



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

AGENDA ITEM #81

July 26, 2022

Action

SUBJECT

Abandonment of a portion of Kentbury Drive 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.

SUMMARY OF KEY DISCUSSION POINTS

On November 10, 2020, Mr. Perry Seiffert and Mrs. Dianne Seiffert petitioned for an abandonment of the eastern half (or approximately 4,617 square feet) of the unimproved Kentbury Drive right of way in Bethesda. The Applicants are the owners of the property located at 8213 Kentbury Drive, which abuts the eastern edge of the subject right of way. The partial abandonment of the right of way is being sought to incorporate the land underlying the right of way into the Applicants' property.

No County department or agency opposes this abandonment. The Columbia Country Club opposes it to allow potential access from its property should it decide to re-subdivide in the future. However, the Planning staff points out that there are other potential access points should the Club ever wish to re-subdivide its property.

This report contains:

| | |
|--|---------|
| Executive's transmittal | © 1-2 |
| Draft adoption resolution | © 3-4 |
| Hearing Examiner's report | © 5-14 |
| Location of abandonment (see northeast corner of plat) | © 15 |
| Letter from Columbia Country Club | © 16 |
| Planning staff's comments (see especially ©18) | © 17-19 |

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OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich
County Executive

MEMORANDUM

May 11, 2022

TO: Gabe Albornoz, President
Montgomery County Council

FROM: Marc Elrich, County Executive 

SUBJECT: DOT Docket No. AB775 Abandonment of a portion of Kentbury Drive in Bethesda

I am attaching for your consideration, a proposed Resolution by which the County Council might approve the abandonment of a portion of the Kentbury Drive right of way in Bethesda. A summary of this abandonment request is as follows:

On November 10, 2020, Mr. Perry Seiffert and Mrs. Dianne Seiffert (the “Applicants”) petitioned for an abandonment of the eastern half (or approximately 4,617 square feet) of the unimproved Kentbury Drive right of way in Bethesda, Maryland (the “Abandonment Area”). See Exhibit A. The Applicants are the owners of the property located at 8213 Kentbury Drive, which abuts the eastern edge of the subject right of way. The partial abandonment of the right of way is being sought in order to incorporate the land underlying the right of way into the Applicants’ property.

The subject section of Kentbury Drive is not improved with asphalt or pavement and is best described as a “paper street” that takes the form of a stub road located in the East Bethesda neighborhood. It runs in a north-south direction between the public right of way known as Chestnut Street and the property boundary for the Columbia Country Club.

The western half of the stub road right of way was previously sought for abandonment upon a petition filed by the abutting owners along the western edge of the right of way. That request for abandonment (Case #AB 765) was conditionally approved by the County Council on May 19, 2020 pursuant to Council Resolution No. 19-461.

A public hearing on the abandonment request was held on September 15, 2021.

Abandonment of Portion of Kentbury Drive
DOT Docket No. AB775
May 11, 2022
Page 2 of 2

The following supporting materials are transmitted with this memorandum:

1. Proposed County Council Resolution
2. Public Hearing Officer's Report and Recommendation dated March 16, 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 web site at the following link:

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

The contents contained within the above link are incorporated herein as is 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 (2)

Resolution No: _____
Introduced: _____
Adopted: _____

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By County Council

SUBJECT: DOT Docket Nos. AB775
Abandonment – Portion of Kentbury Drive Right of Way
Bethesda, 7th Election District

Background

1. By letter dated November 10, 2020, Mr. Perry Seiffert and Mrs. Dianne Seiffert, who are the owners of property located adjacent to the subject right of way (the “Applicants”), requested the abandonment of a portion of the right of way for Kentbury Drive in Bethesda.
2. A Public Hearing to consider the abandonment proposal was held on September 15, 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 Kentbury Drive right of way consisting of 4,617 square feet, more or less, that is proposed for abandonment is no longer necessary for public use, pursuant to Section 49-63 of the Montgomery County Code, and approves the abandonment subject to the following conditions which must be satisfied at Applicant’s sole cost and expense prior to the abandonment becoming effective:

1. Applicant must grant, to the satisfaction of the County, any necessary easements for the existing County storm drainage system that is located within the abandoned area; or, with the County’s approval, relocate the existing storm drainage system and grant the necessary easements for the relocated system;
2. Applicant must grant, to the satisfaction of the County, any necessary public utility easements for existing utilities that are located within the abandoned area, if any; or, with the

approval of the County, relocate the existing utilities, if any, and grant the necessary easements for the relocated utilities;

3. Applicant must grant the aforementioned storm drainage and public utility easements as directed by the County and in the County's sole discretion as to the dimensions of the required easement areas;

4. Applicant must prepare and record a new record plat incorporating the abandoned area into the Applicant's adjacent property.

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

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

This is a correct copy of Council Action.

Judy Rupp
Clerk of the Council

OFFICE OF THE COUNTY EXECUTIVE
EXECUTIVE OFFICE BUILDING
ROCKVILLE, MARYLAND

| | | |
|----------------------------------|---|------------------------|
| IN THE MATTER OF: | * | DEPARTMENT OF |
| | * | TRANSPORTATION |
| PETITION OF PERRY AND DIANNE | * | |
| SEIFFERT | * | |
| | * | PETITION NO. AB 775 |
| | * | |
| FOR THE ABANDONMENT OF A | * | BEFORE: |
| PORTION OF KENTBURY DRIVE | * | RICHARD DORSEY |
| CONSISTING OF 4,617 SQUARE FEET, | * | PUBLIC HEARING OFFICER |
| MORE OR LESS, IN CHEVY CHASE, | * | |
| MARYLAND | * | |
| | * | |
| * * * * * * | * | * * * * * * |

PUBLIC HEARING OFFICER'S REPORT AND RECOMMENDATION

I. Introduction

On November 10, 2020, Mr. Perry Seiffert and Mrs. Dianne Seiffert (the "Applicants") petitioned for an abandonment of the eastern half (or approximately 4,617 square feet) of the unimproved Kentbury Drive right of way in Chevy Chase, Maryland (the "Abandonment Area"). See Exhibit A. The Applicants are the owners of the property located at 8213 Kentbury Drive, which abuts the eastern edge of the subject right of way. The partial abandonment of the right of way is being sought in order to incorporate the land underlying the right of way into the Applicants' property.

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

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

(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 subject section of Kentbury Drive is not improved with asphalt or pavement and is best described as a “paper street” that takes the form of a stub road located in the East Bethesda neighborhood. It runs in a north-south direction between the public right of way known as Chestnut Street and the property boundary for the Columbia Country Club. The stub road right of way lying immediately adjacent to the Applicant’s property is approximately 177 feet long and 52 feet wide. (See Exhibit B(1)). This portion of the Kentbury Drive right of way was dedicated to public use in 1949 via subdivision plat titled “Blocks 1 to 6 Inclusive Section 1 Columbia Forest” and filed among the land records of Montgomery County, Maryland at Plat #2321 (See Exhibit B(1)).

Unique to this case is the fact that the western half of the stub road right of way was previously sought for abandonment upon a petition filed by the abutting owners along the western edge of the right of way. That request for abandonment (Case #AB 765) was conditionally approved by the County Council on May 19, 2020 pursuant to Council Resolution No. 19-461 (See Exhibit O).

b. Abandonment Hearing Procedure for AB 775.

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 E), sign posting in the right-of-way (*see* Exhibit D), and by mail to the property owners abutting the Abandonment Area.

In addition, the County solicited responses concerning the abandonment request from required government agencies and utility companies (See Exhibits F, G, H, I, J, P(1), P(2) and Q). The public hearing was convened on September 15, 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 September 29, 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 SEPTEMBER 15, 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 Office is charged with the administration of requests to abandon County rights of way. In so doing, Mr. Willis explained that his Office received an abandonment request from the Applicants 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. Mr. Perry Seiffert, Applicant

Mr. Seiffert, who, with his wife Dianne, owns the abutting property located at 8213 Kentbury Drive, spoke on behalf of the Applicants. Mr. Seiffert indicated that he believed his application to be in order and stated that he and his wife did not intend to develop the

Abandonment Area and that the existing green space would not be diminished. He also indicated that by incorporating the Abandonment Area into his property, he would be able to provide the necessary environmental maintenance, such as mowing, that he asserts has not previously been done on a regular basis.

3. Mrs. Dianne Seiffert, Applicant

Mrs. Seiffert noted that the wooded portion of the Abandonment Area has been deteriorating and that upon approval of the abandonment, she and her husband would be able to preserve and maintain such area.

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. County Fire and Rescue Service. By email dated July 6, 2021, the MCDPS Section of Fire Department Access and Water Supply indicated that it had no opposition to the Applicants' requested abandonment. *See Exhibit F.*
2. Montgomery County Department of Transportation ("MCDOT"). By memo dated August 9, 2021, MCDOT recommended approval of the requested abandonment subject to the following conditions: 1) that the existing storm drain system within the Abandonment Area remain in place within a proposed storm drain easement or relocated at the Applicants' expense; and 2) that all existing utilities within the Abandonment Area remain in place within a proposed public utility easement or be relocated at the Applicants' expense. *See Exhibit G.*
3. Montgomery County Department of Transportation – Traffic Division. By email dated July 2, 2021, MCDOT's Traffic and Operations Division indicated that it had no opposition to the requested abandonment. *See Exhibit H.*
4. Montgomery County Police Department ("MCPD"). MCPD did not respond to the notice of abandonment. Pursuant to § 49-62 (g), it is presumed that there is no opposition.
5. Montgomery County Department of Permitting Services ("DPS"). By e-mail dated July 19, 2021, DPS stated that it had no issue with the requested abandonment (noting

that it had previously voiced no objection to the prior abandonment (AB765) of Kentbury Drive), subject to the Applicants granting any necessary easements for storm drains and/ or utilities presently existing in the right of way or to be relocated into the Abandonment Area. *See* Exhibit I.

6. Maryland National Capital Park and Planning Commission ("MNCPPC"). MNCPPC indicated its support for the abandonment request, subject to certain conditions as set forth in its letter dated August 16, 2001, including that the Applicant must grant any necessary easements for storm drains and/ or utilities presently existing in the right of way or to be relocated into the Abandonment Area. *See* Exhibits P(1) and P(2).
7. Verizon. Verizon did not respond to the notice of abandonment. Pursuant to § 49-62(g), it is presumed that there is no opposition.
8. Pepco. Pepco did not respond to the notice of abandonment. Pursuant to § 49-62(g), it is presumed that there is no opposition.
9. Washington Gas. By email dated July 6, 2021, Washington Gas indicated that it had no objection to the requested abandonment. *See* Exhibit J.
10. Washington Suburban Sanitary Commission (WSSC). By letter dated September 10, 2021, WSSC stated that it had no facilities within the Abandonment Area and therefore no objection to the abandonment request. *See* Exhibit Q.

IV. COMMENTS/ CORRESPONDENCE RECEIVED FROM THE PUBLIC

a. Abutting Property Owners.

In this case, the only three abutting owners are: 1) the Applicants; 2) the Applicant in the prior abandonment case (AB765), Ms. Mary Sisak; and 3) the Columbia Country Club. Included in the Applicants' letter requesting abandonment was a letter from Ms. Sisak stating that she did not object to requested abandonment (*See* Exhibit A). The Columbia Country Club submitted a letter dated September 15, 2021 indicating that it objected to the requested abandonment due to its desire to retain access to adjacent public streets to accommodate an as-yet-undetermined potential future use of the Club's property (*See* Exhibit R).

b. Other Public Correspondence.

An email dated September 12, 2021 was received from Ms. Vickie Seed, a resident of the East Bethesda neighborhood in which she voiced her objection to the requested abandonment on

the grounds that she did not want to lose the existing green space (*See* Exhibit K).

An email dated September 7, 2021 was received from Amanda Farber of the East Bethesda Citizens Association that included several questions concerning the requested abandonment. Mr. Willis responded to Ms. Farber's email in a reply email dated September 7, 2021. The correspondence is attached hereto as Exhibit M.

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 portion of Kentbury Drive being sought for abandonment is clearly public right of way, having been dedicated to public use by Subdivision Plat No. 2321, filed among the land records for Montgomery County, Maryland. While a road has never been constructed within the subject section of the Kentbury Drive right of way, there was evidence introduced into the record that a public storm drain facility is present in the existing right of way. Accordingly, the County has jurisdiction to consider the Applicants’ petition for abandonment.

The evidence produced throughout the hearing process and the hearing itself supports a finding that the Abandonment Area is no longer necessary for present or anticipated future public use. Most relevant to this analysis is the fact that a petition to abandon the western half of the right of way was conditionally approved by the County Council approximately 2 years ago.

In addition, I find the recommendations of the staff at the Montgomery County Department of Planning of the MNCPPC to be persuasive. As noted in their comments (*See* Exhibits P(1) and P(2)), MNCPPC has the technical expertise to determine, and is vested with the responsibility of, development planning, ensuring that there are adequate public facilities in place for public use, and ensuring that there is a robust network of roads and paths that support safe and efficient pedestrian and vehicular traffic patterns and flows, together with alternatives, in the immediate neighborhood for local and through traffic. Staff at the Montgomery County Planning Department recommended abandonment after considering the existing transportation network and approved master plans. As part of that review, Montgomery County Planning Department Staff considered the potential future need to improve Kentbury Drive if the

Columbia Country Club were to seek to redevelop its property in the future.¹ In short, the Planning Department found that even if the Columbia Country Club were to redevelop, there were multiple sites of access to the property along its frontages on Jones Bridge Road, East-West Highway, and Connecticut Avenue such that the Kentbury Drive right of way would not be needed as a future site access point. *See* Exhibit P(1). Staff also pointed out additional rights of way in the form of the Purple Line/Georgetown Branch trail that cut across the Country Club as well as two disconnected segments of Newdale Road that could be improved and connected to provide a multimodal connection across the Columbia Country Club property.

In evaluating the evidence, I have carefully considered the opposition to the abandonment request set forth in that letter dated September 15, 2021 from the Columbia Country Club. *See* Exhibit R. The Club candidly admits that it “... has no foreseeable plans for development of its property...” *Id.* However, the Club opposes the abandonment request because of the potential need for the ROW by the Club, without specifying any more. While it is impossible to predict the future, the Columbia Country Club’s letterhead indicates that it has existed since 1898 – predating the subdivision by some 50-odd years. *Id.* Furthermore, in the 70-plus years since the dedication of Kentbury Drive, there has not been a demonstrated need for the ROW for pedestrian or vehicular use, nor does the record demonstrate any true need for it by the Club over that period. I do not find the Club’s generalized concern about the potential future need for the ROW to be particularly compelling when weighed against the recommendations and the technical expertise of the staff at the Planning Department.

Notwithstanding the above findings, even though Kentbury Drive was never constructed for pedestrian or vehicular use, there was evidence introduced into the record that a public storm

¹ The Planning Department recommendation indicates that there are no current or anticipated plans to develop the Columbia Country Club and that this was a hypothetical that was considered as part of its due diligence review.

drain facility is present in the existing right of way. *See* Exhibits A, G and P(1) and (2). While the storm-drainage pipe is located almost entirely within the western part of the right of way, there is a small portion of it that is located in the Abandonment Area. *See* Exhibit A. Thus, the ROW is currently in the public use. The record further reflects that the County will continue to need a storm drain to serve this area. *See* Exhibits G and I. In reviewing the evidence, I find that there is a continuing need for a storm drainage system in this general location, and I find the recommendations of MCDOT Development Review Team to address the existing storm drain to be reasonable and necessary should Council be inclined to grant the abandonment request. *See* Exhibit G.

For all of the foregoing reasons, I find that subject to the conditions set forth herein, the Abandonment Area is no longer needed for present or anticipated future public use and therefore recommend that the Applicants' petition to abandon be granted, subject to the following requirements that are conditions precedent to the abandonment becoming effective:

- 1) That the Applicants must at their sole cost prepare and record a new subdivision plat that incorporates the Abandonment Area into the adjacent property.
- 2) The Applicants must grant, to the satisfaction of the County, any necessary easement(s) for the existing County storm drainage system that is located within the Abandonment Area, or, with the County's approval, relocate the existing storm drainage system and grant the necessary easement(s) for the relocated system.
- 3) The Applicants must grant, to the satisfaction of the County, any necessary easement(s) for the existing public utilities located within the Abandonment Area, or, with the County's and/ or relevant utility company's approval, relocate the existing utilities, if any, and grant the necessary easement(s) for the relocated utilities.

Respectfully submitted,

3/16/2022
Date

Richard C Dorsey Jr
Richard Dorsey
Public Hearing Officer

The Public Hearing Officer's Recommendations in Petition AB 775 have been reviewed and are approved.

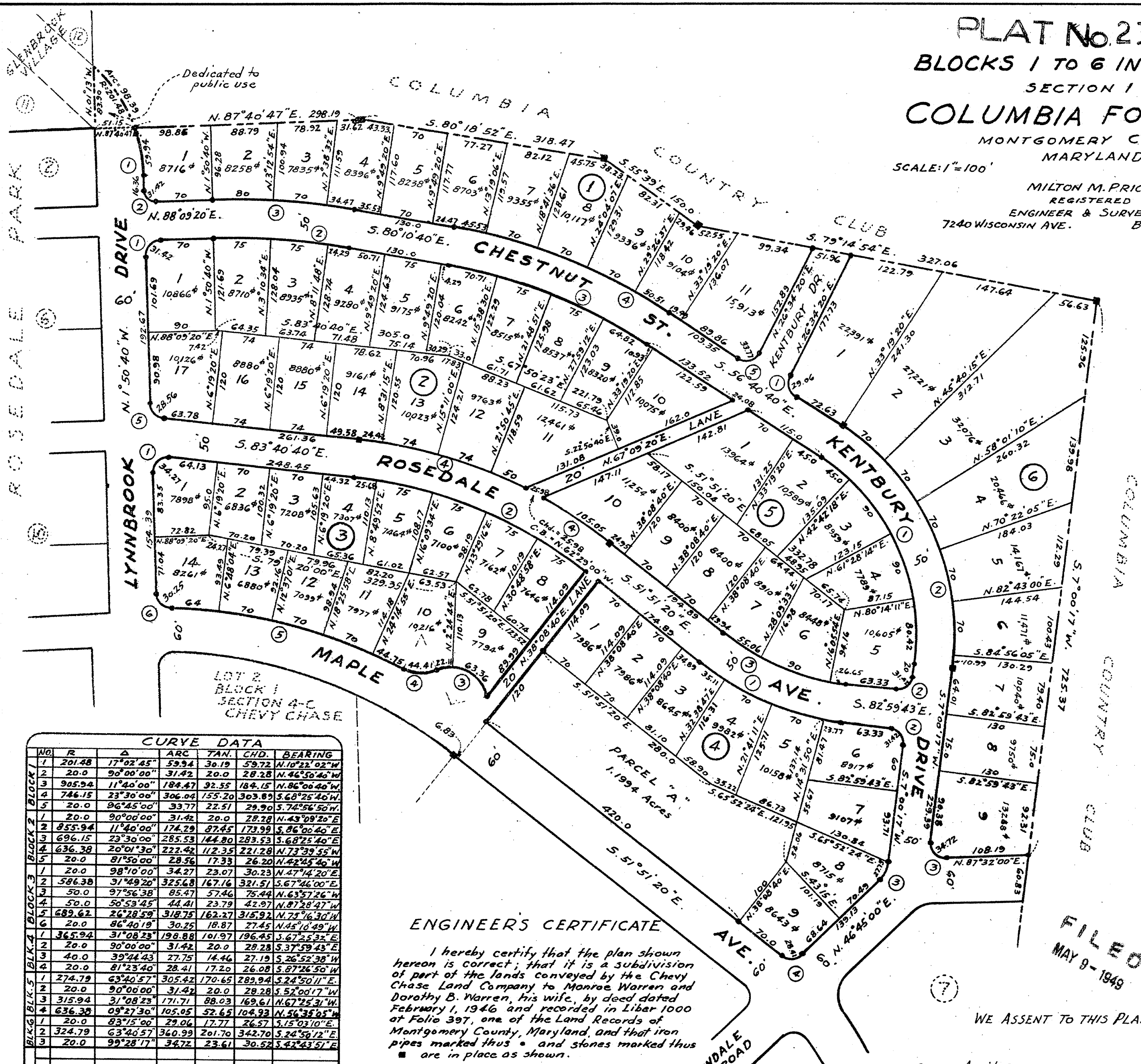
5/11/2022
Date

Marc Elrich
Marc Elrich, County Executive

PLAT No. 2321
BLOCKS 1 TO 6 INCLUSIVE
SECTION 1
COLUMBIA FOREST
MONTGOMERY COUNTY
MARYLAND

SCALE: 1"=100' APRIL 1949

MILTON M. PRICE
REGISTERED
ENGINEER & SURVEYOR
7240 WISCONSIN AVE.
BETHESDA, MD.



| CURVE DATA | | | | | | | | | |
|------------|--------|-----------|--------|--------|--------|--------------|--|--|--|
| NO. | R. | Δ | ARC | TAN. | CHD. | BEARING | | | |
| 1 | 201.48 | 17°02'45" | 59.94 | 30.19 | 59.72 | N.10°22'02"W | | | |
| 2 | 20.0 | 90°00'00" | 31.42 | 20.0 | 28.28 | N.46°50'40"W | | | |
| 3 | 905.94 | 11°40'00" | 184.47 | 92.55 | 184.15 | N.86°06'40"W | | | |
| 4 | 746.15 | 23°30'00" | 306.04 | 155.20 | 303.89 | S.68°26'40"W | | | |
| 5 | 20.0 | 96°45'00" | 33.77 | 22.51 | 29.90 | S.74°56'50"W | | | |
| 6 | 20.0 | 90°00'00" | 31.42 | 20.0 | 28.28 | N.43°09'20"E | | | |
| 7 | 855.94 | 11°40'00" | 174.29 | 87.45 | 173.99 | S.86°00'40"E | | | |
| 8 | 696.15 | 23°30'00" | 285.53 | 144.80 | 283.53 | S.68°25'40"E | | | |
| 9 | 636.38 | 20°01'30" | 222.42 | 112.35 | 221.28 | N.73°39'55"W | | | |
| 10 | 20.0 | 81°50'00" | 28.56 | 17.33 | 26.20 | N.42°45'46"W | | | |
| 11 | 20.0 | 98°10'00" | 34.27 | 23.07 | 30.23 | N.47°14'20"E | | | |
| 12 | 586.38 | 31°49'20" | 325.68 | 167.16 | 321.51 | S.67°46'00"E | | | |
| 13 | 50.0 | 97°56'38" | 85.47 | 57.46 | 75.44 | N.63°57'26"W | | | |
| 14 | 50.0 | 50°53'45" | 44.41 | 23.79 | 42.97 | N.87°28'47"W | | | |
| 15 | 689.62 | 26°28'59" | 318.75 | 162.27 | 315.92 | N.71°16'30"W | | | |
| 16 | 20.0 | 86°40'19" | 30.25 | 18.87 | 27.45 | N.45°10'49"W | | | |
| 17 | 365.94 | 31°08'23" | 198.88 | 101.97 | 196.45 | S.67°25'32"E | | | |
| 18 | 20.0 | 90°00'00" | 31.42 | 20.0 | 28.28 | S.37°59'43"E | | | |
| 19 | 40.0 | 39°44'43" | 27.75 | 14.46 | 27.19 | S.26°52'38"W | | | |
| 20 | 20.0 | 81°23'40" | 28.41 | 17.20 | 26.08 | S.87°26'50"W | | | |
| 21 | 274.79 | 63°40'57" | 305.42 | 170.65 | 283.94 | S.24°50'11"E | | | |
| 22 | 20.0 | 90°00'00" | 31.42 | 20.0 | 28.28 | S.52°00'17"W | | | |
| 23 | 315.94 | 31°08'23" | 171.71 | 88.03 | 169.61 | N.67°25'31"W | | | |
| 24 | 636.38 | 09°27'30" | 105.05 | 52.65 | 104.93 | N.56°35'05"W | | | |
| 25 | 20.0 | 83°15'00" | 29.06 | 17.77 | 26.57 | S.15°03'10"E | | | |
| 26 | 324.79 | 63°40'57" | 360.99 | 201.70 | 342.70 | S.24°50'12"E | | | |
| 27 | 20.0 | 99°28'17" | 34.72 | 23.61 | 30.52 | S.42°43'51"E | | | |

OWNER'S DEDICATION

We, Monroe Warren and Dorothy B. Warren, his wife, owners of the property shown and described hereon hereby adopt this plan of subdivision, establish the minimum building restriction lines, and dedicate the streets and 20' Lanes to public use. There are no suits of action, leases, liens, or trusts on the property included within this plan of subdivision, except a certain deed of trust, the trustees whereof have below indicated their assent to this plan of subdivision.

Date: April 27, 1949
R. R. R. Woods
WITNESS
R. R. R. Woods
WITNESS
Monroe Warren
DOROTHY B. WARREN

ENGINEER'S CERTIFICATE

I hereby certify that the plan shown hereon is correct; that it is a subdivision of part of the lands conveyed by the Chevy Chase Land Company to Monroe Warren and Dorothy B. Warren, his wife, by deed dated February 1, 1946 and recorded in Liber 1000 of Folio 397, one of the Land Records of Montgomery County, Maryland, and that iron pipes marked thus * and stones marked thus ■ are in place as shown.

Date: April 27, 1949
Milton M. Price
REGISTERED
P.E. & L.S. No. 645

WASHINGTON SUBURBAN SANITARY COMMISSION
APPROVED MAY 6, 1949
SUITABLE FOR WATER AND SEWER DESIGN WITHOUT COMMITMENT AS TO INSTALLATION
Harry Hall
CHIEF ENGINEER

WE ASSENT TO THIS PLAN OF SUBDIVISION:

Date: April 27, 1949
Jesse L. Cook
Witness
Isabel Fidler
Witness
Regina McVern
Witness
George E. Hamilton, Jr.
Trustee

MARYLAND NATIONAL CAPITAL PARK & PLANNING COMMISSION
APPROVED APRIL 28, 1949
Chairman
Secretary - 3rd
Treasurer
M.-N.C.P. & P.C. RECORD FILE NO. 130-5



Eric Willis, Esquire
Chief, Property Acquisition Section
Montgomery County Department of Transportation
100 Edison Park Drive, 4th Floor
Gaithersburg, MD 20878

Re: Abandonment Petition Case No. 775,
Part of Kentbury Drive, Bethesda


Dear Mr. Willis,

In response to the Executive Order sent to us as an adjacent property owner to that portion of Kentbury Drive proposed to be abandoned in Case No. AB 775, I am writing to advise you that Columbia Country Club objects to the abandonment of part or all of that part of Kentbury Drive which is the subject of this abandonment application.

While the Club has no foreseeable plans for development of its property, either by improvements to the golf course or if the property was to be developed otherwise in accordance with its underlying zoning, the Club has advised the County before (AB 765) that it is prudent for the Club to retain access to adjacent public streets wherever possible in order to facilitate future use of the Club's property, whatever that use might be. It is our understanding that a standard for the granting of a petition for abandonment is that the subject public street is no longer needed for public use. Potential future use of the Club's property means that the Kentbury Drive access may be needed for public use and should, therefore, not be abandoned.

Thank you for your attention to this position of Columbia Country Club on Abandonment Petition No. 775.

Sincerely Yours,




 9/15/21
William Duthe
General Manager

Montgomery Planning

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

DECISION MAILING DATE:

Memorandum

TO: Gwen Wright, Planning Director 
VIA: Elza Hisel-McCoy, Chief 
DownCounty Planning Division
FROM: Katie Mencarini, Planner Coordinator 
DownCounty Planning Division
RE: Right-of-Way Abandonment Case No. AB-775
Kentbury Drive
Bethesda/ Chevy Chase Policy Area
DATE: August 16, 2021

RECOMMENDATION

Staff supports the subject abandonment petition and recommends that the remaining, unimproved portion of the Kentbury Drive right-of-way, between 4301 Chestnut Street and 8213 Kentbury Drive, be abandoned through the County Council's action on this petition.

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

In the spring of 2019 Staff reviewed a request to abandon the western half of the Kentbury Drive right-of-way, and at that time, Staff recommended abandonment of the full width of the right-of-way. This request to abandon the western half was later approved by the County Council on May 19, 2020. The Subject Abandonment, requested by the property owner at 8213 Kentbury Drive, is for the remaining half of the previous 50-foot wide unimproved public right-of-way located immediately adjacent to and along the Applicant's eastern property line. The requested abandonment encompasses an area of approximately 3,750 square feet and is illustrated in Attachment A. Background information on the case, including the Applicant's petition for abandonment, is attached to this memorandum in Attachments B-D.

The subject right-of-way was originally dedicated in 1949 as part of the Columbia Forest subdivision (Plat 2321, copy attached). That subdivision contained a series of 20-foot and 50-foot wide rights-of-way that ran perpendicular to the main east-west streets in the neighborhood. While some of these rights-of-way have been improved for pedestrian access or storm drains, others remain unimproved and are not identified for future improvement in the 1990 Bethesda Chevy Chase Master Plan or 2018 Bicycle Master Plan.

The area subject to this abandonment request is the eastern half of a 50-foot wide right-of-way located between 4301 Chestnut Street and 8213 Kentbury Drive. This right-of-way runs perpendicular to Chestnut Street, located along its southern limit, and is bounded to the north by the Columbia Country Club.

Consistent with Staff's review of the Abandonment Petition AB-765 for the western portion of the Kentbury Drive right-of-way between 4301 Chestnut Street and 8214 Kentbury Drive, Staff evaluated the potential need to improve the subject right-of-way (AB-775) if the adjacent property owner, the Columbia Country Club, were to seek redevelopment in the future. If the Country Club were to redevelop, that site would have access along its frontages on Jones Bridge Road, East-West Highway, and Connecticut Avenue. Additionally, the right-of-way for the Purple line and the Georgetown Branch Trail cuts across the property. Near the trail are two, currently disconnected segments of Newdale Road that could be improved and connected to provide a multimodal connection across the property. As a result of the Country Club's frontage on multiple public roadways, staff finds that the area subject to the abandonment petition is not necessary for a future site access point.

Staff concludes that the subject right-of-way is not necessary for present or future public use, with the proposed conditions, based on review of the existing transportation network and 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*. When Staff reviewed the previous request (AB-765) for the western portion of the ROW, Staff recommended abandonment of the full width of the unimproved right-of-way, subject to conditions, including the need to provide an easement for any existing storm drains in the right-of-way area. In keeping with previous recommendations, Staff is recommending approval of abandonment case AB-775, which will result in the abandonment of the full width of the Kentbury Drive right-of-way, between 4301 Chestnut Street and 8213 Kentbury Drive. Staff also recommends the following conditions of approval, consistent with the conditions of approval for AB-765, be addressed by the Property Owner prior to the abandonment becoming effective:

1. The Applicant must grant, to the satisfaction of the County, any necessary easements for the existing County storm drainage system that is located within the abandoned area, or, with the County's approval, relocate the existing storm drainage system and grant the necessary easements for the relocated system.
2. The Applicant must grant, to the satisfaction of the County, any necessary public utility easements for existing utilities that are located within the abandoned area, if any; or, with the approval of the County, relocate the existing utilities, if any, and grant the necessary easements for the relocated utilities;
3. Applicant must grant the aforementioned storm drainage and public utility easement as directed by the County and in the County's sole discretion as to the dimensions of the required easement areas;

4. The Applicant must prepare and record a new record plat incorporating the abandoned area into the Applicant's adjacent property.

Attachments

- A. Map and Photo Exhibit
- B. Applicant's Letter Requesting Abandonment of Unimproved Kentbury Drive Right-of-Way
- C. MCDOT Request for Comments on Proposed ROW Abandonment
- D. Council Resolution 19-461 for AB-765 (western half of the Subject Right-of-Way)