



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

MCPB No. 18-035

SPA Combined Preliminary and Final Water Quality Plan No. MR2018019

Clarksburg Road at Frederick Road (MD 355)

Date of Hearing: April 26, 2018

RESOLUTION

MAY 08 2018

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 Transportation ("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 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 March 1, 2018, Montgomery County Department of Transportation ("Applicant") filed an application for approval of a water quality plan for road improvements on approximately 3.53 acres along Clarksburg Road generally located at the intersection of Frederick Road (MD 355) in Clarksburg ("Subject Property") in the Ten Mile Creek Special Protection Area ("SPA") within the Ten Mile Creek Limited Master Plan Amendment ("Master Plan") area; and

WHEREAS, Applicant's water quality plan application was designated Water Quality Plan No. MR2018019, Clarksburg Road at Frederick Road (MD 355) ("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 April 16, 2018, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

Approved as to  
Legal Sufficiency:

*Christina Somet* 4/18/18  
M-NCPPC Legal Department

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

WHEREAS, the Staff Report included a copy of a letter dated January 18, 2018 from DPS conditionally approving the elements of the Preliminary/Final Water Quality Plan under its purview; and

WHEREAS, on April 26, 2018, 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, at the hearing, the Planning Board voted to approve the Application 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. MR2018019, Clarksburg Road at Frederick Road (MD 355) on the Subject Property, subject to the following conditions:<sup>1</sup>

1. The impervious surfaces are limited to the area as shown on the Impervious Surface Plan Portion of the Preliminary/Final Water Quality Plan. Impervious surfaces should be limited to no more than what is shown on the plan.
2. Applicant shall mitigate forest losses on-site where possible.
3. Significant tree loss will be replaced on a 1:1 basis and shown on the tree-save plan.
4. Prior to the start of any clearing, grading, or demolition, the Applicant must have an approved forest conservation exemption and tree save plan that matches the final road improvement design and mitigation measures, including the stream restoration required for mitigation.

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 Montgomery County Code, Chapter 19, Article V – Water Quality Review in Special Protection Areas.*

Conformance with Environmental Guidelines: The project proposes disturbance to 0.97 acres of stream, wetland, and other sensitive areas will be impacted by this project. This is due primarily to the location of the existing intersection within

---

<sup>1</sup> 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.

a highly sensitive area. Impacts to these areas will be mitigated by making improvements to stormwater management, stream channel restoration, and replacement plantings in sensitive areas.

The Applicant met applicable requirement for forest conservation and planting requirements under an approved forest conservation plan exemption and tree-save plan.

Impervious Surfaces: Within the Historic District of the Ten Mile Creek SPA there is no specific impervious surface cap or limit, but the project must minimize impervious surfaces to the amount needed to achieve the public purpose intended.

The area of the project within the SPA is approximately 3.53 acres. In addition to the existing roadway approximately 0.84 acres of new impervious surface will be added and approximately 0.09 acres of impervious surface will be removed. County regulations allow reduced width side paths (shared use paths) in environmentally sensitive areas. The side path on Clarksburg Road can be reduced from ten feet wide to eight feet wide under these regulations. The improvements are being built to current standards and there are no unnecessary impervious surfaces.

The Application met applicable requirements for environmental buffer protection, forest conservation. 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 MAY 08 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 Vice Chair Dreyfuss, seconded by Commissioner Patterson, with Chair Anderson, Vice Chair Dreyfuss, and Commissioners Fani-González, Cichy, and Patterson voting in favor at its regular meeting held on Thursday, April 26, 2018, in Silver Spring, Maryland.

  
\_\_\_\_\_  
Casey Anderson, Chair  
Montgomery County Planning Board