



MCPB
Item # A and B
November 12, 2009

MEMORANDUM

TO: Montgomery County Planning Board

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

FROM: Candy Bunnag, *CB* Planner Coordinator, Environmental Planning Division

DATE: October 19, 2009

SUBJECT: Staff Recommendations for Planning Board approvals of:
A. **Special Protection Area (SPA) Preliminary/Final Water Quality Plan, and**
B. **Preliminary Forest Conservation Plan associated with Mandatory Referral No. 09707-MCPS-01, Fairland Elementary School**

STAFF RECOMMENDATIONS

Staff recommendations are made below for two Planning Board actions on the following plans:

A. SPA Water Quality Plan recommendations:

1. Denial of the SPA Preliminary/Final Water Quality Plan and denial of the request for waiver from the imperviousness limit of the Environmental Overlay Zone for the Upper Paint Branch Special Protection Area (SPA).
2. MCPS should submit a revised Water Quality Plan that either: (a) identifies options to permanently remove 0.24 acre (10,454 square feet) of impervious surfaces in the Upper Paint Branch SPA to create a no-net increase of impervious surfaces for this project and/or (b) identifies other measures that are consistent with the Planning Board's direction at the November 5, 2009 round-table discussion with Department of Parks on creating alternatives to imperviousness waivers.
3. Resubmit and finalize the Memorandum of Understanding (MOU) that was a condition of approval of the Cloverly Elementary School expansion identifying how Montgomery County Public Schools will meet the no-net-increase of impervious in the SPA for this and future school projects in the SPA.
4. The revised SPA Water Quality Plan and a final MOU should be submitted to the Planning Board no later than January 15, 2010 for Planning Board review and approval.

B. Preliminary Forest Conservation Plan approval recommendations:

Approval of the Preliminary Forest Conservation Plan with the following conditions:

1. Compliance with the conditions of approval of the Preliminary Forest Conservation Plan. The applicant must meet all conditions prior to Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permit(s). Conditions include, but are not limited to, the following:
 - a. Submission and approval of a final forest conservation plan., including permanent signs to be placed along the boundary of the forest retention/conservation area.
 - b. Prior to the start of clearing or grading, the applicant must record a Category I conservation easement over the onsite forest retention area as shown on the Forest Conservation Plan. The conservation easement agreement should be amended to allow for the existing dirt path to remain, and be enhanced through use of natural materials (e.g., mulch), as necessary, to prevent erosion and improve all-weather utility, subject to approval by a MNCPPC Inspector.

BACKGROUND

The 11.80-acre site is an existing elementary school that lies within the Upper Paint Branch Special Protection Area (SPA). An intermittent stream, with a small pocket of wetlands and a seep flows east to west along the northern portion of the site. A 2.05-acre forest is associated with the stream and its buffer.

DISCUSSION

There are three items for Planning Board review for the Fairland Elementary School project: the mandatory referral, the Special Protection Area (SPA) Combined Preliminary and Final Water Quality Plan, and the Preliminary Forest Conservation Plan. This memorandum covers staff's review and recommendations on the SPA Combined Preliminary and Final Water Quality Plan and the Preliminary Forest Conservation Plan.

The Board's actions on the SPA Water Quality Plan and Forest Conservation Plan are regulatory and binding. The Planning Board must act on the SPA Water Quality Plan and Forest Conservation Plan before it can proceed to make recommendations on the mandatory referral.

SPA PRELIMINARY/FINAL WATER QUALITY PLAN REVIEW

MCPS proposes to expand the school to add more classrooms on the northeastern side of the existing school building. Portable classrooms (or learning cottages) had been relocated in this portion of the site, but these portables have already been relocated to the center of the site to make room for the expansion. In addition, MCPS proposes to add a new driveway entrance to the parking

lot and to reconfigure the drop-off area in front of the school.

MCPS' most recent plan shows that the proposed project would increase impervious surfaces on the school site from 4.01 acres to 4.25 acres (or 33.4% to 35.4% 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 mandatory referral¹. Under the provision of the law, the Montgomery County Department of Permitting Services (DPS) 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 Preliminary/Final Water Quality Plan under its purview. The Planning Board responsibility is to determine if environmental buffer protection, SPA forest conservation and planting requirements, and site imperviousness limits have been satisfied.

Environmental Planning Staff recommends the Board deny the SPA water quality plan based on review of those elements under its purview. MCPS has not fully explored all options to demonstrate compliance with the provisions of the Environmental Overlay Zone for the Upper Paint Branch SPA.

Site Imperviousness

Impervious surface restrictions for development projects in the Upper Paint Branch SPA are set forth in the Environmental Overlay Zone for the Upper Paint Branch SPA. The Environmental Overlay Zone has an 8 percent imperviousness limit for new projects. There is also a provision for projects with impervious surfaces lawfully existing before July 31, 2007 that exceed the 8 percent limit and are proposing to construct features within the project area. Section 59-C-18.152 (a)(1)(A) of the Montgomery County Code states:

“(A) Any impervious surface lawfully existing pursuant to a building permit issued before July 31, 2007 that exceeds the 8 percent restriction, may continue or be reconstructed under the development standards in effect when the building permit was issued.”

Since this site is an existing high school, the site imperviousness for this project cannot be increased over what exists today. That is, there cannot be any net gain in impervious surfaces within the SPA.

There are 4.01 acres of existing impervious surfaces on the 11.80 acre school site, or about 33.4 % imperviousness. The proposed project would increase the school's impervious surfaces to 4.25 acres or 35.4 %. The project's imperviousness does not include the relocated portable classrooms or light duty asphalt paths that were constructed with the relocation of the portables. The portables and the asphalt paths are proposed to be removed after construction of the building addition is completed.

MCPS' current proposal includes a reconfiguration of the entrance driveway to reduce the

¹ Section 19-62 (c) of the Montgomery County Code states that “before engaging in any land disturbing activity on publicly owned property in an area designated as a special protection area, the applying agency or department should prepare a combined preliminary and final water quality plan.”

impervious surfaces at the front of the site. This reduction, however, is not enough to offset the entire amount of new impervious surfaces that will be added. In addition, the proposal does not include provisions to remove any impervious surfaces at another site in the SPA. MCPS has requested a waiver of the imperviousness limit of the Environmental Overlay Zone for the Upper Paint Branch SPA (Attachments 1 and 2).

Section 59-C-18.152 (a)(2) states that “the Director may grant a waiver from the 8 percent impervious surface restriction subject to the following standards and procedures:

- (A) Written Request. An applicant may apply for a waiver from the 8 percent impervious surface restriction if enforcement would result in undue hardship to the applicant. The request must be in writing to the Director.
- (B) Review and action. The Director may grant a waiver from the 8 percent impervious surface restriction if the applicant shows by clear and convincing evidence that:
 - (i) the 8 percent impervious limitation would result in undue hardship to the applicant because of events or circumstances not caused or facilitated by the applicant;
 - (ii) the applicant complies with all applicable federal, state, and county water quality standards; and
 - (iii) the relief sought is the minimum needed to prevent the hardship and the Director must consider alternative techniques.”

In practice, the Planning Board has been responsible for acting on a waiver request, instead of the DPS Director, when a SPA Water Quality Plan is reviewed by both DPS and the Planning Board. This practice was put in place since 1997 when the Environmental Overlay Zone was adopted². This process provides for citizen input in a public forum prior to action on the waiver.

In addition, although the Overlay Zone provides a waiver process for projects that exceed the 8 percent imperviousness limit, the waiver process has also been applied to projects on sites that have existing impervious surfaces that exceed the 8 percent limit and are proposing to add more impervious surfaces (i.e., projects that do not propose to limit imperviousness to what exists on the sites).

The proposed project shows a net impervious surface increase of 0.24 acre (10,454 square feet), or an increase of 33.4% to 35.4% imperviousness. Staff does not support the waiver request and recommends that the request be denied.

Staff believes that MCPS has minimized impervious surfaces on the school site itself. However, in staff’s opinion, MCPS has not thoroughly examined all offsite options to remove impervious surfaces to offset the onsite increase:

- a. Staff believes that there may be “excess” pavement along Fairdale Road. Currently, the road pavement in front of the southern part of the school site includes an acceleration lane. Since the existing parking lot is proposed to be reconfigured to allow a second access, the acceleration lane and associated pavement may no longer be needed. Staff recommends that

² The Overlay Zone identifies the Director (i.e., the DPS Director) as the authority who acts on a waiver request. DPS has relinquished its authority to the Planning Board to review impervious limits for projects that are reviewed by the Planning Board. DPS’ letter of April 8, 2009 (Attachment 6) states that DPS’ approval “is for the elements of the Preliminary/Final Water Quality Plan of which DPS has lead agency responsibility, and does not include limits on imperviousness or stream valley buffer encroachments.”

- MCPS work with Montgomery County Department of Transportation (DOT) to determine if the acceleration lane can be removed. If DOT determines the lane is not needed, MCPS should remove the lane to help offset the excess impervious surfaces on the school site.
- b. MCPS' waiver request indicates that there is no "extra" impervious area on any of the other MCPS sites in the SPA where impervious surfaces could be removed. The only excess impervious area was about 2658 square feet of pavement that was part of an existing paved play area on the Briggs Chaney Middle School site which was removed to offset the impervious surfaces added to the Cloverly Elementary School site for its new gymnasium. Staff believes there could be other school sites in the SPA where impervious surfaces, particularly those on the edges or are extensions of paved play areas, might be removed and replaced with grass cover. In addition, MCPS indicates that it has identified specific properties that are for sale in the SPA. These properties have existing houses. MCPS indicates that the cost of purchasing these properties to offset the impervious increase of the school project is excessive. Staff agrees that purchasing lots with existing houses in an established neighborhood would be expensive. In addition, staff believes that demolition of houses in good condition in existing neighborhoods should not be the result of MCPS' efforts to meet the impervious surface limits of the Environmental Overlay Zone. Such efforts would be disruptive to established neighborhoods. Staff believes that MCPS could further explore other options for demolition/ imperviousness removal, but only in a situation where such demolition/removal would be appropriate within the context of its surroundings and community, and create a sustainable positive asset to the community or public at large. Staff does not support the approach taken by MCPS in its September 2, 2009 letter of selecting random available SPA properties as listed on the Realtor's multiple listing service (MLS). Rather, staff will work with MCPS to better target sites/properties that meet the general objectives cited above.
 - c. There may also be other options available to MCPS depending on outcomes of the Planning Board's discussion with Department of Parks on November 5th as part of a round-table item on creating impervious surface "credits" in the Upper Paint Branch and Upper Rock Creek SPAs.

To summarize, staff does not believe that MCPS has fully examined all reasonable options to create a project for Fairland Elementary School with no net gain of impervious surfaces. Staff does not recommend approval of the Water Quality Plan until MCPS has further explored options such as the ones identified above and determined their feasibility.

In addition, as part of the SPA water quality plan review for the Cloverly Elementary School – Gymnasium Addition project (Mandatory Referral No. 07604-MCPS-1 reviewed by the Planning Board on November 8, 2007), the Planning Board placed a condition that MCPS would formalize its commitment to meet the no-net-increase of impervious surface in the SPA for Cloverly Elementary School and future school projects in the SPA through the submission of a Memorandum of Understanding (MOU) which would contain specific elements (Attachment 3). Although MCPS was able to remove impervious surfaces on another school site to offset the increase on Cloverly Elementary School (Attachment 4), MCPS has not submitted an acceptable draft MOU for identifying and acquiring offsite impervious surface reserve land for other school projects. Staff recommends that in considering options for offsite addressing impervious surface limitations for Fairland Elementary School, MCPS should also identify options that can be incorporated into an MOU to address impervious surface limitations on future school improvement projects in the SPA. This would be consistent with the Planning Board chairman's comments to MCPS in his letter dated

June 26, 2008 (Attachment 5).

Environmental Buffers

A 2.04-acre environmental buffer that is associated with the onsite intermittent stream lies on the northern portion of the site. About 1.75 acres of the buffer has existing forest. A dirt path exists through the forest. The path provides a walking trail from Duvall Road located to the northeast of the school.

The southern edge of the environmental buffer includes several existing encroachments. A portion of the school's loop driveway connecting Fairdale Road lies within the buffer. A grass swale which collects stormwater runoff from the northern portion of the site and connects to a storm drain system also lies within the southern edge of the environmental buffer.

The existing forest within the environmental buffer is proposed to remain. Staff recommends that a Category I conservation easement is placed over the forest. For the portion of the environmental buffer that includes the school driveway and stormwater management grass swale, a conservation easement is not recommended.

County DPS Special Protection Area Review Elements

DPS has reviewed and conditionally approved the elements of the SPA water quality plan under its purview with a synopsis provided below (see Attachments 6 and 7).

Site Performance Goals

As part of the water quality plan, the following performance goal was established for the site: maintain, preserve or improve the pre-development aquatic community; protect seeps, springs, and wetlands; and minimize the loss of sedimentation from the site during construction.

Stormwater Management Concept

The northern portion of the school site drains through a vegetated swale to a storm drain system which connects to an offsite stormwater management facility on Bradshaw Road. This SWM facility provides water quantity control for this portion of the school site. The parking lot, on the south side of the site, drains through an existing oil/grit separator to an underground infiltration trench and underground detention facility. DPS is requiring the oil/grit separator under the parking lot to be replaced with a filtration cartridge system that provides better water quality controls. This approach is considered to provide the best overall environmental protection for the project.

It should be noted that the original Water Quality Plan for this project included the relocation of portable classrooms from the northern portion of the site to a central location. MCPS revised the plan to separate the classroom relocation work from the building addition and parking lot reconfiguration. DPS handled the review of the portable classroom relocation separately.

Sediment and Erosion Control

DPS has determined that the use of super silt fence is acceptable for small areas of disturbance.

Immediate stabilization must be emphasized.

Monitoring of Best Management Practices

Montgomery County Department of Environmental Protection (DEP) is requiring that one year of pre-construction monitoring must be completed prior to the issuance of a sediment control permit. This monitoring would consist of taking samples from the existing oil-grit separator inlet under the parking lot. It should be noted that given the consultants' schedule of monitoring, it is anticipated that the one-year period of pre-construction monitoring should end towards the latter part of 2010; this would be the time that sediment control permits for the project could be issued.

REVIEW UNDER THE COUNTY FOREST CONSERVATION LAW

Natural Resource Inventory/Forest Stand Delineation (NRI/FSD)

A Natural Resources Inventory/Forest Stand Delineation (NRI/FSD #420090090) was approved by Environmental Planning staff on October 1, 2008. There are 2.05 acres of existing forest, of which 1.75 acres lie within the environmental buffer on the northern portion of the site. An intermittent stream, a small wetland area, and associated environmental buffer lie along the northern portion of the site. There are also individual, landscaped trees. There are no champion trees or trees that are within 75 percent of County champion trees on the site.

Preliminary Forest Conservation Plan

This project is subject to Chapter 22A of the County Code (Montgomery County Forest Conservation Law). The Preliminary Forest Conservation Plan proposes to preserve the entire 2.05 acres of forest. There is no planting requirement due to the retention of all of the existing forest, which is above the afforestation threshold.

As noted above, staff recommends that the forest retention area is protected through the establishment of a Category I conservation easement. The forest retention area includes the existing dirt path that allows access to the school from Duvall Road. Staff recommends that the path remain in the conservation easement area with an unpaved surface to maintain the pedestrian connection to the school. The conservation easement agreement should be modified to recognize the existence of the unpaved path. In addition, staff recommends that the boundary of the conservation easement be marked with permanent signs.

The Preliminary Forest Conservation Plan, if modified to meet staff's recommended conditions, meets the requirements of the Forest Conservation Law.

ATTACHMENTS

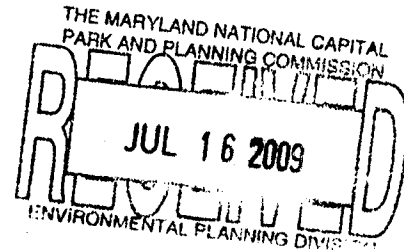
1. Letter from James Song, MCPS, to Rollin Stanley, M-NCPPC Planning Director, requesting a waiver from the impervious surface limits of the Environmental Overlay Zone for the Upper Paint Branch SPA. July 15, 2009
2. Letter from James Song, MCPS, to Mark Pfefferle, M-NCPPC Acting Chief, Environmental Planning Division, providing additional information to respond to M-NCPPC questions on the waiver request. September 2, 2009
3. Letter from Royce Hanson, Planning Board Chairman to Jerry West, MCPS Superintendent, stating the Planning Board's comments on the mandatory referral for Cloverly Elementary School gymnasium addition project and the Board's regulatory actions on the project's SPA water quality plan and forest conservation plan. November 26, 2007
4. Letter from Joseph Lavorgna, MCPS Acting Director to Royce Hanson, Planning Board Chairman, identifying how MCPS met the impervious surface limitations for Cloverly Elementary School gymnasium addition project. June 20, 2008
5. Letter from Royce Hanson, Planning Board Chairman, to Joseph Lavorgna, MCPS Acting Director, urging MCPS to complete an MOU to acquire properties where existing impervious surfaces will be removed to meet impervious surface limits of future school projects in the SPA. June 26, 2008
6. Letter from Richard Brush, DPS Water Resources Section Manager, to Patrick Welker, ADTEK Engineers, approving with conditions the SPA Preliminary and Final Water Quality Plan for Fairland Elementary School. April 8, 2009
7. Letter from Richard Brush, DPS Water Resources Section Manager, to Patrick Welker, ADTEK Engineers, approving a revised Water Quality Plan. Conditions identified in DPS letter of April 8, 2009 still apply. July 10, 2009



MONTGOMERY COUNTY PUBLIC SCHOOLS
MARYLAND
www.montgomeryschoolsmd.org

July 15, 2009

Mr. Rollin Stanley, Planning Director
Maryland-National Capital Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910



Dear Mr. Stanley,

Re: Fairland Elementary School
Request for Waiver of 8% Impervious Area Cap
Upper Paint Branch SPA

Montgomery County Public Schools (MCPS) has submitted its plan under Mandatory Referral for a classroom addition to the existing Fairland Elementary School located at 14315 Fairdale Road, Silver Spring, Maryland in the Upper Paint Branch Special Protection Area (SPA) of Montgomery County. In accordance with Section 59-C-18.152(a) (2) of the County's Code, Environmental Overlay Zone for the Upper Paint Branch Special Protection Area, is requesting a waiver from the impervious surface restriction to accommodate this building expansion.

The objective of the proposed addition is to alleviate the need for relocatable classrooms and increase the school's capacity as the future student enrollment is expected to reach 592 students by FY 2014. It is imperative that this addition remain on schedule so that this increase in enrollment can be accommodated. Upon completion of the new building addition, the eight (8) existing portables will be removed from the site.

To minimize any increase in impervious area, site work has been limited to the construction of one new parking lot entrance and the relocation of existing basketball courts within the site. No additional parking is being proposed. Because this is a "class-size reduction" school, the existing parking spaces are required and must be maintained.

As previously requested by the Planning Board, MCPS has, to no avail, been tracking and attempting to identify existing properties that are for sale within the Upper Paint Branch SPA that have sufficient impervious surface that could be removed to mitigate increases in impervious area on school sites. The overall goal has been to attempt to develop an impervious area bank upon which MCPS could draw for future school expansion. All existing school sites within the SPA are currently operating at or under the minimum impervious areas required to meet current County and State-mandated educational specifications. The last remaining "extra" impervious area was removed from the Briggs Chaney Middle School to bring the Cloverly Elementary School site into compliance with the impervious area restriction. MCPS has gone on record that it will make every

Division of Construction

Mr. Rollin Stanley

July 15, 2009

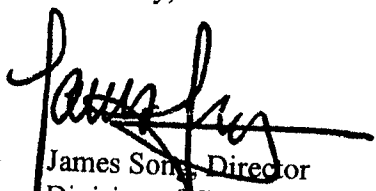
effort possible to comply with, and to date has complied with, the 8 percent impervious limitation in the Upper Paint Branch Enforcement of the impervious area restriction will result in undue hardship to MCPS and the citizens of Montgomery County.

MCPS has no control over the availability of existing impervious area or influence over the sale of privately held property within the SPA. Additionally, the mandate given to MCPS to acquire privately held property also affects the cost of that property. If the seller understands that MCPS must acquire the property within a specified time, the seller has the incentive to increase the value of the property. In essence, MCPS will be paying more for the property than the property is valued. While it may, at some time, be possible to acquire a 0.4 acre parcel of paved surface to remove, it is more likely that MCPS will have to acquire a much larger tract of land upon which there is 0.4 acres of paving. This will result in a significant added cost to every MCPS project in the SPA. MCPS has no control over the fact that the legislation also "grandfathers" existing impervious area in the SPA. Therefore, protecting your existing impervious area increases development potential in the future and discourages the sale of impervious area.

The County Department of Permitting Services has approved the water quality plan prepared by MCPS as meeting all local, state, and federal water quality standards and, as stated above, the additional impervious area added to the project is the minimum possible required to accommodate the expansion. It should also be noted that the impervious area provided is less than ideal for the school.

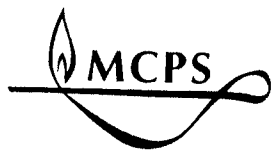
Accordingly, we respectfully request a waiver from the impervious area cap within the SPA to allow the construction of the Fairland Elementary School addition to proceed on schedule.

Sincerely,


James Song, Director
Division of Construction

JS:mas

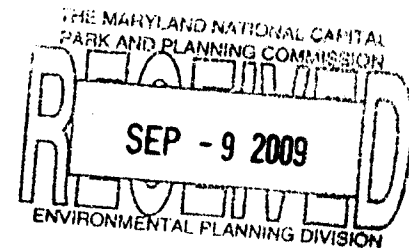
- Copy to:
- Mr. Bagai
- Ms. Jessell
- Mr. Shpur
- Mr. Shuman
- Ms. Bunnag (M-NCPPC)



MONTGOMERY COUNTY PUBLIC SCHOOLS
MARYLAND
www.montgomeryschoolsmd.org

September 2, 2009

Mr. Mark Pfefferle
Maryland-National Capital Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910



Dear Mr. Pfefferle:

Re: Fairland Elementary School—Addition
Request for Waiver of 8% Imperviousness
Limit of the Environmental Overlay Zone
for Upper Paint Branch SPA

This is in response to your letter dated August 10, 2009, requesting additional information to allow the Fairland Elementary School to move forward through the mandatory referral process. The letter presents two comments requiring a Montgomery County Public Schools (MCPS) response. We are providing the following for your consideration.

M-NCP&PC Comment No. 1

Your letter of July 15th, to Mr. Stanley stated that MCPS has been tracking and attempting to identify existing properties that are for sale within the Upper Paint Branch SPA and that could be used to mitigate increases in impervious surfaces on public school sites. Staff would like to know what specific properties were identified as possible impervious surface mitigation sites and if offers were made to acquire the properties.

MCPS Response

MCPS has been actively monitoring the existing properties that are for sale within the Upper Paint Branch Special Protection Area (SPA) and that could be used to mitigate the increases in impervious surfaces on public school sites. The following spreadsheet tabulates the specific properties that have been identified to date as possible impervious surface mitigation sites.

TABULATION OF PROPERTIES IDENTIFIED AS POSSIBLE IMPERVIOUS SURFACE MITIGATION SITES

Division of Construction

2096 Gaither Road, Suite 203 ♦ Rockville, Maryland 20850 ♦ Phone: 240-314-1000 ♦ Fax: 240-314-1036

Mr. Mark Pfefferle

September 2, 2009

#	Street No	Street	Rd	Notes	List Price	Tax ID	Imperv SF	\$/SF of Imperv	
1	2925	Maplehill	Rd		\$259,000	5-001-0281331	4,660	\$ 55.58	} \$1,592,900 for 22,466 sf of imperv.
2	1721	Briggs Chaney	Rd		\$489,900	5-001-0262645	7,136	\$ 68.65	
3	2709	Sherview	La		\$419,000	5-001-0276493	5,524	\$ 75.85	
4	1106	Briggs Chaney	Rd		\$425,000	5-001-2859166	5,146	\$ 82.59	
5	1908	Rainbow	Dr	In-ground Pool	\$544,777	5-057-0378557	5,272	\$ 103.33	
6	1820	Cullen	Dr		\$489,900	5-053-0375177	4,616	\$ 106.13	
7	13704	Hobart	Dr		\$349,900	50-72-2006441	3,215	\$ 108.83	
8	14825	Fireside	Dr		\$429,900	5-058-0382798	3,803	\$ 113.04	
9	13614	Creekside	Dr		\$825,000	5-031-0337445	6,766	\$ 121.93	
10	1115	McNeil	La		\$1,185,000	5-057-3209321	9,329	\$ 127.02	
11	2205	Solmar	Dr		\$437,000	5-301-0336837	3,180	\$ 137.42	
12	1525	Maydale	Dr		\$469,900	5-069-1869717	3,351	\$ 140.23	
13	15305	Durant	St		\$486,950	5-057-0377451	3,384	\$ 143.90	
14	13728	Ivywood	La		\$445,000	5-072-2006532	2,874	\$ 154.84	
15	2128	Edgeware	St		\$468,500	5-057-0379506	2,948	\$ 158.92	
16	1	Tindlay	Ct		\$499,000	5-057-0378796	2,973	\$ 167.84	
17	2408	Seibel	Dr	4 Car Garage	\$424,900	50-37-0346483	1,551	\$ 273.95	
18	15613	Peach Orchard	Rd		\$790,000	5-037-2285306	2,431	\$ 324.97	
19	3018	Greencastle	Rd		\$749,000	5-020-0321290	1,312	\$ 570.88	
20	13715	Batchelors	Dr		\$2,749,000	5-020-0321095	3,346	\$ 821.58	

FAIRLAND ELEMENTARY SCHOOL IMPERVIOUS AREA MITIGATION REQUIREMENTS			
Target:	0.3979	17,332	
W/Addition:	0.4309	18,771	

Mr. Mark Pfefferle

3

September 2, 2009

The tabulation has been sorted by dollar cost per square foot of impervious area. The impervious areas on each property have been estimated by measurement from the most recent county aerial topography. Accordingly, it can be seen that merely to offset the 18,771 square feet of additional impervious area created by the required addition, it would require an expenditure of approximately \$2.3 million dollars to acquire the properties, demolish the developments on the properties, and restore the sites to natural conditions. More importantly, MCPS would have no further use for the four properties; and they would require continual maintenance, such as mowing, indefinitely. We believe this is not the intent of the environmental regulations and not a good use of valuable capital funds especially considering the current financial conditions of the county.

M-NCP&PC Comment No. 2

The Planning Board conditionally approved the Cloverly Elementary School Gymnasium Addition Water Quality Plan on November 8, 2007. One of the conditions of the approval was for MCPS to formalize its commitment to meet the no-net increase of impervious surface in the SPA for Cloverly Elementary School and other future school projects, including Fairland Elementary School, through the submission of a memorandum of understanding (MOU). Does the MCPS request for a waiver for Fairland Elementary School mean that MCPS will not be working to complete an MOU?

MCPS Response

MCPS expressed its commitment to the no-net impervious area increase in the Upper Paint Branch SPA when it submitted a draft MOU to your staff on December 30, 2007, as was required by the Planning Board. Subsequent thereto, MCPS continued its efforts to work with the Maryland-National Capital Park and Planning Commission (M-NCP&PC) staff to develop the draft MOU into a final, mutually acceptable document. MCPS still hopes that such an MOU can be developed.

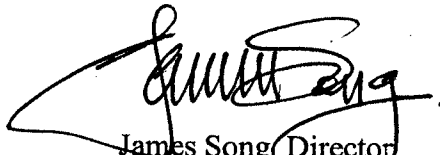
However, an MOU that includes a clause mandating MCPS to acquire and create a bank of real estate for future projects in the SPA, and that further limits the location of such real estate to the actual sub-watershed of the project requiring mitigation is not acceptable to MCPS. Not knowing how much impervious area will be needed to mitigate for future projects, it would be difficult to project the acreage and funding requirements for unknown property acquisitions. We believe the better approach is to mitigate the impervious area on an individual project basis.

Mr. Mark Pfefferle

September 2, 2009

We trust that we have satisfactorily addressed your comments and look forward to advancing the Fairland Elementary School addition project into and through the mandatory referral process at M-NCP&PC.

Sincerely,



James Song, Director
Division of Construction

JS:mas

Copy to:

- Mr. Bowers
- Mr. Lavorgna
- Mrs. Turpin
- Mr. Bagai
- Mr. Shpur
- Mr. Shuman
- Ms. Wilson
- Mr. Stanley/M-NCP&PC



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

November 26, 2007

Dr. Jerry D. Weast, Superintendent
Montgomery County Public Schools
850 Hungerford Drive
Rockville, Maryland 20850

**SUBJECT: Mandatory Referral No. 07604-MCPS-1
Cloverly Elementary School – Gymnasium Addition**

Dear Dr. Weast:

At their regularly scheduled meeting on Thursday, November 8, 2007, the Planning Board reviewed Mandatory Referral No. 07604-MCPS-1, Cloverly Elementary School – Gymnasium Addition, and the associated Special Protection Area (SPA) Preliminary Water Quality Plan and Preliminary Forest Conservation Plan. *The Board's actions on the SPA Water Quality Plan and the Preliminary Forest Conservation Plan are regulatory approvals, based on Chapter 19-60 and 22A of the County Code, respectively.*

The Planning Board concluded that the proposed use is consistent with the 1997 Approved and Adopted Cloverly Master Plan, and approved the Mandatory Referral with the following comment:

1. Montgomery County Public Schools (MCPS) must provide a traffic study in the event future building additions at the school would result in an increase in the school's program capacity, which currently is at 483 students.

The SPA Preliminary Water Quality Plan for the school was discussed at length. Cloverly Elementary School is located within the Upper Paint Branch SPA and its associated Environmental Overlay Zone, which restricts imperviousness on the property. To conform to the Environmental Overlay Zone, the site imperviousness for this project cannot be increased over what exists today. Staff recommended to the Planning Board that a memorandum of understanding (MOU) between MCPS and M-NCPPC be developed to have MCPS commit to creating and maintaining a pervious land bank to meet imperviousness limits in the Upper Paint Branch SPA for the Cloverly Elementary School gymnasium addition and future projects on public school sites within the Upper Paint Branch SPA. However, the Planning Board is concerned that a MOU alone lacks any enforcement mechanism to ensure that MCPS will meet the elements identified in the MOU. In addition, the Planning Board did not agree with staff with respect to the concept of compensating for new imperviousness by preventing future imperviousness. The Board believes that the creation of offsite impervious surface reserve land must be

used for the purpose of removing *existing* impervious surfaces. The goal is to remove existing impervious surfaces that, in combination with the increase of such surfaces on Cloverly Elementary and other school sites, results in no net gain of impervious surfaces in the SPA watershed. Consistent with this position, the Board approved the Preliminary SPA Water Quality Plan with the following conditions:

1. Prior to certificate of occupancy for the Cloverly Elementary School gymnasium:
 - a. MCPS will identify and irrevocably commit to remove, at a minimum, an equivalent amount of impervious surface area on a non-school site or reduce impervious surface on the current site or other school site(s) to achieve no net increase of impervious surfaces in the Upper Paint Branch SPA.
 - b. If MCPS determines that it cannot satisfy this previous condition, it must secure a waiver of the imperviousness requirement from the Planning Board to allow a net increase of impervious surface for the project.
2. Montgomery County Public Schools (MCPS) will formalize its commitment to meet the no-net-increase of impervious surface in the SPA for Cloverly Elementary School and other future school projects in the SPA through the submission of a memorandum of understanding (MOU) which contain the following elements:
 - a. Montgomery County Public Schools (MCPS) will purchase offsite properties where existing impervious surfaces will be removed to ensure that there will be no net gain of impervious surfaces in the SPA due to Cloverly Elementary School and all other future school projects in the SPA. All land that is acquired must be located in the Upper Paint Branch SPA.
 - b. The initial acquisition of land (by an executed contract of sale or deed conveying title) must contain at least 2,658 square feet of impervious surfaces that will be removed for Cloverly Elementary School, at a minimum. The acquisition must occur no later than December 31, 2008.
 - c. Additional land acquisitions must be programmed to secure sufficient impervious surfaces that can be removed on these lands to meet imperviousness limits of the Environmental Overlay Zone for any future projects. In addition to Cloverly Elementary School, schools in the SPA include: Fairland and Drew Elementary Schools; Briggs Chaney and Banneker Middle Schools; and Paint Branch High School.
 - d. Funds for the initial acquisition of offsite impervious surface reserve land must be included in the FY2008 CIP.
3. The draft MOU must be submitted to M-NCPPC staff prior to December 31, 2007.
4. Total impervious surfaces on the Cloverly Elementary School site will cover no more than 2.53 acres, as shown on the "Water Quality Exhibit" plan, dated September 24, 2007.
5. Applicant will conform to the conditions stated in Montgomery County Department of Permitting Services (MCDPS) water quality plan approval letter dated July 17, 2007.

The Planning Board also approved the Preliminary Forest Conservation Plan with the following conditions:

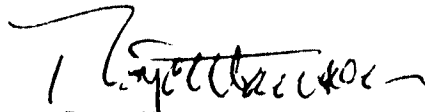
1. Compliance with the conditions of approval for the Preliminary Forest Conservation Plan dated October 9, 2007. The applicant must meet all conditions prior to MCDPS issuance of sediment

and erosion control permit(s), as appropriate. Conditions include, but are not limited to, the following:

- a. Final Forest Conservation Plan must include the following;
 - i. Permanent tree protection signs must be placed around the boundary of the tree cover area at the rear of the site.
 - ii. A minimum of 89, 2-inch caliper native trees will be planted in the proposed tree cover area along the northern part of the property as shown on the Preliminary Forest Conservation Plan.

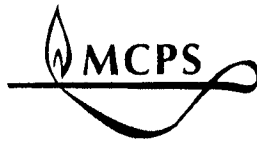
On behalf of the Planning Board, I thank you for providing the opportunity for this review.

Sincerely,



Royce Hanson
Chairman

RH:CB:ss



MONTGOMERY COUNTY PUBLIC SCHOOLS
MARYLAND
www.montgomeryschoolsmd.org

June 20, 2008

RECEIVED
08-0682
JUN 24 2008

OFFICE OF THE CHAIRMAN
THE MARYLAND NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

Dr. Royce Hanson, Chairman
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, Maryland 20850

Dear Dr. Hanson:

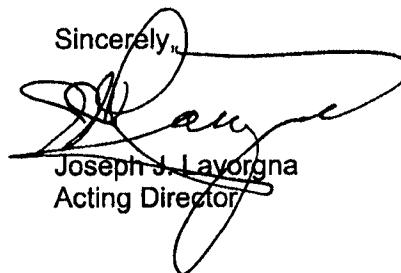
Re: Mandatory Referral No.07604-MCPS-1
Cloverly Elementary School Gymnasium Addition

Pursuant to the Planning Board's November 8, 2007 approval of the Cloverly Elementary School gymnasium addition and in satisfaction of comment 1.a on page 2 of your letter of November 26, 2007, Montgomery County Public Schools will remove 2,658 square feet of asphalt pavement at the Briggs Chaney Middle School. The area being removed is currently used as a paved play area. Both Cloverly Elementary School and Briggs Chaney Middle School reside in the Upper Paint Branch Special Protection Area of Montgomery County, and the removal of the 2,658 square feet of asphalt from the Briggs Chaney Middle School will offset the excess impervious area at the Cloverly Elementary School.

Enclosed is an aerial photograph of the Briggs Chaney Middle School site showing the location of the 2,658 square feet paved play area to be removed.

If you have any questions, please contact Mr. James Song, director, Division of Construction at 240-314-1000.

Sincerely,

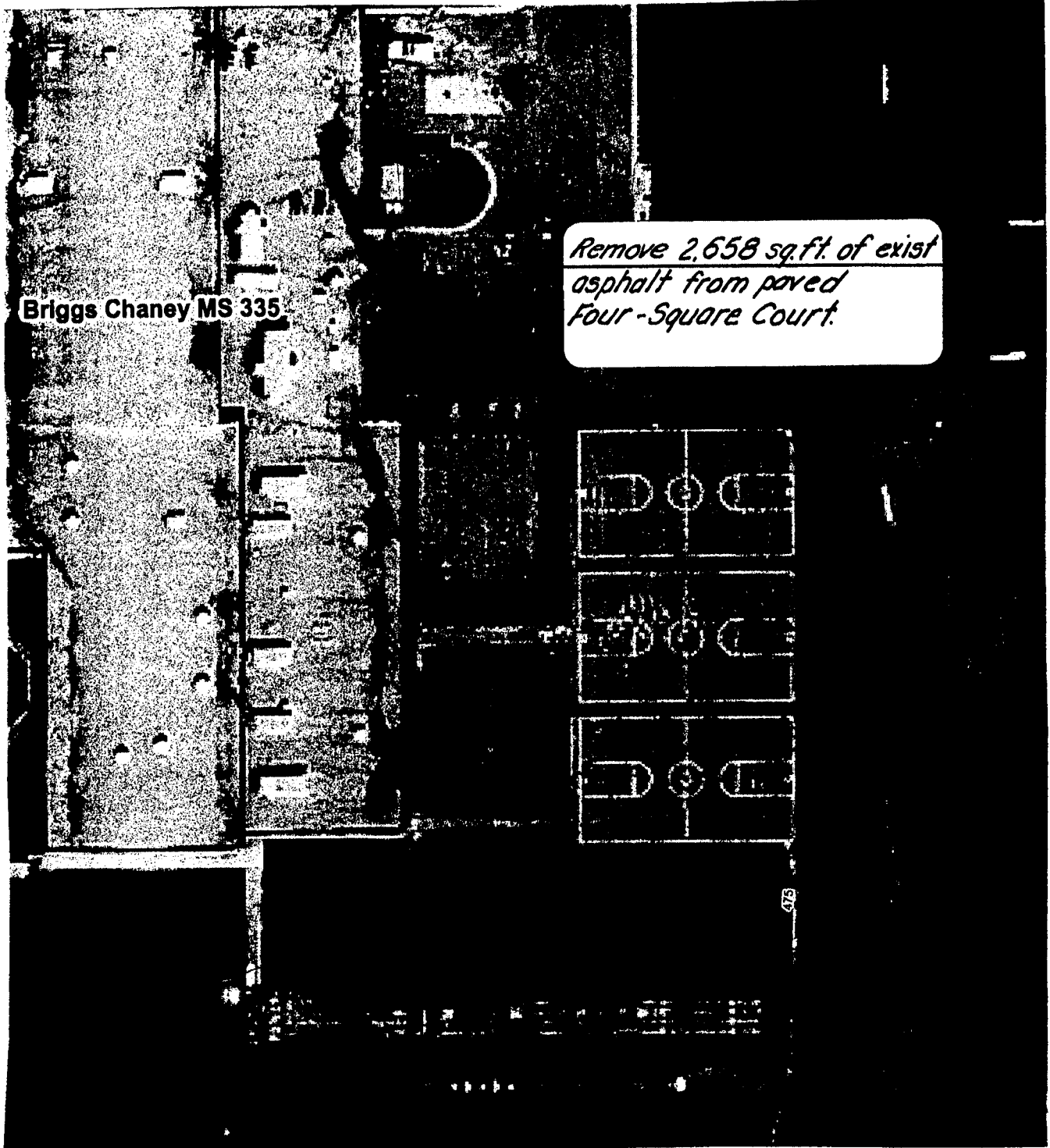


Joseph J. Lavorgna
Acting Director

JJL:jlc
Enclosure

Copy to:
Mr. Bowers
Dr. Hermann
Ms. Johnson
Mr. Song
Mr. Shuman
Mr. Baron
Ms. Brennan

Department of Facilities Management



Impervious Area Mitigation Plan for
Cloverly Elementary School

Scale 1" = 50'



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

OFFICE OF THE CHAIRMAN

June 26, 2008

Mr. Joseph J. Lavorgna
Acting Director
Department of Facilities Management
Montgomery County Public Schools
2096 Gaither Road
Suite 200
Rockville, Maryland 20850

SUBJECT: Mandatory Referral No. 07604-MCPS-1
Cloverly Elementary School Gymnasium Addition

Dear Mr. Lavorgna:

This is in reference to your letter of June 20, 2008. On behalf of the Planning Board, I would like to thank Montgomery County Public Schools for its commitment to meeting the environmental protection goals of the Upper Paint Branch Special Protection Area. Removing an equal amount of existing impervious surface at Briggs Chaney Middle School to offset the added imperviousness of the Cloverly Elementary School gymnasium project will result in no net gain in impervious surfaces. This MCPS project meets the goal of not increasing impervious surfaces within the Upper Paint Branch watershed.

I hope that MCPS will continue its emphasis on environmentally-friendly projects and design. I would urge MCPS staff to continue its discussions with Planning Board staff to complete its Memorandum of Understanding (MOU) to acquire properties where existing impervious surfaces will be removed within the SPA. This MOU, which you discussed with the Planning Board, is important in anticipation of future school projects in this SPA and their need to meet imperviousness limits of the Environmental Overlay Zone.

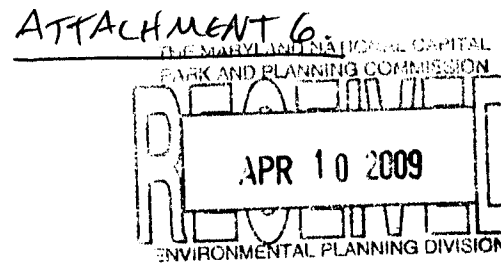
If you have any questions, please contact Bill Barron, Eastern County Team Leader, at (301) 495-4556, or Candy Bunnag, Planner Coordinator, Environmental Planning, at (301) 495-4543.

Sincerely,

A handwritten signature in black ink, appearing to read "Royce Hanson".

Royce Hanson
Chairman

cc: James Song
R. Craig Shuman Jr.



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

April 8, 2009

Carla Reid
Director

Mr. Patrick Welker
ADTEK Engineers, Inc.
97 Monocacy Boulevard, Unit H
Frederick, MD 21701

Re: **Preliminary/Final Water Quality Plan**
for Fairland Elementary School
SM File #: 235121
Tract Size/Zone: 12 Acres / R-200
Tax Plate: KR33
Parcel: P675
Watershed: Upper Paint Branch

SPECIAL PROTECTION AREA

Dear Mr. Welker:

Based on a review by the Department of Permitting Services, the Preliminary/Final Water Quality Plan (PFWQP) for the above mentioned site is conditionally approved. This approval is for the elements of the Preliminary/Final Water Quality Plan of which DPS has lead agency responsibility, and does not include limits on imperviousness or stream valley buffer encroachments.

Site Description: The site is located at 14315 Fairdale Road. This proposal is for a building addition to the existing school, and parking lot modifications. This site is tributary to the Right Fork of the Upper Paint Branch. This watershed has been designated as a Special Protection Area.

Stormwater Management: Currently the northern portion of the site drains through a vegetated swale to a storm drain system which outlets at a stormwater management dry pond facility on Bradshaw Road. This facility provides water quantity control for this portion of the site, which consists mostly of non vehicular areas. The southern portion of the site, which includes the parking lot, drains through an oil/grit separator to a buried Infiltration Trench. Larger flows are flow split to an underground detention facility sized to provide 2-year attenuation. The new building addition will drain through existing vegetated swales and eventually to the dry detention pond. Rather than attempt to provide more controls for this proposed roof runoff, the existing oil/grit separator in the parking lot will be removed and replaced with a proprietary filtration cartridge system sized per current water quality requirements. This approach was considered to provide the best overall environmental protection for the project as a whole.

Sediment Control: Silt fence alone will not be allowed as a perimeter control. The use of super silt fence will be acceptable for small areas of disturbance. Immediate stabilization is to be emphasized.

Performance Goals: The performance goals that were established at the pre-application meeting are to be met as specified in the Preliminary and Final Water Quality Plan.

**Attachment to the Final Water Quality Plan for Fairland Elementary School
Description of BMP Monitoring Requirements**

SM: # 235121

Date: February 19, 2009

The purpose of this attachment is to add specificity to the standard monitoring requirements and procedures contained in the BMP monitoring protocols. Some supplemental QA/QC, data analysis, reporting and record keeping tasks will be explained in this attachment.

The purpose of the data analysis and reporting is to describe quantitatively how performance goals are met. Monitoring efforts and reports must employ scientific methods in an attempt to determine effectiveness of BMPs. Monitoring is to be done according to DEP BMP Monitoring Protocols. Consistent methods are to be used so results can be compared with other BMP monitoring projects. Some supplemental requirements are provided in this attachment. Prior to initiation of monitoring, consultants must contact DEP and DPS to review monitoring locations, procedures, and requirements. Thorough and careful analysis of data is required. Methods of data analysis may vary depending on the results obtained. Methods and assumptions should be detailed. DEP BMP Monitoring Protocols are available at the following web site. <http://www.montgomerycountymd.gov/content/dep/spa/pdf%20files/bmpprotocols.pdf>

Monitoring Requirements

1. BMP monitoring reports must include a table with dates of all major construction activities which take place on the site (groundbreaking, clearing, grading, sediment control construction, sediment control maintenance, BMP conversion, pond maintenance, etc.) and adhere to the SPA BMP monitoring report structure: <http://www.montgomerycountymd.gov/deptmpl.asp?url=/content/dep/SPA/home.asp#checklist>.
2. Pollutant removal efficiency will be determined for the existing oil/grit separator and the final stormwater management BMP (installed following completion of post-construction activity). Monitoring will require the collection of automated flow-weighted storm composite samples at the inflow and outflow points of each structure. Samples should be analyzed for the parameters in Table 1.

Structures are to be monitored quarterly. Qualifying storm events will be between one half (0.5) inch and two (2) inches of rain in a twenty-four hour period. Analysis will evaluate effects of differing site designs, performance of the previous structure to the new SWM BMP, whether pollutant removal efficiency changes over time, and compare removal efficiencies with published results. Drainage area, percent imperviousness, site design, storm characteristics, BMP design and water quality pre-treatment approaches are to be reported and considered in the analysis.

3. Water Level in the existing (but abandoned) infiltration trench and observation well located to the north of the proposed additions should be monitored quarterly.
4. Rain data is to be considered in the analysis. A rain gage may be installed on site or be obtained from DEP.
5. Locations of all monitoring stations are to be provided to DEP within one week of station establishment. GIS locations are preferred, but a map with the approximate locations marked will be acceptable for the initial submission. GIS data will need to be included as part of the data submission with the annual report. DEP will create an ArcMap layer showing locations of all monitoring stations in the Special Protection Areas.

Table 1. Pollutant parameters, lab methods and detection limits

Parameter	Method	Detection Limit (mg/L)
Total Petroleum Hydrocarbons (TPH)	EPA 1664	5
Oil and Grease	EPA 1664	5
Cadmium	EPA 200.8	0.0005
Copper	EPA 200.8	0.002
Lead	EPA 200.8	0.002
Zinc	EPA 200.8	0.025
Total Suspended Solids (TSS)	SM 2540 D	1

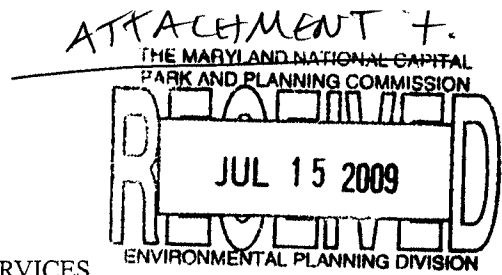
One year of baseline data on pollutant removal efficiency of the existing oil/grit separator and water level of the infiltration trench and observation well must be collected as specified above before construction begins. Four usable storms (i.e. meets qualifying event guidelines, has positive and reasonable flow values and calculated pollutant loadings, etc.) must be met prior to construction. DEP must be notified prior to commencement of pre-construction monitoring. Item 2 should be monitored for one year pre-construction and one-year following installation of the proposed stormwater BMP. This post-construction monitoring will occur following as-built approval and issuance of a post-construction stream monitoring bond. Item 3 should be monitored from baseline, throughout the construction period, and for one year post-construction (as defined above).

A report on pre-construction conditions must be deemed acceptable by DEP and DPS prior to the issuance of a sediment control permit. For subsequent periods an annual report on BMP monitoring is due to DEP by **October 31** of each year. Additionally, quarterly progress reports are to be submitted. These reports are to document the status of the ongoing monitoring, identify any problems, and assure monitoring is on schedule. BMP monitoring reports are to be delivered with data in an electronic format DEP and DPS. All information submitted to DEP will be public information that DEP may freely copy and distribute. Questions on the monitoring requirements and procedures may be directed to the following personnel:

Rachel Gauza (DEP)
(240) 777-7729
rachel.gauza@montgomerycountymd.gov

Mark Etheridge (DPS)
(240) 777-6338
mark.etheridge@montgomerycountymd.gov

Leo Galanko (DPS)
(240) 777-6242
leo.galanko@montgomerycountymd.gov



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

Carla Reid
Director

July 10, 2009

Mr. Patrick Welker
ADTEK Engineers, Inc.
97 Monocacy Blvd., Unit H
Frederick, MD 21701

Re: **Preliminary/Final Water Quality Plan**
for Fairland Elementary School
SM File #: 235121
Tract Size/Zone: 12 Acres / R-200
Tax Plate: KR33
Parcel: P675
Watershed: Upper Paint Branch

SPECIAL PROTECTION AREA

Dear Mr. Welker:

The approved water quality plan for this project, dated April 8, 2009, has been revised. The relocation and addition of portable classrooms on the site has been removed from the plan. Sediment control and stormwater management for the portable classrooms will be handled separately. This is acceptable.

Please note that all other requirements of the approved water quality plan still apply. If you have questions or comments please contact Mark Etheridge at 240-777-6338.

Sincerely,

Richard R. Brush, Manager
Water Resources Section

Cc: Mark Etheridge
Mark Pfefferte ✓