

## Item 6 - Correspondence

**From:** [Mencarini, Katherine](#)  
**To:** [MCP-Chair](#)  
**Cc:** [Dickel, Stephanie](#); [Hisel-McCoy, Elza](#); [Benjamin Mann](#)  
**Subject:** On-record testimony for Item 6 on the Board's July 27, 2023 Agenda Permanent Closure of Westbard Avenue at River Road No. AB-786  
**Date:** Wednesday, July 26, 2023 10:25:01 AM  
**Attachments:** [AB786 - Letter from Residents to Planning Board - 26July2023.docx](#)  
[image001.png](#)  
[image002.png](#)  
[image003.png](#)  
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[image005.png](#)

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Hello,

Please find the attached letter from the Applicant pertaining to item 6 on the Board's Agenda tomorrow (Permanent Closure of Westbard Avenue at River Road No. AB-773 786).

Sincerely,  
Katie



*Note on future availability: From July 17 and August 18 I will be on a reduced schedule working Wednesdays and Thursdays only. I will resume a normal schedule (5 weekdays) starting August 28, 2023.*

**Katherine (Katie) Mencarini** (she/her/hers)

**Planner III**

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**WE'VE MOVED!**

THE NEW PARK AND PLANNING HEADQUARTERS IS NOW LOCATED AT  
2425 REEDIE DRIVE, WHEATON, MD 20902

July 26, 2023

Montgomery County Planning Board  
2425 Reedie Drive, 14<sup>th</sup> Floor  
Wheaton, MD 20902

*Re: AB-786 (Permanent Closure of the intersection of River Road and Westbard Avenue)*

To board members Artie Harris, Mitra Pedoeem, Shawn Bartley, James Hedrick, and Josh Linden:

My name is Benjamin Mann, and I'm representing the 5500 Westbard Avenue Block Citizens Association, comprised of my neighbors on the residential block in question.

Please excuse the lack of polish in this letter. The staff report on this matter was completed on July 7<sup>th</sup>, but we were only informed on July 24<sup>th</sup> with less than 48 hours prior notice that our petition would be considered by the Planning Board this Thursday. We were unaware that the Planning Board had even intended to submit any comments on our petition prior to your August recess. This letter is being written early Wednesday morning, and time demands will not permit much in the way of revisions. We are writing in response to the staff report and its recommendations.

Our petition is before you today because, under the county statutes, it is lumped in with petitions for abandonment of public right of way. Abandonment petitions involve a request for public land to be transferred to the private ownership of the petitioner(s). Given that the land in question tends to be rather valuable, and that upon transfer of ownership the county loses the ability to control the land, abandonment petitions are naturally quite rigorous.

However, we are not requesting any change in ownership. It is our understanding that this is an extremely unusual petition request. The Department of Transportation was unable to locate any similar cases in its "abandonment" case records. The closest analogue was a case in which the county itself was the petitioner for permanent closure of a street in order to construct a library, which is rather different from regular citizens petitioning for a street closure. All other case records involved transfer of land ownership.

Given that what we are requesting is simply the implementation of the plain and specific language of the 2016 Westbard Sector plan, we didn't think that we would have to go through such an onerous and lengthy process. Nevertheless, we have pooled neighborhood funds to pay the \$2,500 application fee (this may be a minor expense to those who stand to

gain land ownership through the process, but it is quite a large fee for those who do not), and we are expending substantial amounts of time and effort in advancing this permanent road closure with public agency after public agency.

Please bear in mind that Montgomery County will still own all of the public right of way in question if our petition is approved. No decisions made here are irrevocable, should Montgomery County decide to put the land to different use.

We also want to emphasize that our petition does not request that the right of way be closed to pedestrian or bicycle traffic. Approval of our petition would not create any difficulties should future plans for the area involve more robust pedestrian/bike traffic connections between River Road and Westbard Avenue. We are only asking for the public right of way connecting River Road and our block to be closed to vehicular traffic.

The 2016 Westbard Sector Plan states (emphasis added):

**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 Road/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.

That language seems crystal clear to us. The River Road end of our block is to be permanently closed, and reconstructed to create a turnaround.

The language in the 2016 Westbard Sector Plan is the end result of several years of public engagement amongst all the stakeholders and public agencies. It was formally voted on and adopted by both this Planning Board and by the Montgomery County Council.

We were completely stunned when we read the Planning Board staff report. Not only does it decline to support our petition for prompt implementation of this aspect of the 2016 Westbard sector plan, it actually recommends that the sector plan be overridden.

The staff report's following design proposals for the intersection of Westbard Avenue and River Road are completely incompatible with the 2016 Westbard Sector Plan:

- "Closing the median on River Road, which would prohibit left turns on River Road."

- “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.”
- “Closing northbound access onto River Road from Westbard Avenue.”

We feel we need to repeat the sector plan’s language again here: **“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 closed end should be reconstructed to create a turnaround.”**

There is no reading of that language which could be construed as “Modify but do not close the intersection.” The sector plan’s language quite clearly calls for a cul-de-sac.

If there were a need to consider a great many different potential design plans for this intersection, we would naturally agree with staff that a lengthy study period is necessary, including further public engagement and comments.

However, given that the 2016 Westbard Sector Plan already settled this matter, there is clearly no need for a study to determine the design. This public right of way is to be closed and reconstructed to create a turnaround.

The study process recommended by the staff report is a solution in search of a problem.

Regarding access to emergency traffic, we understand that this is the only aspect of our petition that differs from the endorsed language of the sector plan. We have corresponded with Marie LaBaw, PHD. Marie represents MCDPS Fire & Rescue Services in issues of fire department access and water supply for the Department of Permitting Services.

Marie made it clear to us that it is unacceptable to construct a cul-de-sac this length (greater than 150’) without a turnaround which meets county code for emergency equipment. Fire engines visiting the end of the block would have to drive in reverse all the way out, with a fireman walking on foot behind the engine to guide it. **We agree wholeheartedly that the final reconstruction of this public right of way must accommodate emergency equipment.**

Marie also informed us that MCFRS would have no problem with a cul-de-sac in this location, with no mountable curb connection to River Road, so long as the cul-de-sac meets the 90’ diameter requirement specified by county code. Alternatively, if a cul-de-sac of that size is problematic in this location, a hammerhead turnaround would also be acceptable to MCFRS.

Marie has lodged public comments on this petition with DOT, and here I quote (in entirety) her most recent comment: **“I just had a chat with Ben Mann, the residents’**

**representative, and I should make clear that FRS and DPS do support an apparatus accessible closure and I'm happy to work with the interested parties on what that looks like."**

I am not a civil engineer, but I do have a healthy working knowledge of how to use the MC Atlas GIS mapping tools. Based on measurements taken using MC Atlas, it appears to me that there is indeed sufficient room for a cul-de-sac measuring 110' in diameter (90' of paved roadway to meet the fire code, plus 10' on both sides to account for curb and sidewalk and landscaping).

If a cul-de-sac design cannot be accommodated within this right of way, then it certainly looks like a 140' hammerhead turnaround would be no problem whatsoever to fit into the available public right of way.

If a thorough study determines that no fire accessible turnaround can be constructed here, then a 3" mountable curb to maintain emergency vehicle access would be acceptable to the residents of our block.

A summary of what we are requesting is as follows:

- Upon the completion of the realignment of Westbard Avenue/Ridgefield Road to tee into River Road (currently estimated for completion in Spring 2024, per Regency communications with neighborhood residents), the intersection of River Road and Westbard Avenue is to be permanently closed to vehicular traffic.
- This closure is to be implemented via a temporary fire accessible barrier while MCDOT finalizes the design for reconstructing this end of Westbard Avenue into a turnaround.
- MCDOT, in conjunction with MCFRS, is to make all reasonable efforts to design a fire accessible turnaround for Westbard Avenue which would make continued emergency vehicle connection to River Road unnecessary.

The residents of our block spent a great deal of time and energy advocating for this in the sector plan process, and those who have bought homes on this block subsequently had to pay prices that reflected the anticipation that the 2016 Westbard Sector Plan would be carried out, and that this block would become a cul-de-sac once the road realignment was completed.

If the permanent closure of this intersection is delayed, it will allow the immediate resumption of cut-through traffic down our block. Our children, who have safely been able to play street hockey and pass footballs around since the detour plan closed off one end of our block, will no longer be safe playing on our block.

The process envisioned by the staff report would involve a delay of multiple years before the permanent closure could be implemented (during which time we would be subjected once again to speeding cut-through traffic and dangerous illegal left turns), with a very real possibility that the permanent closure might never be implemented at all, or that it might be altered radically from the language negotiated and approved in the Sector Plan.

If the Planning Board were to abandon the negotiated language it adopted in the 2016 Westbard Sector Plan, and endorse the staff's recommended alternatives to a cul-de-sac, or if the Planning Board were to endorse a process involving years of delays that could potentially torpedo the permanent closure altogether, it would damage public trust in our governmental institutions. The language in the sector plan constituted a promise from both the Planning Board and the County Council that once the road was realigned, our block could become a quiet cul-de-sac. The number of households impacted may be small (24), but this is an issue of extreme importance to us, and this process represents the culmination of nearly a decade of public engagement focused on making this cul-de-sac a reality.

We respectfully request that your comments on our petition include approval of the permanent closure immediately upon completion of the road realignment, with the closure to be temporarily implemented via fire-accessible barriers while MCDOT and MCDPS Fire & Rescue work out the final design.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ben Mann', with a long horizontal flourish extending to the right.

Benjamin Mann  
5522 Westbard Avenue