



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

MCPB No. 17-124
Water Quality Plan No. S-2290
1220 Briggs Chaney Road
Date of Hearing: December 21, 2017

JAN 03 2018

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 19, Article V, water quality review in Special Protection Areas must be done in conjunction with the review of a development plan, diagrammatic plan, schematic development plan, project plan, preliminary plan of subdivision, site plan, mandatory referral, or conditional use; and

WHEREAS, to avoid duplication of effort, the Montgomery County Department of Permitting Services (“DPS”) and the Montgomery County Planning Board each have responsibility for review and approval of different elements of water quality plan applications; and

WHEREAS, the Planning Board is responsible for reviewing water quality plan applications to determine if environmental buffer protection, forest conservation and planting requirements, and site impervious limits have been satisfied; and

WHEREAS, in cooperation with DPS’ review and approval of those elements of the water quality plan over which DPS has authority, the Planning Board is authorized to take final action on the water quality plan; and

WHEREAS, on May 16, 2017, Pampas Garden Landscaping, LLC (“Applicant”) filed an application for approval of water quality plan on approximately 2.46 acres of RE-1 zoned property located at 1220 Briggs Chaney Road (“Subject Property”) in the Upper Paint Branch Special Protection Area (“SPA”) within the Cloverly Policy Area and Cloverly Master Plan (“Master Plan”) area; and

WHEREAS, Applicant’s water quality plan application was designated Water Quality Plan No. S-2290, 1220 Briggs Chaney Road (“Preliminary/Final Water Quality Plan” or “Application”); and

WHEREAS, following review and analysis of the Application by Planning Board staff (“Staff”) and other governmental agencies, Staff issued a memorandum to the Planning Board dated December 8, 2017, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

Approved as to
Legal Sufficiency:

8787 Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320
MNCPPC Legal Department
www.montgomeryplanningboard.org E-Mail: mcp-chair@mncppc-mc.org

WHEREAS, the Staff Report included a copy of a letter dated November 3, 2017 from DPS conditionally approving the elements of the Preliminary/Final Water Quality Plan under its purview; and

WHEREAS, on December 21, 2017, the Planning Board held a public hearing on the Application at which it heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on December 21, 2017, the Planning Board voted to approve the Preliminary/Final Water Quality Plan, subject to certain conditions, by the vote certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary/Final Water Quality Plan No. S-2290, 1220 Briggs Chaney Road on the Subject Property, subject to the following conditions:¹

1. The impervious surfaces on the Property are limited to no more than 14,812 square feet as shown on the Impervious Surface Exhibit Plan portion of the Preliminary/Final Water Quality Plan.
2. Prior to the pre-construction meeting, the Applicant must enter into an agreement with the Planning Board to limit impervious surfaces to no more than 14,812 square feet, or 13.8 percent of the Subject Property within the SPA and demonstrate conformance to the impervious surface limits.
3. Within 150 days of the pre-construction meeting, the Applicant must restore all areas on the Property identified on the Impervious Surface Exhibit Plan portion of the Preliminary/Final Water Quality Plan as impervious surfaces to be removed, per the "Guidelines for Converting Paved Areas into Pervious Greenspace", as outlined on the approved Forest Conservation Plan S-2290. The Applicant must contact a Planning Department Staff inspector to conduct a post-work inspection to verify the removal and restoration of all impervious surfaces to be removed in accordance with the guidelines outlined on the approved Forest Conservation Plan S-2290.
4. The Applicant must conform to the conditions as stated in DPS' Preliminary/Final Water Quality Plan for the 1220 Briggs Chaney Road letter dated November 3, 2017, unless otherwise amended by DPS, provided the amendments do not conflict with other conditions of the approval.

BE IT FURTHER RESOLVED that having given full consideration to the recommendations and findings of its Staff as presented at the hearing and as set forth in

¹ For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner, or any successor(s) in interest to the terms of this approval.

the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

The Application satisfies all the applicable requirements of Montgomery County Code, Chapter 19, Article V – Water Quality Review in Special Protection Areas.

Impervious surface restrictions for development projects in the Upper Paint Branch Special Protection Area (SPA) are set forth in the Overlay Zone for the Upper Paint Branch SPA. As per Chapter 59, Section 4.9.18, the imperviousness for the Application may not exceed 8.0 percent, unless exempt from this development standard. The Property obtained approval of a Special Exception for a landscape contractor use from the Montgomery County Board of Appeals in January 1998. The Montgomery County Department of Permitting Services and the Board of Appeals determined that the Special Protection Area requirements did not apply due to the limited land disturbing activities proposed at that time. The Special Exception approval permitted approximately 14,812 square feet of impervious surface to be maintained on the Subject Property. The Applicant proposes to relocate the existing driveway, reconfigure the existing parking lot, and demolish and replace the existing garage/storage building, resulting in impervious surfaces that do not exceed 14,812 square feet or 13.8 percent of the Subject Property.

The Application met applicable requirements for environmental buffer protection, forest conservation, and planting requirements under an approved forest conservation plan. As conditioned by this approval, site impervious limits have been satisfied. Therefore, the Application satisfies all the elements of the Preliminary/Final Water Quality Plan under the Board's purview.

The stormwater management plan, sediment and erosion control plan, and the water quality monitoring component have been reviewed and conditionally approved by DPS, in coordination with the Montgomery County Department of Environmental Protection, as the lead agencies for these components of the Water Quality Plan review. Therefore, the Application satisfies all the elements of the Preliminary/Final Water Quality Plan under DPS' purview.

BE IT FURTHER RESOLVED that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JAN 03 2018 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner Cichy, seconded by Vice Chair Dreyfuss, with Chair Anderson, Vice Chair Dreyfuss, and Commissioners Fani-González, Cichy, and Patterson voting in favor at its regular meeting held on Thursday, December 21, 2017, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board