



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

August 29, 2008

MEMORANDUM

TO: Montgomery County Planning Board

VIA: Larry Cole, Highway Coordinator *LC*
Transportation Planning

FROM: David Paine, Planner/Coordinator (301) 495-4525 *DP*
Transportation Planning

SUBJECT: Abandonment Request No. AB-716
Abandonment of a Portion of Kensington Boulevard
Kensington View subdivision, Kensington
Wheaton CBD Policy Area

MCPB
Item # ____
September 11, 2008

RECOMMENDATION

The Planning Board should convey a recommendation for **denial of the request for abandonment** to the Montgomery County Department of Transportation (MCDOT).

DISCUSSION

This memorandum presents staff's review of the subject request to seek abandonment of a portion of Kensington Boulevard in the Kensington View subdivision. The purpose of this review is to present the Planning Board with a recommendation on the subject request by the Applicant and to request Board approval to transmit the recommendation to MCDOT for a Public Hearing to be held by the County Executive's office on Monday, September 15, 2008. The referral from the County Executive's office for abandonment request AB-716 is included as Attachment 1.

The subject section of right-of-way is located within the Wheaton CBD Policy Area. The Kensington Boulevard right-of-way runs perpendicular to Veirs Mill Road, roughly northeast to southwest, between East Avenue and Veirs Mill Road. The right-of-way is approximately 70-feet-wide and is constructed to tertiary roadway standards for 40 feet north of its intersection with East Avenue. The remainder of the segment serves as a secondary private access for the business located at 11300 Veirs Mill Road. There is a significant change in elevation between Veirs Mill Road and East Avenue of 20 to 25 feet, with Veirs Mill Road being higher.

A street network map showing the site location is shown in Figure 1. An excerpt from the Wheaton CBD Sector Plan's Proposed Street Highway Plan showing dedication dimensions is shown in Figure 2.

Kensington Boulevard is classified in the 1989 Kensington/Wheaton Master Plan and 1989 Wheaton CBD Sector Plan as a Primary Residential Roadway, P-8, with 70 foot right-of-way and two travel lanes.

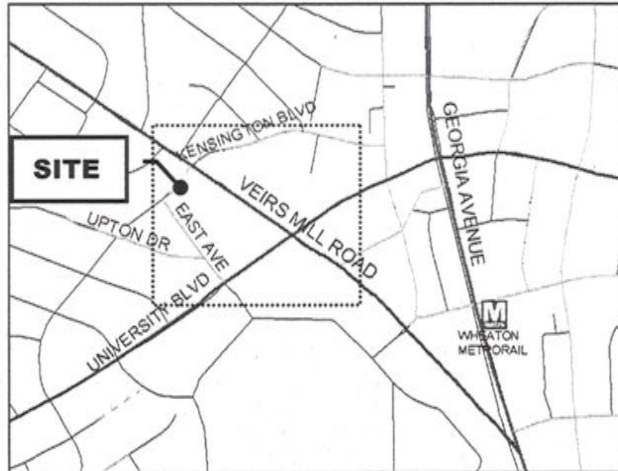


Figure 1. Area Map

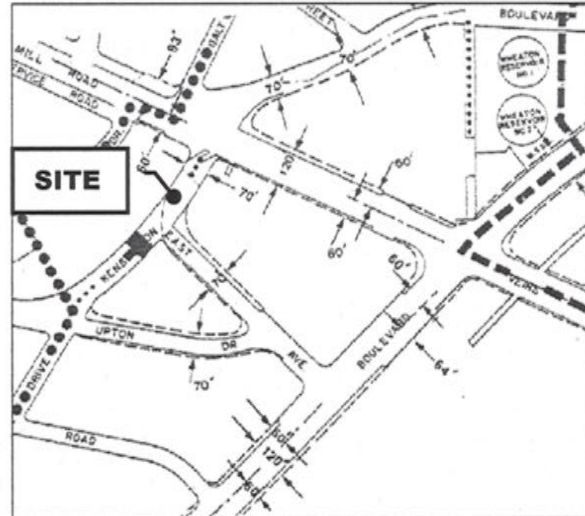


Figure 2. Sector Plan Excerpt

Two single family detached lots front on the north side of this segment of right-of-way (shown on Attachment 2), only one of which, 2901 Kensington Boulevard, has a home on it. The second lot, without an address is owned by 2901 Kensington Boulevard. The property south of the right-of-way, 11227 East Avenue, is owned by the applicant who also owns the adjacent property at 11225 East Avenue, which together are the subject of a Special Exception, S-2719, for parking of associated with an auto dealership. The Special Exception application has been deferred by the applicant and is not contingent on this abandonment proceeding. However, the Forest Conservation exemption that is conditionally approved for the Special Exception property would not cover the area of abandonment should it be approved.

FINDINGS

We oppose the request by the applicant to abandon this segment of Kensington Boulevard for four reasons:

First, Kensington Boulevard is recommended as a road connection between East Avenue and Veirs Mill Road in both the Kensington/Wheaton Master Plan and Wheaton CBD Sector Plan as a Primary Residential Roadway. Public roadways form the framework for transportation and are included as an element in adopted master plans. At the time these plans were developed, Kensington Boulevard was seen as a needed connection. This remains our recommendation.

Second, the current Planning Department work program includes updating the Wheaton CBD and Vicinity Sector Plan. The Scope of Services for this plan is scheduled to be presented to the Planning Board on September 4, 2008 at which time the Planning Board will vote on whether to direct staff to begin work on the Plan. During the development of this plan the Planning Board will consider the need for transportation to support proposed development and could re-consider the need for a master planned road in this location. However, until the adoption of a new plan, the Approved and Adopted 1990 Wheaton CBD and Vicinity Sector Plan continues to be the governing document and this segment remains a recommended connection.

Third, the Applicant has supplied detailed material to support a position that a roadway cannot be constructed to County Standard, between East Avenue and Veirs Mill Road, without resulting in a too-steep grade (19%). However, we believe the Applicant's material assumes an incorrect starting point for construction of the grade, a point 220' southwest of Veirs Mill Road. The 1989 Wheaton CBD Sector Plan

shows the Kensington Boulevard and East Avenue ROW meeting at a curve which would accommodate construction of the roadway. The distance along the curve, 400 feet or more, would readily accommodate the vertical grade difference within County guidelines and would result in an acceptable grade closer to 6%.

Lastly, the abandonment would result in the unbuilt parcel being without frontage on a public row. This is an undesirable condition.

We therefore recommend that the Planning Board should convey a recommendation for **denial of the request for abandonment** of a portion of Kensington Boulevard to the Montgomery County Department of Transportation (MCDOT).

DP:tc
Attachment

cc: Mike Cassedy
Sandy Tallant
Cathy Conlon

MMO TO MCPB RE AB716B.doc



cc: Larry Cole

DEPARTMENT OF TRANSPORTATION

Isiah Leggett
County Executive

Arthur Holmes, Jr.
Director

July 15, 2008

Mr. Royce Hanson, Chairman
Maryland-National Capital Park and
Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910



RE: Request for Comments on Proposed Abandonment
AB716-Abandonment - Portion of Kensington Boulevard
Kensington View Subdivision, Kensington

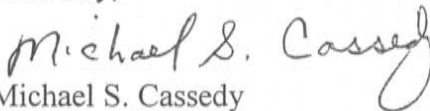
Dear Mr. Hanson:

The purpose of this letter is to request M-NCPPC comments on the proposed abandonment of a portion of unimproved Kensington Boulevard in the Kensington View in Kensington. The abandonment request was made by Shulman, Rogers, Gandal, Pordy & Ecker on behalf of its client, 11250 Veirs Mill Road, LLC, the Applicant. The subject right-of-way consists of approximately 3,167 square feet and is adjoined by property owned by the Applicant. For your reference I have enclosed a copy of the letter of request along with other information concerning this matter.

I would greatly appreciate receiving your comments by September 15, 2008.

If either you or your staff need additional information or have questions, please call me at 240-777-7254.

Sincerely,


Michael S. Cassedy

Enclosures

cc: Larry Cole, Transportation Planning

Attachment 1

Division of Transportation Engineering
Property Acquisition Section

SHULMAN ROGERS GANDAL PORDY & ECKER, P.A.

Lawrence A. Shulman
Donald R. Rogers
David A. Pordy*
David D. Freishtat
Martin P. Schaffer
Christopher C. Roberts
Edward M. Hanson, Jr.
David M. Kochanski
Robert B. Canter
Daniel S. Krakower
Kevin P. Kennedy
Nancy P. Regelin
Samuel M. Spiritos*
Martin Levine
Worthington H. Talcott, Jr.*
Fred S. Sommer
Morton A. Faller
Alan S. Tilles
James M. Hoffman
Michael V. Nakamura
Jay M. Eisenberg*

Douglas K. Hirsch
Glenn C. Etelson
Karl J. Protil, Jr.*
Timothy Dugan*
Kim Vidi Fiorentino
Sean P. Sherman*
Gregory D. Grant*
Jacob S. Frenkel*
William C. Davis, III
Michael L. Kabik
Scott D. Museles
Michelle R. Curtis*
Michael J. Lichtenstein
Howard J. Ross*
Jeremy W. Schulman
Rebecca Oshway
Alan B. Sternstein
Michael J. Froehlich
Sandy David Baron
Christine M. Sorge
Jeffrey W. Rubin

Simon M. Nadler
Karl W. Means
Mimi L. Magyar
Glenn W.D. Golding*
Matthew M. Moore†
Jeannie Eun Cho
David S. Wachen
Stephen A. Metz
Patrick J. Howley
Jacob A. Ginsberg
Christine P. "Tina" Hsu
Aaron A. Ghais
Eric J. von Vorys
Hong Suk "Paul" Chung*
Deborah A. Klis
Heather L. Howard*
Kristin E. Draper*
Melissa G. Bernstein*
John D. Sadler
Marc E. Pasekoff
Alexis H. Peters*

Meredith S. Campbell
Leslie G. Moylan*
Anne Marie Vassallo*
Matthew D. Alegi*
Melanie A. Keegan
Thomas A. Gravely
Rebekah L. Bina
William F. Gibson*
William B. Schroeder*
Lawrence M. Kramer
Alexander C. Vincent*
Stacey L. Schwaber*
Courtney R. Sydnort
Michelle Hunter Green*
Jessica O. Hepburn*
Mark R. Mann†
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Debra S. Friedman*
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Special Counsel
Philip R. Hochberg*

Retired
Karl L. Ecker

Maryland and D.C. except as noted:
* Virginia also ° D.C. only
• Maryland only ■ VA only
• D.C. and VA only † MD and VA only

Writer's Direct Dial Number:

(301) 230-5206
dfreishtat@srqpe.com

April 25, 2008

The Honorable Isiah "Ike" Leggett
Montgomery County Executive
101 Monroe Street, 2nd Floor
Rockville, Maryland 20850

RE: 11250 Veirs Mill Road, LLC; Request for Abandonment
of a portion of Kensington Boulevard

Dear County Executive Leggett:

On behalf of 11250 Veirs Mill Road, LLC, we wish to request abandonment of an area of approximately 3,167 square feet of unimproved Kensington Boulevard right-of-way from the southwestern boundary of Block F, Lot 13 (11227 East Avenue, Kensington, Maryland) to the right-of-way's terminus at the southeastern boundary of Block C, Parcel P282 (11250 Veirs Mill Road/MD Rt. 586, Silver Spring, Maryland). The portion of Kensington Boulevard requested for abandonment presents a steep topography resulting in highly impracticable right-of-way.

The owners of the properties with a boundary adjacent to the proposed abandonment area are indicated on the enclosed tax map and are listed below:

- 11250 Veirs Mill Road, LLC who is the fee simple owner of Parcel P282 with a premises address of 11250 Veirs Mill Road/MD Rt. 586, Silver Spring, Maryland;
- 11250 Veirs Mill Road, LLC who is the fee simple owner of Lot 13, Block F with a premises address of 11227 East Avenue, Kensington, Maryland;
- Mr. Granville L. Berry, et al who is the fee simple owner of Block E, Lot 11 & Block E, Outlot A with a premises address of 2901 Kensington Boulevard, Kensington, Maryland; and
- Banc Realty, LLC who is the fee simple owner of Block B, Lot 9 with a premises address of 11300 Veirs Mill Road, Silver Spring, Maryland.

The area proposed for abandonment consists of about 3,167 square feet of unimproved right-of-way and is adjacent to property for which 11250 Veirs Mill Road, LLC has a Petition for Special Exception (S-2719) pending with the Montgomery County Board of Appeals. If the abandonment is

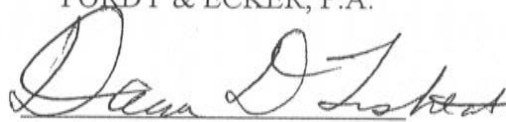
approved, 11250 Veirs Mill Road, LLC will likely seek to incorporate a portion of its abandoned area into the property for its proposed Special Exception for off-street parking of automobiles. Further, if the abandonment is approved, any utility lines or access contained within the right-of-way area proposed for abandonment will be preserved through appropriate land instruments.

We have enclosed with this request a tax map highlighting the proposed abandonment area, a list of property owners whose property abuts the right-of-way proposed to be abandoned, and a check in the amount of \$2,500.00 as the filing fee for the proposed abandonment.

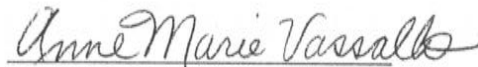
We look forward to a public hearing to review and discuss the requested abandonment. Should you or members of your Staff have any questions, please do not hesitate to contact us.

Sincerely yours,

SHULMAN, ROGERS, GANDAL,
PORDY & ECKER, P.A.



David D. Freishtat



Anne Marie Vassallo

Enclosures

cc: Mr. Michael Cassidy (w/ filing fee per instruction) ✓
Mr. Carlton Gilbert
Mr. Rob Klein
Ms. Virginia Sheard
Mr. Chris Lindsay
Mr. Brian Donnelly

Tax Map HQ 61

HQ 562

H 6



(13-001)

WHEATON PLAZA

N631

PARCEL "9"

AB 716 - Kensington Boulevard



Attachment 2

Map Compiled On 08-29-2008 at 11:51 AM
Map Scale: 1 inch = 150 feet or 1:1800

0 150 Feet



The Maryland-National Capital Park and Planning Commission
Montgomery County Department of Park and Planning
Transportation Planning Unit
8787 Georgia Avenue | Silver Spring, Maryland 20910
301.495.4525 voice | 301.495.1302 fax | <http://www.mc-mncppc.org>

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Project
Montgomery County
Montgomery County

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