

DECISION MAILING DATE:

Memorandum

TO: Gwen Wright, Planning Director 

VIA: Elza Hisel-McCoy, Chief
DownCounty Planning Division 

FROM: Katie Mencarini, Planner Coordinator 
DownCounty Planning Division

RE: Right-of-Way Abandonment Case No. AB-778
Portions of Denton Road and Hampden Lane (2,453 square feet total)
Bethesda/ Chevy Chase Policy Area

DATE: November 16, 2021

Recommendation

Staff supports the abandonment petition for portions of the Denton Road and Hampden Lane rights-of-way (2,453 square feet total) and recommends that they be abandoned through the County Council's action on this petition with the following condition:

1. No new structures or new improvements shall be permitted to be constructed within the Subject Abandonment. This does not preclude maintenance of the existing structures and improvements.

This memorandum hereby transmits the following staff comments to the Montgomery County Department of Transportation (MCDOT) in accordance with Montgomery County Code Chapter 49-62, "Abandonment and Closing Rights-of-Way: Abandonment Authority; Scope of Article; Procedures." This item has not been heard by the Montgomery County Planning Board.

DISCUSSION

On October 7, 2021 the Maryland - National Capital Park and Planning Commission (M-NCPPC) received Abandonment Petition No. AB-778, in accordance with Section 49-62(g) of the County Code (Attachment A). The Applicant is the Owner of the Edgemoor Club, and they are requesting a partial abandonment of the public rights-of-way along the Property's Denton Road and Hampden Lane frontages.

The Edgemoor Club is a neighborhood swim, tennis, and social club, established in 1920 (shown in Figure 1). The Property consists of a swimming pool, eight (8) tennis courts, multiple bath houses, and a clubhouse. The Property has three (3) street frontages on public roadways, which include the following: Exeter Road along the western side, Hampden Lane on the southern side and Denton Road on the eastern side. The northern side of the club borders three (3) single family homes. The area surrounding the club consists of predominantly single-family homes within the R-60 zone. With the block east of the Club is the Bethesda Friends Meeting and the Sidwell Friends Lower School.

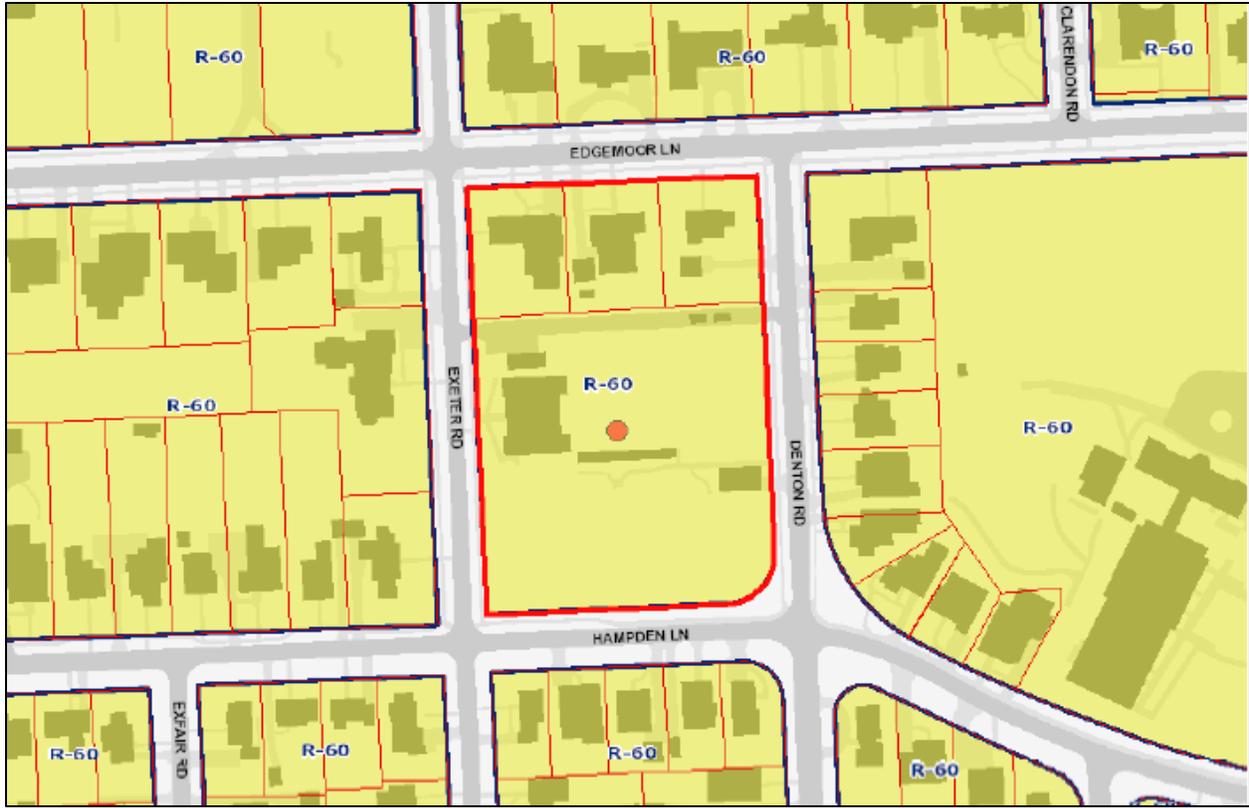


Figure 1: Subject Property Map (Property outlined in red)

In the course of evaluating needed maintenance and improvements to the tennis courts, the Applicant learned that the existing club facilities, including portions of some of the tennis courts, trench drain, retaining wall, landscaping, and fence encroach within the public rights-of-way, as indicated in the Building Permit Site Plan (included in Attachment A). It was determined that as the facilities are located within public right-of-way, the Applicant would be denied building permits needed to repair and maintain the affected club facilities. The extent of the encroachment ranges from four-feet to four-and-one-half-feet along Denton Road and three-feet along Hampden Lane. At the intersection of Denton Road and Hampden Lane, the landscaping projects out approximately 25.6 feet, radially. Figure 2 shows the encroachments within the Subject Right-of-way (Attachment B).

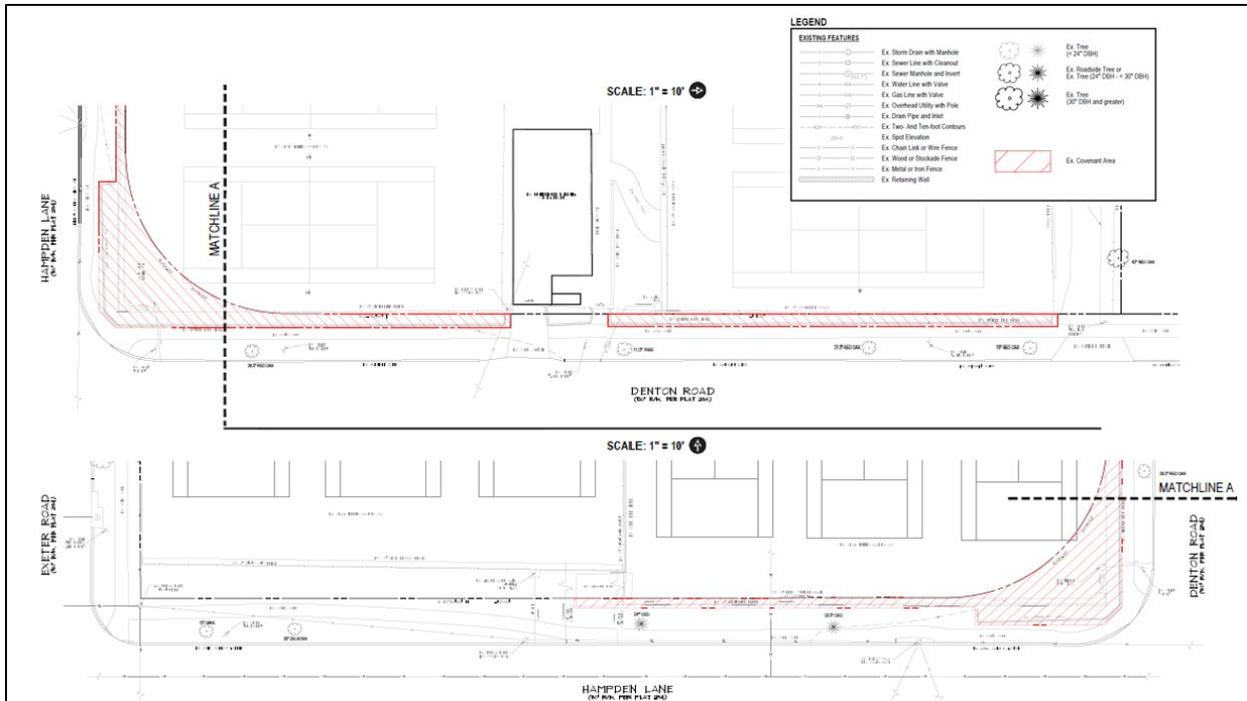


Figure 2: Subject Abandonment (Petitioned area shown in red) Right-of-Way Covenant Sketch

Denton Road and Hampden Lane, located west of Arlington Road, are residential streets located within the 1990 *Bethesda – Chevy Chase Master Plan* area. Each of the two roadways currently has 50-feet in total width dedicated to the public-right-of-way, which is the minimum required per Chapter 49-32 for secondary residential streets, platted before the tertiary roadway classification was added in the 1970s.

As stated previously the Edgemoor Club was established in 1920, and the Property has been platted three times between 1912 and 2008 (Attachment C). A summary of the Plats and their impacts on the Subject Property is included below:

1. Plat No. 146 was recorded on February 3, 1912 (Figure 3). This plat predates the establishment of the Edgemoor Club and shows that the Property configuration extended beyond a right angle at the corner of Hampden Lane and Denton Road.

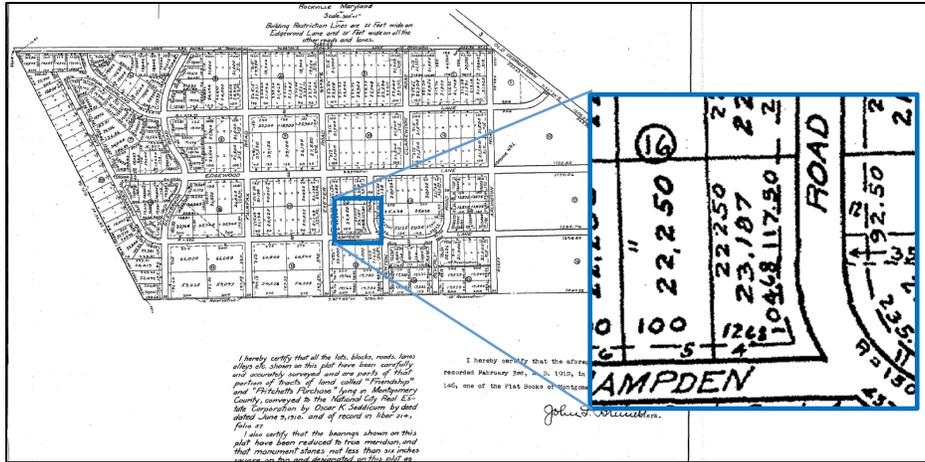


Figure 3: Excerpt from Plat 146

- Plat No. 284 was recorded on December 4, 1924 (Figure 4). The plat included dedication of the corner of the Property to accommodate the reconfigured roads. This plat was executed by the Edgemoor Land Company, which owned a significant amount of land surrounding the Property; however, the Owners of the Edgemoor Club were not involved with this effort. The northwest corner of Hampden Lane and Denton Road appears to have been dedicated to public right-of-way without the consent of the Applicant. For this reason, it seems likely that this is the time at which the existing tennis courts became an encroachment on the public-rights-of-way.

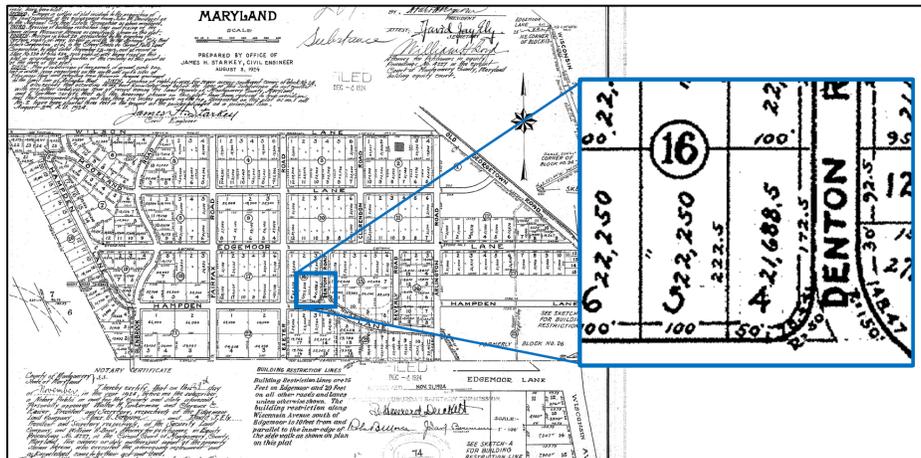


Figure 4: Excerpt from Plat 2084

- Plat No. 23897 was recorded September 11, 2008. This plat was executed by the owner of the Property for the purpose of subdividing Lots 4, 5, 6 and part of Lots 1, 2, 3 into existing Lot 8 (Figure 5).

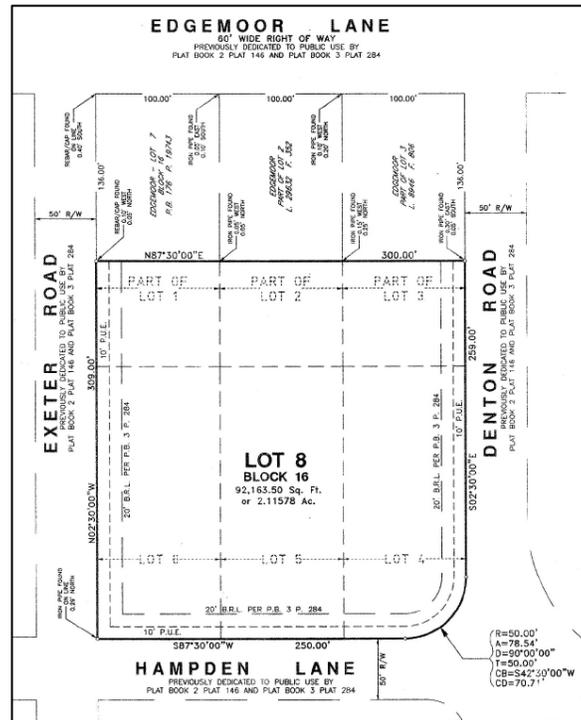


Figure 5: Excerpt from Plat 23897

Based on the plat history and the development history of the Site, it appears the right-of-way was dedicated after the existence of the tennis courts and without the permission of the Applicant. When the Applicant approached the Montgomery County Department of Transportation for guidance on pursuing building permits for maintenance of the tennis courts, the Department’s attorney directed the Applicant to pursue partial abandonment of the portions of right-of-way that are encroached by the existing Club facilities. The Applicant is aware that any future Preliminary or Site Plan filed on the Site will require dedication of the full master-planned right-of-way, compliant with the design standards included in the Master Plan of Highways and Transitways and Chapter 49 of the County Code, regardless of the existence of structures and improvements.

NECESSARY FINDINGS

Section 49-63(c)(1) -(2) of the Montgomery County Code (the “Code”) authorizes the County Council to abandon a right-of-way, including a public road, upon a finding that:

- The right-of-way is no longer necessary for present public use or anticipated public use in the foreseeable future, or
- 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.

Furthermore, Section 49-62(a) of the Code defines right-of-way, as the following:

any road, street, alley, crosswalk, pedestrian walkway, shared use path, water main, sanitary sewer, storm sewer, or storm drainage right-of-way used at any time by the public, including use by pedestrians and bicyclists.

Both roadways included in the Subject Abandonment are residential in character and consist of one lane in each direction, with continuous sidewalks that are at least four feet in width along the Site frontage, consistent with the other residential roadways in the vicinity of the Property. Although the current County minimum standard width for sidewalks on Neighborhood Streets is six feet, with a six-foot buffer, Staff acknowledges that the request for abandonment is made based on a need to maintain existing facilities that were constructed prior to the dedication of the public rights-of-way. The Edgemoor Club is not proposing new structures or development within the Subject Abandonment. The existing sidewalks and roadway pavement will not be changed as a result of the requested abandonment. In other words, the result of the Subject Abandonment will not be visible or apparent to any of the roadways users, if approved. However, if the Club were to propose new development or new structures along the Site's frontage on Denton Road and/or Hampden Lane, the Applicant would be required to dedicate the full right-of-way of the two streets and widen the sidewalk and tree panels, subject to the Complete Streets Design Guidelines or other applicable transportation policy documents. Therefore, the Subject Abandonment is not necessary for current use.

The 2018 *Bicycle Master Plan* does not envision designated bikeways along Hampden Lane or Denton Road, west of Arlington Road. Moreover, applying the default bikeways approach where the 2018 *Bicycle Master Plan* does not recommend a bikeway, the default bikeway would be a shared facility (i.e., no pavement markings) along these streets. The 1990 *Bethesda/Chevy Chase Master Plan* also does not include recommendations for either of the streets affected by the Subject Application. Finally, the Subject Abandonment does not accommodate or contain any public utilities.

Therefore, Staff concludes that the specific portions of the Denton Road and Hampden Lane rights-of-way that are identified in the Abandonment Petition No. AB-778 are not necessary for present or future public use, with the proposed condition, based on review of the existing transportation network, coordination with other reviewing agencies, and review of approved master plans including the 1990 *Bethesda – Chevy Chase Master Plan*, the 2018 *Master Plan of Highways and Transitways*, and the 2018 *Bicycle Master Plan*. Staff is recommending approval of Abandonment Case No. AB-778, which will result in the abandonment of 2,453 square feet total square feet of the Denton Road and Hampden East rights-of-way, west of Arlington Road. Staff also recommends the following condition of approval:

1. No new structures or new improvements shall be permitted to be constructed within the Subject Abandonment. This does not preclude maintenance of the existing structures and improvements.

Attachments

- A. Request for Abandonment
- B. Right-of-Way Covenant Sketch
- C. Plats 146, 284, and 23897
- D. Description of Right-of-way Improvement Covenant and Exhibits
- E. Permitting Requirements Exhibit