



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB ^{7A}
ITEM # and # ^{7B}
November 8, 2007

MEMORANDUM

DATE: October 26, 2007

TO: Montgomery County Planning Board

VIA: Mary Dolan, Acting Chief, Countywide Planning Division *MD*
Stephen D. Federline, Supervisor, Environmental Planning, Countywide Planning Division *CB*

FROM: Candy Bunnag, Planner Coordinator, Environmental Planning, Countywide Planning Division *CB*

SUBJECT: Staff Recommendations for Board Approval of:
A. Special Protection Area (SPA) Water Quality Plan
and
B. Preliminary Forest Conservation Plan

for Mandatory Referral 07604-MCPS-1, Cloverly Elementary School Gymnasium Addition

STAFF RECOMMENDATIONS

Staff recommendations are provided below for two Planning Board actions on the following plans for the Cloverly Elementary School Gymnasium Addition (Mandatory Referral 07604-MCPS-1).

A. SPA Preliminary/Final Water Quality Plan Recommendations:

Approval of the Special Protection Area (SPA) combined preliminary and final water quality plan with the following conditions:

1. Montgomery County Public Schools (MCPS) will formalize its proposal, stated in its attached letter dated October 19, 2007 (Attachment A), through submission of a memorandum of understanding (MOU) which contain the following elements:
 - a. Montgomery County Public Schools (MCPS) will create and maintain a pervious reserve land bank to mitigate imperviousness in the Upper Paint Branch SPA for Cloverly Elementary School and all other future school projects in the SPA. All land that is acquired must be located in the Upper Paint Branch SPA.
 - b. The initial acquisition of land (by an executed contract of sale or deed conveying title) must be at least 33,225 square feet of otherwise developable land to satisfy the pervious surface credit requirements of 2658 square feet for Cloverly Elementary School, at a minimum, and must occur no later than December 31, 2008.
 - c. Additional land acquisitions must be programmed to secure sufficient pervious reserve land to meet imperviousness limits of the Environmental Overlay Zone for any future projects. In addition to Cloverly Elementary School, schools in the SPA include: Fairland and Drew Elementary Schools; Briggs Chaney and Banneker Middle Schools; and Paint Branch High School.
 - d. Funds for the initial acquisition of pervious reserve land must be included in the FY2008 CIP.
2. The draft MOU must be submitted to M-NCPPC staff prior to December 31, 2007.
3. Total impervious surfaces on the Cloverly Elementary School site will cover no more than 2.53 acres, as shown on the "Water Quality Exhibit" plan, dated 9/24/07.
4. Applicant will conform to the conditions stated in DPS' water quality plan approval letter dated July 17, 2007.

B. Preliminary Forest Conservation Plan Recommendations

Approval of the preliminary forest conservation plan subject to the following conditions:

1. Compliance with the conditions of approval for the preliminary forest conservation plan dated 10/09/07. The applicant must meet all conditions prior to MCDPS issuance of sediment and erosion control permit(s), as appropriate. Conditions include, but are not limited to, the following:
 - a. Final Forest Conservation Plan must include the following:
 - i. Permanent tree protection signs must be placed around the boundary of the tree cover area at the rear of the site.
 - ii. A minimum of 89 2-inch caliper native trees will be planted in the proposed tree cover area along the northern part of the property as shown on the preliminary forest conservation plan.

DISCUSSION

There are three items for Planning Board review for the Cloverly Elementary School project: the mandatory referral, the Special Protection Area (SPA) Combined Preliminary and Final Water Quality Plan, and the Preliminary Forest Conservation Plan. This memorandum covers staff's review and recommendations for Board action on the SPA Combined Preliminary and Final Water Quality Plan and the Preliminary Forest Conservation Plan for the proposed project.

The Board's actions on the SPA Water Quality Plan and the Preliminary Forest Conservation Plan are regulatory and binding. The Planning Board must act on the SPA Water Quality Plan and the Forest Conservation Plan before making its recommendations on the mandatory referral.

Site Description

The 10.50-acre site is located on the north side of Briggs Chaney Road, east of New Hampshire Avenue. It lies within the Upper Paint Branch Special Protection Area. An elementary school is located on the site.

Existing trees occur both on the northern and southern portions of the site. There are 12 trees that are 24 inches or greater in diameter at breast height. There are no streams, wetlands, floodplains, or environmental buffers on the site.

Proposed Project

The applicant proposes to construct a 5691- square foot gymnasium building addition to the existing school. A four-foot wide concrete sidewalk on the east side of the site is also proposed for construction. Some existing impervious surfaces on the site are proposed for removal.

Review for Conformance to the Special Protection Area Requirements

As part of the requirements of the Special Protection Area law, a SPA water quality plan should be reviewed in conjunction with a mandatory referral¹. Under the provision of the law, the Montgomery County Department of Permitting Services (DPS) and the Planning Board have defined responsibilities in the review of a water quality plan. DPS has reviewed and approved the elements of the preliminary water quality plan under its purview. The Planning Board

¹ Section 19-62 (c) of the Montgomery County Code states that " before engaging in any land disturbing activity on publicly owned property in an area designated as a special protection area, the applying agency or department should prepare a combined preliminary and final water quality plan."

responsibility is to determine if environmental buffer protection, SPA forest conservation and planting requirements, and site imperviousness limits have been satisfied.

Environmental Planning staff has reviewed and recommends Planning Board approval of the elements of the SPA water quality plan under Planning Board purview:

Site Imperviousness

The Upper Paint Branch SPA is one of two SPAs with regulatory impervious surface restrictions for development projects. These are set forth in the Environmental Overlay Zone for the Upper Paint Branch SPA. The Environmental Overlay Zone was recently amended (adopted October 2, 2007; effective October 2, 2007) to lower the impervious surface limit on new development from 10% to 8%.

There is also a provision for projects with impervious surfaces lawfully existing before July 31, 2007 that already exceed the 8 percent limit and are proposing to construct features within the project area. Section 59-C-18.152 (a)(1)(A) of the Montgomery County Code states:

“(A) Any impervious surface lawfully existing pursuant to a building permit issued before July 31, 2007 that exceeds the 8 percent restriction, may continue or be reconstructed under the development standards in effect when the building permit was issued.”

To conform to the Environmental Overlay Zone, the site imperviousness for this project cannot be increased over what exists today. That is, there cannot be any net gain in impervious surfaces.

The first option for compliance is to eliminate existing onsite imperviousness, if opportunities exist to do so. The applicant proposes to remove some existing impervious surfaces, including some of the school's paved walkways and a small macadam play area at the front of the school. The total amount of impervious surfaces proposed for removal is about 4693 square feet. However, this reduction alone is not enough to offset the 7295 square feet of additional impervious surfaces as proposed for the gymnasium and a proposed 4-foot concrete sidewalk. *The applicant has indicated that there is no additional impervious surfaces that can be removed on the site without affecting school programs. The applicant has also indicated that there are no impervious surfaces that can be removed on any other school site in this SPA to offset the net increase of impervious surfaces on Cloverly Elementary School. Therefore, there is a proposed net increase of 2658 square feet of impervious surfaces on the site. Such an increase does not conform to the Upper Paint Branch SPA Environmental Overlay Zone.*

Staff met with MCPS staff at the office of County Council President Marilyn Praisner. At the meeting, staffs of M-NCPPC and MCPS agreed to the following measures:

- A memorandum of understanding would be developed between M-NCPPC and MCPS to achieve the following: MCPS would commit to creating and maintaining a land bank to meet imperviousness limits in the Upper Paint Branch SPA for the Cloverly Elementary School gymnasium project and future projects on public school sites within the Upper Paint Branch SPA.
- Initial land acquisition would need to occur no later than December 31, 2008. Additional acquisitions would follow if more land is needed to meet imperviousness requirements for remaining school projects in the SPA.
- Appropriation for the initial acquisition would be requested in the FY2008 CIP.

These items have been re-iterated in MCPS' letter of October 19, 2007 to Gwen Wright (Attachment A).

Staff recommends that MCPS formalize, through a memorandum of understanding, its commitment to create a land bank (a.k.a., pervious surface reserve) for the project at Cloverly Elementary School, as well as for future projects on other public school sites within this SPA. At a minimum, MCPS should commit to acquiring land to meet the imperviousness requirements of the Upper Paint Branch SPA Environmental Overlay Zone for the Cloverly Elementary School project by December 31, 2008. Staff recommends that a draft of the MOU should be submitted by MCPS by December 31, 2007 for review and approval by planning and legal staff.

Environmental Buffers

There are no streams, wetlands, floodplains, or environmental buffers on the subject site.

County DPS Special Protection Area Review Elements

DPS has reviewed and conditionally approved the elements of the SPA water quality plan under its purview (see Attachment B).

Site Performance Goals

As part of the water quality plan, the following performance goals were established for the site: minimize the loss of sedimentation from the site during construction, encourage groundwater recharge, and limiting the construction access to that shown on the Preliminary/Final SPA Water Quality Plan.

Stormwater Management Concept

Water quality control will be provided through the construction of a Bio Filter near the existing entrance to the school site. This stormwater management facility will treat an area of existing

parking lot that is at least as large as the rooftop area of the proposed gymnasium. Providing water quality control for an existing parking lot is considered to be more environmentally beneficial than water quality control for a new roof area. DPS is not requiring channel protection volume because the one-year post development peak stormwater discharge is less than or equal to 2.0 cfs.

Sediment and Erosion Control

DPS is requiring the use of super silt fences around the perimeters of disturbed areas.

Monitoring of Best Management Practices

DPS has determined that this project does not need to conduct any stormwater monitoring.

Review of the Preliminary Forest Conservation Plan

The Preliminary Forest Conservation Plan proposes to plant a 1.27-acre tree cover area at the northern portion of the site. In addition, native trees will be planted within the parking lot at the front of the site. The tree cover area and the planted trees in the parking lot are proposed to meet the site's afforestation requirement of 1.58 acres.

Section 22A-12(d)(2) of the County Forest Conservation Law allows for the use of tree cover to meet a project's afforestation requirement if the Planning Board determines that forest cover is inappropriate for the site:

“Afforestation should be accomplished by the planting of forest cover. However, if the applicant demonstrates to the satisfaction of the Planning Board or Planning Director, as the case may be, that afforestation using forest cover is inappropriate for a site because of its location in an urban setting, redevelopment context, high-density residential, commercial, industrial, planned unit development, or institutional area (as defined in Section 22A-3), or similar reason, afforestation requirements may be satisfied by tree cover.”

Section 22A-3 of the County Forest Conservation Law defines “institutional development area” as “land occupied by uses such as schools, colleges and universities, military installations, transportation facilities, utility and sewer projects, government offices and facilities, fire stations, golf courses, recreation areas, parks, and cemeteries...”

The applicant has indicated that tree cover is appropriate for the site (see letter from R. Craig Shulman, Jr., MCPS project manager, dated 10/24/07, Attachment C). No high priority planting areas (e.g., existing contiguous forest offsite, onsite forest, environmentally-sensitive areas, etc.) exist on or adjacent to the site. The applicant indicates that the proposed planting area on the northern end of the site is where many students walk through to get to the school; planting and maintaining the northern area as a landscaped tree cover area would be more appropriate than

creating a forested area. In addition, the trees planted in the parking lot will provide, over time, some shade over impervious surfaces. Staff agrees with the applicant's proposal to create tree cover on this site to meet the project's afforestation requirement.

The proposed Preliminary Forest Conservation Plan, with changes as recommended in staff's conditions, meet the requirements of the County Forest Conservation Law.

CB:SDF:MD: g:\finalpb\ cloverly es mr_fcp and spa wqplan staff report.doc

ATTACHMENT A
(1 of 2)**MONTGOMERY COUNTY PUBLIC SCHOOLS**
www.montgomeryschoolsmd.org

MARYLAND

October 19, 2007

Ms. Gwen Wright, Acting Director
Department of Planning
Maryland-National Capital Park
and Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910

Dear Ms. Wright:

Re: Cloverly Elementary School
Mandatory Referral #07604-MCPS-1

This is to confirm that Montgomery County Public Schools (MCPS) will work collaboratively with the Maryland-National Capital Park and Planning Commission to prepare a Memorandum of Understanding (MOU) in which MCPS agrees to purchase real property in the Upper Paint Branch Special Protection Area (SPA) for the creation of an "impervious land bank." The properties to be acquired by the Board of Education will be used to provide mitigation against imperviousness and to fulfill the forestation requirements relating to future school projects in the SPA.

The MOU will include the following:

1. A statement of purpose to create and maintain a land bank to mitigate imperviousness in the Upper Paint Branch Special Protection Area in connection with future school projects located within its bounds.
2. The schools located within the SPA are: Cloverly, Fairland, and Dr. Charles Drew elementary schools; Briggs Chaney and Benjamin Banneker middle schools; and Paint Branch High School.
3. Initial acquisition, demonstrated by an executed contract of sale or deed conveying title, shall be no later than December 31, 2008. Additional acquisitions may follow after this date in order to meet mitigation requirements.
4. Appropriation for initial acquisition will be requested as a special appropriation in the FY 2008 Capital Budget.

Department of Facilities Management

2096 Gaither Road, Suite 200 ♦ Rockville, Maryland 20850 ♦ 240-314-1060

ATTACHMENT A
(2 of 2)

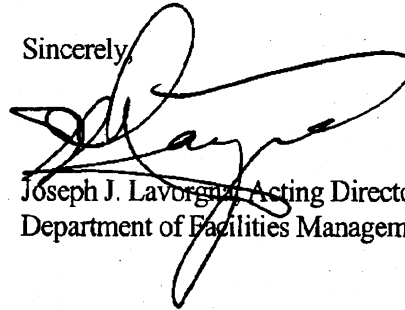
Ms. Gwen Wright

-2-

October 19, 2007

Should you have any questions, please contact Mr. James Song, director, Division of Construction, at 240-314-1000.

Sincerely,



Joseph J. Lavorgna, Acting Director
Department of Facilities Management

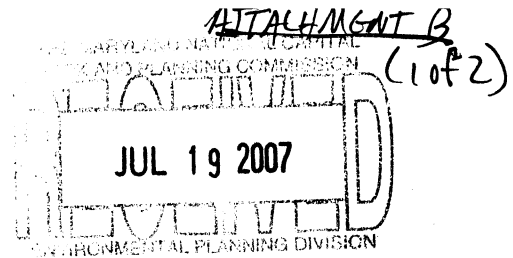
JJL:jlc

Copy to:

Mr. Bagai

Mr. Song

Ms. Turpin



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

Carla Reid Joyner
Director

July 17, 2007

Mr. Michael J. Kay
Burgess & Niple, Inc.
3204 Tower Oaks Boulevard, Suite 200
Rockville, Maryland 20852

Re: **Preliminary/Final Water Quality Plan**
for Cloverly Elementary School
SM File #: 231351
Tract Size/Zone: 10.05 Ac/RE-1
Tax Plate: JS61
Parcel: P120
Watershed: Upper Paint Branch

SPECIAL PROTECTION AREA

Dear Mr. Kay:

Based on a review by the Department of Permitting Services, the Preliminary/Final Water Quality Plan (PFWQP) for the above mentioned site is conditionally approved. This approval is for the elements of the Preliminary/Final Water Quality Plan of which DPS has lead agency responsibility, and does not include limits on imperviousness or stream valley buffer encroachments.

Site Description: The site is located at 800 Briggs Chaney Road. This proposal is for the construction of a gymnasium addition to the elementary school. This site is tributary to the Left Fork of the Upper Paint Branch. This watershed has been designated as a Special Protection Area.

Stormwater Management: Channel protection volume is not required because the one-year post development peak discharge is less than or equal to 2.0 cfs. Quality control will be provided via construction of Bio Filter near the existing entrance to the school site. This facility will treat an area of existing vehicular imperviousness at least as large as the new rooftop area created by the gymnasium addition. This provision of water quality control for existing uncontrolled parking areas is considered to be more environmentally beneficial than direct treatment of the new roof area.

Sediment Control: Silt fence alone will not be allowed as a perimeter control. The use of super silt fence will be acceptable for small areas of disturbance. Immediate stabilization is to be emphasized.

Performance Goals: The performance goals that were established at the pre-application meeting are to be met as specified in the Preliminary and Final Water Quality Plan. They are as follows:

1. Minimize the loss of sedimentation from the site during construction.

2. Encourage groundwater recharge.
3. Construction access will be limited to that shown on the approved Preliminary/Final Water Quality Plan.

Monitoring: Stormwater monitoring is not required for this project.

Conditions of Approval: The following conditions must be addressed in the initial submission of the detailed sediment control/stormwater management plan. This list may not be all inclusive and may change based on available information at the time of the subsequent plan reviews:

1. Provide clear and unimpeded access to all stormwater management structures from a public right-of-way.
2. Unless precluded by the presence of groundwater, two feet of stone (dead storage) is to be provided below the underdrain pipe of the proposed bio filter to provide additional groundwater recharge.
3. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
4. A detailed review of the stormwater management computations will occur at the time of detailed plan review.

Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended Water Quality Plan requirements.

If you have any questions regarding these actions, please feel free to contact Mark Etheridge at (240) 777-6338.

Sincerely,



Richard R. Brush, Manager
Water Resources Section
Division of Land Development Services

RRB:dpm:CN231351

cc: C. Conlon (MNCPPC-DR)
C. Bunnag (MNCPPC-ED)
M. Sommerfield (MCDEP)
SM File # 231351

Qn: on-site 0.2 ac.
Ql: on-site 0.2 ac.
Recharge provided on-site

ATTACHMENT C (1 of 2)

Montgomery
County
Public
Schools

DIVISION OF CONSTRUCTION
Montgomery County Public Schools

2096 Gaither Road, Suite 203, Rockville, MD 20850-240-314-1000 • (FAX) 240-314-1036

October 24, 2007.

Candice Bunnag
Maryland-National Capital Park & Planning Commission
Environmental Planning,
Countywide Planning Division
8787 Georgia Avenue
Silver Spring, MD.

Telephone: 301-495-4543
Fax: 301-495-1303
email: candy.bunnag@mncppc-mc.org

Re: Cloverly Elementary School
Mandatory Referral
Forest Conservation Plan

Dear Ms. Bunnag,

Thank you for your assisting us in development a Forest Conservation Plan for Cloverly Elementary School that complies with Forest Conservation Law, maintains the safety of the students walking to and from the school site and, at the same time, improves and enhances the environment and respects LEED design principles.

The school site has an afforestation requirement, not a reforestation requirement. Per our previous correspondence, you confirmed that the forest conservation law allows afforestation to be met through "tree cover" rather than "forest cover" if the applicant demonstrates to the satisfaction of the planning board that "forest cover is inappropriate for the site because of its location in an urban setting, redevelopment context, institutional area, or similar reason." MCPS proposes to meet the Cloverly Elementary School site's afforestation requirement via "tree cover".

The existing Cloverly Elementary School site has many trees, but no forest. While there are forests in areas around the school property, there are no forests that are immediately adjacent to the school. There are also no buffer areas on or adjacent to the school property.

Virtually all of the students who walk to the school come from the residential development to the North of the property and approach the school from the back of the site and building. Currently, there is a clear line of sight to the rear property line from the school ensuring the safety of the students while

ATTACHMENT C (2 of 2)

Cloverly Elementary School
Gymnasium Addition
Forest Conservation

2

October 25, 2007

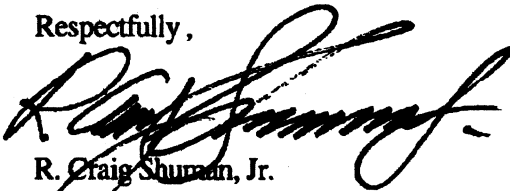
on school property. Planting this particular site area in "tree cover" and maintaining it as a more manicured, landscaped tree cover area rather than a forest would help to maintain student safety and provide a relatively clear line of sight while complying with forest conservation law. It would also enhance the residential setting of the adjacent neighborhood.

Planting "tree cover" rather than "forest cover" in and/or around parking areas at the front of the school also plays a major role in reducing heat-island effect by shading some of the site's impervious areas in keeping with LEED design.

For these reasons, we believe that afforestation via tree cover is the most appropriate solution to meeting the site-specific requirements of Cloverly Elementary School.

Again, thank you for your assistance. Please feel free to call if you have any questions or need additional information.

Respectfully,



R. Craig Shuman, Jr.
Project Manager
Montgomery County Public Schools
Division of Construction

Copy to: James Song, Director
Michael Shpur, MCPS DOC Senior Architect
Rakesh Bagai, Project Manager