



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


Agenda Item No. 9


Agenda Date: January 10, 2008

December 31, 2007

MEMORANDUM

TO: Montgomery County Planning Board

VIA: Mary Bradford, Director of Parks
Michael F. Riley, Acting Deputy Director 

FROM: William E. Gries, Land Acquisition Specialist 

SUBJECT: Authorization to Convey 6,678 square feet (0.1533 acres), of parkland at Cross Creek Club Local Park, in Fee Simple, to the State Highway Administration of the Maryland Department of Transportation as Right-of-Way for the Intercounty Connector.

RECOMMENDATION:

Staff recommends that the Montgomery County Planning Board approve the attached resolution (Attachment #1) authorizing the Commission to convey, in fee simple, to the State Highway Administration (SHA) of the Maryland Department of Transportation 6,678 square feet (0.1533 acres) of parkland at Cross Creek Club Local Park as right-of-way for the Intercounty Connector.

This property is located within the construction limits of Contract "C" for the ICC. The area covered by Contract "C" runs between U.S. Rte. 29 (Columbia Pike) on the west and Interstate 95 in Prince George's County on the east. The consideration to be given by SHA for this parkland conversion is considered to be part of the ICC mitigation package of 776.6 acres of replacement parkland identified in the approved Record of Decision (ROD) for the ICC project. The 776.6 acres of mitigation land to be conveyed by SHA in exchange for approximately 74 acres of existing parkland, in fee simple, and approximately 14 acres of existing parkland in temporary easements is specifically identified on Attachment #2, an excerpt from the ROD. All mitigation lands identified in Attachment #2 will be conveyed by SHA to the M-NCPPC at no cost, with the exception of the Santini Road property, which is to be conveyed to WSSC as watershed protection land for the T. Howard Duckett Reservoir and the Dungan property, which will be dedicated to M-NCPPC as part of the development approval process for Bowie Mill Estates. SHA has awarded Contract "C" for the ICC project and the subject land should be conveyed to SHA as soon as possible.

A map showing the taking area from Cross Creek Club Local Park is included here as Attachment #3.

BACKGROUND:

On May 29, 2006 the Federal Highway Administration issued its Record of Decision (ROD) on the proposed Intercounty Connector between I-370 in Montgomery County and Route 1 in Prince George's County. The ROD includes the parkland mitigation strategy that was approved by the Planning Board on September 15, 2005. Subsequent to the ROD being issued SHA has begun the acquisition of properties needed for the right-of-way to support the project. In addition to initiating negotiations to acquire property from private landowners and Montgomery County, SHA has, to date, negotiated three purchases from M-NCPPC. The first involved the purchase of approximately 130 acres of ALARF properties, which was approved by the Montgomery County Planning Board on July 6, 2006 and confirmed by the full Commission on July 27, 2006. The second involved the purchase of approximately 87 acres of ALARF properties, which was approved by the Montgomery County Planning board on February 15, 2007 and confirmed by the full Commission on March 21, 2007. The third involved the conveyance of approximately 74 acres of existing parkland, in fee simple, and 14 acres of existing parkland, in temporary easements, which was approved by the Montgomery County Planning Board on March 8, 2007 and confirmed by the full Commission on March 21, 2007.

It should be noted that the parkland required for the ICC at Cross Creek Local Park was not included in the draft EIS initially submitted to Federal Highway by SHA as a parkland impact. When the draft EIS was submitted, SHA was expecting to acquire this property from the developer of Cross Creek Club, a residential development straddling the Montgomery County/Prince George's County line. However, the Commission received and recorded a deed of dedication to Cross Creek Club Local Park, which included the 6,678 square feet (0.1533 acre) required for the ICC project, before SHA was able to complete its purchase. In that the amount of parkland impacted at Cross Creek Club Local Park is less than a quarter acre and SHA has identified this new park impact as an acceptable post ROD refinement with Federal Highway Administration, staff does not consider this conveyance to be of significant consequence. There is no parkland other than Cross Creek Club Local Park affected by the ICC within the limits of Contract "C", either owned by the Commission or Montgomery County, nor are there any temporary easements required on parkland within the limits of Contract "C".

FUTURE PARKLAND CONVEYANCES:

The conveyance of parklands and temporary construction easements within the limits of Contract "B" (between Georgia Avenue and Rte. 29) have not been finalized and an official request for these conveyances has not yet been

indicate that within the limits of Contract "B" the ICC will require 48.01 acres of parkland, in fee, and 10.146 acres in temporary construction easements. Of this amount, 13.613 acres of the fee area and 0.224 acres of temporary construction easement area are owned by Montgomery County while the Commission owns the balance. Staff expects to present a recommendation regarding the conveyances of these lands to the Board in late January or early February of 2008. As with the County owned parkland conveyances required within the limits of Contract "A", SHA will deal directly with the County for the County owned parkland conveyances required within the limits of Contract "B".

SUMMARY:

Staff recommends to the Board that it approve the conveyance, in fee, of 6,678 square feet (0.1533 acres) of parkland, which lies within the limits of Contract "C" of the ICC project at Cross Creek Club Local Park to SHA. The consideration to be given for this conveyance is included in the mitigation strategy approved for the ICC project and detailed in the Record of Decision.

Assuming the Montgomery County Planning Board approves the staff recommendation contained in the memorandum, this matter will be scheduled for final approval action by the full Commission at its regularly scheduled meeting on January 16, 2008.



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

MCPB
M-NCPPC

RESOLUTION

WHEREAS, the Maryland-National Capital Park and Planning Commission (Commission) owns parkland along the master planned alignment of the Intercounty Connector (ICC), between I-370 on the west and the Montgomery and Prince George's County line on the east; and

WHEREAS, the Commission acquired 6.01 acres of parkland in dedication from the developer of a residential subdivision known as Cross Creek Club by deed dated August 8, 2005 and recorded on March 20, 2007 among the Land Records of Montgomery County, Maryland in Liber 33993 at Folio 311, which property is identified in Montgomery County Tax Records as Tax I.D. #9-1-2008 and is designated a part of Cross Creek Club Local Park; and

WHEREAS, on May 29, 2006, the Federal Highway Administration, U.S. Department of Transportation, issued its Record of Decision (ROD) on the ICC, which allows the State Highway Administration (SHA) to complete the acquisition of land and other real estate interests needed for the construction of the ICC; and

WHEREAS, Post ROD Refinements related to Contract C for the construction of the ICC have been reviewed and approved by the Federal Highway Administration on March 2, 2007; and

WHEREAS, in consideration of the Commission granting fee simple interest in approximately 74 acres, and temporary easement interests in approximately 14 acres of parkland for the ICC, including 0.1533 acres of the above described Property (as herein defined and included in this Resolution) to SHA, SHA will convey as mitigation land approximately 776 acres of replacement parkland and watershed lands to the Commission and the Washington Suburban Sanitary Commission as required by the Federal Highway Administration's ROD; and

WHEREAS, the SHA has requested that the Commission convey that portion of Cross Creek Club Local Park, consisting of 0.1533 acres, in fee simple to the SHA for ICC right-of-way; and

WHEREAS, said portion of the herein described property is more particularly described as Item No. 97404 on SHA Plat 57100; and

WHEREAS, the Montgomery County Planning Board received and considered a recommendation from staff of the Commission at its regularly scheduled meeting on Thursday, January 10, 2008, that the portion of the Cross Creek Club Local Park described above is not needed for public park use or any other use of the Commission and this conveyance of property is in the public interest; and

WHEREAS, on Thursday, January 10, 2008, the Montgomery County Planning Board concluded that the property is no longer needed for public park use or other public use under Article 28, Annotated Code of Maryland; and

WHEREAS, the Montgomery County Planning Board approved the conveyance of the herein described property within Cross Creek Club Local Park, consisting of 0.1533 acres, in fee simple, to SHA;

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Section 5-111, Article 28, Annotated Code of Maryland, The Maryland-National Capital Park and Planning Commission hereby declares that the 0.1533 acres, in fee simple, as described herein, is not needed for park purposes or other public purpose under Article 28, Annotated Code of Maryland;

BE IT FURTHER RESOLVED, that pursuant to Article 28, Annotated Code of Maryland, The Maryland-National Capital Park and Planning Commission hereby approves the conveyance of the property described herein to SHA, in consideration for SHA conveying mitigation lands specified in the Federal Highway Administration, U.S. Department of Transportation's ROD for the ICC as issued on May 29, 2006, and subject to Post ROD Refinements related to Contract C approved by the Federal Highway Administration on March 2, 2007.

* * * * *

This is to certify that the forgoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner _____, seconded by Commissioner _____, with Commissioners _____, _____, _____, and _____ voting in favor of the motion at its regularly scheduled meeting held on January 10, 2008 in Silver Spring, Maryland.

Oscar S. Rodriguez
Executive Director

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This is to certify that the forgoing is a true and correct copy of a resolution adopted by The Maryland-National Capital Park and Planning Commission on motion of Commissioner _____, seconded by Commissioner _____, with Commissioners _____, _____, _____, and _____ voting in favor of the motion at its regularly scheduled meeting held on January 16, 2008 in Silver Spring, Maryland.

Oscar S. Rodriguez
Executive Director

Approved as to legal sufficiency
M-NCPPC Legal Department
Date 1/2/08

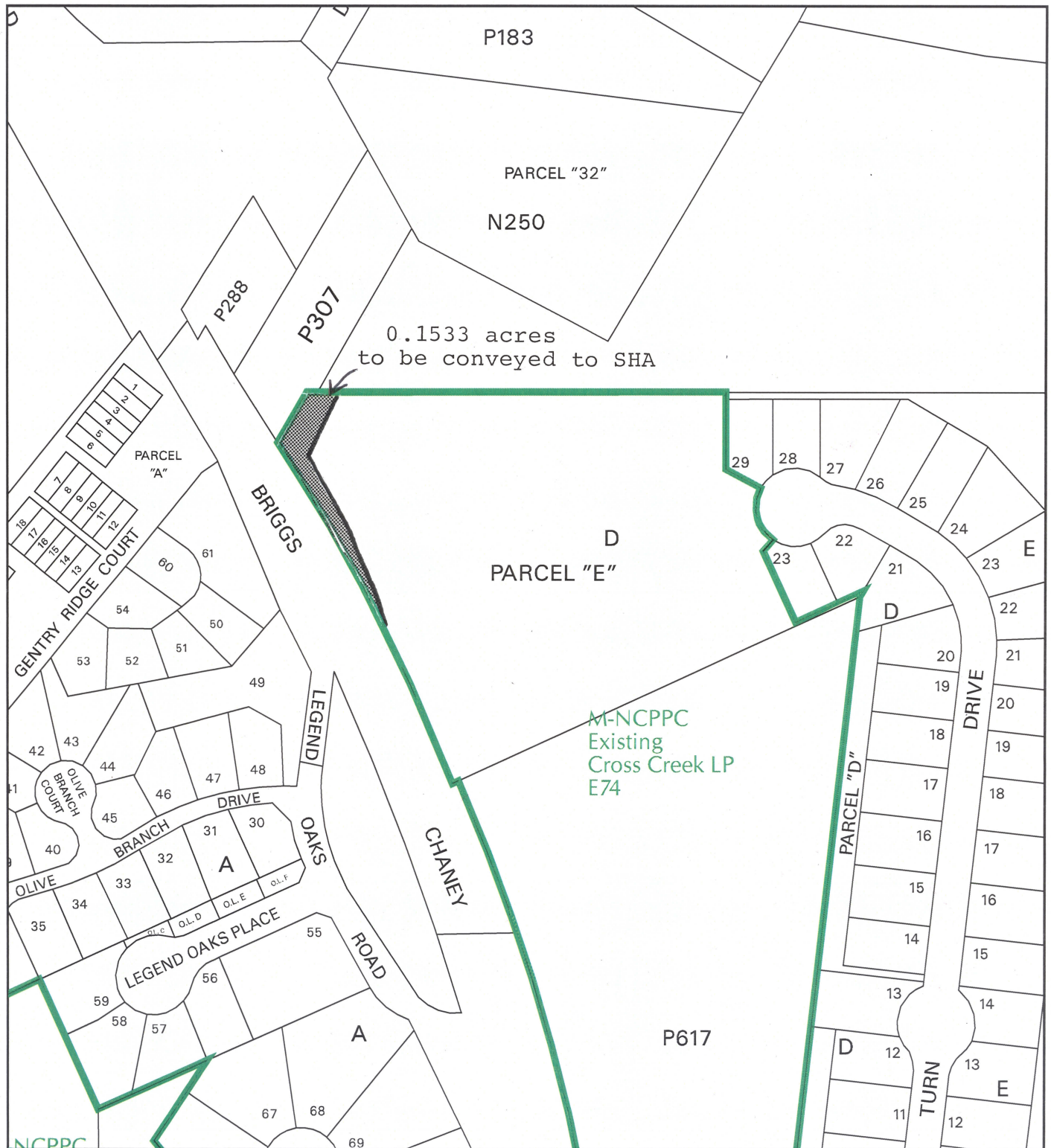
Table 5
Parkland for Selected Alternative

Property	Acres	Description
Dungan Property North	44.9 acres	The Dungan Property North would provide 44.9 acres of replacement parkland adjacent to existing parkland in the North Branch Rock Creek Watershed. This property would provide stream valley protection, passive recreational opportunities, and community open space. It contains 738 linear feet of streams, 20 acres of forest, and 24.5 acres that would be reforested by SHA. Once reforested, there is potential in the future for up to 87 acres of new FIDS habitat on site and on adjacent lands in North Branch Stream Valley Park.
Llewellyn Property	23.2 acres	The Llewellyn property would provide 23.2 acres of replacement parkland adjacent to the Northwest Branch Recreational Park. The property would include construction of four baseball/softball fields, one soccer field, onsite parking, and restrooms. The replacement fields would be superior in quality than the existing fields because they are located in upland areas that are less prone to flooding. Access to these replacement fields would be provided directly from MD 28, which is also an improvement over access to the existing fields from Layhill Road and Bonifant Road. This property would also provide 3 acres of reforestation land.
Peach Orchard Allnut Property	118 acres	The Peach Orchard Allnut property would provide 118 acres of replacement parkland in the Upper Paint Branch Watershed. This site would provide stream valley protection and passive recreational opportunities. The Peach Orchard Allnut site would provide 15.9 acres of wetlands, 2,100 linear feet of streams, and 28.3 acres of forest. There would also be approximately 90 acres of potential reforestation land and 67 acres of potential future FIDS habitat. Also, because it is at the headwaters of the Paint Branch, it would serve to protect this portion of the stream.
Santini Road Properties	49.2 acres	The Santini Road Properties would serve to protect undeveloped land in the sensitive Rocky Gorge watershed, thereby providing stream valley protection, passive recreation, and community open space in this portion of the County. Though not directly adjacent to the T. Howard Duckett Watershed Property, these properties would be conserved as parkland and protected from future development. Therefore, they would continue to offer additional protection for the T. Howard Duckett (Rocky Gorge) Reservoir. These sites contain 35.2 acres of existing forest and an additional 14 acres would be reforested.
Southern Asia Adventist Property	23.2 acres*	The Southern Asia Adventist Property would provide 23.2* acres of replacement parkland in the Upper Paint Branch Watershed. The site would provide stream valley protection and passive recreational opportunities. It contains extensive areas of stream valley buffer and good quality forest. It also contains the critical headwater wetland complexes of the Left Fork of the Paint Branch. These features would be protected by converting this land to parkland.
McNeill Property	36.2 acres*	The McNeill Property would provide 36.2* acres of replacement parkland in the Upper Paint Branch Watershed. The site would provide stream valley protection and passive recreational opportunities. It contains extensive areas of stream valley buffer and good quality forest. It also contains the critical headwater wetland complexes of the Left Fork of the Paint Branch. These features would be protected by converting this land to parkland.
Casey Property at Hoyles Mill	459 acres	The Casey Property at Hoyles Mill is located outside of the ICC Study Area, near Poolesville in Montgomery County. This site, which would become public parkland, would add an additional 459 acres to the park system adjacent to several existing parks including Seneca Creek State Park, South Germantown Recreational Park, Little Seneca Stream Valley Park and Hoyles Mill Conservation Park. Preservation of this property will add over 340 acres of existing forest and 214 acres of existing FIDS habitat to the park system. There is approximately 118 acres of open land that may be available for reforestation, which could also help increase the FIDS habitat to approximately 340 acres on site.
Unused DTA in Northwest Branch Stream Valley Park - Unit 5	21.3 acres	The unused portion of the DTA in Northwest Branch Stream Valley Park - Unit 5 would be converted to parkland adding 21.3 acres to the park. The conversion of this land would protect land adjacent to the existing park that has many of the same natural features and passive recreational functions as the adjacent parkland.
SHA-Owned Unused DTA Adjacent to Upper Paint Branch Stream Valley Park	7.6 acres	The unused SHA-owned DTA adjacent to Upper Paint Branch Stream Valley Park will be transferred to M-NCPPC for incorporation into the park. This area includes forests, wetlands, streams, and FIDS habitat. It was originally acquired by SHA for the ICC. It is not needed due to a change in the corridor for the ICC on the M-NCPPC's Master Plan in 1982. For further information about this 7.6-acre parcel, see the Addendum to the Section 4(f) Evaluation, which is attached as to this ROD as <i>Attachment G</i> .
TOTAL	782.6 acres (total); 776.6 (net)*	* The total of the properties listed above is 782.6 acres. However, it is expected that approximately six acres of land (total) located on the Southern Asia Adventist and McNeill Properties would be reserved for the planned widening of MD 198. When this acreage is subtracted, the net total is 776.6 acres ²⁵

25

SHA has committed to transfer the unused Designated Transportation Area described in this table to M-NCPPC (the 21.3 acres in Northwest Branch Stream Valley Park and the 7.6 acres adjacent to the Upper Paint Branch Stream Valley Park). In addition it may be possible, in several parks, to use less than the entire Designated Transportation Area. SHA will include incentives in construction contracts to minimize the use of land within the Designated Transportation Areas. If such lands are available, they will be offered to M-NCPPC after construction of the ICC has been completed. See Item # 159 in Attachment A (Summary List of Project Commitments) to this ROD.

CROSS CREEK CLUB LOCAL PARK



Map compiled on December 31, 2007 at 2:21 PM | Site located on base sheet no - 217NE04

NOTICE

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