

Critical Area Commission

STAFF REPORT

September 2, 2020

APPLICANT: Anne Arundel County Public Schools

PROPOSAL: Sunset Elementary School Addition

JURISDICTION: Anne Arundel County

COMMISSION ACTION: Vote

STAFF RECOMMENDATION: Approval with conditions

STAFF: Kate Durant

APPLICABLE LAW/ REGULATIONS: COMAR 27.02.02 State and Local Agency Actions Resulting in Development of Local Significance on Private Lands or Lands Owned by Local Jurisdictions

COMAR 27.02.06 Conditional Approval of State or Local Agency Programs in the Critical Area

DISCUSSION

Anne Arundel County Public Schools (AACPS) is seeking approval to build an approximately 6,400 square foot addition to expand the kindergarten area of Sunset Elementary School located in Pasadena, Maryland. Site improvements will include replacing paths to the parking lot and around the building, and installing a stormwater management facility. The addition is required to meet AACPS and state educational requirements. The proposed project is located on lands designated as a Limited Development Area (LDA). The total acreage of the site within the Critical Area is 14.08 acres, current lot coverage is 3.07 acres (21.8%), and proposed lot coverage is 3.21 (22.8%) acres.

The project requires conditional approval by the Commission because it is currently over the allowable lot coverage and lot coverage will increase further after completion.

Proposed Impacts to the Critical Area

The kindergarten addition will be constructed adjacent to the northeast side of the elementary school. The area where the addition is proposed is currently covered in grass, with a row of two small trees and five small shrubs along the edge of the existing building. There is also an existing concrete pathway that leads from the existing building to a nearby road (Cloverhill Road). Allowable lot coverage for a site of this size in the LDA is 15%. The lot coverage for Sunset

Elementary School is currently 21.8% and will increase to 22.8% after the addition project (see Attachment #1).

There are two small trees (less than 3" caliper) and five small shrubs within the limits of disturbance (LOD) that will be removed. There will be new lot coverage totaling 6,098 square feet, which will be mitigated with plantings at a 1:1 ratio. The applicant has submitted a planting plan that provides 8,200 square feet of mitigation (see Attachment #2). The proposed plantings include 29 canopy trees (a mixture of red maple, black tupelo, sourwood, American sycamore, swamp white oak, and scarlet oak) and 32 understory trees (a mixture of serviceberry, eastern redbud, flowering dogwood, and sweetbay magnolia). All of the proposed plantings are native species and they will be planted adjacent to Sunset Park which is on the northwest side of the property and contains approximately 6.7 acres of existing forest. The proposed mitigation provides 1:1 replacement for the trees and shrubs removed, as well as mitigation for the additional lot coverage.

Permits and Review by Other Agencies

Stormwater Management Plan and Sediment Erosion Control

The stormwater management plan was approved on July 6, 2020 and the sediment and erosion control plan was approved on June 29, 2020. The approval for the grading permit from the Anne Arundel County Department of Inspections and Permits is pending until the project is approved by the Critical Area Commission.

Department of Natural Resources

The Department's Wildlife and Heritage Service (WHS) confirmed in an August 19, 2019 letter that there are no records of any State or Federal rare, threatened or endangered species within the project site.

United States Fish and Wildlife Service

A Trust Resources List search on the USFWS website, conducted on August 13, 2020, indicated that there are no USFWS listed endangered species, refuges, or fish hatcheries within the vicinity of the project.

Maryland Historical Trust

The Maryland Historical Trust confirmed that there are no historic properties in the area.

Public Notification Requirements and Comments

In accordance with COMAR 27.03.01.03, notice of the proposed project was published in The Baltimore Sun on July 24, 2020. A sign with information about the project was posted on the site as well. As of the writing of this staff report, one comment regarding tree removal outside of the Critical Area and contractor parking has been received. Any additional comments will be noted at the Commission meeting.

CONDITIONAL APPROVAL PROCESS (COMAR 27.02.06.01)

In order to qualify for consideration by the Commission for conditional approval, it shall be shown by the proposing or sponsoring agency that the project has the following characteristics. Responses were supplied by the school's consultant and summarized by Commission staff:

B. (1) That there exist special features of the site or there are other special circumstances such that the literal enforcement of these regulations would prevent a project or program from being implemented;

The kindergarten addition is required to meet AACPS and state educational requirements. The school building is located entirely within the Critical Area; therefore, it would be impossible to build the addition outside of the Critical Area. The footprint of the addition is approximately 6,400 square feet and will be constructed in an area that is mostly covered in grass. Also, the addition is located near the outer edge of the Critical Area, so it is farther away from edge of tidal water and wetlands.

B. (2) That the project or program otherwise provides substantial public benefits to the Critical Area Program;

The proposed mitigation plantings will provide water quality and habitat benefits onsite and offset the increased lot coverage.

B. (3) That the project or program is otherwise in conformance with this subtitle;

Other than the exceedance of the allowable 15% lot coverage, the proposed project conforms to the regulations in this subtitle. The additional lot coverage will be mitigated at a 1:1 ratio. The proposed mitigation will provide water quality and habitat benefits keeping with the intent of the Critical Area law.

The conditional approval request shall, at a minimum, contain the following:

C. (1) A showing that the literal enforcement of the provisions of this subtitle would prevent the conduct of an authorized State or local agency program or project;

If lot coverage for this site were limited to 15%, there would not be sufficient coverage to allow the minimum sized building, parking areas, and play areas required for the current enrollment of the school. The use of the site as a school dates back to the early 1970s. The proposed addition is necessary to meet State and County educational requirements.

C. (2) A proposed process by which the program or project could be so conducted as to conform, insofar as possible, with the approved local Critical Area program or if the development is to occur on State-owned lands, with the criteria set forth in COMAR 27.02.05;

In addition to complying with the Critical Area Commission's Conditional Approval process, the project has also been reviewed by the Anne Arundel County Department of Inspections and Permits and the Anne Arundel County Department of Planning and Zoning. Final approval from the County is pending until the Critical Area Commission reviews and approves this project. Other than the increase in lot coverage, the proposed project conforms to the County's Critical Area program.

C. (3) Measures proposed to mitigate adverse effects of the project or program or an approved local Critical Area program or, if on State-owned lands, on the criteria set forth in COMAR 27.02.05.

Mitigation is proposed for additional lot coverage at 1:1 and will be planted onsite adjacent to existing forest, which will provide a benefit to water quality and habitat. Two small trees (less than 3" caliper) and five small shrubs will be removed from the proposed LOD. The proposed mitigation provides 8,200 square feet of credit, which provides mitigation for the new lot coverage (6,100 square feet) and the tree and shrub removal (650 square feet).

RECOMMENDATION

Staff recommends approval of this project with the following conditions:

1. Prior to the start of construction, the Anne Arundel County Public Schools shall provide a completed Planting Agreement form and copies of all final approvals, such as stormwater management plans and erosion and sediment control plans, to Commission staff.