



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

MCPB No. 20-085

Water Quality Plan No. MR2020018

Project Name: MD-355 Clarksburg Shared Use Path

Date of Hearing: July 30, 2020

AUG 17 2020

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 ("MCDPS") 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 MCDPS' review and approval of those elements of the water quality plan for which MCDPS is authorized, the Planning Board is authorized to take final action on the water quality plan; and

WHEREAS, on April 9, 2020, Montgomery County Department of Transportation ("Applicant"), filed an application for a Water Quality on the Subject Property; and

WHEREAS, Applicant's application for the water quality plan was designated Water Quality Plan No. MR2020018, MD-355 Clarksburg Shared Use Path ("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 July 17, 2020, 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 April 18, 2019, from MCDPS and email modifying this letter, conditionally approving the elements of the Preliminary/Final Water Quality Plan under its purview; and

WHEREAS, on July 30, 2020, the Planning Board, by Resolution MCPB No. 20-085 approved Preliminary Forest Conservation Plan No. MR2020018 for Construction of a shared use path along the east side of Frederick Road (MD 355) extending from Stringtown Road to Spire Street and then 467 feet north of Clarksburg Road (MD 121) to Snowden Farm Parkway, Clarksburg; 3.58 acres ("Property or "Subject Property"), in *Clarksburg Master Plan & Hyattstown Special Study Area* (1994) and *10 Mile Creek Area Limited Amendment Master Plan* (2014) ("Master Plan") area; and

WHEREAS, on July 30, 2020, 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, by the vote as certified below.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Board APPROVES Preliminary/Final Water Quality Plan No. MR2020018, MD-355 Clarksburg Shared Use Path on the Subject Property, subject to the following conditions:¹

1. The Applicant must conform to the conditions as stated in the Montgomery County Department of Permitting Services (MCDPS) Preliminary/Final Water Quality Plan Approval letter dated April 18, 2019 (as amended by email).

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.

Environmental Buffer Protection

Property was approved by Staff on February 8, 2019. The Property is located in the Little Seneca Creek watershed. The portion of the Property located within the Ten Mile Creek SPA is designated Use Class I/I-P waters and the portion located within the Clarksburg SPA is designated Use Class IV/IV-P waters.

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.

There are stream, wetland, and environmental buffers on or affecting the LOD of the proposed bike path and roadway improvements and where the stream restoration is to occur.

The Application is for a linear project consisting of the construction of an 8-foot wide shared use path for use by pedestrians and bicycles and the restoration of an existing stream. The path will be constructed adjacent to existing roads, which includes three stream crossings. The path construction will only require stream impacts at one these existing crossings, for stream restoration and culvert replacement.

Chapter IV.A.1(b) of the *Environmental Guidelines* includes a provision for allowing stream buffer impacts associated with infrastructure uses, including bikeways and trails found to be necessary. The project has a total impact of 1.65 acres within the Stream Valley Buffer. Most of this impact is within the existing ROW and previously disturbed by roadway construction. Another approximately 0.5 acres is due to the stream restoration and culvert replacement portion of the project.

The Application meets all applicable requirements of the Environmental Guidelines, Clarksburg Master Plan, and the 10 Mile Creek Area Limited Amendment Master Plan.

Forest Conservation

The Board approved a Preliminary Forest Conservation Plan for the Subject Property alongside this Application. The Forest Conservation Plan shows removal of 1.18 acres of forest within the project limits, resulting in a 1.5- acre planting requirement. The Applicant proposes to meet the forest planting requirement through reforesting the 0.48-acre area that will be cleared for the stream restoration portion of the project (or as otherwise conditioned) and 1.07 acres will be met via an off-site forest conservation bank.

The Application meets all applicable requirements of Chapter 22A of the Montgomery County Forest Conservation Law.

Impervious Surfaces

The project is funded through Montgomery County funds and federal aid Transportation Alternatives Program (TAP) funding administered by MDOT SHA.

A main goal for development in all SPAs is to minimize the amount of impervious surfaces. The Clarksburg East Environmental Overlay Zone, which was created following approval of the 10 Mile Creek Area Limited Amendment Master Plan, specifies maximum imperviousness of 15 percent; however, per Section 4.9.5 (B) (4) of the Zoning Ordinance (Chapter 59), this bike path is exempt from the impervious surface limit. The Application demonstrates minimization of impervious surfaces through the design of an 8-foot wide path, rather than a 10-foot wide path.

The Application, within the LOD within SPAs of 2.64 Acres (area subject to a Water Quality Plan), will result in approximately 20,473 square feet, or 0.47 acres of impervious surfaces. This total imperviousness includes 0.33 acres of new impervious area, 0.26 acres of reconstructed impervious area, and 0.12 acres of removed impervious area.

The stormwater management plan, sediment and erosion control plan, and the water quality monitoring component have been reviewed and conditionally approved by MCDPS, 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 MCDPS' 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 _____ (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 Verma, seconded by Vice Chair Fani-González, with Chair Anderson, Vice Chair Fani-González, and Commissioners Patterson and Verma voting in favor, and Commissioner Cichy temporarily absent at its regular meeting held on Thursday, July 30, 2020, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board



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

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Casey Anderson, Chair
Montgomery County Planning Board