



Preliminary Plan Amendment, 12011002A, Goddard School

Staff Report Date: 2/24/12

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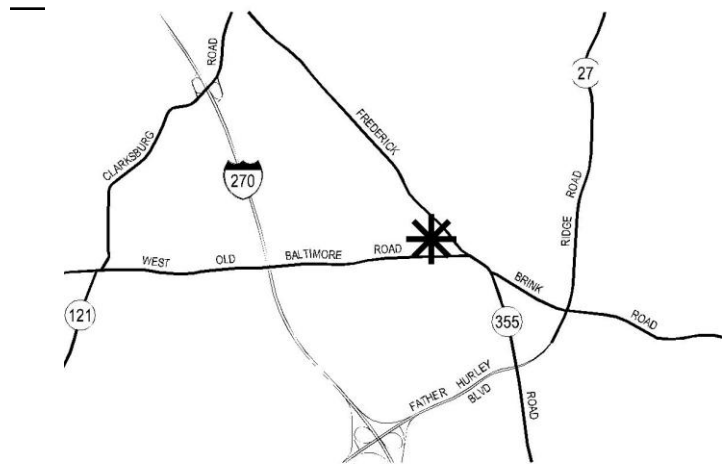
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JAC

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Description

Preliminary Plan Amendment 12011002A, Goddard School. A request to amend the previous conditions of approval related to an increase in the size of the gymnasium, to amend the preliminary forest conservation plan and the conditions related to traffic improvements. R-200 zone; 5.0 acres. Located on the south and west side of MD 355, Frederick Road approximately 1300 feet north and west of the intersection with West Old Baltimore Road. Clarksburg Planning Area



Staff Recommendation: Approval, subject to amended conditions

Applicant: Clarksburg Development, L.L.C.

Submittal Date: October 3, 2011

Summary

This request to amend the previous conditions of approval for the Goddard School in Clarksburg is, in part, pursuant to recent action by the Planning Board to amend the LATR and PAMR Guidelines for certain small developments that must participate with other developments in road improvements required as part of their approval. If a development’s trip contribution to an intersection and/or roadway is less than 25% of the sum of total trips for all participating developments, the road improvement requirement may be fulfilled by the creation of a road club or other mechanism approved by the Planning Board with certain restrictions and stipulations.

This amendment also requests an increase in the allowable impervious area on the subject property to accommodate a slightly larger gymnasium that the applicant believes is essential for proper functioning of the facility. The expanded gymnasium footprint also requires a slight modification to the easements on the approved preliminary forest conservation plan which is also being amended.

Staff has received one phone call in regards to this proposal and has been in communication with local Clarksburg civic groups about the application.

SITE DESCRIPTION

The property, "Subject Property" or "Property", is approximately 5.00 acres in size and is zoned R-200 and consists of Lots 9 and 10, Block A, Musgrove's Addition to Neelsville. It is located on the southwest side of Frederick Road (MD 355) approximately 1300 feet northwest of its intersection with Old Baltimore Road in the Clarksburg Master Plan Area. The Property is currently vacant. The surrounding area can be described as al residential with one family homes on lots that range from 2 acres to one-quarter acre.

The topography is for the most part flat to moderate, with the high point located in the eastern corner of the site, including a small ridge running east to west from that point. The site slopes at approximately 8% to 9% slope from the ridge to both the northern and southern corners of the site. The Subject Property is located within the Clarksburg Special Protection Area (SPA) and lies within the Upper Little Seneca Creek sub-watershed. The Property has approximately 68 specimen trees onsite, and there are approximately 4.21 acres of forest on site. There are no steep slopes, streams, wetlands, erodible soils, or other known environmentally sensitive features onsite.

Vicinity Aerial Map



PREVIOUS PLANNING BOARD ACTION

The Planning Board approved a preliminary plan to create a single lot for a child daycare facility on March 3, 2011 which was flowed by Planning Board Resolution mailed on May 3, 2011. (Attachment 1) The LATR review for this application required the developer to participate in, or construct, intersection improvements at MD 355 and West Old Baltimore Road that were analyzed and found to fall below acceptable operating levels with the addition of a certain level of new trips. Although the Cabin Branch development is also a participating development in this intersection, it is not required to have this intersection improved until issuance of the 1400th permit. As the next participating development that was in a position to build, the applicant for the Goddard School was required to make the full improvements in order to get building permits to get to the full entitlement of 283 children. The applicant stated that the School would not be able to fully fund the construction of the improvements. The Planning Board approved a staged approval whereby, the Goddard School could build the facility but enrollment would be limited to no more than 141 children; a level that did not generate enough new trips to make the intersection fail. Once the intersection improvements were completed, or substantially moving forward, the enrollment restrictions on the Goddard School would be lifted. Conditions #1, 2 and 3 of the Resolution 11-22 directly pertain to the enrollment restrictions and traffic improvement requirements.

Condition #8 placed limitations on the amount of imperviousness that was allowed on the Property in keeping with certain Special Protection Area requirements to minimize imperviousness. The imperviousness was reviewed in concert with a preliminary and final water quality plan for the School.

REQUESTED AMENDMENTS

Traffic

The Goddard School applicant continued to investigate changes to County policy that would allow the School to avoid funding the entirety of the intersection improvement up front, and to open the facility with no enrollment restrictions. Ultimately, the Planning Board amended their *Local Area Transportation Review and Policy Area Mobility Guidelines* on February 2, 2012. The complete staff report presented to the Planning Board at that hearing is included as Attachment 2.

As one of the participating developments to the MD 355 and West Old Baltimore Road intersection improvements, the Goddard School generates fewer than 25% of the total new peak hour trips for all participating projects. Therefore, the applicant of the Goddard School has other options to address the traffic improvements. Staff recommends the following revision to Conditions #1, 2 and 3 of Planning Board Resolution 11-22 to recognize the options now available to this applicant:

- 1) Development allowed by this Preliminary Plan is limited to a daycare facility for a maximum of 283 ~~141~~ students ~~until construction of the intersection improvements required by Condition No. 3 herein have been completed and accepted by the Maryland State Highway Administration (MDSHA).~~

~~After the completion of such intersection improvements, the total enrollment allowed by this Preliminary Plan will be increased to a maximum of 283 students (163 daycare children and 120 students for the after school program). without the need for an amendment to the Preliminary Plan.~~

- ~~2) Prior to filing for a building permit, the Applicant must request an Administrative Modification to the Special Exception from the Board of Appeals reflecting the limit in the number of students pending construction of the road improvements as reflected in Condition No. 1 herein.~~
- 3) ~~Prior to accepting any more than 141 students the~~ The Applicant must construct, with approval from the MDSHA, or is obligated to participate in capacity improvements at the MD 355 intersection with West Old Baltimore Road. Capacity improvements include the construction of a southbound right-turn lane, an eastbound right-turn lane, and a northbound left-turn lane at the intersection of MD 355 and West Old Baltimore Road to satisfy the requirements of Local Area Transportation Review (LATR). The Applicant may arrange for other funding sources, including participation from applicants of other development projects to fulfill this condition in accordance with the LATR and Policy Area Mobility Review guidelines.

At the hearing of March 3, 2011, a condition was added by the Planning Board to the Goddard School approval that required the applicant to construct an 8 foot wide path along the entire property frontage. The condition, as reflected in Resolution 11-22 did not contain a timing element as to when that sidewalk must be built. Staff recommends that Condition #5 be amended to include a timing element and that the sidewalk be constructed prior to issuance of the Use and Occupancy permit:

- 5) Prior to issuance of the Use and Occupancy Permit, ~~The~~ the Applicant must construct an 8-foot-wide bituminous bike path along the entire property frontage as shown on the Preliminary Plan.

Forest Conservation

The Planning Board previously approved a preliminary forest conservation plan (PFCP) with the special exception application (S-2759) for the Goddard School. That plan showed 3.04 acres of forest removal and 1.20 acres of forest saved on a net tract of 5.31 acres.

Based upon offsite improvements to the project as required by other agencies since that approval, the net tract area of the project has now increased from 5.31 acres to 5.89 acres and requires an amendment to the PFCP. In addition to the increased net tract area, the larger gymnasium requires the minor relocation of a very small portion of easement adjacent to the gymnasium building but to be relocated, on-site. None of the easements approved to date have been recorded by record plat and a final forest conservation plan has not yet been approved for the site.

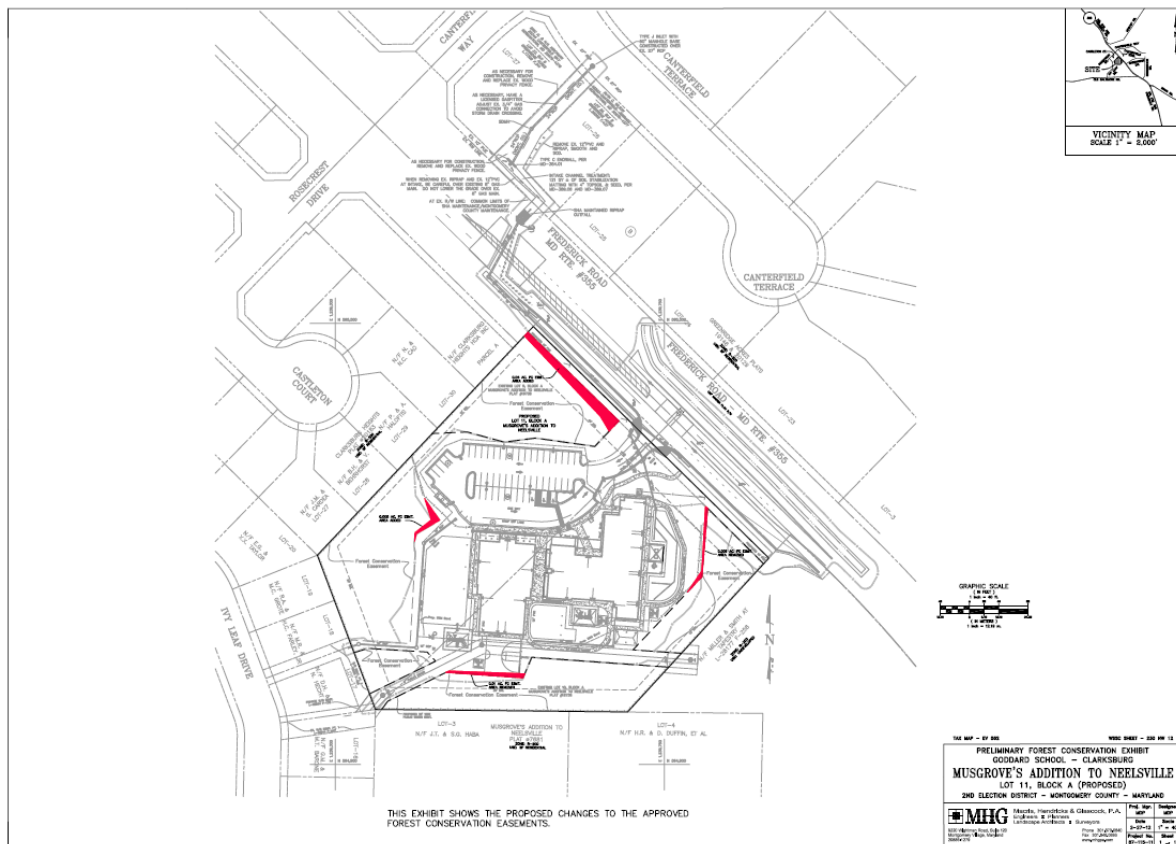
The amended preliminary forest conservation plan (12011002A) shows 3.02 acres of forest clearing and 1.22 acres forest retention generating a 0.65 acre planting requirement. The applicant wishes to meet the forest planting requirements through 0.58 acres of on-site forest planting, 0.06 acres of landscape credit, and 0.07 to be met at an off-site forest conservation bank. All retained and planted forest will be

protected in a category I forest conservation easement. The amended easement areas provide equal or better protection than those shown on the approved preliminary forest conservation plan.

The submitted forest conservation plan amendment meets all applicable requirements of the Chapter 22A of the County code (Forest Conservation Law). Staff recommends that the Planning Board approve the amendment to the preliminary forest conservation plan No. 12011002A with the following modifications to the Condition #6:

- 6) The Applicant must comply with the conditions of approval for the preliminary forest conservation plan (12011002A) prior to recording of a plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permit, as applicable.

Amended Preliminary Forest Conservation Plan



SPA Water Quality Plan - Imperviousness

- 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 Preliminary Plan. Under the provision of the law, the Montgomery County Department of Permitting Services (MCDPS) and the Planning Board have different

responsibilities in the review of a water quality plan. DPS has reviewed and conditionally approved the elements of the water quality plan under its purview. The Planning Board responsibility is to determine if environmental buffer protection, SPA forest conservation and planting requirements have been satisfied and to determine if imperviousness goals are achieved.

- County DPS Special Protection Area Review Elements

MCDPS confirmed on January 13, 2012 that the proposed amendments to the approved preliminary plan, i.e., small increase to impervious area of 0.1 acres, does not require an amendment to the approved DPS portion of the Final Water Quality Plan. Therefore, the MCDPS preliminary/final water quality plan approval letter dated January 20, 2011 remains valid.

- Planning Board Special Protection Area Review Elements

Environmental Guidelines - A Natural Resources Inventory/Forest Stand Delineation (NRI/FSD#420092330) was approved by Staff on August 11, 2009. The site is located within the Clarksburg Special Protection Area (SPA) and the Little Seneca Creek watershed, a Use Class IV-P watershed. The Countywide Stream Protection Strategy (CSPS) rates streams in this watershed as good. There are no streams, floodplains, wetlands, or environmental buffers on or affecting the site, therefore, the Environmental Guidelines are not applied to this property.

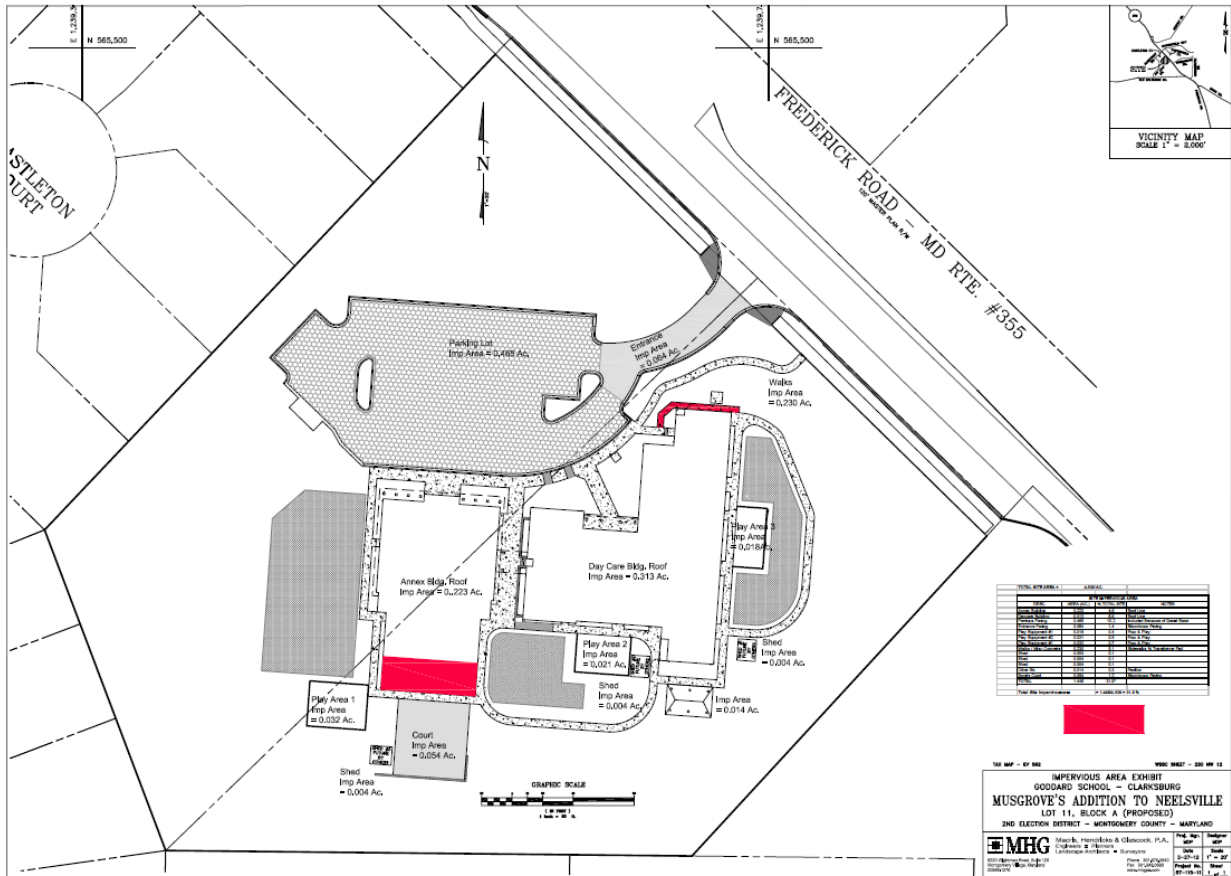
Within this section of the Clarksburg Special Protection Area (SPA) there is no impervious surface cap or limit. However, a main goal of all SPA's is to reduce the overall impervious footprint of new development within SPA boundaries (the impervious footprint includes roads, sidewalks, buildings, parking lots, etc.). The imperviousness associated with the Goddard School was considered by the Planning Board at the time of Special Exception and at the preliminary plan hearing on March 3, 2011. Because there is no designated imperviousness cap mandated in the Clarksburg SPA, the goal is to generally limit imperviousness for non-residential uses to those that would be created by residential development under the applied residential zoning density. For this project, the goal was established at 22 to 29 percent which Staff suggested is the county average for the R-200 zone.

The applicant has submitted a letter dated, January 13, 2012, (Attachment 3) justifying the need to amend the existing conditions of approval. This application requests that the conditions be changed to allow an increase in imperviousness from 1.40 acres to 1.50 acres on the property to allow for a larger gymnasium "annex building" and to also allow a revised walkway that has been requested by Fire and Rescue Services to provide Americans With Disabilities access and to address fire code access to an emergency egress door on the main building. The new imperviousness actually will be 1.44 acres but the applicant has requested a small cushion to 1.50 acres to accommodate changes as the plans become more refined. Other very minor changes to imperviousness result from eliminating and relocating certain retaining walls due to refinements in the design of the facility. In Planning Board Resolution 11-22 for Preliminary Plan No. 120110020, Goddard School – Clarksburg, Condition # 8 states, "Impervious surface is limited to no more than 1.40 acres as shown on the Impervious Area Exhibit Plan dated, December 17, 2010." This approved imperviousness constitutes 30.6% of the 4.539 property. The

requested impervious area of 1.50 acres would constitute 31.9% of the same lot. The following graphic identifies the area needed to expand the sidewalk and gymnasiums in red.

Impervious Areas Exhibit - January 13, 2012

Additional Areas of Imperviousness in Red.



The following two tables compare the old impervious levels from the December 17, 2010 plan with the proposed impervious levels (January 13, 2012).

Approved Impervious Area Exhibit Table dated December 17, 2010

TOTAL SITE AREA =	4.539 AC.	(After ROW Dedication)	
SITE IMPERVIOUS AREA			
DESC.	AREA (AC.)	% TOTAL SITE	NOTES
Annex Building	0.186	4.1	
Daycare Building	0.313	6.9	
Pervious Paving	0.426	9.4	Included Because of Gravel Base
Conc. Paving	0.103	2.3	
Play Equipment	0.018	0.4	
Play Equipment	0.021	0.5	
Play Equipment	0.032	0.7	
Walks / Misc Concrete	0.211	4.6	
Shed	0.004	0.1	
Shed	0.004	0.1	
Shed	0.004	0.1	
Other Str.	0.014	0.3	
Sports Court	0.054	1.2	
TOTAL	1.39	30.6*	
*Total Site Imperviousness		= 1.39/4.539 = 30.6 %	

Proposed Impervious Area Exhibit Table dated January 13, 2012

TOTAL SITE AREA =	4.539 AC.		
SITE IMPERVIOUS AREA			
DESC.	AREA (AC.)	% TOTAL SITE	NOTES
Annex Building	0.223	4.9	Roof Line
Daycare Building	0.313	6.9	Roof Line
Pervious Paving	0.465	10.2	Included Because of Gravel Base
Entrance Paving	0.064	1.4	Bituminous Paving
Play Equipment #1	0.018	0.4	Pour & Play
Play Equipment #2	0.021	0.5	Pour & Play
Play Equipment #1	0.032	0.7	Pour & Play
Walks / Misc Concrete	0.230	5.1	Sidewalks % Transformer Pad
Shed	0.004	0.1	
Shed	0.004	0.1	
Shed	0.004	0.1	
Other Str.	0.014	0.3	Pavilion
Sports Court	0.054	1.2	Bituminous Paving
TOTAL	1.446	31.9*	
Total Site Imperviousness		= 1.446/4.539 = 31.9 %	

Staff has no objection to the additional sidewalk length required by Fire and Rescue Services or the modifications to the retaining walls. The 1,525 square foot gymnasium expansion is now requested after the applicant was advised that the gym, as shown on the approved preliminary plan, would not meet the school's needs. As designed, the floor area of the gymnasium is shown as approximately 60' x 30' which is considerably smaller than a "half-court" basketball area, and according to the applicant, does not provide sufficient area for school-aged children to run and play. The applicant contends that ... *"As a classroom the space would be adequate, but as an indoor play area, for elementary-school aged children, the space is too small to accommodate a reasonable group of children safely for the purpose of indoor play. This is a design flaw which only came to the Applicant's attention after the Preliminary Plan was approved. Although the Applicant owns and operates other Goddard School facilities in Rockville and Columbia, neither of those sites has an after-school program or a gym, so the Applicant was unaware of the licensing and practical requirements for an indoor play area."* As such, the Applicant seeks permission to expand the gym so that it will be approximately 60' x 50' which is comparable to the size of a "half-court" basketball area.

While it is unfortunate that this "design flaw" was discovered after the approval of the preliminary plan, Staff believes the applicant has demonstrated that for safety and functionality, a gym larger than what is shown on the approved preliminary plan drawing is a reasonable request. The applicant has responded to staff inquires on further imperviousness minimization techniques but maintains that the original approval left little ability to further reduce other impervious features while still maintaining programmatic functions. The amended plan does, however, continue to minimize imperviousness to the greatest extent possible on the lot while still maintaining the intended purpose in a safe and responsible manner. The requested increase of the impervious surfaces does not generate a need to amend the conceptual design of the final water quality plan other than to recognize a new impervious limit as shown on the Impervious Area Exhibit dated January 13, 2012. At the time of final design, water quality features may need to be adjusted as is typically the case, to accommodate shifts to the limits of disturbance.

Staff recommends that the Planning Board approve the request to increase the impervious area on the lot to no more than 1.50 acres as shown on the Impervious Area Exhibit dated January 13, 2012 and that the application must continue to comply with the conditions as stated in the Montgomery County Department of Permitting Services Preliminary/Final Water Quality Plan approval letter dated, January 20, 2011. Condition #8 should be amended as follows:

- 8) Impervious surface is limited to no more than 1.50 acres as shown on the Impervious Area Exhibit Plan dated January 13, 2012. ~~December 17, 2010~~.

OUTREACH and CORRESPONDENCE

This application was submitted in accordance with adopted procedures. Signage was placed on the Property. Staff has been updating local Civic Associations at scheduled evening meetings. Staff did have a telephone conversation with a Ms. Duffin, a resident on the adjacent Ruby Drive. Ms. Duffin's most significant concern was about the potential for impact to her well serving her house and farm animals.

Staff explained that there is nothing the Board could require of this applicant to positively assure no impacts to her well water. Staff explained that the general conditions of the deep aquifer in this County generally insulates groundwater from development impacts occurring at the surface. Staff directed Ms. Duffin to the County Department of Environmental Protection to discuss the provision of public water and sewer to the Ruby Drive properties. Staff will follow up with this latter recommendation when the adjacent Tapestry Subdivision review begins.

CONCLUSION

Within this staff report, Staff has recommended revisions to Conditions #1, 2, 3, 5, 6 and 8 for the existing Goddard School – Clarksburg approval to address the specific requests made under this application and to address other changes to the Board’s LATR/PAMR Guidelines. Staff recommends that the Planning Board approve the revised conditions and incorporate the revised conditions with those that have remained unchanged, and to replace in their entirety, all previous conditions of approval in Resolution 11-22 to read as follows:

- 1) Development allowed by this Preliminary Plan is limited to a daycare facility for a maximum of 283 students (163 daycare children and 120 students for the after school program).
- 2) The Applicant must construct, with approval from the MDSA, or is obligated to participate in capacity improvements at the MD 355 intersection with West Old Baltimore Road. Capacity improvements include the construction of a southbound right-turn lane, an eastbound right-turn lane, and a northbound left-turn lane at the intersection of MD 355 and West Old Baltimore Road to satisfy the requirements of Local Area Transportation Review (LATR). The Applicant may arrange for other funding sources, including participation from applicants of other development projects to fulfill this condition in accordance with the LATR and Policy Area Mobility Review guidelines.
- 3) Prior to issuance of the Use and Occupancy Permit, the Applicant must re-stripe the southbound approach of MD 355 at its intersection with Little Seneca Parkway to provide an additional thru lane.
- 4) Prior to issuance of the Use and Occupancy Permit, The Applicant must construct an 8-foot-wide bituminous bike path along the entire property frontage as shown on the Preliminary Plan.
- 5) The Applicant must comply with the conditions of approval for the preliminary forest conservation plan (12011002A) prior to recording of a plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permit, as applicable.
- 6) The Applicant must obtain Staff approval of the final forest conservation plan in accordance with Forest Conservation Regulations, Section 22A.00.01.09B prior to any land clearing activities.
- 7) Impervious surface is limited to no more than 1.50 acres as shown on the Impervious Area Exhibit Plan dated January 13, 2012.

- 8) The record plat must reflect creation of a Category I conservation easement over all forest conservation buffer areas as shown on the Preliminary Plan.
- 9) Applicant to record a Category I Forest Conservation Easement(s) over all areas of retained and planted forest prior to any land clearing activities occurring on-site.
- 10) Applicant to install the required reforestation material by the first planting season following the release of the first grading permit.
- 11) Applicant to install the required landscape planting material being used for reforestation credit by first growing season following building completion.
- 12) Applicant to remove all existing structures, fencing, play equipment and debris from the proposed Category I Forest Conservation Easements.
- 13) The Applicant must comply with the conditions of the MCDPS stormwater management concept and final water quality plan approval dated January 20, 2011. These conditions may be amended by MCDPS, as long as the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 14) The record plat must provide for dedication along the entire property frontage on Frederick Road (MD 355) of 60 feet from centerline for a total of 120 feet from the opposite right-of-way line as indicated on the Preliminary Plan.
- 15) The Applicant must comply with the Maryland State Highway Administration (MDSHA) letter dated November 23, 2010. These conditions may be amended by MDSHA, as long as the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 16) The Applicant must satisfy provisions for access and improvements as required by the Maryland State Highway Administration (SHA) prior to issuance of an access permit.
- 17) The record plat must show other necessary easements.
- 18) The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board Resolution.

Attachments

Attachment 1 – Resolution 11-22

Attachment 2 – LATR/PAMR Staff Report

Attachment 3 – Justification Letter 1/13/12

MAY 3 2011

Attachment 1



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

MCPB No. 11-22
Preliminary Plan No. 120110020
Goddard School - Clarksburg
Date of Hearing: March 3, 2011

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review preliminary plan applications; and

WHEREAS, on September 1, 2010, Darnestown Development LLC ("Applicant"), filed an application for approval of a preliminary plan, subsequent to the approval of Special Exception Case number S-2759 by the Montgomery County Board of Appeals for a child daycare, to consolidate two recorded lots (Lots 9 and 10, Block A, of Musgrove's Addition to Neelsville) into one lot approximately 5.0 acres in size, to construct a 13,000 square foot child daycare center, and a connected 7,500 square foot annex to house an after-school program, in the R-200 Zone on a property located on the south side of Frederick Road (MD 355) approximately 1300 feet northwest of the intersection with Old Baltimore Road, ("Property" or "Subject Property"), within the Clarksburg Master Plan Area ("Sector Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120110020, Goddard School - Clarksburg ("Preliminary Plan" or "Application"); and

WHEREAS, Applicant's final water quality plan was designated Water Quality Plan No. 120110020 ("Water Quality Plan"); and

WHEREAS, Staff issued a memorandum to the Planning Board, dated February 21, 2011, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and the staff of other governmental agencies, on March 3, 2011, the Planning Board held a public hearing on the Application (the "Hearing"); and

Approved as to
Legal Sufficiency:

Christina Sorrento 4/28/11

8787 Georgia Avenue, Clarksburg, MD 20740 Chairman's Office: 301.495.4605 Fax: 301.495.1320

www.MCParkandPlanning.org E-Mail: mcp-chairman@mncppc.org

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on March 3, 2011, the Planning Board voted to approve the Final Water Quality Plan, on motion of Commissioner Wells-Harley; seconded by Commissioner Alfandre; with a vote of 3-0, Commissioners Alfandre, Carrier, and Wells-Harley voting in favor, with Commissioners Dreyfuss and Presley absent; and

WHEREAS, on March 3, 2011, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Alfandre; seconded by Commissioner Wells-Harley; with a vote of 3-0, Commissioners Alfandre, Carrier, and Wells-Harley voting in favor, with Commissioners Dreyfuss and Presley absent.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approves Preliminary Plan No. 120110020 to consolidate two recorded lots (Lots 9 and 10, Block A, of Musgrove's Addition to Neelsville) into one lot approximately 5.0 acres in size, to construct a 13,000 square foot child daycare center, and a connected 7,500 square foot annex to house an after-school program, in the R-200 Zone on a property located on the south side of Frederick Road (MD 355) approximately 1300 feet northwest of the intersection with Old Baltimore Road, ("Property" or "Subject Property"), within the Clarksburg Master Plan Area ("Sector Plan"); subject to the following conditions:

- 1) Development allowed by this Preliminary Plan is limited to a daycare facility for a maximum of 141 students until construction of the intersection improvements required by Condition No. 3 herein have been completed and accepted by the Maryland State Highway Administration (MDSHA). After the completion of such intersection improvements, the total enrollment allowed by this Preliminary Plan will be increased to a maximum of 283 students (163 daycare children and 120 students for the after school program) without the need for an amendment to the Preliminary Plan.
- 2) Prior to filing for a building permit, the Applicant must request an Administrative Modification to the Special Exception from the Board of Appeals reflecting the limit in the number of students pending construction of the road improvements as reflected in Condition No. 1 herein.
- 3) Prior to accepting any more than 141 students the Applicant must construct, with approval from the MDSHA, capacity improvements at the MD 355 intersection with West Old Baltimore Road. Capacity improvements include the construction of a southbound right-turn lane, an eastbound right-turn lane, and a northbound left-turn lane at the intersection of MD 355 and West Old Baltimore Road to satisfy the requirements of Local Area Transportation Review (LATR). The Applicant may arrange for other funding sources,

- including participation from applicants of other development projects to fulfill this condition.
- 4) Prior to issuance of the Use and Occupancy Permit, the Applicant must re-stripe the southbound approach of MD 355 at its intersection with Little Seneca Parkway to provide an additional thru lane.
 - 5) The Applicant must construct an 8-foot-wide bituminous bike path along the entire property frontage as shown on the Preliminary Plan.
 - 6) The Applicant must comply with the conditions of approval for the preliminary forest conservation plan prior to recording of a plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permit, as applicable.
 - 7) The Applicant must obtain Staff approval of the final forest conservation plan in accordance with Forest Conservation Regulations, Section 22A.00.01.09B prior to any land clearing activities.
 - 8) Impervious surface is limited to no more than 1.40 acres as shown on the Impervious Area Exhibit Plan dated December 17, 2010.
 - 9) The record plat must reflect creation of a Category I conservation easement over all forest conservation buffer areas as shown on the Preliminary Plan.
 - 10) Applicant to record a Category I Forest Conservation Easement(s) over all areas of retained and planted forest prior to any land clearing activities occurring on-site.
 - 11) Applicant to install the required reforestation material by the first planting season following the release of the first grading permit.
 - 12) Applicant to install the required landscape planting material being used for reforestation credit by first growing season following building completion.
 - 13) Applicant to remove all existing structures, fencing, play equipment and debris from the proposed Category I Forest Conservation Easements.
 - 14) The Applicant must comply with the conditions of the MCDPS stormwater management concept and final water quality plan approval dated January 20, 2011. These conditions may be amended by MCDPS, as long as the amendments do not conflict with other conditions of the Preliminary Plan approval.
 - 15) The record plat must provide for dedication along the entire property frontage on Frederick Road (MD 355) of 60 feet from centerline for a total of 120 feet from the opposite right-of-way line as indicated on the Preliminary Plan.
 - 16) The Applicant must comply with the Maryland State Highway Administration (MDSHA) letter dated November 23, 2010. These conditions may be amended by MDSHA, as long as the amendments do not conflict with other conditions of the Preliminary Plan approval.
 - 17) The Applicant must satisfy provisions for access and improvements as required by MDSHA prior to issuance of an access permit.
 - 18) The record plat must show other necessary easements.

- 19) The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board Resolution.

BE IT FURTHER RESOLVED, that, having given full consideration to the recommendations and findings of its Staff as presented at the Hearing and set forth in the Staff Report, which the Board hereby adopts and incorporates by reference and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

1. *The Preliminary Plan substantially conforms to the Master Plan.*

This site is located within the 860 acre "Brink Road Transition Area" of the 1994 Clarksburg Master Plan, which is in the southeast corner of the Master Plan Area. Most of the land has been developed or is committed to development. There are no specific recommendations for this site; however, the Master Plan's general land use provisions applicable to the overall "Brink Road Transition Area," emphasize the planned character of the area.

The Planning Board considered the general plan objectives of the Brink Road Transition Area before recommending approval of the special exception application for this site. The findings from that analysis are summarized below:

"Create a transition from Germantown to Clarksburg that helps reinforce each community's identity (page 75)."

This Master Plan proposes the entry to Clarksburg to be characterized by low-density development and be supportive of the existing residential land use pattern along MD 355. The Board finds that the physical and functional characteristics of the use at the proposed site will fit the immediate neighborhood and this designated low density transition area. The forest conservation plan helps demonstrate the Applicant's intent to maintain the existing forest onsite, which will provide a wooded buffer that nearly surrounds the proposed development and follows the perimeter of the property line boundaries. These wooded and landscaped areas, together with the proposed six-foot stockade fence at the parking lot will provide significant screening of the facility and parking on this site, which will limit the impact on the surrounding residential land use pattern along MD 355.

"Continue the residential character of MD 355 (page 75)."

MD 355 is a major highway and will be six lanes in Germantown. A key land use concern is that MD 355 as it traverses this portion of Clarksburg should be of a

scale and character which supports the continuation of the traditional land use pattern in this area: residential uses fronting the road. The Master Plan anticipates the widening of MD 355 in this area to four lanes but endorses a cross-section design that will allow historical land use patterns to continue. The Board finds the perceived massing and vertical profile of the building will be mitigated by aspects of its design including:

1. The configuration of the facility and its central location on the site;
2. The resulting setbacks of the building from the property lines, adjacent houses, and the MD 355 frontage;
3. Sensitive site placement of the building with only one corner relatively near the MD 355 frontage. The wooded southeastern MD 355 frontage and planned forest conservation area on the adjacent Tapestry site will provide a well screened view of the facility from northbound vehicles; and
4. The segmented building plan, limited to one floor plus the roof, together with the sloped roof lines, the understated cupolas and gable end features, will be architecturally compatible with the roof lines of the adjacent houses.

Based on the design aspects listed above, the Board finds the proposed structure maintains the rural residential character of MD 355.

“Reinforce the North Germantown greenbelt concept (page 76).”

The open space pattern in this area is created by stream valley buffers and parks. Pedestrian connections to the Little Seneca Creek Greenway will be encouraged as development proceeds. The Preliminary Plan provides for the extension of the established pedestrian and bicycle linkages that ultimately connect to the North Germantown Special Park so current and future residents of Clarksburg have access to outdoor experiences. The Board finds the proposed connections reinforce the North Germantown greenbelt concept.

In the Public Facilities section, Chapter Seven of the Master Plan, the Master Plan recognizes that demand for certain social services will increase as development occurs in Clarksburg and Hyattstown. Specifically, the Master Plan states, “As the Clarksburg Master Plan Area and Hyattstown Special Study Area grow, the demand on social services, including child day care, will increase (page 166).” This recommendation is accompanied by “Table 15 (page 167)” in the Master Plan, which outlines location criteria to be considered for certain facilities. Child daycare is one of the facilities identified, and the Master Plan recommends that child daycares be,

“dispersed throughout the Study Area with concentrations near transit, employment areas, and concentrations of housing.”

The Board supported the special exception, in part, because the Master Plan recommends approximately 15,000 residential units for the build out of Clarksburg, and the community has expressed concern to Staff that there is a lack of child daycare facilities in the Clarksburg area. The proposed facility will have vehicular and bicycle access with frontage along Frederick Road (MD 355). The Subject Property is also in close proximity to employment areas along I-270 to the south, and is centrally located to concentrations of housing.

The Preliminary Plan will be consistent with the approved special exception once it is amended per condition 2, and therefore, as outlined in the analysis above, the Board finds the Preliminary Plan is in substantial conformance with the Clarksburg Master Plan and Hyattstown Special Study Area.

2. *Public facilities will be adequate to support and service the area of the proposed subdivision.*

Local Area Transportation Review (LATR)

Two intersections were identified as critical intersections affected by the proposed child daycare facility and were examined in the traffic study to determine whether they meet the applicable congestion standard for this area. The congestion standard in the Clarksburg Policy Area is 1,425 Critical Lane Volume (CLV). The result of the CLV analysis is summarized in Table 1.

Table 1: Calculated Critical Lane Volume Values at Studied Intersections

Intersection	Weekday Peak Hour	Traffic Condition			
		Existing	Background	Total*	Total **
Frederick Road (MD 355) & Little Seneca Parkway	Morning	1,224	1,431	1,445	912
	Evening	1,017	1,329	1,347	1,347
Frederick Road (MD 355) & W. Old Baltimore Road	Morning	1,385	1,592	1,661	1,471
	Evening	1,404	1,716	1,780	1,512

- *Total development conditions without proposed intersection improvements
- ** Total development conditions with proposed intersection improvements

As shown in the above table, all intersections are currently operating at an acceptable CLV level of 1,425 or lower. Under the background development (the existing traffic plus traffic from the approved/unbuilt developments), both intersections are projected to operate at unacceptable CLV levels during both the weekday AM and PM peak hours. Under the total future development (background traffic, traffic from the proposed development, and including the proposed intersection improvements) both intersections would operate at an unacceptable level of service. Because the background traffic conditions are unacceptable, the Applicant must provide improvements that mitigate a number of trips equal to 150 percent of the CLV impact attributable to the development during both the weekday AM and PM peak hours. In order to mitigate the unacceptable CLV levels at the intersection of Little Seneca Parkway and MD 355, the Applicant must re-stripe the southbound approach of MD 355 at its intersection with Little Seneca Parkway to provide an additional thru lane.

In order to mitigate the unacceptable CLV levels at the intersection of West Old Baltimore Road and MD 355, the Applicant must construct, with approval from the Maryland State Highway Administration (MDSHA), required frontage and access improvements along Frederick Road (MD 355), as well as capacity improvements at the MD 355 intersection with West Old Baltimore Road. Capacity improvements include the construction of a southbound right-turn lane, an eastbound right-turn lane, and a northbound left-turn lane at the intersection of MD 355 and West Old Baltimore Road to satisfy the requirements of Local Area Transportation Review (LATR).

The Board finds with the recommended conditions for these improvements, this Preliminary Plan meets the LATR requirements of the Adequate Public Facilities (APF) review.

Policy Area Mobility Review (PAMR)

The site is located within the Clarksburg Policy Area where there is no PAMR requirement according to the current Growth Policy. Therefore, the subject preliminary plan is not subject to PAMR mitigation.

Site Access and Vehicular/Pedestrian Circulation

Frederick Road (MD 355) is a major highway, requiring 120 feet of right-of-way. The Applicant must dedicate approximately 7,093SF of property (sixty feet from centerline) to create a 120-foot-wide right-of-way along the property frontage of Frederick Road. The Applicant proposes to construct a 25-foot-wide private driveway from Frederick Road to access the proposed parking lot for the school for vehicular

access. The Applicant will construct an 8-foot-wide bituminous bike path along the entire property frontage as shown on the Preliminary Plan, and the Applicant is proposing to construct a 5-foot-wide sidewalk from Frederick Road to provide pedestrian access throughout the Subject Property. The Board finds the vehicular and pedestrian access proposed by the Applicant are consistent with the requirements of the code, therefore, the proposed vehicular access for the subdivision will be safe and adequate.

Other Public Facilities and Services

Public facilities and services are available and will be adequate to serve the proposed development. The Property will be served by public water and sewer systems. The Application has been reviewed by the Montgomery County Fire and Rescue Service who have determined that the Property has appropriate access for fire and rescue vehicles. Other public facilities and services, such as schools, police stations, firehouses and health services are operating according to the Growth Policy resolution currently in effect and will be adequate to serve the Property. Electrical and telecommunications services are also available to serve the Property.

Parking Waiver

The Applicant was required to provide 89 parking spaces per the Montgomery County Zoning Ordinance. The Planning Board previously heard the Applicant's request for a parking waiver of 29 spaces and recommended approval of the parking waiver to the Board of Appeals. The Board of Appeals considered and approved the Applicant's request for a waiver of 29 parking spaces as part of S-2759. The Board supported the waiver based on documentation and testimony provided by the Applicant. The Applicant believes a parking waiver is justified since approximately 30% of the clientele pick-up and drop-off more than one child per visit, and there are staggered drop-off and pick-up times throughout the day, which is not typical of a standard school setting. According to the Applicant's representative, Mr. Ross Flax, 60 parking spaces will be sufficient for this school. Having run two other schools for a combined 21 years, he believes there will not be a need for overflow parking. However, a Transportation Management Plan (TMP) was agreed upon and conditioned as part of the Special Exception approval from the Board of Appeals, and the TMP states that if any event does generate more attendees than the parking available on site would allow, arrangements will be made by the transportation coordinator to direct attendees to satellite parking. According to the TMP, the Applicant intends to use off-site satellite parking at churches and schools when needed for special events. In addition, the site is in the Clarksburg Special Protection Area (SPA), therefore excess parking and imperviousness should be avoided when possible.

3. *The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.*

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The proposed size, width, shape and orientation of the lot is appropriate for the location of the subdivision. The lot was reviewed for compliance with the dimensional requirements for the R-200 Zone as specified in the Zoning Ordinance. The proposed lot meets the dimensional requirements for area, frontage, width, and setbacks in that zone. The Application has been reviewed by other applicable county agencies, all of which have recommended approval of the Preliminary Plan. Therefore, the Planning Board finds that the size, shape, width, and area of the lot is appropriate for the location within the subdivision.

4. *The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.*

Environmental Guidelines

An NRI/FSD was approved in August 2009 as part of the previous Special Exception S-2759. Except for forest, there are no environmentally sensitive features, such as streams, wetlands, floodplains and their associated buffers on the Subject Property and therefore special protection measures are not necessary.

Forest Conservation

The Planning Board previously approved a preliminary forest conservation plan, with conditions, when it recommended approval of Special Exception S-2759. Planning Board Resolution 10-60 was mailed on October 18, 2010. Since the approval of that forest conservation plan the Applicant realized, that as part of the purchase agreement, they were required to provide a sewer connection serving the adjacent and unbuilt property. The sewer connection would have initially removed all forest on the south side of the Property. The revised preliminary forest conservation plan shows only 0.01 acres of new forest removal because of the Applicant's creativity in minimizing forest loss. Moving the majority of the sewer line outside the proposed easement area and saving more forest along MD 355 almost completely offsets the additional forest clearing that was required to make the sewer connection to the adjoining property. The Applicant will still meet all forest conservation requirements onsite.

The Property contains 4.24-acres of existing forest. There are also two rare, threatened and endangered species of American Chestnut (*Castanea dentata*) located on the Property. The applicant is proposing to hand remove the American Chestnuts and donate them to the American Chestnut Society.

There are sixty-eight (68) trees 24" DBH or greater in size identified on the NRI/FSD with twenty-three (23) of these trees 30" DBH or greater. These trees are about evenly scattered throughout the site. Fifty-four (54) of these trees (sixteen (16) of which are 30" DBH and greater) lie within the limits of disturbance (LOD) of the project and are proposed to be removed.

The revised preliminary forest conservation plan indicates the removal of 3.04 acres of forest and the preservation of 1.20 acres of forest which generates a reforestation requirement of 0.62 acres. This requirement shall be met onsite with 0.56 acres of on-site forest planting and 0.06 acres of landscape credit.

Forest Conservation Variance

The Planning Board approved a tree variance with the initial preliminary forest conservation plan associated with S-2759. There is no additional impact to trees greater than 30 inches in diameter and a revised variance was not necessary with the revised preliminary forest conservation plan.

Therefore, the Board finds that the Application satisfies the Forest Conservation Law and the Environmental Guidelines.

5. *The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan approval meets MCDPS' standards.*

The Montgomery County Department of Permitting Services (MCDPS) Stormwater Management Section approved the stormwater management concept for the project on January 20, 2011. The stormwater management concept consists of on-site water quality control and onsite recharge via a combination of biofilter flow diffusers, turf filters, porous pavement, and bioswales. Each turf filter will be designed with an infiltration reservoir below the organic and sand filter that will be sized for full treatment, thereby providing redundancy for water quality.

6. *The preliminary/final Water Quality Plan is approved by the Planning Board.*

The Applicant has submitted a final water quality plan for review by both Montgomery County Department of Permitting Services (DPS) and M-NCPPC. DPS has reviewed and conditionally approved the elements of the final water quality plan under its purview. The Planning Board previously approved a preliminary water quality plan, with conditions, when it recommended approval of Special Exception S-2759. Planning

Board resolution 10-79 was mailed on October 18, 2010. The Board approves the final water quality plan for the reasons stated below.

Site Imperviousness

There is no overlay zone or Master Plan recommendation that sets an impervious cap for developments in this portion of the Clarksburg Special Protection Area. However, Section 19-63(a)(4) of the County SPA Law requires the water quality plan to minimize impervious area for a proposed project.

Planning Board Resolution 10-79 indicated that “no more than 1.40 acres” of impervious surfaces could be installed onsite. The Applicant’s final water quality plan shows less than 1.40 acres of impervious surfaces on site.

Forest Conservation

Parts of the existing forest have been protected, and reforestation/landscaping will be planted on the site to meet all forest conservation requirements onsite. Reforestation areas will be protected by an onsite Category I conservation easement. Expanded and accelerated forest conservation is required per the Environmental Guidelines for SPAs, and is reflected in the conditions.

For the reasons discussed above and as conditioned by this Resolution, the Board approves the Preliminary/Final Water Quality Plan.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 60 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended) and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded among the Montgomery County Land Records or a request for an extension must be filed; and

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Planning Board, and that the date of this Resolution is MAY 3 2011 (which is the date that this Resolution is mailed to all parties of record); and

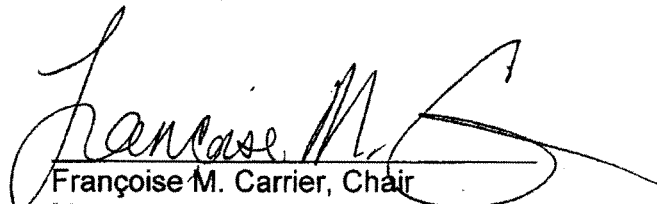
BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this

Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).


* * * * *


CERTIFICATION

This is to certify that the foregoing 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 Presley, seconded by Vice Chair Wells-Harley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioner Presley present and voting in favor of the motion, Commissioner Dreyfuss temporarily absent, and Commissioner Alfandre absent, at its regular meeting held on Thursday, April 28, 2011, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board

Proposed Amendment to the Local Area Transportation Review and Policy Area Mobility Review Guidelines

 Mary Dolan, Acting Chief, FP&P, mary.dolan@montgomeryplanning.org, 301-495-4552

 Rose Krasnow, Chief, Area 1, rose.krasnow@montgomeryplanning.org, 301 495-4591

Completed 2/2/12

Description

Currently, the Local Area Transportation Review and Policy Area Mobility Review Guidelines require that when more than one development has been approved that results in congestion beyond the accepted level, the first project to apply for a building permit must build the improvement(s) specified in the Planning Board's approval. When that first project cannot build the improvement(s), due either to their small size or unresolved design or property issues, their development is held up until the improvement is constructed, bonded or in the Capital Improvement Program. This was exemplified recently by the approved Goddard School daycare center in Clarksburg which has not been able to obtain a building permit both because of its size and unresolved property issues related to the required improvements at the intersection of Old Baltimore Road and Rt. 355. Councilmember Nancy Floreen has recommended an amendment to the Subdivision Staging Policy that would exclude daycare centers from the required transportation adequacy tests (LATR and PAMR).

Summary

Staff recommends against amending the Subdivision Staging Policy to exclude specific uses. In order to provide an interim solution to the Goddard School situation, staff recommends approval of proposed changes to the Planning Board's *Local Area Transportation Review and Policy Area Mobility Review Guidelines* that would provide an opportunity to accomplish intersection improvements through a Road Club or similar legal agreement among the private parties responsible for the needed improvements. Staff also recommends that a permanent solution be found for future projects that would place developer-funded projects in the Capital Improvement Program as suggested by the PHED Committee and the County Executive and/or by creating a revolving fund that would allow the County to construct necessary projects and be reimbursed by those private parties that will benefit from the improvement.

Discussion

The Board has already testified to the effect that it would not be a good idea to exempt daycare centers altogether from transportation adequacy tests (see attached testimony to the County Council). Further background on the issue is provided in the attached staff memo from July 7, 2011.

Instead of the proposed change to the Subdivision Staging Policy resolution, staff proposes changes to the language on page 19 (as it pertains to LATR requirements) of the *Local Area Transportation Review and Policy Area Mobility Review Guidelines* as shown below (proposed additional language is underlined):

III. Method and Preparation of Local Area Transportation Review Traffic Study

A. General Criteria and Analytical Techniques

When development is conditioned upon intersection and/or roadway improvements by more than one application, those improvements must be permitted and bonded¹, under construction, or under contract for construction prior to the issuance of building permits for any new development except as outlined below:

If an applicant's trip contribution to an intersection and/or roadway is less than 25% of the sum of total trips², this requirement may be fulfilled by the creation of a road club or other mechanism approved by the Planning Board that:

1. Includes the terms, conditions and responsibilities for funding (based on the respective shares) 100% of the cost for design approval, right-of-way acquisition and construction of the intersection or roadway improvements as set forth in the individual project APFO approvals and ensures that, collectively, all parties contribute in accordance with their respective shares the total cost of the improvements,
2. ensures the improvements are either permitted and bonded or under contract for construction within three years of the first building permit issued for any of the developments that are dependent on the required improvements, and
3. ensures the improvements are substantially complete and open to traffic within five years of the first building permit issued for any of the developments that are dependent on the required improvements.

In the event that conditions 2 or 3 have not been met, no other participant in the road club (or other agreement) may receive any building permit that is conditioned upon construction of the improvements until the condition is met³. In the event that a road club or other mechanism is formed, but not all parties responsible for the improvements join, such non-participating parties will not be permitted to proceed with platting or construction of their projects until they either join the road club or if the improvements have been completed, reimburse the other road club participants for their share of the total road club costs. "Non-participating parties" include those with projects having preliminary plan approvals which have obligations to participate in the same improvements whether the approval occurred before or after the road club formation.

¹ This condition is satisfied if the project is included in the first six years of the County's Capital Improvement Program and the developers' contribution is applied to that project.

² Trip total is the sum of the total peak-hour trips generated by all developments required by the Planning Board to participate in the construction of the particular improvement.

³ In certain APFO approvals, an applicant is not required to build an improvement until a certain number of building permits have already been released. For example, Cabin Branch is not responsible for the improvements at Rt. 355 and Old Baltimore Road until they need their 1401st building permit. This language tries to capture this fact, i.e. that the applicant would be able to obtain the first 1400 permits but could not get the 1401st permit if conditions 2 and 3 have not been met.

Construction of an improvement by one applicant does not relieve other applicants who have been conditioned to make the same improvement of their responsibility to participate in the cost of that improvement. The final percentage of the construction cost contribution is determined by the participating applicants.

Staff believes that it is preferable to change the LATR and PAMR guidelines rather than the subdivision staging policy for the very reason that they are guidelines and can be more easily adjusted should issues similar to those experienced by the Goddard School arise.

Permanent Solution Needed

The situation that faces the Goddard School is not unique, and on previous occasions the Planning Board has attempted to rely on Road Clubs and other methods to achieve transportation improvements that are the responsibility of more than one developer. These attempts have been less than satisfactory and do not always result in the timely provision of improvements as could be achieved if the same projects were undertaken by the County under the CIP process.

This year, the Planning Board and the County Council will debate the use of the Transportation Policy Area Review (TPAR) test that is intended to replace the current Policy Area Mobility Review (PAMR) test in the Subdivision Staging Policy. In February of 2011, the Planning, Housing and Economic Development Committee (PHED) received a briefing by the Department of Transportation on TPAR. The Committee suggested that the Council include road or transit projects or services in the CIP that are needed to serve development if 10% of the private sector's share of such project or service has been collected in TPAR payments. The Executive agreed and recommended programming the engineering and design of a project in the CIP at an earlier point in the life of a TPAR project. If this mechanism were in place, the improvements needed for the Goddard School would not be an issue. Goddard would pay its share for the necessary improvements and could obtain a building permit because the guidelines allow the condition for construction to be satisfied if the project is programmed in the first six years of the CIP. Review of the TPAR methodology and the Subdivision Staging Policy are scheduled for this year, but until then the current policy and guidelines apply.

The staff strongly recommends that the Council ask the Executive to implement a facility planning element for these projects and place these projects in the CIP if 10% of the private sector's share of such project or service has been collected. The Council should also consider creating a revolving fund that would allow the County to construct necessary projects and be reimbursed by the private parties whose projects are conditioned upon its completion.



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

MCPB
Item #10
July 7, 2011

MEMORANDUM

DATE: June 30, 2011

TO: Montgomery County Planning Board

FROM: Mary Dolan, Acting Chief, Functional Planning Division *MD*
Rose Krasnow, Chief, Area 1 Division *RK*

SUBJECT: Proposed Amendment to the Subdivision Staging Policy: Exclusion of Day Care Centers from the Local Area Transportation and Policy Area Mobility Review Requirements

Recommendation: Transmit Comments to the County Council

Instead of amending the Subdivision Staging Policy to exempt day care uses, staff recommends amending the Planning Board's Local Area Transportation Review and Policy Area Mobility Review guidelines to provide smaller development projects with options for providing their share of combined mitigation requirements, without being obligated to construct the entire improvement if they are the first project to begin.

Background

The Montgomery County Subdivision Staging Policy, formerly the Growth Policy, is established by the County Council through a resolution every four years in the second year of a Council term. Pursuant to the Policy, the Planning Board must not approve a subdivision if it finds that an unacceptable weekday peak-hour level of congestion will result after considering existing roads, programmed roads, available or programmed mass transportation, and physical improvements or trip mitigation measures to be provided by the applicant. If it is shown that a subdivision that generates more than 30 new peak-hour vehicle trips will have an adverse affect on traffic at a nearby intersection for which congestion is already unacceptable, then the subdivision may only be approved if conditions are added to ensure that improvements will be made that improve the situation. This analysis is done as part of Local Area Transportation Review and the subdivision staging resolution goes further to state that all preliminary plans of those projects generating more than three new peak-hour trips must also comply with the requirements of Policy Area Mobility Review (PAMR). In other words, these reviews determine, based on the levels of congestion that are deemed acceptable at affected intersections, if mitigation should be required for any percentage of the trips generated. An amendment has been proposed by Councilmember Floreen to exclude day care centers from these reviews.

The LATR/PAMR test is based on a traffic study completed by the applicant that analyzes vehicle trips generated by the development and their affect on nearby intersections. When traffic from the site increases the amount of traffic (critical lane volumes) to a level that, either alone or combined with other projected projects, would cause intersections to fail, the applicant must provide funding for the necessary improvements on a pro-rata basis, and the improvements must be constructed before the development is complete. If more than one project is responsible for the same intersection, the first project to move forward is required to build the improvements at the applicant's expense. The applicant would then be reimbursed by other applicants for their pro-rata share as they move ahead with their projects. This ensures that the improvements are in place before any new trips are on the road and avoids the issue of waiting indefinitely for an improvement since one or more of the other projects may not move forward in a timely way. The disadvantage is that the first applicant may have only a small part of the responsibility for a complex or expensive project.

This is the case with the Goddard School, which is required not only to participate in the improvement of the intersection of MD 355 and Old Baltimore Road but also, as the first project to move forward, to design and build the improvements, even though the project is complex and expensive and will require State Highway Administration participation in right of way acquisition and design work that is not yet underway. The Goddard School project would be held hostage to the design and construction schedule of the intersection improvements.

The solution proposed by the proposed resolution (see Exhibit A) is to exempt all day care facilities from the requirement to mitigate their traffic impacts. While this would resolve the issue for the Goddard School, the following issues remain:

- Day Care facilities, especially of the size proposed by the Goddard School, generate many peak hour trips, adding to critical lane volumes at congested intersections.
- The conditions caused by these additional peak hour trips could extend for long periods of time until another applicant is required to construct the necessary improvements or the government chooses to move ahead with them.
- Other types of uses that may generate more than three peak-hour trips but do not create severe congestion would also want to be excluded from the LATR and PAMR requirements.
- Even if all of the funding is available, the County (or State Highway Administration) may not be ready to move ahead if funding, design, or right of way acquisition is not resolved.

In staff's opinion, all development that may negatively impact existing road conditions should be subject to the LATR/PAMR requirements. Rather than exempting day care facilities, staff recommends that an effort be undertaken to explore amending the Planning Board's Local Area Transportation Review and Policy Area Mobility Review guidelines to provide smaller development projects with options for providing their share of combined mitigation requirements without being obligated to construct the entire improvement if they are the first project to begin.

Resolution No. _____
Introduced: _____
Adopted: _____

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: Councilmember Floreen

SUBJECT: Amendment to County Subdivision Staging Policy regarding child day care centers

BACKGROUND

1. Under County Code §33A-15(h), the County Council may amend an adopted County Subdivision Staging Policy by resolution after notifying certain agencies and holding a public hearing.
2. A public hearing was held on this resolution on (date).
3. This amendment is necessary to encourage the provision of child day care in the County by removing certain disincentives to opening new child day care centers..

ACTION

The County Council for Montgomery County, Maryland approves the following resolution:

The 2009-2011 County Subdivision Staging Policy (formerly the County Growth Policy), as adopted by Resolution 16-1187, is amended as follows:

* * *

Guidelines for Transportation Facilities

* * *

TP2.2.2 Determination of Adequacy

* * *

An applicant for a preliminary plan of subdivision need not take any action under TP Policy Area Mobility Review if the proposed development will generate 3 or fewer peak-hour trips, or if the development will consist only of a child day care center, as defined in Chapter 59.

* * *

TL Local Area Transportation Review (LATR)

Exhibit A

TL1 Standards and Procedures

* * *

Local area transportation review must be completed for any subdivision that would generate 30 or more peak-hour automobile trips unless that subdivision consists only of a child day care center, as defined in Chapter 59. For any subdivision that would generate 30-49 peak-hour automobile trips, the Planning Board after receiving a traffic study must require that either:

* * *

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council

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Testimony of Francoise M. Carrier, Chair, Montgomery County Planning Board

Montgomery County Council Public Hearing June 14, 2011

For the record I am Francoise Carrier, Chair of the Montgomery County Planning Board. On behalf of the Planning Board I am pleased to testify in support of our proposed amendments to the County's Subdivision Staging Policy.

The approved and adopted White Flint Sector Plan directs the Planning Board to establish a transportation approval mechanism and monitoring program within 12 months of the adoption of the Sectional Map Amendment. That deadline is coming up on July 13 of this year. These requirements must be met before the Planning Board can allow new development to move forward in White Flint. Council adoption of the proposed amendments to the Subdivision Staging Policy will allow the Planning Board to adopt implementation guidelines that we have reviewed in draft form, and to satisfy the approval and monitoring requirements in the Sector Plan.

The Planning Board has held more than a dozen work sessions over the past 8 months to develop a framework for implementing the Sector Plan's staging elements. The growth policy amendments before you today represent a key part of that effort, as they establish an alternative review procedure for new development in White Flint.

After receiving input from affected stakeholders including property owners, residents and government agencies, the Planning Board directed staff to create a transportation approval mechanism that prevents property owners from hoarding capacity that could instead be allocated to another property owner who is more ready to move forward. Doing so required that we establish a system in which capacity was not allocated at either preliminary plan or site plan, but at the building permit stage. Under this approach, capacity is not allocated to a project until the developer is ready to make the considerable investment in obtaining a building permit, and therefore can be expected to move forward within a short period of time.

Like the PAMR and LATR tests that apply everywhere outside of White Flint, the alternative review procedure proposed in these amendments would be administered by the Planning Board pursuant to Planning Board -approved guidelines. In the case of the White Flint alternative review procedure, the Planning Board is finalizing guidelines that establish the protocols for allocating capacity in a way that is consistent with the staging limits in the White Flint Sector Plan. As a result of staff's extensive engagement with affected stakeholders, there is broad consensus in support of those guidelines. We anticipate approving the guidelines in late June or early July.

The Planning Board urges the adoption of the Subdivision Staging Policy amendments as proposed, and looks forward to declaring White Flint open for business sometime in the coming weeks.

Thank you.

MEMORANDUM

TO: Richard Weaver, M-NCPPC

FROM: Stephen Z. Kaufman
Debra S. Borden

DATE: January 13, 2012

RE: Goddard School Preliminary Plan Amendment No. 12011002A (the
“Preliminary Plan Amendment”)
Preliminary Plan Amendment Justification

You requested that we provide justification for the Preliminary Plan Amendment with specific emphasis on the justification for the increase in the maximum level of impervious surface shown on our proposed Preliminary Plan Amendment.¹ The Property is located at 22010 and 22014 Frederick Road in Clarksburg near the intersection of Frederick Road (MD 355) and Old Baltimore Road (the “Property”) and is zoned R-200. A child day care center use for more than 30 children is permitted by special exception in the R-200 zone. Accordingly, special exception number S-2759 was granted by the Board of Appeals Opinion dated November 22, 2010 (the “Special Exception”). Preliminary Plan Application No. 120110020 (the “Preliminary Plan”) was filed on September 1, 2010, and approved by the Planning Board on May 3, 2011. The Preliminary Plan Amendment proposes the following revisions to the Preliminary Plan:

1. Increase the size of the gym/all-purpose room by 1525 square feet.
2. Add a sidewalk required by Fire Rescue Services.
3. Remove a retaining wall east of the toddler play area.
4. Remove a retaining wall south of the pre-school play area.
5. Add retaining a wall south of sports court (needed because of the new building footprint)
6. Revise the maximum Impervious Surface area from 1.4 acres to 1.5 acres.

¹ The actual amount of imperviousness shown on the Preliminary Plan Amendment is 1.446 acres. The Applicant is requesting a maximum of 1.5 acres to avoid any “as-built” overages.

7. Adjust the areas of Forest Conservation Easement and Limits of Disturbance to correspond to the new building footprint, while providing the same amount of forest preservation and afforestation as shown in the Preliminary Plan.

The Property consists of two undeveloped lots adjacent to a major commuter route (MD 355) near significant residential development with few child day care options. The Property is located entirely within the Clarksburg Special Protection Area (the "SPA"). Accordingly, development of the site required the preparation of a water quality plan, which has been approved by the Department of Permitting Services (DPS). The Planning Board has responsibility for approving the water quality plan as to site imperviousness, environmental guidelines for impervious areas, and forest conservation requirements.

During the process of obtaining approval of the Preliminary Plan, the Applicant worked with staff to minimize the imperviousness on the site. The Applicant made the following revisions, prior to the May 3, 2011 approval of the Preliminary Plan in an effort to reduce the amount of imperviousness:

1. Reduced and minimized the amount of sidewalks.
2. Reduced and minimized the width of the driveways and drive aisles.
3. Minimized grading by placing the buildings in the flattest part of the property.
4. Preserved a significant amount of forest by strategically placing the buildings.
5. Reduced and received a waiver of a significant number of parking spaces in order to reduce the size of the parking area.²
6. Proposed pervious pavers in the parking area.
7. Proposed "pour and play" product with turf filters for the outdoor play areas.

Although the SPA does not have a mandated imperviousness limit, Environmental Planning staff at the M-NCPPC applied a target maximum of 22 to 29 percent impervious area. The amount of impervious area shown on the approved Preliminary Plan, represented 30.6 % imperviousness, and the approval was conditioned upon limiting the impervious area on the site to 1.4 acres.

The Applicant's request to limit total impervious surface to 1.5 acres, from 1.4 acres approved in May, is attributable to two factors: 1.) the additional building footprint necessary to provide a safer indoor play area for the after school program Annex; and 2.) the Fire Marshall requirement to add a sidewalk connection to the emergency egress door on the main building. The Fire Marshall commented, after the Preliminary Plan was approved, that the additional sidewalk was needed for ADA compliance and the sidewalk must lead to the parking area, not one of the play areas, thereby increasing the length of the proposed sidewalk.

Additionally, subsequent to the approval of the Preliminary Plan, the Applicant was advised by other child day care center operators that the size of the gym/all-purpose room in the Afterschool Program "Annex" shown on the Preliminary Plan is too small for its intended use. As a classroom the space would be adequate, but as an indoor play area, for elementary-school aged

² One-third of the required parking spaces were waived by the Board of Appeals.

children, the space is too small to accommodate a reasonable group of children safely for the purpose of indoor play. This is a design flaw which only came to the Applicant's attention after the Preliminary Plan was approved. Although the Applicant owns and operates other Goddard School facilities in Rockville and Columbia, neither of those sites has an after-school program or a gym, so the Applicant was unaware of the licensing and practical requirements for an indoor play area. As designed and shown on the approved preliminary plan, the play area is approximately 60' x 30' which is considerably smaller than a "half-court" basketball area, and which does not provide enough area for school-aged children to run and play. The Applicant seeks to expand the gym so that it will be approximately 60' x 50' which is comparable to the size of a "half-court" basketball area.

The proposed site design preserves significant amount of existing forest in the northern and western corners of the Property, as well as significant forest adjacent to off-site forest areas in the southeast portion of the Property. The Forest Conservation Plan is minimally affected by the requested enlargement of the gym as shown on the redline Preliminary Forest Conservation Plan filed herewith, and there is **no reduction in the overall amount of forest preservation or afforestation proposed, simply small adjustments which are netted out by small adjustments in other areas of the site.** The approved Water Quality Plan is not affected by the Preliminary Plan Amendment because none of the proposed changes will affect any condition of approval, or any proposed stormwater ESD measure proposed on the Property.

The proposed removal of two retaining walls is the result of detailed engineering work performed for the building permit process after the Preliminary Plan was approved. It was determined after the Preliminary Plan was approved that the retaining walls were not needed. The additional retaining wall is required because the wall of the gym has moved closer to the forest easement area, so a small retaining wall is recommended to prevent encroachment into the easement.

Considering the steps that the Applicant proposes to take to minimize impervious surface on the Property, and that the Applicant has gone to great lengths to design the site so that large areas of forest are retained and protected, coupled with the use of porous pavement and turf filters for parking and play areas, the Project represents an appropriate use, supported by the community, which minimizes environmental impact in the SPA. The current use proposed for the Property, compared to the previously approved single family development, is certainly a better fit for the community and the environment as it is a single use that allows large areas of contiguous forest to be maintained while serving an acknowledged need for quality child day care located near existing and future residential development.

cc: Ross Flax
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