

FEB 2 2012



MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 12-04

SPA Combined Preliminary and Final Water Quality Plan No. S-2816

T-Mobile at Gibson Property

Date of Hearing: January 12, 2012

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Chapter 19, Article V, Water Quality Review in Special Protection Areas, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review Special Protection Area (SPA) water quality plan applications; and

WHEREAS, on December 6, 2011, T-Mobile Northeast LLC, Ralph E. Gibson, and Margaret A. Gibson ("Applicant"), filed an application for approval of a SPA Water Quality Plan on approximately 5.88 acres of RE-1 zoned property located on Parcel P161 at 2815 Cabin Creek Drive on the south side of Cabin Creek Drive in the Upper Paint Branch Special Protection Area, adjacent to the Upper Paint Branch Park ("Property" or "Subject Property"), in the Fairland Area master plan ("Master Plan") area; and

WHEREAS, Applicant's SPA water quality plan application was designated Water Quality Plan No. S-2816, T-Mobile at Gibson Property ("Preliminary/Final Water Quality Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and the staff of other governmental agencies, Staff issued a memorandum to the Planning Board dated December 15, 2011, setting forth its analysis, and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, on January 12, 2012, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

Approved as to
Legal Sufficiency:

8787 Georgia Avenue, Suite 200, P.O. Box 20910, Chairman's Office: 301.495.4605 Fax: 301.495.1320

MNCPPC Legal Department
www.MCParkandPlanning.org E-Mail: mcp-chairman@mncppc.org

WHEREAS, on January 12, 2012, the Planning Board approved the Preliminary/Final Water Quality Plan subject to certain conditions on motion of Commissioner Anderson, seconded by Commissioner Dreyfuss, with a vote of 5-0; Commissioners Anderson, Carrier, Dreyfuss, Presley, and Wells-Harley all voting in favor.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the relevant provisions of Montgomery County Code Chapter 19, Article V, the Planning Board approved the Preliminary/Final Water Quality Plan on the Property, subject to the following conditions:

1. Limit the impervious surfaces within the SPA to no more than 8.0 percent as shown on the *Impervious Surface Plan Portion of the SPA Water Quality Plan*.
2. Prior to the issuance of building permit, enter into an agreement with the Planning Board to limit impervious surfaces to no more than 8.0 percent and demonstrate conformance to impervious surface limits.
3. Applicant will conform to the conditions as stated in Montgomery County Department of Permitting Services (DPS) preliminary/final water quality plan approval/reconfirmation letter dated November 30, 2011.
4. All impervious surfaces constructed as part of this approval, must be removed at the cost of the owner of the telecommunications facility when the telecommunications facility is no longer in use by any telecommunications carrier for more than 12 months.

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 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 the SPA Law, Montgomery County Code, Chapter 19, Article V.

The Upper Paint Branch Special Protection Area Environmental Overlay Zone establishes a numeric impervious surface limit of 8.0 percent for the Property. The Applicant proposes a special exception for a telecommunications facility resulting in an additional 1,772 square feet of impervious surface on the Property. This represents a total impervious surface coverage of approximately 7.4 percent for the Property. The Applicant does not propose any disturbance to the environmental buffer or to the forest. The stormwater management, sediment and erosion control, and the water quality monitoring components have been reviewed and conditionally approved by Montgomery County Department of Permitting Services, in coordination with the Montgomery County

Department of Environmental Protection, who are the governmental agencies responsible for approval of these components of the SPA Water Quality Plan.

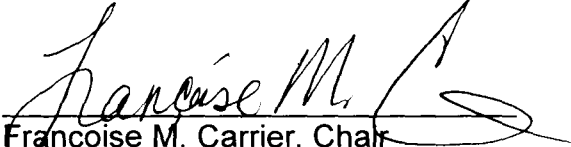
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is EB 2 2012 (which is the date that this Resolution is mailed to all parties of record); and

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 Vice Chair Wells-Harley, seconded by Commissioner Dreyfuss, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor of the motion, at its regular meeting held on Thursday, January 26, 2012, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board