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Transcript of Hearing In Re Kentbury Drive

Date: September 15, 2021

Case: Abandonment Hearings, In Re: Kentbury Drive & Sleaford Road

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DEPARTMENT OF TRANSPORTATION
FOR MONTGOMERY COUNTY, MARYLAND

-----x
IN RE: : Petition No.
KENTBURY DRIVE : AB775
-----x

Public Hearing
Before Hearing Officer Richard Dorsey
Conducted Virtually
Wednesday, September 15, 2021
1:00 p.m. ET

Job No. 399561
Pages: 1-19
Transcribed by: Megan Wunsch, AAERT CET

Transcript of Hearing In Re Kentbury Drive
Conducted on September 15, 2021

1 Hearing In Re Kentbury Drive conducted
2 virtually.

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8 Pursuant to agreement, before Daniel Long,
9 Notary Public in and for the District of Columbia.

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A P P E A R A N C E S

PARTICIPANTS:

- Eric Willis, MCDOT
- Tiara McCray, MCDOT
- Perry Seiffert, Applicant
- Dianne Seiffert, Applicant

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P R O C E E D I N G S

OPENING REMARKS

HEARING OFFICER: Good afternoon,
everyone. It's about one o'clock on the 15th day
of September, 2021. We are conducting this
hearing via Zoom, and we are here for a public
hearing on Abandonment Petition AB775 to consider
an application received from Mr. Perry Seiffert
and Mrs. Dianne Seiffert to abandon the eastern
half of the right-of-way known as Kentbury Drive
in Bethesda.

My name is Richard Dorsey, and I am here
as the county executive's designee in this public
hearing with the Department of Transportation.

The right-of-way abandonment hearing is
being conducted pursuant to Chapter 49-62(f) of
Montgomery County Code.

My role in the abandonment process is to
receive information concerning the abandonment
request and then write a report and recommendation
to the county exec concerning the applicant's
petition for abandonment.

And in order to do this, I will be
considering statements made at the hearing,
written comments received within the comment

1 period -- and that comment period will be held
2 open until September 29th, 2021, at 5:00 p.m. --
3 and documents submitted to support or explain the
4 position.

5 My report and recommendation will then be
6 forwarded to the county exec for consideration,
7 and the county exec will then forward the report
8 and the county exec's recommendation to the County
9 Council. It is the County Council that will
10 decide whether to grant or deny the applicant's
11 petition for abandonment.

12 For those who wish to submit written
13 comments, please submit them to Eric Willis at
14 Montgomery County Department of Transportation,
15 100 Edison Park Drive, 4th floor, Gaithersburg,
16 Maryland 20878, or email them to
17 Eric.Willis@MontgomeryCountyMD.gov by September
18 29th, 2021.

19 And there are a few ground rules that we
20 must cover before Mr. Willis introduces the
21 abandonment petition in the record.

22 First, please turn off or silent your cell
23 phone.

24 Second, as any -- excuse me, as any issue
25 -- as an issue of decorum, all applicants must be

1 given their due consideration. Those seeking to
2 offer comments following the close of the
3 petitioner's case for abandonment are asked to be
4 mindful of the time and to limit their comments to
5 the relevant matter. Such comments should be
6 confined to less than three minutes.

7 If an interruption occurs, I will give
8 that individual his first warning. If a second
9 interruption occurs, I will give that individual a
10 second warning, and then that individual will be
11 muted. If the same individual receives a third
12 warning, that person will be removed from the
13 call. If there are several people making
14 interruptions, I may close the hearing.

15 Following Mr. Willis' introduction, the
16 applicant will submit its case for why it believes
17 that the right-of-way should be abandoned. After
18 the applicant has completed its case, those who
19 have registered to speak will be afforded the
20 opportunity to make relevant comments.

21 At this time, I'll present Mr. Willis to
22 present his -- present his information.

23 I think you're on mute, Eric.

24 MCDOT PRESENTATION

25 MR. WILLIS: I reminded myself to turn

1 that off, and I still don't do it when I get to
2 the point. Sorry about that.

3 Thank you, Mr. Dorsey, and good afternoon,
4 everybody. My name is Eric Willis. I'm the chief
5 of the Property Acquisition Section with
6 Montgomery County DOT. My section is responsible
7 for administering the requests for abandonment of
8 public rights-of-way.

9 As Mr. Dorsey noted earlier, this process
10 is governed by the County Code, specifically
11 Chapter 49, Section 6 of the code. In order to
12 abandon a public right-of-way, the County Council
13 must find that the right-of-way is no longer
14 needed for present or anticipated future use or
15 that the abandonment is necessary to protect the
16 health, safety, and welfare of the residents near
17 the right-of-way to be abandoned.

18 In this case, the subject right-of-way
19 known as Kentbury Drive was dedicated to public
20 use via Subdivision Plat No. 2321, on May 9th,
21 1949. The subject portion of the roadway, which
22 runs between kind of the confines of Chestnut and
23 Kentbury Drive and then extends northerly to the
24 boundary of the Columbia Country Club. That
25 section of the roadway was never built, but there

1 is a public storm drain that runs underneath the
2 right-of-way.

3 The applicants in this case have requested
4 that the eastern half of that right-of-way be
5 abandoned because it's no longer needed for public
6 use or anticipated future public use. The
7 applicants, who live immediately adjacent to the
8 eastern side of the right-of-way, and so they are
9 seeking abandonment in order to incorporate that
10 half into their overall property.

11 This case is somewhat unique, Mr. Dorsey,
12 just to make you aware, in -- in that the western
13 half of the right-of-way was previously abandoned
14 through a prior abandonment process. And that
15 request was actually brought by the owners on the
16 opposite side of the right-of-way, on the western
17 side, and their request for abandonment was
18 approved by the County Council by Resolution No.
19 19-461, and that was done on May 19th of 2020 --
20 the abandonment being granted subject to certain
21 conditions, including the necessity to grant an
22 easement for that public storm drain that runs
23 underneath the abandonment -- or underneath the
24 right-of-way.

25 This hearing was authorized by the county

1 executive's designee. And as part of our
2 administrative process, we've provided the
3 requisite notices to other public agencies,
4 abutting property owners, and the public at large.
5 As part of that process, we collected a number of
6 exhibits, and I'll now introduce those exhibits
7 into the hearing record.

8 I see Tiara has already gotten started in
9 pulling up some of those exhibits.

10 (Exhibit A introduced, retained.)

11 Exhibit A is the letter we received from
12 the applicants requesting the abandonment. That
13 letter also included some exhibits, including this
14 -- I guess that's more of a tax map showing the
15 right-of-way area, correct, and then there's a
16 boundary survey also attached of 8213 Kentbury
17 Drive where you can see the Chestnut -- I'm
18 assuming it's Chestnut Street. I'm sure that
19 Kentbury Drive is the right-of-way that's along
20 the left side of the page there.

21 And there's a second exhibit, which is the
22 boundary survey of the property on the opposite
23 side of the right-of-way, again depicting Kentbury
24 Drive, you know, in the hash lines running through
25 -- in the exhibit.

1 Finally, the letter attached an exhibit
2 from the owner on the opposite side of the right-
3 of-way providing her consent to the petition.

4 (Exhibit B-1 introduced, retained.)

5 Exhibit B, I believe it's the -- Exhibit B
6 is the right-of-way plat, just 2321, in which this
7 portion of the right-of-way which is shown along
8 the top part of the plat there, showing the
9 Kentbury Drive right-of-way being dedicated to
10 public use.

11 (Exhibit B-2 introduced, retained.)

12 Next exhibit, this one's Exhibit C, is an
13 aerial photo again depicting the right-of-way
14 located between the two houses there, 8213
15 Chestnut on the east side and 4301 -- I'm sorry
16 8213 Kentbury on the east side and 4301 Chestnut
17 on the west side.

18 And Exhibit D, I believe -- is that right,
19 Tiara?

20 MS. McCRAY: We're on Exhibit C. The one
21 prior -- excuse me -- previous to this one was
22 Exhibit B-2.

23 (Exhibit C introduced, retained.)

24 MR. WILLIS: Okay. Thank you. This is
25 the executive order authorizing today's hearing.

1 (Exhibit D introduced, retained.)

2 Exhibit D -- I'm sorry -- is the photo of
3 the sign that was posted as required at the right-
4 of-way site. You would see the signs that were at
5 Kentbury and Chestnut. This was taken yesterday.

6 (Exhibit E introduced, retained.)

7 Exhibit E is the proof of the
8 advertisement that ran in The Washington Times on
9 September 1st and September 8th providing notice
10 of today's hearing.

11 (Exhibit F introduced, retained.)

12 Exhibit F, and this is where we'll get
13 into the agency responses. Exhibit F is an email
14 I received from Marie LaBaw with the MCDPS,
15 section of Fire Department Access, indicating no
16 objections to the abandonment request.

17 (Exhibit G introduced, retained.)

18 Exhibit G is a memorandum received from
19 the DOT's department -- development review team in
20 which they indicate -- recommend approval of the
21 abandonment subject to certain conditions,
22 including the granting of an easement for the
23 existing storm drain as well as easements for any
24 other utilities that would exist out there.

25 (Exhibit H introduced, retained.)

1 Exhibit H, this is a email received from
2 Mark Terry with the DOT traffic office indicating
3 that they have no concerns from a traffic
4 perspective, also pointing out that there may be a
5 need for a storm drain easement because of the
6 existing pipe in there.

7 (Exhibit I introduced, retained.)

8 Exhibit I is a letter from Atiq Panjshiri
9 at Montgomery County Department of Permitting
10 Services indicating that DPS has no issue with the
11 abandonment, again, subject to the -- any future
12 easement for the existing storm drain or other
13 utilities located within the right-of-way area.

14 (Exhibit J introduced, retained.)

15 Exhibit J is the email received from
16 Stephen Lincoln at Washington Gas indicating they
17 have no facilities within the easement area and,
18 therefore -- or within in the right-of-way area
19 and, therefore, no objection to the request.

20 (Exhibit K introduced, retained.)

21 I believe we're on to Exhibit K, is a
22 letter or an email received from another resident
23 in the East Bethesda neighborhood noting her
24 objection to the abandonment request essentially
25 on the grounds that she wanted to preserve the

1 open space in the neighborhood.

2 (Exhibit L introduced, retained.)

3 Exhibit L is correspondence that I had
4 with the president of the East Bethesda Citizens
5 Association in which I provided them with copies
6 of the abandonment requests.

7 (Exhibit M introduced, retained.)

8 Exhibit M is communications I had with
9 another member of the East Bethesda Citizens
10 Association. She had sent me an email asking
11 certain questions about the process, and I
12 responded to her -- to her email.

13 (Exhibit N introduced, retained.)

14 Exhibit N is the public hearing officer's
15 report and recommendation from the prior
16 abandonment case, which was AB765. This was the
17 abandonment, as mentioned earlier, of the west
18 side of the right-of-way. That was duly signed by
19 the county executive's designee back in March of
20 2020.

21 (Exhibit O introduced, retained.)

22 Let's see. Then Exhibit O is the County
23 Council resolution for that same abandonment case,
24 AB765, that approved the western half of the
25 right-of-way being abandoned subject to necessary

1 easements being granted for utilities and at the
2 existing storm drain.

3 (Exhibit P-1 and Exhibit P-2 introduced,
4 retained.)

5 MR. WILLIS: This P?

6 MS. McCRAY: Yes, this is P.

7 MR. WILLIS: P-1 is the -- it's the
8 memorandum received from Montgomery planning in
9 which they recommend approval of the abandonment
10 subject to easements being granted for existing
11 utilities, and then Exhibit P-2 is the attachments
12 to that memo, which includes an aerial photo, some
13 other photos of the area in the right-of-way, as
14 well as the applicant's letter, which park and
15 planning attached to their memorandum.

16 (Exhibit Q introduced, retained.)

17 And then I believe the final exhibit we
18 have is Exhibit Q, and that is the letter received
19 from WSSC in which they consent to vacate the
20 parcel, which essentially is their approval of the
21 -- of the requested abandonment.

22 And that's it for the exhibits. And then
23 back over to you, Mr. Dorsey.

24 HEARING OFFICER: So at this time, we will
25 hear from the applicant, Mr. Perry Seiffert.

1 APPLICANT PRESENTATION

2 MR. SEIFFERT: Okay. Can you all hear me?

3 HEARING OFFICER: Yeah.

4 MR. SEIFFERT: I'm Perry Seiffert. My
5 wife, Dianne, and I have petitioned the County to
6 abandon the right-of-way next to our property in
7 Bethesda. We think our application is in order.
8 We hope the County will grant our petition.

9 We do not intend any development on it, so
10 the existing green space, trees, and water runoff
11 will not be diminished. Moreover, by taking
12 ownership of the right-of-way, we will be able to
13 provide needed environmental maintenance, like
14 mowing, which the County customarily does not
15 monitor within its improved right-of-ways.

16 Thank you.

17 HEARING OFFICER: Ms. Dianne Seiffert.

18 MR. SEIFFERT: Dianne, you're muted.

19 MS. SEIFFERT: You're going to --

20 (Technical interruption; discussion off
21 the record.)

22 MS. SEIFFERT: Okay. Sorry for the
23 feedback. I'll be quickly.

24 The wooded portion of the right-of-way is
25 deteriorating both from erosion and the age of the

1 trees. And by us owning the property, we'll be
2 able to -- we'll be able to preserve and maintain
3 that, since the County typically doesn't address
4 that for undeveloped, unimproved right-of-ways.

5 Thank you.

6 HEARING OFFICER: At this time, we'll hear
7 from anyone that would like to have a comment to
8 this relevant matter.

9 MS. McCRAY: I see nothing in the chat.

10 HEARING OFFICER: If there's nothing in
11 the chat, this appears to be -- so I'll close by
12 saying those who wish to submit written comments,
13 please submit them to Eric Willis at Montgomery
14 County Department of Transportation, 100 Edison
15 Park Drive, 4th floor, Gaithersburg, Maryland
16 20878, or email him to Eric Willis --
17 Eric.Willis@MontgomeryCountyMD.gov by close of
18 business, 5 p.m., September 29th, 2021.

19 If there's nothing else, we can close the
20 hearing.

21 (Off the record at 1:19 p.m.)
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CERTIFICATE OF COURT REPORTER

I, Daniel Long, the officer before whom the foregoing proceedings were taken, do hereby certify that said proceedings were electronically recorded by me; and that I am neither counsel for, related to, nor employed by any of the parties to this case and have no interest, financial or otherwise, in its outcome.

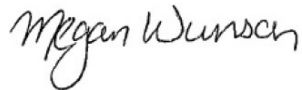


Daniel Long, Court Reporter

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CERTIFICATE OF TRANSCRIBER

I, Megan Wunsch, do hereby certify that the foregoing transcript is a true and correct record of the recorded proceedings; that said proceedings were transcribed to the best of my ability from the audio recording and supporting information; and that I am neither counsel for, related to, nor employed by any of the parties to this case and have no interest, financial or otherwise, in its outcome.



Megan Wunsch, AAERT CET

September 25, 2021

Transcript of Hearing In Re Kentbury Drive
 Conducted on September 15, 2021

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