

**IN THE MATTER OF:
WILLERBURN ACRES 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 Potomac, Maryland:

- the **north (odd)** side of **Fontaine Street** from **Goya Drive** to **Seven Locks Road**
- the **southwest (even)** side of **Goya Drive** from **Seven Locks Road** to **Fontaine Street**
- the **east (odd)** side of **Greenleaf Avenue** from **Fontaine Street** to **Goya Drive**
- the **west (even)** side of **Greenleaf Avenue** from **Goya Drive** to **Reynolds Avenue**
- the **south (odd)** side of **Gainsborough Road** from **Seven Locks Rd** to **Fontaine Street**
- the **south (even)** side of **Mary Cassatt Drive** from **Seven Locks Rd** to **Ivymount Terr**
- the **south (even)** side of **Ivymount Terrace** from **Seven Locks Rd** to **start of culdesac**.

This project is located in the Willerburn Acres community of Potomac, within the fourth election district of Montgomery County, Maryland. The sidewalks were proposed at five feet wide with a variable greenspace of 0 to 3-feet-wide.

Displays were presented at the public hearing showing the proposed sidewalks relative to the surrounding religious centers, private schools and local attractions including the Park Potomac shops and amenities as well as the Cabin John Shopping Center and Mall. The new sidewalks would lead to nearby pedestrian attractions such as the Geneva Day School, Seven Locks Baptist School, Beth Sholom Congregation and Talmud Torah, St. James Episcopal Church, Potomac Child Care, Chabad of Potomac, Young Israel of Potomac, Breakthrough Test Prep, the Maddux School, Ivymount School, the shops and attractions at Park Potomac as well as

the shops and attractions at the Cabin John Shopping Center and Mall, public school bus stops, 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 \$1,451,280, 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 January 25, 2023, at 7:00 p.m. Public notice of the hearing was mailed 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 January 23 and 24, 2023, was posted on MCDOT's web calendar, was the subject of a Montgomery County government press release circulated on January 25, 2023, and the NextDoor social media site on January 23, 2023.

Following the hearing, the public record was held open until 5:00 p.m. on Wednesday, February 22, 2023, to allow for written testimony and final comments to be submitted. Following receipt of the revised tree report, however, the Record closure was further extended to March 22, 2023.

II. SUMMARY OF TESTIMONY, WRITTEN COMMENTS AND EXHIBITS

A. Project Description

A description of the proposed sidewalk project was presented by Sidewalk Program Manager, Robert Gonzales. The Willerburn Acres sidewalk proposal was prompted by a “petition” spreadsheet submitted by the Association for Safe International Road Travel (“ASIRT”) summarizing the hundreds of local residents who had expressed an interest in sidewalk installation on the proposed roadways in the Willerburn Acres community in addition to requests for sidewalk installation received for the proposed roadways. Mr. Gonzales 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 Seven Locks Road. Mr. Gonzales also discussed the improved safety the sidewalks will provide students walking to their respective school bus stops as well as to the Ivymount School, The Maddux School, Seven Locks Baptist School and the Geneva Day School. In addition, Mr. Gonzales discussed the improved safety the sidewalks will provide all residents walking to the many pedestrian attractions surrounding the Willerburn Acres community including the restaurants, shops and amenities in the Cabin John Shopping Center and Mall just south of the community as well as the restaurants, shops and amenities in the Park Potomac complex north of the community.

Mr. Gonzales provided a project vicinity map showing approximately 12,094 linear feet of proposed sidewalk in the Willerburn Acres community of Potomac. 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 **Fontaine Street**; the roadway is 21-feet-wide. Thus, the County has 29-feet of total available right of way or 14.5-feet of available right of way on each side of **Fontaine Street** dedicated to public use;

- The County has 70-feet of total public right of way on **Goya Drive**; the roadway is 36-foot-wide. Thus, the County has 34-feet of total available right of way or 17-feet of available right of way on each side of **Goya Drive** dedicated to public use;
- The County has 60-feet of total public right of way on **Greenleaf Avenue**; the roadway is 26-foot-wide. Thus, the County has 34-feet of total available right of way or 17-feet of available right of way on each side of **Greenleaf Avenue** dedicated to public use;
- The County has 60-feet of total public right of way on **Gainsborough Road**; the roadway is a variable 18 to 26-foot-wide. Thus, the County has a variable 42 to 34-feet of total available right of way or 21 to 17-feet of available right of way on each side of **Gainsborough Road** dedicated to public use;
- The County has 60-feet of total public right of way on **Mary Cassatt Drive**; the roadway is 20-foot-wide. Thus, the County has 40-feet of total available right of way or 20-feet of available right of way on each side of **Mary Cassatt Drive** dedicated to public use;
- The County has 60-feet of total public right of way on **Ivymount Terrace**; the roadway is 23-foot-wide. Thus, the County has 37-feet of total available right of way or 18.5-feet of available right of way on each side of **Ivymount Terrace** dedicated to public use;

B. Testimony and Written Comments

The Willerburn Acres Community Sidewalk Proposal evoked a mixed reception by the community; the final tally of written testimony stood at 67 opposing the proposed installations and 51 supporting the installations. In addition, two petitions opposing sidewalk installation on Mary Cassatt Drive and Ivymount Terrace were received having been signed by 58 and 81 residents respectively. As is true of many of the Sidewalk Program’s proposals, most that opposed the initiative wrote in discussing lack of need, the lack of traffic, environmental or pedestrian count studies, required tree removals and climate concerns, snow shoveling responsibilities, rainwater drainage concerns and loss of available parking. For example, Neal Rosenthal of 11759 Gainsborough Road stated in his written testimony,

“I have lived on Gainsborough Rd since 1977 and have enjoyed the rural feeling of the community ever since. Sidewalks and the removal of trees will change the environment of the community in a negative way. No other street in the area has this feeling of being outside of a typical suburban residential neighborhood. The trees on the land of my home

bordering the street would be removed, thereby changing the area that I have nurtured and enjoyed for the past 56 years.”

In their written testimony, Steve Klein and Sally Moody of 11901 Goya Drive, likewise, opposed the loss of the wooded, rural feel of the community and further discussed the growing popularity of the “Freedom to Walk” laws enacted by other states when they wrote in their written testimony,

“We are writing to object to the proposed sidewalks in our neighborhood. The wide, wooded roads attracted us to this oasis in 1991 as a young family. . . .

. . . We raised our children here. They confirm that they also prefer the neighborhood without sidewalks. We regularly walk on the roads and feel completely safe. . .

. . . sidewalks are part of an antiquated philosophy that penalized pedestrians and neighborhoods. Today, the national trend is to strengthen the position of pedestrians as equally important road-users. ‘Freedom to Walk’ laws have been enacted in Virginia, Missouri, Nevada and California. Soon, they will be country-wide [sic]. These laws are designed to prevent motorists from assuming that they own the roads. These national trends emphasize that our neighborhood does not need sidewalks.”

Expressing the sentiment of many who opposed the proposed sidewalks, Jared and Alanna Kotler of 12109 Greenleaf Avenue wrote about the potential tree removals as well as climate change concerns stating,

“**Environmental Effect:** Your proposal will require a large amount of cement to be produced and installed in our neighborhood. While your proposal will have limited effect on pedestrian safety, it will create a negative effect on the environment. The cement industry is one of the biggest contributors to carbon emissions. In fact, concrete generates 4 – 8% of the world’s CO₂. In addition to concrete, the county would be cutting down numerous mature trees and replacing them with young trees. This is a problem for our environment as mature trees capture significantly more carbon than young trees.”

Brooke Greenwald of 7812 Ivymount Terrace further discussed the detrimental effects of tree removals when she testified at the public hearing. She said,

“I want to mention that the CDC just issued a report not long ago that said anybody who is walking down the street between the hours of 10:00 and 4:00 p.m. which are the highest UV rates of the day and are not under trees are exposing themselves to the equivalent of having no SPF sunblock at all. These trees absorb 70 to 90% of all harmful rays that cause cancer. And as we all know, Maryland has a very high cancer rate, especially for skin cancer in the nation.

An oncologist told me from Sibley this past week, trees provide significant coverage for overhead UV rays which are primarily skin cancer targets for all of us. Specifically, children who are outside. I also spoke with an environmental scientist who told me removing the trees and adding the sidewalks will heat our ground, increase the speed at which the earth is heating up and impact climate change negatively. And that it will take an average of 50 to 75 years just to get back to where we are today.”

In her written testimony, Christine Kozak of 11837 Gainsborough Road discussed the widely expressed concern of opponents of the proposed sidewalks related to the added responsibility and liability in inclement weather when she stated,

“Homeowners with the new sidewalks would be faced with new expenses related to required snow removal and liabilities due to pedestrian accidents which may necessitate increased insurance costs. The suggestion that we could get local high schoolers to shovel snow and ice at no charge lacks seriousness. Also, given the very poor upkeep of our neighborhood streets, we have little confidence in upkeep of these sidewalks.”

Numerous opponents to the proposed sidewalks also characterized the potentially impacted roadways as being cul-de-sacs or not through roadways. This sentiment was especially held by many of the residents residing on Mary Cassatt Drive and Ivymount Terrace. For example, Jill Tender of 7716 Ivymount Terrace wrote in her written testimony,

“I am opposed to the sidewalk proposal for MANY reasons. Here is my list:

- 1) You are citing there is a problem when there is NO problem. There have never been any reported injuries or issues along either street throughout its 50+ year existence.
- 2) Mary Cassatt Dr and Ivymount Terr are not through streets. We have very minimal traffic in our section of Willerburn Acres - sidewalks are unnecessary.
- 3) In particular, I live next to the cul-de-sac at 7716 Ivymount Terrace. You are not building sidewalks on the other 2 cul-de-sacs off of Mary Cassatt so your plan would be inconsistent to continue them along my street. Obviously [sic] I am opposed in general, but if you decide to follow through with the project it would make more sense to end the sidewalks where Mary Cassett [sic] begins.
- 4) In terms of safety, it would make much more sense to repave our patched up [sic] roads and add additional lights along our dark street than spend taxpayers['] money to add the unwanted, unsolicited sidewalks.
- 5) Changing the grass front lawns to partial cement areas can cause additional drainage problems- We have heavy drainage running down the hill already during rain. More concrete= more runoff.
- 6) This could increase the liability of the owners of the houses that have sidewalks. If there happens to be ice or uneven cement and someone falls it would be unexcusable [sic] if we were blamed for the accident. Additionally, we would be required to shovel or spend money hiring someone to clear snow. I DON'T want that responsibility.
- 7) This will eliminate approximately 83 mature trees as well as bushes, landscaping, and animal habitats in our neighborhood. Over 30 will require air excavation for roots near future sidewalks. I know you will replace the trees [sic] but they are invaluable. It is a completely lame excuse that this plan is environmentally friendly. LAME.
- 8) Not that you care whatsoever, but part of the reason we bought a house in this neighborhood was because of the beautiful look and country feel - cement sidewalks will take away the natural aesthetic and create an unbalanced look on the street, with a substantial portion of the impacted driveways will be cement -where 98% now are black asphalt."

Ricki Cytryn of 7709 Mary Cassatt Drive, likewise, testified at the public hearing describing

Mary Cassatt Drive and Ivymount Terrace as cul-de-sacs. She further discussed her strong belief

that the adjacent residents alone should be making the final decision regarding installations in the County's public right of way adjacent to their property. She testified,

“First of all, there are no traffic issues, because we have -- are literally in a cul-de-sac. Secondly, the rain runoff is already a problem here. There's a ditch running down the sides of the street. When it rains heavily, the street at the bottom is completely flooded, and sidewalks would only exacerbate this problem.

Now, my daughter grew up here and she had no problems biking or walking to high school, to Churchill, to our local church or temple, you know, for those who go to one or the other on our block, there are safety crossings at Seven Locks Road, so I really would appreciate if we not -- we be either an all or none decision, but rather, let each street decide for themselves.”

Although we know that a local resident was injured on March 17, 2022, when a vehicle collided with him, running over his foot on Mary Cassatt Drive, numerous residents of Ivymount Terrace and Mary Cassatt Drive also testified to the lack of need based on a history clear of pedestrian/vehicle collisions. For example, Steve Bashein of 7812 Mary Cassatt Drive testified at the public hearing as follows:

“... As far as we know, I've been here a long time and Mary Cassatt Drive is about 50 years old. I'm told that according to Montgomery County, there's never been an auto accident on Mary Cassatt or Ivymount in 50 years. So, to start off, you're looking to make things safer, hey, it's not broke. Let's not use -- waste taxpayer money on fixing something that's not broke. . .

People may feel unsafe, but the facts are no auto accidents.”

Mr. Bashien further addressed the added responsibility sidewalks would impose in inclement weather as well as the misconception that he would be personally responsible for repairing broken sidewalks. He stated,

“So, you put 300 square feet of concrete in front of my house. You're going to make me responsible for removing snow and ice, both by law and also to avoid being sued by somebody [who] might slip and fall. And

you're going to make me responsible for any breakage to fix it at my expense.”

As is often the case, rainwater drainage concerns were on the minds of many who opposed the sidewalk installations. For instance, Thomas L. Lewis of 11801 Gainsborough Road wrote in his written testimony,

“The sidewalk project will also destroy one of the environmental improvements installed by Montgomery County several years ago. At the time of some road work, the county created a swale like arrangement about 150 feet long in front of our house, located at the top of a steep hill, to retain storm water that would otherwise cascade down into a depression that feeds into the Cabin John stream. The swale also extends to two additional properties down the hill from us. Replacing this swale with impermeable pavement will clearly lead to significant storm water runoff to the creek area and the related pollution it carries.

There were significant drainage issues before the swale was installed and they are likely to return in even worse form if turf and swale area are replaced by impermeable surfaces. This is likely to be particularly severe for the two houses at the bottom of the hill and for the trail leading into the park.”

Likewise, Orlee Panitch of 11753 Gainsborough Road testified at the public hearing,

“I have a huge problem with flooding already. And if there’s the introduction of impermeable surfaces, couple with the loss of trees, I really suspect that I will have a much larger problem and I would like to have that addressed by the County how that would be remediated before this project were to happen.”

The lack of environmental, traffic or pedestrian count studies proving the need for sidewalks was a major contention among the opponents to the sidewalk proposal. For example, in their written testimony, Caryn and Mitchel Malkus of 11825 Gainsborough Road stated,

“We are unaware of any field studies that have been conducted in our neighborhood that indicate there is a need for sidewalks. . . .

We also are opposed to the sidewalk construction because of the significant economic and environmental costs of the project. Our neighborhood was not planned for sidewalk and the proposed project will require the removal of well over 150 mature trees and significant amounts

of green grass. While the trees will be replaced, the impact of the removal of mature trees will have a significant environmental cost and will not be mitigated against [sic] for years. Economically, the cost of this project has not been weighed against other options, if in fact the County has any studies that indicate there is a safety issue (which I do not believe is the case).”

Despite the numerous concerns of the opponents to the sidewalk proposal, many residents supported the proposed installations with a keen focus on pedestrian safety. For instance, in her testimony at the public hearing, Rochelle Sobel of 11769 Gainsborough Road and President of the Association for Safe International Road Travel (ASIRT) testified,

“ASIRT strongly believes in the separation of pedestrians from vehicles among other measures by the installation of sidewalks. On average, 400 pedestrians are struck by vehicles in Montgomery County each year. Everyone benefits from the separation of pedestrians from motorized traffic. Parents and caregivers with babies in strollers, children, older adults and people with disabilities. The presence of sidewalks makes driving less stressful for motorists as well.

According to The Federal Highway Administration, the likelihood of a site with a paved sidewalk being a road crash site is up to 88.2% lower than a site without a sidewalk. Data also indicates that sidewalks increase property values and eight in ten Americans prefer living in a community with sidewalks.”

Despite her concerns regarding rainwater drainage, Dr. Orlee Panitch of 11753 Gainsborough Road similarly testified,

“So, in context to --- I have been an emergency physician in this county for over 30 years. I have seen a lot of motor vehicle accidents. I see the devastation. I am a firm believer in safety. And so, with that, I’d like to start by saying that I firmly support everything that Rochelle Sobel says. I think our neighborhood needs to be as safe as it could possibly be.”

In his written testimony, Marc Zweben of 7625 Fontaine Street highlighted the recently released statistics regarding pedestrians killed in vehicle collisions. He wrote,

“In May 2022, the Governor’s Highway Safety Association (<https://www.ghsa.org/about>) issued a report, titled “New Projection: U.S.

Pedestrian Fatalities Reach Highest Level in 40 Years” noting the following findings:

“WASHINGTON, D.C. - Drivers struck and killed an estimated 7,485 people on foot in 2021 – the most pedestrian deaths in a single year in four decades and an average of 20 deaths every day, according to a new estimate released today by the Governors Highway Safety Association (GHSA). To provide additional context on pedestrian safety trends, the report also includes an analysis of 2020 data from the Nation Highway Traffic Safety Administration (NHTSA) that reveals a shocking new statistic – the percentage of speeding-related pedestrian crashes involving children ages 15 and younger more than doubled in the previous three years.”

Likewise, Andrew Mener of 11740 Gainsborough Road testified at the public hearing regarding guidance provided by the CDC and Surgeon General regarding community design and active, healthy living. He testified,

“Nothing is more important than the health and safety of our community, and I want to commend the County on working to achieve what the CDC is calling an activity-friendly community. And with the Surgeon General's guidance -- calls for our efforts to design streets, sidewalks and crosswalks that encourage walks for people of all ages and abilities. This has become a priority across the country and I think it's really fabulous that Montgomery County is promoting this initiative.

If this initiative is going to be appropriate for any area in the county, it's appropriate for this community. Due to the density of observant Jews, the density of synagogues, the need for people in our community to walk to those synagogues, this has an unusually high density of pedestrian traffic.

...

It's important to reduce carbon emission, encourage exercise, fight childhood obesity, [and] make the neighborhood friendlier for families and seniors. It's just an all[-]around excellent idea that promotes safety.”

Although many opponents to the proposed sidewalks asserted at the public hearing that the sidewalk was wholly unwanted on Mary Cassatt Drive and, further, that sidewalks and enhanced pedestrian safety were unneeded on Mary Cassatt Drive, Jason Rubinstein of 7625 Mary Cassatt Drive wrote in his testimony,

“I write on behalf of our family that resides at 7625 Mary Cassatt Drive. We write in support of the sidewalk proposal. Although we were unable to attend the public hearing on January 25, it is our understanding that testimony was provided indicating that sidewalks are unnecessary on Mary Cassatt because the street is similar to a court and only Mary Cassatt residents use the street. Unfortunately, that is not accurate. The street is routinely utilized by visitors, landscaping companies, delivery services (e.g., FedEx, UPS, etc.), and school busses [sic]. Often these large vehicles exceed posted speed limits and do not slow down around blind bends in the road. Couple this with the fact that there is significant foot traffic during the day and at night (both on Saturdays due to religious observance and people exercising or walking dogs), it is our belief that addition of a sidewalk as proposed would increase safety. To the extent trees can be saved by using alternative materials or reducing the sidewalk width at critical areas, we support such efforts.”

Likewise, Talma Shmul of 7715 Mary Cassatt Drive wrote in her written testimony,

“We would like to inform you that we have no objection to the Sidewalk Program, moreover, we will be very happy to get this done. I walk my dogs daily which is very dangerous. Many times[,] we were almost hit by cars. I am sure other residents faced the same problem.

To my regret many residents are parking their vehicles on this narrow road, instead of the garage which makes it even harder to walk on Mary Cassatt DR. . . .

Would appreciate this program to be done ASAP[.]”

Ms. Bernice Packer further addressed the misconception of many opponents to the proposed sidewalks that Mary Cassatt Drive and Ivymount Terrace are cul-de-sacs rather than through roadways. She wrote in her testimony,

“My name is Bernice Packer. I live at 7805 Mary Cassatt Drive. I would like to submit a written statement regarding the sidewalks [sic] proposal.

To clarify what many people stated in their testimonies at the Zoom meeting:

- Mary Cassatt Drive is NOT a cul de sac [sic]. It is a thoroughfare for cars driving through our street, Glackens, Ivymount Circle, and Ivymount Terrace.
- There are many vehicles that drive on our street. In addition to the homeowners' vehicles, there are school buses, delivery vehicles (UPS,

Fedex, Amazon, etc.), landscaping service trucks with trailers, and home repair vehicles.

- Vehicles come down Mary Cassatt towards Seven Locks - very fast. Several days ago[,] there was a school bus driving 45-50 miles per hour (no exaggeration).
- Regarding the question of snow removal from sidewalks - those homeowners who shovel their own driveways would shovel their own sidewalks. Those who hire a service to plow the driveway – would have the service clear the sidewalk.”

Disputing claims that there have been no adverse incidents with people walking in the roadway on Mary Cassatt Drive, Dr. Jesse Sadikman of 7825 Mary Cassatt Drive described the recent pedestrian/vehicle collision resulting in injury on the subject roadway when he wrote in his written testimony,

“My name is Jesse Sadikman MD. I live at 7825 Mary Cassatt Dr, Potomac MD 20854. I am writing in support of your effort to install sidewalks in our neighborhood. As a family physician, [the] safety of my family and community is my number one priority. My family and I walk our street regularly and I am concerned about a potential accident. In fact, a neighbor was hit by a car on our street and broke his foot.”

Likewise, Gene Gurevich of 11920 Gainsborough Road testified at the public hearing,

“Although I sympathize with the arguments made by, you know, some of the folks against the sidewalks, particularly those who will be directly impacted. I strongly believe that the safety benefits associated with having sidewalks in a more walking friendly and kid friendly environment really outweigh their concerns.

Also, I heard a lot of people talk about how we haven't had any pedestrian collisions in our neighborhood. That's actually not true. I don't know of every incident, but I can say with 100% certainty that my neighbor was in fact hit by a car two years ago on the -- one of the streets that are being discussed today. And he had a very serious leg injury. So, to say that we've never had incidents, is not correct.”

Despite the seemingly overwhelming opposition from the residents of Ivymount Terrace, Jenna Koppel of 7804 Ivymount Terrace supported the installation of sidewalks on Ivymount Terrace,

focusing solely on safety in her written testimony. She also addressed the revised proposal with the new designs and material when she wrote:

“I worry that the project is in jeopardy due to the opposition expressed by some of my neighbors and hope that the project will move forward because of all the good sidewalks will do in this neighborhood.

Our street is shared by a range of people all of whom would benefit--and be made safer—by this project. These populations include: young children, children who walk to school or the bus stop, older adults, as well as families that walk to the local synagogues on Shabbat. No one should have to walk in the street, which right now is the only option for us all. I am constantly reprimanding my children, even though have very good safety awareness, for running even two feet ahead of me, as we live on a hill[,] and I know cars coming towards us have extremely limited visibility. I have seen other neighbors and their pets have extremely "close calls" with vehicles because they are walking or strolling in the street. There is enough traffic--vehicular and pedestrian--that there is real risk of injury without sidewalks.

As a working mother my times to exercise and get fresh air are often limited to the evenings and night times after 8p[m]. In the fall, summer, and spring months I walk around this neighborhood with fear of cars on my street, on Mary Cassatt, and on Gainsborough pulling out quickly from their driveways or making sharp turns without time or adequate lighting to see me. My neighbors and I should be able to be comfortable walking around our neighborhood at any time of day.

I appreciate the time that the project planners have taken to listen to comments and believe the changes made to preserve trees will alleviate many of the concerns of our neighbors.

Please move forward with this project, and know you have the support of my family and so many across this neighborhood.”

Josh Koppel of 7804 Ivymount Terrace also addressed the contention that sidewalks are not needed on Ivymount Terrace, discussing the many community walkers, the lack of sight distance and narrowness of the roadway. He wrote,

“One of the refrains that I have seen from some of those opposed to the project is that there is no current problem. That's not true. This is a community that walks. Every day, I watch from my office as dozens of people walk the streets. Elderly individuals, kids, parents pushing

strollers, people walking dogs--there are lots of people that walk in this neighborhood. And on Saturday, there are dozens of people in the community who do not drive,[sic] but walk to synagogue. Of necessity, these people are all currently walking in the street. That is a problem.

Some have asserted that walking in the street here is safe. That's not true. At night the streets are very dark, and I know as both a driver and a pedestrian that it is difficult to see people. Some people wear brightly colored vests when they walk at night, but many don't, and no one should need to do that. My family is less likely to go for a walk at night in the winter when it is dark because we are afraid of being hit by a car.

Ivymount Terrace also has a hill, and it is difficult as a driver to see beyond that hill. If there is a pedestrian on the other side of the hill, a driver doesn't see that pedestrian until they are very close. The streets are also narrow. When a vehicle drives past another parked vehicle, it frequently comes very close to pedestrians. That is unsafe.

Because the street is so narrow, the lack of sidewalks poses a particular danger to people's dogs. I frequently drive by people who are unable to, or simply don't, adequately curb their dogs. Even though their dogs might be leashed, the dogs often run dangerously close to passing cars. On more than one occasion, I have seen cars screech to a halt as dogs, sometimes leashed, dash under or very close to the cars. Dog owners should have a sidewalk where they can safely walk their pets.

These are all problems. And they would all be solved by installing sidewalks. Some commenters have pointed out that our street ends in a cul de sac [sic]. But that doesn't stop cars from racing through, [sic] or make the streets any more safe for pedestrians. We should not need to wait for someone to die before we solve this problem. . . .

I strongly support the proposal to construct sidewalks in Willerburn Acres, and on Ivymount Terrace in particular. Indeed, I consider this to be the highest priority improvement the county could make in our area. I ask that the construction proceed as proposed.”

Safety being of paramount concern, Naomi Aiken of 12103 Greenleaf Avenue testified at the public hearing about her young children and their future daily walks to the area schools. She said,

“I have two I have two children, ages six and eight who attend Beverly Farms Elementary. And when they get older, they will attend Hoover

Middle and Churchill High. They will walk from our home to and from the bus stop, if not to and from the actual schools themselves.

Their safety is incredibly important to me. I'm here today in support of the sidewalk proposal. This is an active neighborhood full of families with young children who walk frequently. As a parent of young children, I am constantly concerned about their safety when playing outside in front of our house or walking to another friend's house in the neighborhood. And this is due to a lack of a sidewalk.

A sidewalk would be a wonderful improvement to the safety of this neighborhood [,] particularly on Greenleaf Avenue and Goya Drive. All parents of young children work hard to teach their kids to look and to listen for cars. In this neighborhood, it's wonderful to see the growing number of electric vehicles. However, fully electric vehicles make no noise. Meaning children or any pedestrian cannot hear them coming.

Additionally, as we all know, we are living in a world of drivers who are distracted by their phones. No amount of additional street lighting or more signs can save a pedestrian from a distracted driver in a car that the pedestrian cannot hear coming. The best way to prevent these tragedies is for drivers and pedestrians to not share the same space.”

Moshe and Naomi Chinn of 11700 Gainsborough Road, likewise, wrote in their written testimony,

“We **STRONGLY** support the sidewalk plan. We have 4 children[,] and it is very dangerous for them to walk in the streets. On multiple occasions[,] my kids have been close to being hit while scootering.

Please build the sidewalks ASAP!”

Residing beside the entrance to the Cabin John Trailhead, Alexandra Bank of 11820 Goya Drive is in a unique position to testify as to the traffic produced by the popular attraction. In her written testimony, she wrote,

“. . . I live at 11820 with my husband and two young children. I am the last house on the street right before the trailhead and often see non-Willerburn Acres residents speeding down the street on cars and bicycles to get to the trailhead. I am strongly in favor of sidewalks as a safety measure to keep all of the residents in our neighborhood safe. . . .

My children walk to and from the bus stop each day. The afternoon is particularly worrisome because, in addition to regular neighborhood

traffic, we have post-work traffic of people coming to the Cabin John Trail and afternoon deliveries by FedEx, USPS, UPS and Amazon.”

In his written testimony, Jonathan Harris of 11932 Goya Drive spoke to the revised sidewalk proposal when he wrote,

“As a resident who would have a section of sidewalk on the public-right-of-way section of my front lawn, I am writing in support of the revised sidewalk plan for Willerburn Acres. The revisions preserve most trees and offer us improved safety.

In support of this plan, I note that my two grown children commented “it is about time” when they heard of the sidewalk plan. Although they no longer live in the area, the benefits that they would have obtained will be available to children currently growing up in the neighborhood.”

III. ANSWERS TO FEEDBACK and CHANGES TO THE PROPOSAL

Many residents commented and testified about the lack of need of the proposed sidewalks, citing that there have been no past vehicle/pedestrian collisions in the Willerburn Acres community. Unfortunately, as we know from the above-quoted testimony, there *have* been pedestrian/vehicle collisions in the Willerburn Acres community. MCDOT’s collision data is obtained from all incidents that resulted in a police report; a collision between neighbors may not be reported. Additionally, MCDOT understands that our population is ever growing as are the number of cars on our roadways; a collision-free history provides no guarantee of a future free from injury or death caused by vehicle/pedestrian collisions. The new sidewalks will provide a safe place for pedestrians to walk, separated from oncoming vehicular traffic; thus, enabling residents to walk to short-distance destinations such as to and from school or to the Cabin John Mall or Park Potomac complex, and for longer trips, to safely walk to the Ride-On public transportation amenities. Many residents who previously avoided or were precluded from walking within the community due to the lack of a safe, separated space for pedestrians, will

have the freedom to walk and enjoy their community and the numerous amenities surrounding the Willerburn Acres community.

Multiple residents also questioned the proposed width of the sidewalk, explaining that the 5-foot-wide sidewalk causes unnecessary tree and environmental impacts. Mr. Gonzales, Manager of the Sidewalk Program and Sidewalk Section Chief, explained that the Sidewalk Program is bound by state and federal design guidelines mandating that all new sidewalks be installed at 5-foot-wide in adherence of the Americans with Disabilities Act. While we can provide “pinch-points” every 150 to 200-feet, reducing the width to spare critical root zones of trees, the overall design must remain 5-foot-wide. If not, a Federal waiver must be submitted for approval; I am sorry to report that the residents’ desire for a narrower sidewalk is not an approved reason to waive the Federal requirement to accommodate those with disabilities.

As displayed in the aforementioned testimony, numerous residents opposed the proposed installations because of tree removals required to make way for the sidewalks. During the question-and-answer session at the public hearing, many residents expressed concerns with the revised tree report. Because the prescribed “air excavation” did not provide a guarantee that the trees would be saved, the updated report offered no comfort to their concerns. To confirm, the arborists will need to first view the roots of the trees to determine the design changes that will allow them to move forward, installing the sidewalk without impact to the tree. In response, I have authorized an alternative design that will allow the sidewalk to curve around the critical root zone of most right of way trees by installing the sidewalk with a 9-foot-wide greenspace. Depending on the tree’s size and location as well as the findings from air excavation activities, the landscape may also be graded up slightly above the current ground level so as to further insulate the roots buried beneath. In addition, a porous, flexible material that can be laid upon

exposed tree roots may be employed. These alternatives will save most right of way trees that had previously been slated for removal, preserving the cherished look and feel of the community. Installed, the sidewalk will utilize 14-feet out of the 17-foot-wide public right of way.

When this option was discussed at the public hearing, many expressed anxieties about the sidewalk and the public walking closer to their private property. Discussions regarding the potential rise in robberies followed. Because MCDOT understands and can sympathize with these concerns about the augmented greenspace, an Inspector for the Sidewalk Program visited the community on multiple days to discuss options with each resident residing adjacent to a right of way tree(s) that had previously been prescribed removal or air excavation. The resulting final sidewalk installation plans reflect the right of way tree preferences resulting from these conversations. Where the residents have opted to have the right of way tree(s) removed, the Sidewalk Program will collaborate with the Division of Highway Services' Tree Section to have three trees planted for each right of way tree removed.

When the sidewalks were originally proposed, 83 trees were slated for removal. Incorporating the new designs, material and resident preferences, the Sidewalk Program will be able to install the sidewalks, if approved, while saving 76 out of the 83 trees that were previously slated for removal. That is a 92% reduction in the number of trees removed to make way for the sidewalks. Only 7 trees, one of which is already dead, will be removed per the adjacent residents' preferences. The final sidewalk installation plans were shared with the community for comment. The final comments revealed a dramatic drop in opposition from originally 67 opposing comments to only 10 opposing comments.

Numerous opponents to the proposed sidewalks expressed concerns that the replacement trees would not be planted in their community, but rather elsewhere in the County. All

replacement trees are planted back into the remaining public right of way behind the sidewalk. The 3-foot-wide greenspace is not wide enough to accommodate the trees. The number of replacement trees that are planted in the public right of way adjacent to the original removal will depend on the species selected, their spatial requirements and size of remaining right of way. If there are overflow trees that did not fit back into the impacted rights of way, they will be planted elsewhere, working on behalf of the County's fight against climate change for us all.

Following sidewalk installation, the Sidewalk Program will provide a list of addresses at which right of way trees were removed. The arborist will visit each residence to discuss the potential replacement tree species available to them, the trees' spatial requirements and placement within the right of way adjacent to their property. All replacement trees must be selected from the County's standard tree lists; if there are powerlines above the right of way, replacement trees must be selected from the Minor tree list; if there are no powerlines above the right of way, replacement trees must be selected from the Major list. Planting season runs from October to March and residents are asked to choose a preferred species as well as an alternative species in the event the first choice cannot be sourced. The replacement trees are 5 to 6 feet tall, come with a one-year warranty, and will need to be watered by the residents for the first few months after planting. The County's standard tree lists can be found on the Division of Highway Services' website (<https://www.montgomerycountymd.gov/DOT-Highway/tree/index.html#Ash>).



Additionally, residents may request the planting of trees on their private property by visiting the Tree Montgomery website (<https://treemontgomery.org/request-a-tree/>).



Another hot topic discussed at the public hearing were requests to have the sidewalks placed in the road, rather than placing the sidewalk closer to private property. According to the Complete Streets Design Guide, the standard minimum width of residential roadways is 28-feet-wide. With the exception of Goya Drive, the roadways in Willerburn Acres are 26-feet-wide, which is too narrow to place the sidewalk in the road.

The exacerbation of rainwater drainage issues by the addition of impervious surfaces was a concern of many opponents to the proposed sidewalks. To confirm, all sidewalks are installed to work seamlessly with existing rainwater drainage infrastructure. If approved, the sidewalks will be installed at a 2% pitch, directing rainwater into the existing curbing and gutter inlets and away from private property. Being in the community to install the sidewalks also provides the opportunity to expertly regrade existing issues of puddling and standing water following rainstorms. If residents note, however, that the existing rainwater infrastructure is failing, they may enlist the help of the County's Drainage Assistance Program via their website (<https://www.montgomerycountymd.gov/dot-dte/drainage/>).



The suggestion was made to construct the sidewalk using porous pavers rather than concrete. Paving stones, however, are not ADA-compliant. All sidewalks constructed by the Sidewalk Program are required to meet ADA guidelines. Residents may also abate concerns about rainwater drainage issues by enlisting the assistance of the County's Department of Environmental Protection (MCDPS), RainScapes Program. A RainScape is a landscape or design

technique that helps reduce stormwater runoff from individual properties. Among the measures for reducing stormwater runoff, RainScapes include rain gardens, water harvesting, and conservation landscapes. The added beauty and conservation will aid in augmenting property value and curb appeal. Additionally, the County’s RainScapes program has a Rebate Rewards program. Residents can learn more about the RainScapes program and apply for the Rebate Rewards program via on the Department of Environmental Protection’s website

<https://www.montgomerycountymd.gov/water/rainscapes/rebates.html#:~:text=The%20RainScapes%20Rewards%20Rebate%20Program,projects%20that%20help%20control%20stormwater>).



A question on the minds of many residents pertained to their responsibility in inclement weather. To confirm, pursuant to Section 49-17 of the Montgomery County Code, residents are “responsible for removing snow and ice on any sidewalk, 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.” There is a caveat to the 24-hour time limit to remove the snow; residents may choose to wait to remove the snow and ice until after the road has been plowed so as not to duplicate efforts.

Multiple residents expressed concerns regarding the inability of older or disabled residents to shovel snow. Many communities have started a “village program,” wherein younger, more able-bodied residents volunteer to assist their elderly or disabled neighbors by shoveling the snow from their adjacent sidewalks. The Bethesda-Chevy Chase Regional Services Center

[\(https://www.montgomerycountymd.gov/bcc/\)](https://www.montgomerycountymd.gov/bcc/) can assist with establishing a civic association through which a village program could be run.



The lack of traffic studies to prove the need for sidewalks was put forth by many opponents to the sidewalk proposal. Numerous residents, likewise, asked about the prospect of speed bump installation as well as added street lights instead of sidewalks, requesting a more “holistic” approach to safety. While speed bumps may lower speeds, a pedestrian can sustain serious head trauma and/or bodily injury when hit by a moving vehicle, regardless of how fast or how slow that vehicle is traveling. Having walked in the roadway for many years, pedestrians may be desensitized to the potential danger imposed by walking alongside moving vehicles. Even the smallest car weighs approximately 2,600 pounds; an impact at 25 miles per hour will apply quite a force. Sidewalk installation is a proactive measure taken to remove pedestrians from the roadway and oncoming traffic to prevent future pedestrian/vehicle collisions. In addition to the added safety, sidewalks promote the seamless, efficient flow of travel, whether by foot or vehicle.

Assuming that the homeowner would be responsible for repairs, maintenance of potential cracks and trip hazards in the sidewalk was a source of worry to many. MCDOT’s Division of Highway Services repairs the County’s sidewalks at no charge to the adjacent residents. To request sidewalk repair as well as a myriad of County services including clogged culvert/minor drainage repair, road and pothole repair, right of way tree trimming or removal, etc., all at no cost to the homeowner, residents may contact Montgomery County’s 311 by dialing 311 or 240-777-0311. The 311 website also has a chat box for questions as well as many links to County

services including sidewalk repair that can be requested online via their website (<https://www.montgomerycountymd.gov/mc311/top-services.html>).



The condition of the proposed roadways themselves was a big topic of discussion, with multiple residents requesting the roads be repaved rather than sidewalks installed. MCDOT uses an industry-accepted, award-winning system for analyzing the conditions of pavement for all 5,200 lane miles of roadways within the County. This system is called Pavement Management and is founded by a numeric system referred to as Pavement Condition Index or PCI. A Pavement Condition Index is a numerical expression between 0-100 numerically representing the pavement's condition. For example, a PCI of 30 is considered as “poor” whereas a PCI rating of 80 indicates pavement in very good condition.

The pavement's numerical PCI score is developed through an analysis of nineteen (19) discrete pavement distresses (cracking, pot holes, environmental distress, utility cuts, etc.) and ranges from 1-100 with 1 being an absolute failure and 100 representing perfect conditions. Following that rationale, roads with a lower PCI are candidates for systemic patching or resurfacing with hot mix asphalt. The level of road repairs in any given year is based entirely upon available funding.

MCDOT's Division of Highway Services (DHS) conducts the PCI survey in two phases and on a rotating basis. All 1,000 lane miles of primary roads are surveyed one year followed by all 4,200 lane miles of residential roads the next year. This ensures accurate, timely PCI numbers. This is a state-of-the-art process that uses high resolution cameras coupled with lasers mounted on slow moving vehicles (akin to Google) that accurately measures and records detailed

pavement conditions. These conditions are aggregated and converted to PCI values as discussed above. The primary roadway study is done every even year, and the residential roadway study is conducted every odd year. The results from the latest PCI survey will assist MCDOT in the development of future road resurfacing schedules.

The Willerburn Acres community is not currently scheduled for road repaving in 2023. However, residents are welcome to make a Service Request for immediate road repairs such as pot holes or other safety concerns by contacting 311.

https://www.montgomerycountymd.gov/DOT-Highway/roadmaint/Pavement_Management/Residential/ResidentialResurfacingindex.html).



The question of funding was discussed at the public hearing as residents asked whether monies saved from not installing sidewalks could be used for alternative solutions such as road paving, speed bumps and street lighting. The Sidewalk Program is a minor projects program within the Division of Transportation Engineering (DTE) that receives an annual budget for the installation of sidewalks *only*. The Traffic Engineering and Operations Division (DTEO) similarly receives a separate budget for the installation of speed bumps and traffic lighting. Likewise, the Division of Highway Services (DHS) has its own dedicated budget for the repaving of County primary and residential roads. The monies in each budget are not transferable between MCDOT's various divisions, sections or programs; rather, the funding provided to each is to be used for its intended purpose alone. If any of the proposed sidewalks are suspended from the proposal, the monies saved will be used towards alternative sidewalk installations.

All questions having been answered, this Hearing Officer recommends the following installations for construction:

Proposed Installation:	MCDOT Recommended Installation:
Fontaine Street (north) Goya Drive to Seven Locks Road	Sidewalks are Recommended for construction.
Goya Drive (southwest) Seven Locks Road to Fontaine Street	Sidewalks are Recommended for construction.
Greenleaf Avenue (east) Fontaine Street to Goya Drive	Sidewalks are Recommended for construction.
Greenleaf Avenue (west) Goya Drive to Reynolds Avenue	Sidewalks are Recommended for construction.
Gainsborough Road (south) Seven Locks Road to Fontaine Street	Sidewalks are Recommended for construction.
Mary Cassatt Drive (south) Seven Locks Road to Ivymount Terrace	Sidewalks are not Recommended at this time.
Ivymount Terrace (south) Seven Locks Road to Beginning of cul-de-sac	Sidewalks are not Recommended at this time.

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 on resident perceptions and current conditions of pedestrian safety. The information collected is used to prepare a recommendation which is presented to the Director of the Department of Transportation, Christopher Conklin, for a final decision on the project. The Director reviews the Hearing Officer’s recommendation as well as the full Record, 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 loss of parking, the impact to trees, other landscaping and rainwater drainage, the addition of impervious surfaces, the impact to the aesthetics of the community, etc. The proposed sidewalks in the Willerburn Acres community are no exception.

In my opinion, however, the public interest for the above-recommended 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 pedestrians, 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 was 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 and testimony from the community provide adequate justification to establish that constructing the proposed sidewalks will create a safer mode of travel for all pedestrians. This is particularly true for children, the disabled – for residents of all ages - walking to the Geneva Day School, Seven Locks Baptist School, Beth Sholom Congregation and Talmud Torah, St. James Episcopal Church, Potomac Child Care, Chabad of Potomac, Young Israel of Potomac, Breakthrough Test Prep, the Maddux School, Ivymount School, the shops, restaurants, medical services and attractions at Park Potomac as well as the

shops, restaurants and attractions at the Cabin John Shopping Center and Mall, public school bus stops, Ride-On public transportation facilities and the existing network of sidewalks. The sidewalks will provide a clear-cut and firm separation between vehicles traveling on the roadway and pedestrians. If approved, the sidewalks will be constructed entirely within the County's public right-of-way without needing acquisition of additional property.

Upon thorough review of all the testimony and evidence presented in the public record, I conclude that there is sufficient basis to find that this recommended 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 proposed.


Respectfully submitted,

eSigned via SeamlessDocs.com

Key: 392a2271-8a50-41d3-9e78-38e4c4139cc 12-08-2023
Gary Erenrich,
Public Hearing Officer

The Public Hearing Officer's Report and Recommendation for construction of the Willerburn Acres Community Sidewalk Project has been reviewed and the project is hereby authorized for construction as modified herein.

Date: Jan 9, 2024



Christopher Conklin, Director
Department of Transportation