

RIGHT OF WAY ABANDONMENT NO. AB-788: SEGMENT OF BROAD AVENUE



Description

Staff requests permission to transmit comments to MCDOT pertaining to Right-of-Way Abandonment Petition AB-788, filed by Corey A. and Sandra L. Salsberg, who request abandonment of a portion of Broad Street in front of part of their home in Bethesda.

AB-788

Completed: July 8, 2024

Administrative Approval

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Planning Staff



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Summary:

- Staff requests permission to transmit comments to MCDOT in advance of their Public Hearing scheduled for September 10, 2024.
- The Applicants, residents of the 6401 Broad Street, requests abandonment of a portion of Broad Street in front of their home in Bethesda.
- 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, in this case via the Planning Director, and other agencies.
- Staff recommends approval with conditions of the petitioned right-of-way abandonment.
- Staff has not received any public correspondence on the Right-of-Way Petition as of the date of this staff report.

LOCATION/ADDRESS

Portion of the 6400 Block of Broad Street in Bethesda

MASTER PLAN

1990 *Bethesda-Chevy Chase Master Plan*

APPLICANT

Corey A. and Sandra L. Salsberg

ACCEPTANCE DATE

May 17, 2024

REVIEW BASIS

Chapter 49-62

Public Hearing

September 10, 2024, 1:00 PM (virtual)

TABLE OF CONTENTS

SECTION 1: RECOMMENDATIONS AND CONDITIONS	3
ABANDONMENT OF PUBLIC RIGHT-OF-WAY.....	3
SECTION 2: SITE DESCRIPTION.....	4
SURROUNDING NEIGHBORHOOD.....	4
HISTORY AND BACKGROUND	10
SUBJECT ABANDONMENT.....	11
SECTION 5: PETITION	13
SECTION 5: FINDINGS AND ANALYSIS.....	15
CONFORMANCE TO THE MASTER PLAN(S).....	15
SECTION 6: CITIZEN CORRESPONDENCE AND PUBLIC NOTICING	16
SECTION 7: CONCLUSION	16
ATTACHMENTS	16

SECTION 1: RECOMMENDATIONS AND CONDITIONS

ABANDONMENT OF PUBLIC RIGHT-OF-WAY

Staff recommends approval of Public Right-of-Way Abandonment Petition No. AB-788, Broad Street, for a portion of Broad Street in Bethesda, subject to the 1990 *Bethesda-Chevy Chase Master Plan* with the following condition:

1. If approved, the Subject Abandonment will not take effect until the Applicant records a maintenance and access easement as well as a sufficient Public Utility Easement (PUE) for the existing utility poles and overhead wires in the land records with Pepco, if determined necessary by Pepco.

SECTION 2: SITE DESCRIPTION

SURROUNDING NEIGHBORHOOD

The Subject Abandonment (“Subject Right-of-Way”) pertains to a segment of the 6400 block of Broad Street in the Brookmont area of Bethesda, approximately half a mile from the District of Columbia boundary. Broad Street is classified as a Neighborhood Street¹, which runs north/south between MacArthur Boulevard and Clara Barton Parkway, parallel to the Potomac River.



Figure 1 – Vicinity Map: Note that between approximately 64th Street and 62nd Street, the east side of Broad Street does not connect.

¹ Neighborhood Streets are not master planned in sector plans or in the Master Plan of Highways. Instead, they have prescribed design standards subject to Chapter 49-31, Classifications of roads.

The surrounding area, including the Petitioner's property, is zoned R-60 and is subject to the 1990 *Bethesda-Chevy Chase Master Plan* ("Master Plan"), the 2018 *Master Plan of Highways and Transitways* and the 2018 *Bicycle Master Plan*. Within the vicinity of the Subject Abandonment is the M-NCPPC Brookmont Neighborhood Park and the federally maintained Dalecarlia Reservoir.



Figure 2: Aerial View of Subject Abandonment and Vicinity

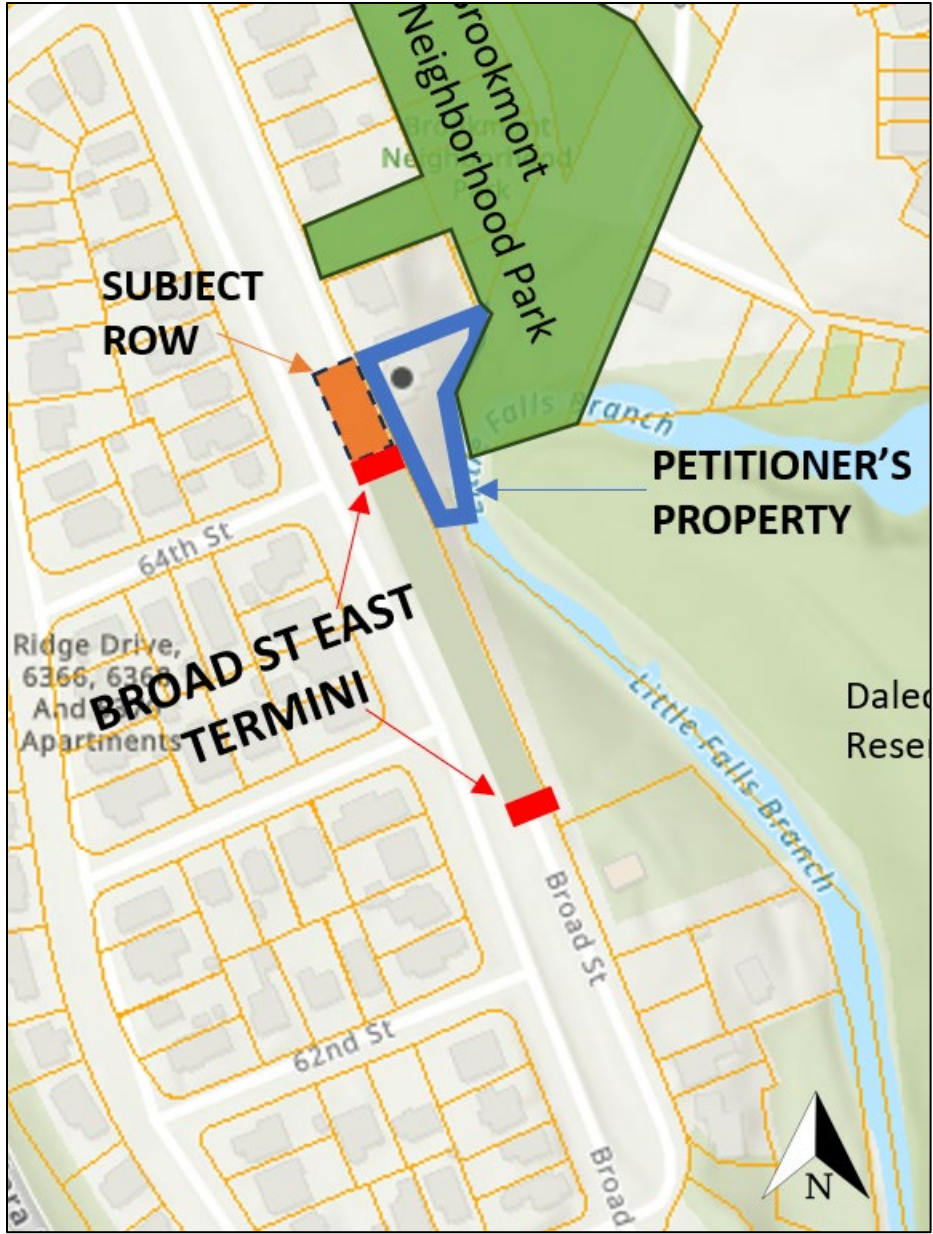


Figure 3: Map Detail of Broad Street Bifurcation, with Wooded Break Shown

As shown on the map above and in the following street views, Broad Street was constructed like a boulevard, with a large, vegetated median in between two travel lanes and a total dedicated right-of-way of 120 feet. This is much larger than the typical Neighborhood Street and wider than what is currently required by Chapter 49 of the County Code. Although both the east and the west sides are named Broad Street, they operate as two independent Neighborhood Streets.



Figure 4: Google Street View of the Southern End of the Broad Street Bifurcation

The roadway on the west side of the median runs one-way northbound from its terminus at Ridge Drive at the southern end of the neighborhood. The east side is interrupted with a wooded area roughly between 62nd Street and 64th Street. These sections accommodate two-way yield traffic providing access to the homes that back up to Brookmont Neighborhood Park (M-NCPPC parkland) and the Dalecarlia Reservoir (a federal facility and wooded open space). The northern end terminates at the Petitioner's property.



Figure 5: Google Street View of East Side of Broad Street at Northern End of Wooded Break (Petitioner's Property) Looking South



Figure 6: Google Street View of East Side of Broad Street at Southern End of Wooded Break Looking North

Broad Street on both sides of the vegetated median has a residential character. There are buffered sidewalks on the west side, but no sidewalks on the east side. The lots fronting on Broad Street are developed with detached houses and are all zoned R-60. Pepco Electric has utility poles and overhead wires throughout the unpaved portions of the dedicated right-of-way. There is also a worn “people’s choice path” that runs down the entire length of median along the 6400 block of Broad Street.



Figure 7: Looking southbound on the 6400 Block of Broad Street

HISTORY AND BACKGROUND

Nearly a century ago the Broad Street Right-of-Way was built for use of a roadway for vehicles as well as an electric rail line, as evidenced by Plat 305, recorded in 1925 (Figure 8). The rail line was built for double tracks and at one time extended approximately 12 miles in length. The rail line was in operation from about 1896 to its final days in the 1960s. After the rail line was decommissioned, the Broad Street Right-of-Way was fragmented as portions have been sold and/or abandoned for the Dalecarlia Reservoir and for private residential use. There are no plans to reinstate the previous transit use within the Broad Street Right-of-Way. There are also no plans to pave the median for bicycle and/or pedestrian use.



Figure 8: Plat 305, recorded 1925, Showing the Washington Railway Electric Line Within Modern-Day Broad Street (Applicant Property outlined in solid blue line, Subject Abandonment outlined in dashed red line)

SUBJECT ABANDONMENT

The Subject Abandonment (Site, Subject Right-of-Way) pertains to a segment of the east side of Broad Street (the northern terminus) which is not maintained by the Montgomery County Department of Transportation (MCDOT). It is located directly in front of 6401 Broad Street and includes a portion of the existing roadway pavement and a portion of the vegetated median.

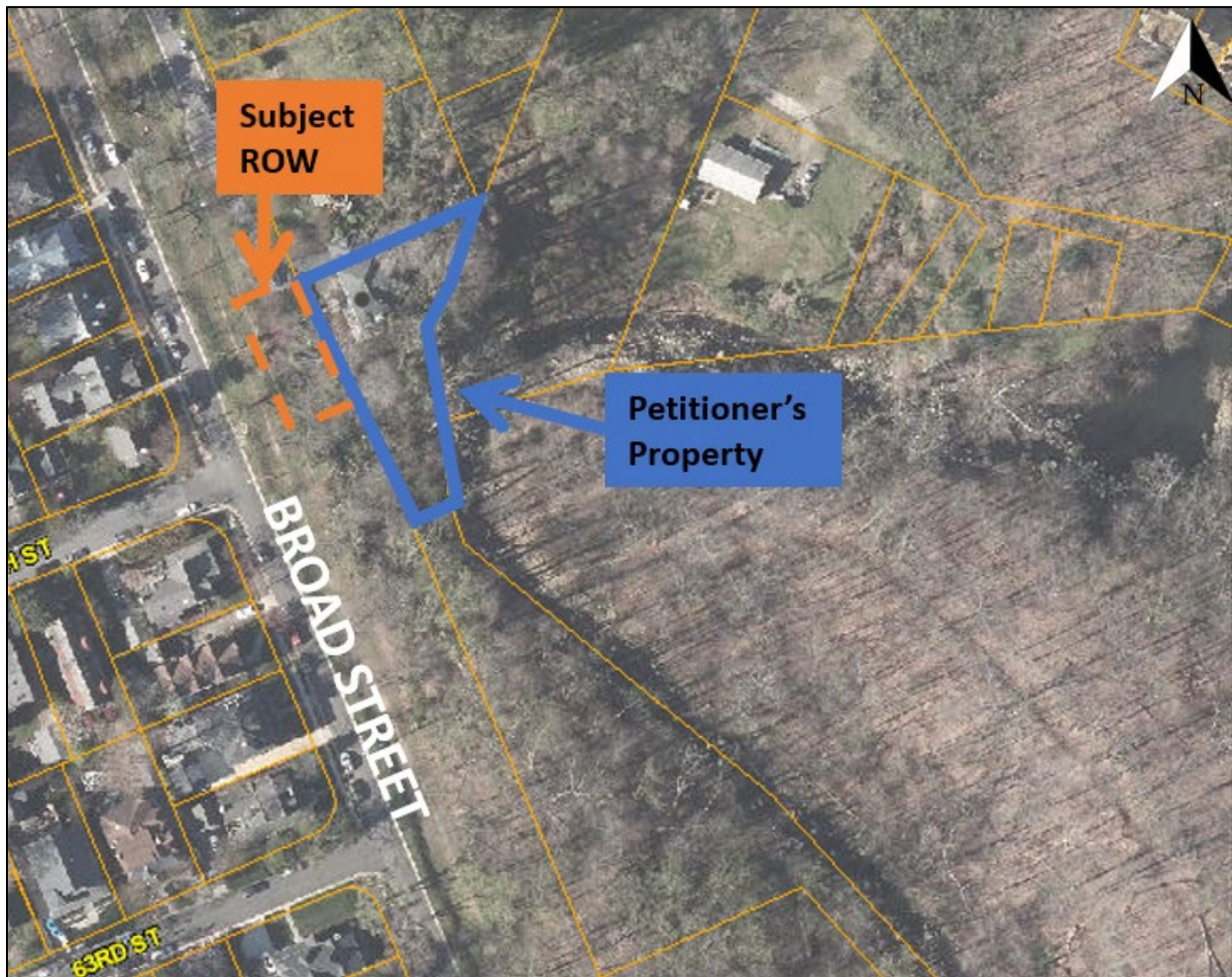


Figure 9– Site Location

The lack of MCDOT maintenance is evident by the fact that this portion of the roadway is significantly narrower than the rest of the street. It appears more like a driveway than a public roadway. The street width up until 6405 Broad Street (the northern neighbor to the Petitioner) is approximately 20 feet wide and narrows to approximately 11 feet (nearly half) where MCDOT no longer maintains the roadway. There is also a posted sign that reads, “END COUNTY MAINTENANCE” (Figure 10).



Figure 10: Northern terminus of the east side of Broad Street with signage “End County Maintenance”

SECTION 5: PETITION

On May 17, 2024, the Maryland-National Capital Park and Planning Commission (M-NCPPC) received Public Right-of-Way Abandonment Petition No. AB-788 Broad Street (“Petition,” “Application,” “Subject Petition”), in accordance with Section 49-62(g) of the County Code. A public hearing has been scheduled for September 10, 2024, and comments are due to the Montgomery County Department of Transportation (MCDOT) by July 19, 2024. Mr. and Ms. Salsberg, owners of the residence located at 6401 Broad Street (“Applicant,” “Petitioner”), are seeking abandonment of a portion of Broad Street in front of their house (Figures 11 and 12). The Subject Right-of-Way is approximately 4,500 square feet and is located along the front, northern half of their property. If approved, the Subject Right-of-Way would be zoned R-60.

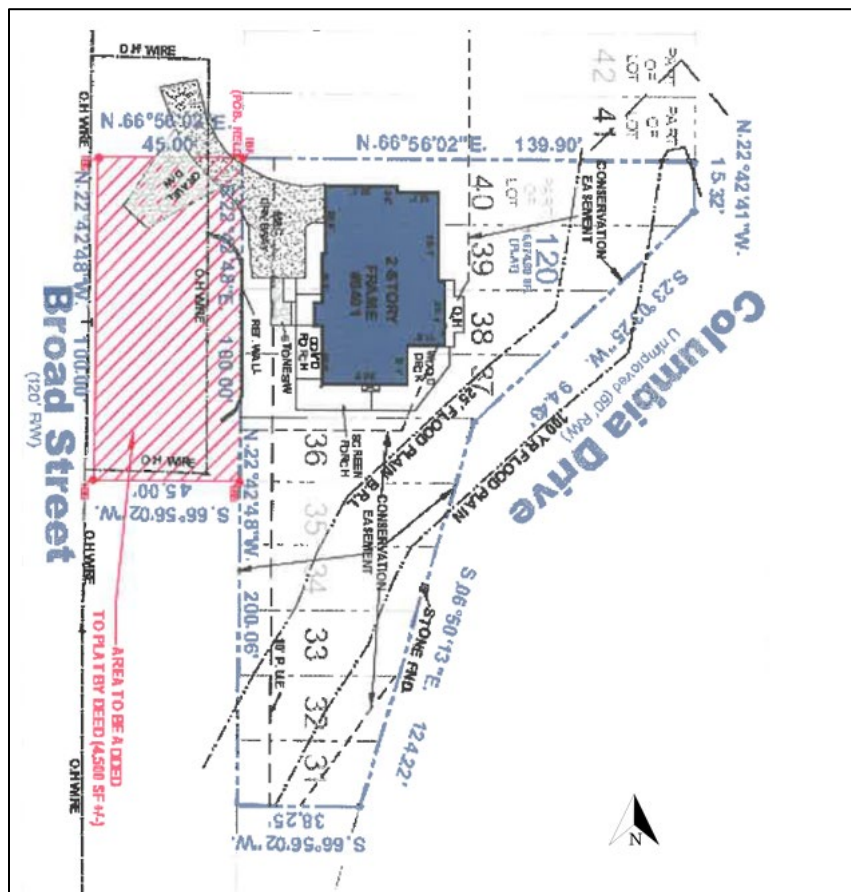


Figure 11: Subject Right-of-Way Abandonment Exhibit included in AB-788 Broad Street Application

Broad Street is subject to the 1990 *Bethesda-Chevy Chase Master Plan*; however, the roadway is not master planned. This segment of Broad Street is classified as a Neighborhood Street with a 120-foot-wide dedicated right-of-way and is therefore subject to Chapter 49 of the County Code (Streets and Roads). Broad Street is not mentioned specifically in the Master Plan nor in any of the countywide plans such as the 2018 *Bicycle Master Plan* or the 2018 *Master Plan of Highways and Transitways*.

The Applicant has improved the public right-of-way with landscaping and a private, gravel driveway (see Figure 12). The worn pathway in the vegetated median is not included within the Subject Right-of-Way abandonment; however, one utility pole and attached overhead wires do run within the area identified in the Petition. As conditioned, Pepco’s public utilities above or below ground are to be included within a new public utility easement, to be recorded by the Applicant unless deemed unnecessary by Pepco. MCDOT and the Planning Department have no plans to expand the existing paved area within the Broad Street Right-of-Way. The proposed bounds of the Subject Abandonment would not hinder use of the existing worn path or any future trail improvements within the right-of-way, which is to remain.



Figure 12: Photo of Petitioner’s home and (approximate) Subject Right-of-Way, looking south.

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 Commission (or its designee) in this process is to provide comments and recommendations informed by the County Code and applicable plans and policies.

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 Commission looks to the approved and adopted master plans. The 1990 *Bethesda-Chevy Chase Master Plan* does not make recommendations for any segment of Broad Street, and it is not identified as a master planned roadway. The 2018 *Master Plan of Highways and Transitways*, and the 2018 *Bicycle Master Plan* are silent as to any modifications to Broad Street. Furthermore, it is noted that while segments of Broad Street abut M-NCPPC parkland and federal land, the segment pertaining to the Subject Abandonment does not. The M-NCPPC Montgomery County Department of Parks reviewed the Application and determined that there are no current or future plans affecting public parks for this segment of Broad Street.

Additionally, Staff must evaluate the present use of the public right-of-way. According to Chapter 49-62, right-of-way means, “any road, sidewalk, bikeway, crosswalk, 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”. The worn path is excluded from the Subject Abandonment. However, shown on the exhibit and confirmed in the field, Planning, and Pepco staff identified one utility pole within the Subject Abandonment as well as overhead wires. All reviewing agencies have determined that a public utility easement can be recorded by the Applicant to ensure access and maintenance of the existing utilities. There are no plans for transportation improvements within the Subject Right-of-Way.

Therefore, a partial abandonment of Broad Street (Subject Abandonment area), as conditioned, 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 of the date of this the Report's completion no citizen correspondence has been received.

SECTION 7: CONCLUSION

Staff recommends recommend approval of the Subject Petition with the recommended condition of approval included in the staff report and recommends transmittal of these comments to MCDOT.

ATTACHMENTS

Attachment A: Right-of-Way Petition AB-788

ACCEPTED & APPROVED BY:



Jason K. Sartori, Planning Director

July 17, 2024

Date Approved

This memorandum constitutes the written opinion of the Planning Director in this matter, and the Decision Mailing Date of this memorandum is [_____] (which is the date that this decision is mailed to all parties of record).