





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

**MCPB**  
**Item #**  
**April 15, 2010**

**MEMORANDUM**

**TO:** Montgomery County Planning Board

**VIA:** Mark Pfefferle, Acting Chief, Environmental Planning  
Stephen D. Federline, Master Planner, Environmental Planning 

**FROM:** Lori Shirley, Planner Coordinator, Environmental Planning 

**DATE:** April 1, 2010

**REVIEW:** Preliminary FCP No. 2010702-MCPS-1  
**TYPE** Cannon Road Elementary School Mandatory Referral

**LOCATION:** 901 Cannon Road, Silver Spring

**APPLICANT:** Montgomery County Public Schools and M-NCPPC Department of Parks

**APPLICANT'S**

**ENGINEER:** A. Morton Thomas and Associates, Inc.

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**RECOMMENDATION: Approval of Preliminary FCP No. MR2010207-MCPS-1 – Cannon Road Elementary School subject to the following conditions:**

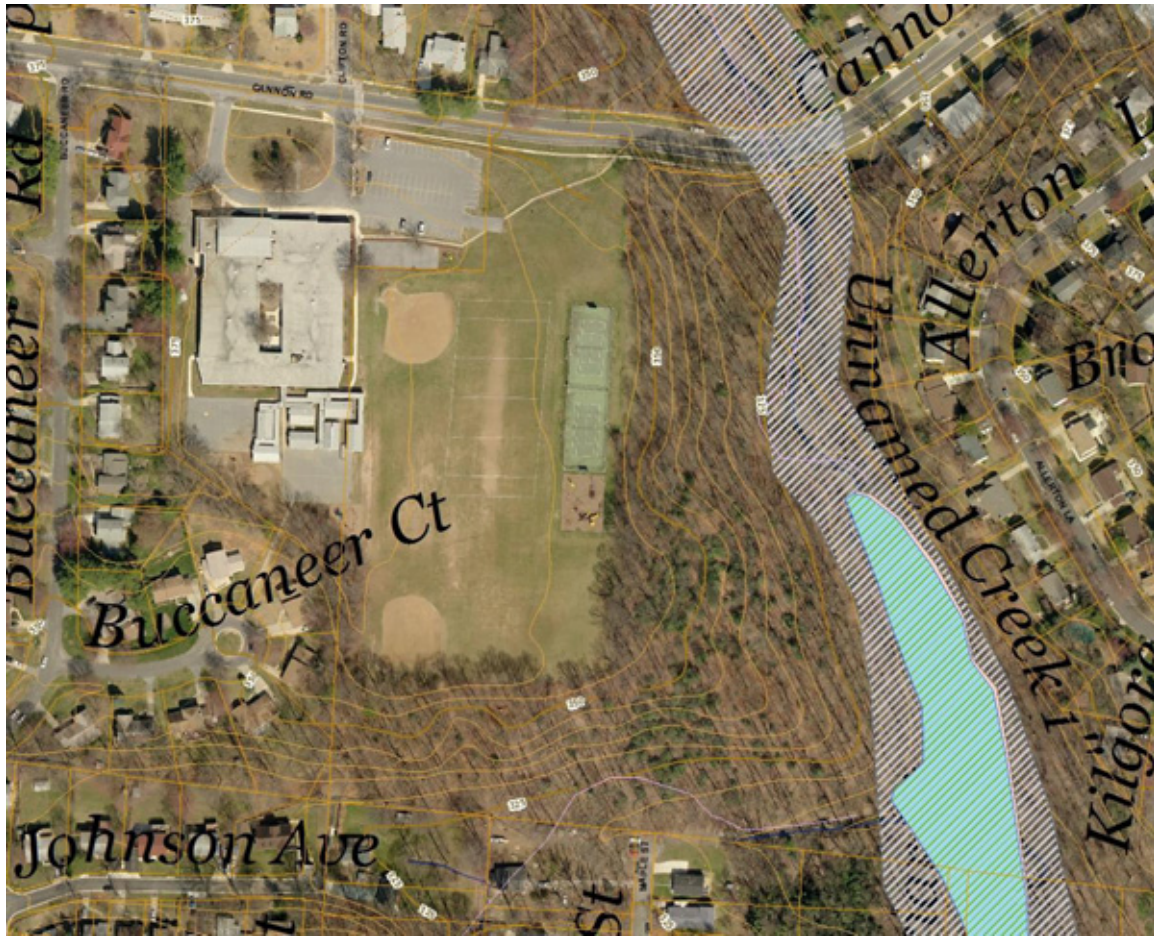
1. The proposed development shall comply with the staff recommended conditions of approval for the preliminary forest conservation plan per the attached letter to the Applicants dated March 30, 2010.
  - a. Prior to any clearing and/or grading on parkland, Montgomery County Public Schools must obtain a Park Permit from M-NCPPC. All proposed construction activity must be consistent with the approved final forest conservation plan.

**BACKGROUND**

Cannon Road Elementary School is an existing public facility located at 901 Cannon Road at the southeast quadrant of the intersection of Cannon and Clifton Roads (see aerial photo). The school building was constructed before enactment of the Montgomery County Forest Conservation Law. The Cannon Road Park is directly adjacent to the school. This is a school/park site and the two facilities share infrastructure. The park provides recreational fields for the school and protects high priority forest adjoining the

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stream, and the school provides automobile access and parking for joint park/school uses.



Cannon Road Elementary School site – aerial photo

The school property is 4.40 acres, and the park property is 17.94 acres for a combined total of 22.34 acres. The two properties are owned and operated by separate County agencies; however, the relationship is a symbiotic one.

The proposal is for demolition of the existing building, and construction of a new school building. Cannon Road Park will be closed and fenced during the school modernization. A softball field will be re-graded, and geothermal piping will be installed for the school's geothermal heating and air conditioning system. A soccer field south of the softball field will be used as a staging area for the duration of the school construction. One basketball and two tennis courts are located east of the ball fields.

## **REGULATORY CONSIDERATIONS**

The redevelopment of the site, which includes both Board of Education and Parks Department land requires a mandatory referral. The need for the mandatory referral makes the project subject to the Montgomery County Forest Conservation law. The

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Board's action on the Preliminary Forest Conservation Plan is regulatory and binding. The Planning Board must act on the Forest Conservation Plan before it finalizes its recommendation on the Mandatory Referral.

**Environmental Guidelines**

The subject properties contain sensitive features including a stream with forested and unforested buffers, 100-year floodplain and 11.83 acres of existing forest. A Natural Resources Inventory/Forest Stand Delineation NRI/FSD #420090970 was approved for the subject properties on December 10, 2009.

The property is within the Paint Branch watershed with a Use III-P stream designation. The *Countywide Stream Protection Strategy* (CSPS) identifies this subwatershed (Hollywood Tributary of Paint Branch) as having water quality varying from fair to good south of Randolph Road.

**Forest Conservation**

The submitted preliminary forest conservation plan (PFCP) covers both the Cannon Road Elementary School site and the Cannon Road Park property for a total of 22.34 acres, and is Exhibit A at the end of this memo. There are 11.83 acres of existing high priority forest on the subject properties. No forest will be removed by this project. The 11.83 acres of preserved forest exceed the forest conservation break-even point of 5.94 acres.

There are 63 significant and 23 specimen trees (the latter trees have a DBH of 30" or greater), most of which are located on the park property. Four specimen trees are proposed to be removed: a 37" red oak and a 38" willow oak are located on school property in front of the school building. A third specimen tree, a 42" willow oak, is located on the park property at a common property line with the school property behind the school building at the softball field's outer edge. A fourth specimen tree, a 32" silver maple, is located off-site at the school property's common property line with a residential lot at Cannon Road.

Along the school site's common property line with residential lots there are several significant trees to the west and southwest. These trees are a buffer between the two properties and the trees will remain with the exception of the 32" silver maple specimen.

In order to develop the site as proposed, the applicant is required to obtain approval of a variance for the removal of the four specimen trees described above.

**Forest Conservation Variance**

Section 1607(c) of the Natural Resources Article, MD Ann. Code, identifies certain individual trees as high priority for retention and protection. Any impact to trees, including removal or any disturbance within a tree's critical root zone (CRZ), requires a



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variance. An Applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the Montgomery County Code. The law requires no impact to all trees that measure 30" diameter at breast height (DBH) or greater; any tree designated as the county champion tree; trees with a DBH 75% or greater than the diameter of the current State champion for that species; rare, threatened and endangered species; and trees part of a historic site or associated structure. Since this project did not obtain approval of a Preliminary Forest Conservation Plan prior to October 1, 2009 and the PFCP proposes to impact four trees greater than 30 inches DBH, a variance is required. The Applicant has requested a variance to remove the following four trees: a 38" willow oak, a 37" red oak, a 42" willow oak and a 32" silver maple. The latter tree is on adjacent residential property, and tree save efforts will be made to the extent possible. After review of an arborist' evaluation and stress reduction measures, the neighbor may decide to have the tree removed with suitable replacement by MCPS at time of construction.

In accordance with Montgomery County Code, Section 22A-21(c) the Planning Board referred a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection and other appropriate officials or agencies for a written recommendation prior to acting on the request. The County Arborist has 30 days to comment. In this case, the variance request was referred to the Montgomery County Arborist on February 25, 2010. The County Arborist has not sent a recommendation or comments for the variance request. By law, the County Arborist's response for the variance request is therefore presumed to be favorable.

In accordance with Section 22A-21(e), Environmental Planning staff recommends a finding by the Planning Board that the Applicant has met all criteria required to grant the variance:

- a). *Will confer on the applicant a special privilege that would be denied to other applicants.*

The requested variance will not confer on the applicant any special privileges that would be denied to other applicants. Three of the four trees requested to be removed are inside the proposed limits of disturbance (LOD), these include a 38" willow oak, a 37" red oak and a 42" willow oak. No reasonable avoidance option to preserve these trees is apparent. The fourth specimen tree, a 32" silver maple, is disturbed in approximately 45% of its critical root zone (CRZ).

- b). *Is based on conditions or circumstances which are the result of the action by the applicant.*

In its current location, the existing school building and its facilities extend across the property boundary onto park property, permitting the school and community to mesh together with collaboration between facilities. Little flexibility exists on the site for

Preliminary Forest Conservation Plan No. 2010702-MCPS-1 Cannon Road Elementary School

avoidance of disturbance to the specimen trees. The schools' consulting arborist recommends the three specimen trees inside the LOD be removed because these trees will not survive impacts to their CRZ based on the new design for circulation and the location of stormwater management facilities. The Department of Parks' arborist also determined the 42" willow oak (on Park property behind the school building) should be removed because it will not survive the impacts to its CRZ.

- c). *Arises from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property.*

The requested variance is a result of the proposed site design and layout on the subject property and not as a result of land or building use on a neighboring property. In addition, the proposed site design locates the new building further away from the closest neighboring houses to the west while retaining the existing trees that provide a buffer between the school and the single-family residences.

- d). *Will violate State water quality standards or cause measurable degradation in water quality.*

All four specimen trees are not in close proximity to the streams on the park property and none of these trees are within the environmental buffers. The surrounding forested green space associated with the park will remain and continue to provide water quality benefits. In addition, the school property owners will provide compensatory tree planting (mitigation) for the removal of the 42" willow oak specimen tree located on the Department of Parks property at a 1:1 inch DBH replacement ratio.

As a result of the above findings, Environmental Planning staff recommends the Board approve the applicant's request for a variance from Forest Conservation Law to remove four specimen trees associated with the site. The variance approval is assumed into the Planning Board's approval of the preliminary forest conservation plan.

MP & SDF:LS

Attachment

Preliminary Forest Conservation Plan No. 2010702-MCPS-1 Cannon Road Elementary School

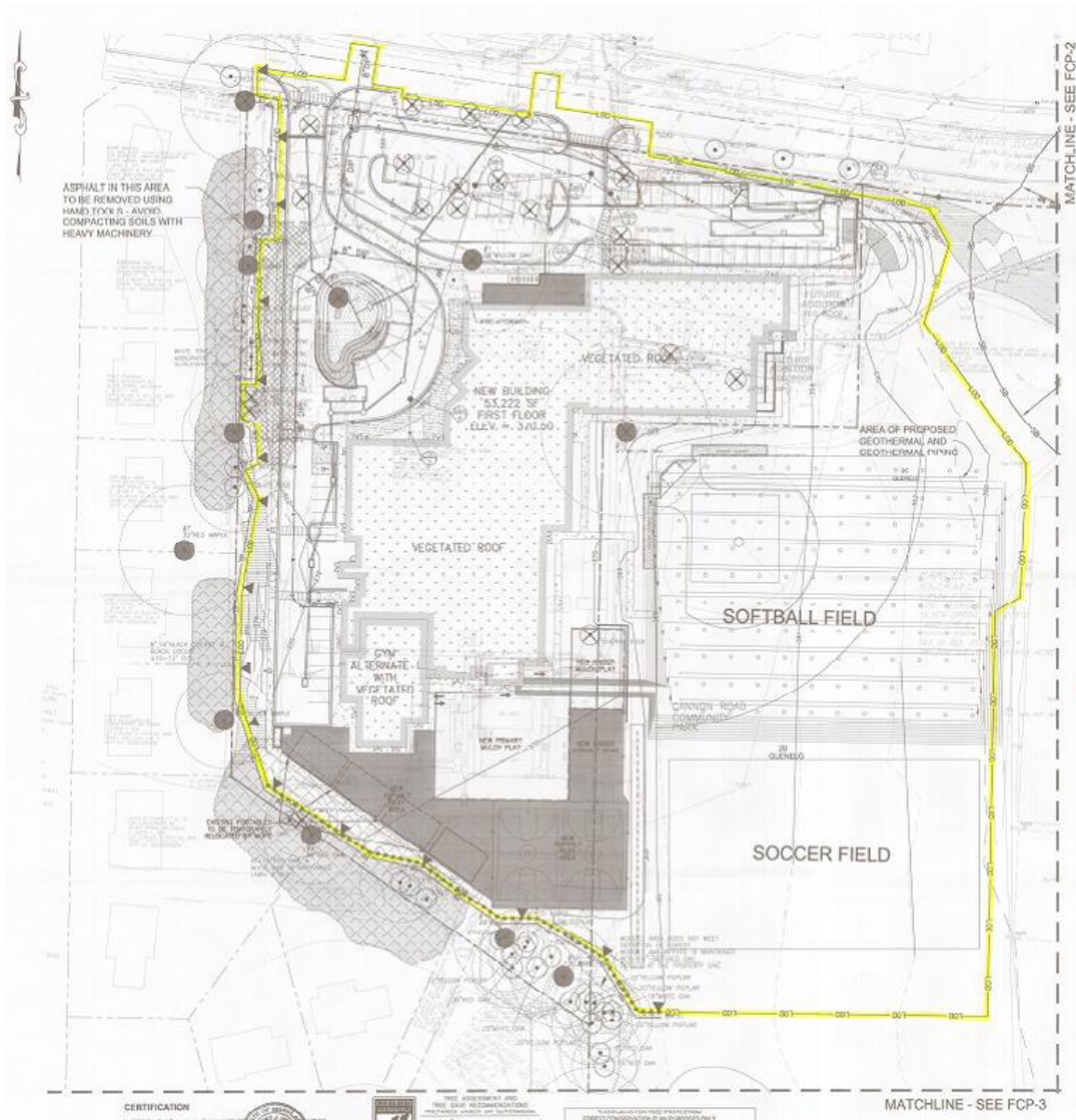


Exhibit A – Cannon Road Elementary School PFCP (sheet 1 of 4)



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

March 30, 2010

Mr. James Song  
Montgomery County Public Schools  
2096 Gaither Road, Suite 200  
Rockville, Maryland 20852

And

Mr. Michael Ma  
The Maryland-National Capital Park and Planning Commission  
Department of Parks  
9500 Brunett Avenue  
Silver Spring, Maryland 20901

SUBJECT: Preliminary Forest Conservation Plan No.: MR #2010702-MCPS-1  
Project Name: Cannon Road Elementary School  
Date Received: March 12, 2010

Dear Messrs. Song and Ma:

Based on the review by Environmental Planning Division staff of the Montgomery County Planning Department, a recommendation of approval of the Preliminary Forest Conservation Plan (PFCP) has been forwarded to the Planning Board for the plan referenced above with the following conditions:

1. The proposed development must comply with conditions of the preliminary Forest Conservation Plan and as specified below:
  - a. Approval of Final Forest Conservation Plan (FFCP) consistent with the approved PFCP and all final FCP regulatory requirements of Section 22A.00.01.09B – Forest Conservation Regulations (COMCOR) prior to any clearing, grading or demolition on the site.
  - b. The FFCP must include detailed and specific tree protection measures prepared, signed and stamped by an ISA-certified arborist with particular attention paid to specimen tree #2 (the 32” Silver maple).
  - c. The FFCP must include a detailed survey with a critical root zone analysis for the trees greater than or equal to 8-inches in diameter at breast height (DBH), within 25 feet on either side of the proposed limits of disturbance (LOD).
2. Prior to any clearing, and/or grading on parkland, Montgomery County Public Schools

Letter to Messrs. James Song, and Michael Ma, Cannon Road Elementary School, MR-2010702-MCPS-1 - Preliminary Forest Conservation Plan

must obtain a Park Permit from M-NCPPC. All proposed construction activity must be consistent with the approved final forest conservation plan.

If you have any questions regarding these comments, please contact me at 301-495-4551 or electronically at: [lori.shirley@mncppc-mc.org](mailto:lori.shirley@mncppc-mc.org).

Sincerely,

Lori Shirley  
Planner Coordinator  
Environmental Planning Division

Cc: Gregory Osband, A. Morton Thomas and Associates, Inc.  
FCP No. MR #2010702-MCPS-1 – Cannon Road Elementary School file