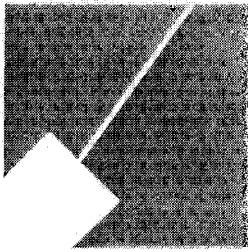


M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING


THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION9500 Brunett Avenue
Silver Spring, Maryland 20901

Agenda Date: July 15, 2004

July 8, 2004

MEMORANDUM

TO: Montgomery County Planning Board

VIA: Michael F. Riley, Chief, Park Development Division 

FROM: William E. Gries, ^{weg}Land Acquisition Specialist

SUBJECT: Authorization to Exchange Lands with the Maryland State Highway Administration: Master Planned Intercountry Connector Right-of-Way for Former Rockville Facility Right-of-Way

RECOMMENDATION

It is recommended that the Montgomery County Planning Board authorize the exchange of M-NCPPC owned ICC right-of-way consisting of 10.62 acres, more or less, unimproved, with the State Highway Administration (SHA) for 36.77 acres, more or less, unimproved, owned by SHA in the former Rockville Facility right-of way. The 36.77 acres of SHA land will be incorporated into Matthew Henson State Park. In addition to this exchange of real estate, SHA will pay the Commission \$325,926 to make up for the value difference of the land being exchanged, as described below. It is also recommended that the Board authorize staff to enter into a Letter of Intent with SHA which details the terms and conditions of this exchange. If the Board approves the staff recommendation for this real estate exchange, the full Commission will need to affirm this action as the land to be conveyed is titled in the name of the Commission.

BACKGROUND

After the 2003 Session of the Maryland General Assembly, House Bill 399 entitled "Montgomery County - Matthew Henson State Park - Expansion" was passed into law. This bill directed that the State Highway Administration transfer to The Maryland-National Capital Park and Planning Commission, for incorporation into Matthew Henson State Park, seven parcels of real estate which were acquired and held by SHA as reserved right-of-way for the Rockville Facility. In addition to these parcels being important to the expansion of the State Park, they are also critical to the construction of the Matthew Henson Hiker-Biker Trail. These parcels are specifically identified as follows and are shown on the attached maps:

1. N42, MDAT, Tax Map for Mont. Co. No. HR 561, Grid HR 51, consisting of 5.00 acres, more or less, unimproved;
2. N596, MDAT, Tax Map for Mont. Co. No. JR 122, Grid JR 12, consisting of 2.20 acres, more or less, unimproved;
3. N134, MDAT, Tax Map for Mont. Co. No. JR 122, Grid JR 22, consisting of 8.26 acres more or less, unimproved;
4. N106, MDAT, Tax Map for Mont. Co. No. JR 342, Grid JR 32, consisting of 3.15 acres, more or less, unimproved;
5. N223, MDAT, Tax Map for Mont. Co. No. JR 342, Grid JR 32, consisting of 9.97 acres, more or less, unimproved;
6. Parcel 2, SHA Plat No. 55749 (issued Sept. 24, 2001) consisting of 7.83 acres, more or less, unimproved, except that portion of Parcel 2 that was the subject of a lease between any person, group, organization or entity and an agency of the State government on or before June 5, 2002 (This exception area is that property to be conveyed by SHA to Faith Community Baptist Church. It is identified as Parcel 4 on SHA Plat No. 55749. The net area to be conveyed to the Commission is 7.23 acres, more or less); and
7. Parcel 3, SHA Plat No. 55749 (issued Sept. 24, 2001), consisting of 0.96 acres, more or less, unimproved.

With the directive of HB 399, SHA advised staff that these lands can be conveyed to the Commission by one of two means: 1) the Commission can pay SHA its costs for these lands, plus interest, (simple, not compounded) at a rate equal to the yields on U. S. Treasury Securities during each year SHA held the properties, or 2) the Commission can exchange with SHA lands held by it that would be useful to SHA and be equal in value. ICC right of way held by the Commission was a suggested as a possibility. Further, if lands could not be identified that are of equal value, SHA suggested that a financial contribution from either side could be added to the transaction to equalize the exchange. The latter option is considered the most cost efficient approach to this transaction in that it does not require a capital outlay on the part of the Commission during these times of fiscal constraint. The value of the seven properties to be conveyed to the Commission based on the above described cost, plus interest, approach through December 31, 2003 has been calculated to be \$1,410,930.

In reviewing properties held by the Commission that could be exchanged for the seven parcels coming from SHA, staff identified two ALARF funded acquisitions in the master planned right-of-way for the ICC. These properties, located east of MD Rte. 29, south of Briggs Chaney Road appear to meet the objective of the exchange and are described as follows:

1. P102, MDAT, Tax Map for Mont. Co. No. KR 341, Grid KR 41, consisting of 2.74 acres, more or less, unimproved; and

2. P983, MDAT, Tax Map for Mont. Co. No. KR 342, Grid KR 42, consisting of 7.88 acres, more or less, unimproved.

The value of these two parcels, consisting of a total of 10.62 acres, as shown on the attached map, through December 31, 2003, using the same cost, plus interest, approach followed in valuing the SHA properties is \$1,736,856.

SHA has review and considered the two above described Commission owned properties and has agreed to accept them in exchange for the seven SHA owned properties. Since the value of the two parcels the Commission is offering is worth \$325,926 more than the value of the seven parcels being given up by SHA, SHA has agreed to pay this balance to the Commission to equalize the transaction.

Staff and SHA have been developing a Letter of Intent (LOI) which details the terms and conditions of this proposed land exchange. A copy of the draft LOI is attached. It should be noted that the LOI specifically calls for SHA to convey its land to the Commission within 90 days following the execution of the LOI. The Commission will initiate its land transfer to SHA within 90 days of notification from SHA that it is prepared to receive the property. Until there is a final determination that the master planned right-of-way will be the selected route of the ICC, SHA is reluctant to take title to any additional land along the master planned alignment. Because of this differential in timing for the exchange of titles to the properties, an LOI detailing the transaction is necessary.

Finally, it should be noted that in the event the selected ICC alignment does not require the two Commission properties offered in this exchange, the Commission shall then offer other land of equal value to SHA, or the Commission shall pay SHA the acquisition cost of the seven parcels, plus interest, as specified in the LOI. It is impossible to predict the probability of this situation occurring, but if it does, it will need to be dealt with at a later date.