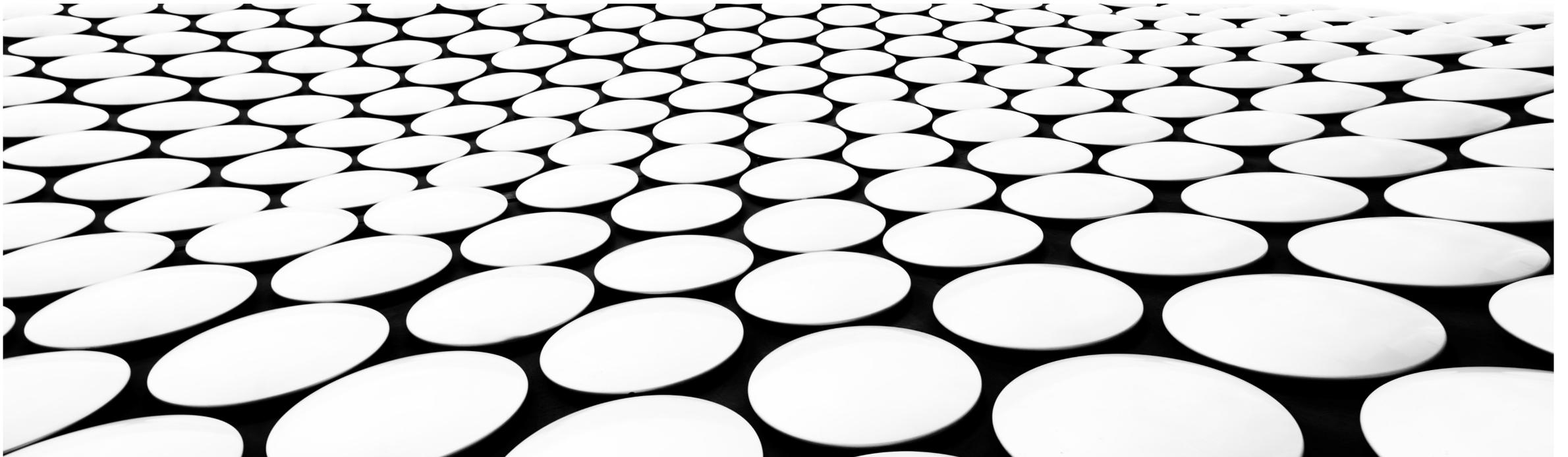

TOWN OF BOW MAR AUTHORITY TO INSTALL GATES ON TOWN ROADS

KATHIE GUCKENBERGER, TOWN ATTORNEY – MICHOW COX & MCASKIN LLP



STATUTORY AUTHORITY – LOCAL REGULATION OF TRAFFIC

- Pursuant to C.R.S. § 42-4-111(1), the Town is authorized to take numerous specific actions pertaining to streets and highways under its jurisdiction, so long as they are within the reasonable exercise of the police power (emphasis added). Those actions include:
 - (a) Regulate or prohibit the stopping, standing, or parking of vehicles;
 - (c) Regulate traffic by means of police officers or official traffic control devices;
 - (g) Designate truck routes and restrict the use of highways;
 - (l) Regulate or prohibit the turning of vehicles;
 - (x) Close a street or portion thereof temporarily and establish appropriate detours or an alternative routing for the traffic affected; and
 - (y) Regulate the local movement of traffic or the use of local streets where such regulation is not provided for in state law.

STATUTORY AUTHORITY – LOCAL REGULATION OF TRAFFIC

- Pursuant to C.R.S. § 42-4-106, the Town is also authorized to:
 - (1) Restrict the operation of vehicles on its streets or impose weight requirements for a period of 90 days as a result of deterioration, rain, snow, or other climatic conditions;
 - (6)(a) Temporarily close streets to through traffic or to all vehicular traffic for the purpose of road construction and maintenance;
 - (6)(b) Temporarily close streets to vehicular traffic during a specified period of the day for the purpose of celebrations, parades, and special local events or civic functions when necessary for the safety and protection of persons who are to use that portion of the highway during the temporary closing.

POLICE POWER

- “Police power” is the inherent right of people through organized government to protect their health, life, limb, individual liberty of action, property, and to provide for public order, peace, safety, and welfare. 6A McQuillin Mun. Corp. § 24:10 (3d ed.).
- Colorado municipalities have broad police powers, including the power to establish laws that promote the health, safety, and welfare of citizens. *Town of Dillon v. Yacht Club Condominiums HOA*, 325 P.3d 1032, 1038 (Colo. 2014).
- The Town Board of Trustees, as the legislative body of the Town, is charged with determining the occasion for the exercise of its police power, which must be reasonable and fulfill a legitimate public purpose. See *Willison v. Cooke*, 130 P. 828, 831 (1913). See also 6A McQuillin Mun. Corp. § 24:10 (3d ed.).
- Courts are not concerned with the wisdom of the particular method chosen by the governing body to address a perceived danger so long as the method chosen reasonably relates to the end to be achieved. *Town of Dillon v. Yacht Club Condominiums HOA*, 325 P.3d at 1040.
- The Town’s exercise of its police power may not be unreasonable, arbitrary, or capricious, and must bear a rational relation to a legitimate Town interest, such as the protection of the health, safety, and welfare of the public.

POLICE POWER – LOCAL REGULATION OF TRAFFIC

- Colorado law vests the Town with a broad police power to regulate the use of streets and traffic within its jurisdiction. This includes the authority to:
 - Establish, extend, improve, and regulate streets (C.R.S. § 31-15-702(1)(a)(I));
 - To prevent injury to any street (C.R.S. § 31-15-702(1)(a)(IV)); and
 - Regulate traffic upon the streets and to regulate the speed of vehicles within the Town boundaries (C.R.S. § 31-15-702(1)(a)(VII)).
- “Local authorities...have expressly maintained the authority to regulate certain aspects of traffic behavior within their local jurisdictions since the 1935 Uniform Law, including parking, traffic direction, intersection protocol, and speed.” *Webb v. City of Black Hawk*, 295 P.3d 480, 488 (Colo. 2013).
- “State statutes and our decisions construing them support local control over traffic regulations in purely local matters, such as traffic at street intersections or parking.” *Webb v. City of Black Hawk*, 295 P.3d at 490.

POLICE POWER – LOCAL REGULATION OF TRAFFIC

- “...only local authorities are in a position to determine which non-federal or state streets in a residential area need to be regulated in a ‘reasonable’ manner, or would know about these problems in any detail. It is essential that there be some control for the public welfare in certain neighborhoods of such matters as ... excessive noise, congestion and air pollution, as well as speed regulation.” *Asphalt Paving Co. v. Cty. Comm'rs of Jefferson Cty.*, 425 P.2d 289, 294 (Colo. 1967).
- “Though the public has a right to use public streets for purpose of passage, such does not mean that the public authorities cannot reasonably regulate such usage nor does it mean that there is a *carte blanche* right ... to use public ways ... without any control or regulation. ...” *Asphalt Paving Co. v. Cty. Comm'rs of Jefferson Cty.*, 425 P.2d at 295.
- “Municipalities have a broad and general police power to institute regulations for the public good. This power encompasses actions to preserve or promote the health, safety, comfort, and general welfare of its citizens. Typical examples of this police power include traffic regulation...” *Crossroads W. Liab. Co. v. Town of Parker*, 929 P.2d 62, 64–65 (Colo. App. 1996), citing *Denver v. Bargan Land & Investment Co.*, 267 P. 405 (1928) for the proposition that a municipality has discretion to determine useful street improvements.

STATUTORY AUTHORITY – LOCAL TRAFFIC REGULATION OF HIGHWAYS

- Pursuant to C.R.S. § 42-4-105, the Town may place and maintain such traffic control devices upon highways in their jurisdiction as they may deem necessary (1) to fulfill requirements of state law; (2) to fulfill local traffic ordinances, or (3) to regulate, warn, or guide traffic.
- The Town may not regulate or authorize the use of vehicles and motor vehicles on the state highway system that is subject to § 43-2-135, C.R.S., except in at-grade crossings where the roadway crosses the state highway. Under that circumstance, the Town may regulate vehicles within such crossings only to the extent necessary to effect the Town's power to regulate the roadway, and only if the regulation or authorization does not interfere with the normal operation of the state highway. C.R.S. § 42-4-111.
- The Town may regulate vehicular access to or from any public highway under its jurisdiction from or to property adjoining a public highway to protect the public health, safety, and welfare, to maintain smooth traffic flow, to maintain highway right-of-way drainage, and to protect the functional level of public highways, so long as it does not deny reasonable access to the general street system. C.R.S. § 43-2-147.

POLICE POWER – REASONABLE USE IN LOCAL TRAFFIC REGULATION

- Municipal regulations that exclude vehicles or certain classes of vehicles from certain streets may be made, and are valid where they are reasonable and justified. The prohibition of use of certain streets by vehicles may be applicable only at certain times or on certain days. 7A McQuillin Mun. Corp. § 24:640 (3d ed.).
- “A community may also decide that restrictions on the flow of outside traffic into particular residential areas would enhance the quality of life there by reducing noise, traffic hazards, and litter.” *Cty. Bd. of Arlington Cty., Va. v. Richards*, 434 U.S. 5, 7 (1977) (holding that county ordinance enacted to stem flow of traffic into residential neighborhoods did not deny equal protection where ordinance authorized issuance of free parking permits to residents of designated areas, to persons doing business with residents there, and to some visitors, but denied permits to all other persons between 8 a.m. and 5 p.m. on weekdays).
- “The Constitution does not outlaw these social and environmental objectives, nor does it presume distinctions between residents and nonresidents of a local neighborhood to be invidious. The Equal Protection Clause requires only that the restriction rationally promote the regulation's objectives.” *Ibid.*

POLICE POWER – EXAMPLES OF MUNICIPAL TRAFFIC REGULATIONS DISTINGUISHING BETWEEN RESIDENTS AND NON-RESIDENTS

- An ordinance prohibiting large trucks from using two streets, with exception for trucks making deliveries to homes, was a proper exercise of a town's police power where the town provided evidence of traffic counts, traffic hazards, and increased maintenance costs and where there were multiple available alternate routes. *Carl Ainsworth, Inc. v. Town of Morrison*, 539 P.2d 1267, 1268-69 (Colo. 1975).
- A municipality can give preference to residents over non-residents in regulating traffic conditions, so long as it does so to further a legitimate government interest. *Mon Rail Terminal, Inc. v. Borough of Dunlevy*, No. CV 12-159, 2016 WL 7187841, at 8 (W.D. Pa. Dec. 12, 2016) (upholding ordinance prohibiting use of private roads and driveways to access property outside of borough).
- Reduced tolls for residents of host communities of bridges and tunnels furthered compelling interests of reducing air pollution and other environmental effects of automobile commuting, encouraging car pooling and mass transit use, and restricting the flow of outside traffic to reduce noise, traffic hazards, and litter, and therefore did not violate equal protection. *Kelen v. Massachusetts Tpk. Auth.*, 2007 WL 1418510, at 4 (Mass. Super. May 3, 2007).

POLICE POWER – EXAMPLES OF MUNICIPAL TRAFFIC REGULATIONS DISTINGUISHING BETWEEN RESIDENTS AND NON-RESIDENTS

- County ordinance prohibiting turns during peak traffic hours unless motorist resides in area subdivision or works at local elementary school did not violate equal protection principles; classification contained in ordinance was rationally related to governmental interest of reducing traffic volume and hazards and was valid execution of county's police power. *St. Louis Cty. v. Hanne*, 761 S.W.2d 697, 700 (Mo. Ct. App. 1988).
- Barricade erected as traffic control device which merely imposes some circuitry of route is not a prohibited obstruction. Ordinance providing for erection of barricade on public street in residential neighborhood to prevent through traffic was not arbitrary and capricious where evidence showed that traffic on street was excessive. Community may in exercise of its police powers restrict flow of traffic into residential area in order to reduce noise, traffic hazards, and litter. *Jones v. City of Jennings*, 595 S.W.2d 1, 3 (Mo. Ct. App. 1979).

Traffic Control Access Gates

The Town of Foxfield Board of Trustees has approved two traffic control access gates. There will be one on E. Fremont Avenue east of Parker Road and another on S. Richfield Street south of E. Hinsdale Avenue.

Preliminary Plans

On April 18, SEH presented preliminary designs for the gates to the Board of Trustees. Costs and design for some changes were requested by the Board and the revised designs were presented at the May 2 Board of Trustees meeting. The Board chose to move forward with Option 2 for the gate on E. Fremont Avenue. Final designs will be prepared and presented to the Board for approval within 2-4 weeks.

[Traffic Control Gates Preliminary Designs](#)

[Traffic Control Gates Revised Preliminary Designs](#)

Final Plans

The final gate plan documents for the Traffic Control Access Gates at Fremont and Richfield have been completed and reviewed by the Board and the Traffic Committee. In addition, the plans were shared with the City of Centennial and CDOT for their comments.

[Click here to view the plans.](#)

The next step in the process involves securing a contractor to move forward with the project. No acceptable bids were received during two rounds of competitive bids; the Town is working on securing an acceptable bid at this time. Both gates will be under construction at the same time.

<https://www.colorado.gov/pacific/townoffoxfield/news/traffic-control-access-gates>

<https://www.denverpost.com/2019/12/11/foxfield-rush-hour-gates-denver-traffic/>

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Streets & Parking Updates

Temporary Road Closures to Thru-Traffic

Denver's Department of Transportation and Infrastructure is closing select streets to thru-traffic on a temporary basis to create more space for Denver residents to walk, bike and run while complying with physical distancing requirements. The additional room, currently not being used for car traffic, will allow people to enjoy the outdoors and feel more comfortable getting out for a walk, bike ride or fresh air during this time. By officially closing some areas to vehicle thru-traffic, the city hopes to provide a safer experience in alignment with its **Vision Zero** efforts to provide safer streets for all.

While the roads will be closed to thru-traffic, local access will still be allowed, which means people who live on the street, or need to access a destination on the stretch of roadway that is closed, will be allowed access.

Denver Road Closure August 2020



Aspen Road
Closure

August
2020



- Aspen Road Closure
Close-up August 2020



- Aspen Road Closure August 2020



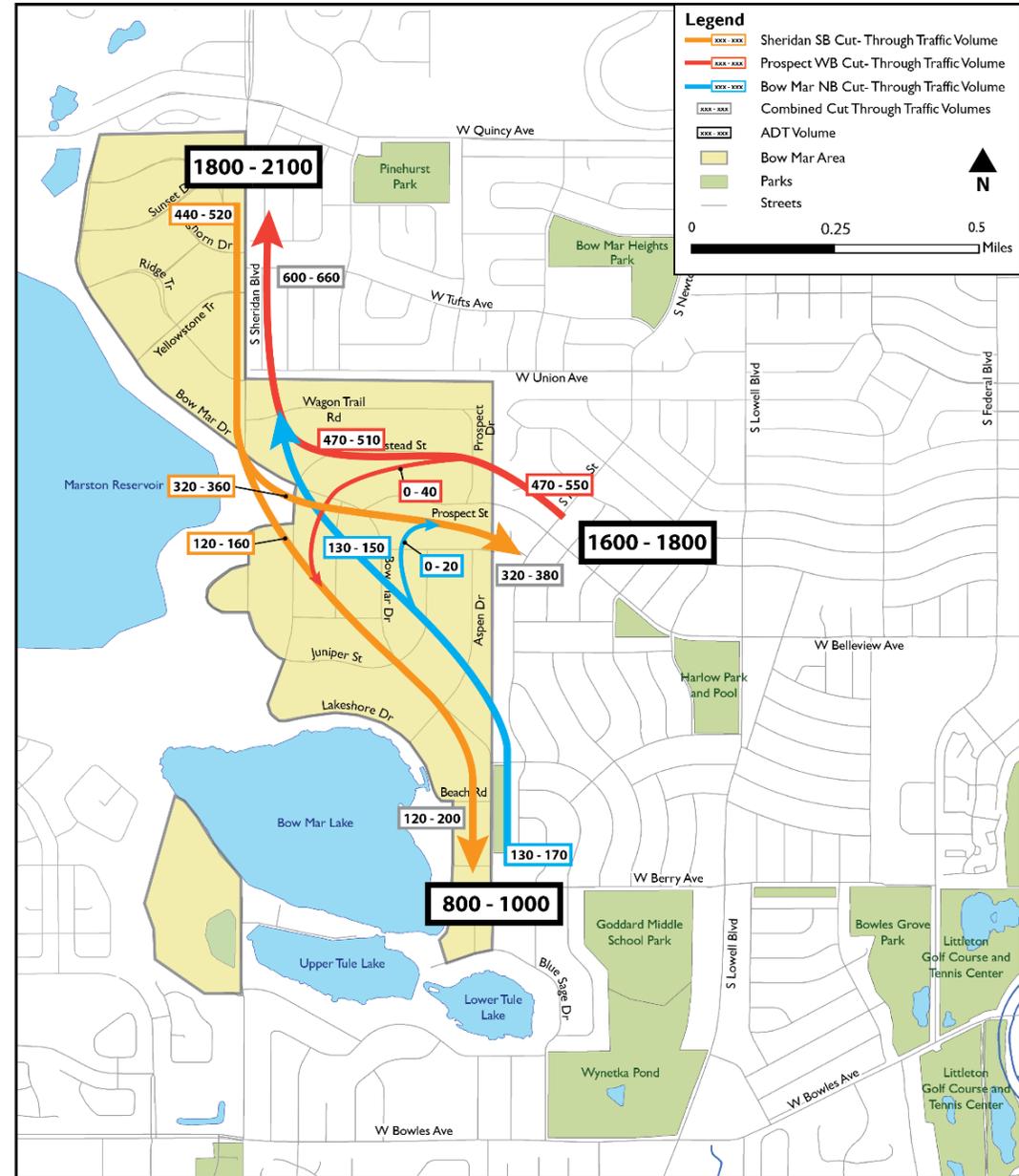
TRAFFIC STUDY RESULTS

Traffic study results are shown on this page and the next. A few points of interest:

- the vehicles speeds were not of concern as the great majority were traveling 25 mph or less.

- Over 50% of the cars traveling through Bow Mar are considered cut-through traffic.

- The options provided by the contractor to mitigate cut-through traffic were gates, tolls, and physical/regulatory measures. The final recommended option was gates with the other options only being supplemental to the gates.



Sheridan Blvd Entrance SB Cut-Through Trip Percentage												
Month/Year	AM Peak (7-9AM)		Midday Peak (11AM-1PM)		PM Peak (4-6PM)		School AM Peak (8-10AM)		School PM Peak (3-5PM)		Daily	
	Prospect St EB	Bow Mar Dr SB	Prospect St EB	Bow Mar Dr SB	Prospect St EB	Bow Mar Dr SB	Prospect St EB	Bow Mar Dr SB	Prospect St EB	Bow Mar Dr SB	Prospect St EB	Bow Mar Dr SB
May 2017	32%	27%	51%	15%	22%	30%	29%	33%	25%	21%	38%	20%
May 2018	27%	38%	36%	11%	46%	25%	37%	29%	37%	16%	40%	25%
April 2018	36%	40%	45%	21%	53%	13%	55%	17%	39%	23%	41%	27%
September 2018	49%	31%	35%	18%	45%	22%	36%	26%	48%	19%	40%	17%
October 2018	37%	0%	29%	24%	49%	10%	23%	16%	28%	26%	42%	16%
July 2018	37%	18%	30%	24%	51%	10%	26%	16%	28%	28%	42%	16%
Average	36%	26%	38%	19%	44%	18%	34%	23%	34%	22%	41%	20%
Average (minus low & high)	36%	29%	37%	20%	48%	18%	31%	22%	33%	22%	41%	20%
Study Average	35-40%	25-30%	35-40%	20-25%	45-50%	15-20%	30-35%	20-25%	30-35%	20-25%	40-45%	15-20%

Prospect Street Entrance WB Cut-Through Trip Percentage												
Month/Year	AM Peak (7-9AM)		Midday Peak (11AM-1PM)		PM Peak (4-6PM)		School AM Peak (8-10AM)		School PM Peak (3-5PM)		Daily	
	Sheridan Blvd NB	Bow Mar Dr SB	Sheridan Blvd NB	Bow Mar Dr SB	Sheridan Blvd NB	Bow Mar Dr SB	Sheridan Blvd NB	Bow Mar Dr SB	Sheridan Blvd NB	Bow Mar Dr SB	Sheridan Blvd NB	Bow Mar Dr SB
May 2017	37%	0%	48%	0%	67%	2%	19%	4%	71%	3%	59%	1%
May 2018	71%	0%	38%	3%	70%	0%	70%	0%	66%	0%	55%	1%
April 2018	79%	0%	45%	5%	68%	0%	71%	0%	63%	0%	63%	2%
September 2018	55%	24%	41%	0%	62%	2%	45%	21%	36%	9%	45%	7%
October 2018	88%	22%	32%	1%	52%	4%	31%	12%	40%	7%	52%	5%
July 2018	67%	4%	50%	8%	66%	3%	64%	4%	60%	6%	56%	3%
Average	66%	8%	42%	3%	64%	2%	50%	7%	56%	4%	55%	3%
Average (minus low & high)	68%	7%	43%	2%	66%	2%	53%	5%	57%	4%	56%	3%
Study Average	65-70%	5-10%	40-45%	0-5%	65-70%	0-5%	50-55%	0-5%	55-60%	0-5%	55-60%	0-5%

Bow Mar Dr Entrance NB Cut-Through Trip Percentage												
Month/Year	AM Peak (7-9AM)		Midday Peak (11AM-1PM)		PM Peak (4-6PM)		School AM Peak (8-10AM)		School PM Peak (3-5PM)		Daily	
	Sheridan Blvd NB	Prospect St EB	Sheridan Blvd NB	Prospect St EB	Sheridan Blvd NB	Prospect St EB	Sheridan Blvd NB	Prospect St EB	Sheridan Blvd NB	Prospect St EB	Sheridan Blvd NB	Prospect St EB
May 2017	100%	0%	15%	0%	53%	7%	62%	0%	40%	0%	41%	5%
May 2018	10%	0%	24%	0%	68%	0%	6%	0%	60%	0%	37%	2%
April 2018	50%	0%	13%	20%	60%	0%	47%	0%	74%	0%	54%	3%
September 2018	12%	0%	36%	0%	57%	0%	15%	0%	58%	0%	37%	0%
October 2018	27%	7%	0%	0%	62%	0%	21%	5%	56%	0%	36%	0%
July 2018	41%	0%	25%	0%	60%	0%	35%	0%	59%	7%	34%	2%
Average	40%	1%	19%	3%	60%	1%	31%	1%	58%	1%	40%	2%
Average (minus low & high)	33%	0%	19%	0%	60%	0%	30%	0%	58%	0%	38%	2%
Study Average	30-35%	0%	20-25%	0%	55-60%	0%	30-35%	0%	55-60%	0%	35-40%	0-5%

PROSPECT GATE CONCEPT

As presented during the August 17, 2020 Trustee meeting, the Town Engineer provided a DRAFT concept on the cost for installing and maintaining a gate at the Prospect St entrance.



Propsect Gate Concept Budget.xlsx
Conceptual Gate Budget

Item Description	Budget
Design	\$ 20,000.00
Planning & Communication	\$ 5,000.00
Subtotal Design	\$ 25,000.00
Turnaround Paving	\$ 5,000.00
Electric Service	\$ 15,000.00
Communications	\$ 5,000.00
Water Tap	\$ 15,000.00
Luminaire	\$ 10,000.00
Signage	\$ 5,000.00
Plantings	\$ 5,000.00
Subtotal Infrastructure	\$ 60,000.00
Gate	\$ 18,000.00
Operators	\$ 46,000.00
Technology	\$ 68,000.00
Access Control	\$ 33,000.00
Subtotal Gates	\$ 165,000.00
Guarding (~77 hrs/wk)	\$ -
Remote Monitoring	\$ 39,000.00
Subtotal Monitoring	\$ 39,000.00
Contingency	\$ 27,000.00
TOTAL Est Budget	\$ 316,000.00
Routine Maintenance	\$ 2,000.00
Repairs & Unplanned	\$ 10,000.00
Total Annual Expenses	\$ 12,000.00