



MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 09-158

Special Protection Area Water Quality Plan No. MR2009707

Fairland Elementary School Addition

Date of Hearing: November 12, 2009

JAN 20 2010

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Chapter 19, Article V, Water Quality Review in Special Protection Areas, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review Special Protection Area (SPA) water quality plan applications;

WHEREAS, on June 18, 2009, Montgomery County Public Schools ("Applicant"), filed an application for approval of a SPA Preliminary and Final Water Quality Plan for 11.80 acres of land located on Fairdale Road ("Property" or "Subject Property"), in the Upper Paint Branch Special Protection Area portion of the Fairland master plan ("Master Plan"); and

WHEREAS, Applicant's SPA water quality plan application was designated Water Quality Plan No. MR2009707, Fairland Elementary School Addition ("SPA Water Quality Plan" or "Application"); and

WHEREAS, Staff issued a memorandum to the Planning Board, dated October 19, 2009, setting forth its analysis, and recommendation for denial of the Application, including a request for a waiver from the imperviousness limits of the Upper Paint Branch SPA Environmental Overlay Zone ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and the staff of other governmental agencies, the Planning Board held a public hearing on the Application on November 12, 2009 (the "Hearing"); and

WHEREAS, Applicant revised its application at the public hearing to propose the use of a pervious reserve site to meet the regulatory limits for imperviousness for the project;

WHEREAS, after further discussion at the hearing Staff changed its recommendation from denial to approval with conditions for the revised application at the public hearing;

Approved as to
Legal Sufficiency:

8787 Georgia Avenue, N.C. 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

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

WHEREAS, on November 12, 2009, the Planning Board approved the revised SPA Water Quality Plan subject to certain conditions, on motion of Commissioner Presley; seconded by Commissioner Wells-Harley; with a vote of 4-0, Commissioners Alfandre, Hanson, Presley, and Wells-Harley voting in favor, with one seat being vacant.

NOW, THEREFORE, BE IT RESOLVED, that, pursuant to the relevant provisions of Montgomery County Code Chapter 19, Article V, the Planning Board approved the revised SPA Water Quality Plan No. MR2009707 on 11.80 acres of land located on Fairdale Road ("Property" or "Subject Property"), in the Fairland master plan area ("Master Plan") subject to the following conditions:

- 1) Montgomery County Public Schools (MCPS) intends to use the approximately 20.96-acre former Briggs Chaney Middle School site ("Site") as a land bank for credit towards imperviousness requirements for MCPS improvements within the Upper Paint Branch SPA and/or forest conservation requirements. Before issuance of building permit for the Fairland Elementary School Addition (MR2009707), a Memorandum of Understanding (MOU) shall be entered into between M-NCPPC and MCPS to determine the process for and the amount of credits for future imperviousness and/or forest conservation needs to be granted from the Site.
 - a. The amount of property within the Site to be encumbered as impervious credits in connection with this Water Quality Plan shall be applied at a ratio of 12.5:1 for the excess impervious surface added as a result of the Fairland Elementary School Addition (MR2009707).
 - b. Within three months of the date of the MOU, MCPS shall grant an easement to MNCPPC over the entire Site which restricts any development or alteration of existing vegetation on the Site.
 - c. In accordance with and upon the approvals required as part of the MCPS surplus property procedures, the Site shall be conveyed on or before December 31, 2010, to M-NCPPC for use as parkland, free and clear of all encumbrances, encroachments, trash and unnatural debris.
- 2) Applicant must conform to the conditions as stated in the Department of Permitting Services (DPS) water quality plan approval letters dated April 8 and July 10, 2009.

BE IT FURTHER RESOLVED, that having given full consideration to the recommendations and findings of its Staff, which the Board hereby adopts and incorporates by reference (except as modified herein) and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

1. *The Application satisfies all the applicable requirements of the SPA Law, Montgomery County Code, Chapter 19, Article V.*

The project was reviewed for compliance with Chapter 19, Article V of the Montgomery County Code. The applicant agreed, subject to various subsequent approvals, to:

- a. Use the approximately 20.96-acre former Briggs Chaney Middle School site ("Site") as a land bank for credit towards imperviousness requirements for the Fairland Elementary School Addition Project.
- b. Enter into a Memorandum of Understanding ("MOU") with M-NCPPC to determine the process for and the amount of credits for future imperviousness and/or forest conservation needs to be granted from the Site.
- c. Include provisions within the MOU for meeting the *no-net increase of impervious surfaces* in the Upper Paint Branch SPA for future school projects in the SPA.

The stormwater management plan, sediment and erosion control plan, and the water quality monitoring component have been reviewed and conditionally approved by the Montgomery County Department of Permitting Services, in coordination with the Montgomery County Department of Environmental Protection, who are the lead agencies for these components of the SPA Water Quality Plan.

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter and the date of this Resolution is JAN 20 2010 (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 Wells-Harley, seconded by Commissioner Alfandre, with Commissioners Hanson, Alfandre, and Wells-Harley voting in favor of the motion, and Commissioner Presley absent, with a four-member Board, at its regular meeting held on Thursday, January 14, 2010, in Silver Spring, Maryland.



Royce Hanson, Chairman
Montgomery County Planning Board