

PERMANENT CLOSURE OF WESTBARD AVENUE AT RIVER ROAD AB-786



Description

Staff requests permission to transmit comments to MCDOT pertaining to AB-786, filed by the 5500 Westbard Avenue Block Civic Association, which seeks permanent closure of the 5500 Block of Westbard Avenue at River Road.

AB-786

Completed: July 7, 2023

MCPB

Item No.

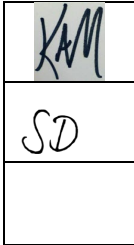
July 27, 2023

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Summary:

- Staff requests permission to transmit comments to MCDOT in advance of their Public Hearing scheduled for August 29, 2023.
- The Applicant, residents of the 5500 block of Westbard Avenue, requests permanent closure of Westbard Avenue where it intersects River Road.
- The County Council approves abandonments and closures of improved public rights-of-way. MCDOT is the lead executive agency for this application and must conduct a public hearing, for which MCDOT will provide public notice. Before the MCDOT public hearing, the County Executive solicits comments from the Planning Board and other agencies.
- As discussed below, the *2016 Westbard Sector Plan* includes specific language endorsing the closure.
- Staff recommends further study of traffic operations at Westbard Avenue at River Road once the alignment of Westbard Avenue is complete to identify a preferred alternative that best meets the recommendations of the Sector Plan and of *Thrive Montgomery 2050*, the County's General Plan, approved and adopted October 25, 2022.
- Staff has not received any public correspondence on the Right-of-Way Petition as of the date of this staff report.

LOCATION/ADDRESS

5500 block of Westbard Avenue

MASTER PLAN

2016 *Westbard Sector Plan*

APPLICANT

5500 Westbard Avenue Block Civic Association

ACCEPTANCE DATE

June 20, 2023

REVIEW BASIS

Chapter 49-62

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SECTION 1: EXECUTIVE SUMMARY

Petitions for closure of rights-of-way to public use are subject to approval by the County Council, pursuant to Section 49-62 of the County Code. The County Executive, or Executive's designee, typically and in this case the Montgomery County Department of Transportation (MCDOT), must hold a public hearing on the Application. MCDOT provides public notice for this hearing. Prior to conducting the public hearing, the County Executive solicits comments from several government agencies, including the Montgomery County Planning Board.

Per Section 49-62, an improved public right-of-way may be closed or abandoned if the County Council by resolution finds 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.

The Applicant for the Subject Petition, the 5500 Westbard Avenue Block Civic Association, seeks permanent closure of the northwestern terminus of Westbard Avenue at River Road, in the Westbard area of Bethesda.

The 2016 *Westbard Sector Plan* specifically endorses closure of Westbard Avenue where it intersects with River Road on the condition that access for emergency vehicles be preserved. The Sector Plan specifies that the closure should not occur until the existing Westbard Avenue/River Road intersection is realigned. The County's recently adopted General Plan, *Thrive Montgomery 2050*, has a recommendation to expand the grid of streets in downtowns, town centers, transit corridors and suburban centers of activity, such as River Road. The 2016 *Westbard Sector Plan* makes multiple recommendations to support and enhance the grid of streets and pathways within the Plan Boundary. The decision to close access to the residential portion of Westbard Avenue was made by the County Council in response to safety concerns due to heavy trucks inappropriately using this segment of the street to avoid a difficult turn onto Ridgefield Road. Once the realignment of Westbard Avenue and Ridgefield Road is completed, this connection will no longer be a convenient approach for heavy trucks.

The realignment of Westbard Avenue and Ridgefield Road has been upheld with the Planning Board's approval of Preliminary Plan 120170170 (MCPB No. 19-032) and Site Plan 820180190 (MCPB No. 19-033) in conditions of approval. The County Council approved AB-773 Abandonment – Portions of Westbard Avenue and Ridgefield Road Bethesda, 7th Election District (No. 19-1213). Construction of the roadway realignment is currently underway and is anticipated for completion in late fall of 2023.

Staff's recommendation to appropriately address fire access, safety, and other potential issues at the northwestern terminus of Westbard Avenue, is to delay closure until after the realignment of Westbard Avenue is completed for the purpose of studying potential roadway design and traffic operational

alternatives at this intersection to ensure the alternatives respond to the updated traffic patterns in the vicinity of the intersection. This upholds the Sector Plan's recommendation to sequence the closure after the realignment of Westbard Avenue and Ridgefield Road is completed.

As a point of clarification, the Subject Application is for a road closure and not an abandonment of public right-of-way. Were the County Council to approve the road closure, the roadway terminus and associated infrastructure would be designed, constructed, and maintained by MCDOT.

SECTION 2: RECOMMENDATIONS AND CONDITIONS

CLOSURE OF PUBLIC RIGHT-OF-WAY

Staff recommends delaying closure until after the realignment of Westbard Avenue is completed to study potential roadway design and traffic operational alternatives at this intersection to ensure the alternatives respond to the updated traffic patterns in the vicinity of the intersection. Recommended stipulations pertaining to the study are as follows:

1. The study should commence no less than 6 months after the realignment of Westbard Avenue and Ridgefield Road is complete and open to all travel modes.
2. The study should evaluate the traffic conditions in response to the completion of the realignment of Westbard Avenue and Ridgefield Road that include (but is not limited to) motor vehicle volumes, travel directions, and vehicle speeds on the 5500 block of Westbard Avenue.
3. The study should identify potential design and traffic operation alternatives that address transportation safety for all modes, consistent with the recommendations of the 2016 *Westbard Sector Plan* and *Thrive Montgomery 2050*. This may include but is not limited to:
 - a. Permanent closure to motorists, except emergency vehicles while maintaining access for bicyclists, and pedestrians. This alternative should include a turnaround acceptable to Montgomery County Department of Transportation (MCDOT) and Montgomery Department of Permitting Services (MCDPS) Fire and Rescue.
 - b. Closing the median on River Road, which would prohibit left turns onto Westbard Avenue.
 - c. Installing a larger directional island that ensures right-in/right-out traffic operations from and towards River Road support the signed left turn restrictions already in place.
 - d. Closing northbound access onto River Road from Westbard Avenue altogether. This alternative should include a turnaround acceptable to MCDOT and MCDPS Fire and Rescue.
4. The study to be undertaken by the MCDOT should include coordination with Montgomery Planning, MCDPS Fire & Rescue, MCDPS Right-of-way, MCDPS Stormwater Management, and the Maryland Department of Transportation State Highway Administration (MDOT SHA). Public engagement on the final design of the intersection treatment is also recommended.

SECTION 3: SITE DESCRIPTION

The 5500 block of Westbard Avenue is a Secondary Residential Street that runs north/south from River Road to the north to Ridgefield Road, in Bethesda (Figure 1). South of Ridgefield Road, Westbard Avenue is classified as a Town Center Boulevard, which terminates at Massachusetts Avenue.



Figure 1 – Vicinity Map

The Subject Petition seeks permanent closure of a public right-of-way (“Application”, “ROW Closure”) at the northwestern terminus of Westbard Avenue (Figure 2). This segment of Westbard Avenue is technically located outside of the 2016 *Westbard Sector Plan* boundary, but the northern end that intersects with River Road is specifically called out, and therefore subject to, the 2016 *Westbard Sector Plan* and the County’s General Plan¹. This segment of Westbard Avenue is a residential roadway and is therefore subject to Chapter 49 of the County Code (Streets and Roads) as well as countywide plans such as *Thrive Montgomery 2050*, the *2018 Master Plan of Highways and Transitways*, and the *2018 Bicycle Master Plan*.



Figure 2 – Subject Public Road Closure

SECTION 4: BACKGROUND AND PROPOSAL

BACKGROUND AND PRIOR APPROVALS

As stated previously, this segment of Westbard Avenue is located just beyond the 2016 *Westbard Sector Plan Boundary*; however, the intersection was specifically mentioned in the Plan in conjunction with the recommendation to realign Westbard Avenue and Ridgefield Road. On pages 34-37, the Sector Plan covers the realignment (B-1), stating:

Westbard Avenue, a business district street, heading toward River Road should be reconfigured to tie directly to River Road with a right-angle intersection, instead of

¹ The 5500 Block of Westbard Avenue is located within the plan boundary of the 1990 *Bethesda-Chevy Chase Master Plan*, but there are no recommendations specific to this block or the intersection with River Road.

teeing into Ridgfield Road. The reconfiguration would create Westbard Avenue extended that would connect directly with River Road. Ridgfield Road would be reconfigured to tee into reconfigured Westbard Avenue extended. The block of Westbard Avenue south of River Road would tee into Ridgfield Avenue.



Figure 3 – Transportation Network Plan from the 2016 Westbard Sector Plan (page 35)

During the development of the 2016 *Westbard Sector Plan*, residents of the 5500 block of Westbard Avenue voiced concerns about trucks using their street as a way of avoiding the challenging intersection geometry at Ridgefield Road and River Road. To address these concerns, the Sector Plan included the aforementioned realignment of portions of Westbard Avenue and Ridgefield Road. The realignment would include a redesigned intersection at River Road to make it easier for trucks and through traffic to access the Westbard Shopping Center and Massachusetts Avenue. Staff worked with MCDOT, MCDPS Fire and Rescue, and Sector Plan stakeholders to reach consensus on a compromise. That compromise was recorded on page 37 of the Sector Plan, as approved by the County Council, and adopted by M-NCPPC:

This Plan endorses the permanent closure of the residential portion of Westbard Avenue between River Road and Ridgefield Road at the River Road end. The closure should not occur until the existing Westbard Avenue/River Road intersection is realigned to intersect River Road with a right-angled turn. The closed end should have a 3-inch-high mountable curb to allow emergency vehicles to access the block from River Road. The closed end should be reconstructed to create a turnaround. Action on this closure is predicated on the submittal of a formal neighborhood application for street closure in accordance with Chapter 49 of the County Code, and its subsequent approval by the County Council.

The realignment and partial abandonment of Westbard Avenue and Ridgefield Road was included as conditions of the Planning Board approval of Preliminary Plan 120170170 (Condition 18 of MCPB No. 19-032) and Site Plan 820180190 (Condition 20 of MCPB No. 19-033). Additionally, the Planning Board provided comments to MCDOT on November 19, 2020 regarding Petition AB-773, recommending approval. MCDOT held a public hearing on the case on December 15, 2020. The County Council approved the requested abandonment (Resolution No. 19-1213) , and work began in June of 2022. The roadwork is being conducted by Regency Centers and their latest Public Notice estimates completion of the project in October of 2023.



Figure 4 –Realignment Construction of Ridgefield Road Underway taken June 2023

PETITION REQUEST

On June 20, 2023 the Maryland-National Capital Park and Planning Commission (M-NCPPC) received Roadway Closure Petition AB-786 (“Petition”, “Application”, “Subject Petition”), in accordance with Section 49-62(g) of the County Code. The 5500 Westbard Avenue Block Civic Association (“Applicant”) is requesting permanent closure to all vehicular traffic, including emergency vehicles, of the intersection of River Road and Westbard Avenue. The Petition supports connectivity for pedestrians and bicyclists. Currently there are no sidewalks on either side of River Road, but MDOT SHA has installed marked, bikeable shoulders. The Petition also requests that a temporary closure remain in place until a permanent closure can be installed.



Figure 5 – Photo of Westbard Avenue from River Road (looking south) taken in August of 2022. This temporary closure has since been removed.



Figure 6 – Photo of Westbard Avenue from River Road (looking south) taken in June of 2023

The Petition points to concerns for traffic safety and relatively high through-traffic volumes on the street, after the realignment of Westbard Avenue and Ridgefield Road is complete and open to motor vehicle traffic. Before the temporary closure was installed, traffic calming measures such as speed bumps and restriction of left turns onto northbound River Road (signage) were installed and remain today. The Applicant explains that closing the road to all motor vehicles with a cul-de-sac or other turnaround configuration would reduce traffic volumes and potential conflicts on the roadway.

Letters of support for a permanent closure to all motor vehicle traffic were included in the Subject Petition from 23 of the 24 residents on the 5500 block of Westbard Avenue².

SECTION 5: FINDINGS AND ANALYSIS

Conformance to the Master Plan(s)

Abandonment or closures of a public right-of-way, require approval by the Montgomery County Council in accordance with Section 49-63 of the County Code. The role of the Planning Board in this process is to provide comments and recommendations informed by the County Code and applicable plans and policies. Westbard Avenue is subject to multiple master plans. They include the 2016 *Westbard Sector Plan*, the 2018 *Master Plan of Highways*, the 2018 *Bicycle Master Plan*, and *Thrive Montgomery 2050*³.

The 2016 *Westbard Sector Plan* endorses the closure of Westbard Avenue at River Road after the realignment of Westbard Avenue and Ridgefield Road is complete. The Sector Plan recommends that the design of the closure feature a 3-inch mountable curb to allow for emergency vehicle access (page

² The submittal materials suggest that the Applicant was unable to get a response from the one homeowner who did not include a letter with the Subject Petition.

³ The 5500 Block of Westbard Avenue is located within the plan boundary of the 1990 *Bethesda-Chevy Chase Master Plan*, but there are no recommendations specific to this block or the intersection with River Road.

37). This recommendation was developed in coordination with MCDPS Fire and Rescue to address traffic safety concerns, while preserving emergency vehicle access. The Sector Plan goes on to say that the closed end should be reconstructed to create a turnaround, in accordance with MCDOT standards. Action on the closure is predicated on the submittal of a formal neighborhood application for street closure in accordance with Chapter 49 of the County Code and is subsequent approval by the County Council.

Thrive Montgomery 2050, the recently approved and adopted General Plan for the County, designates River Road from the District of Columbia to Interstate 495 as a Growth Corridor (page 42⁴) and a transit corridor, which could take the form of Bus Rapid Transit. The “Transportation and Communication Networks” chapter envisions a more robust street grid along these corridors. Page 73 states: “Expand the street grid in downtowns, town centers, transit corridors, and suburban centers of activity to create shorter blocks.” However, the Introduction states on page 4 that:

Area master plans, sector plans, and countywide functional plans will remain valid until modified pursuant to the guidance provided by this plan. Like the previous general plan its broad policy recommendations pave the way for future actions, such as amendments to other plans, policies, and development rules.

Furthermore, while the 2016 *Westbard Sector Plan* endorses closure of the residential portion of Westbard Avenue at River Road, the Sector Plan makes many recommendations to expand and enhance the grid of streets for all modes. Realigning Westbard Avenue and Ridgefield Road creates a smoother and more intuitive access to the Westbard commercial centers. Recommendations for two new Business District Streets are included amongst recommendations for new public connections and pathways for pedestrians and bicyclists.

The 2018 *Master Plan of Highways and Transitways*, and the 2018 *Bicycle Master Plan* are silent as to any modifications to Westbard Avenue.

FINDINGS REQUIRED BY SECTION 49-63

- c. A right-of-way may be abandoned or closed if the Council by resolution finds 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**

When determining whether a finding can be made for the present or anticipated public use of a right-of-way, the Planning Board looks to the approved and adopted master plans. While recognizing the *Thrive Montgomery 2050* recommendation to pursue shorter blocks on transit corridors and suburban

⁴ All *Thrive Montgomery 2050*-page numbers and text per the October 2023 Draft.

centers of activity as an essential element of future planning efforts in the county, as modified by the staff recommendation and conditions above, the Petition is consistent with the endorsement of the 2016 *Westbard Sector Plan*.

Based on the public process and County Council approval of the Sector Plan's endorsement to close Westbard Avenue at River Road, as conditioned by this staff report, the intersection is not necessary for present or anticipated public use in the foreseeable future. This segment of Westbard Avenue was not intended for heavy truck or through traffic accessing the Westbard Shopping Center and Massachusetts Avenue.

Furthermore, the County Council added the endorsement for the closure of the 5500 block of Westbard Avenue at River Road as a response to traffic safety concerns. As discussed earlier in this report, the intent of the realignment and partial abandonment of Westbard Avenue and Ridgefield Road was to provide a more appropriate intersection for trucks and through traffic accessing the Westbard Shopping Center. Closure of the residential portion of Westbard Avenue would eliminate the practice of using it as a bypass for the intersection of Ridgefield and River Road (future Westbard Avenue and River Road). The closure therefore complements the realignment project and ensures that heavy trucks will no longer use the residential segment of the street. Reducing the number of heavy trucks on the residential portion of Westbard Avenue will improve public health and safety of the residents near the roadway closure.

Therefore, a full or partial closure of Westbard Avenue meets the necessary findings for Section 49-63 of the County Code.

SECTION 6: CITIZEN CORRESPONDENCE AND PUBLIC NOTICING

The Petitioner has complied with all submittal and noticing requirements. As stated in Section 4 of the Report, 23 of the 24 residents on the 5500 Block of Westbard Avenue have issued letters of support of the Subject Petition. As of the date of this the Report's completion no citizen correspondence been received.

SECTION 7: CONCLUSION

Staff recommends delaying closure until after the realignment of Westbard Avenue is completed for MCDOT to study potential roadway design and traffic operational alternatives at this intersection to ensure the alternatives respond to the updated traffic patterns in the vicinity of the intersection, with the recommended stipulations included in the staff report and transmit comments to MCDOT.

ATTACHMENTS

Attachment A: Right-of-way Petition AB-786