





**MCPB**  
**ITEM # 15**  
**September 11, 2008**

**MEMORANDUM**

**DATE:** August 29, 2008

**TO:** Montgomery County Planning Board

**VIA:** Jorge A. Valladares, Chief, Environmental Planning Division  
Stephen D. Federline, Supervisor, Environmental Planning Division 

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

**SUBJECT:** Staff Recommendations for Planning Board Approval of:  
Special Protection Area (SPA) Water Quality Plan  
For Removal of Impervious Surfaces on Parcels P963 and P968 (Grauel Property), M-NCPPC Parkland in Upper Paint Branch SPA

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**STAFF RECOMMENDATIONS**

**Staff recommends approval of the SPA Water Quality Plan with the following conditions:**

1. Removal of all impervious surfaces, except part of an existing driveway to allow continued, safe vehicular access to the park site from Rte. 198. Removal to include the existing gravel and stone surface driveways, except as specified above. The amount and configuration of the driveway to remain must be shown on a plan that is reviewed and approved by M-NCPPC Environmental Planning Division.
2. Department of Parks must submit the following plans no later than November 30, 2008 for Environmental Planning review and approval:
  - a. After the demolition work is completed, a survey plan that identifies the specific impervious surfaces that have been removed and those surfaces that remain. The plan must show the dimensions and area covered by each impervious surface that is removed or preserved. The plan must include the original signature and seal of the plan preparer (land surveyor).
  - b. A plan that provides specifications, including soils testing, for restoration of these areas to pervious surfaces and for planting with native vegetation.

## **DISCUSSION**

On July 18, 2008, SHA staff noted to M-NCPPC staff that land-disturbing activity was occurring on the subject property, but no sediment control measures, such as silt fencing, were visible on the site. Environmental Planning staff contacted Parks staff to determine what permits had been obtained. Parks staff indicated that demolition of four houses was occurring on the site under multiple demolition permits. Parks staff also instructed the demolition contractor to comply with the silt fencing requirement in the contract. However, Parks staff was unaware that a SPA water quality plan was required for the project.

On July 22, a DPS inspector checked the work activity on the site. Although DPS determined that the site at that time was not in violation, DPS required the submission of a sediment control permit application for each parcel where demolition work was occurring. This was based on DPS' evaluation that the proposed demolition work would involve over 5000 square feet of land disturbance. This amount of land disturbance meets the definition of "land disturbing activity." Parks staff halted further work by the contractor until appropriate permits were granted.

Parks staff wanted to continue the demolition of the houses and removal of some of the impervious surfaces as soon as possible. However, continuation of the land-disturbing activity would be inconsistent with the SPA law, which requires Planning Board approval of a water quality plan. Since the work was occurring on parkland, Section 19-62(c) of the Montgomery County Code applies to the project: "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."

Section 19-65(d)(4) of the Montgomery County Code states: "For a water quality plan for a project on public property, the Planning Board, after public hearing which may be conducted when the Board considers a mandatory referral application, must determine if the plan meets the standards of this Article. The applying agency or department should not engage in land disturbing activities that are inconsistent with the approved combined water quality plan unless the applying agency has found that the water quality protection measures it would otherwise use meet the purposes of this Chapter."

This project could not be reviewed by the Planning Board in August because of the Board's recess. Department of Parks wanted to continue the demolition work that had been started. A letter from the Director of Parks to the Planning Director requested that the demolition work be able to continue before the Planning Board review of the water quality plan (see Attachment A). The Planning Director authorized the demolition to occur prior to the Planning Board review of the water quality plan because of the safety concerns raised by the Park Police and impervious surfaces are proposed to be removed, and no development and added impervious surfaces are proposed (see Attachment B).

The Planning Director also authorized Environmental Planning staff to conduct a staff level review of the water quality plan (Attachment C).

### **SITE DESCRIPTION**

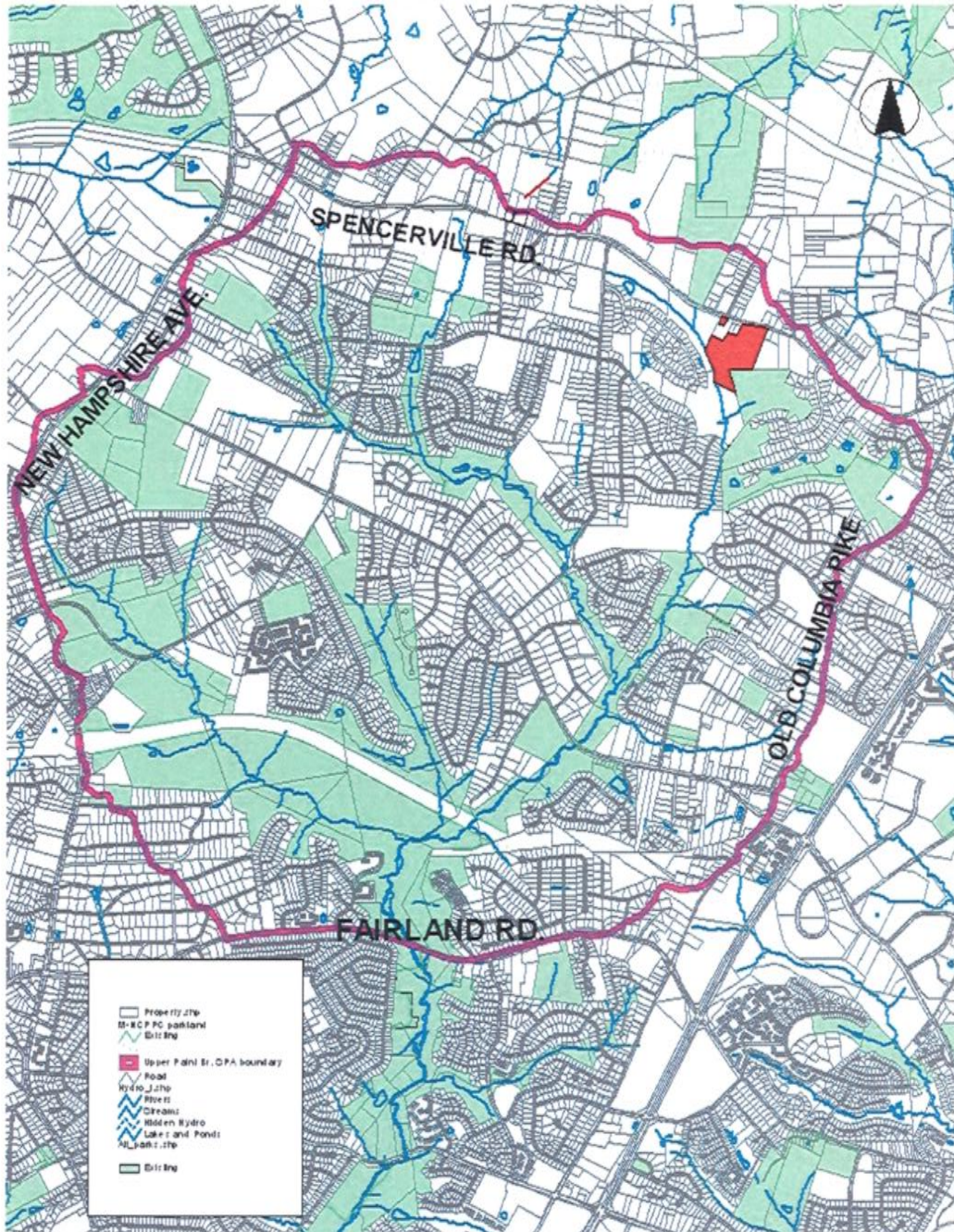
The Grauel Property covers 22.12 acres within the Upper Paint Branch SPA. Although the site is not on the park acquisition list, it was purchased for parkland in November 2007 at the request of late councilmember Marilyn Praisner. The majority of the site is a grass field. The Right Fork of Paint Branch traverses along the southwestern property boundary. Forest also covers the southwestern portion of the site.

Impervious surfaces on the site consisted of old house and other building structures, as well as a network of asphalt, stone, and gravel driveways and walkways. These impervious surfaces were located near Rte. 198, over 600 feet away from the stream and forest stand and over 450 feet away from the environmental buffer.

### **PROJECT DESCRIPTION**

The Department of Parks since has removed most, but not all, of the existing impervious surfaces specified for removal from the site. The anticipated completion date for the building demolition and impervious surface removal work is September 2. Parks staff have indicated that all building structures will be removed. However, a portion of an existing driveway will remain for vehicular access to the site. The specific driveway segment that will remain is not identified on plans that Parks staff have submitted. In addition, it is not clear from the submitted plans whether the gravel and bluestone driveways have been or will be removed.

# Upper Paint Branch SPA







## **ANALYSIS AND FINDINGS**

### **Review for Conformance to the SPA Requirements**

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 approved the elements of the preliminary 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.

DPS determined that a sediment control permit is required for work on each parcel of land. DPS also determined that in order to meet the “intent of the SPA Regulations”, Parks should submit a written description of the project, which would serve as the “DPS-approved Water Quality Plan”. DPS indicated that since the project does not involve any new development, the written project description would be adequate. It also determined that a SPA pre-application meeting was not needed.

DPS approved the Parks written description as the SPA Water Quality Plan for this project on August 4, 2008 (Attachment D).

***Environmental Planning Staff has reviewed and recommends Board approval of the elements of the SPA water quality plan under its purview:***

#### ***Site Imperviousness***

The project will remove most of the 1.16 acres of existing impervious surfaces on the two parcels. Parks staff wants to retain a segment of an existing driveway into the site for continued, safe vehicular access from Rte. 198. Environmental Planning staff does not object to the retention of a segment of driveway. Staff recommends that the final configuration of the retained segment of driveway be shown on a plan that is reviewed and approved by staff. All remaining impervious surfaces should be removed. Disturbed areas should be restored to allow for planting of native vegetation.

In addition, Parks staff wants to receive “credit” for the impervious surfaces that have been removed on the site. That is, Parks wants to apply the amount of impervious surfaces removed on this site as an offset for new impervious surfaces that Parks may add in a future, undetermined Parks project in the Upper Paint Branch SPA. Environmental Planning staff would support this. Staff recommends that a survey plan is submitted to clearly document the amount of impervious surfaces that have been removed and those surfaces that remain.

#### ***Environmental Buffers***

The Right Fork of Paint Branch and its environmental buffer traverse the southern portion of the subject site. However, the demolition work occurs well over 450 feet away from the stream’s environmental buffer. Therefore, the demolition work will not encroach into the buffer area.

***Forest Conservation Law***

Since DPS requires two separate sediment control permits for this project (one for each parcel where work is occurring), two forest conservation plan exemptions were reviewed. The project qualifies for exemptions from submitting a forest conservation plan under the modification of existing developed property category.

**County DPS SPA Review Elements**

DPS identified Parks staff's letter of August 1, 2008 as the water quality plan for this project. DPS has approved the letter (Attachment D).

***Site Performance Goals***

In a typical SPA review process, a pre-application meeting is held between the applicant, DPS, DEP, and M-NCPPC. At the meeting, DPS would identify the specific performance goals that apply to the proposed project. In this case, since the project is removing impervious surfaces and does not involve new development, DPS determined that no pre-application meeting is needed and, therefore, no site performance goals have been set for this project.

***Stormwater Management Concept***

There is no stormwater management concept for this project since existing impervious surfaces are removed and no new development or structures are proposed.

***Sediment and Erosion Control***

DPS is requiring two Small Land Disturbance Application (SLDA) permits, one for each parcel where demolition work is being conducted. Silt fences have been installed around the perimeters of disturbed areas.

***Monitoring of Best Management Practices***

Since this project does not propose any new development or structures, no monitoring is required.

**ATTACHMENTS**

- (A) Letter from Mary Bradford, Director of Parks, to Rollin Stanley, Director of Planning, August 12, 2008
- (B) Letter from Rollin Stanley, Director of Planning, to Mary Bradford, August 12, 2008
- (C) Letter from Mark Pfefferle, Supervisor, Environmental Planning Division to Mary Bradford, August 15, 2008
- (D) Letters, August 1, 2008, from Michelle Grace, Department of Parks, to Mark Etheridge, Dept. of Permitting Services, Approved by DPS as Preliminary/Final Water Quality Plans
- (E) Survey Plan of Impervious Surfaces that Existed on the Site

ATTACHMENT (A)

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PAGE 02/04



**MONTGOMERY COUNTY DEPARTMENT OF PARKS**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

August 12, 2008

Mr. Rollin Stanley  
Director of Planning  
Montgomery County Department of Planning  
8787 Georgia Avenue  
Silver Spring, MD 20910

RE: Spencerville Road Demolition Site – Water Quality Plan

Dear Mr. Stanley: *Rollin*

This letter is written request for your approval to move forward with a Parks' demolition project already underway, known as the Spencerville Road Demolition.

On July 5, 2007, the Montgomery County Planning Board approved the acquisition of the 22.1192 acres, more or less, improved, with Advance Land Acquisition Revolving Funds, from Sandy Spring Bank, Trustee for the Evelyn E. Grauel and George H. Grauel Trusts, located south of Spencerville Road (MD. Rte. 198), west of Old Columbia Pike, Burtonsville, Maryland.

On September 18, 2007, the Montgomery County Council adopted Resolution No.: 16-291, acquisition of the properties from the Sandy Spring Bank, Trustee for the Grauel Estate. The Resolution includes approval of the use of ALARF funds not to exceed \$100,000 for the demolition of the improvements.

The Property Management Office obtained demolition permits for the properties, and completed demolition of 2 small houses (known as the hobbit houses). But during the demolition preparations for the 2 larger houses (2901 and 2903 Spencerville Road), the question was raised to Environmental Planning whether there was a requirement for sediment control. The issue was raised since the properties are within the Special Protection Area of the Upper Point Branch Watershed.



R. Stanley, page 2

On July 22, 2008, the Property Management Office and the demolition contractor met with the Department of Permitting Services (DPS) Inspector on-site to determine the need for a sediment control permit. The DPS determined that the disturbance area on the remaining 2 sites may exceed 5,000 square feet of disturbance, prompting our application for a Small Land Disturbance Area (SLDA) Permit.

2 SLDA Permit Applications were filed with the DPS on August 1, 2008 by the Property Management Office (#234191 and #234192). The subsequent issue is whether a water quality plan is required by Environmental Planning, and that a water quality plan under the Special Protection Area (SPA) law requires the approval by the Montgomery County Planning Board.

The demolition work in progress was stopped voluntarily by the Property Management Office on July 22, 2008, until the permit details could be resolved.

The remaining houses and their outbuildings are an attractive nuisance to public safety. The properties have developed a history of vandals, and thieves gaining access and searching for items or simply breaking doors and windows. The houses are close to the road and were vacant long before we owned them. Most of the metal, plumbing, and electrical fixtures are stolen, and the properties are easy to access despite our efforts to keep them boarded up. The Park Management staff, along with the Central Maintenance staff are continually responding to calls from the Park Police, the Property Management office, and the local citizens to handle the maintenance concerns.

Captain Jake Bise of the Montgomery County Park Police offered the following comments regarding this situation: "We know from past experience with other vacant park buildings that the potential for vandalism to include graffiti (Gang Related), dumping, loitering by teens and others for no legal purpose greatly increases the longer a building stays vacant. Regular preventive patrols on all patrol shifts are occurring now and will continue to be needed to try and keep these incidents from happening. This requires diverting the beat officer's time to do the patrol checks from other equally important police tasks. The vacant buildings will eventually have a negative impact on the surrounding community resulting in citizen complaints. Any assistance to keep this project moving forward will be greatly appreciated by the Park Police. The Park Police have provided routine patrols and make their concerns known regularly."

R. Stanley, page 3

As Captain Bise mentions, our most recent concerns include the adjacent neighbors, and the potential for jeopardizing the safety and sanctity of their homes. In addition we are concerned about the economic ramifications of stopping work for our contractors and their families. The demolition contractor is planning to pull his equipment and move on to another job, which jeopardizes the future of this project being completed in a timely and efficient manner, and adds to the already high costs.

Several weeks have gone by since work was stopped, and the Property Management Office is raising major concerns, and urging a swift review, with possible solutions for the water quality plan process.

Yesterday, the Property Management staff met with Mark Pfefferle and Josh Penn of the Environmental Planning office, as well as Associate General Counsel Debra Daniel, and Derrick Rogers to discuss the latest developments of this park demolition project.

The Environmental Planning staff propose they take the water quality plan to the Planning Board for approval in September, with your approval of the demolition facilitated as proactive response for the life/safety concerns.

The water quality plan should be a simple presentation since there are no problems with the Forest Conservation Plan, there is no environmental impact, and the impervious area cap is a non-issue due to the project scope being demolition only, and no development.

Since the SPA law requires the Planning Board's approval, we are requesting your approval to continue with the demolition work now.

Please provide your written consent of approval to move forward with the demolition, which will add more pervious surface to the Upper Paint Branch Watershed, and beautify the park land area for the surrounding communities.

I appreciate your time and attention to this urgent matter.

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Sincerely,

  
Mary R. Bradford  
Director of Parks

MRB/mg

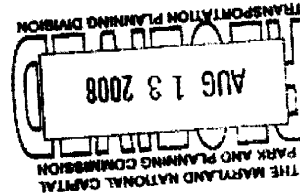
ATTACHMENT (B)



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

August 12, 2008

Ms. Mary Bradford,  
Director of Parks  
9500 Brunett Ave.  
Silver Spring, MD 20901



Re: Spencerville Road Demolition Site—Water Quality Plan

Dear Ms. Bradford:

This letter is in response to your letter of same date requesting authorization to move forward with the demolition of 2 houses on Spencerville Road prior to Planning Board approval of the required water quality plan.

The issue is the timeliness of the approval given that the Planning Board is currently on its August break. In your letter you raise several reasons for your request to move forward at this time, including safety concerns and the added cost of further delays. Given the safety concerns raised by the Park Police and the fact that no development is being proposed—only demolition of the 2 houses—I am hereby authorizing Mark Pfefferle of the Environmental Planning staff to move forward with a staff level review and approval of the water quality plan in order to facilitate the timely demolition of the 2 houses. This authorization is based on my understanding 1) that Environmental Planning staff has determined that no remedial measures are needed to ensure water quality on this particular site due to the fact that there are no streams or stream buffers in the immediate area and 2) that your department will actually be removing impervious area without replacing it.

As you acknowledge, this matter will still need to be taken to the Planning Board for its review and approval in September in accordance in Chapter 19 of the Montgomery County Code and the Board may decide, at that time, to require the Parks Department to take certain measures not required by staff.

I trust this fully responds to your request and look forward to working with your staff to bring this matter to the Planning Board in September for final approval.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rollin Stanley'.

Rollin Stanley  
Director of Planning

cc: Mark Pfefferle, Supervisor, Environmental Planning Division

ATTACHMENT (C)



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

August 15, 2008

Mary Bradford  
Director of Parks  
9500 Brunett Avenue  
Silver Spring, MD 20901

Re: Spencerville Road Demolition Site – Water Quality Plan

Dear Ms. Bradford:

On August 12, 2008 the Planning Director designated me the ability to provide a staff level review and approval of the water quality plan for the demolition of 2 houses along Spencerville Road. The proposed project will remove existing structures, remove impervious surfaces, and does not include any additional development of the site. Environmental Planning staff confirmed forest conservation exemptions for each house on August 13, 2008. With this letter I am providing the staff level approval of the water quality plan in order to facilitate the timely demolition of 2 houses on Spencerville Road.

This matter still needs to be taken to the Planning Board for its review and approval in September in accordance with Chapter 19 of the Montgomery County Code. The Board may decide, at that time, to require the Parks Department to take certain actions not required by staff. Ms. Bunnag is the Environmental Planning Division reviewer assigned to this case and will present the information to the Planning Board for their review and approval.

If you have any questions please contact Candy Bunnag at 301 495-4543.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Pfefferle".

Mark Pfefferle,  
Supervisor, Environmental Planning

CC: Michelle Grace  
Candy Bunnag  
Steve Federline





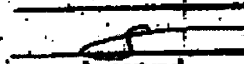
**MONTGOMERY COUNTY DEPARTMENT OF PARKS**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MONTGOMERY COUNTY  
DEPARTMENT OF PERMITTING SERVICES  
**APPROVED FOR**

*Preliminary/Final Water Quality Plan*  
SC # 234191

August 4, 2008

Mr. Mark Etheridge  
Senior Permitting Services Specialist  
Water Resources Section  
Montgomery County  
Department of Permitting Services  
235 Rockville Pike, 2<sup>nd</sup> Floor  
Rockville, MD 20850

  
Approved 8/4/08  
Date

RE: SLDA Permit # 234191 (2905 Spencerville Road, Burtonsville, MD)  
Water quality plan

Dear Mr. Etheridge,

The Montgomery County Department of Parks, Property Management Office submitted a Small Land Disturbance Area (SLDA) permit application today for the property undergoing demolition on Spencerville Road. Please attach this letter to the above referenced permit application.

The demolition includes the removal of the residential house, the associated outbuildings/sheds, and the driveway. The demolition also includes the removal of hazardous materials such as fuel, lead-based paint, household chemicals, trash, and a significant amount of asbestos. The disturbance area will probably exceed 3,000 square feet, but no more than 10,000 square feet, a small portion of the entire 9.8 acre parcel.

The area where the structures are removed will be graded, seeded, and a layer of straw added to stabilize and assure growth.

DPS- SUDA Permit # 244391 (2905 Spencerville Road, Burtonsville, MD), page 2

No development is planned for this parcel as it is located within the special protection area of the Upper Paint Branch watershed.

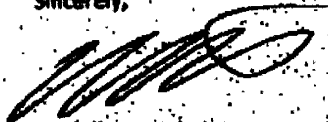
As part of the demolition, the contractor will provide sediment control fencing as directed by your inspectors.

This parcel will grow up to be an open meadow area, and become a significant contribution to the health and beauty of Montgomery County.

Please feel free to contact me with any questions. I can be reached at 301/485-2467.

Thank you for your time and attention to this matter.

Sincerely,



Michelle Grabe  
Senior Administrative Specialist

cc: Candy Bunnag, Environmental Planning, M-NGPPC



**MONTGOMERY COUNTY DEPARTMENT OF PARKS**  
THE MARYLAND NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MONTGOMERY COUNTY  
DEPARTMENT OF PERMITTING SERVICES  
APPROVED FOR

*Preliminary/Final Water Quality Plan*  
SC # 234192

August 1, 2008

Mr. Mark Etheridge  
Senior Permitting Services Specialist  
Water Resources Section  
Montgomery County  
Department of Permitting Services  
235 Rockville Pike, 2nd Floor  
Rockville, MD 20850

S. 8/1/08  
Approved Date

RE: SLDA Permit # 254192 (2901 Spencerville Road, Burtonsville, MD)  
Water quality plan

Dear Mr. Etheridge,

The Montgomery County Department of Parks, Property Management Office submitted a Small Land Disturbance Area (SLDA) permit application today for the property undergoing demolition on Spencerville Road. Please attach this letter to the above referenced permit application.

The demolition includes the removal of the residential house, the associated outbuildings/sheds, and the driveway. The demolition also includes the removal of hazardous materials such as fuel, lead-based paint, household chemicals, trash, and a significant amount of asbestos. The disturbance area will probably exceed 5,000 square feet, but no more than 10,000 square feet, a small portion of the entire 12-acre parcel.

The area where the structures are removed will be graded, seeded, and a layer of straw added to stabilize and assure growth.

DPS - SLDA Permit # 23419Z (2901 Spencerville Road, Burtonsville, MD); page 2

No development is planned for this parcel as it is located within the special protection area of the Upper Point Branch watershed.

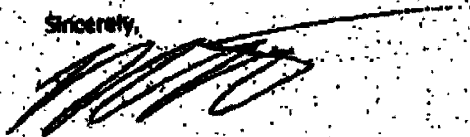
As part of the demolition, the contractor will provide sediment control fencing as directed by your inspectors.

This parcel will grow up to be an open meadow area, and become a significant contribution to the health and beauty of Montgomery County.

Please feel free to contact me with any questions. I can be reached at 301/485-2467.

Thank you for your time and attention to this matter.

Sincerely,



Michelle Grace  
Senior Administrative Specialist

cc: Candy Bunnag, Environmental Planning, M-NCPPC



ATTACHMENT (E)

