



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

MCPB No. 12-122
Water Quality Plan No. MR2010815
Shawnee Lane
Date of Hearing: October 25, 2012

NOV 9 2012

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 special exception; and

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

WHEREAS, the Planning Board is responsible to review 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 for which DPS is authorized, the Planning Board is authorized to take final action on the water quality plan; and

WHEREAS, on September 6, 2012, Miller & Smith Eastside, LLC (“Applicant”), filed an application for approval of a water quality plan on approximately 11.2 acres of land for expansion of the existing Shawnee Lane between Gateway Center Drive and MD355 (“Property” or “Subject Property”) in the Clarksburg special protection area (“SPA”) within the Clarksburg master plan (“Master Plan”) area; and

WHEREAS, Applicant’s water quality plan application was designated Water Quality Plan No. MR2010815, Shawnee Lane (“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

Approved as to
Legal Sufficiency:

8787 Georgia Avenue, Suite 200, Spring, Maryland 20910

M-NCPPC Legal Department
www.MCParkandPlanning.org

Chairman’s Office: 301.495.4605 Fax: 301.495.1320

E-Mail: mcp-chairman@mncppc.org

Planning Board dated October 12, 2012, setting forth its analysis, and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, the Staff Report included a copy of a letter dated September 13, 2011 from DPS conditionally approving the elements of the Preliminary/Final Water Quality Plan under its purview; and

WHEREAS, on October 25, 2012, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the hearing, the Planning Board voted to approve the Application subject to certain conditions, in accordance with the vote as certified below.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Board APPROVES Preliminary/Final Water Quality Plan No. MR2010815, Shawnee Lane, subject to the following condition:

Applicant must conform to the conditions as stated in DPS Preliminary/Final Water Quality Plan Approval/Reconfirmation letter dated September 13, 2011 for Preliminary/Final Water Quality Plan No. MR2010815, Shawnee Lane.

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 condition 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.

The Application met applicable requirements for environmental buffer protection, forest conservation and planting requirements under an approved forest conservation plan. Site impervious minimization has 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.

Environmental Guidelines

The roadway crosses an unnamed tributary of Little Seneca Creek approximately 800 feet west of MD355. A culvert carries the stream under the existing roadway. Wetlands are located adjacent to the stream and the current embankments to the road. The Applicant has worked to minimize sensitive area disturbance by receiving a series of “design exceptions” from Montgomery County Department of Transportation. These design changes reduced pavement width and modified stormwater management measures, resulting in a 31-35% decrease in sensitive area impact and impervious surface result.

The applicant’s proposal is consistent with the environmental guidelines to minimize the environmental impacts when it is not possible to avoid such impacts.

Shawnee Lane Forest Conservation Plan

This 11.2-acre project is subject to the Montgomery County Forest Conservation law. Approximately 53% of the current road edge is forested. The road widening proposes to remove all of the 2.88 acres of forest located within the site area. Mitigation will take place offsite but either within the Clarksburg SPA, or within the Seneca Creek Watershed in accordance with separate Planning Board approval of that forest conservation plan .

Clarksburg High School Forest Conservation Plan Amendment (MR2004302)

Construction and widening of Shawnee Lane will remove 0.26 acres of forest in an area designated for conservation on the Clarksburg High School Forest Conservation Plan. Therefore, the Applicant, in conjunction with Montgomery County Public Schools, has submitted a revised forest conservation plan for Clarksburg High School showing the conservation area needed for the road project with proposed mitigation. Mitigation will take place on the school site at a 1:1 replacement ratio in accordance with separate Planning Board approval of that forest conservation plan amendment.

Site Imperviousness

The Clarksburg SPA does not have an impervious surface restriction, however impervious levels must be minimized to the extent possible. Roadway projects provide only limited opportunities to reduce impervious surfaces because of roadway standards and required sidewalks and pathways.

The Applicant has minimized the amount of new impervious surfaces for the project by receiving a series of “design exceptions” from Montgomery County Department of Transportation. These design changes reduced pavement width and minimized imperviousness.

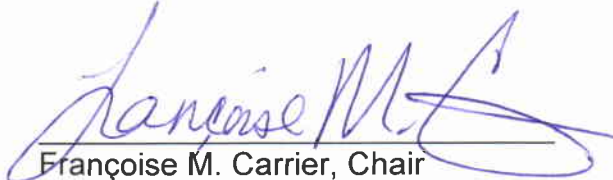
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is NOV 9 2012 (which is the date that this Resolution is mailed to all parties of record); and

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 Commissioner Dreyfuss, seconded by Commissioner Anderson, 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, October 25, 2012, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board