

OFFICE OF THE COUNTY EXECUTIVE  
EXECUTIVE OFFICE BUILDING  
ROCKVILLE, MARYLAND 20850

**IN THE MATTER OF:**

PARKWOOD DRIVE PROPOSED SIDEWALK  
(WEST SIDE)  
C.I.P. PROJECT NO. 506747

REPORT AND RECOMMENDATION BY: Diane Schwartz Jones, Public Hearing Officer

**PUBLIC HEARING OFFICER'S REPORT AND RECOMMENDATION**

**I. Background**

The Montgomery County Department of Transportation ("DOT") proposes to construct a 4-foot wide sidewalk along the west side of Parkwood Drive between Cedar Lane and Franklin Street. The proposed project originated on or about August 16, 2006 with three separate requests from households in the Parkwood Community. The requests raised significant concerns within the community and on August 18, 2008, Janet Melvin with DOT advised Bailey Condrey, the then-Parkwood Residents' Association President, that a hearing would be held on the sidewalk requests.

On September 5, 2008, Richard Earp, Capital Projects Manager for DOT, sent a letter to Parkwood residents advising that a sidewalk request had been received for Parkwood Drive between Franklin Street and Cedar Lane and explaining that the major goals of the County sidewalk program are to provide safer access for persons with disabilities and improve pedestrian access to schools, public facilities and public transportation. The letter advised that the proposed sidewalk would have a significant impact on the right-of-way and asked that recipients provide

comments on the proposed project. A description of construction impacts on each affected property was included along with a survey/comment form for return to DOT. 10 households responded in support of the sidewalk. 25 households responded in opposition to the proposed sidewalk. Two households responded without opposition but expressing how each preferred certain vegetation to be treated.

Pursuant to Executive Order 161-09 issued on July 28, 2009, and notice of public hearing published on August 13 and August 20, 2009, in the *Washington Post* and the *The Examiner*, a public hearing was held on August 25, 2009 at 5:00 pm in the lobby auditorium of the Executive Office Building at 101 Monroe Street. The hearing was attended by approximately 22 people and testimony was provided by 16 of the attendees, excluding the project description by Bruce Johnston, Chief, Division of Transportation Engineering, DOT. The hearing was held before Public Hearing Officer Mohammad Siddique. The record in this matter was held open until 5:00 pm September 8, 2009 to receive further comments.

Subsequent to the hearing, the record was re-opened for additional comment. This action was advertised in the *Gazette* and the *Washington Post* newspapers on January 21 and 28, 2010. The notice provided that the record was being re-opened to receive comments from MNCPPC and other interested parties and advising that all information and documents previously submitted will be included in the official record. The record was then held open for two weeks beginning February 1, 2010 and ending at 5:00 pm on February 15, 2010. As a result of the reopening of the record, DOT entered two reports -- a traffic/speed report and an Arborist Report. Maryland National Capital Park and Planning Commission ("MNCPPC") staff provided an email, and correspondence was received from several of the people who had commented

previously on the proposed sidewalk project. These comments were principally a repetition and resubmission of statements previously made, but one comment questioned the re-opening.

The original public hearing officer before whom testimony was presented and transcribed at the August 25<sup>th</sup> hearing left the County in May, 2010. The entire record of proceedings was then transferred to the undersigned public hearing officer for review and recommendation.

## **II. Summary of Testimony and Comments**

### Project Description

The project proposal was described by Bruce Johnston, Chief of the Division of Capital Development for the County's DOT. Mr. Johnston explained that the purpose of the project is to provide safer pedestrian travel along Parkwood Drive. The project is located in the Kensington Planning Area within the Seventh Election District of Montgomery County Maryland. The proposal is to construct a 4-foot wide concrete sidewalk with a variable width green space between the sidewalk and the edge of the roadway. The sidewalk is proposed to be constructed on the west side of Parkwood Drive from Franklin Street to Cedar Lane for a distance of approximately 3400 linear feet. Mr. Johnston indicated that 13 trees ranging in diameter from 2 inches to 48 inches would require removal to facilitate construction of the sidewalk, and replacement trees would be provided. DOT supplemented the record with a memorandum dated September 8, 2009 which indicated that DOT reinvestigated the number of trees that would need to be removed to accommodate the project and concluded that 60 trees would require removal. The memorandum indicates that the additional 47 trees are cedar trees ranging in diameter from one to six inches.<sup>1</sup> Following this memorandum and as indicated above, the record was reopened

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<sup>1</sup> Following this memorandum and as indicated above, the record was reopened to receive additional information including a memorandum from the County Arborist on the impacts of the proposed project and from the Maryland National Capital Park and Planning Commission. This information is discussed within.

Mr. Johnston presented Displays A and B at the hearing. He described Display A as a project vicinity map showing the location of the proposed sidewalk relative to pedestrian attractions in the area including Rock Creek Park, which has three entrances off of Parkwood Drive between Franklin Street and Cedar Avenue, Kensington Parkwood Elementary School, and existing sidewalks on adjoining streets and other segments of Parkwood Drive. Display B is a typical pavement section of Parkwood Drive. It shows the existing roadway width as well as the public right-of-way width. Parkwood Drive is classified as a secondary residential roadway having a 60-foot wide public right-of-way. The existing roadway width is approximately 26 feet, with approximately 16 feet of available right-of-way dedicated to public use on the west side of the roadway.

Mr. Johnston explained that DOT evaluates requests for sidewalks based on the ability of a proposed sidewalk to provide a public use and enhance public safety and concluded that constructing a sidewalk along Parkwood Drive will provide safer pedestrian access to Rock Creek Park, provide pedestrian connections to sidewalks along Cedar Lane and Franklin Street, and serve students who walk to Kensington Parkwood Elementary School.

The project has an estimated price of \$102,833 which includes administrative and construction inspection costs. There are no properties thought to be specially benefitted and no special assessments are contemplated for the proposed sidewalk. Finally, Mr. Johnston briefly described Exhibits 1-8. Additional comments have been received both at and since the hearing which are also part of the hearing record. See, Tr. Pps. 5-8.<sup>2</sup>

During the January, 2010 reopening of the hearing, a report from County Arborist Christopher Myers was submitted. Mr. Myers recommended placing a 4-foot wide sidewalk against the curb with no green space (as opposed to the variable green space initially proposed)

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<sup>2</sup> Throughout the Report and Recommendation, "Tr. P." or "Tr. Pps." refers to the pages of the transcript of the public hearing held on August 25, 2009.

between the sidewalk and the curb to reduce the number of trees that would need to be removed and to increase the probability of survival of some of the trees. With this approach Mr. Myers concluded that 33 trees in total, of which 21 are Leyland Cypress, will need to be removed to accommodate the proposed sidewalk.<sup>3</sup>

By email dated February 9, 2010, Maryland National Capital Park and Planning Commission (MNCPPC) staff concluded that no trees would be removed on park land and therefore offered no comment on the proposed project.

#### Testimony and Written Comments

Per a January 8, 2008 email, a sidewalk on Parkwood Drive was requested because Parkwood Drive has a high volume of pedestrian traffic with adults and children accessing Rock Creek Park, the Kensington Parkwood Elementary School being nearby, and pedestrians walking to Grosvenor Metro Station. The email described a neighborhood turnover with families with young children moving into the area. The email points out that Parkwood Drive connects two main roads and serves as an alternate route for traffic when Beach Drive is closed.

Both prior to and contemporaneous with the hearing numerous emails and correspondence were received with residents vehemently opposing or strongly supporting construction of the sidewalk. Comments in opposition generally said there was no need for a sidewalk, there was not a lot of traffic, there was not a lot of on-street parking, and that the sidewalk would be harmful to the environment. In contrast, comments in support of the sidewalk indicated that there is an increasing number of kids in the neighborhood, there is a lot of traffic, a lot of on-street parking and that the safety of pedestrians would be served by the proposed sidewalk.

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<sup>3</sup> Mr. Myer may have assumed that the project was initially proposed to be five feet wide, however, per the testimony of Mr. Johnston, the sidewalk is proposed to be four feet wide. Tr. P. 5.

Testimony was received at the hearing from sixteen different individuals comprising twelve households. The first speaker lives on the side of the street where the proposed sidewalk would be constructed and does not support the sidewalk. This speaker indicated that he has not observed much problem with speeding vehicles and suggested that if speeding is a problem additional speed bumps or a speed camera could be installed. The initial speaker raised concerns about the effect the sidewalk construction would have on trees, shrubs and other greenery and the fiscal impact on the County of paying for the sidewalk project. Tr. Pps. 9-10.

The next speakers were Tamara Stuckey followed by Scott Stuckey. Ms. Stuckey also lives on the west side of Parkwood Drive and supports the project. Ms. Stuckey believes that a sidewalk would receive heavy usage from a wide spectrum of people. She works part time and described her observations about the use of Parkwood Drive over the course of the day. Between 6:30 am and 7:30 am, it is often dark and middle school and high school students walk on Parkwood Drive to get to their bus stops in the neighborhood. During early morning hours, Ms. Stuckey has observed dog owners walking their dogs on Parkwood to one of the three entrances to Rock Creek Park. Starting around 7:30 am commuters begin walking or biking on Parkwood Drive to get to Franklin Street. Between 8:30 am and 9:00 am many Kensington Parkwood Elementary students walk to school either alone or with parents and/or siblings. After 9:00 am, other residents in the neighborhood walk or jog on Parkwood Drive. Ms. Stuckey indicated that the three entrances to Rock Creek Park on Parkwood are popular destinations. All in all, Ms. Stuckey described school children, parents with strollers, dog walkers, seniors, joggers, housekeepers, nannies and others being on the road throughout the day. After 2:00 pm students begin walking home from school and school bus stops. Between 4:00 and 5:00 pm, children play outside and Ms. Stuckey described seeing kids on bicycles and

skateboards as well as just hanging out on Parkwood Drive. Then the commuters conclude their trek home on Parkwood Drive and people are again out walking their dogs. This description given by Ms. Stuckey was the anatomy of Parkwood Drive use on a weekday. Ms. Stuckey concluded by testifying that weekends are even worse because of the strong recreation draw of Rock Creek Park both for local and non-local users, including but not limited to accessing soccer fields and playgrounds. Tr. Pps. 10-13.

Mr. Stuckey indicated that he uses Parkwood Drive as a pedestrian quite frequently and that cars are parked on both sides of the street, causing pedestrians to go in the lane cars are driving. Mr. Stuckey describes the experience as not feeling safe. He spoke of pass-through traffic when Beach Drive is closed due to high water and that the situation will get worse when Walter Reed Army Hospital moves to NIH. Mr. Stuckey testified that he and his wife will not allow their child to walk down the street alone, or ride his bike due to the condition of the road. Mr. Stuckey concluded by describing other streets in the neighborhood. One street away Edgefield Drive has sidewalks on both sides of the street; two streets away Woodfield Drive has sidewalks on both sides of the street; Three streets away Saul Drive has sidewalk on both sides of the street, all of which have leafy trees and are beautiful streets. Tr. Pps. 14-15.

Barry Bergey spoke next and indicated that he has two children who walk to school and to the local school bus stop. Mr. Bergey also walks to the Grosvenor Metro Station. Mr. Bergey indicated that “while safety is always a concern for those who walk along Parkwood Drive” he does not believe that the proposed sidewalk is the best way to address the issues. Mr. Bergey described his own experience monitoring traffic on Monday, September 22, 2008 between the hours of 7:00 am and 9:00 am and seeing only three cars parked along Parkwood in the 1900 Block. Between 7:00-8:00 am Mr. Bergey observed a total of 45 cars – 25 going towards

Franklin and 20 heading towards Cedar. Besides his wife and his children, he saw two joggers and another adult walking with a child. Between 8:00 – 9:00 am, Mr. Bergey observed another 45 cars – 26 towards Franklin and 19 heading towards Cedar Lane. During this hour, he saw four walkers, one child and three adults, one jogger, six walkers (four children and two adults) and three bicyclists plus one adult and two children. Mr. Bergey objects to the sidewalk because he fears it will be costly, not eco-friendly and would have a significant impact on the character of the neighborhood. Tr. Pps. 15-17.

Mr. Michael Potter spoke against the sidewalk indicating that he has lived in the neighborhood for 51 years and does not think the sidewalk is necessary; rather, he asked that the County explore alternatives that would provide safety for residents and children of the neighborhood. Tr. P. 18. Mr. Potter was followed by Dr. Carl Schneider Dr. Schneider lives on the side of Parkwood Drive on which the sidewalk would be constructed. He presented a petition signed by 34 residents representing approximately 24 households. The petition opposes the construction of the proposed sidewalk. Tr. P. 18 and Exhibit 12. Dr. Schneider questioned whether there was a solution that could appease all of the competing issues related to the sidewalk, including pedestrian safety, the environment, esthetics, etc. Dr. Schneider posed six questions: 1) is there a safety problem on Parkwood Drive; 2) will the construction of a sidewalk address the safety concern; 3) can there be a discussion of the “full Process when and where and how” as well as if the proposed sidewalk will be built; 4) what are the side effects and the collateral impact of putting in a sidewalk; 5) are there possible preferable alternatives to achieve the same goal; and 6) can “this” be done in a way that neighbors will still respect one another and feel good about one another? Tr. Pps. 18-20.



Ms. Marion Lubert testified next and she is on the side of the street that would receive the proposed sidewalk. Ms. Lubert is in favor of the sidewalk. Ms. Lubert pointed out that sidewalks are a normal expected part of an urban area and that Kensington Parkwood is indeed an urban landscape. Ms. Lubert indicated that most of the other streets in the neighborhood already have sidewalks, including the other end of Parkwood. Ms. Lubert is concerned about the children in the neighborhood who have to walk in the street in the dark to get to school and to the bus. She also is concerned about deaf neighbors who have no other place to walk but in the street and have to “constantly look behind their back” to determine if there is oncoming traffic. Tr. P. 21.

Mr. Bailey Condrey testified on behalf of the Parkwood Residents Association. Mr. Condrey is not personally affected by the proposed sidewalk because he has sidewalks where he lives. Mr. Condrey indicated that the Parkwood Residents Association formally voted not to endorse the proposal to construct the sidewalk and pointed out that it is a divisive issue that the resident’s association did not feel empowered to force large numbers of homeowners to accept a decision they did not like. Tr. P. 22.

Ms. Betty Hastings, who also lives on the side of Parkwood proposed to receive a sidewalk, testified in opposition to the proposal. Ms. Hastings described that she has worked with a group known as the “Safe Kids Worldwide” coalition and that in 2007 11 Safe Kids Coalitions created task forces with the goal of “improving pedestrian conditions for children by making long term environmental improvements.” Ms. Hastings indicated that a sidewalk was not included in the list of tools but that other factors such as lights and countdown timers etc. were proposed.<sup>4</sup> Ms. Hastings believes that it would be better to teach children to be safe so that

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<sup>44</sup> It is worth noting that the website for Safe Kids Worldwide” actually points out that *other than streets*, driveways, parking lots and sidewalks are the places where small children are most likely to be injured as pedestrians.

they will grow up to be safer grownups. Ms. Hastings also pointed to the possibility of improving a small pathway near Edgefield. Tr. Pps. 23-24.

George Nemcosky, who was a teacher for 40 years, and has raised two children on Parkwood Drive, testified that he is concerned about the responsibility for snow or ice removal and the expense and impacts of that responsibility on the elderly. Mr. Nemcosky is opposed to the sidewalk. He notes that there are a lot more cars now than there were in the 50s and that when walking around the neighborhood you have “to go out onto the street, walk around, weave between cars.” Mr. Nemcosky expressed that the sidewalk will reduce the number of cars stacked in the driveway and that people will have to park on the street. Mr. Nemcosky, like Ms. Hastings, suggested an improvement to the pathway at Edgefield. Tr. P. 25-27.

Ms. Claire Bergey testified that she has walked to and from school and bus stops for nine years and feels completely safe. She does note that cars parking on the street have impeded visibility when crossing the street and is concerned that a sidewalk would make the problem worse because of obstructing driveways. Tr. P. 27.

Mr. John Swayze indicated that he has lived in the neighborhood for 35 years and has not seen an accident or injury on Parkwood Drive. He does not think a sidewalk is necessary and is concerned about the impact of a sidewalk on the neighborhood. Tr. P. 28.

Mr. Martin Scully is also opposed to the sidewalk and is concerned about the impact construction of a sidewalk would have upon the environment. Tr. P. 28.

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Streets are where the most pedestrian injuries occur. This study points to the 2005 Federal law, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU which includes the safe routes to school program which has the goal of making it safer for children to walk or bike to school and which expressly includes fixing or improving sidewalks. The website also points to state and local laws which require provision of pedestrian walkways. In fact, the 2007 study on the website actually concludes that one of the things to be done to improve child pedestrian safety is to “Support traffic engineering measures to reduce pedestrian/motor vehicle crashes, such as the separation of pedestrians from vehicles by time or space, and the reduction of vehicle speed.

Ms. Lynn Rockwood spoke in opposition to a sidewalk. She testified that she has lived in the neighborhood for 22 years, walked her kids to and from school, rides her bike to work and has always felt safe. She indicated that the bigger problem is traffic and that traffic calming measures would be preferable. Ms. Rockwood spoke of concerns about the loss of tree canopy and that it will take years to re-grow trees and provide the habitat that area wildlife needs. Tr. Pps. 29-30.

Mr. Paul Holmes spoke in opposition to a sidewalk indicating that he has lived in the neighborhood since 1974 and has never seen anyone hit on Parkwood Drive. He did note however that more cars are using Parkwood Drive due to restrictions on Rockville Pike. Tr. P. 30.

Diane Babski also spoke against the proposal to build a sidewalk. She raised many of the concerns over trees that had been raised by previous speakers and pointed out that at times it is difficult to ride or walk in the neighborhood on existing sidewalks because of overgrown shrubs. Ms. Babski also pointed out the neighborhood's efforts first to obtain speed bumps and then to oppose them on Parkwood Drive. Tr. Pps. 31-33.

In addition to testimony given at the public hearing, written comments were received both during the initial comment period and when the record was re-opened in January, 2010. In a letter dated February 15, 2010, Bailey Condrey, Jr. wrote on behalf of the Parkwood Residents Association inquiring into the process. Mr. Condrey indicated that the Parkwood Residents Association did not initially take a formal position because it would have been divisive for the community, but he wrote to protest a perceived lack of transparency in the re-opening of the record and to express that residents asked for a new hearing. Mr. Condrey also had questions

about whether there are established guidelines when determining whether to build a sidewalk and about whether MNCPPC had an interest in the sidewalk.

During the re-opening of the record comments were received both opposing a sidewalk and in favor of a sidewalk. Opinions on both sides of the issue are strong. Some comments raised concerns about the impact of the proposed project on the environment. One person expressed concern about the destruction of wildlife habitat.

The Hearing Officer also visually observed the area of Parkwood Drive and adjoining streets, including Franklin Street, Cedar Lane, Saul Road, Edgefield Road, Roxbury Drive and Wildwood Drive. This observation provided context for the testimony that was received and was consistent with testimony that had been provide. Parkwood Drive is a narrow, at places hilly roadway with numerous driveways, front yards that are not deep with houses set back an estimated 25 – 50 feet from the road. Parkwood Drive is next to Rock Creek Park and the overall neighborhood, both Parkwood Drive and adjoining streets with sidewalks have a significant number of mature trees. The narrowness of the Parkwood Drive is compounded by cars parked on both sides of the street. In fact, during the site visit to Parkwood Drive, it was necessary on a couple of occasions to pull to the side of the street to allow on-coming vehicles to pass as there was not room for two-way traffic. Edgefield Road and Wildwood Road are in the same neighborhood as Parkwood Drive and both have sidewalks. The streets on which there were sidewalks were not markedly different than Parkwood Drive.

This neighborhood was built approximately 60 years ago; most of the houses along Parkwood Drive have driveways. Nonetheless, even at 8:30 on a weekday morning the street has a significant number of vehicles parked along both sides. It is noteworthy, as pointed out by one of the speakers at the public hearing, that 60 years ago when families had one or two cars,

driveways may have been adequate to handle all parking needs, but auto ownership patterns have changed over the years and many families have more than two cars resulting in a significant amount of on-street parking.

During the tour of the area children were observed walking to school on other neighborhood streets. On Parkwood Drive, a man was walking with two small girls. The man constantly looked over his shoulder for approaching vehicles as he and the two young girls walked in the street. Overall, based on the observations of the area, it was apparent that pedestrians going to the elementary school on Franklin Street had to walk on the roadway which was narrow, hilly at points and had a significant number of parked cars, and that the pedestrian experience required active diligence to ensure the safety of the young children walking along the street. As a result of field observations, the undersigned asked Bruce Johnston, Chief of Transportation Engineering with the Department of Transportation to observe pedestrian and vehicular activity on Parkwood Drive to determine if, in his expert opinion, he thought there was concern for pedestrian safety on Parkwood Drive given the street conditions, level of pedestrian activity and proximity to the neighborhood elementary school. Mr. Johnston observed activity and conditions on Parkwood Drive and confirmed DOT's belief that pedestrian safety was a concern and that pedestrians and motorists would benefit from the separation that a sidewalk would create.

### **III. Discussion and Recommendations**

The purpose of the public hearing and the receipt of written comments is to give the public that may be affected by the location or construction of the proposed sidewalk, or the proposed assessment for a project, the opportunity to comment and provide information on the proposal. The hearing is not judicial in nature; rather it provides information for the

decisionmaker to consider. A concern was raised about the re-opening of the hearing record to receive an email from MNCPPC staff and the Arborist report. The re-opening followed notice published in two newspapers of general circulation for two successive weeks. The record was left open for two weeks which provided adequate opportunity for community comment and in fact numerous residents again commented on the proposed sidewalk. The notice and the opportunity to comment provided adequate opportunity for review and comment and an additional public hearing is not required.

The Parkwood Drive neighborhood is adjacent to Rock Creek Park and, within the length of the proposed sidewalk, the community has three entrances to this very popular park. There is also a neighborhood elementary school, Kensington Parkwood Elementary School, to which many children in the neighborhood walk. Public comment also indicated that people within this community walk to the Grosvenor Metro Station. Parkwood Drive is a 60-foot wide right-of-way, 28 feet of which are paved. When cars are parked on both sides of Parkwood Drive the passable roadway is approximately eight – ten feet wide.

Changes in a neighborhood are seldom unanimously agreed upon by the affected community and it is important to weigh all of the concerns, information presented, and policy considerations to determine what is, overall, in the best interest of the public. Upon consideration of the testimony, exhibits, and evidence presented at the public hearing, the submissions of record, field observations and technical information from the Department of Transportation, I find that the separation of pedestrians and vehicles that will be provided by the proposed sidewalk will result in a safer setting for pedestrians and vehicles and, therefore, construction of the sidewalk is in the public interest. I also find that given the fact that several parallel and adjoining streets have sidewalks (some even have sidewalks on both sides of the

street), the overall character of the neighborhood will not be materially changed by the construction of the 4-foot wide sidewalk.

The conflict between vehicles and pedestrians on Parkwood Drive is evident. While there was testimony that there has been no reported accident involving a pedestrian, which is fortuitous, there was testimony about a child struck in a nearby neighborhood. There was also testimony that vehicles on Parkwood Drive present problems, including speed (as also evidenced by speed bumps), volume of parked cars and impassability of the road due to narrow roadway and limited sight conditions. The fact that a pedestrian has not been struck by a car is not dispositive of the need for a sidewalk. While a sidewalk is not a guarantee that a pedestrian will not be hit by a car, the introduction of separation between vehicles and pedestrians will reduce the risk that someone will be struck. One commenter offered information from “Safe Kids Worldwide” in her testimony against the proposed sidewalk; however, upon review of “Safe Kids Worldwide” information, I find that the organization actually supports traffic engineering measures to reduce pedestrian/vehicle crashes and offers solutions *including the separation of pedestrians and vehicles by time or space*, along with the reduction of vehicular speed. Separation by time is not practical in a residential setting, but the spatial separation that the proposed sidewalk offers is practical.

Testimony was provided regarding increases in neighborhood vehicles over the past 60 years, speeding cars, cut through traffic, efforts to get speed bumps and anecdotal descriptions of hearing impaired neighbors constantly looking behind their backs and that for some “safety is always a concern for those who walk along Parkwood Drive.” Observations of the road and the neighborhood substantiated the concerns described by those who support the proposed sidewalk.

Both the testimony and observation reflected the need for pedestrians to diligently scan over their shoulders to ensure an ability to get out of the way of moving vehicles on Parkwood Drive.

A couple of residents suggested that a pathway between houses to get to the sidewalk on Edgefield Road could eliminate the need for a sidewalk on Parkwood Drive. This suggestion however would not eliminate or even meaningfully minimize the benefit that would be provided by the proposed sidewalk on Parkwood Drive. A pathway between homes would be most beneficial only to those homes adjoining the path and those coming from other properties would still need to use Parkwood Drive even to get to the suggested path.

In further response to Mr. Condrey's points, the public hearing is an information hearing for the purpose of receiving oral comments. Testimony and comments from the prior record are included in the record as are the submittals received when the record was reopened. The record for the hearing is maintained by DOT and available for inspection. The standard by which a decision is made to build a sidewalk is set out in Montgomery County Code section 49-53 which requires a finding that the project is in the public interest. As Mr. Johnston pointed out at the public hearing, DOT evaluates requests for sidewalks based on the ability of a proposed sidewalk to provide a public use and enhance public safety and concluded that constructing a sidewalk along Parkwood Drive will provide safer pedestrian access to Rock Creek Park, provide pedestrian connections to sidewalks along Cedar Lane and Franklin Street, and serve students who walk to Kensington Parkwood Elementary School. Additionally, testimony at the hearing indicated that residents who walk to the Grosvenor Metro Station would benefit from the proposed sidewalk.

This project has raised emotional concerns on both sides of the issue. There is concern by some that the maintenance responsibilities associated with a sidewalk in front of their



property will be a burden. The concern of those opposed to the sidewalk about shoveling during the winter months is understandable; however, the sidewalk will present a modest increase over the amount of driveway and front door walkway area that affected residents must currently clear of snow. The safety benefit for pedestrians outweighs any modest inconvenience. It is worth noting that the additional burden of the modest amount of sidewalk space to be cleared is no greater than the burden on other homeowners in the Parkwood community as most of the adjoining streets have sidewalks -- nor for that throughout Montgomery County where neighborhood streets have adjoining sidewalks.

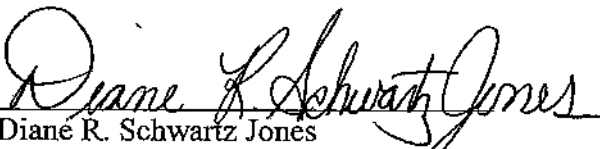
Clearly there is disagreement among neighbors about whether the sidewalk is in the public interest. The "public interest" is a broad concept that manifests itself in a variety of contexts. When, as here, a construction project is involved, the project will be considered to be in the public interest if 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. See *City of Monterey v. Del Monte Dunes at Monterey, Ltd.*, 526 U.S. 687, 701 (1999). This includes providing for the safe and efficient flow of vehicular and pedestrian traffic. See generally *Wheaton Moose Lodge No. 1775 v. Montgomery County, Maryland*, 41 Md. App. 401, 397 A.2d 280 (1979). A sidewalk to minimize the risk of a catastrophic collision between a pedestrian and a vehicle will provide a safer and more efficient flow of both vehicular and pedestrian traffic and promote the safety of the residents. 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. As noted by the American Association of State Highway and Transportation Officials' in its "Green Book", "[p]roviding safe places for people

to walk is an essential responsibility of all government entities involved in constructing or regulating the construction of public rights-of-way.” In an area where there are documented and readily observed pedestrian-vehicle conflicts, construction of a sidewalk is a reasonable measure.

Concerns were raised about the removal of trees and about the disruption of wildlife habitat. The County Arborist has made recommendations to minimize disruption to trees in the area, including the placement of the sidewalk against the curb. DOT should evaluate the feasibility of implementing the recommendations of the County Arborist and should take steps to minimize disruption to trees. While a concern was voiced about disruption to wildlife habitat, there is no indication that there will be any material disruption to wildlife habitat. It is noteworthy that Parkwood Drive is adjacent to Rock Creek Park which provides a robust habitat for area wildlife.

Based on a thorough review of all the testimony and evidence of record, I conclude that the Parkwood Drive sidewalk project, which will be constructed within existing right-of-way, is in the public interest. I therefore recommend that the County Executive authorize the project and that DOT take steps to minimize tree removal, including where feasible implementation of the recommendations of the County Arborist.

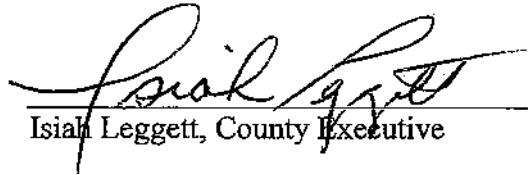
Respectfully Submitted



Diane R. Schwartz Jones  
Assistant Chief Administrative Officer  
April 14, 2011

The Public Hearing Officer's Report and Recommendation for construction of the Parkwood Drive Sidewalk (west side) from Franklin Street to Cedar Lane has been reviewed and the project is authorized for construction. In connection with the project, DOT should, to the extent feasible, minimize removal of trees.

Date: April 18, 2011

  
Isiah Leggett, County Executive