

**IN THE MATTER OF:
ROCK CREEK FOREST COMMUNITY SIDEWALK PROPOSAL**

CIP Project No. 0506747 / Annual Sidewalk Program

BEFORE: Gary Erenrich, Hearing Officer, Department of Transportation

PUBLIC HEARING OFFICER'S RECOMMENDATION

I. BACKGROUND

The Montgomery County Department of Transportation (MCDOT) proposed to construct a network of sidewalks that will provide safer pedestrian travel along the following roadways in Chevy Chase, Maryland:

- the West side of **Terrace Drive** from the **Freyman Drive** to **Farrell Drive**;
- the West side of **Farrell Drive** from **Terrace Drive** to **Spencer Road**;
- the North side of **Spencer Road** from **Grubb Road** to **Donnybrook Drive**;
- the North side of **Spencer Road** from **Farrell Drive** to **Freyman Drive**;
- the South side of **Colston Drive** from **East West Highway** to **Grubb Road**;
- the East side of **Colston Place** from **Colston Drive** to **Blaine Drive**;
- the South side of **Blaine Drive** from **Meadowbrook Lane** to **Ellingson Drive**;
- the South side of **Grubb Road** from **Washington Avenue** to **Ashboro Drive**;
- both sides of **Blaine Drive** from **Ellingson Drive** to the **culdesac**;
- the East side of **Ellingson Drive** from **2621 Washington Avenue** to **Colston Drive**;
- the West side of **Ellingson Drive** from **Blaine Drive** to **Colston Drive**.

This project is located in the Rock Creek Forest community of Chevy Chase, within the thirteenth election district of Montgomery County, Maryland. The sidewalks were proposed at five feet wide with a variable greenspace between the curb and the sidewalk of zero to three feet.

Displays were presented at the public hearing showing the proposed sidewalk relative to nearby pedestrian attractions such as the Rock Creek Forest Elementary School, Rock Creek Stream Park, Rock Creek Trail, the St. Paul United Methodist Church, Temple Shalom, Parkway Deli & Restaurant, Rock Creek Sports Club, shops, school bus stops, the Ride-On public transportation facilities and the existing network of sidewalks. Additional displays revealed typical cross-sections of pavement and sidewalk for each of the proposed, above-referenced roadways demonstrating the amount of public right-of-way available for construction of the sidewalks.

As proposed, this project will cost an estimated \$708,755.46, including administrative and construction inspection costs. It will be funded through the County's Annual Sidewalk Program – CIP No. 0506747. No properties are considered to be specially benefitted by the project, and, therefore, no properties are expected to be assessed.

Pursuant to Section 49-53 of the Montgomery County Code, and due to the COVID-19 pandemic, a virtual public hearing was held on May 19, 2021, at 7pm. Public notice of the hearing was provided to adjacent property owners, as well as those neighboring across the street, and all local homeowner's and civic associations. Notice to the public was, likewise, published in The Washington Times hard-copy and online newspaper on May 12th and 18th, 2021, was posted on MCDOT's web calendar, and was the subject of a Montgomery County government press release circulated on May 5th, 2021.

Following the hearing, the public record was held open until 6:00 p.m. on Wednesday, June 23, 2021, to allow for written testimony and final comments to be submitted.

II. SUMMARY OF TESTIMONY, WRITTEN COMMENTS AND EXHIBITS

A. Project Description

A description of the proposed sidewalk project was presented by Tim Cupples, Chief of MCDOT's Division of Transportation Engineering (DTE). The Rock Creek Forest sidewalk proposal was prompted by a group of residents working with Maryland State Delegate Jared Solomon to improve pedestrian safety in the community. The proposed roadways north of East West Highway are being studied for sidewalk installation as part of the planned infrastructure related to the new Purple Line Station. Mr. Cupples described the project's history and the improved safety that would be created for the entire community. He explained how the proposed sidewalks will provide safer access for commuters utilizing the County's Ride-On buses, stops for which are located along East West Highway. Mr. Cupples also discussed the improved safety the sidewalks will provide students walking to the Rock Creek Forest Elementary School or to their respective school bus-stops, Rock Creek Stream Park, Rock Creek Trail, St. Paul United Methodist Church, Temple Shalom, as well as the restaurants, medical offices and shops located along Grubb Road and East West Highway.

Mr. Cupples provided a project vicinity map showing approximately 8,176 linear feet of proposed sidewalk in the Rock Creek Forest community of Chevy Chase. The proposed roadways each have the following available right of way dedicated for public use:

- The County has 50-feet of total public right of way on **Terrace Drive**; the roadway is 26-foot-wide. Thus, the County has 12-feet of available right of way on each side of **Terrace Drive** dedicated to public use;
- The County has 50-feet of total public right of way on **Farrell Drive**; the roadway is 26-foot-wide. Thus, the County has 12-feet of available right of way on each side of **Farrell Drive** dedicated to public use;

- The County has 50-feet of total public right of way on **Spencer Road**; the roadway is 26-feet-wide. Thus, the County has 12-feet of available right of way on each side of **Spencer Road** dedicated to public use;
- The County has 50-feet of total public right of way on **Colston Drive**; the roadway is 26-feet-wide. Thus, the County has 12-feet of available right of way on each side of **Colston Drive** dedicated to public use.
- The County has 50-feet of total public right of way on **Colston Place**; the roadway is 28-foot-wide. Thus, the County has 11-feet of available right of way on each side of **Colston Place** dedicated to public use.
- The County has 50-feet of total public right of way on **Blaine Drive**; the roadway is 26-foot-wide. Thus, the County has 12-feet of available right of way on each side of **Blaine Drive** dedicated to public use.
- The County has 50-feet of total public right of way on **Ellingson Drive**; the roadway is 24-foot-wide. Thus, the County has 13-feet of available right of way on each side of **Ellingson Drive** dedicated to public use.
- The County has 60-feet of total public right of way on **Grubb Road**; the roadway is 35-foot-wide. Thus, the County has 12.5-feet of available right of way on each side of **Grubb Road** dedicated to public use.

B. Testimony and Written Comments

Although the Rock Creek Forest Community Sidewalk Proposal evoked mixed reception by the community, the final comment tally stood at 44 supporting and 63 opposing. As is true of many of the Sidewalk Program’s proposals, most that opposed the initiative wrote in discussing tree and landscaping loss, the loss of available parking, environmental concerns, increased rainwater drainage issues, lack of need, and snow shoveling responsibilities. For example, Andrew Imbrie and Teresa Eder of 2706 Colston Drive summarized the sentiments of many regarding the potential tree loss when they testified,

“Trees provide myriad benefits to this community. They adorn our streets and give unique character to Colston Drive; they offer protection and shade from what promises to be an increasingly warming climate and blistering summer heat; they limit the noise and light pollution coming from East-West [H]ighway; they are a source of biodiversity and serve as allies in the fight against climate change, nurturing the animal and plant life of our surroundings and helping to absorb

carbon dioxide. Climate change is one of the seminal challenges of our time. Any sidewalk construction project should take local emissions targets into account, the role of trees in providing ready-made climate solutions, and the costs of additional cement use and the risks of increased runoff without amelioration efforts.”

Ms. Ellen Windom of 2622 Colston Drive wrote in to express her concerns with losing driveway space for parking. She stated,

“While I know that private property does not extend all the way to the curb line, and I recognize the need to provide a safe pathway for children going to the elementary school, the concern is that losing access to a full 8-feet of driveway together with the existing Monday through Friday parking prohibition on the southside of Colston Drive means that my home and others will only have parking for one vehicle. My household, and guests, will be forced to park any other vehicles across the street and endanger ourselves negotiating busy school traffic just to get to our vehicles, assuming that street parking is available at all. Driveway parking is the only option when all available street parking on Colston is taken on weekdays, and weekends, during events at the school and athletic field.”

The potential for increased rainwater drainage issues and the lack of need for sidewalks was of great concern to many, including Francis Woltz of 2703 Spencer Road when she testified:

“Removing trees and porous soil will add hard concrete surfaces will increase the run off into Rock Creek, thus adding to the problems of creek flooding which have increased in the last few years. I have lived in my house for 42 years this August and never felt any need for sidewalks.”

Likewise, Ms. Kathleen Moran of 2708 East West Highway testified:

“Over the years, I’ve been disheartened by the destruction caused by run-off. The erosion is terrible and getting worse. The Park Service has spent a fortune trying to shore up Beach Drive, mitigating flooding at Candy Cane and other areas, and building a Fish Ladder. Yet when it rains, the whole area floods and turns into a raging river, exposing roots and knocking down trees. Building that number of sidewalks will quickly make things worse.”

Some of the residents who opposed the sidewalk proposal viewed it as the County giving preference to cars. In furtherance of this viewpoint, some residents requested traffic calming devices and roadway restrictions in lieu of providing a separate and dedicated space for

pedestrians to safely walk. This is particularly true with regard to Spencer Road. For example, Ms. Dianne Hardy of 2606 Blaine Drive testified:

“It is wrong to assume that we should accommodate the car drivers by providing sidewalks to clear pedestrians out of the streets. It is not even certain that sidewalks will increase safety if inconsiderate people are using Spencer Road to avoid a traffic light. We have alternatives that would increase pedestrian safety, for instance, lower speed limits, additional speed bumps, strong enforcement, designated walkways in the street, one way[sic] streets, and restriction of traffic on certain stretches, like that stretch of Spencer Road, to residents during school hours . . .

Extensive sidewalk construction would immediately and tremendously increase the carbon footprint whereas the safety problem it intends to solve may not even exist. The county sidewalk proposal rewards bad behavior on the part of some drivers and punishes those of us who appreciate and enjoy the beauty of the environment.”

Similarly, Ms. Suzie Murley of 2622 Spencer Road testified:

“I have lived in my house for over 20 years and there has never been an issue with anybody being hurt while walking in the street. I do agree, however, that there has been an increase in the number of people using Spencer Road as a cut-through to avoid waiting at the traffic light on Grubb Road at East-West Highway [sic] but the installation of sidewalks won’t change that problem. Instead, I would suggest putting signage at the top and bottom of Spencer Road saying [sic] “No Thru Traffic” or “Local Traffic Only” during rush hour.”

Despite the opposition by many residents in the Rock Creek Forest, there were several residents who supported the proposal as a whole, discussing concerns about the lack of safety for pedestrians throughout the Rock Creek Forest community. At the public hearing Otis Tanouye, a 5th grader at Rock Creek Forest Elementary School who resides at 2609 Spencer Road, best summarized the sentiments of those supporting the initiative when he testified,

“ . . . I have been walking on Spencer Road to school since Kindergarten. And with there being no sidewalk, I – I always get nervous walking on my own street just because I have nowhere to walk because it’s either blocked by bushes, trees, or something else. And I really don’t want to get hit by a car.

And worldwide 1.25 million people are killed by car crashes. Here in Maryland, 450 to 550 people are killed by car crashes. And one of the causes is because

people don't have a sidewalk to walk on. And with no sidewalk to walk on, there – you're probably going – eventually, someone's going to get hit by a car if we don't get a sidewalk.

And finally[sic] trees get – the trees – everyone who's upset about the trees, trees can be replaced, they're – but human lives cannot. So[sic] if a tree is – if some trees are taken down for the sidewalk, they can always be replaced. But if a – if a human is killed when they're walking on the street because there's no sidewalk for them to walk on, and they're hit by a car, they can't be replaced. There's no way of bringing someone back to life or replacing them. The death of a human far outweighs the loss of a tree.

Ben Engler of 2603 Spencer Road also testified at the public hearing in support of the sidewalk proposal. He testified regarding climate change, however, unlike his neighbors who opposed the sidewalks, Mr. Engler viewed sidewalk installation as an investment in our future, taking reliance away from the car and reducing harmful carbon emissions by providing safe pedestrian travel to alternative means of public transportation. He testified,

“This is an investment in a cleaner, more equitable future of our roads. . . The negligible inconvenience now is an investment. It's a minor cost to a vital project – excuse me to vital progress. If we're going to live up to the county's commitments on mitigating climate change and pursuing vision zero to eliminate pedestrian deaths, we need a more robust, more expansive sidewalk network to help safely rebalance travel options away from driving. The sidewalk on my side of Spencer Road is one small part of that, and I support it. Scooping some snow every now and then is a small price to pay for a safer neighborhood, and I'm looking forward to doing my part.”

Mr. Engler's subsequent submission of written testimony further addressed the concerns of those who opposed the sidewalk installation based on climate change when he wrote:

“**Climate-related arguments about trees are false.** Many argued that the removal of trees would negatively impact the county's climate change goals. This is absurd. A 30-year-old oak tree will capture less than 3 pounds of carbon annually and, taking this figure as the average carbon capture across the 70 trees planned to be removed for the project, we're looking at about 240 pounds of annual carbon sequestration being removed. That's equivalent to about three residents' annual, gas-powered lawn mowers' carbon emissions. Trees are wonderful; I love them (I have two MoCo provided trees going in my yard this fall!); in aggregate, old-growth forests are wonderful carbon sinks; however, changing our electricity and transportation sectors are what we need to do to

reduce emissions and mitigate climate change. This is exactly the type of transportation infrastructure change we need to reduce driving and make it safer to walk, including between transit nodes. And thank you for tripling the trees that will be planted in place of those removed!

I urge the county to build the project to its fullest extent and keep going. Allowing a handful of current residents to veto safety improvements that will benefit everyone – future residents and citizens who would like to walk between our amenities – would be short-sighted, especially when arguments against sidewalks are false and often made in bad faith. The county has rights of way for a reason; the trees will be replanted; and we'll all be safer and greener for it.”

Often in the debate about sidewalk installation, newer residents moving in with young children support the initiative while older residents whose children have grown and moved out of the family home oppose it. Representative of new families moving in, Ms. Shira Broms of 2813 Blaine Drive testified:

“We are new to the neighborhood (2813 Blaine Dr.) and each of our previous homes (one in DC and most recently living at my parents’ home in NCC) were lucky to have safe sidewalks.

As the mother of two children under 5 and one more on the way the loss of sidewalks around our home feels profound. Our daughter is learning to bike and our 2 year old [sic] son is just getting started on his scooter. As they become steadier on their wheels[sic] we wish they had a more protected space rather than riding through the street. More importantly, we are excited to get started in the near future at Rock Creek Forest Elementary school and hate the idea of walking to school through the street rather than on a designated safe sidewalk away from car traffic.

We understand and are sympathetic to those who have concerns around the trees and natural elements of our neighborhood that will be lost due to this construction, but in our family’s minds this is no comparison to the increased safety and peace of mind provided to our neighbors and children.”

Likewise, Sarah and David Horowitz of 2706 Blaine Drive testified,

“We are fortunate to live in a neighborhood with many easily accessible outdoor activities, including horse stables, playgrounds (both at the elementary school and elsewhere), hiking trails, biking paths, and streams. We actively encourage our children to make use of these opportunities on a regular basis, as do many of the other numerous families in the neighborhood.

The result of this is that at any time you will see children of various ages walking, running, and biking outside with their friends.

But the problem, of course, is that our neighborhood has no sidewalks. As a result, the neighborhood children end up playing in the streets and are constantly at risk of getting hurt from the many cars and buses that drive down those same roads.

This is a disaster waiting to happen, and as a result we are strongly in support of the sidewalk proposal.”

In her testimony, Ms. Kim Price of 8022 Ellingson Drive highlights the need for sidewalks for residents of all ages. She also emphasized the fact that the sidewalks would be installed fully within the County’s public right of way, which is owned by the County for the benefit of all residents. She testified,

“I am sending this message in support of the proposal to build sidewalks in my neighborhood. Our streets are narrow; forcing pedestrians to walk in the streets is extremely hazardous. This is true not only for children walking to school, but for all of us, including many of us seniors, who can’t easily scoot out of the way of vehicles. While I sympathize with homeowners who have landscaped/planted trees in the county right-of-way, that right-of-way is ALL of the communities’ public resource – not only the abutting residents’. It is our communal obligation to safeguard ALL of us and to do so with the long-term future in mind. Trees will be replanted and will grow in the years to come, while every neighbor will benefit from safe walkways and safer streets.”

III. ANSWERS TO FEEDBACK and CHANGES TO THE PROPOSAL

Many residents commented and testified as to the lack of need of sidewalks, citing that no pedestrian accidents have occurred in the community. MCDOT knows that sidewalks provide enhanced safety by separating the pedestrian from vehicles in the road. A search of existing crash data on the dataMontgomery website (data.montgomerycountymd.gov) reflects a 2017 pedestrian crash on Ross Road which resulted in injuries. Sidewalks would have prevented this incident. The sidewalks were proposed as a proactive safety measure at the request of numerous residents in the community.

In the days following the public hearing, Messrs. Erenrich, Cupples and Gonzales attended two separate field meetings with our Field Supervisor and Construction Representative, Rick Holley and Juan Berrios, respectively, and the residents of Rock Creek Forest to discuss their concerns and answer questions. The first field meeting was held on Tuesday, June 8, 2021, at 10am at the corner of Spencer Road and Donnybrook Road.

As mentioned previously, the cut-through traffic turning onto Spencer Road from Grubb Road was a key issue on the minds of many residents, whether they supported or opposed the sidewalks. Many alternatives to the proposed sidewalk installation were discussed including restricting traffic to local traffic only, making Spencer Road a one-way street, augmenting the traffic calming speed bumps that currently exist, reducing the speed limit and placing the sidewalks in the road. The Sidewalk Program has requested that the speed bumps on Spencer Road be evaluated. If it is determined that the speed bumps are diminished from their original size, reparations will be made. In addition, this Hearing Officer collaborated with the Division of Traffic Engineering and Operations to provide detailed instruction should the residents of Spencer Road opt to request access restriction. *See* Schedule A, attached hereto and made a part hereof, Executive Regulation 17-94AM, Through Traffic Volume Access Restrictions in Residential Areas, which states:

“Residential traffic volume management is desirable to ensure pedestrian and vehicular safety, prevent noise and air pollution, vibration, and pavement deterioration, and maintain visual tranquility. However, public policies must recognize that traffic volumes exist because those who live or work in the County depend on the mobility afforded by the automobile as a primary means of transportation. Every resident driving a vehicle in some other residential area outside his or her own neighborhood becomes a “cut-through driver” or a “commuter.” One resident’s use of the public roads for necessary travel to work, schools, shopping or the library may be perceived by another resident as an “excessive” traffic presence. This policy attempts to balance the needs of all impacted parties while maintaining the efficient and appropriate use of County streets.”

Section III. Application Process and Eligibility Analysis states,

“A request for neighborhood through traffic volume restrictions may be made by a local citizens association with represents a significant number of residents or by a petition from 15 percent of the households in an area being proposed for traffic restrictions. The Department of Transportation (“the Department”) will provide a standard application form for this purpose.”

See Schedule B, attached hereto and made a part hereof, Application for Through Traffic Volume Access Restrictions on Primary and Secondary Residential Streets.

Many residents requested study data in relation to pedestrian and vehicle activity, showing the need for sidewalks. Spencer Road is located within a half-mile radius of the new Lyttonsville Purple Line station and, therefore, sidewalk installation is prescribed. A study is currently being conducted in relation to the new, nearby Purple Line station, and the question of sidewalk installation on Spencer Road will be revisited once this study is complete. MCDOT will forward all public hearing comments to the Purple Line study team for their consideration.

The proposed sidewalks on Terrace Drive received a great deal of opposition, stating that the sidewalks are not needed as there are no pedestrian facilities located on Terrace Drive to which the sidewalks will lead. Freyman Drive, which encircles the proposed section of Terrace Drive, currently has sidewalks, as does Terrace Drive from Navarre Drive to Grubb Road. Thus, safe pedestrian passage is available to the amenities and facilities on Grubb Road, including to the Rock Creek Pool. For this reason, the proposed sidewalks on Terrace Drive from Farrell Drive to Navarre Drive will not be constructed.

The second field visit to the Rock Creek Forest community was held on June 21st at the intersection of Colston Drive and East West Highway. The subject sidewalk proposal prescribed sidewalk installation on the north side of Colston Drive from Ellingson Drive to East West Highway. The sidewalks were proposed on the north side so that pedestrians would not have to

navigate the wide Y-intersection at Colston Drive and Colston Place. Resident testimony, however, expressed concerns that the sidewalks would solve one crossing, while creating difficulty in another. With the sidewalk on the north side of Colston, residents would be required to navigate crossing the East West Highway service road to get to the bus stop on the other side. Additionally, the opposition to the Colston north sidewalk was overwhelming, citing impacts to trees. For this reason, the Colston Drive north sidewalk from Ellingson Drive to East West Highway and the proposed Colston Place sidewalk will not be constructed at this time.

As was true of the afore-mentioned roadways, the opposition to the Blair Drive proposed sidewalk was also significant. As there are no neighborhood amenities located on Blair Drive, the sidewalks will not be constructed at this time.

Because the Rock Creek Forest Elementary School is located at the intersection of Grubb Road and Colston Drive, the proposed sidewalk on the south side of Colston Drive from Ellingson Drive to the existing sidewalk is considered a “safe route to schools” and, therefore, will be constructed as proposed. Likewise, the proposed sidewalks on Grubb Road and the east side of Ellingson Drive from Washington Avenue to Colston Drive will also be constructed as proposed as they, too, are considered “safe routes to schools.”

As is the case with many sidewalk proposals, the responsibility of snow and ice removal as well as the prescribed width of the sidewalk was questioned by numerous residents. To confirm, residents are responsible for removing snow and ice on any sidewalk or other walkway, on or adjacent to property that the person owns, leases, or manages, including any walkway in the public right-of-way, to provide a pathway wide enough for safe pedestrian and wheelchair use within 24 hours after the end of the precipitation that caused the condition.

The sidewalks on Colston Drive south, the east side of Ellingson Drive and Grubb Road will be constructed with a 5-foot width so as to meet ADA regulations. The County follows the installation standards of the State of Maryland, which also installs all new sidewalks at a width of 5-feet-wide or wider to meet current ADA regulations. To confirm, this Hearing Officer recommends the following installations:

Proposed Installation:	MCDOT Recommended Installation:
Terrace Drive, West – Freyman Drive to Farrell Drive	No installation.
Farrell Drive, West – Terrace Drive to Spencer Road	No installation.
Spencer Road, North – Grubb Road to Donnybrook Drive	Decision postponed pending Purple Line Station study.
Spencer Road, North – Farrell Drive to Freyman Drive	Decision postponed pending Purple Line Station study.
Colston Drive, North – East West Highway to Ellingson Drive	No installation.
Colston Drive, South – Ellingson Drive to Grubb Road	Approved Safe Route to School. Sidewalks to be installed in the County’s public right of way as proposed.
Colston Place, East – Colston Drive to Blaine Drive	No installation.
Blaine Drive, South – Meadowbrook Lane to Ellingson Drive	No installation.
Blaine Drive, Both sides – Ellingson Drive to Culdesac	No installation.
Grubb Road, South – Washington Avenue to Ashboro Drive	Approved Safe Route to School. Sidewalks to be installed in the County’s public right of way as proposed.
Ellingson Drive, East – 2621 Washington Avenue to Colston Drive	Approved Safe Route to School. Sidewalks to be installed in the County’s public right of way as proposed.
Ellingson Drive, West – Blaine Drive to Colston Drive	No installation.

IV. CONCLUSIONS AND RECOMMENDATIONS

The purpose of conducting a public hearing, as well as the comment period which follows, is to provide sound, factual information. The information collected is used to prepare a recommendation which is presented to the Director of the Department of Transportation. The Director reviews the recommendation and determines a final decision based on the public need and appropriateness of the project.

It is very common for sidewalk projects to raise diverse views on the necessity for construction of sidewalks. The opposition to sidewalk installation generally includes concern over an increase in responsibility and liability in inclement weather, the reduction of front lawns and driveways of impacted properties where the sidewalk is proposed, the impact to trees and other landscaping, the addition of impervious surfaces, the impact to the aesthetics of the community, etc. The proposed sidewalks in the Rock Creek Forest community are no exception.

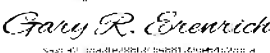
In my opinion, however, the public interest for the above-approved sidewalks *is* adequately demonstrated. “Public interest” is a broad concept that manifests itself in a variety of contexts. When a construction project is involved, the project will be considered to be in the public interest if it will do such things as promote the general health and safety of the citizenry, protect the environment, preserve open space or otherwise advance the community’s quality of life. This includes providing for the safe and efficient flow of vehicular and pedestrian traffic. The County has, in recent years, focused on the need for pedestrian safety through the creation of a pedestrian safety task force and the tracking of pedestrian safety data through CountyStat. Sidewalks are an established means of reducing pedestrian-vehicle conflicts.

This sidewalk project is proposed under the Sidewalk Program, which is a continuing program to provide pedestrian facilities throughout the County. Though written comments and

testimony offered for the project reflect a great deal of opposition from impacted residents, exhibits and supporting comments from the community provide adequate justification to establish that constructing the proposed “safe routes to schools” sidewalks will create a safer mode of travel for all pedestrians, particularly children attending the Rock Creek Forest Elementary School. The sidewalks will provide a clear-cut and firm separation between the roadway and pedestrian travel. The sidewalks will be constructed entirely within the public right-of-way without needing acquisition of additional property. The proposed modifications outlined above will greatly reduce the tree impacts associated with this project; only 10 trees will need to be removed to construct the sidewalks, compared with 81 tree removals as originally proposed.

Upon thorough review of all the testimony and evidence presented in the public record, I conclude that there is sufficient basis to find that the approved sections of the project will be in the best interest of the public. I, therefore, recommend that the Director of the Department of Transportation authorize the project be constructed by MCDOT as modified herein.

Respectfully submitted,



Gary R. Erenrich
Public Hearing Officer

Gary Erenrich,
Public Hearing Officer

The Public Hearing Officer’s Report and Recommendation for construction of the Rock Creek Forest Community sidewalk project has been reviewed and the project is hereby authorized for construction as modified herein.

Date: Sep 30, 2021



Christopher Conklin (Sep 30, 2021 08:54 EDT)

Christopher Conklin, Director
Department of Transportation

SCHEDULE A

Resolution No. 12-1857
Introduced: November 1, 1994
Adopted: November 1, 1994

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: County Council

Subject: Approval of Executive Regulation No. 17-94AM, Through Traffic Volume Access Restrictions in Residential Areas

Background

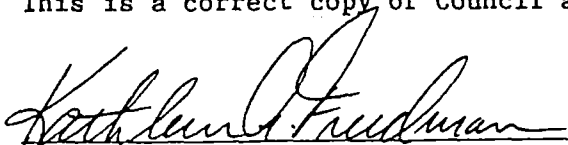
- (1) On October 13, 1994, the County Council received Regulation No. 17-94, Through Traffic Volume Access Restrictions in Residential Areas, from the County Executive.
- (2) On October 27, 1994, the County Council received Regulation No. 17-94AM, Through Traffic Volume Access Restrictions in Residential Areas, amending the October 13, 1994, version from the County Executive.
- (3) The regulation proposed by the County Executive must be reviewed under Method (2) of Section 2A-15 of the Code.
- (3) Under Method (2), if the Council does not approve or disapprove a regulation within 60 calendar days after receipt, the regulation automatically takes effect. In this case the deadline for action is December 12, 1994.

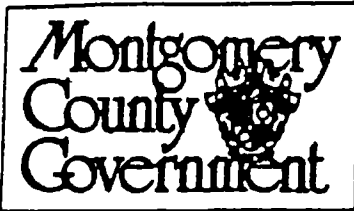
Action

The County Council for Montgomery County, Maryland, approves the following resolution:

Executive Regulation No. 17-94AM, Through Traffic Volume Access Restrictions in Residential Areas, is approved.

This is a correct copy of Council action.


Kathleen A. Freedman, CMC
Secretary of the Council



Executive Regulation

Office of the County Executive
Montgomery County, Maryland

Subject <i>THROUGH TRAFFIC VOLUME ACCESS RESTRICTIONS IN RESIDENTIAL AREAS</i>	Number <i>17-94 AM</i>
Originating Department <i>TRANSPORTATION</i>	Effective Date <i>November 1, 1994</i>

*THROUGH TRAFFIC VOLUME ACCESS
RESTRICTIONS IN RESIDENTIAL AREAS*

*Issued By: County Executive
Regulation No. 17-94*

*Authority: Code Section 31-69
Supersedes: none*

*Council Review: Method (2) under Code Section 2A-15
Register Vol. 11 No. 9*

*Effective Date: November 1, 1994
Comment Deadline:*

SUMMARY: *The regulation sets criteria for evaluating neighborhood requests and the subsequent public comment process prior to installation of traffic access restrictions on residential streets.*

ADDRESSES: *Chief, Division of Traffic Engineering
Montgomery County Department of Transportation
101 Monroe Street, 11th floor
Rockville, Maryland 20850*

STAFF CONTACT: *Sarah R. Navid, telephone 217-2190*

BACKGROUND INFORMATION:

This is a new regulation submitted to the County Council to implement the provisions of Section 31-69 of the Montgomery County Code, "Residential Traffic Management Areas."



Executive Regulation

Office of the County Executive
Montgomery County, Maryland

Subject <i>THROUGH TRAFFIC VOLUME ACCESS RESTRICTIONS IN RESIDENTIAL AREAS</i>	Number <i>17-94 AM</i>
Originating Department <i>TRANSPORTATION</i>	Effective Date <i>November 1, 1994</i>

I. PURPOSE AND OBJECTIVES

The objective of this regulation is to enhance neighborhood traffic safety and maintain "livable" residential environments by providing a procedure for reducing excessive volumes of through traffic. This policy provides a systematic and uniform approach to the decision making necessary to implement traffic access restrictions to discourage through traffic on residential streets.

Residential traffic volume management is desirable to ensure pedestrian and vehicular safety, prevent noise and air pollution, vibration, and pavement deterioration, and maintain visual tranquility. However, public policies must recognize that traffic volumes exist because those who live or work in the County depend on the mobility afforded by the automobile as a primary means of transportation. Every resident driving a vehicle in some other residential area outside his or her own neighborhood becomes a "cut-through driver" or a "commuter". One resident's use of the public roads for necessary travel to work, schools, shopping or the library may be perceived by another resident as an "excessive" traffic presence. This policy attempts to balance the needs of all impacted parties while maintaining the efficient and appropriate use of County streets.

II. DEFINITIONS

As used in this Executive Regulation, the following definitions apply:

Access restriction - a prohibition or barrier preventing full or directional entry into or through a particular street; a prohibition may be for specific times or at all times.



Executive Regulation

Office of the County Executive
Montgomery County, Maryland

Subject <i>THROUGH TRAFFIC VOLUME ACCESS RESTRICTIONS IN RESIDENTIAL AREAS</i>	Number <i>17-94 AM</i>
Originating Department <i>TRANSPORTATION</i>	Effective Date <i>November 1, 1994</i>

Arterial roadway - a road that serves to move traffic between major highways or other arterial roads providing a high level of traffic service and a moderate level of direct access to local development.

Director - The Director of the Department of Transportation.

Major highway - a roadway with limited or controlled access that carries high through traffic volumes between freeways, central business districts and other major traffic generators. Major highways provide a high level of traffic service and a low level of direct access to local development.

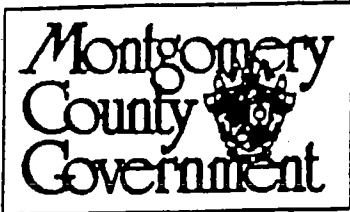
Management plan - that group of traffic controls, which may include signs, pavement markings, and physical devices or barriers, designed to reduce, divert or discourage non-local traffic in a particular neighborhood or on a particular neighborhood street.

Non-local traffic - those vehicles entering or exiting a neighborhood street and having a registration address further than 3/4 mile (4000 feet) straight line distance from any point on the street under evaluation; estimated by means of a license tag survey sample or other appropriate methods.

Operating speed (85th percentile) - that speed at which 85 percent of a measured sample of vehicles travels at or below; this is the most commonly used statistic to evaluate operating speeds on a particular roadway.

Primary residential street - a neighborhood street serving as a collector for local traffic from secondary and tertiary residential roadways, designed to feed traffic to arterial and major highways. Primary roadways provide a moderate level of traffic service and a high level of direct residential property access. A Master Plan primary street is a street so designated in a Master or Sector plan.

Secondary residential street - a neighborhood street providing a high level of direct residential access and a limited level of traffic service; not intended to provide for traffic traveling through the neighborhood.



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Tertiary residential roadway - a neighborhood roadway with similar function to a secondary street but having a narrower right-of-way and typically ending in a cul-de-sac.

Through traffic - vehicular traffic entering or exiting a neighborhood without origin or destination in that neighborhood.

Traffic shed - that system of interconnected roadways within a neighborhood or portion of a residential community feeding into one or more arterials or major highways.

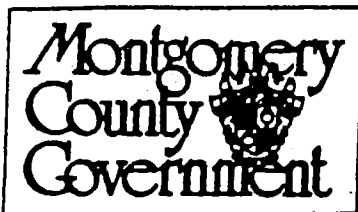
Traffic Volume Management area - that neighborhood or portion of a residential community which encompasses a natural traffic shed and whose residents may be required to use alternate access routes to or from their residences if a particular traffic access restriction was installed on one or more streets within its boundaries.

Volume - the number of vehicles that cross a specific point on a given section of roadway during a specified time period.

III. APPLICATION PROCESS AND ELIGIBILITY ANALYSIS:

A. Application

A request for neighborhood through traffic volume restrictions may be made by a local citizens association which represents a significant number of residents or by a petition from 15 percent of the households in an area being proposed for traffic restrictions. The Department of Transportation ("the Department") will provide a standard application form for this purpose. Neighborhoods which had submitted written requests for volume restrictions prior to adoption of this Regulation will not be required to re-apply.



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B. Eligibility

The Department must assess the area described in the application and adjust boundaries as appropriate to delimit the traffic shed. Once the Department defines this initial proposed traffic volume management area, the Department must conduct an eligibility analysis. Eligibility of one or more streets in a residential area for volume restrictions must be based on satisfying criteria for :

- * street classification;
- * measured traffic volumes; and
- * estimated non-local traffic.

1. Street Classification

Only tertiary, secondary and primary residential streets are eligible for volume restriction measures.

2. Traffic Volume

The Department must utilize traffic counts to determine traffic volume levels on those streets and during those time periods of concern as described in the residents' application. Counts conducted previously and on file may be used if, in the Department's judgement, they reasonably accurately depict current conditions. Otherwise, new counts must be performed. The counts must show that on at least one street in the proposed traffic volume management area for at least one



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hour of a weekday peak period or other, "off-peak" time period, the following two-directional volumes are met:

* 400 vehicles per hour on a Master Plan primary street that operates with two unobstructed travel lanes, one for each direction of travel; or

* 250 vehicles per hour on a residential street, not designated as primary in the Master Plan, that based on width and parking characteristics, operates with two unobstructed travel lanes, one for each direction of travel; or

* 100 vehicles per hour on any residential street that based on width and parking characteristics, operates with only one unobstructed lane for travel in both directions.

3. Non-local Traffic

Non-local traffic must exceed 50 percent of the highest hourly volume. Non local traffic volume may be estimated by means of a license tag survey sample or by other appropriate methods.

If the Department determines that a street under consideration does not meet the eligibility criteria, the applicant must be so informed. An ineligible street(s) must not be re-evaluated again for at least three years, unless a significant change occurs in land use, traffic patterns or other conditions that would significantly change the eligibility analysis



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results.

The Director may waive the Traffic Volume and Non-local Traffic criteria when special circumstances require through traffic volume access restrictions to achieve specific traffic safety or planning objectives.

C. Prioritization

The Department must prioritize all applications that it determined are eligible for further consideration. The initial prioritization, for all eligible applications that had been submitted prior to adoption of this Regulation, must be conducted as soon as possible after the Department completes the eligibility analyses. Thereafter, prioritization must be conducted semi-annually, in February and August of each year.

Priorities must be based on point scores assigned to the street which met the eligibility criteria. The Department must select those applications with the highest point scores to move on to the project development phase. The number of projects selected must be based on available staff and fiscal resources. In cases where more than one street in the proposed traffic volume management area met the eligibility criteria, all eligible streets will be assigned point scores, but only that street with the highest score will be used to prioritize the application.

Points must be assigned for each eligible street as follows:



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Volume - 10 points for each 10 percent that traffic volumes are above the minimum criteria.

Non-local Traffic - 20 points for each 10 percent that non-local traffic percentages are above the minimum criteria.

Speeds - 2 points for every 1 MPH that the operating speed (85th percentile) is above the speed limit.

Pedestrian Activity and Facilities - 10 points if there are no sidewalks on the street; 5 points if there are sidewalks on only one side or discontinuous sidewalks; 5 points for each major pedestrian generator on the street (e.g. school, playground, park); 5 points if the street is a designated on-road bike route; 1 point for each school or transit bus stop.

Parking/Driveways - 10 points for dense on-street parking or very closely spaced driveways; 5 points for moderate on-street parking or relatively closely spaced driveways.

Visibility restrictions - for restrictions caused by road configuration, natural features, unremovable foliage, etc. -- 10 points for many restrictions; 5 points for moderate levels.

Accidents - 2 points for each reported property damage only accident (including reports to police or by resident affidavit) and 5 points for each documented injury accident, over a three year period.



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IV. PROJECT DEVELOPMENT

A. Preliminary Plan

On the basis of the data collected and analysis performed to determine eligibility and priorities, the applicant and the Department must develop a preliminary Through Traffic Volume Management Plan. Fire and Rescue Services must be consulted as appropriate in the development of the plan.

The goal of the plan must be to address both the concerns of the neighborhood and the prevailing traffic conditions, by implementing the least restrictive traffic control measures and by implementing appropriate pedestrian safety improvements. This may result in a plan that does not include traffic controls which directly restrict or prohibit access into or through a neighborhood. Only plans that include traffic controls which directly restrict or prohibit access into or through a neighborhood are subject to the processes subsequently prescribed in this Regulation. These traffic controls include signs or physical barriers that establish turn or entry restrictions, one-way residential streets, or mandatory turns. Speed restraint devices such as speed humps or small traffic circles and pedestrian safety improvements such as crosswalks or sidewalks are addressed under separate processes established by the Department.

The complete physical closure of a street is not authorized by this regulation, but rather must follow the requirements contained in the Montgomery County Code, Section 49, Article V, "Abandonment and Closing of Roads and Drainage Right-of-Way". The Director may determine that some



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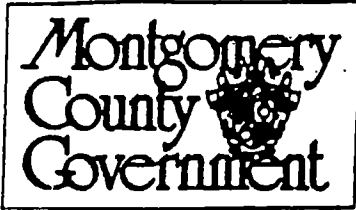
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plans which do not include proposed access restrictions, nevertheless present significant issues related to traffic diversion potential and must undergo the processes subsequently prescribed in this Regulation.

It is the Department's responsibility to evaluate impacts of the proposed plan and to ensure that the plan reflects the governing law(s) and the application of sound public policy. Accordingly, the Department's initial development and assessment of a proposed Through Traffic Volume Access Restriction Plan must consider the following factors:

- 1. Impact on surrounding residential communities - The impact on other streets of residential character to which traffic may be diverted as a result of traffic restrictions sought by the applicant must be evaluated, based on the particular characteristics of those roads, including but not limited to the same factors used in the eligibility and prioritization processes in Sections II and III above. The Department must not recommend a plan that would result in excessive through traffic in other residential areas on primary, secondary or tertiary streets.*
- 2. Impact on surrounding arterial/major road network - The ability of the surrounding road network and nearby signalized intersections to safely and efficiently accommodate the diverted traffic must be evaluated. Although impacts on the surrounding arterial and major road network will be assessed, traffic volume increases alone must not automatically preclude consideration of a Through Traffic Volume Access Restriction Plan.*



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3. Impact on public facilities and other community destinations - The Department must evaluate whether there would be an adverse impact on access to a public facility, such as a school, park, or library, or other significant community destinations such as a church, shopping center, or other business area.
4. Compatibility with master/sector plans - The Department, in consultation with Planning Board staff, must evaluate whether the proposed plan complies with approved and adopted master plans. Any "Planning Board Draft" master plan for the area must also be considered.

B. Community Discussion Paper

The Department must report its preliminary assessment in a "Community Discussion Paper", which must include:

1. a copy of the applicant's request;
2. a summary of the eligibility and point score;
3. a description of the preliminary through traffic volume restriction plan, and;
4. the impact analysis conducted by the Department

This document will serve as the basis for the discussions with residents and other potentially impacted parties in the community assessment phase.



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C. Community Assessment

The main objective of the community assessment is to ensure public disclosure and access to information. The Department and the applicants must identify parties, e.g. citizens associations, organizations, municipalities, local chambers of commerce, schools, hospitals, businesses, parks, and other community facilities and organizations potentially impacted by proposed through-traffic volume access restrictions.

The steps in the community assessment process are:

1. Public Notification - The Department must disseminate notices and the Community Discussion Paper to potentially impacted parties including nearby Citizens Associations registered with the Planning Board for a 30-day public notification period. Signs announcing the specific access restrictions under consideration, with a telephone number to call for information, must be posted for the same 30-day period. A copy of the notice must be sent to the County Public Information Office.
2. Working Groups and/or Meetings - The Department must seek advice on the proposed plan from affected residents and other interested parties through regular open meetings of informal working groups or other reasonable means.
3. Advisory Committee - In cases where the proposed plan affects a significant number of varying interest groups, is very complex or is



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anticipated to cause significant community impacts, the Department may recommend creation of an Advisory Committee, consisting of from five to nine members, to assist in developing a final plan. The Department must recommend to the County Executive candidates for appointment and confirmation by the County Council. When possible, the task force members must be fairly balanced between the applicants and the surrounding or general community.

D. Final Plan

Within 60 days after the close of the notification period (or 60 days after confirmation of an Advisory Committee), the Director must recommend a final plan and the boundaries of the area in which it would be implemented. The Director also must recommend whether the plan should be implemented as a test project or permanent project, and must develop a set of criteria by which the success or failure of a test project will be measured if it is recommended as a test project.

E. Public Hearing

Within 60 days after the Director recommends a final plan, the Executive or a designee must hold an evening public hearing to present the proposed plan and receive public testimony. Notice of the hearing must be published for two consecutive weeks in a newspaper of general circulation in the County with the last publication at least 15 days before the hearing. The notice must specify the boundaries of the proposed area, describe the proposed plan, and tell where to obtain more information. A sign giving notice of



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the hearing must be posted prominently in the area. A notice of the hearing must also be sent to all the parties contacted under the initial public notification step. The hearing record must be held open up to 30 days.

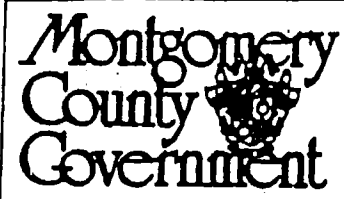
The Executive must issue a statement of decision within 30 days after the hearing record closes. A copy of the Executive's decision must be mailed to the previously contacted parties, the applicants, and all persons who submitted written comments or spoke at the public hearing.

In considering whether to approve a proposed access restriction plan, the Executive must consider the factors listed in Section 31-69(f) of the County Code.

Approval of a proposed access restriction plan by the Executive must be based on a judgment that the benefits of the plan to residents of the specific neighborhood or streets covered by the plan outweigh the potential impacts to the surrounding community, arterial/major road network, and public facilities or other destinations. On the basis of the information received during the hearing process, the Executive may revise the plan. The Executive's decision must specify the boundaries of the area where the plan will be implemented, and whether the plan will be initially implemented as a test installation or permanent installation.

F. Implementation Petition

Before final approval of an access restriction plan by the Executive as a



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Method 3 regulation, the Department must ask the applicants to collect a petition for implementation from residents in the area approved by the Executive. A signature on the petition by a simple majority of households (one adult resident signature per dwelling unit) within the area must be received to adopt the plan.

V. IMPLEMENTATION

A. Test Installations

The Department must implement test installations within 60 days (weather permitting) after receipt of the required implementation petition. Within three to 12 months after a test installation, the Department must evaluate the plan's performance using the criteria established by the Director. The Director will decide whether to retain the plan on a permanent basis. If the decision is negative, the test installation must be removed. If the decision is positive, notice that the test was deemed successful and that the installation will remain or be constructed in permanent form, will be posted for 30 days (following the same posting procedure as specified in Section IV.C.1).

B. Permanent Installations

The Department must implement a permanent plan as soon as practicable after receipt of the required implementation petition or a decision to make a test installation permanent. Plans requiring only passive traffic control devices (e.g. signs and markings) must be implemented within 60



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days, weather permitting. Plans requiring physical devices (e.g. construction) must be placed on the capital improvement program schedule, dependant on funding availability.

If within 90 days after a permanent installation, significant unanticipated problems develop as a result of the installation, or at any time if documented safety problems develop, the Department may suspend the plan and re-open the process. Public notification will follow the same procedure specified in Section IV-C,1.

VI. REASSESSMENT

Not earlier than three years after installation of traffic control devices, the Department may decide to reassess a through traffic volume access restriction plan that was installed either before or after this regulation became effective. Upon receiving:

- 1. a petition for removal or major alteration of access restrictions signed by at least 35% of the households (one adult signature per dwelling unit) in the Traffic Volume Management Area (see Definitions) as implemented; or*
- 2. a petition from at least 35% of the directly impacted households as defined by the Department (one adult signature per dwelling unit) in an adjacent residential neighborhood within a distance of 3/4 mile from the access restrictions, explaining why traffic restrictions are no longer*



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required due to changed conditions, or why the restrictions are causing undue burdens or significant safety problems which were not considered in the original decision to implement the plan.

the Department must hold a public hearing. After the public hearing, the Department must decide whether to retain the plan or re-assess the plan. If the Department decides to reassess, the Department must conduct a new traffic study and prepare a Community Discussion Paper evaluating the alternatives and their impacts. The project development process as specified under Section IV-C,D,E must be followed.

After completion of a reassessment process, further requests for reassessment of an access restriction must not be considered until an additional three years has elapsed.

County Executive

APPROVED FOR FORM AND LEGALITY.
OFFICE OF COUNTY ATTORNEY
BY *Gayle L. Curtis*
DATE *10/28/94*



Isiah Leggett
County Executive

DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION

Arthur Holmes, Jr.
Director

SCHEDULE B

APPLICATION FOR THROUGH TRAFFIC VOLUME ACCESS RESTRICTIONS ON PRIMARY AND SECONDARY RESIDENTIAL STREETS

Civic Association: _____
(Where applicable)

Name of Applicant: _____
(Civic Association President, or Chairperson of Neighborhood Traffic Committee) (SIGNATURE) (PRINTED)

Applicant's Title: _____
(Civic Association President - or - Chairperson of Neighborhood Traffic Committee)

Address: _____

Daytime Phone: _____

Street(s) where access restrictions are being requested:

Please provide us with the (1) hour between 7:00 am and 6:00 pm Monday thru Friday when you are experiencing the heaviest volume of traffic on your street(s).

Street/Time/Day _____

Street/Time/Day _____

Please submit this application to:
Michael L. Paylor, Chief
Traffic Engineering and Operations Section
Division of Operations
100 Edison Park Drive, 4th FL
Gaithersburg, Maryland 20878

NOTE: See the application procedure, justification criteria and resident concurrence requirements on the next page:

Through Traffic Volume Access Restrictions Application Procedure

- Requests for neighborhood through traffic volume access restrictions must be submitted in writing by the president of a local citizen's association. In the absence of an active citizen's association, the request for access restrictions may be submitted in writing by the chairperson of a neighborhood traffic committee (consisting of a group of residents representing a cross-section of neighborhood streets) that has been formed for the specific purpose of addressing neighborhood traffic concerns. The Traffic Engineering and Operations Section (TEOS) will provide a standard application form that is to be filled out and sent in with the written request.

Eligibility

TEOS must assess the area described in the application and conduct an eligibility analysis. Eligibility of one or more streets in a residential area for volume restriction must be based on satisfying criteria for all of the following:

1. Street Classification - only tertiary, secondary and primary residential streets are eligible.
2. Traffic Volume - TEOS must use traffic counts to determine traffic volume levels on those streets and during those time periods of concern as described in the residents' application. Counts conducted previously and on file may be used if, in TEOS's judgment, they reasonably and accurately depict current conditions. Otherwise, new counts must be performed. The counts must show that on at least one street in the proposed traffic volume restriction area for at least one hour of a weekday peak period or other, "off-peak" time period, the following two-directional volumes are met:
 - 400 vehicles per hour on a *primary* street that operates with two unobstructed travel lanes, one for each direction of travel; or
 - 250 vehicles per hour on a residential street, *not* designated as primary, that based on width and parking characteristics, operates with two unobstructed travel lanes, one for each direction of travel; or
 - 100 vehicles per hour on any residential street, that based on width and parking characteristics, operates with only one unobstructed lane for travel in both directions.
3. Non-local traffic - must exceed 50 percent of the highest hourly volume. Non-local traffic may be estimated by means of a license tag survey sample or by other appropriate methods. Non-local traffic is defined as those vehicles entering or exiting a neighborhood street and having a registration address further than 3/4 mile (4000 feet) straight line distance from any point on the street under evaluation.

If TEOS determines that a street under consideration does not meet the eligibility criteria, the applicant must be so informed. An ineligible street(s) must not be re-evaluated again for at least three years unless a significant change occurs in land use, traffic patterns or other conditions that would significantly change the eligibility analysis results.

On the basis of the data collected and analysis performed to determine eligibility, the applicant and TEOS must develop a preliminary "Through Traffic Volume Management Plan". Fire and Rescue Services must be consulted as appropriate in the development of the plan. Only plans that include traffic controls that directly restrict or prohibit access into or through a neighborhood are subject to the process subsequently prescribed in this regulation. These traffic controls include signs or physical barriers that establish turn or entry restrictions, one-way residential streets, or mandatory turns. Speed restraint devices such as speed humps or traffic circles, and pedestrian safety improvements such as crosswalks or sidewalks are addressed under separate processes established by the Department of Public Works and Transportation.