. A critical HUD regulatory waiver already approved for the CDBG-CV funding is the elimination of the 15% CDBG public services cap for the current fiscal year and next fiscal year.

As the next step, the City would need to advertise an application period seeking CDBG-CV funding requests from non-profit providers who would be carrying out these services to assist low/moderate income clientele for pandemic related services such as:

1. Renter utility and/or rent relief payments (up to three months) for low/moderate income households renting within the City of Hagerstown. Clients would need to prove pandemic related hardship causing rent payment delinquency.
2. Homeless services or homeless prevention related to pandemic hardship
3. Healthcare services for low/moderate income citizens directly related to COVID-19
4. Food assistance programs for low/moderate income citizens related to pandemic hardship

Staff have assembled draft application materials for this funding and are ready to begin seeking CDBG-CV public service applications if the Mayor and City Council agree to move forward with the recommendations. Applications would likely be due in June and from there, staff would perform eligibility reviews and assemble CDBG-CV public service funding scenarios for Mayor and City Council review. The process would be similar, but abbreviated, when compared to the standard CDBG public service funding application process that occurs each December/January.

Staff are also researching the possibility of creating a CDBG-CV microenterprise business assistance program. This program would assist small businesses with five total employees or less and the business owner(s) would need to be part of a low/moderate income household. Staff is still awaiting HUD guidance on this type of program to ensure it does not duplicate efforts of other federal CARES Act funding possibly coming to the community for similar business assistance programming. Staff can continue to explore and/or develop a CDBG-CV microenterprise assistance program or other programs as they move forward while also starting the public service application process for CDBG-CV funding is possible.

Councilmember Heffernan has no objections to hearing from non-profit organizations how they would like to use this funding. He noticed the CDBG guidelines include buildings for public service as an eligible use. One of the biggest complaints prior to the pandemic was the lack of services for the homeless population and lack of public restrooms. He has received reports of having to clean up human waste in front of businesses and in the parking deck. He asked if construction of public restrooms with some of this funding.

Councilmember McIntire believes individuals who are facing foreclosure or need other assistance who aren't part of established programs will apply for this funding.

Funding is needed for these individuals as well. They should be directed to the non-profit organizations so they are able to apply.

Mayor Bruchey agrees that CDBG funding can be used for public services, such as restrooms. He pointed out location of a police substation at the Alms House has been discussed and this may be a good use of the public services eligibility.

Mr. Kerns stated this funding has to be for services/expenses directly related to the pandemic. Most of the funding is being used for health care needs. He noted items listed in the packet memo are for some of the best practices and are not the only eligible uses.

Councilmember Metzner asked if this funding can be prioritized for utility relief. Mr. Kerns stated staff can move in that direction if the Mayor and City Council feel that is a priority. Mr. Nicewarner stated the Community Action Council or another agency would be a better conduit for funds for utility relief. The City should not be in a position where it appears they are paying themselves with pandemic relief funds.

Mayor Bruchey reminded everyone that other CARES Act funding is coming to Washington County as well. Of the \$ 26 million, half will be going directly to the Washington County Health Department. The other half will be available to businesses.

It was the general consensus to move forward with the next steps for this funding. Proposed next steps include sending out a notice to the community non-profit organizations that funding for detriments from the coronavirus is available. Recipients have to serve CDBG eligible households. The funding is also open to services that are health care related and providing homeless assistance.

A break was taken at 6:25 p.m.

100th Regular Session- May 26, 2020

Mayor R. E. Bruchey, II called this 100th Regular Session of the Mayor and City Council to order at 7:02 p.m., Tuesday, May 26, 2020, in the Council Chamber at City Hall. Participating with the Mayor were Councilmembers K. B. Aleshire (remotely), A. Heffernan (remotely), E. Keller (remotely), L. C. Metzner (remotely), and S. McIntire (remotely), City Administrator Scott A. Nicewarner, City Attorney Jason Morton (remotely), and City Clerk D. K. Spickler.

The invocation was offered by Mayor R. E. Bruchey, II. The Pledge of Allegiance was recited and led by Mayor R. E. Bruchey, II.

On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember S. McIntire, the Mayor and City Council unanimously agreed by voice vote to suspend the Rules of Procedure as to subsections 6.1, 6.2, and 6.4.

Mayor Bruchey announced the Rules of Procedure for this meeting will be followed as effective January 21, 2020. It was announced that the use of cell phones during meetings is restricted and that all correspondence for distribution to elected officials should be provided to the City Clerk and should include a copy for the City Clerk for inclusion in the official record.

The next scheduled meetings are: Work Sessions beginning at 4:00 p.m. on Tuesday, June 9, 2020, and Tuesday, June 16, 2020, and the Regular Session on Tuesday, June 23, 2020 at 7:00 p.m. There is no meeting on Tuesday, June 2, 2020, which is Primary Election Day. There is no meeting scheduled for Tuesday, June 30, 2020.

COVID-19 Update

Scott Nicewarner, City Administrator, reported the Washington County Commissioners approved the application process for the CARES Act funding for the \$ 13 million of business assistance. He hopes to have timeline information for the process and applications tomorrow. He is looking forward to getting the process started as soon as possible.

Staff continues to hope the pool can be opened sometime in June.

There may be clearer direction for this area from Governor Hogan tomorrow.

The City Farmers' Market had a successful weekend.

Councilmember Keller has reviewed the guidelines for the small business grants. She does not think tattoo shops should be excluded. Mr. Nicewarner will mention this during the review meeting tomorrow.

APPOINTMENTS

On a motion duly made by Councilmember L. C. Metzner and seconded by Councilmember S. McIntire, the Mayor and City Council unanimously agreed to make the following appointments to the Bicycle Advisory Board:

Jamie Boward, Term to Expire June 1, 2022
Sean Guy, Term to Expire June 1, 2022
Mike Mittel, Term to Expire June 1, 2022
John Munns, Term to Expire June 1, 2022

GUESTS

Mayor Bruchey welcomed Maryland Municipal League's "If I Were Mayor" Essay Contest winners to the meeting.

The Mayor selected Hayley Akinwande, from Paramount Elementary School, Shayla Z. Iargadas, from Jonathan Hager Elementary School, and Allison Trumble, from Emma K. Doub Elementary School, as the Mayor's Choice Award recipients.

Hayley Akinwande and Allison Trumble attended the meeting and read their essays. They then assisted in leading the meeting.

CITIZEN COMMENTS

Citizen Comments were accepted by email at councilcomments@hagerstownmd.org prior to 5:00 p.m. on Tuesday, May 26, 2020.

Donna Spickler, City Clerk, reported one Citizen Comment was submitted by the deadline. Cheryl and Chuck Ramsburg, 500 Highland Way, Hagerstown, Maryland submitted comments regarding Quit Claims for Alley 2-57A.

Their summary follows:

"Quit Claims for Alley 2-57A were approved at the last Regular Session meeting of the Mayor and City Council without the City of Hagerstown providing proof of ownership of the land quit claimed to be transferred to property owners, or providing proof of an existing interest in a utility easement that could be retained by the City of Hagerstown. Also, the drawings that were provided by the Engineering Dept. with the quit claims provided an inaccurate representation of the property boundaries included in the quit claims and failed to reflect the original plat 110 of Hilliard Place on which they were supposedly based."

A copy of the email is made a part of this record.

MINUTES

On a motion duly made by Councilmember A. Heffernan and seconded by Councilmember E. Keller, the minutes from April 7, 2020, April 14, 2020, April 21, 2020, and April 28, 2020 were unanimously approved as presented.

CONSENT AGENDA

On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember L. C. Metzner, the Consent Agenda was approved as follows:

- A. Human Resources Department:
 - 1. Worker's Compensation Self-Insurance TPA Services – PMA Management Corporation (Blue Bell, PA) \$ 20,000.00
 - 2. Worker's Compensation Security Deposit Bond Continuous Bond – Safety National Casualty Corporation (St. Louis, MO) \$ 38,100.00
 - 3. Excess Workers' Compensation Liability Insurance – Safety National Casualty Corporation (St. Louis, MO) \$ 170,960.00
 - 4. Specific Stop Loss Insurance Annual Premium – Tokio Marine HCC (Wakefield, MA) \$ 152,747.00
 - 5. City Sponsored Life Insurance – Hartford Life & Accident Insurance Co., (Hartford, CT) \$ 47,962.00
 - 6. Dental Insurance Administration – UCCI (Hunt Valley, MD) \$ 43,362.00
 - 7. Administration of Medical Coverage – United HealthCare (Chicago, IL) \$ 311,753.00

- B. Department of Information & Technology:
 - 1. Hosting and Software Support Agreement – Kaseya US LLC (New York, NY) \$ 14,250.77

- C. Department of Parks and Engineering:
 - 1. Miscellaneous Architectural/Structural/Mechanical Engineering Services – Newcomer Associates (Chambersburg, PA) & MSB Architects (Hagerstown, MD) On Retainer

- D. Utilities Department:
 - 1. Wastewater – Muffin Monster for Pump Station No. 8 – JWC Environmental (Santa Ana, CA) \$ 17,523.05
 - 2. Wastewater – Addition of Lab to Control Room in Pelletizing Facility – Synagro WWT, Inc. (Baltimore, MD) \$ 22,646.95
 - 3. Water – Lagoon Cleaning and Maintenance – Synagro Central LLC (Baltimore, MD) \$ 160,000.00

UNFINISHED BUSINESS

A. Approval of an Ordinance: Deed and Easement Agreement with Seven Hundred Frederick Street LLC

Action: On a motion duly made by Councilmember S. McIntire and seconded by Councilmember A. Heffernan, the Mayor and City Council unanimously agreed by voice vote to approve an ordinance authorizing the execution of a deed and easement agreement with Seven Hundred Frederick Street LLC. For no financial consideration, this easement will allow the City to improve the sidewalk on the southeast corner of Frederick Street and Eastern Boulevard and move the curb line back to better accommodate truck traffic.

NEW BUSINESS

A. Introduction of an Annexation Resolution: Annexation Case No. A-2020-05: Thomas Bennett Hunter; and Other Lands

Action: On a motion duly made by Councilmember S. McIntire and seconded by Councilmember E. Keller, the Mayor and City Council unanimously agreed by voice vote to introduce an annexation resolution for annexation Case No. A-2020-05 known as “Pre-Annexation Agreement Case No. WS-2015-07 Thomas Bennet Hunter; and Other Lands.” The portion of property to be annexed is approximately 21.15 acres in size and is intended to be added to and made part of the adjacent municipal lands.

B. Approval of Annexation Plan: Case No. A-2020-05: Thomas Bennett Hunter; and Other Lands

Action: On a motion duly made by Councilmember A. Heffernan and seconded by Councilmember S. McIntire, the Mayor and City Council unanimously agreed by voice vote to approve an annexation plan for Annexation Case No. A-2020-05 known as “Pre-Annexation Agreement Case No. WS-2015-07 Thomas Bennett Hunter; and Other Lands.” The portion of property to be annexed is approximately 21.15 acres in size and is intended to be added to and made part of the adjacent municipal lands.

C. Introduction of an Ordinance: To Establish a Deed of Easement 9238 Sharpsburg Pike – Public Safety Training Center

Action: On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember S. McIntire, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance to approve a deed of easement between the Board of County Commissioners of Washington County Maryland to grant and convey a perpetual and permanent easement for the water service at 9238 Sharpsburg Pike as described in the ordinance and supporting documents.

D. Introduction of an Ordinance: City of Hagerstown Comprehensive Rezoning, Case No. ZM-2019-01

Action: On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember E. Keller, the Mayor and City Council unanimously agreed by voice vote to introduce an ordinance for a Zoning Reclassification and Zoning Map amendments, Case No. ZM-2019-01, to rezone those areas which are associated with the Comprehensive Rezoning, based on the 2018 Comprehensive Plan. A chart and map are attached to and made part of this ordinance.

E. Approval of a Resolution: Grant Agreement with the Maryland Energy Administration

Action: On a motion duly made by Councilmember E. Keller and seconded by Councilmember A. Heffernan, the Mayor and City Council unanimously agreed by voice vote to approve a resolution authorizing the City to enter into a grant agreement with the Maryland Energy Administration. The grant will be used for energy efficiency improvements by replacing 47 light fixtures with LED fixtures in six city parks. The grant amount is \$ 30,212 and will be matched with \$ 7,553 by the General Fund or City Light Fund.

F. Approval of a Resolution: Approval of a Cooperation and Service Agreement with PayByPhone Technologies, Inc.

Action: On a motion duly made by Councilmember S. McIntire and seconded by Councilmember K. B. Aleshire, the Mayor and City Council unanimously agreed by voice vote to approve a resolution authorizing the City to enter into a Cooperation and Service Agreement with PayByPhone Technologies, Inc. to provide wireless payment applications to enhance the payment process for metered parking stalls. The initial term of the agreement is three (3) years.

G. Approval of Life Safety Infrastructure Grant Program

Action: On a motion duly made by Councilmember K. B. Aleshire and seconded by Councilmember S. McIntire, the Mayor and City Council unanimously agreed by voice vote to approve the Life Safety Infrastructure Grant Program to incentivize significant redevelopment projects within Hagerstown's City Center Mixed Use Zoning District. The program will provide grants to defray water service infrastructure costs directly associated with fire suppression system installations and upgrades. Applicants shall be awarded the grants based on eligibility criteria that will determine if an applicant qualifies. This program will be funded with \$ 125,000 sourced from State of Maryland Strategic Demolition grant funding. All application and guideline forms are attached with the motion.

H. Approval of Actuary Assumptions for Other Post-Employment Benefits (OPEB)

Action: On a motion duly made by Councilmember E. Keller and seconded by Councilmember A. Heffernan, the Mayor and City Council unanimously agreed by voice vote to approve a change in actuary assumptions for the City's Other Post-Employment Benefits (OPEB) effective 07/01/2019. These policies are renewed annually:

1. Change the discount rate and investment rate from 7.50% to 7.25%
2. Change mortality table to the Society of Actuaries Issued Pub-2010 Public Retirement Plans mortality table

CITY ADMINISTRATOR COMMENTS

Scott Nicewarner, City Administrator, reported he contacted Ms. Thompson regarding the exclusion of tattoo shops in the CARES Act funding. Tattoo shops were excluded locally due to language prohibiting them in the Federal package. He is pleased to report that tattoo shops are now eligible to apply for the local CARES Act funding.

He thanked the Mayor and City Council for allowing he and his family to participate in the wreath laying activities in recognition of Memorial Day. Visiting these sites is important to remember those who have served this country.

MAYOR AND CITY COUNCIL COMMENTS

Councilmember K. B. Aleshire had no additional comments.

Councilmember A. Heffernan had no additional comments.

Councilmember E. Keller congratulated the winners of the If I Were Mayor contest and thanked them for their great ideas. She thanked Mr. Nicewarner for how he responded to a complaint by a citizen recently.

Councilmember L. Metzner complimented Mayor Bruchey on his excellent choice of contest winners.

Councilmember S. McIntire thanked the two assistant Madam Mayors for their help today. They both did a fantastic job leading the meeting.

Mayor R. E. Bruchey, II read Shayla Iargardas's If I Were Mayor Contest essay. Ms. Iargardas was not able to attend the meeting today.

He is excited about the new economic incentive that will be released soon for small businesses. He hopes this program and the CDBG relief funds will help businesses, restaurants, and non-profit organizations reopen with a smooth transition. Announcements will be made when the application process is open.

There being no further business to come before the Mayor and City Council, on a motion duly made, seconded and passed, the meeting was adjourned at 7:39 p.m.

Respectfully submitted,

Original signed by D. K. Spickler

Donna K. Spickler
City Clerk

Approved: June 23, 2020

Donna Spickler

From: cherylransburg <
Sent: Tuesday, May 26, 2020 5:10 PM
To: Council Comments
Cc: afitzpatrick@herald-mail.com
Subject: Approval of Quit Claims for Alley 2-57A on Tuesday, April 28, 2020
Attachments: Lot 15 Deed 121.5 feet northern boundary.pdf; Lot 15 Deed measurements.pdf; Proposed division for Lot 15 all measurements labeled.pdf; Lot 16 Deed 129.1 feet southern boundary.pdf; Lot 16 Engineering Dept measurements.pdf; Lot 16 not all measurements labeled.pdf; Proposed division for Lot 16 not all measurements marked on drawing.pdf; Original Plat 110 Hilliard Place Best Image Available from Poor Quality Original Plat 110.pdf; Original Plat 110 Hilliard Place closeup of Lot 17 Looks like a straight line alley.MHT; Plat Book Plat 110 Hilliard Place measurements for Lot 16.pdf

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Summary of information provided as council comments for the Regular Meeting of the Mayor and City Council, May 26, 2020:

Quit Claims for Alley 2-57A were approved at the last Regular Session Meeting of the Mayor and City Council without the City of Hagerstown providing proof of ownership of the land quit claimed to be transferred to property owners, or providing proof of an existing interest in a utility easement that could be retained by the City of Hagerstown. Also, the drawings that were provided by the Engineering Dept. with the quit claims provided an inaccurate representation of property boundaries included in the quit claims and failed to reflect the original plat 110 of Hilliard Place on which they were supposedly based.

Cheryl & Chuck Ramsburg
500 Highland Way
Hagerstown, Maryland 21740

-----Original Message-----

From: cheryl ransburg
To: KAleshire@hagerstownmd.org <KAleshire@hagerstownmd.org>; AHeffernan@hagerstownmd.org <AHeffernan@hagerstownmd.org>; SNicewarner@hagerstownmd.org <SNicewarner@hagerstownmd.org>
Sent: Tue, May 26, 2020 10:15 am
Subject: Re: Vote

Mr. Aleshire,

Your email response did not address the questions I raised about the treatment we have received from the COH in the past two years, the procedures and city codes that were not followed, the inconsistencies that need to be investigated regarding the surveys and drawings that were provided with the quit claims, and the issues raised going forward regarding the perpetual utility easement retained by the COH, for which it hasn't proven it currently has an interest thus being able to retain an interest, and the issuing of fencing permits across land which the COH hasn't proved it currently owns in fee simple in which to transfer an interest to the property owners to include in their property deeds. I agree that the quit claims were, at best, a ceremony transferring a non interest to the property owners, but the ramifications of such a ceremony still need to be addressed.

We do have issues regarding our property that need to be addressed:

The replacement of the split rail fence preventing the thoroughfare between Highland Way and City Park Driveway. The fencing that was removed and needs to be replaced is outside of the perimeter of the quit claims for Alley 2-57A. The COH has replaced other split rail fencing immediately, but refuses to honor our request for more than a year and a half.

The measurements that were used in the drawings submitted with the quit claims for Alley 2-57A are inaccurate. The measurements affect the curvature of Alley 2-57A between our property and the property at 550 Highland Way and the property boundaries for Lots 15 and 16 that are assumed by the property owners to represent the boundaries of their properties.

I am attaching documents that reflect the inconsistencies. Lot 15 has a northern boundary of 121.5 feet and Lot 16 has a southern boundary of 129.1 feet which is a difference of 7.6 feet for the same boundary. Lot 16 has a northern boundary of 108 feet, but was given a boundary of 117.82 feet in the COH drawing which is a difference of 9.82 feet. Lot 16 has a circular boundary of 53.65 feet instead of 50 feet and an alley boundary of 40.17 feet instead of 33.5 feet which is a difference of 6.67 feet.

The COH has referenced Plat 110 for Hilliard Place which defines these measurements as 121.5 feet and 108 feet respectively. The city surveyor, Jeff Swan, responded in an email that tax map 21 reflected a "drafting error" and the error on the tax map would be corrected and updated after the quit claims. I agree that there is an error that need to be investigated and corrected before anything is updated.

Two surveys were conducted and referenced in the COH drawings for the quit claims, dated Oct 9, 2018 and March (no day) 2019, and we are requesting copies of those two surveys. We have not received an answer as to why two surveys were conducted for the same area or needed to be used for the drawings. The area identified is a 12' strip of land, not a 10' strip, which is identified on the drawings you received regarding the quit claims.

Maybe if the COH hadn't acted in the reckless manner it has for the past two years, ignoring procedures, city codes and issuing fencing permits and quit claims without properly investigating ownership beforehand, it would just be a civil matter between two neighbors.

Cheryl

-----Original-----

From: Kristin Aleshire <KAleshire@hagerstownmd.org>
To: cheryl ramsburg

Sent: Mon, May 4, 2020
Subject: Re: Vote

Thank you for refreshing my recollection of initial discussion. As I conveyed in my most recent email, which is consistent with my initial comments, I continue to question if the City has actual deed title right to make any determination on the space in question. I still believe this would require some additional; legal legwork of title research and then from that point direction to proceed. However, if all property owners appear willing to accept property back from the City which I continue to question really owns it to give it back in the first place, and thereby this give back has not direct bearing on adjoining property owners, then the action may at best be ceremonial and at worst moot producing the same end result. I believe if there is some further challenge here it is a civil matter of disagreement between two private property owners and likely may have always been, as it applies to access of the 10' strip identified.

If there is some other specific indirectly related item the City could assist which directly affects your property and your property only, then I would certainly welcome hearing such request and carrying it forward. Otherwise, on this point, aside from being convinced this land in question in definitively the City's and even if so, those adjoining property owners are opposed to accepting it back, I am not sure how to remedy your position on this point.

Kristin

From: cheryl ramsburg
Sent: Thursday, April 30, 2020 6:20 PM
To: Kristin Aleshire

Subject: Re: Vote

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Mr. Aleshire,

Certainly because of the present circumstances limiting our ability to present our information, as we would have before the pandemic, we should have at least been given the courtesy by the City Council of tabling the approval. You couldn't even vote to second the motion to table, even if the others would have voted against the motion. If you weren't sure, then why didn't you give us the chance, even if it wouldn't have changed the outcome. The way this unfolded, Mayor Bruchey saying he was going to speak with you and not getting back to us, your lack of response to us, the Council Comment not being forwarded in a timely manner to City Council members, the citizen's comment summary by the City Clerk being a single sentence reflecting a seven page email appears to be more of the same and a coverup of city codes and procedures that were not followed in this issue.

This was not solely an issue about a couple of property owners determining to limit access to an alley, but the treatment of two property owners by employees of the City of Hagerstown and the Mayor and City Council. We informed you that we have found inconsistencies in the surveys and drawings that were submitted with the quit claims that need to be investigated. How can you justify excluding us from the quit claim of the alley when the quit claim procedure posted on the COH website by the City Engineer, Rodney Tissue and comments made by the Asst City Engineer, Jim Bender, at previous meetings regarding other paper alleys, that all property owners that adjoin or touch the alley need to approve? A "city street" doesn't exist, a driveway in the city park does. You are going to allow people to drive over city park property, land not part of the alley ROW, and onto City Park Driveway, but a public purpose doesn't exist for the alley. You are allowing the thoroughfare to be open between our properties, which is not part of the quit claims, and never was open in the previous hundred years. But, I am just reiterating what I have already shared and you have chosen to ignore with your decision. Your response is an insult and not worthy of a responsibility to us as taxpayers to make sure we are treated fairly by the process.

When is someone from the COH going to address our concerns in our seven page email submitted as citizens' comments regarding our treatment over the last two years by COH employees? What about the posted procedures that weren't followed? Or when will someone instruct the neighbor, or city employees, to replace the city split rail fence at the end of "our portion" of the alley to block the thoroughfare? There are personnel issues and requests for the replacement of fencing that go beyond the quit claim request.

Since it has been so time, I have included your emails from August and September 2018 for your reference.

Cheryl

-----Original Message

From: Kristin Aleshire <KAleshire@hagerstownmd.org>

To: cherylramsborg

Sent: Thu, Apr 30, 2020 1:17 pm

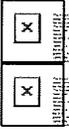
Subject: Re: Vote

Mr. Ramsburg,

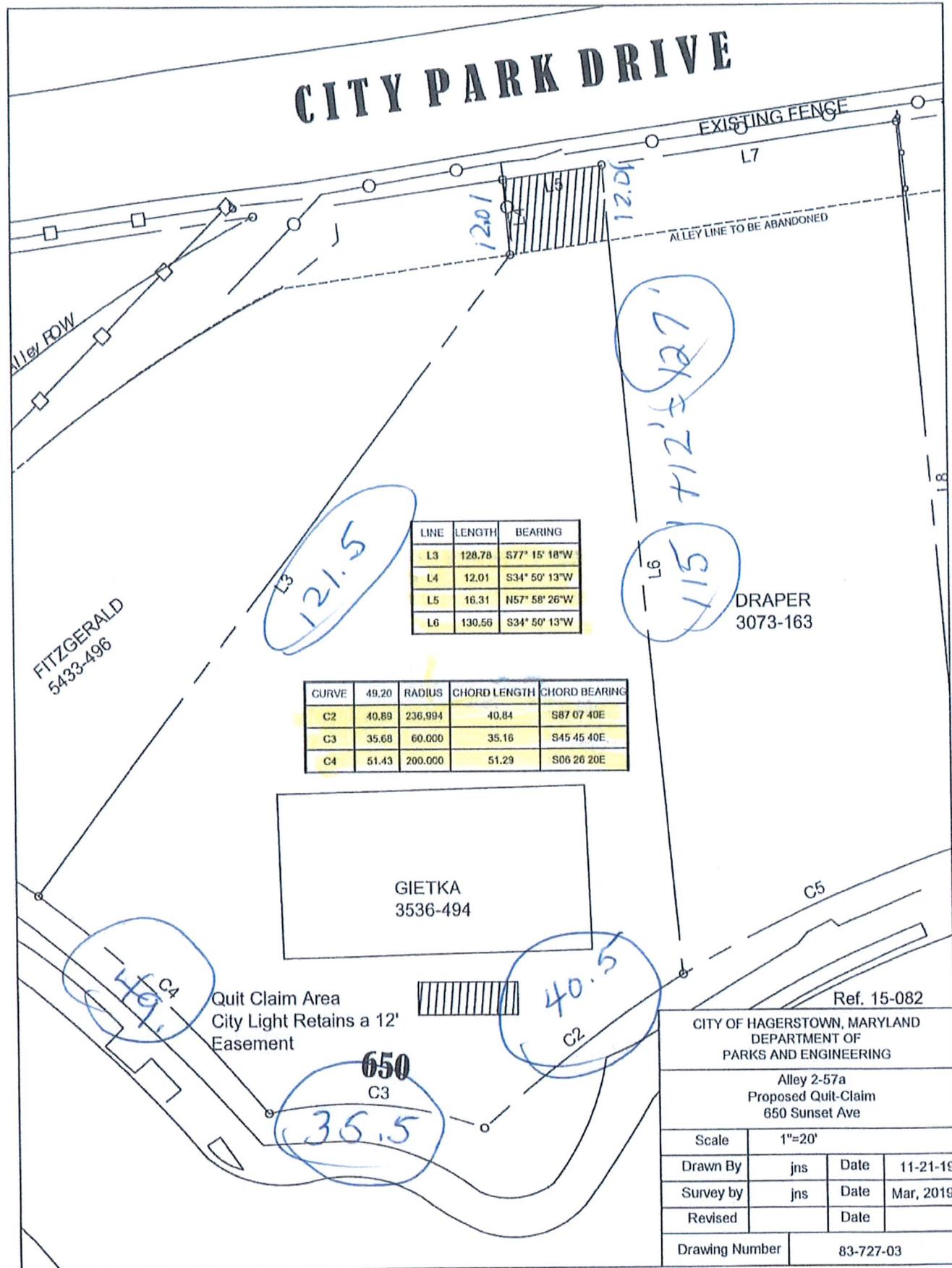
While it has been some time, I believe my conclusion at the time of our discussion was it appears since there is no documentation confirming acceptance of this easement area, it appears the "shared" access remains now and in my opinion, after such quit claim, in the hands of the respective property owners. It appears all property owners have agreed to wave continued need of this shared access, likely because, since its inception there is now a City street to accommodate that need, and clearly individual properties have fenced off and allowed the original easement area to become inaccessible for its original intended purpose. Thus, it remains my opinion its really not the City's to "give back" to the owners in the first place, but rather a civil matter between the owners over keeping it in place or not. While I am certainly not a lawyer, based on my experience in such examples this remains my position on the matter. I believe given a public rear access now exists, and all other owners agree to waiving the existing easement across such private properties for access, one would have difficulty in pressing opposition through legal recourse to retain it. I would venture it even more difficult to do so if you were an end property and portion of that area was not being considered as part of the claim. I'm not sure making my initial stance reheard by the Council would change the course, as it does not argue City authority over

preserving it, but rather questions City ability to grant it in the first place. then it truly becomes a private civil matter, and our action in either direction is moot.

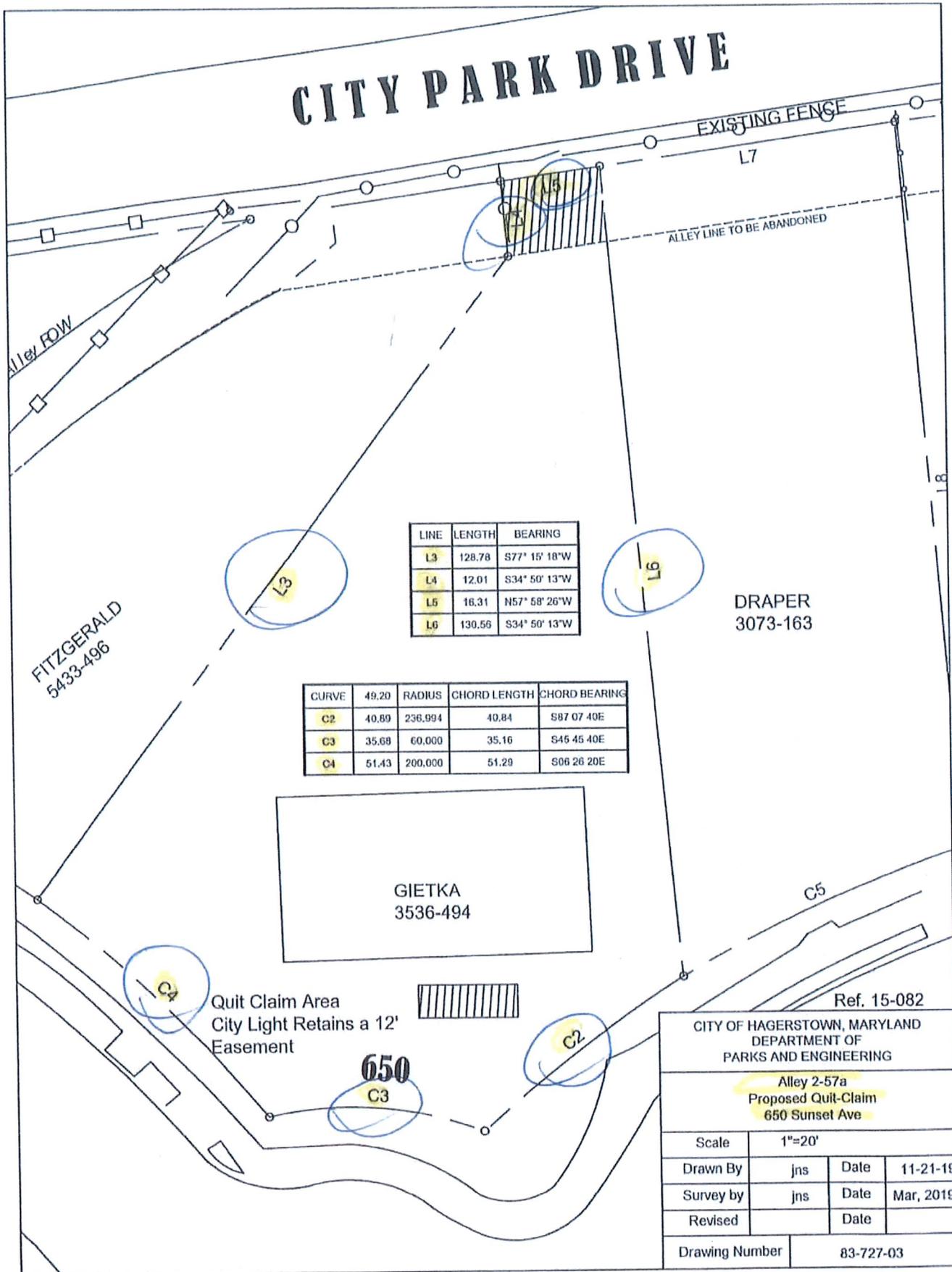
Kristin



CITY PARK DRIVE



650 Sunset Avenue - All dimensions are labeled



LINE	LENGTH	BEARING
L3	128.78	S77° 15' 18"W
L4	12.01	S34° 50' 13"W
L5	16.31	N57° 58' 26"W
L6	130.56	S34° 50' 13"W

CURVE	49.20	RADIUS	CHORD LENGTH	CHORD BEARING
C2	40.89	236.994	40.84	S87 07 40E
C3	35.68	60.000	35.16	S45 45 40E
C4	51.43	200.000	51.29	S06 26 20E

DRAPER
3073-163

GIETKA
3536-494

Quit Claim Area
City Light Retains a 12'
Easement

Ref. 15-082

CITY OF HAGERSTOWN, MARYLAND
DEPARTMENT OF
PARKS AND ENGINEERING

Alley 2-57a
Proposed Quit-Claim
650 Sunset Ave

Scale	1"=20'		
Drawn By	jns	Date	11-21-19
Survey by	jns	Date	Mar, 2019
Revised		Date	
Drawing Number	83-727-03		

Case No.: BA19738
Title Insurer: First American Title Insurance Company
Tax Account No.: 03-013456

Universal Title
6862 Elm Street, Suite 740
McLean, VA 22101

DEED

THIS DEED, made this 13th day of January, 2017 by and between Diane J Ballentine and Jon H Ballentine, Sr., parties of the first part, and Kelly C. Fitzgerald, party of the second part,

WITNESSETH, that in consideration of the sum of One Hundred Seventy Nine Thousand Five Hundred Dollars and No Cents (\$179,500.00), receipt of which is hereby acknowledged, and which the party(ies) of the first part certify(ies) under the penalties of perjury as the actual consideration paid or to be paid, including the amount of any mortgage or deed of trust outstanding, the said party(ies) of the first part do/does grant and convey unto the party(ies) of the second part, his/her personal representative, heirs and assigns, in fee simple, all that property situate in the County of Washington, State of Maryland, as described as follows:

SAID LOT having a frontage of 50 feet on the East side of said Highland Way, formerly known as Highland Avenue, and extending back therefrom in an eastwardly direction a distance of 108 feet on the northern side along a public alley and a distance of 129.1 feet on the southern side to an alley in the rear upon which said lot abuts with a width of 33.5 feet, and being known and designated as Lot No. 16 on the Plat of "Hilliard Place" as recorded in Plat Record folio 110, one of the records in the Office of the Clerk of the Circuit Court of Washington, County, Maryland.

BEING the same property conveyed to Jon H. Ballentine, Sr. and Diane J. Ballentine, as Tenants by the Entirety, from Robert S. Martin, Personal Representative of the Estate of H. Jane Martin by Warranty Deed dated December 1, 2000 and recorded on the 12th day of December, 2000 in Book 1616, Page 1060.

SUBJECT to covenants, easements and restrictions of record.

TO HAVE AND TO HOLD said land and premises above described or mentioned and hereby intended to be conveyed, together with the buildings and improvements thereupon erected, made or being, and all and every title, right, privileges, appurtenances and advantages thereunto belonging, or in anywise appertaining, unto and for the proper use only and benefit forever of said party(ies) of the second part in fee simple.

AND said party(ies) of the first part do/does hereby covenant to warrant specially the property hereby conveyed; and to execute such further assurances of said land as it may be requisite or necessary.

CLERK'S NOTATION
Original document
submitted for record in a
condition not permitting
satisfactory reproduction

TODD L. HERSHEY, TREASURER
TAXES PAID 2-3-17 pd

Case No.: BA19738
Page 2

WITNESS my/our hand(s) and seal(s) on the day and year first hereinbefore written.

Signed, sealed and delivered in the presence of,

Diane J Ballentine
Diane J Ballentine:

Jon H Ballentine Sr
Jon H Ballentine, Sr.:

STATE OF MD
COUNTY OF Baltimore City

On this 16th day of January, 2017 before me, the undersigned officer, personally appeared Diane J Ballentine and Jon H Ballentine, Sr. known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and being authorized so to do, acknowledged that he executed the same for the purposes therein contained.

In Witness Whereof, I have hereunto set my hand and official seal.

My Commission Expires: _____

Amin

Notary Public

AMIN KHAKPOURI
NOTARY PUBLIC
BALTIMORE CITY
MARYLAND
MY COMMISSION EXPIRES OCT. 1, 2020

ATTORNEY CERTIFICATION

I certify that this instrument was prepared under the supervision of an attorney admitted to practice before the Court of Appeals of Maryland.



Steven F. Furst, Esq.

GRANTOR ADDRESS:
930 Harwood Road
Hagerstown, MD 21740

GRANTEE ADDRESS:
550 Highland Way
Hagerstown, MD 21740

RETURN TO AFTER RECORDING:
Kelly C. Fitzgerald
550 Highland Way
Hagerstown, MD 21740

MARYLAND
FORM
WH-AR

**Certification of Exemption from Withholding Upon
Disposition of Maryland Real Estate Affidavit of
Residence or Principal Residence**

2016

Based on the certification below, Transferor claims exemption from the tax withholding requirements of §10-912 of the Tax-General Article, Annotated Code of Maryland. Section 10-912 provides that certain tax payments must be withheld and paid when a deed or other instrument that effects a change

in ownership of real property is presented for recordation. The requirements of §10-912 do not apply when a transferor provides a certification of Maryland residence or certification that the transferred property is the transferor's principal residence.

1. Transferor Information

Name of Transferor Diane J Ballentine

2. Reasons for Exemption

Resident Status

I, Transferor, am a resident of the State of Maryland.

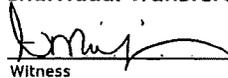
Transferor is a resident entity as defined in Code of Maryland Regulations (COMAR)03.04.12.02B(11), I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.

Principal Residence

Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC 121 (principal residence for 2 (two) of the last 5 (five) years) and is currently recorded as such with the State Department of Assessments and Taxation.

Under penalty of perjury, I certify that I have examined this declaration and that, to the best of my knowledge, it is true, correct, and complete.

3a. Individual Transferors


Witness

Diane J Ballentine

Name


Signature

3b. Entity Transferors

Witness/Attest

Name of Entity

By

Name

Title

MARYLAND FORM WH-AR

Certification of Exemption from Withholding Upon Disposition of Maryland Real Estate Affidavit of Residence or Principal Residence

Based on the certification below, Transferor claims exemption from the tax withholding requirements of §10-912 of the Tax-General Article, Annotated Code of Maryland. Section 10-912 provides that certain tax payments must be withheld and paid when a deed or other instrument that effects a change

in ownership of real property is presented for recordation. The requirements of §10-912 do not apply when a transferor provides a certification of Maryland residence or certification that the transferred property is the transferor's principal residence.

1. Transferor Information

Name of Transferor Jon H Ballentine, Sr.

2. Reasons for Exemption

Resident Status [checked] I, Transferor, am a resident of the State of Maryland.

[unchecked] Transferor is a resident entity as defined in Code of Maryland Regulations (COMAR)03.04.12.02B(11), I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.

Principal Residence [unchecked] Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC 121 (principal residence for 2 (two) of the last 5 (five) years) and is currently recorded as such with the State Department of Assessments and Taxation.

Under penalty of perjury, I certify that I have examined this declaration and that, to the best of my knowledge, it is true, correct, and complete.

3a. Individual Transferors

[Signature] Witness

Jon H Ballentine, Sr.

Name [Signature] Signature

3b. Entity Transferors

Witness/Attest

Name of Entity

By

Name

Title

FIRST TIME MARYLAND HOMEBUYER AFFIDAVIT

The undersigned each states under oath and penalties of perjury that the following is true to the best of the knowledge, information and belief of each individual:

- 1. Each of the undersigned is over 18 years of age and is otherwise competent to make this affidavit.
- 2. Each of the undersigned is a Grantee of residentially improved real property located at 550 Highland Way, Hagerstown, MD 21740 and being more particularly described as , Tax ID Number 03-013456, Washington.
- 3. Each of the undersigned is a first-time Maryland home buyer (defined as an individual who has never owned in the state residential real property that has been the individual's principal place of residence) who will occupy the property as Grantee's principal residence.

Kelly Fitzgerald

 Kelly Fitzgerald

The undersigned each state under oath and penalties of perjury that the following is true to the best of the knowledge, information, and belief of each individual:

- 1. Each of the undersigned is a Grantee of residentially improved real property located at 550 Highland Way, Hagerstown, MD 21740 and being more particularly described as , Tax ID Number 03-013456, Washington.
- 2. Each of the undersigned is a co-maker or guarantor of the purchase money mortgage or purchase money deed of trust as defined in Section 12-108(i) of the Tax Property Article on the property who will not occupy the property as Grantee's principal residence.

Guarantor/co-maker

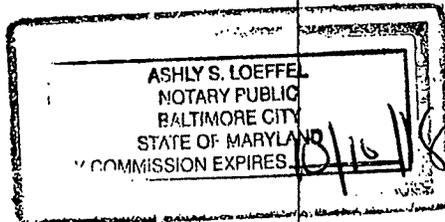
Guarantor/co-maker

State of MD
 County of Frederick

Acknowledged, subscribed and sworn before me this 1/13/17

Notary Public

My Commission Expires:



OWNER OCCUPANCY AFFIDAVIT

Kelly C. Fitzgerald the Grantees in the within Deed hereby certify under the penalties of perjury, as evidenced by the joiner herein, that the land conveyed in this Deed is residentially improved owner-occupied real property and that the purchasers intend to occupy the residence for at least seven (7) of the next twelve (12) months.

Kelly Fitzgerald
Kelly C. Fitzgerald

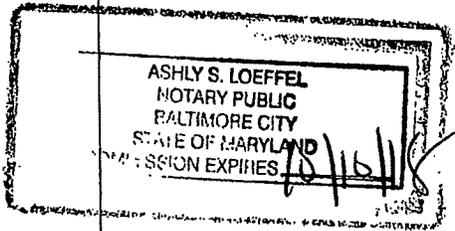
State of Maryland
County of Fredrick, to wit:

I hereby certify that on this January 13, 2017 before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared Kelly C. Fitzgerald, the parties herein, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and acknowledge the foregoing to be their act, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My commission expires:



LR - Deed (w Taxes)
 Recording Fee - ALL
 20.00
 Name: Ballentine
 Ref:
 LR - County Transfer
 Tax - linked 647.50
 LR - Surcharge -
 linked 40.00
 LR - Recordation Tax -
 linked 1,364.20
 LR - State Transfer
 Tax - linked 448.75
 LR - NR Tax - 1kd 0.00
 =====
 SubTotal: 2,520.45
 =====
 Total: 2,640.45
 02/03/2017 12:54
 CC21-RZ
 #7729918 CC0403 -
 Washington
 County/CC04.03.03 -
 Register 03

This page not to be counted in calculating Recording Fee

Clerk of Circuit Court
Washington County, Maryland
 Dennis J. Weaver, Clerk
 24 Summit Avenue
 Hagerstown, MD 21740
 301-790-7991

For Clerks Use Only	
Improvement Fee	40.00
Recording Fee	20.00
County Transfer Tax	647.50
Recordation Tax	1364.20
State Transfer Tax	448.75
Non-Resident Tax	0
TOTAL	2,520.45

State of Maryland Land Instrument Intake Sheet

Baltimore City County: Washington

Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and County Finance Office Only. (Type or Print in Black Ink Only - All Copies Must Be Legible)

Main form body containing sections 1-11: Type(s) of Instruments, Conveyance Type, Tax Exemptions, Consideration and Tax Calculations, Fees, Description of Property, Transferred From, Transferred To, Other Names to Be Indexed, Contact/Mail Information, and Assessment Information.

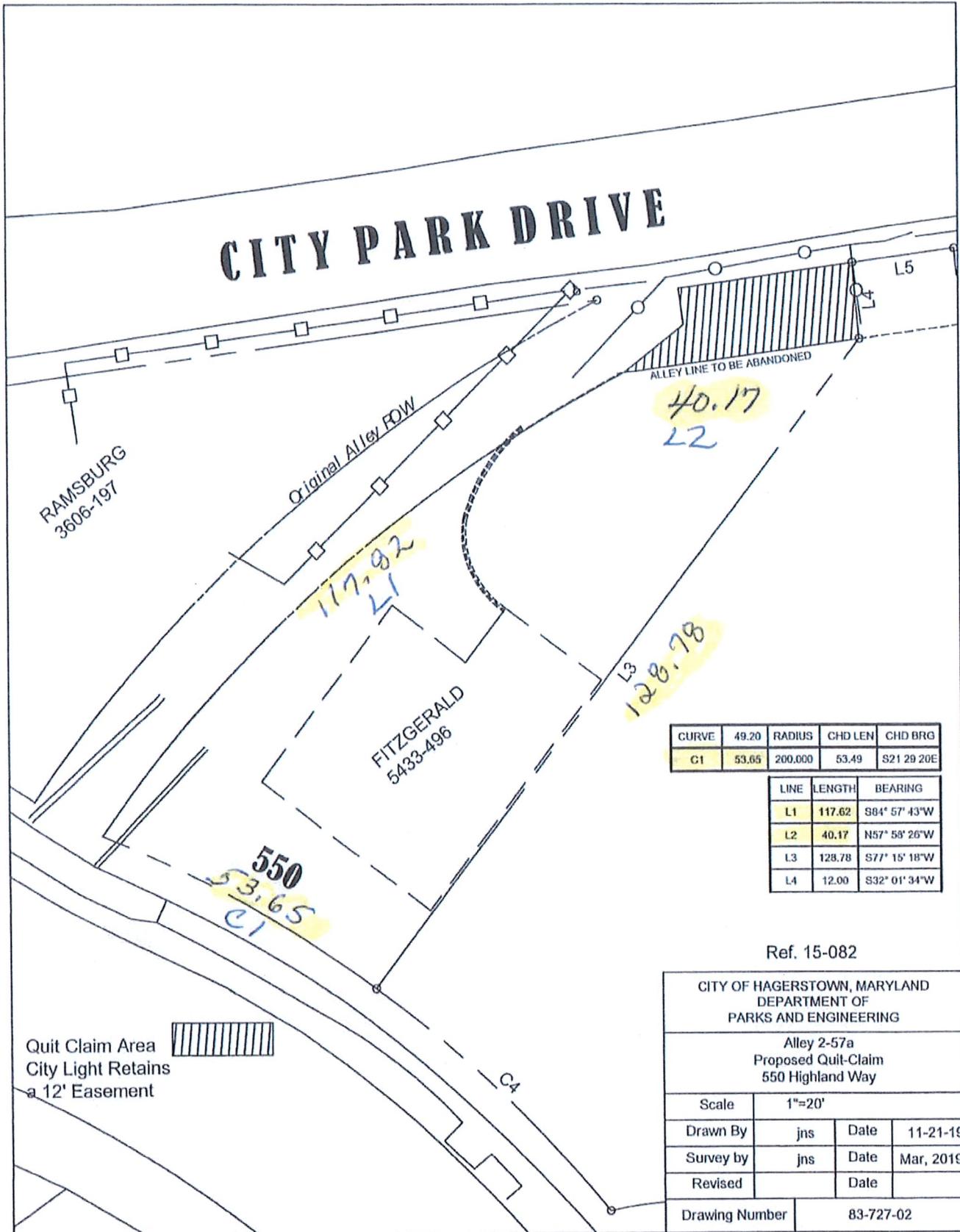
WASHINGTON COUNTY CIRCUIT COURT (Land Records) DJW 5433, p. 0504, MSA_CE18_5385, Date available 02/07/2017. Printed 12/31/2019.

Space Reserved for Circuit Court Clerk Recording Validation

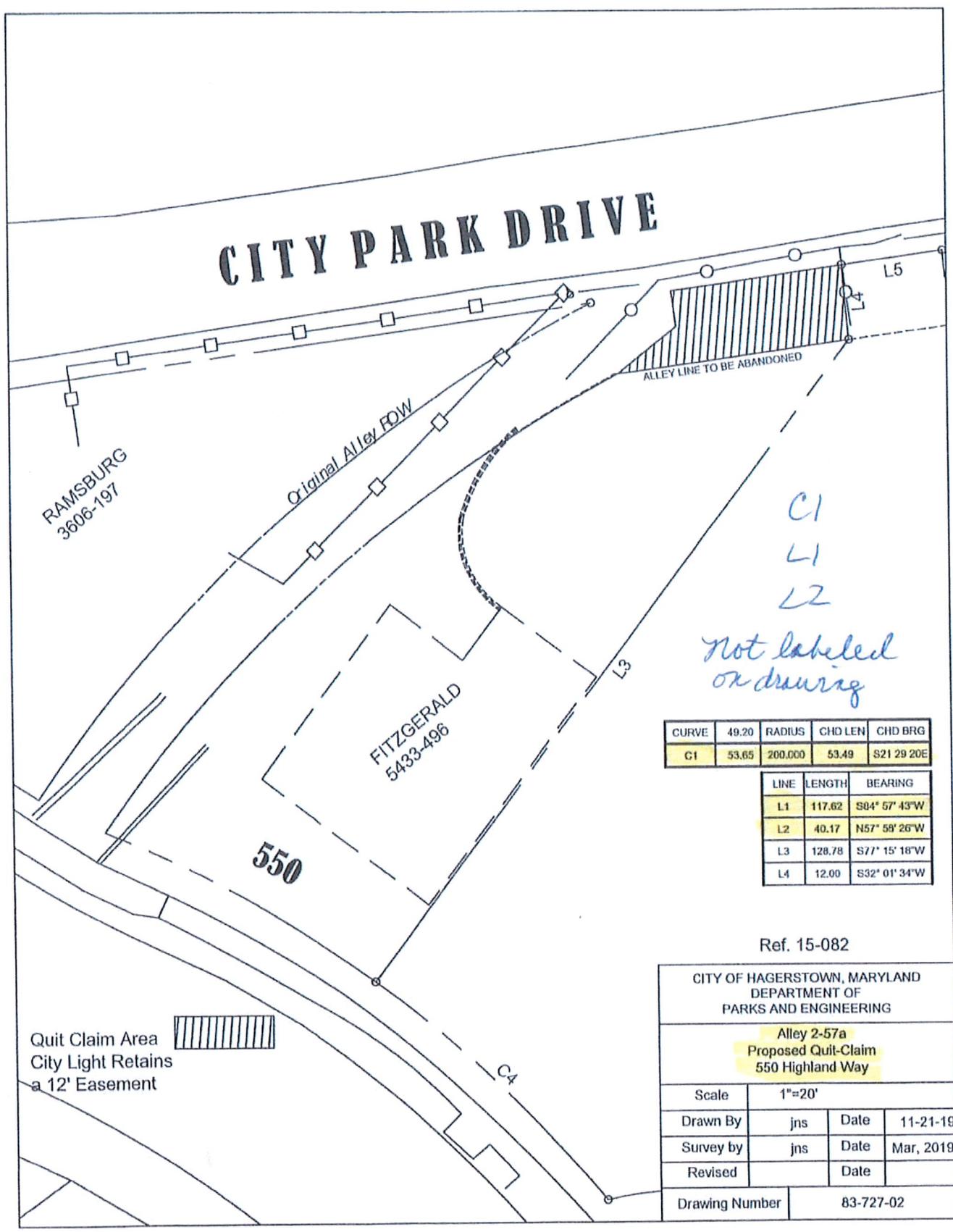
Space Reserved for County Validation

#ba19738

Engineering Dept CoH Dimensions



CITY PARK DRIVE



RAMSBURG
3606-197

Original Alley FOW

FITZGERALD
5433-496

550

ALLEY LINE TO BE ABANDONED

C1
L1
L2

*Not labeled
on drawing*

CURVE	49.20	RADIUS	CHD LEN	CHD BRG
C1	53.65	200.000	53.49	S21 29 20E

LINE	LENGTH	BEARING
L1	117.62	S84° 57' 43"W
L2	40.17	N57° 58' 26"W
L3	128.78	S77° 15' 18"W
L4	12.00	S32° 01' 34"W

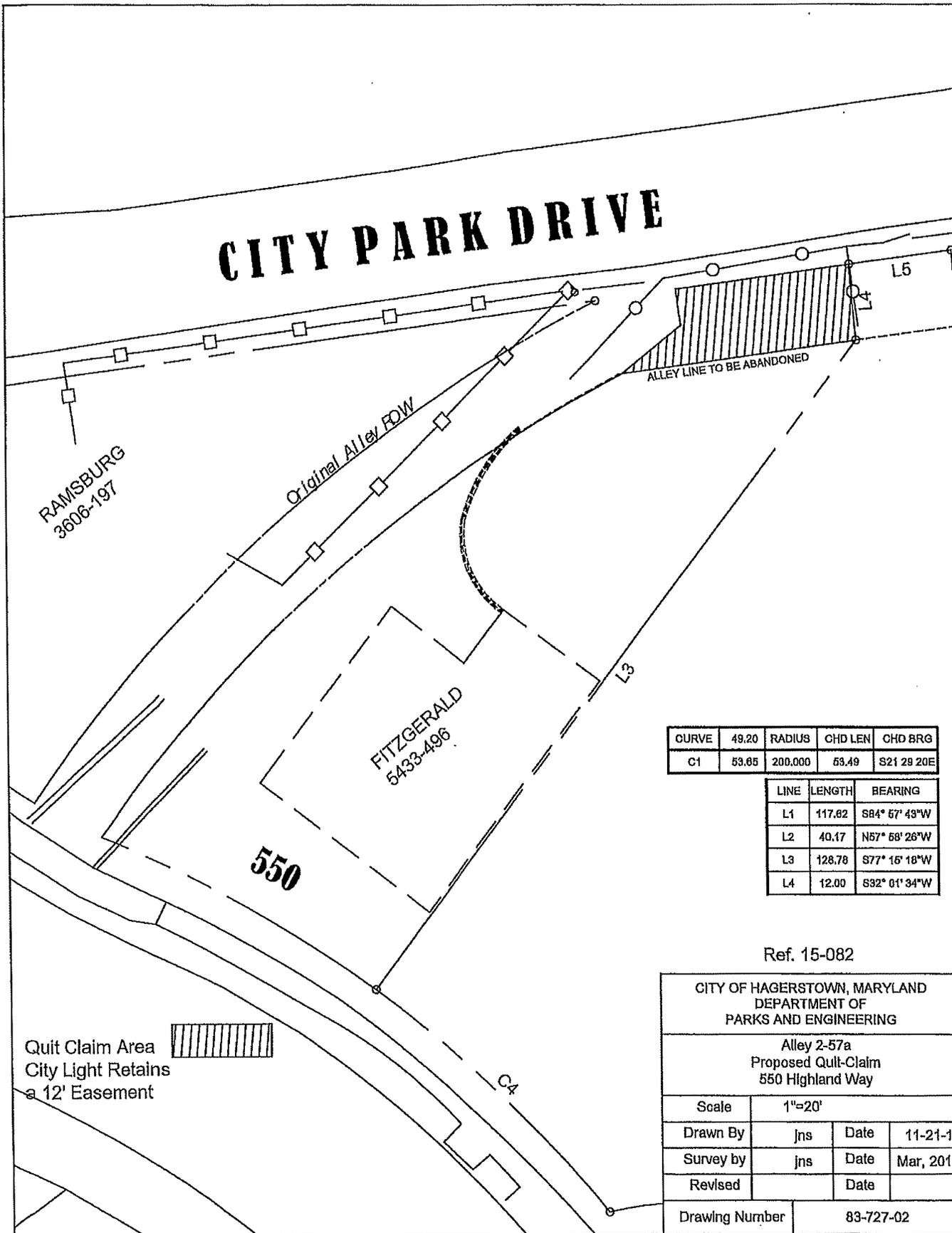
Quit Claim Area
City Light Retains
a 12' Easement



Ref. 15-082

CITY OF HAGERSTOWN, MARYLAND DEPARTMENT OF PARKS AND ENGINEERING			
Alley 2-57a Proposed Quit-Claim 550 Highland Way			
Scale	1"=20'		
Drawn By	jns	Date	11-21-19
Survey by	jns	Date	Mar, 2019
Revised		Date	
Drawing Number	83-727-02		

CITY PARK DRIVE



CURVE	49.20	RADIUS	CHD LEN	CHD BRG
C1	53.65	200.000	53.49	S21 29 20E

LINE	LENGTH	BEARING
L1	117.82	S84° 57' 43"W
L2	40.17	N57° 58' 26"W
L3	128.78	S77° 15' 18"W
L4	12.00	S82° 01' 34"W

Ref. 15-082

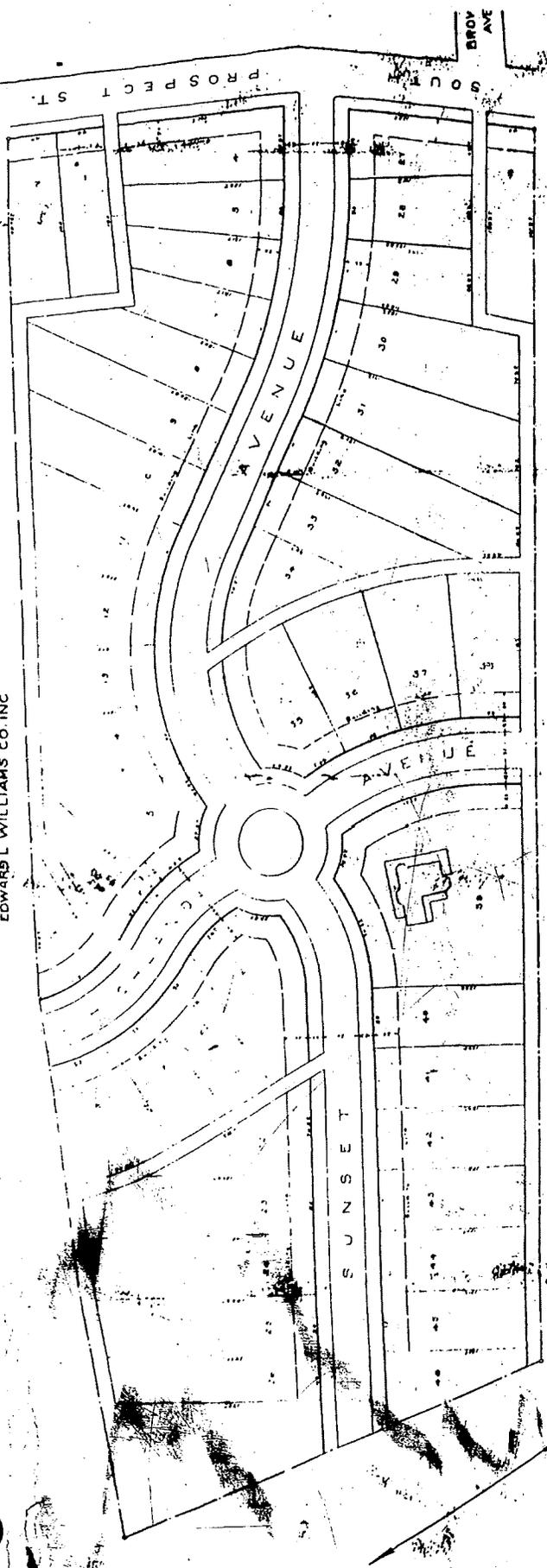
CITY OF HAGERSTOWN, MARYLAND
DEPARTMENT OF
PARKS AND ENGINEERING

Alley 2-57a
Proposed Quit-Claim
550 Highland Way

Scale 1"=20'

Drawn By	jns	Date	11-21-19
Survey by	jns	Date	Mar, 2019
Revised		Date	
Drawing Number	83-727-02		

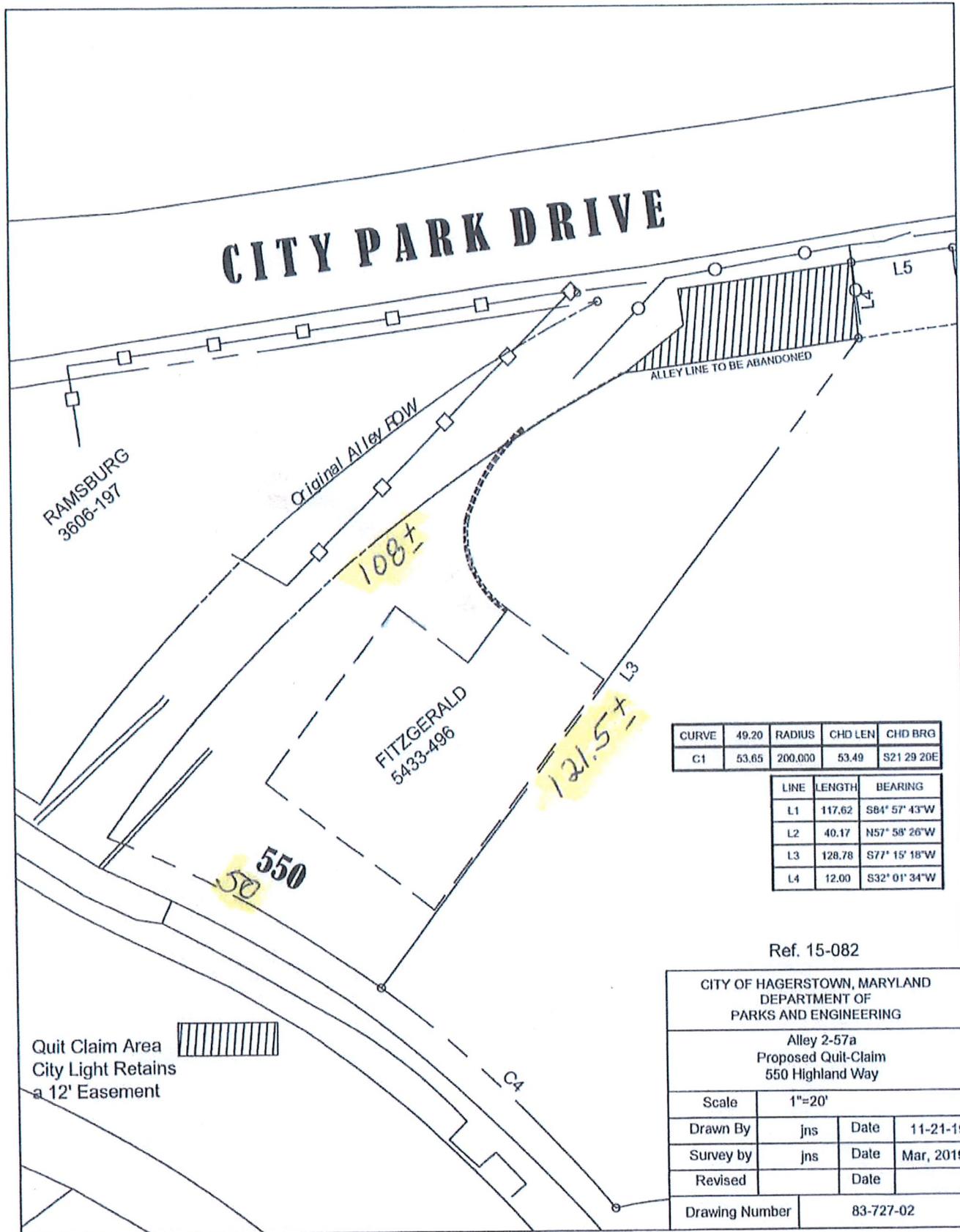
HILLIARD PLACE
HAGERSTOWN
EDWARD L WILLIAMS CO. INC



SCALE 1"=40' JULY 1911
J.B. FERUSON & CO.
ENGINEERS

*Plan August 30, 1912
J.B. Feruson*

"Williard Place" 1912 Plat Book Dimensions
 based on Plat 110



CURVE	49.20	RADIUS	CHD LEN	CHD BRG
C1	53.65	200.000	53.49	S21 29 20E

LINE	LENGTH	BEARING
L1	117.62	S84° 57' 43"W
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