



**Opposition of the Board of Directors of the
Montgomery County Council of PTAs
to the
Proposed
Sale of Peary High School**

November 23, 2010

I am Kristin Tribble, President of the Montgomery County Council of PTAs. On behalf of the Board of Directors of MCCPTA, I am pleased to submit the following comments on the proposed sale of the Peary High School site. Our Board of Directors voted at our November 4, 2010 meeting to oppose the sale of the Peary High School site.

With approximately 50,000 members, MCCPTA advocates for the welfare of the over 144,000 students in Montgomery County Public Schools. MCPS has seen significant growth in the past few years and is predicted to grow by another 10,000 students in the next six years. At the same time, the County is struggling to keep pace with its modernization needs as we strive to ensure that every student learns in a safe, secure and modern facility. In this environment, we believe it would be unwise to sell a prime asset without a thorough evaluation of the future needs for middle and high schools in the midcounty area. We therefore oppose approval of a Peary High School sale at this time.

The County Previously Determined that Sale and Repurchase was not the Best Option

This is not the first time the County has reviewed a proposal to sell the Peary High School site to its current tenant, the Berman Academy. In 2006, the County Council was presented with a similar proposal to purchase the site from the County. An analysis prepared at the request of your Management and Fiscal Policy Committee (then chaired by Marilyn Praisner) concluded that the proposal, “was a sale of a rare asset probably well below market value with no guarantee that said asset would be available for repurchase should the County need to re-use it as a public school.”¹ The analysis concluded that,

Given [the County’s] qualitative concerns, the sale and repurchase option does not compare favorably to other alternatives under the Lease. Unless more favorable terms are offered, the County’s various objectives will more likely be met by maintaining ownership and control over the site.²

¹ Technical Memorandum, from Jacob Sesker, ZHA, Inc. to Marilyn Praisner, Chair, Management and Fiscal Policy Committee, November 6, 2006, at 2 (emphasis in original).

² Technical Memorandum, at 15.

This time, the Berman Academy has offered a slightly higher price (but still well below market value) and an eminent domain repurchase option. These changes, however, do not overcome the fundamental concerns described in the 2006 Council analysis. The proposal still sells a rare asset at well below market value with no guarantee it would be available for repurchase if needed.

Moreover, as we describe below, the County's need for cost-effective school capacity – particularly at the middle and high school levels – will be acute in the coming years. Therefore, MCCPTA believes it would be premature to sell the Peary High School site. We call instead for the Council to request a study of potential solutions for long term middle and high school needs in the midcounty area.

Peary High School is a “Rare Asset”

Our key concern is the first factor noted in the 2006 Council analysis. No future school sites are reserved in the Rockville cluster service area, meaning that we can't build another Peary High School in the cluster. Among the inventory of former school sites, the Peary High School site is the largest remaining site that is not currently planned for use by the Board of Education.³

At 19.5 acres and 227,000 square feet of building, the Peary High School site is the only site on the Real Property Inventory of Closed Schools that comes close to meeting MCPS's preferred site sizes for a middle or a high school. For comparison, the Peary High School site is bigger than the current sites of BCC High School and 16 county middle schools.⁴ The site is twice the size of Earle B. Wood MS, the only middle school in the Rockville cluster. Further, the building located on the site is larger than Poolesville High School and nearly twice the size of every middle school in the county. In short, if a middle or high school is needed in Rockville, the Peary site is the only remaining school in the Inventory that could meet these needs.

MCCPTA has repeatedly expressed concern that MCPS will soon lack capacity at the middle and high school levels. For the past three years, kindergarten classes have been the largest ever, with over 10,000 kindergarten students each year. MCPS is predicting equal or larger kindergarten classes for the duration of the six year CIP. To accommodate this anticipated growth, we have been urging the Board of Education to question whether we have adequate capacity to accommodate these students, not only at the elementary level but also at the middle and high school levels. Already we have three middle schools at or approaching 1400 students. The lone middle school in the Rockville cluster is predicted to exceed 1000 students by 2016. The time to plan for added secondary school capacity is now.

³ See Appendix L to the Recommended FY 2012 Capital Budget and Amendments to the 2011-16 CIP (Real Property Inventory for Closed Schools and Facilities), attached as Attachment A.

⁴ According to MCPS's facilities tables in the Recommended FY 2012 Capital Budget and Amendments to the 2011-16 CIP, the Peary site is larger than Hoover MS (19.1 acres), Martin Luther King Jr. MS (19.0), Takoma Park MS (18.8), Kingsview MS (18.5), Cabin John MS (18.2), White Oak MS (17.3), Loiederman MS (17.1), E. Brooke Lee MS (16.5), Montgomery Village MS (15.1), Eastern MS (14.5), Pyle MS (14.3), Silver Spring Int'l MS (10.6), Parkland MS (9.2), Wood MS (8.5), Newport Mill MS (8.4) and Lakelands Park MS (8.1).

It is reasonable to expect that MCPS will need to re-open a closed school or locate a site for a new school in the near to mid term. In the time of the Berman Academy lease, MCPS already has re-opened 5 schools.⁵ Further, in this year's Recommended CIP, the Board of Education is proposing to re-open Hungerford Park ES in the Richard Montgomery cluster and is proposing a site selection and feasibility study for a new middle school in the BCC cluster. Neither action was even discussed in last year's CIP.

The BCC example is particularly instructive here. The County does not own a school site in the BCC cluster, and it is highly unlikely that a 19 acre site will be available. Even if it were, the acquisition cost will be many multiples of the \$1.9 million sale price proposed here. If the County were to sell the Peary site prematurely, it could replicate the BCC shortcomings in the Rockville cluster. The warning from the 2006 Council analysis is apt:

[T]he transaction that has been proposed is to sell 19.5 acres with a school and athletic fields in a County that is growing rapidly and which has experienced skyrocketing land values in recent years. The cost of replacing that much land at some unknown point in the future is likely to be very high and replacement of the land may be impossible after two more decades of growth.⁶

As a result, we believe it is imprudent to rush the sale of the Peary High School site. Rather than approve the sale of this "rare asset" now, MCCPTA recommends that the County study its school needs further before making any decision on the disposition of the Peary site. Specifically, we recommend that the County Council require the Board of Education to submit a study of potential solutions for long term middle and high school needs in the midcounty area. This study should examine the capacity needs of at least the Rockville, Richard Montgomery, Wootton and Walter Johnson clusters. It should take into account the anticipated growth in the county as well as the impact of potential redevelopments at the Great Seneca, White Flint and Shady Grove Metro sites. It also should identify preferred sites for adding middle and high school capacity in the areas.

Only after receiving this information can the County Council determine the likelihood it will need to re-use the Peary site for a middle or high school in the future. We believe this information is essential to evaluating the proposed sale of the Peary site.

The Proposed Buyback Provisions are Uncertain and Impractical

To address objections about the future re-use of the Peary site for a public school, the Berman Academy has now offered to amend the Deed to specify that the County can exercise its eminent

⁵ See Appendix K to the Recommended FY 2012 Capital Budget and Amendments to the 2011-16 CIP (Schools Reopened), attached as Attachment B.

⁶ Technical Memorandum at 14. Although property values have suffered significantly in this recession, one can anticipate that values eventually will again begin to climb.

domain powers to reclaim the property if needed as a school site. However, the Board of Education has noted that this provision could result in “a protracted condemnation process” and itself is subject to significant uncertainty. We believe the provisions are largely illusory.

The key standard for a right to reclaim the property is “based on need by the Montgomery County Public School System (MCPS) for a school.” This standard is not well defined, and could be subject to significant litigation. What is “need” in this instance? Is the “need” standard met if other alternatives are available to MCPS, such as additions at another school or redistricting? Who decides such questions?

Even with the Board of Education’s recommended changes, we are concerned that the right in the Deed is impractical. The Deed seems designed to give the appearance of an ability, but not an actual ability, to reclaim the property. As you all know, use of the eminent domain power is controversial and often viewed as a last resort. There likely will be considerable reluctance by future Councils to resort to this alternative, especially when its exercise is subject to a five year waiting period (after litigation is concluded). School overcrowding comes upon us quickly, and an MCPS faced with a pressing need for capacity is likely to seek other alternatives rather than attempt to exercise an eminent domain power of uncertain outcome.

Finally, we think it is unwise to sell an asset now for \$1.9 million with an intention to buy it back later for the approximately \$10 million that the repurchase formula would demand. It is far better for the County to retain title to the property if there is more than a remote chance that it will be re-used as a public school in the future.

The Board of Directors of MCCPTA thanks you for the opportunity to submit these comments. We would welcome the opportunity to discuss these recommendations further should the Board so desire.

Respectfully submitted,

Kristin Tribble
MCCPTA President
On behalf of the Board of Directors of MCCPTA