

Item 5 - Correspondence

From: [Shay Hancock](#)
To: [MCP-Chair](#)
Cc: [Mencarini, Katherine](#)
Subject: Comments RE: 5212 Massachusetts Avenue Preliminary Plan #120220170
Date: Wednesday, September 28, 2022 1:47:46 AM
Attachments: [MC Planning Board Comments.pdf](#)

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

S
September 28,
2022

Montgomery County
Planning Board
2425 Reedie Drive, 14th Floor
Wheaton, MD 20902

Sent via email: mcp-chair@mncppc-mc.org
Copy via email: Katherine.Mencarini@montgomeryplanning.org

Chairman Anderson, Vice Chair Verma, Commissioners Cichy, Patterson and Rubin;

I write to express my opposition to the application regarding 5212 Massachusetts Avenue Preliminary Plan #120220170, listed as agenda item #5 to be considered by the Montgomery County Planning Board on Thursday, September 29, 2022.

I am aware the code allows for the applicant to make this petition to abandon the right-of-way, however, while the code states the Board MAY grant such an application, there is no requirement for the Board to grant this particular application.

I caution the board on perpetuating and expanding a precedent that will forever change the parkway-like corridor between Little Falls Parkway and Cape Cod Court. While the precedent was set in 1998 by the current petitioner, it is important to note that approval of the right-of-way abandonment adjacent to Lot 24, 5102 Cammack Drive, was conditioned on not providing access to Massachusetts Avenue. If the Board approves this application, a new precedent will be set, allowing several other residents with properties abutting the public right-of-way along Massachusetts Avenue to petition for fee simple property expansion and more concerning, direct access to Massachusetts Avenue.

While I recognize the board must consider that "anticipated uses" for this property have not been identified, I also believe the Board should also be concerned with uses not yet anticipated, such as a public transit turnout at the existing bus stop at this very location which would ease traffic congestion and provide safe access to riders. It would be more prudent to hold the property than to transfer it to a private person, fee simple.

I recognize the Board has the sole discretion to either grant this application, or preferably deny it. Therefore, in the event the board is inclined to look favorably on this application, I have outlined three primary concerns with conditional recommendations for consideration by the Board.

1. As a taxpaying citizen of Montgomery County and the State of Maryland, I object to the transfer of 5,570 square feet of community property to an individual, fee simple and without compensation to the taxpaying public.

Recommendation: If the property in question is to be transferred to the applicant, the market value of the proposed new lot (Lot 25) should be calculated and compared to the market value of the existing lot (Lot 23). As a condition of approval, any increase in market value to the applicant's property should be paid by the applicant to the appropriate public agency, in this case the Maryland Department of Transportation, upon beneficial determination by the Board.

2. As a resident of Cape Cod Court, which is just 150 feet north of the property in question, I am concerned about public safety of pedestrians, bicyclists and motorists on Massachusetts Avenue and those entering and departing Cape Cod Court.

While no development is proposed as part of the Preliminary Plan, this action is clearly intended to advance development of the property in the future. The existing curb cut related to this application would provide the only private drive access to Massachusetts Avenue on the west side, near the apex of the rise between Little Falls Parkway and Cape Cod Court, creating a certain traffic and public safety hazard.

The staff report prepared for the Board's consideration notes "(T)he total dedicated right-of-way width along Massachusetts Avenue varies between Little Falls Parkway (north of the map extents) and the Washington, D.C. border from 180 feet to 120 feet. South of the Site, the dedicated right-of-way is consistently 120 feet until the Washington D.C. border. There are several driveways connecting to Massachusetts Avenue on the east side and fewer on the west side."

In fact, the total dedicated right-of-way width along Massachusetts Avenue between Little Falls Parkway and Cape Cod Court is 180 feet except for the right-of-way directly adjacent to the applicant's primary residence, which was amended in a similar application in 1998. Additionally, there are no driveways connecting to Massachusetts Avenue on the west side between Little Falls Parkway and Cape Cod Court.

Each public access road connecting to Massachusetts Avenue is controlled by a traffic signal as well as a dedicated turn lane to facilitate traffic crossing lanes on Massachusetts Avenue, except Cape Cod Court which has a dedicated turn lane for entry from Massachusetts Avenue and is regulated by a stop sign and prohibition of cross-traffic, left turns for vehicles departing Cape Cod Court. Furthermore, Massachusetts Avenue has permanent, raised and curbed medians designed to prevent motorists from crossing lanes to enter or depart public or private drives. However, these medians do not currently extend to the current curb cut associated with this application.

The proposed private drive would allow vehicles to cross multiple lanes of traffic at the apex of a hill creating a certain traffic and public safety hazard.

Recommendation: If the property in question is to be transferred to the applicant, the traffic median structure closest to the property should be extended, at no cost to the taxpayers, to terminate just prior to the dedicated turn lane for Cape Cod Court, thereby requiring any traffic exiting the property to make a right turn to access Massachusetts Avenue. As a condition of approval, the applicant should be required to reimburse the Maryland Department of Transportation for all construction costs associated with the extension of the traffic median.

3. As noted in the staff report, the area subject to this application is overgrown and unmaintained. As local resident, I am concerned that if the property in question is to be transferred to the applicant, the area remaining as public right-of-way would remain overgrown and unmaintained. Residents routinely maintain the public right-of-way adjacent to their property and in many instances, such maintenance is required by local jurisdictions.

Recommendation: If the property in question is to be transferred to the applicant, the applicant should be required to maintain the remaining public right-of-way, adjacent to the property, as a condition of approval.

Thank you for your careful consideration.

Shay Hancock
5111 Cape Cod Court
Bethesda, MD 20816

September 28, 2022

Montgomery County
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2425 Reddie Drive, 14th Floor
Wheaton, MD 20902

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Thank you for your careful consideration.

A handwritten signature in blue ink, appearing to read 'SHAY HANCOCK', with a stylized, cursive script.

Shay Hancock
5111 Cape Cod Court
Bethesda, MD 20816

From: [SUSAN BOKERN](#)
To: [MCP-Chair](#); [Mencarini, Katherine](#)
Subject: Comments Re: 5212 Massachusetts Avenue Preliminary Plan #120220170
Date: Wednesday, September 28, 2022 11:34:46 AM

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Dear Chair and Members of the Montgomery County Planning Board:

I am Mary Susan Bokern, resident owner of 5105 Cape Cod Ct, Bethesda, MD, 20816,

I write to express my opposition to the application regarding 5212 Massachusetts Avenue Preliminary Plan #120220170, listed as agenda item #5 to be considered by the Montgomery County Planning Board on Thursday, September 29, 2022.

I concur heartily with each of the three points expressed below by my next door neighbor, Shay Hancock. While presently I do not have time to write a more lengthy note. Here are some brief comments:

Re: Point 1. Property Taxes, Purchase of Land. We residents on Cape Cod Court pay a healthy amount in property taxes to Montgomery County. It seems highly unfair that the County should grant - for free - 5,570 square feet of community property to one individual (who lives on another street in the neighborhood) when the rest of us pay for the square feet for our property that is adjacent to this property. And, this individual has no 'existing' plans to develop this property. Furthermore, future 'anticipated' uses are presently undefined. Really? So, descendants can decide in the future what they want to do with the 'free' property?

Solutions:

1. I would like the opportunity to purchase the 5,570 square feet of community property. What is the current market value? (Since there doesn't seem to be a market value placed on this land because you are granting it for 'free' and not charging property tax?) Please clarify.
2. At a minimum, this individual should pay the same market rate in taxes for the proposed Lot 25 as is paid for Lot 23.

Re: Point 2. Safety. This is a very dangerous location to add a driveway and future development of houses on Massachusetts Avenue. Mr. Hancock clearly states the physical aspects of this location and the staff report to the board describing the location. We, on Cape Cod Court, have a stop sign at our street to the entrance of Massachusetts Avenue. We can only make a right turn onto Massachusetts Avenue because of these physical conditions to the topography of the land - the curve and the hill to our left on Massachusetts Avenue, exactly where the existing curb cut is located, and where cars could enter and exit in a 'future' development state.

Additionally, there is a bus stop on Massachusetts Avenue two blocks down from Cape Cod Court where traffic gets backed up when a bus is there and with the topography of the hill, traffic moves quickly down it and comes to a fast halt right in front of the curb cut and on Cape Cod Court. Several accidents (and almost accidents that I have personally witnessed) have happened here. When I previously lived at 4715 Jamestown Road (one street away), my neighbor's teenage son was killed on Massachusetts Avenue near this location on his way to catch a bus to school. More access to Massachusetts Avenue (particularly with its blind spots) at this location is dangerous.

Solution:

1. Should you move forward to approve this, which I hope you do not, at a minimum, a right turn only sign must be put in place at the curb for any future traffic leaving or entering this curb entrance to Massachusetts Avenue.

Re: Point 3. Property Maintenance. This property is currently not maintained. Vines are hanging from the power line, overgrowth of weeds fills the property. I frequently walk on the sidewalk along Massachusetts and have to duck at sections where tree limbs and weeds spill over and onto the sidewalk. I have also personally taken my yard cutting tools to cut back some of the tree limbs and weeds.

Solutions:

1. This property needs to be maintained, and to be made safe by people walking and bicycling on the sidewalk.

Thank you for your consideration,

Mary Susan Bokern
5105 Cape Cod Court
Bethesda, MD 20816

Mr. Shay Handcock's Submission

September 28, 2022

Montgomery County
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2425 Reddie Drive, 14th Floor
Wheaton, MD 20902

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