

**MCP-Chair**

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**From:** max2allie@aol.com  
**Sent:** Tuesday, July 28, 2020 1:31 PM  
**To:** MCP-Chair  
**Subject:** Oppose abandonment of Ellsworth Drive

**Categories:** Tracked To Dynamics 365

**[EXTERNAL EMAIL] Exercise caution when opening attachments, clicking links, or responding.**

Dear Planning Board members:

Previously I have written to oppose the use of artificial turf on Ellsworth Drive in Downtown Silver Spring. I know I was joined by many others, including the Sierra Club, who have cited the environmental damages caused by synthetic turf. Our opposition mattered little as it was approved, twice, if you count the failure to reconsider. Quite frankly in this day and age in what is portrayed as a progressive community that the use of what has shown itself to be a very environmentally hazardous would be allowed to be installed.

I would also like to voice my opposition to the abandonment of Ellsworth Drive to a private entity. Any organization that would push for the a new use of synthetic turf, glued to asphalt, no less, cannot be allowed to have control over a community's road. Please vote no on abandonment tomorrow and included my correspondence in the file.

All the best

Vicki Warren  
503 Pershing Drive  
Silver Spring MD 20910

## MCP-Chair

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**From:** Jean Cavanaugh <jeancavanaugh@fastmail.fm>  
**Sent:** Tuesday, July 28, 2020 11:37 AM  
**To:** MCP-Chair  
**Cc:** Mencarini, Katherine; mcdot.director@montgomerycountymd.gov  
**Subject:** Oppose AB-771  
**Attachments:** Oppose AB-771 .pdf

**Categories:** Tracked To Dynamics 365

**[EXTERNAL EMAIL] Exercise caution when opening attachments, clicking links, or responding.**

Please share my attached written testimony with commissioners.

Thank you,  
Jean

Jean Cavanaugh  
Silver Spring, MD

Montgomery County Planning Board  
8787 Georgia Ave  
Silver Spring, MD 20910

July 28, 2020

Dear Chair and Commissioners,

**I oppose the Board sending to the Hearing Examiner and MCDOT any approval of the Right-of-Way Abandonment case 77-1 (Ellsworth Drive). I oppose the abandonment of Ellsworth Drive because I strongly oppose the installation of artificial turf as approved in Site Plan Amendment 81999002M. I oppose the artificial turf installation for all the reasons detailed by environmentalists in written and oral testimony presented at the June 18 2020 Planning Board meeting. Also, until proven otherwise, I consider the Board's vote on Site Plan Amendment 81999002M to be illegitimate because Commissioner Patterson was denied a vote.**

Thank you for considering my views.

Jean Cavanaugh  
Silver Spring, MD

## MCP-Chair

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**From:** Mencarini, Katherine  
**Sent:** Tuesday, July 28, 2020 8:21 AM  
**To:** Avorce  
**Cc:** Dickel, Stephanie; Hisel-McCoy, Elza; MCP-Chair; McCray, Tiara  
**Subject:** RE: AB-771, Ellsworth Drive

Ms. Vorce,

Thank you much for your email regarding Right-of-Way Abandonment case 77-1 (Ellsworth Drive). By copy of this email, I am forwarding your comments to the Planning Board Chair's Office for incorporation into the public record.

Based on your email, I think it would be helpful to provide a summary of the County's right-of-way abandonment process.

### Right-of-way Abandonment Process

As per Section 49-62 of the County Code, the County Council, may close or abandon the any public right-of-way. This process is initiated by an application (petition), which is subject to review by County agencies (such as the Planning Department), the Hearing Examiner, and the County Council. As stated in the staff report, the public hearing before the Hearing Examiner for this case is scheduled for September 14, 2020 at noon. Requirements for posting notice for right-of-way abandonments is outlined in Sections 49-62-d, 49-62-e, and 49-62-f of the County Code. These subsections have been copied below for your reference.

*(d) Notice to property owners.* After receiving an application under this Article the Department [of Transportation] must promptly notify by certified mail each property owner listed in the County assessment records whose property abuts the right-of-way proposed to be closed or abandoned. However, the fact that any property owner did not received a notice under this section does not invalidate an otherwise valid closing or abandonment.

*(e) Notice to the public.* The Department [of Transportation] must prominently post a notice of the application in or adjacent to the right-of-way to be closed or abandoned. The Department also must publish notice of the application once each week for 2 successive weeks in a newspaper of general circulation in the County. This notice, and those sent under subsection (d), must inform recipients of the opportunity for a hearing and the date a hearing will be held.

*(f) Hearing.* The Executive or the Executive's designee must hold a hearing on the application not earlier than 30 days after the notice is mailed under subsection (d).

Questions on this process should be directed to Tiara McCray (copied on this email) at the Montgomery County Department of Transportation (MCDOT).

The Planning Board's role in this process is to provide technical comments on the proposed abandonment for consideration by the Hearing Examiner and the Council. At this week's Planning Board meeting (July 30, 2020), the Commissioners will discuss the right-of-way abandonment case for Ellsworth Drive, and will vote to transmit comments to MCDOT.

After considering comments from government agencies, along with testimony from the public, the Hearing Examiner will prepare a report with recommendations to the Council, who ultimately makes the decision regarding abandonment of the right-of-way.

## Ellsworth Drive Abandonment

The Subject Abandonment proposes that the roadway is no longer needed for public vehicular use (with the exception of emergency vehicle access). The Planning Board reviewed the specific design and improvements, including the non-standard pavement materials proposed for the Downtown Silver Spring site and the subject segment of Ellsworth Drive during their regularly scheduled meeting on June 18, 2020. The Planning Board approved the Site Plan Amendment 81999002M with conditions. The subject right-of-way abandonment, if approved by the Council, would permit the petitioner to implement the changes recently approved through Site Plan Amendment. You had a question about one of the conditions of approval for the Site Plan that spoke to an alternative design that would not include synthetic turf. If the Council does not approve the right-of-way abandonment, the Applicant will need to comply with Site Plan Amendment 81999002M condition of approval 1b, which is to provide an alternative design for the project without synthetic turf, to be submitted with the Certified Site Plan. Review and approval of the Certified Site Plan by the Planning Department is required before the Applicant can implement the project.

As you noted in your email, the Board will need to consider if the right-of-way is no longer necessary for present public use or anticipated public use in the foreseeable future or the abandonment closing is necessary to protect the health, safety and welfare of the residents near the right-of-way to be abandoned or closed (Section 49-63-c). As explained in the staff report, it is staff's professional judgement that the segment of Ellsworth Drive between Georgia Avenue and Fenton Street is no longer needed for public vehicular access, and therefore staff recommends approval with conditions.

As stated earlier, your email has been entered into the public record and will be sent to the Planning Board Commissioners. If you wish to provide additional comment on the case or the staff report, you can email [mcp-chair@mncppc-mc.org](mailto:mcp-chair@mncppc-mc.org) directly or you can sign up to testify at the Planning Board Hearing this Thursday, July 30, 2020. If you have additional technical questions regarding the right-of-way abandonment process, please contact me.

Sincerely,  
Katie



**Katie Mencarini**  
Multimodal Planner Coordinator

Montgomery County Planning Department  
8787 Georgia Avenue, Silver Spring, MD 20910  
[katherine.mencarini@montgomeryplanning.org](mailto:katherine.mencarini@montgomeryplanning.org)  
o: 301.495.4549



### WE'RE MOVING!

THE NEW PARK AND PLANNING HEADQUARTERS WILL BE LOCATED AT  
2425 REEDIE DRIVE, WHEATON, MD 20902 IN AUGUST 2020.

**From:** Avorce <avorce@aol.com>  
**Sent:** Friday, July 24, 2020 1:54 PM  
**To:** Mencarini, Katherine <katherine.mencarini@montgomeryplanning.org>  
**Cc:** Dickel, Stephanie <Stephanie.Dickel@montgomeryplanning.org>; Hisel-McCoy, Elza <elza.hisel-mccoy@montgomeryplanning.org>  
**Subject:** AB-771, Ellsworth Drive

**[EXTERNAL EMAIL] Exercise caution when opening attachments, clicking links, or responding.**

Dear Ms. Mencarini.

I have just been made aware of your report on AB-771, the Right-of-Way Abandonment for Ellsworth Drive in downtown Silver Spring, and the scheduling of consideration by the Planning Board of this item on July 30.

Respectfully, I have four requests for your guidance that I trust you will follow up on.

### **Four Requests for Your Guidance**

**1. I would like your guidance on why you did not choose to mention the Planning Board's condition that the applicant come up with an alternative to synthetic turf on Ellsworth for the Certified Site Plan in case the Council did not pass AB-771 as drafted.**

**In all reasonable fairness, this detail should have been included concretely in any summary document. It appears to have been ignored.**

Moreover, does the Planning staff have any indication that the Applicant is indeed doing what the Planning Board directed - that is, developing an alternative to synthetic turf ?

**2. As you note in your document, health, safety and welfare are at the heart of the findings required to abandon a right-of-way. (Chapter 49 Findings Section 49-63(c)(1)-(2))**

**Are you aware - and is the Planning Board aware - that the key players of our environmental community are opposed to the Ellsworth turf on health and safety grounds ?**

**Letters opposing the installation of synthetic turf on Ellsworth have been sent to the Planning Board by experts who devote their work to keeping people and our environment safe, in partnership with the County. From your summary and its attachments, one would think that experts on the environment have either been silent or are ok with synthetic turf.**

In particular, the staff should publish correspondence received should publish letters sent to the Planning Board from the Stormwater Partners Network and the Sierra Club. These are major actors in environmental issues in our County. They oppose the use of synthetic turf on health and safety grounds.

You should also be aware that the County's Department of Environmental Protection has opposed the installation of synthetic turf in a recent letter to the President of the County Council. This letter should be included in any public record for the July 30 consideration

**These three letters - and any others that the PB have since received - should be included in the public record and highlighted in an updated summary that you should prepare so that the record is complete - and fair.**

**3. I request guidance on whether the Applicant or the County's DPS and MCDOT requested Abandonment.**

**It is my understanding that the request came from the Applicant. DPS stated (as did MCDOT initially, in March) that it would not approve synthetic turf if the road was not abandoned. My**

**interpretation is that the DPS position reflects the fact that once the road is abandoned, it will not have authority over the materials applied. Is this correct ? If not, please elaborate.**

**At one point, DPS and MCDOT wrote the Planning Board on record that the plastic carpet was flammable. A subsequent review by DPS-ROW suggested that their concern was over durability - a matter with great significance for our air, water - and people. What you wrote in your document frames the issue differently, although your wording on Page 8 seems closer to my understanding.**

From your Summary, p. 1

**"The Abandonment is requested at the direction of other County agencies such as the Montgomery County Department of Transportation (MCDOT) and Montgomery County Department of Permitting Services (MCDPS), in coordination with Site Plan Amendment No. 81999002M, to allow the Applicant's design which includes numerous non-standard pavement treatment types.**

Your document, p. 8

**"Furthermore, the Petitioners are proposing non-standard roadway materials, such as synthetic turf, to be placed over the existing asphalt paving generally from the eastern edge of Silver Plaza to Fenton Street as shown on the Illustrative Plan (Figure 6). To achieve this design with the proposed non-standard pavement materials, County agencies such as the Department of Transportation and Department of Permitting Services directed the Applicant to abandon both the Access Easement and Upper Ellsworth. "**

**[My highlighting is in yellow.]**

**4. I would appreciate it if you would direct me to the public notice of the opportunity to comment on the Abandonment bill, so that my comments could have been included in your initial document and taken into consideration as your report was being drafted.**

I am quite disappointed that, as far as I can tell, the public did not receive public notice to comment on this matter. As a result, the public correspondence section is highly misleading on the extent of comments and points of view on the matter.

Also, as a party of record for the earlier parts of the proceedings, I was not notified of the opportunity for public comment. Were other parties made aware of the opportunity to comment ?

(As far as I know, the limited correspondence that you received is fortunately coincidental to the timing of your report. Residents from a nearby neighborhood listserv were writing in reaction to the Planning Board's decision not to reconsider its approval and looking ahead to the Council taking up an abandonment petition.)

Thank you very much for your consideration and guidance on these 4 issues.

Sincerely,

Anne Vorce  
Silver Spring