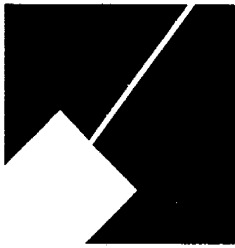


M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

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September 8, 2005

MEMORANDUM—MANDATORY REFERRAL

TO: Montgomery County Planning Board

VIA: John A. Carter, Chief, Community-Based Planning Division *ye*

FROM: Khalid Afzal, Team Leader, Georgia Avenue Team (301-495-4650) *KA*

SUBJECT: Mandatory Referral No. 05506-DPWT-1: Sale of Former Peary High School to the Melvin J. Berman Hebrew Academy – 13300 Arctic Avenue, Rockville Maryland, R-90 Zone, 1994 Aspen Hill Master Plan

RECOMMENDATION: Disapproval. Staff recommends retention of the property in public ownership, and a continuation of the existing lease.

THE PROPOSAL

The Hebrew Academy of Greater Washington has been leasing the Former Peary High School since March 1996. Pursuant to the lease agreement, the Academy is exercising its option to purchase the property, which is located in the Aspen Hill area and contains approximately 220,000 square feet of building space on a 19.5-acre site. According to the Executive Regulation 4-99 AM, Reuse, Leasing, and Sale of Closed Schools, Section 7: Process for Disposition by Sale or Lease with Option to Buy, Paragraph 7.3, "The Executive must request the Planning Board to review the proposed disposition under the mandatory referral process in the Regional District Act, and to submit a statement to the Council within 60 days that the site will not be needed for park uses."

BACKGROUND

The Robert E. Peary High School was closed in 1984, and the property was transferred from Montgomery County Public Schools to the County in 1994. The County signed a lease agreement with the Hebrew Academy of Greater Washington in March 1996 with an initial two-year renovation period, a twenty-five year lease term, with three additional five-year option periods, all commencing upon completion of the renovation period. The County retained the right, after the twenty-five year term, to reclaim the property for public education upon a five-year notice. The lease also granted the Academy the right to purchase the property upon approval of the County Council and the County Executive. The auditorium, gymnasium, and playing fields were made available in accordance with the guidelines for community use of public facilities. The renovation work, estimated to be \$8 million in 1997 dollars, was more extensive than initially projected causing the renovation period to be extended by approximately one year.

Article III of the 1996 Lease Agreement granted the Academy the right to purchase the property at any time during the lease subject to the approval of the County Council and the County Executive. According to the mandatory referral application, "the purchase or 'baseline' price was established by appraisal upon the commencement date of the lease and was premised upon the poor condition of the property." The application indicates that the purchase price is \$1,500,000 and that the deed between the County and the Academy will include the following conditions:

1. Continued use of auditorium, gymnasium, and playing fields through Community Use of Public Facilities;
2. The property may be used only for private education use, and accessory uses such as daycare and worship services, private educational day camps, and private religious education center;
3. County's right to repurchase if the land use changes; and
4. The County retains the right to repurchase for a public school commencing in 2026.

SUMMARY OF ISSUES

1. The Aspen Hill Master Plan recommends retention of this site in public ownership.
2. Repurchase of the site if needed for public education purposes.

Issue No. 1: Master Plan Recommendation

The former Peary High School site is located within the 1994 Aspen Hill Master Plan area. The reuse of this school site was being considered while the master plan amendment process was underway. The Aspen Hill Master Plan includes general comments on school sites in the Community Facilities Chapter. Under Community Facility Recommendations, Public Schools, on page 170, it states: "Support the retention of school sites and the modernization and utilization of existing schools." Regarding the subject property the Master Plan has specific comments in two places:

- 1) In the Facilities Chapter, Public Schools, it states: "The former Peary High School site might reopen as a holding school. This will depend upon the decision of the Board of Education on two other school sites in another part of the County. If it is not used as a holding school and then reopened as a high school, the site might be returned to the County for reuse as a public facility or disposed of for a private use." (p. 190).

- 2) The Land Use Chapter of the Master Plan includes an extensive discussion of this site identified as Parcel #14 (page 63, Attachment 3). It states that after closing in 1984, the site was transferred to the County in 1987. The County Executive started the reuse process for the site and proposed the site be reused as a combination regional recreation center, children and youth services center and fine arts center. However, before that recommendation was finalized, the Board of Education requested to get the site back for public education. However, funding was not available for converting the site to a holding facility and nothing happened on the site. By 1994, the site was in a major state of disrepair, the Board of Education had no plans to use it for public education use, and the Master Plan urged “positive action to restore the building and site for the benefit of the County and the neighboring community.”

In summary, the Master Plan states that a public school use would be the most desirable use of the site. But recognizing that the site may not be needed for a public school use, the Plan envisions other uses such as a private school, among others. “In any event”, the Plan states, “if the site is surplus by the Board of Education, it should be kept in public ownership.”

Issue No. 2: Sale of Former School Properties as Public Policy

The second issue is a public policy question—whether the former public school site should be retained in public ownership even if current projections show that it would not be needed for public education purposes in the foreseeable future. The site is located in the Rockville high school cluster, and the MCPS staff has indicated that this site would not be needed for public education purposes (Attachment 2). Staff notes that long-term demographic and school-age population projections are extremely complicated and unreliable. There have been instances where a closed school site was surplus and leased to a private entity and later reclaimed for public education purposes (a recent example is the former Belt Junior High School site). Even though the sale is proposed to be subject to a deed restriction that would allow the County to repurchase the site if needed for education purposes, it would create a more complicated process making it more difficult to repurchase the site than terminating the lease with a five-year notice and compensating the lessee for improvements to the facilities per the terms of the lease. Staff believes that the current lease structure, which allows the Hebrew Academy to continue to use the site until such time when the site is needed for public education purposes, is the most appropriate arrangement and serves both the private and the long-term public interests by retaining the site in public ownership.

Staff from the Park Planning and Resource Analysis unit of the Countywide Planning Division has raised some concerns regarding the sale of the property, which includes ballfields, tennis courts and play areas needed for community use (Attachment 4). Countywide staff has suggested that if the entire property is not retained in the public ownership the feasibility of selling only the building but retaining the open areas in the public ownership should be considered. The Countywide Planning staff believes that such large, fairly level parcels of land in the downcounty area are scarce, and this option would give the County the ability to improve, alter or expand the active recreation areas (lighting and artificial turf, for example) in the future if need be.

Community Notification

A mandatory referral hearing notice was mailed to all adjoining homeowners and the area homeowner associations on August 16, 2005. As of the writing of this report, staff has not received any communication from any citizen civic group on this proposal.

CONCLUSION

Based on the Aspen Hill Master Plan discussion and recommendation for this site, staff believes that the preferred option is to retain the site in public ownership and that the Hebrew Academy of Greater Washington should continue to use it under the terms of the current lease. The second option would be to sell only the building but keep the open active recreation areas in the public ownership.

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Attachments

1. Vicinity Map
2. Email from MCPS staff
3. Excerpt from Aspen Hill Master Plan
4. Memo from Countywide Planning Division