



Montgomery  
County Council

**Committee:** Directly to Council  
**Committee Review:** N/A  
**Staff:** Glenn Orlin, Senior Analyst  
**Purpose:** Introduction and Final action – vote expected  
**Keywords:** #abandonment, Hampden, Denton

AGENDA ITEM #31  
July 26, 2022  
**Introduction &  
Action**

## **SUBJECT**

Abandonment of portions of Denton Road and Hampden Lane in Bethesda

## **EXPECTED ATTENDEES**

Eric Willis, Chief, Property Acquisition Section, Department of Transportation (DOT)

## **COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION**

Because there was little substantive opposition to the abandonment by any department or agency or by those who testified at DOT's public hearing, this matter was not reviewed by the Transportation and Environment Committee and is brought directly to the Council for action. The Council is requested to waive its rules, and both to introduce and act on this abandonment request so that the applicant (the Edgemoor Club) will not have to wait an additional seven weeks before the Council's next scheduled meeting on September 13, 2022.

## **SUMMARY OF KEY DISCUSSION POINTS**

On May 21, 2021, the Edgemoor Club, Inc. (the "Applicant") petitioned for an abandonment of portions of the Denton Road and Hampden Lane rights of way encompassing a total of 2,453 square feet, more or less. The abandonment was sought as a result of the Applicant's discovery that certain improvements owned by the Applicant, including portions of one or more tennis courts, as well as a retaining wall and other landscaping, encroach into the subject rights of way.

### **This report contains:**

Executive's transmittal	© 1-2
Draft adoption resolution	© 3-4
Hearing Examiner's report	© 5-14
Planning staff comments	© 15-20
Department of Transportation comments	© 21-22

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## OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich  
*County Executive*

### MEMORANDUM

July 14, 2022

TO: Gabe Albornoz, President  
Montgomery County Council

FROM: Marc Elrich, County Executive 

SUBJECT: DOT Docket No. AB778 Abandonment of portions of the Denton Road and Hampden Lane rights of way

I am attaching for your consideration a proposed Resolution by which the County Council might approve the abandonment of portions of the Denton Road and Hampden Lane public rights of ways located in the Edgemoor neighborhood of Bethesda. A summary of this abandonment request is as follows:

On May 21, 2021, Ms. Patricia Harris of the law firm Lerch, Early & Brewer, on behalf of her client, the Edgemoor Club, Inc. (the “Applicant”) petitioned for an abandonment of portions of the Denton Road and Hampden Lane rights of way encompassing a total of 2,453 square feet, more or less (the “Abandonment Area”). The abandonment was sought as a result of the Applicant’s discovery that certain improvements owned by the Applicant, including portions of one or more tennis courts, as well as a retaining wall and other landscaping, encroach into the subject rights of way.

A public hearing on the abandonment request was held on December 8, 2021.

The following supporting materials are transmitted with this memorandum:

1. Proposed County Council Resolution
2. Public Hearing Officer’s Report and Recommendation dated June 30, 2022 recommending approval of the abandonment request.

The hearing transcript and exhibits transmitted with this memorandum may be accessed through the MCDOT Property Acquisition Section website in the link below.

<https://montgomerycountymd.gov/dot-dte/PAS/DentonAve/index.html>

Abandonment of portions of Denton Road and Hampden Lane Rights of Ways

DOT Docket No. AB778

July 14, 2022

Page 2 of 2

The contents contained within the above link are incorporated herein as if fully set forth as the complete record of proceedings before the Hearing Officer. A physical copy of the record can be made available upon request.

Enclosures:

1. Proposed County Council Resolution
2. Public Hearing Officer's Report and Recommendation dated June 30, 2022, recommending approval of the abandonment request.

Resolution No.: \_\_\_\_\_  
Introduced: \_\_\_\_\_  
Adopted: \_\_\_\_\_

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

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Leas Sponsor: Council President at the request of the County Executive

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**SUBJECT:** DOT Docket Nos. AB778  
Abandonment – Portions of Denton Road and Hampden Lane Rights of Ways  
Bethesda, 7<sup>th</sup> Election District

**Background**

1. By letter dated May 21, 2021, Ms. Patricia Harris of the law firm Lerch, Early and Brewer, on behalf of her client, the Edgemoor Club, Inc. (the “Applicant”) petitioned for an abandonment of portions of the Denton Road and Hampden Lane public rights of ways located adjacent to the Applicant’s property.
2. A Public Hearing to consider the abandonment proposal was held on December 8, 2021 by the designee of the County Executive.
3. The County Executive forwarded to the County Council the application for abandonment, a report based on the record of the proceedings, together with exhibits relied upon and a transcription of the hearing, and recommended approval of the proposed abandonment request subject to conditions contained in the Executive’s report.

**Action**

The County Council for Montgomery County, Maryland, finds that the portion of the rights of ways for Denton Road and Hampden Lane located adjacent to the Applicant’s property and consisting of a total of 2,453 square feet, more or less, that is proposed for abandonment (the “Abandonment Area”) is no longer necessary for public use pursuant to Section 49-63 of the Montgomery County Code, and hereby approves the abandonment request subject to the following conditions which must be satisfied at Applicant’s sole cost and expense prior to the abandonment becoming effective:

1. That the Applicant must, at its sole cost, prepare and record a new subdivision plat that incorporates the Abandonment Area into the adjacent property;
2. To the extent applicable, the Applicant must grant, prepare and record any necessary easements for County storm drains and public utility facilities, including but not limited

to gas lines, overhead and underground electric facilities and water and sewer facilities to the satisfaction of the County or the public utility, as applicable, that may be presently located within the Abandonment Area or, the Applicant shall relocate such facilities at its expense and grant the necessary easements to the satisfaction of the County or public utility, as applicable.

The County Attorney must record among the Land Records of Montgomery County, Maryland, a copy of this Resolution approving the abandonment of the subject area.

Any person aggrieved by the action of the Council for the abandonments may appeal to the Circuit Court within 30 days after the date such action is taken by Council.

This is a correct copy of Council Action.

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Judy K. Rupp  
Clerk of the Council

OFFICE OF THE COUNTY EXECUTIVE  
EXECUTIVE OFFICE BUILDING  
ROCKVILLE, MARYLAND

IN THE MATTER OF: \* DEPARTMENT OF  
EDGEMOOR CLUB, INC. \* TRANSPORTATION  
\*  
\* PETITION NO. AB 778  
\*  
FOR THE ABANDONMENT OF \* BEFORE:  
PORTIONS OF DENTON ROAD \* JOSE THOMMAMA  
AND HAMPDEN LANE \* PUBLIC HEARING OFFICER  
\*  
\* \* \* \* \* \* \* \* \* \* \* \* \*

**PUBLIC HEARING OFFICER'S REPORT AND RECOMMENDATION**

**I. Introduction**

On May 21, 2021, Ms. Patricia Harris of the law firm Lerch, Early & Brewer, on behalf of her client, the Edgemoor Club, Inc. (the “Applicant”) petitioned for an abandonment of portions of the Denton Road and Hampden Lane rights of way encompassing a total of 2,453 square feet, more or less (the “Abandonment Area”). The abandonment was sought as a result of the Applicant’s discovery that certain improvements owned by the Applicant, including portions of one or more tennis courts, as well as a retaining wall and other landscaping, encroach into the subject rights of way.

This report and recommendation relies upon the public hearing record that may be found at the following link:

[Denton Ave and Hampden Abandonment \(montgomerycountymd.gov\)](#)

(the “Hearing Record”). The Hearing Record is incorporated herein as if fully set forth. All references to “Exhibits” in this report and recommendation may be found in the Hearing Record with a corresponding exhibit label. The scope of this report and recommendation is limited to a

determination of whether the Abandonment Area is no longer needed for present or anticipated future public use.

**a. Area Overview**

The Edgemoor Club is a private swim and tennis club located with the Edgemoor neighborhood of Bethesda. It is bordered by Exeter Road to the West, Hampden Lane to the South and Denton Road to the East (*See Exhibit A*). The club was established in 1920 and is presently improved with a swimming pool, eight (8) tennis courts, a tennis backboard, bath houses and a clubhouse (*See Ex. A*).<sup>1</sup> In the course of preparing to make improvements to the existing tennis courts, the Applicant discovered the encroachments into the existing rights of way (*Id.*) It is believed by the Applicant that some degree of encroachment has existed for decades, possibly as a result of a road dedication that was made unbeknownst to the Applicant in the 1920s (*Id.* at p.2).

The Denton Road and Hampden Lane rights of way were originally shown on a subdivision plat recorded February 3, 1912, Plat No. 146 (*See Exhibit K at p.4*). Plat No. 146 shows Denton Road curving to the east as it connects with Hampden Lane (*Id.*). Subsequently, by plat recorded on December 4, 1924, Plat No. 284, Denton Road was reconfigured to align straighter with Hampden Lane. This resulted in an additional dedication of land to the public right of way (*See Exhibit K at p.5*). The Applicant notes that subdivision Plat No. 246 was signed by representatives of the Edgemoor Land Company, the predecessor in interest to the Applicant (*See Exhibit A at p. 2*). The Applicant speculates that the current encroachment may have originated with this additional dedication to public use (*Id.*).

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<sup>1</sup> For a more detailed history, see “A brief history of the Edgemoor Club” on Page 14 of the Applicant’s power point presentation, incorporated into the record as Exhibit K.

**b. Abandonment Hearing Procedure for AB 778.**

As required by Section 49-62 of the Montgomery County Code, notice of the public hearing was provided by way of newspaper publication (*See Exhibit C*), and the posting of a sign in the right-of-way (*See Exhibit D*). Additional notice was provided to abutting property owners and by letter to the Edgemoor Citizens Association (*See Exhibit E*).

In addition, the County solicited responses concerning the abandonment request from required government agencies and utility companies (*See Exhibits F through J*). A public hearing was convened on December 8, 2021 and statements were made and documents were received into evidence. At the conclusion of the public hearing, the record was held open until 5:00 p.m. on December 22, 2021 to provide an opportunity for anybody desiring to submit additional comments for the record in writing.

**II. SUMMARY OF STATEMENTS MADE AT THE HEARING HELD ON  
December 8, 2021.**

**1. Mr. Eric Willis, Chief, Montgomery County Department of Transportation, Property Acquisition Section.**

Mr. Willis spoke on behalf of the Montgomery County Department of Transportation (“MCDOT”). Mr. Willis explained that his Section is charged with the administration of requests to abandon County rights of way. In so doing, Mr. Willis explained that his Section received an abandonment request from the Applicant which contended that the Abandonment Area was no longer necessary for public use. In addition, Mr. Willis summarized the documents and correspondence that MCDOT had received in response to the Applicants’ request for

abandonment at the time of the hearing and introduced them as exhibits.

2. Ms. Patricia Harris, Esq., Counsel for the Applicant

Ms. Harris initially confirmed that the PowerPoint presentation prepared by the Applicant and introduced as Exhibit K was a compilation of documents previously presented in the Applicant's application package. She then made introductory remarks regarding the establishment of the Edgemoor Club and its location within the surrounding neighborhood. She also explained that the discovery of the club's improvements encroaching into the existing rights of way arose in connection with the club's efforts to make repairs to its existing tennis courts and stated that the purpose of the abandonment request is to affirm the status quo of what has existed for many years. Ms. Harris then introduced two witnesses, Mr. Dorian Patchin and Mr. Eric Tidd, through whom she solicited statements in support of the Applicant's abandonment request.

Following statements made by the two witnesses for the Applicant, Ms. Harris made closing remarks in which she stated her belief that the evidence supported the finding that the Abandonment Areas is no longer needed for present or future public use. She also sought clarification regarding DOT's recommended condition for the abandonment that upon redevelopment of the property there be a dedication of all necessary rights of way. Ms. Harris wanted to clarify that renovations and/ or maintenance to the existing structures on the property would not be considered a redevelopment that would trigger the need for right of way dedication. (See Hearing transcript at P. 29 & 30).

3. Mr. Dorian Patchim, Representative for the Applicant

Through direct examination by Ms. Harris, Mr. Patchin stated that he is the Vice

President of House and Grounds for the Edgemoor Club. Mr. Patchin explained that the club is in the process of trying to update and improve its tennis courts through the installation of a new irrigation system. Mr. Patchin noted that the club would accept the conditions of abandonment as set forth in the memorandum prepared by the Maryland-National Park and Planning Commission (*See Exhibit G*) and in the memo provided by DOT (*See Exhibit F*), subject to the caveat that the existing improvements planned by the club are considered maintenance of existing structures and not new structures or redevelopment.

#### 4. [Mr. Eric Tidd, Engineering Consultant to the Applicant](#)

Mr. Tidd stated that he is a Professional Civil Engineer with CAS Engineering in Frederick, Maryland. Mr. Tidd explained that his firm was engaged to prepare a sediment control plan for the Applicant's plans to update and improve the existing tennis courts. He further explained that in the preparation of that plan, he discovered the existing encroachments into the surrounding rights of way. (*See Hearing Transcript at P. 22*). Ms. Harris directed Mr. Tidd to the Applicant's PowerPoint presentation (Ex. K at P. 3) and asked him to describe the encroachments. Mr. Tidd explained that the encroachments consist of a total of 2,453 square feet and include 1) a portion of the Hampden Lane right of way between Exeter Road and Denton Road, and 2) a portion of the Denton Road right of way between Hampden Lane and Edgemoor Lane. He further explained that the existing improvements within the public rights of ways include portions of 4 clay tennis courts and perimeter fencing, as well as onsite storm drainage facilities and wooden landscape walls that vary in height from approximately 6 inches up to approximately 18 inches. (*See Hearing Transcript at P. 22 & 23*).

Mr. Tidd suggested that the encroachments may date back to 1924 when the property

was re-platted via Subdivision Plat No. 284 and the intersection of Hampden Lane and Denton Road was reconfigured. (Id. at P. 23). Mr. Tidd further opined that there is no present public use for the portions of the rights of way that are occupied by the encroachments. He explained that the Club and the County were apprised of the encroachments as part of the permit applications for the tennis courts maintenance and repair. He further explained that the sidewalks and storm drain located within the public right of way will not be impacted by the proposed abandonment. (See Hearing Transcript at P. 24-26). Finally, Mr. Tidd stated that there is an existing utility pole located within an existing public utility easement that runs along the Denton Road right of way but that it is not impacted by the proposed abandonment.

### **III. RESPONSES FROM GOVERNMENT AGENCIES AND PUBLIC UTILITY COMPANIES FROM WHICH RESPONSES WERE SOLICITED PURSUANT TO § 49-62(h) OF THE MONTGOMERY COUNTY CODE**

1. Montgomery County Department of Transportation (“MCDOT”). By memo dated November 12, 2021, MCDOT recommended approval of the requested abandonment subject to the following conditions: 1) that should the site ever redevelop, the Applicant will dedicate to public right of way the full width of the street frontage along Denton Road and Hampden Lane per the Complete Street Design Guidelines or other applicable roadway design standards acceptable to MCDOT; 2) that the storm drain system should be within the right of way or a proposed storm drain easement; 3) that the existing sidewalk remain within the right of way; and 4) that all existing utilities, if any, along the proposed portions of Denton Road and Hampden Lane shall remain in place within a proposed public utility easement or relocated at the applicant’s expense. If the existing utility is relocated, it should be within the right of way or a proposed public utility easement. *See Exhibit F.*
2. Maryland National Capital Park and Planning Commission (“MNCPPC”). By memo dated November 16, 2021, MNCPPC indicated its support for the abandonment request subject to the following condition: 1) No new structure or new improvements shall be permitted to be constructed within the Subject Abandonment. This does not preclude maintenance of the existing structures and improvements. *See Exhibits G and G(1).*

3. County Fire and Rescue Service. By email dated November 9, 2021, the MCDPS Section of Fire Department Access and Water Supply indicated that it had no opposition to the Applicant's requested abandonment. *See Exhibit H.*
4. Montgomery County Police Department ("MCPD"). MCPD did not respond to the notices of abandonment. Pursuant to § 49-62(g), it is presumed that there is no opposition.
5. Pepco. By email dated November 4, 2021, Pepco indicated that it had facilities/ poles within the existing public utility easement and that it would not agree to give up its easement rights. *See Exhibit I.*
6. Verizon. By email dated October 28, 2021, Verizon indicated that it had aerial facilities within the existing public utilities easement and if it decided to relocate its facilities underground, it is possible they would utilize the public utilities easement. *See Exhibit J.*
7. Washington Gas. Washington Gas did not respond to the notices of abandonment. Pursuant to § 49-62(g), it is presumed that there is no opposition.
8. Washington Suburban Sanitation Commission ("WSSC"). WSSC did not respond to the notices of abandonment. Pursuant to § 49-62(g), it is presumed that there is no opposition.

#### **IV. COMMENTS/ CORRESPONDENCE RECEIVED FROM THE PUBLIC**

No public comments were received in response to the notices concerning the public hearing.

#### **V. CONCLUSIONS AND RECOMMENDATIONS**

The abandonment of road rights-of way is governed by the provisions of sections 49-62 et seq., Montgomery County Code (2014) as amended. Section 49-62 permits application for abandonment of a right-of way by any person or government agency, provides for public agency and utility company review, and requires a public hearing with notice. In evaluating the evidence, I find that the hearing and notice procedures have been satisfied, and that the public, public agencies, and utility companies have been given an opportunity to review the petition for abandonment as described above and provide comment.

Section 49-63 allows the County Council to abandon or close a right of way if the Council finds by Resolution that: (1) the right of way is no longer needed for present public use or anticipated public use in the foreseeable future, *or* (2) the abandonment or closing is necessary to protect the health, safety and welfare of the residents in the neighborhood. In assessing health, safety and welfare issues, the Council may consider: 1) any adopted land use plan applicable to the neighborhood; 2) the safe and efficient pedestrian and vehicular traffic patterns and flows, together with alternatives in the immediate neighborhood for local and through traffic; or 3) changes in fact and circumstances since the original dedication of the right of way.

Pursuant to Article 6 of Chapter 49 of the Montgomery County Code, right of way means “... any road, street, alley, crosswalk, pedestrian walkway, shared use path, sanitary sewer, storm sewer, or storm drainage right-of-way used at any time by the public, including use by pedestrians and bicyclists.” In evaluating the evidence, I find that the Abandonment Area is clearly public right of way, having been dedicated to public use via Subdivision Plat No. 146 (dated February 3, 1912) and subsequently by Subdivision Plat No. 274 (dated December 4, 1924), both filed among the land records of Montgomery County. (*See* Exhibit E to Applicant’s ltr requesting abandonment). I further find that both of the existing rights of way have been used by the public. Accordingly, I find that the County has jurisdiction to consider the Applicant’s petition for abandonment.

As stated by Ms. Harris, the subject abandonment request seeks only to rectify what appears to be a long-standing encroachment of certain private improvements into the public right of way. Exactly, how long those encroachments have existed is difficult to determine but the Applicant’s argument that they may have existed for several decades seems plausible. Important to my analysis is the fact that none of the existing public improvements, i.e. sidewalks, roadways

or utilities, are impacted by the subject abandonment.

I find it compelling that the public agencies that have provided comments, most notably the Department of Transportation and the Maryland-National Park and Planning Commission, support the abandonment request, albeit subject to certain conditions as described in their comments. (*See, e.g.* Ex. F & G).

With respect to condition #1 as set forth in the MCDOT memo (Ex. F), I find it to be inapplicable to the issue at hand, notably, whether the Abandonment Area is needed for present public use or anticipated public use in the foreseeable future. Any conditions to be placed on a future redevelopment of the property would need to be dealt with at that time, but do not need to be addressed in this forum. For the same reasons, I also find the condition of abandonment as stated in the MNCPPC memo to be inapplicable to the question of whether the Abandonment Area is needed for present public use or anticipated public use in the foreseeable future.

With respect to conditions #2-4 as set forth in the MCDOT memo, they do not appear to be applicable based on the statements made by Mr. Tidd that the storm drain, sidewalk and utilities are all located outside of the Abandonment Area and are therefore unaffected by the requested abandonment. However, in examining Ex. K on page 3 of 14, it is difficult for me to determine if there are existing public facilities for drainage and utilities located within the Abandonment Area. Given the Applicant's willingness to grant such easements as are necessary within the Abandonment Area for existing public facilities (*See* Hearing transcript at P. 20-21), it would be prudent to require the granting of same if it is determined by plan and plat reviewers that such facilities exist.

For all of the foregoing reasons, I find that the Abandonment Area is no longer needed for present or anticipated future public use and therefore recommend that the Applicant's petition

to abandon be granted, subject to the following requirements that are conditions precedent to the abandonment becoming effective:

- 1) That the Applicant must at its sole cost prepare and record a new subdivision plat that incorporates the Abandonment Area into the adjacent property.
- 2) To the extent applicable, the Applicant must grant, prepare, and record any necessary easements for County storm drains and public utility facilities, including but not limited to gas lines, overhead and underground electric facilities, and water and sewer facilities to the satisfaction of the County or the public utility, as applicable, that may be presently located within the Abandonment Area or, Applicant shall relocate such facilities at its expense and grant the necessary easements to the satisfaction of the County or public utility, as applicable.

Respectfully submitted,

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6/30/2022

Date

*Jose Thomma*  
\_\_\_\_\_  
Jose Thomma  
Public Hearing Officer

The Public Hearing Officer's Recommendations in Petition AB 778 have been reviewed and are approved.

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7/13/22

Date

*Marc Elrich*  
\_\_\_\_\_  
Marc Elrich, County Executive

**DECISION MAILING DATE:****Memorandum**

**TO:** Gwen Wright, Planning Director *JLMW*

**VIA:** Elza Hisel-McCoy, Chief  
DownCounty Planning Division *CH*

**FROM:** Katie Mencarini, Planner Coordinator  
DownCounty Planning Division *KAM*

**RE:** Right-of-Way Abandonment Case No. AB-778  
Portions of Denton Road and Hampden Lane (2,453 square feet total)  
Bethesda/ Chevy Chase Policy Area

**DATE:** November 16, 2021

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**Recommendation**

Staff supports the abandonment petition for portions of the Denton Road and Hampden Lane rights-of-way (2,453 square feet total) and recommends that they be abandoned through the County Council's action on this petition with the following condition:

1. No new structures or new improvements shall be permitted to be constructed within the Subject Abandonment. This does not preclude maintenance of the existing structures and improvements.

This memorandum hereby transmits the following staff comments to the Montgomery County Department of Transportation (MCDOT) in accordance with Montgomery County Code Chapter 49-62, "Abandonment and Closing Rights-of-Way: Abandonment Authority; Scope of Article; Procedures." This item has not been heard by the Montgomery County Planning Board.

**DISCUSSION**

On October 7, 2021 the Maryland - National Capital Park and Planning Commission (M-NCPPC) received Abandonment Petition No. AB-778, in accordance with Section 49-62(g) of the County Code (Attachment A). The Applicant is the Owner of the Edgemoor Club, and they are requesting a partial abandonment of the public rights-of-way along the Property's Denton Road and Hampden Lane frontages.

The Edgemoor Club is a neighborhood swim, tennis, and social club, established in 1920 (shown in Figure 1). The Property consists of a swimming pool, eight (8) tennis courts, multiple bath houses, and a clubhouse. The Property has three (3) street frontages on public roadways, which include the following: Exeter Road along the western side, Hampden Lane on the southern side and Denton Road on the eastern side. The northern side of the club borders three (3) single family homes. The area surrounding the club consists of predominantly single-family homes within the R-60 zone. With the block east of the Club is the Bethesda Friends Meeting and the Sidwell Friends Lower School.



Figure 1: Subject Property Map (Property outlined in red)

In the course of evaluating needed maintenance and improvements to the tennis courts, the Applicant learned that the existing club facilities, including portions of some of the tennis courts, trench drain, retaining wall, landscaping, and fence encroach within the public rights-of-way, as indicated in the Building Permit Site Plan (included in Attachment A). It was determined that as the facilities are located within public right-of-way, the Applicant would be denied building permits needed to repair and maintain the affected club facilities. The extent of the encroachment ranges from four-feet to four-and-one-half-feet along Denton Road and three-feet along Hampden Lane. At the intersection of Denton Road and Hampden Lane, the landscaping projects out approximately 25.6 feet, radially. Figure 2 shows the encroachments within the Subject Right-of-way (Attachment B).

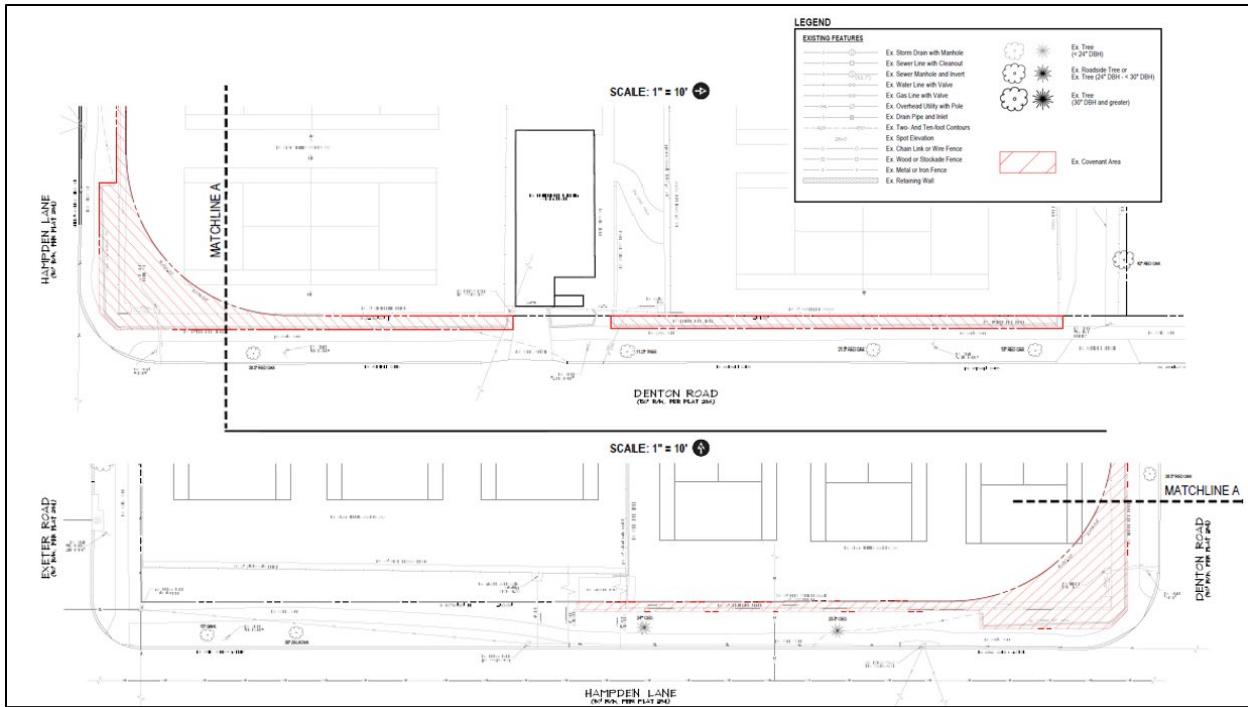


Figure 2: Subject Abandonment (Petitioned area shown in red) Right-of-Way Covenant Sketch

Denton Road and Hampden Lane, located west of Arlington Road, are residential streets located within the 1990 *Bethesda – Chevy Chase Master Plan* area. Each of the two roadways currently has 50-feet in total width dedicated to the public-right-of-way, which is the minimum required per Chapter 49-32 for secondary residential streets, platted before the tertiary roadway classification was added in the 1970s.

As stated previously the Edgemoor Club was established in 1920, and the Property has been platted three times between 1912 and 2008 (Attachment C). A summary of the Plats and their impacts on the Subject Property is included below:

1. Plat No. 146 was recorded on February 3, 1912 (Figure 3). This plat predates the establishment of the Edgemoor Club and shows that the Property configuration extended beyond a right angle at the corner of Hampden Lane and Denton Road.

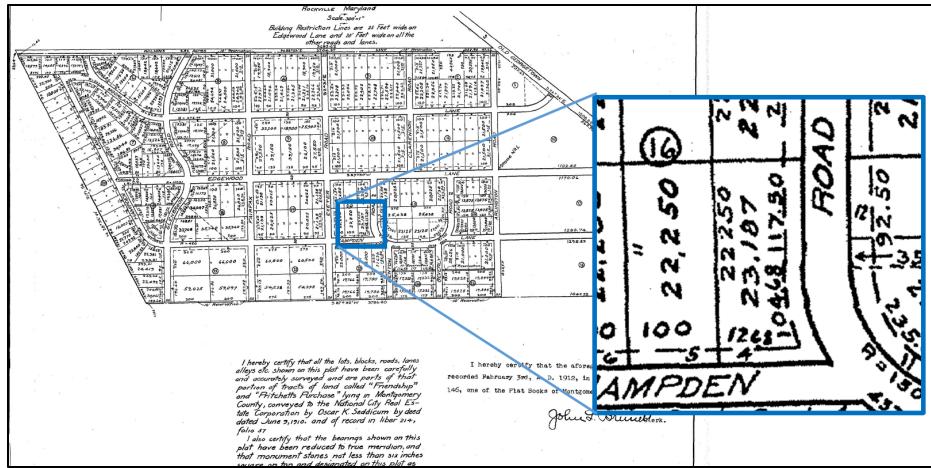


Figure 3: Excerpt from Plat 146

2. Plat No. 284 was recorded on December 4, 1924 (Figure 4). The plat included dedication of the corner of the Property to accommodate the reconfigured roads. This plat was executed by the Edgemoor Land Company, which owned a significant amount of land surrounding the Property; however, the Owners of the Edgemoor Club were not involved with this effort. The northwest corner of Hampden Lane and Denton Road appears to have been dedicated to public right-of-way without the consent of the Applicant. For this reason, it seems likely that this is the time at which the existing tennis courts became an encroachment on the public-rights-of-way.

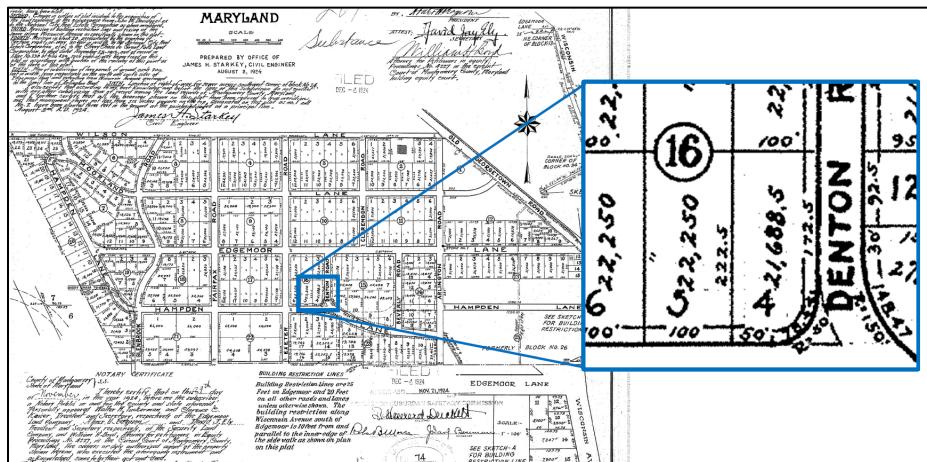


Figure 4: Excerpt from Plat 2084

3. Plat No. 23897 was recorded September 11, 2008. This plat was executed by the owner of the Property for the purpose of subdividing Lots 4, 5, 6 and part of Lots 1, 2, 3 into existing Lot 8 (Figure 5).

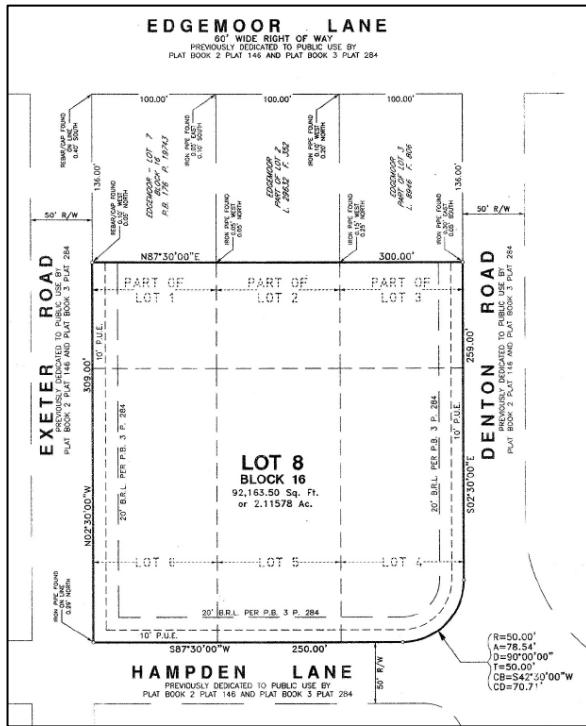


Figure 5: Excerpt from Plat 23897

Based on the plat history and the development history of the Site, it appears the right-of-way was dedicated after the existence of the tennis courts and without the permission of the Applicant. When the Applicant approached the Montgomery County Department of Transportation for guidance on pursuing building permits for maintenance of the tennis courts, the Department's attorney directed the Applicant to pursue partial abandonment of the portions of right-of-way that are encroached by the existing Club facilities. The Applicant is aware that any future Preliminary or Site Plan filed on the Site will require dedication of the full master-planned right-of-way, compliant with the design standards included in the Master Plan of Highways and Transitways and Chapter 49 of the County Code, regardless of the existence of structures and improvements.

#### NECESSARY FINDINGS

Section 49-63(c)(1) -(2) of the Montgomery County Code (the "Code") authorizes the County Council to abandon a right-of-way, including a public road, upon a finding that:

1. The right-of-way is no longer necessary for present public use or anticipated public use in the foreseeable future, or
2. The abandonment or closing is necessary to protect the health, safety and welfare of the residents near the right-of-way to be abandoned or closed.

Furthermore, Section 49-62(a) of the Code defines right-of-way, as the following:

*any road, street, alley, crosswalk, pedestrian walkway, shared use path, water main, sanitary sewer, storm sewer, or storm drainage right-of-way used at any time by the public, including use by pedestrians and bicyclists.*

Both roadways included in the Subject Abandonment are residential in character and consist of one lane in each direction, with continuous sidewalks that are at least four feet in width along the Site frontage, consistent with the other residential roadways in the vicinity of the Property. Although the current County minimum standard width for sidewalks on Neighborhood Streets is six feet, with a six-foot buffer, Staff acknowledges that the request for abandonment is made based on a need to maintain existing facilities that were constructed prior to the dedication of the public rights-of-way. The Edgemoor Club is not proposing new structures or development within the Subject Abandonment. The existing sidewalks and roadway pavement will not be changed as a result of the requested abandonment. In other words, the result of the Subject Abandonment will not be visible or apparent to any of the roadways users, if approved. However, if the Club were to propose new development or new structures along the Site's frontage on Denton Road and/or Hampden Lane, the Applicant would be required to dedicate the full right-of-way of the two streets and widen the sidewalk and tree panels, subject to the Complete Streets Design Guidelines or other applicable transportation policy documents. Therefore, the Subject Abandonment is not necessary for current use.

The 2018 *Bicycle Master Plan* does not envision designated bikeways along Hampden Lane or Denton Road, west of Arlington Road. Moreover, applying the default bikeways approach where the 2018 *Bicycle Master Plan* does not recommend a bikeway, the default bikeway would a shared facility (i.e., no pavement markings) along these streets. The 1990 *Bethesda/Chevy Chase Master Plan* also does not include recommendations for either of the streets affected by the Subject Application. Finally, the Subject Abandonment does not accommodate or contain any public utilities.

Therefore, Staff concludes that the specific portions of the Denton Road and Hampden Lane rights-of-way that are identified in the Abandonment Petition No. AB-778 are not necessary for present or future public use, with the proposed condition, based on review of the existing transportation network, coordination with other reviewing agencies, and review of approved master plans including the 1990 *Bethesda – Chevy Chase Master Plan*, the 2018 *Master Plan of Highways and Transitways*, and the 2018 *Bicycle Master Plan*. Staff is recommending approval of Abandonment Case No. AB-778, which will result in the abandonment of 2,453 square feet total square feet of the Denton Road and Hampden East rights-of-way, west of Arlington Road. Staff also recommends the following condition of approval:

1. No new structures or new improvements shall be permitted to be constructed within the Subject Abandonment. This does not preclude maintenance of the existing structures and improvements.

#### Attachments

- A. Request for Abandonment
- B. Right-of-Way Covenant Sketch
- C. Plats 146, 284, and 23897
- D. Description of Right-of-way Improvement Covenant and Exhibits
- E. Permitting Requirements Exhibit



DEPARTMENT OF TRANSPORTATION

Marc Elrich  
*County Executive*

Christopher R. Conklin  
*Director*

M E M O R A N D U M

November 12, 2021

TO: Eric Willis, Chief  
Property Acquisition Section  
Division of Transportation Engineering

VIA: Rebecca Torma, Manager  
Development Review Team  
Office of the Director

FROM: Brenda M. Pardo, Engineer III *B P*  
Development Review Team  
Office of the Director

SUBJECT: AB778, Denton Road and Hampden Lane

Thank you for the opportunity to review the proposed abandonment portions of the Denton Road and Hampden Lane rights-of-way encompassing a total of 2,453 Square Feet. The request was reviewed in terms of the Development Review process. This abandonment was requested by the Edgemoor Club, Inc.

We recommend approval of the requested abandonment of portions of the of the Denton Road and Hampden Lane Rights of Way subject to the following comments:

- Should the Site ever redevelop, the Applicant will dedicate to public-right-of-way the full width of the street frontages along Denton Road and Hampden Lane, per the Complete Street Design Guidelines, or other applicable roadway design standards acceptable to MCDOT.
- The storm drain system should be within the right-of-way or a proposed storm drain easement. The storm drain easement should be sized per the Design Drainage Criteria Manual.
- The existing sidewalk to remain within the right-of-way.

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Office of the Director

101 Monroe Street, 10<sup>th</sup> Floor, Rockville, MD 20850 • 240-777-7170 • 240-777-7178 Fax  
[www.montgomerycountymd.gov/mcdot](http://www.montgomerycountymd.gov/mcdot)

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## DEPARTMENT OF TRANSPORTATION

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*Director*

- All existing utilities if any along the proposed abandoned portions of Denton Road and Hampden Lane shall remain in place within a proposed public utility easement or relocated at the applicant's expense. If the existing utility is relocated, it should be within the right-of-way or a proposed public utility easement.

Thank you for cooperation and assistance. If you have any questions regarding this memo, please contact me at your earliest convenience.

[SharePoint/Transportation/Director's Office/Development Review/Brenda/AB77 – Abandonment Denton Rd and Hampden Ln\\_11.12.21](#)

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