
PREVENTING CUL-DE-SAC STREETS FROM BECOMING THROUGH ROADS

A REVIEW OF RELEVANT HEARING OFFICER ORDERS
CONTAINED IN THE CEDS DECISIONS DATABASE

Prepared By Richard D. Klein
**COMMUNITY & ENVIRONMENTAL
DEFENSE SERVICES**
811 Crystal Palace Court
Owings Mills, Maryland 21117
410-654-3021
800-773-4571
Fax: 410-654-3028
E-mail: info@ceds.org
Web Page: www.ceds.org/bcmd

August 7, 2007

CONTENTS

Summary.	1
Cul-De-Sac Extension Issue.	1
Factors Supporting Retention of a Cul-De-Sac.	1
Factors Supporting Extension of a Cul-De-Sac Street.	2
100-unit Single Means of Access Limit Issue.	2
Recommendations: Hampton Manor Case.	2
Issue Background.	3
Research Issues.	5
Relevant Hearing Officer Decisions.	5
Garrison Overlook.	5
Greenspring Quarry.	6
Honeygo Springs.	9
Jessop Property.	11
Mardella Ridge.	13
Powell Property.	15
Rolling Stones.	15
Timber Run.	16
Vale Crest Property.	16
Westchester Oaks.	17
Windlass Run.	18
Minimally Relevant Decisions.	21
Baker Property.	21
Greenfields at White Marsh.	21
Spencers Crossing.	21
Wever Property.	21
Discussion.	23
Cul-de-sac Street Issue.	23
100-unit Single Means of Access Limit Issue.	25

SUMMARY

Research was conducted using the CEDS Decisions Database¹ to determine under what circumstances a hearing officer has:

1. Allowed a cul-de-sac street to remain unconnected to other roads; and
2. Granted a waiver to the 100-unit/single-means of access limit.

Following is a summary of the results of research into these three issues.

CUL-DE-SAC EXTENSION ISSUE

On the issue of converting cul-de-sacs into through-streets, a search of the CEDS database uncovered nine orders in which a Hearing Officer ruled on this issue. In six of the nine orders the Hearing Officer *did not* require an extension of a cul-de-sac street to form through road. In one case the hearing officer ruled that the connection must occur, but can be postponed until the County determined that it was actually needed. In two cases the hearing officer required that the extension occur to create a through-road.

Factors Supporting Retention of a Cul-De-Sac

Following are the factors cited by hearing officers as prompting them *not to require* conversion of a cul-de-sac street to a through road. The number in parenthesis at the end of each factor is the number of orders in which this factor was cited: the affected community is opposed to the conversion (5); both the applicant and the community support retaining a cul-de-sac street (4); a connection is opposed by both a County agency and the affected citizens (1); the County has made prior commitments not to connect a cul-de-sac street (2); the connection would result in significant environmental impacts (1); where unusual circumstances exist, such as when the safety benefits of preventing cut-through traffic are significant, the *Master Plan* policy of creating street connections wherever possible has been overridden (1); the Hearing Office may approve a plan allowing streets to continue as cul-de-sacs provided the plan complies with all other applicable County laws and policies (1); if an extension is to be built by the County and the capital budget does not show the project as already programmed (indicating it will actually be built) then the Hearing Officer may be less inclined to require the connection (1); the Hearing Officer may be less inclined to require construction of a connection if the necessary land is held in reserve should the County fund the extension in the future (1); the Hearing Officer may be less inclined to require an extension if it is not shown in the *Master Plan* (1); and if the existing road network, plus programmed improvements, allow adequate connections between communities, then the Hearing Officer may be less inclined to require a new connection (2).

Factors Supporting Extension of a Cul-De-Sac Street

Following are the factors cited by hearing officers as prompting them to *require* conversion of a cul-de-sac street to a through road: the *Master Plan 2010* favors the extension of cul-de-sac

¹ The CEDS Decisions Database contains all 152 development plan orders issued by Baltimore County hearing officers from March 2004, to the present. This one-of-a-kind resource makes it possible for citizens to greatly improve the likelihood of resolving their concerns by determining under what circumstances hearing officers have supported various solutions advocated by citizens.

roads to allow through traffic when development proposals make this possible (1); Office of Planning comments are an influential factor with respect to where this *Master Plan* policy is followed (1); the Hearing Officer is open to requiring that connecting roads include features, such as a 90° degree bend, to discourage through traffic (1); when there is only one development plan (as opposed to an alternate plan) which shows cul-de-sac connections then the Hearing Officer is compelled to approve the plan unless the connection somehow violates applicable County law or policy (1); if a connection is unlikely to create a linkage which will attract a significant volume cut-through traffic, then the Hearing Officer will be inclined in favor of the general County policy encouraging more road connections (1); and if a project will generate a relatively small volume of increased through-traffic then the significance of this issue is viewed as minimal and the Hearing Officer will be inclined to require a connection to the cul-de-sac street (1).

100-UNIT SINGLE MEANS OF ACCESS LIMIT ISSUE

A hearing officer has ruled on the 100-home/single means of access issue in only one case since March, 2004: the Jessop Property. The following factors prompted Hearing Officer William Wiseman to allow the Jessop Property project to create 103 homes along a single means of access: it is unlikely that the number of homes served by the single means of access would ever reach 150 where the second means of access must actually be built; and the Hearing Officer is more inclined to grant a waiver if it is supported by the Department of Public Works.

RECOMMENDATIONS: HAMPTON MANOR CASE

Following are the steps the community and the applicant can take to increase the likelihood that the hearing office will grant the 100-home/single means of access waiver and allow Southfork Court to continue as a cul-de-sac street.

- A. The community and the applicant should clearly demonstrate to the Hearing Officer that both support a waiver of the 100-home/single means of access policy.
- B. The community should ask the applicant to have their traffic consultant develop arguments regarding the *Master Plan* policy on street interconnection. Specifically, the arguments should show why an extension of Southfork Court would not significantly improve circulation and community interconnections.
- C. Southfork Court residents should identify all the reasons why retaining their street as a cul-de-sac enhances the sense of community among the residents of the 14 townhomes on the court.
- D. The community should meet with Office of Planning staff, in conjunction with the applicant, to present the reasons why an extension of Southfork Court would degrade the sense of community and other critical quality of life factors. The goal of this meeting is to convince the Office of Planning to testify before the hearing officer that Southfork Court should remain a cul-de-sac street. During the meeting the community should point to:

- i. the similarities between Hampton Manor and Greenspring Quarry where the hearing officer found that the existing road network provided ample interconnection and that extension of the cul-de-sac street Lightfoot Drive would not significantly improve interconnection;
 - ii. the Windlass Run case where the hearing officer also found that the existing road network provided adequate interconnections; and
 - ii. the Mardella Ridge decision in which planning staff acknowledged that the *Master Plan* direction to interconnect streets is advisory only and the text on page 90 calls for mitigating unsafe through-traffic wherever possible with measures including retaining residential streets as cul-de-sacs.
- E. Current and prior residents should be asked about any recollection they have of promises made by County officials that Southfork Court would never be extended.

ISSUE BACKGROUND

Hampton Manor Limited Partnership has proposed building 59 townhouses on a seven-acre site adjoining the existing residential complex known as Warren Apartments off Scott Adams Road. The existing complex is composed of 131 apartments and 29 townhouses. The Concept Plan showed that access would be provided via Saint David Road, which serves the complex, and by extending Southfork Court, a dead-end (cul-de-sac) street, into the proposed development project. The owners of the 14 existing homes on Southfork Court were strongly opposed to the connection and formed the Hunt Meadow Legal Defense Fund.

CEDS assisted Southfork Court residents and others residing in the Hunt Meadow community in negotiations with the applicant. The applicant, Hampton Manor Limited Partnership, cited the following requirement as compelling the conversion of Southfork Court from a cul-de-sac street to a through street. This requirement appears in Section XIII, on page 22, of the Baltimore County *Bureau of Development Plans Review Policy Manual*:

B. ACCESS GUIDELINES

1. Maximum Number of Units with One Means of Access

a. Limits of Units

- 100 units with no future street extension proposed
- 150 units when a future street extension is proposed and is feasible
- greater than 150 units and a second means of access must be constructed

b. Exception

These limits may be increased when restricted by a limited or controlled access highway or other physical barrier or limitation as advised by the Department of Public Works.

- c. *Emergency access points in place of full-use access points generally will be discouraged, but may be approved in unusual circumstances.*

Since the project would increase the total number of residential units to 219, it would be far in excess of the 100- to 150-unit limit given above for a single means of access. It was this issue which prompted the applicant to propose a second means access via Southfork Court.

As a result of the negotiations, the applicant agreed to submit a plan showing a single means of access via Saint David Road and ask the hearing officer for a waiver of the 100-unit limit.

In addition to the 100-unit limit waiver two other requirements also bear on this issue.

First, item 5, on page 84, of the Baltimore County *Master Plan 2010* calls for the following action:

Plan for interconnecting streets and provide for multiple vehicular access points to communities to avoid concentrating traffic onto the collector system.

As will be seen below, this action generally obligates the County to look for opportunities to extend cul-de-sac streets to increase interconnections and at least one Hearing Officer has cited this *Master Plan* action as the basis for requiring cul-de-street interconnection.

RESEARCH ISSUES

Based upon the preceding discussion of the various issues involved in this case, the CEDS Decisions Database was researched to answer the following questions:

1. Under what circumstances has a Hearing Officer prohibited the conversion of a cul-de-sac street to a through street?
2. Under what circumstances has a Hearing Officer waived the 100-unit/single-means of access limit?

RELEVANT HEARING OFFICER DECISIONS

The CEDS Decisions Database contains the 152 development plan orders issued by County hearing officers since March 2004. The database was searched for orders relevant to the three issues and questions by using the following keywords in various combinations: 100-unit, through traffic, cut through, cul-de-sac, dead end, single access, and single means of access.

A total of 15 orders contained at least one of these keyword combinations. Nine decisions addressed the cul-de-sac question. Only one directly addressed the question of waiving the 100-unit/single-means of access: the Jessop Property. Following is a review of the relevant orders.

GARRISON OVERLOOK (Case No. IV-429)

This 34-acre, RC-5 zoned Owings Mills site was proposed for development as 16 single-family detached homes. Hearing Officer William Wiseman issued his order approving the project on June 7, 2005. The applicant proposed making an existing cul-de-sac street (Hunting Tweed Drive) a through road. Citizens in the area were strongly opposed to this due to concerns about substantial increases in cut-through traffic.

The citizens' planning expert had proposed a condition that the connection be a gated, unpaved road (*see page 8*). After learning that the Department of Public Works did not support this proposal, Mr. Wiseman apparently decided not to include it as a condition of approval. Instead, the following condition was added which postpones construction of the connection and provides area residents with an opportunity to comment should the County make a decision to proceed with the connection (*see page 10*).

Although the Developer/applicant is required to show on the Development Plan the right-of-way for a possible extension~connection of Hunting Tweed Drive, such connection shall not be constructed unless and until Baltimore County shall first have advertised and posted the right-of-way property giving the time, date and place of not less than one public community meeting, including without limitation, direct, written notice to the Huntington and Valley Crest Community Associations and their members, to discuss publicly any County prepared traffic study requiring the connection of Hunting Tweed Drive and the proposed funding source for construction of any such connection.

This order indicates:

- Joint applicant and community support for retaining a cul-de-sac street influences the Hearing Officer;
- The Department of Public Works has a strong influence over the Hearing Officer's decision whether to allow a gated, partially completed road to serve as the connection between a cul-de-sac street and other area roads;
- The Hearing Officer is open to postponing the construction of the connection until the County determines it is actually needed; and
- The Hearing Officer is open to allowing community input to the decision to create the connection.

GREENSPRING QUARRY (Case No. III-299)

This project consisted of 83 single-family detached homes and 510 condominium units. The project was proposed for a site on Greenspring Avenue just south of the Beltway. Hearing Officer Larry Schmidt issued his order approving the project in March, 2004.

At issue was the proposed extension and connection of Lightfoot Drive, a cul-de-sac road. Both the applicant and the community urged the Hearing Officer not to require the extension. They were joined in this position by the Baltimore County Department of Environmental Protection & Resource Management (DEPRM). The sole advocate for the connection was the Baltimore County Department of Public Works.

Following is an excerpt from the order in which Mr. Schmidt presented his rationale for leaving Lightfoot Drive as a cul-de-sac road (*see pages 5-7*):

One issue identified, however, related to the potential extension of Lightfoot Drive from the west. As noted above, that road will be extended into the subject property to provide access to the single-family dwellings in Section J. Both the neighbors and the Developer prefer that Lightfoot Drive terminate within the subject property as a cul-de-sac and not be extended as a through road. The neighbors are concerned that a through road will result in a change of character in Lightfoot Drive. That is, rather than continuing to serve as a local neighborhood street, the neighbors fear that a through extension would change the nature of the road to a busy, high-speed roadway. In addition, Baltimore County's Department of Environmental Protection and Resource Management (DEPRM) opposes the extension of Lightfoot Drive. That agency notes the existence of environmental constraints in that area of the property and that any extension would require an alternatives analysis and a possible adverse impact on the environmental resources. The termination of the road would leave those environmental resources intact and undisturbed.

The sole party that objects to this proposal is Baltimore County's Department of Public Works (DPW). On behalf of that agency, Bob Bowling and Rahee Famili testified that Lightfoot Drive was originally designed to be a through road. That is, Lightfoot Drive currently exists on both the east and west sides of the subject property and it is evident that at one time in the past a through connection was anticipated. DPW argues that in view of this original design, the road should be connected. That agency also notes that such a connection would improve traffic circulation in the area, would provide a connection to adjacent communities, and would promote ease of access by emergency vehicles and other traffic.

The Developer and surrounding community are steadfastly opposed to this connection. As noted above, they adopt the concern of the environmental impacts raised by DEPRM. Additionally, they produced certain documents indicating that Baltimore County considered this issue many years ago and that the residents were advised by certain public officials at that time that the road connection would not be made.

Upon due consideration of the testimony and evidence offered by both sides, I will approve the plan as submitted and decline to require the road connection. The overwhelming factors leading to this decision are as follows. First, I am sensitive to the concerns raised regarding environmental impacts and believe that disturbance in environmentally sensitive areas should not be required unless necessary. Secondly, the existing road network in this area already provides an inter-connection between adjacent neighborhoods and the extension of Lightfoot Drive for this purpose is not necessary. As more particularly shown on the area map, traffic to the west of the site can connect with traffic to the east through Dogwood Road, Laurelwood Road, and Timberlane Road. These roads already provide a means of access between neighborhoods and more importantly, provide multiple means of access to this site for emergency vehicles. Even in the event that a particular road is blocked due to accident or road-closure, vehicles could enter the site from Smith Avenue towards the south by way of multiple locations. On balance, I believe these factors support a finding that Lightfoot Drive should not be extended. In sum, I find that the reasons enunciated by DPW in support of their contention are not warranted in view of the concerns of the community and character of the existing road network.

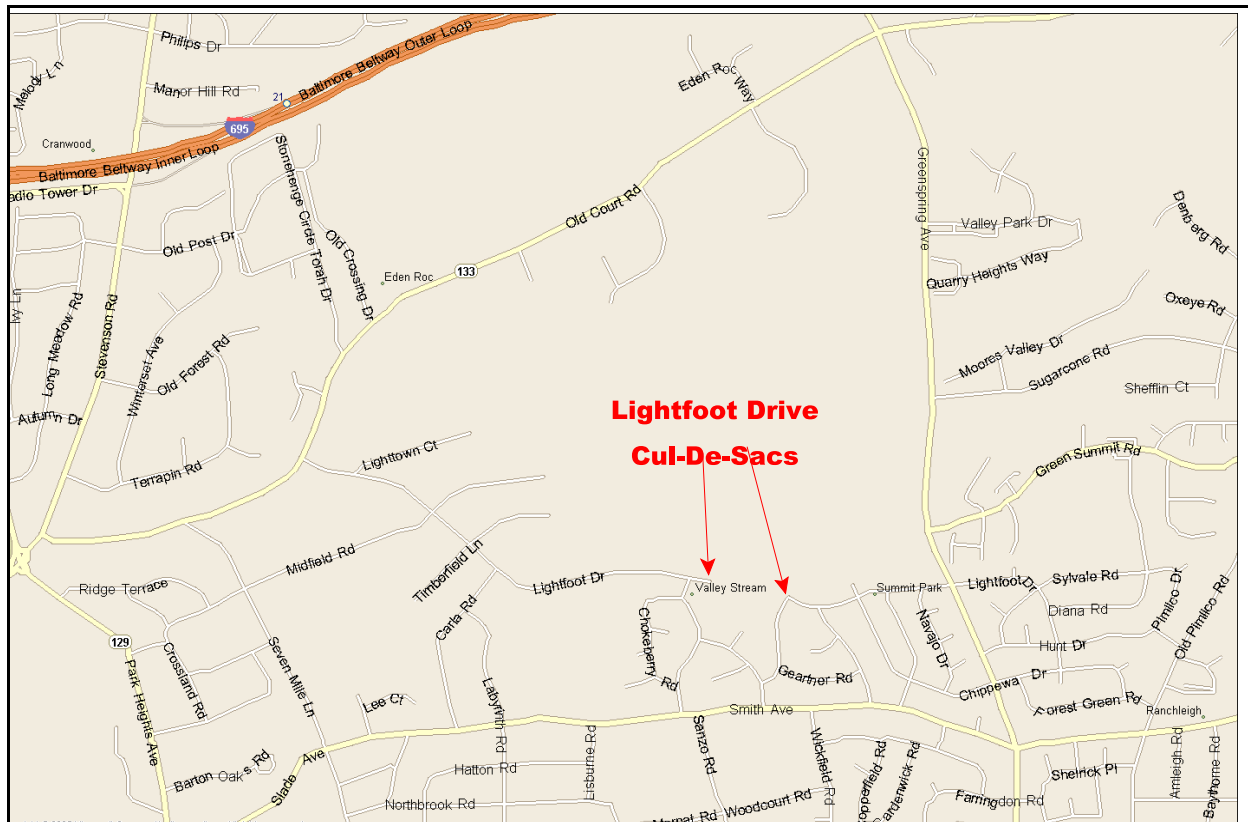


Figure 1: Lightfoot Drive and Existing Area Roads Providing Adequate Interconnection

The Hearing Officer's order in the Greenspring Quarry case indicates:

- Joint applicant and community support for retaining a cul-de-sac street influences the Hearing Officer;
- Prior commitments made by County officials not to connect a cul-de-sac street will also influence the Hearing Officer's decision;
- Environmental impacts may influence the Hearing Officer in favor of maintaining a cul-de-sac street, particularly if DEPRM opposes an extension because of impacts to sensitive resources; and
- The Hearing Officer may view a connection as less necessary if the existing road network provides ample connections between neighborhoods. Figure 1, above shows that Smith Avenue to the south and Seven Mile Lane to the west provides the same interconnection that would be achieved by connecting Lightfoot Drive.

HONEYGO SPRINGS (CASE NO. XI-960)

This project was proposed for a site in the White Marsh area of eastern Baltimore County. The project consisted of 14 single-family detached homes. In addition to development plan approval, the applicant requested special variances to exceed the threshold limits for additional development in the Honeygo subarea and for a sewer connection. The applicant also petitioned for a special hearing regarding a density anomaly for four proposed lots because each was located in two zoning districts. Finally, the applicant requested a variance to allow a building to be placed 28 feet from an arterial road right-of-way instead of the required 40-foot minimum setback.

The Hearing Officer's Hearing was held on April 14, 2005, before Deputy Zoning Commissioner/Deputy Hearing Officer John Murphy. The applicant was represented by two attorneys while the ten citizens who attended the hearing were not represented.

Both the applicant and citizens were opposed to the recommendation of County planning staff that a proposed street connect to existing cul-de-sac roads in the area creating a through-road. The citizens were concerned this would encourage cut-through traffic and increase traffic volume on their residential streets.

The Hearing Officer framed his position on this issue as follows (page 18):

I am aware that the Developer and Protestants [citizens] jointly and earnestly request no through connection to the properties to the south. From the Developer's standpoint, the whole community is at the end of the road which likely commands higher prices for each lot. For adjacent communities, it means less traffic especially the dreaded cut through traffic. I also observe that this alliance between Developer and community occurs on nearly every development plan review. So what's not to like? The problem is this pattern of

development, although beneficial in the short term for directly affected communities, is very harmful for the larger community and the County.

The Hearing Officer presented his interpretation of two sections of the Baltimore County Zoning Regulations (BCZR), §259.7 and §260.4, which he believed reflected the County Council's general intent that road connections occur whenever possible order. This interpretation reads (page 19):

Section 259.7 provides in the Statement of Legislative Intent for Honeygo Area that, "districts are to provide for a unified traditional design which will create a community instead of isolated subdivisions and commercial uses. It is expected that the Honeygo Area will include a neighborhood center surrounded by residential areas, which are connected to it, to each other, and to open space through a network of interconnected, continuous streets. Section 260.4, Streets and Parking provisions of the residential performance standards specify that a development proposal shall: "Provide for at least one street connection to an adjoining neighborhood or an adjoining property, not including the principal access to the subdivision, in order to facilitate good traffic circulation." (Emphasis supplied). It is clear to me the Council recognized the importance of interconnections in the larger scheme of development. I am sure they chose to connect communities with full knowledge of how unpopular this provision would be among communities and developers. In this larger picture, if every community is at the end of the road, emergency access is severely limited and traffic circulation nonexistent. Everyone is forced to navigate the same streets and choke points. Backups and accidents follow. So whether or not a subdivision is connected to properties adjacent to it affects not only the subject subdivision itself but all those present and future developments in the area and the County as a whole. Therefore, I consider this requirement quite separate from the internal standards applicable to subdivisions such as homes facing streets, front loaded garages, cul-de-sac design, etc.

I find and direct that Road A must connect to the properties to the south. As mentioned, however, at the hearing, the western cul-de-sac of can be extended to the properties to the south [sic]. This connection provides the needed linkage without making a straight road as shown on County Exhibit 1. This will discourage speed and cut through traffic from Thirteen Mile Lane assuming some day the properties to the south are developed.

The County planning staff had recommended that the proposed connecting road have a straight alignment. As stated above, the Hearing Officer ordered that the road be redesigned to include a 90° bend in hopes of reducing cut-through-traffic. The Hearing Officer also ordered that four of the 14 lots be built on a cul-de-sac (court) to somewhat reduce through-traffic volume.

The Hearing Officer's first reference to the portion of the BCZR (§259.7) encouraging road connections in the Honeygo planning area is, of course, not directly relevant to the Hampton Manor project. The site is located in a different planning area. The second BCZR reference (§260.4) is to the Residential Performance Standards which apply countywide.

The Honeygo Springs order indicates:

- Joint applicant and community support for retaining a cul-de-sac street influences the Hearing Officer;
- The *Master Plan* and the Baltimore County Zoning Regulations favor the extension of cul-de-sac roads to allow through traffic when development proposals make this possible and where this would provide a second means of access;
- Office of Planning comments are an influential factor with respect to where the *Master Plan* policy and the BCZR is applied; and
- The Hearing Officer is open to design connecting roads with features, such as a 90° bend (possibly other traffic calming too), to discourage through traffic.

JESSOP PROPERTY (Case No. VIII-842)

The Jessop Property is a 38.2-acre site, zoned DR-3.5, located in Timonium. The applicant proposed developing the site with 103 dwellings (39 single-family and 64 semi-detached). Hearing Officer William Wiseman issued his order approving the project on July 12, 2007.

Citizens raised the issue that the project would increase the number of homes beyond the limit of 100 for a single means of access. Following is an excerpt from the order in which the Hearing Officer presented the facts which served as the basis for his decision (*see pages 10-12*):

One of the Protestants' primary complaints was Developer's proposal to build more than 100 homes on a single means of vehicular access. They allege that this number of homes on a single means of access violates Baltimore County policy and that the development should be reduced from 103 homes to under 100 homes.

At the heart of the issue is Baltimore County's Bureau of Development Plans Review Policy Manual, which provides "access guidelines," in particular, that the maximum number of units on a single means of access should be limited to 100 units. See Protestants' Exhibit 3. Developments between 100 and 150 units should show a "future street extension" that is "feasible." The Policy Manual, however, requires the second means of access only be constructed when the number of units exceed 150. The Policy Manual provides exceptions whereby the Department of Public Works may increase the limits "when restricted by or limited by a physical barrier or other limitation . . ." or may allow an emergency access in lieu of a full means of access in "unusual circumstances."

On this issue, Protestants questioned Dennis Kennedy regarding the Department of Public Works' decision to permit the proposed development of 103 units on a single means of access. As Mr. Kennedy explained, the Director of Public Works, Edward Adams, met with the Developer and its engineers to discuss the possible provision of a second means of access to the Jessop property. The factual background of these discussions is outlined in a

letter to Dennis Kennedy from Robert Bowling, an engineer with Morris & Ritchie Associates, Inc. See Protestants' Exhibit 2. In addition to the challenges imposed by the steep grades, the property also has environmental and physical constraints that severely limit Developer's ability to provide a second means of access.

Taking all of the constraints into account, Developer proposed an option for providing a second means of access for the development - an emergency access drive extending from Dartmoor Road through the development to Westford Road - which was presented to the Department of Public Works. It is to be noted that an emergency means of access, connecting the new development to Dartmoor Road, was originally shown on the concept plan for the project. While it was physically possible to make this connection, the conditions were difficult and would result in grades in excess of 12% in some areas. According to Robert Bowling, the site cannot be lowered significantly in order to lessen the grades because of Developer's obligation to preserve the historic Jessop House, which was placed on the Final Landmarks List in March of this year. To build this access drive, Developer would have to create large retaining walls, and the alignment and grading required for the drive would impact one of the site's wetland areas, requiring approval of DEPRM. This proposal was rejected by Mr. Adams.

Mr. Adams considered whether a second full means of access built to Baltimore County's minimum standards for a public road could be built for the development. Having looked at the conditions, he concluded that, due to the steep grades and location of the wetlands and the other physical constraints of the site, a second means of access was not possible. He then exercised his authority under the Policy Manual to increase the limits for the number of units on a single means of access (Westford Road) to allow the 103-unit development.

Having reviewed the evidence and testimony presented by the County and Developer and based on my reading of the Policy Manual, I find that Mr. Adams' decision is within his authority and is supportable. As Developer pointed out, once the Jessop Property development is completed, the full development potential for Westford Road will be realized. The Jessop Property is surrounded by properties that appear to be fully built out. It is not foreseeable that Westford Road will ever reach 150 units, which is the trigger point for a developer having to construct a second means of access. Therefore, under the Policy Manual, even if the development plan showed a "future" road connection, it is virtually certain that the connection would never be constructed. The Department of Public Works is satisfied that the single means of access is sufficient, and this opinion was also echoed by Developer's expert traffic engineer, Mickey Cornelius. I therefore find, much to the dismay of current residents living on Westford Road, that Developer's redlined development plan is in compliance with the applicable policies and regulations relating to access.

This order indicates:

- The Hearing Officer will allow a project to cause the number of homes to exceed the limit of 100 for a single means of access provided it is unlikely that the number of homes would ever reach 150 where the second means of access must actually be built; and
- The Hearing Officer may be more inclined to take this position if it is supported by the Department of Public Works.

MARDELLA RIDGE (Case No. II-659)

The applicant proposed 26 single-family detached homes on a 47-acre, RC-5 zoned site in the Woodstock area. Hearing Officer William Wiseman issued his order approving the project on July 11, 2005.

The applicant presented two development plans: A and B. Development Plan A showed both streets continuing as cul-de-sacs if the Mardella Ridge project was approved. Development Plan B showed the extension and connection of cul-de-sac streets: Persimmon Tree Court and Migan Road. Those living along both streets were strongly in favor of Development Plan A (no connection). The County Office of Planning and the Department of Public Works recommended Plan B (connection). DPW's position follows:

He [Rahee Famili] advised that the connection of these two existing, dead-end roads was necessary for issues of safety. He indicated that emergency response vehicles would travel 2,000-3,000 feet less if the connection were made and that the connection would relieve community travel from the collector roads in the area. On cross examination, Mr. Famili did not agree with the views of the community that the connection would be used by motorists as a means of cutting through the existing and proposed residential community.

The order summarized the position of the Office of Planning as follows:

The primary objection to Plan A was that Persimmon Tree Court and Migan Road are not connected as recommended by the Master Plan. Ms. German referred to Page 84 of the Master Plan pointing out that one of the actions recommended for coordinating land use and transportation is to "...plan for interconnecting streets and provide for multiple vehicular access points to communities to avoid concentrating traffic on the collector system."

On cross-examination, both Mr. Green and Ms. German acknowledged that the Master Plan is "advisory" only and that the specific inter-connection of the subject two streets had never been discussed in public forum between the Office of Planning and the community until the instant hearing. Counsel for the Developer further questioned these representatives on the issue of managing traffic within communities as identified on Page 90 of the Master Plan which provides that,

"As congestion along the highway network has grown in frequency, magnitude and duration, resourceful motorists have found bypass routes through local residential streets. Aggressive driving and a diminished respect for other motorists, pedestrians,

traffic control devices, and general "rules of the road" have become more common. Increased traffic volumes and vehicular speeds have negatively impacted the livability of many residential communities. Mitigation measures should be taken to insure that community streets remain safe and compatible with the respective community."

Mr. Green and Ms. German had to acknowledge that not interconnecting Persimmon Tree Court and Migan Road is one mitigation measure to insure that the streets of this community and adjacent communities remain safe. Also acknowledged was the fact that while the Office of Planning has routinely requested that community roadways be inter-connected, the Hearing Officer has not always granted that request where there are unusual circumstances and the connection is opposed by existing communities.

Citizens presented a petition signed by 74 of the 86 homeowners on the two affected streets. The petition called for maintaining both streets as cul-de-sacs. Citizens also presented a 1991 memorandum from then County Councilman Melvin Mintz. In the memo, Councilman Mintz promised that Persimmon Tree Court would remain a cul-de-sac street as long as residents wished.

In approving Development Plan A (no cul-de-sac extension-connection) Hearing Officer Wiseman cited the extensive negotiations between the citizens and the applicant along with the 1991 agreement. He also implied that because both plans comply with all County laws and policies he was inclined to go with the plan favored by the community and the applicant.

The Hearing Officer's order in the Mardella Ridge case indicates that:

- Joint applicant and community support for retaining a cul-de-sac street influences the Hearing Officer;
- Prior commitments made by County officials not to connect a cul-de-sac street will also influence the Hearing Officer's decision;
- Where unusual circumstances exist such as when the safety benefits of preventing cut-through traffic, the general County policy of creating street connections wherever possible has been overridden; and
- The Hearing Office may approve a plan allowing streets to continue as cul-de-sacs provided the plan otherwise complies with all other applicable County laws and policies.

POWELL PROPERTY (Case No. XV-854)

The applicant proposed 30 single-family detached homes on a 22-acre site, zoned DR-2, in the White Marsh area. Hearing Officer William Wiseman approved the development plan on March 1, 2006. At issue was the question of whether Bevans Lane (a cul-de-sac street) would be connected to White Marsh Boulevard. The County opposed this and so did the citizens who

lived along Bevans Lane. The Hearing Officer approved the proposal to maintain Bevans Lane as a cul-de-sac street.

The Hearing Officer's order in the Powell Property case indicates that:

- The Hearing Officer may be more inclined not to require connection when this is opposed by both a County agency and the affected citizens.

ROLLING STONES (Case No. I-512)

Five single-family detached homes were proposed for this 2.3-acre site, zoned DR-3.5, in the Catonsville area. Hearing Officer William Wiseman approved the development plan on January 22, 2007. This same project had been the subject of a prior development plan hearing. That plan showed that the cul-de-sac street Crosby Road would be extended and connected to another street. The community opposed the connection. The applicant requested a postponement so a revised plan could be prepared. The request was granted and the revised plan showed that Crosby Road would continue as a cul-de-sac street. This plan was approved.

The Hearing Officer's order in the Rolling Stone case indicates that:

- Joint applicant and community support for retaining a cul-de-sac street influences the Hearing Officer.

TIMBER RUN (Case No. IV-603)

This 212-acre, RC-4 zoned site in Reisterstown was proposed for development as 37 single-family detached homes. Hearing Officer Larry Schmidt issued his order approving the project on July 20, 2004. The order contained the following discussion regarding the single-means of access for this project:

As noted above, several of the citizens who appeared at the initial hearing did not return for subsequent proceedings on July 7, 2004. In this regard, certain testimony was received concerning the traffic issues raised. Although there will be but a single means of access to the new lots from Nicodemus Road, it was indicated that there is an emergency access shown from the north. That access will be chained; however, will be available to fire, police, ambulance and other emergency vehicles. Thus, there is an emergency access route available in the event the new public road and Nicodemus Road is unavailable or blocked.

Apparently citizens had testified about concerns regarding the single means of access. However, since the project was far below the 100-unit maximum for a single means of access and an emergency access was available, this question did not factor further in the Hearing Officer's decision-making.

VALE CREST PROPERTY (Case No. XV-817)

This Essex site was proposed for development as 21 single-family homes. Hearing Officer John Murphy approved the development plan on November 16, 2004. The order contained the

following one sentence discussion of citizens concerns regarding the possibly of making the proposed development road a cul-de-sac versus a through road: *As the Developer points out, the property is long and narrow and, as a result of strong community input, there will be no through road and the existing forest areas are to be preserved.*

The Hearing Officer's order in the Vale Crest Property case indicates that:

- Joint applicant and community support for retaining a cul-de-sac street influences the Hearing Officer;

WESTCHESTER OAKS (Case No. I-521)

The applicant proposed building seven new homes on this 3.1-acre, DR-5.5 zoned site in Catonsville. Hearing Officer William Wiseman approved the development plan on September 13, 2005. The development plan showed the connection of two existing cul-de-sac streets (Neepier Road and West Geipe Road). Residents living on the affected cul-de-sacs (Chalfonte Drive and Neepier Road) were concerned that the conversion to through roads would increase traffic volume on these residential streets. The order contained the following description of the basis for the Hearing Officer's decision to approve the development plan even though the cul-de-sacs would be connected:

I do not find any of these issues compelling to warrant a denial of the plan. It cannot be seriously contended that the introduction of in and out traffic movements, interspersed throughout a 24-hour day from 7 new single family homes will create congestion or overburden Neepier Road or Chalfonte Drive. Furthermore, the site is not positioned such that it would encourage the traveling public to use the connection in the Westchester Oak development as a shortcut between other arterial roadways. I am appreciative of the fact that the neighbors actually reside in the area and are no doubt familiar with their own properties and conditions in the area. It is clear that the County Council and Department of Public Works recognized the importance of connecting communities with full knowledge of how unpopular this would be among residents and developers. In the larger picture, if every community is at the end of the road, emergency access would be severely limited and traffic circulation non-existent.

The Hearing Officer's order in the Westchester Oaks case indicates that:

- When there is only one development plan (as opposed to an alternate plan) which shows cul-de-sac connections then the Hearing Officer is compelled to approve the plan unless the connection somehow violates applicable County law or policy;
- If a connection is unlikely to create a linkage which will attract a significant volume cut-through traffic, then the Hearing Officer will be inclined to opt in favor of the *Master Plan* policy and zoning regulations encouraging road connections; and
- If a project will generate a relatively small volume of increased traffic then the significance of the cut-through traffic issue is viewed as minimal.

WINDLASS RUN (Case No. XV-855)

This ten-acre, DR-2 zoned site in the White Marsh area was proposed for development as 16 single-family detached dwellings. Hearing Officer William Wiseman approved the development plan on December 28, 2005. Area residents testified about their strong objection to extend the eastern portion of the Compass Road cul-de-sac to connect with Wampler Road. The Hearing Officer's order presented the following reasons for not requiring the applicant to create this connection:

First, I am sensitive to the concerns raised regarding environmental impacts and believe that disturbance in environmentally sensitive areas should not be required unless necessary. Secondly, the Community has steadfastly demonstrated that they are opposed to any connection to Compass Road through this Property. Neither the County's Master Plan nor the Bird River - Middle River Community Plan show any such connection. Additionally, upon cross-examination, Dennis Kennedy stated that there is nothing in the County's budget to demonstrate that the County is pursuing such a connection. I find that for all of these reasons, it is unlikely that this connection will ever be constructed, however, since Developer's Exhibit 8 demonstrates that such a connection is engineeringly feasible, and since the Plan shows that this entire area of land will be dedicated at no cost to the County, the opportunity for this connection will exist. The existing and planned (Campbell Boulevard) road network in this area seem to already provide an inter-connection between adjacent neighborhoods and the extension of Compass Road for this purpose is not necessary.

Notably, some 20 years ago, the Maryland Court of Appeals ruled that "In order to exact from a Developer a setting aside of land for highway purposes, there must be a reasonable nexus between the exaction and the proposed subdivision." Howard County v. J.J.M., Inc., 301 Md. 256, 282 (1984). I have previously cited this case in ruling that another connection requested by the County was not required (see Case No. 11-659). In this case, I note that traffic heading east on Compass Road can currently proceed north on Maple Crest Drive in order to connect to Bird River Road. On balance, I believe these factors support a finding that providing a connection through this proposed development, to which the residents have strongly objected, is not warranted. Additionally, following the Howard County v. J.J.M., supra, case, there is no nexus between this development and the requested improvement. Therefore, I will not require the Developer to construct either a road or utilities for such a connection.

The Hearing Officer's order in the Windlass Run case indicates that:

- The Hearing Officer may be inclined not to require the extension unless the benefits outweigh environmental impact caused by the extension;
- Community opposition to an extension influences the Hearing Officer's decision-making;

- The Hearing Officer may be less inclined to require an extension if it is not shown in the Master Plan;
- If an extension is to be built by the County and the capital budget does not show the project as programmed, indicating it will actually be built, then the Hearing Officer may be less inclined to require the connection;
- The Hearing Officer may be less inclined to require construction of a connection if the necessary land is held in reserve should the County fund the extension in the future; and
- If the existing road network, plus programmed improvements, allow adequate connections between communities, then the Hearing Officer may be less
- inclined to require a new connection. Figure 2, below, shows that the existing road network allows Compass Road traffic to reach Bird River Road via Maple Crest Drive and, therefore, provides adequate interconnections. The Hearing Officer reasoned that the extension of the Compass Road cul-de-sac would not significantly improve traffic flow.

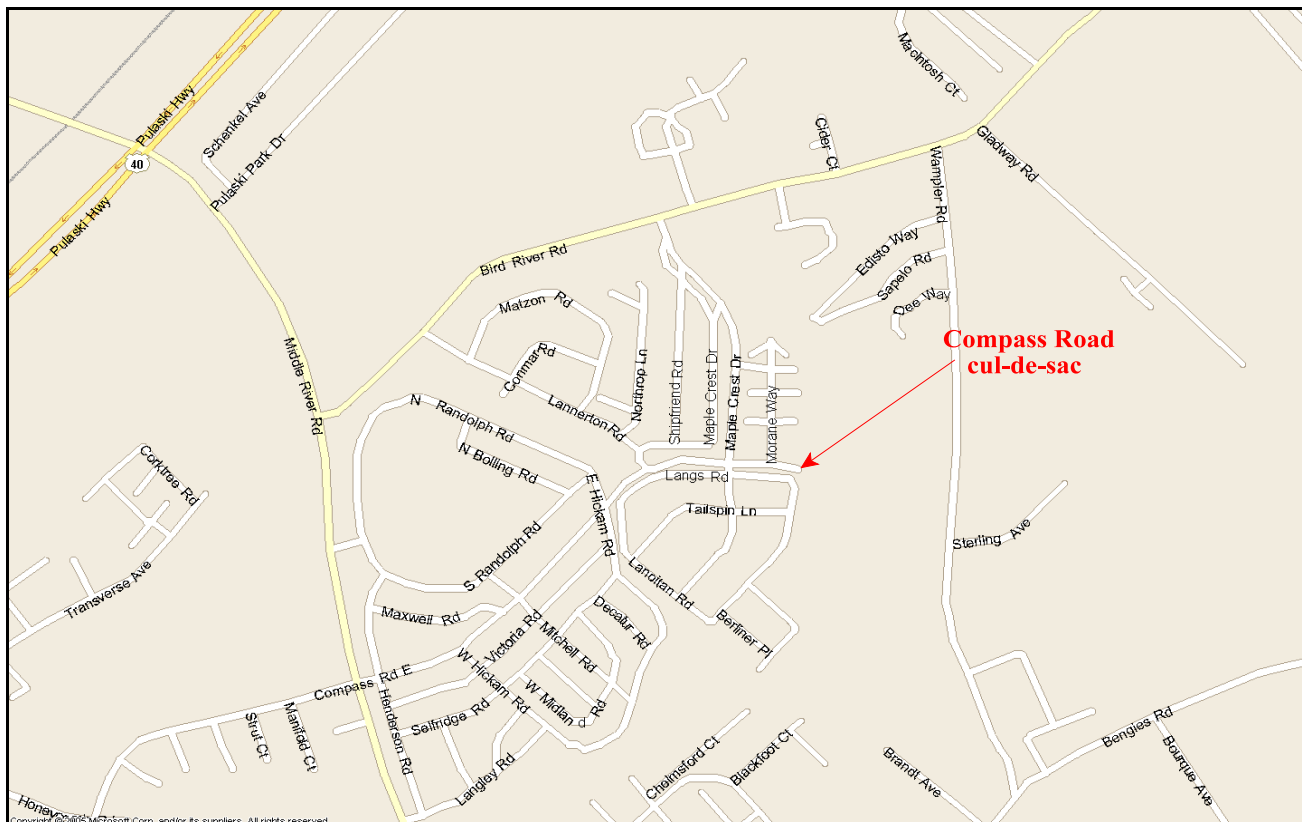


Figure 2: Existing Road Network in the Windlass Run Vicinity

MINIMALLY RELEVANT DECISIONS

Four orders contained one or more of the following keywords: 100-unit, through traffic, cut through, cul-de-sac, dead end, single access, or single means of access. But the order did not contain a decision regarding the question of either converting a cul-de-sac street into a through road or the 100-unit limit for a single means of access. A brief summary of these four orders follows.

BAKER PROPERTY (Case No. I-510)

The applicant proposed 32 single-family detached homes on a 32-acre site zoned DR-1 in the Catonsville area. Hearing Officer William Wiseman issued his order approving the project on September 13, 2006. The issue of large volumes of cut-through traffic on South Hilltop Road was raised by citizens during the hearing (page 9). However, the project did not involve cul-de-sac connections or the 100-unit/single means of access policy.

GREENFIELDS AT WHITE MARSH (Case No. XV-841)

The applicant proposed 97 single-family detached homes for a site in White Marsh. Hearing Officer John Murphy issued his order approving the project on June 7, 2006. A citizen raised the issue of the 100-unit/single means of access policy since this 97-unit project would only have a single access road (*see page 5*). However, the remainder of the order is silent on this question, which is probably due to the project falling three units below the 100-unit limit.

SPENCERS CROSSING (Case No. VIII-821)

Ten single-family detached homes were proposed for a 2.3-acre site zoned DR-2 and DR-5.5. The site was located in the Timonium area. Hearing Officer John Murphy approved the development plan on December 11, 2006. The order for this project contained the following sentence which generated the “hit” during the search of the CEDS Decisions Database: *The ten new homes would be served by a new dead end public road shown on the development plan with a "T" turn around feature.* This order has minimal relevance to the cul-de-sac conversion question.

WEVER PROPERTY (Case No. XIV-423)

This project originally consisted of 19 single-family detached homes proposed for a site in Overlea next to the Beltway. Hearing Officer John Murphy denied approval for the project on February 22, 2005. The plan was revised twice and finally approved with 17 of the 19 lots originally proposed. The order from the first hearing cited citizens concerns about adding 19 more homes to the end of a cul-de-sac street (Overton Avenue).

Citizens cited a prior event which had blocked Overton Avenue and prevented emergency vehicles from reaching homes on the cul-de-sac street. Citizens felt that adding another 19 homes would exacerbate the existing problem. While the Hearing Officer appreciated their concern he could not act on this issue because the project meet the relevant requirements in County law and policy.

DISCUSSION

A review of the CEDS Decisions Database was undertaken to address the following issues:

1. Has a Hearing Officer considered the question of whether to convert a cul-de-sac street into a through street?
2. Has a Hearing Officer considered a waiver to the 100-unit/single-means of access policy?

The CEDS Decisions Database was searched for occurrences of the following keywords relevant to these three issues: 100-unit, through traffic, cut through, cul-de-sac, dead end, single access, and single means of access. Of the 152 development plan orders in the database, 15 contained one or more of the keywords. However, only one of the decisions contained a ruling on the 100-unit/single-means of access issue. In nine of these orders the hearing officer ruled on whether to require a cul-de-sac (dead-end) street to be connected to another road. In the other four orders one or more of the keywords appeared, but the hearing officer did not specifically consider the question of cul-de-sac street connection. Following is a discussion of the factors cited by the hearing officer as supporting their ruling.

CUL-DE-SAC STREET ISSUE

In two-thirds (6) of the nine decisions the hearing officer did not require that an existing cul-de-sac street be extended to become a through road. In one case the hearing officer ruled that the connection need not be made until the County determined that it was actually needed. In two cases the hearing officer required that the extension occur to create a through-road.

Hearing Officer William Wiseman presided over six of the cases. In four (67%) he decided not to require the connection, the connection was delayed indefinitely in a fifth case, and in the sixth case the plan before him called for an extension of a cul-de-sac street to create a through-road and since it met all County requirements he was obligated to approve the plan.

Deputy Hearing Officer John Murphy heard two of the cases and required the connection in one, but not the other. In the one case heard by Larry Schmidt, he did not require conversion of the cul-de-sac street into a through road.

Following are the factors cited by the hearing officers as prompting them *not to require* conversion of a cul-de-sac street to a through road. The number in parenthesis at the end of each factor is the number of orders in which this factor was cited:

- The affected community is opposed to the conversion (5);
- Both the applicant and the community support retaining a cul-de-sac street (4);
- A connection was opposed by both a County agency and the affected citizens (1);
- The County has made prior commitments not to connect a cul-de-sac street (2);

- The connection would result in significant environmental impacts (*This issue is particularly significant if the Department of Environmental Protection & Resource Management (DEPRM) opposes an extension because of impacts to sensitive resources*) (1);
- Where unusual circumstances exist, such as when the safety benefits of preventing cut-through traffic are significant, the hearing officer has set aside the general County policy of creating street connections wherever possible (1);
- The hearing officer may approve a plan allowing streets to continue as cul-de-sacs provided the plan otherwise complies with County laws and policies (1);
- If an extension is to be built by the County yet the capital budget does not show that the project is already programmed, indicating that it will actually be built, then the Hearing Officer may be less inclined to require the connection (1);
- The Hearing Officer may be inclined to delay construction of a connection if the necessary land is held in reserve should the County fund the extension in the future (1);
- The Hearing Officer may be less inclined to require an extension if it is not shown in the *Master Plan* (1); and
- If the existing road network, plus programmed improvements, allow adequate connections between communities, then the Hearing Officer may be less inclined to require a new connection (2).

Following are the factors cited by the hearing officers as prompting them to **require** conversion of a cul-de-sac street to a through road:

- The *Master Plan* and the Baltimore County Zoning Regulations (§260.4) favor the extension of cul-de-sac roads to allow through traffic when development proposals make this possible and where this would provide a second means of access (1);
- Office of Planning comments are an influential factor with respect to where the *Master Plan* policy is applied (1);
- The hearing officer is open to requiring that connecting roads include features, such as a 90° degree bend (possibly other traffic calming measures too), to discourage through traffic (1);
- When there is only one development plan (as opposed to an alternate plan) which shows a cul-de-sac connection then the Hearing Officer is compelled to approve the plan unless it violates applicable County law or policy (1);

- If a connection is unlikely to create a significant volume cut-through traffic, then the Hearing Officer will be inclined to opt in favor of the *Master Plan* policy encouraging interconnections (1); and
- If a project will generate a relatively small volume of increased through-traffic then the significance of this issue is viewed as minimal and the hearing officer will be inclined to require a connection to the cul-de-sac street (1).

100-UNIT SINGLE MEANS OF ACCESS LIMIT ISSUE

This issue arose in two of the 15 cases: the Jessop Property and Timber Run. The following factors prompted Hearing Officer Wiseman to allow the Jessop Property project to exceed the 100-unit limit:

- The Hearing Officer will allow a project to cause the number of homes to exceed the limit of 100 units for a single means of access provided it is unlikely that the number of homes would ever reach 150 where the second means of access must actually be built; and
- The Hearing Officer may be more inclined to take this position if it is supported by the Department of Public Works.

Though this issue was addressed in Hearing Officer Schmidt's Timber Run order, the number of units on the single means of access road was far below the threshold of one hundred even with the Timber Run project.