

LAND EXCHANGE AND MODIFICATION TO GENERAL DEVELOPMENT PLAN

PAINT BRANCH STREAM VALLEY PARK, UNIT No.2

Prince George's County, Maryland

Finding of No Significant Impact

OCT 3 1 2008

Pursuant to Section 10 of the Commission's Environmental and Historic Preservation Policies and Procedures, I have evaluated the Maryland-National Capital Park and Planning Commission (M-NCPPC) plans to perform an exchange of land and additional park development within the M-NCPPC Paint Branch Stream Valley Park, Unit No.2, as shown on NCPC Map File No. 76.46(63.00)42634. I find that the survey and plans submitted to the Commission are adequate to establish that the project would not significantly affect the human environment. Review of the proposed plans by M-NCPPC and the Maryland Historical Trust has determined no adverse historic or archeological impacts are derived by the proposal. NCPC staff has confirmed review of the historic and archeological effects, and evaluated all pertinent documentation in compliance with Section 106 of the National Historic Preservation Act.

Consequently, after review of the environmental assessment, I have determined pursuant to Section 102(2)(C) of the National Environmental Policy Act, the Council on Environmental Quality Regulations (40 CFR, Parts 1500-1508), and NCPC's Environmental and Historic Preservation Policies and Procedures that the land

exchange and site development would not significantly affect the quality of the human environment.



Marcel C. Acosta
Executive Director

Background

The Maryland National Capital Park and Planning Commission (M-NCPPC) has submitted a final survey and site development plans for the Paint Branch Stream Valley Park, Unit No. 2 in accordance with the requirements of the Capper-Cramton Act. The M-NCPPC operates and maintains Paint Branch Stream Valley Park Unit No. 2 (Capper-Cramton lands) adjacent to U.S. Route 1 in College Park, Prince George's County, Maryland. The modification is related to the exchange and development of land acquired under the Capper-Cramton Act by the Commission and is reviewed and approved by the National Capital Planning Commission (NCPC) pursuant to Section 1(b) of the Act.

In compliance with NCPC's Environmental and Historic Preservation Policies and Procedures (April 1, 2004), NCPC, as the lead federal agency conducting federal activity (review and approval) affecting land use, including but not limited to water and related land resource planning, directed preparation of an Environmental Assessment (EA) by the applicant for the site development revisions and land area exchange proposed for the Stream Valley Park. In anticipation that the proposal may demonstrate detectable but likely insignificant degradation of environmental quality, an environmental analysis of the action was undertaken.

NCPC announced on its website the availability of the EA for public comment. The EA and information from other federal and state agencies about the EA analysis, appended to the document, are information that is made available for review in compliance with the requirements of the National Environmental Policy Act (NEPA) and the Commission's implementing Environmental and Historic Preservation Policies and Procedures. In addition, the notice adheres to procedures that apply to actions that affect floodplain areas in accordance with Federal Executive Order (EO) 11988, "Floodplain Management," dated May 24, 1977 and the NCPC implementing procedures for the Executive Order.

Standard for evaluation. Under NEPA, the Council on Environmental Quality (CEQ) regulations, and NCPC Environmental and Historic Preservation Policies and Procedures, an EA is sufficient and an Environmental Impact Statement need not be prepared if the EA supports a finding that the federal action will not significantly affect the human environment. The regulations of the Council on Environmental Quality define "significantly" as used in NEPA as requiring consideration of both context and intensity of impacts. 40 CFR §1508.27. Context means that the significance of the action must be analyzed in several contexts such as society as a whole, the affected region, the

affected interests and the locality. Intensity takes into account a number of factors specified in the regulation.

NCPC's requirements for a Finding of No Significant Impact (FONSI) are set forth in its Environmental and Historic Preservation Policies and Procedures at Section 10(E).

Public Comment NCPC, as a federal agency responsible for the prepared EA dated May 2008, requested public comments on the EA from June 6, 2008 to July 11, 2008. The June 2008 notice also included a posted copy of the EA. No public comments were provided to NCPC in response to the notification. As a requirement of the Commission's procedures, this Finding of No Significant Impact by the Commission staff is to be announced to the general public. The Commission will post the Finding of No Significant Impact on the Commission website at www.ncpc.gov.

Proposed Action

The applicant intends to transfer 1.07 acres of land currently owned by the M-NCPPC for 1.03 acres currently owned by the University of Maryland (this land abuts the M-NCPPC land to the south). The M-NCPPC land to be transferred would be consolidated with two other pieces of land, and a new College Park Student Housing Facility built on it. The transferred University of Maryland land would become a new park within the M-NCPPC park system known as North Gate Park in the Paint Branch Stream Valley Park, Unit No.2, and would be maintained and operated by M-NCPPC.

The property currently owned by M-NCPPC is a Capper-Cramton Act land parcel that was initially established by NCPC when the agency acquired stream valley land areas as parkland in the National Capital Region. The Capper-Cramton Act requires that the development or disposition of this land be reviewed by NCPC. Therefore, the land transfer and the land parcel's general development plan modifications are subject to NCPC review and approval.

The EA reviews two alternatives: a No Action Alternative and the land exchange alternative. The EA is consistent with the requirements of the National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality Regulations, and NCPC's Environmental and Historic Preservation Policies and Procedures. NCPC is the lead federal agency for this EA. The EA also meets NCPC's obligations under Executive Order 11988 related to development of floodplains.

As part of the project, the adjacent student-housing developer is required to construct stream stabilization work along an existing county-owned sewer crossing in the streambed adjacent to the park, and other stream bank stabilization work within the new park created by the land exchange. The actions will repair impaired areas of the stream that are losing shoreline sediment that is presently being washed into the stream from Park Unit No. 2. Reducing or removing the severe erosion and degradation of the streambed will restore the stream channel and indirectly improve water quality of the downstream watershed that flows into the Anacostia River. The proposed work will achieve:

- Removal of the streambed eroded-cut that is caused by the current water conditions;
- Elimination of the scour and eroding action of water flow;

- Creation of protective armoring of the streambed for future storm flows and connecting defined surface drainage of the parkland to the stream.

The M-NCPPC staff, the developer, and the project design team have met with the Prince George's County environmental authorities and the work has been approved in concept by the M-NCPPC to enact stabilization work. The Maryland Department of Environment (MDE) must review all plans and issue an approval permit. MDE has issued review memoranda indicating a permit process will occur upon receipt of final design plans. The proposed park would be protected from future development/disturbance in perpetuity under M-NCPPC jurisdiction.

Alternatives considered in the EA

The EA examines two alternatives; the proposed action and the no action alternative. The M-NCPPC has been supported by the Prince George's County Planning Board to undertake the required land exchange.

The proposed action consists of implementing the land exchange, developing a park, and conducting stream stabilization work. The limit of disturbance for the proposal is slightly over one acre and would involve the stream bank. Once grading work is completed, the ground areas will be compacted and stabilized and erosion control and side slope protection installed. The work will be accomplished on a daily basis with establishment of each phase to complete protective temporary erosion control measures that are fully functional. If inclement weather is anticipated, work will be delayed adjacent to the streambed. Specific additional construction measures noted in the EA are incorporated by reference with this finding.

The no action alternative is described as the conditions under which none of the proposed construction or rehabilitation would be implemented, the new park area not developed, the land exchange not undertaken, and the housing construction not taking place.

The M-NCPPC states that the proposed project submitted to NCPC in compliance with the Capper Cramton Act represents the best alternative because it provides accommodation for a new park, protects the land area of the stream watershed, and provides adjacent site areas for the new student housing at College Park and the University of Maryland, in conformance with the Prince George's County approved College Park, U.S. Route 1 Corridor Sector Plan. The 2002 *Approved College Park US 1 Corridor Sector Plan and Sectional Map Amendment* defines long-range land use and development policies, detailed zoning changes, design standards and a Development District Overlay Zone for the U.S. Route 1 corridor area. The land use concept of the sector plan divides the corridor into six areas for the purpose of examining issues and opportunities and formulating recommendations. Each area has been further divided into subareas for the purpose of defining the desired land use types, mixes, and character of development. That plan notes the Paint Branch Stream Valley Park Unit No. 2 area is "part of an open space corridor or greenway and is a valuable amenity that should be retained. It also has the potential to enhance the pedestrian circulation between the University, U.S. Route 1 business, and the Metrorail station near the University...Such an area may be improved with gateway park components, including trails, boardwalks, stream crossing bridges, rest areas, and passive recreational space." Benefits from vegetated riparian areas include water quality enhancement, stormwater and floodwater management, stream bank and shoreline stabilization, pollutant absorption, and a high overall aesthetic appearance. Further, the Sector Plan specifies: "West side of U.S. 1—This area has

frontage along the west side of U.S. 1 and is adjacent to the Paint Branch Stream Valley Park and the Engineering/Sciences district of the University. Recommendations for this area include:

- Compact development with offices located above ground floor retail to take advantage of technology linkages to the university;
- Vertical, mixed-use development where feasible outside of the floodplain;
- Compliance with Prince George's County floodplain regulations in the portion of the subarea impacted by floodplain;
- Shared and/or structured parking;
- Pedestrian bridges across Paint Branch Creek to connect with the campus over a system of trails and boardwalks;
- No building balconies for housing facing directly onto U.S. Route 1.

The proposed exchange adheres to the Sector Plan objectives and maintains consistency with the Comprehensive Plan for the National Capital through no net loss of open space or parkland.

Potential impacts

NCPC staff has found limited potential environmental impacts from the proposed action. Those that exist are minimal and are addressed by mitigation through project attributes implemented in the project design, which the applicant has submitted and that are described by the EA. There will be no effects to cultural components of the environment from the plans. There are no historic standing structures or potential archeological resources located on the proposed lands to be transferred.

The proposed stream stabilization work does impart minor disturbance to the floodplain of the Paint Branch stream, but does not significantly or adversely impact the stream floodplain, as reviewed by the NCPC staff in accordance with federal Executive Order (EO) 11988, "Floodplain Management."

Applying the standards, factors, and analysis here, the Executive Director must make the assessment of whether approval of the submitted stream stabilization work will "significantly" affect the human environment based on the EA and the mitigation characteristics of the submitted design specified by the EA and set forth in that document and considered by this finding. As to the factor of the context, this is a site-specific action, and the Executive Director looks at the effects on the locale. In regard to intensity, with the mitigation specified in the EA and exhibited in the design drawings, the proposal avoids, minimizes, or eliminates possible adverse effects such that the site development action and final operation of the stream stabilization work is not a significant impacting action.

Staff has reviewed the action for circumstances that may contribute, in any form, to establishing environmentally significant effects from the proposal. These conditions include whether the action creates a precedent for further action with significant effects; and whether the action is related to other actions which may have individually insignificant, but cumulatively significant impacts. Staff finds none of those circumstances exists.

Potential impacts identified in the EA to the stream floodplain are not significant. Other issues of air quality, viewsheds, land use, noise, economy/employment, community facilities, population and housing or social environment were found not to be relevant impact concerns of the proposed

action, and were dismissed from detailed evaluation after consultation by M-NCPPC with county and state agencies.

Cultural resource analysis found no effects resulting from the proposed action. The Prince George's County Planning Department, historic preservation section, secured an archeological survey of the proposed development areas for review by County authorities. A survey was completed that consisted of the excavation of 16 shovel test pits (STPs) across the 1.07-acre property; no archeological sites were identified. The survey was reviewed by the Maryland Historical Trust and in conformance with the consultation requirements of Section 106 of the National Historic Preservation Act. Efforts of the review included the Park Unit No.2 property development.

The evaluation of the potential flood effects reviewed in detail by the EA includes:

Hydrology

The proposed action will have minimal impact on the hydrology within the area of proposed action. Much of the hydrologic impact of the proposed action will exhibit no change to the major water drainage patterns of the Paint Branch. The proposed action will have no impact on wetland areas. The National Wetlands Inventory and the Maryland Department of Natural Resources (DNR) do not indicate the existence of any wetland areas on the subject property.

The only construction that would occur within the floodplain would be the development of the new stabilized streambed and the new park and a portion of the new building development to complement floodplain compensatory storage as required by County regulations. The Paint Branch is non-tidal and defined as "waters of the State." Construction activities in these areas require a Nontidal Wetland and Waterway Permit to ensure the construction in such areas will not contribute to flooding; confirm that structures being constructed will withstand the passage of floodwaters; and evaluate the safety, operation and maintenance of the structures.

The 1.03 acre area would convey water flow from upstream and from adjacent University and U.S. Route 1 lands into Paint Branch during heavier rainfall events. However, minimal increased runoff is added to the Paint Branch from the new park or student housing north of the park. Forty cubic feet per second (cfs) discharge is estimated for the 100-year storm event in the project vicinity with improvements, which amounts to a 0.0004 percent increase for the watershed area.

For water quality control purposes, the project applicant will apply for a Water Quality Certification from MDE and a Maryland State Programmatic General Permit from the Corps of Engineers. Maryland has a joint permit process in place; therefore, the MDE will issue a final combined permit on behalf of the Corps.

Federal Executive Order (E.O.) 11988 floodplain finding, as required by the directive, will be included in the general permit process and will be completed with the issuance of the final MDE permit. NCPC as a federal agency must also comply in its decision action to adhere with E.O. 11988 and NCPC's own Procedures for Floodplain Management and Wetlands Protection (46 FR 51327) dated October 19, 1981. NCPC staff review in compliance with the Executive Order is presented below.

Floodplain Finding

The proposed stream stabilization of the parkland shoreline and its implementation would minimally affect the 100-year floodplain of the Paint Branch of the Anacostia River. Federal Executive Order (E.O.) 11988, "Floodplain Management," May 24, 1977, seeks to avoid the long and short-term adverse impacts associated with the occupancy and modification of floodplains, and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative. E.O. 11988 applies to federally supported projects and directs agencies to consider alternatives to siting activities in a floodplain.

The Executive Order addresses development in the 100-year floodplain as well as critical actions in the 500-year floodplain. A critical action is defined by the Water Resources Council Floodplain Management Guidelines, developed to implement E.O. 11988, as any activities for which even a slight chance of flooding is too great. For example, if an action would create an added dimension to the flood (such as facilities producing or storing volatile or toxic materials) or if the occupants of a building located in the floodplain (hospitals, schools) were not sufficiently mobile to evacuate, the planned project would be regarded as a critical one. The loss of irreplaceable records or emergency services involved in a planned action would also be considered criteria for critical actions.

To determine the potential environmental consequences on water resources as a result of the proposed action, an assessment of current conditions was made. This required a detailed examination of the existing distribution of land use areas and soil types, characterization of surface elevations and stream level elevations, and subwatershed characteristics. NCPC staff has determined the proposed stream stabilization project is not a critical action and does not add any significant adverse effect to the flow dynamics of a flood, nor does the proposed construction occurring in the floodway of the Paint Branch significantly change or affect any flooding characteristics since no flooding elevations are altered.

Alternative sites not involving the floodplain were not evaluated by M-NCPPC due to the nature of the work that is to improve the floodplain and provide a water related park area setting. The NCPC staff review found that to effectively restore the watershed qualities and minimize the erosion and sediment of this reach of the Paint Branch, the only effective alternative is the proposed stabilization work and associated erosion control measures at the planned location.

All of the existing property within the area of the submitted project is parkland controlled and managed by the M-NCPPC and serves many beneficial habitat and floodplain objectives. Information presented in the EA indicates there are no practicable sites outside the floodplain area, which are reasonably associated with the housing project, provide the park area desired by M-NCPPC, and are in conformance with the planning objectives of College Park as specified by its Sector Plan.

Review by NCPC staff of all information provided by the M-NCPPC indicates the proposed streamside improvements will not significantly or adversely affect the floodplain. No displacement of floodplain water storage area will occur because project elements will be subject to inundation during flooding and contain no volume extent that would displace floodwaters due to compensatory storage provided by the student housing project. Implementation of the project will increase the area extent of floodplain water storage within the parkland at the immediate

vicinity of the stream (a desired goal of M-NCPPC). No significant areas of impervious areas are introduced. Site grading is minimized within the area of the improvements to have only a minor effect on vegetation that involves no more than one acre of minimally wooded area.

The proposed action has the potential to minimally modify water quality in the stream due to temporary minor increases in levels of sediment during the construction activity near the stream channel. Because the work will meet the environmental controls for construction established by M-NCPPC, the loss of sediment would not be extensive during these occasions. Once the stabilization features are fully established in the streamside area, very limited sediment will be carried out to the water. Such features will include the use of vegetation filter and vegetative swales. NCPC staff finds these provisions as specified within the submitted design are appropriate and adequate to address the effect. Cumulatively, development of the stream stabilization project would not result in any significant adverse impact to water quality due to the functional capability of the project to improve pervious drainage and reduce surface water discharges from the immediate area that presently has no control features.

Chesapeake Bay Resource Protection Area (Critical Area)

The proposed action will have no significant impact on the critical area requirements of the Paint Branch of the Anacostia River, a resource of the Chesapeake Bay. Furthermore, the proposed action will have no impact or effect to policies of the Maryland Coastal Zone. The project area is located in Prince George's County and lies within the Maryland Coastal Zone. Based on the information described above, the stream stabilization work is a permissible type of development within the guidelines of the Chesapeake Bay Preservation Act and will be undertaken in a manner consistent to the maximum extent practicable with the enforceable policies of the Maryland Coastal Zone Program. Specifically, the following provisions apply and are adhered to by the submitted proposal:

- No large forest areas will be cleared;
- No steep slopes will be affected;
- No major habitat protection areas will be affected;
- No increase occurs in any related impervious area that is within the Critical Area Limits.

The issuance of a combined Wetland and Waterway Permit will require the Corps of Engineers to provide a Coastal Zone Management Plan (CZMP) determination based on the applicants request for federal approval under the Clean Water Act (CWA). The applicant must certify that their proposed activity will be conducted in a manner consistent with the state's CZMP. It is the state's responsibility to either "concur with" or "object to" the applicant's certification.

The project plans provide for very minor and limited removal or alteration of existing vegetation within the areas of proposed action. None of this activity is found to be significant.

The proposed project features involving vegetation include:

- Specimen trees will be marked and avoided;
- A forest tree conservation plan and forest stand delineation plan for the project that were approved by Prince George's County review authorities pursuant to the Maryland Forest Conservation Act of 1991 and Woodland Conservation and Tree Preservation Ordinance of 1989, as amended.

The project design characteristics and function will improve the immediate vegetation of the Paint Branch.

The project impact on vegetation is found by NCPC staff to be minimal in effect due to project plan provisions that stipulate replacement of trees and the installation of new native shrubs and groundcovers. The new vegetation identified by the plans will help absorb some of the water flow conveyed by the stream channel and floodplain. The stream restoration efforts fully adhere to the objectives of the Chesapeake Bay 2000 Program goal of increasing vegetation buffering and habitat conditions along tributaries of the Chesapeake Bay.