

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Date Mailed:

February 16, 2024

MCPB No. 24-010

Water Quality Plan No. MR2023016

Bowie Mill Road Bikeway

Date of Hearing: February 8, 2024

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 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 November 30, 2023, the Montgomery County Department of Transportation (“Applicant”) filed an application for approval of a water quality plan on approximately 3.3 miles of Bowie Mill Road between Muncaster Mill Road and Olney-Laytonsville Road (“Subject Property”) in the Upper Rock Creek Special Protection Area (“SPA”) within the Upper Rock Creek Overlay Zone, the Rural East Policy Area and the Upper Rock Creek Master Plan area; and

WHEREAS, Applicant’s water quality plan application was designated Water Quality Plan No. MR2023016, Bowie Mill Road Bikeway (“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

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Approved as to

Legal Sufficiency: /s/ Emily Vaias

M-NCPPC Legal Department

dated January 10, 2024, providing 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 January 22, 2020 from DPS conditionally approving the elements of the Preliminary/Final Water Quality Plan under its purview; and

WHEREAS, on February 8, 2024, the Planning Board held a public hearing on the Application and voted to approve the Preliminary/Final Water Quality Plan, subject to certain conditions on motion of Commissioner Hedrick, seconded by Vice Chair Pedoeem, with a vote of 4-0; Chair Harris, Vice Chair Pedoeem, Commissioners Hedrick and Linden voting in favor. Commissioner Bartley was absent.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary/Final Water Quality Plan No. MR2023016, Bowie Mill Road Bikeway on the Subject Property, subject to the following conditions:¹

1. The Applicant must schedule the required site inspections by M-NCPPC Forest Conservation Inspection Staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
2. The Applicant must comply with all tree protection and tree save measures shown on the approved Tree Save Plan. Tree save measures not specified on the Tree Save Plan may be required by the M-NCPPC Forest Conservation Inspection Staff.
3. The Limits of Disturbance (“LOD”) shown on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved Tree Save Plan.
4. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Service (“DPS”) – Water Resources Section in its Combined Preliminary/Final Water Quality Plan letter dated January 22, 2020 and hereby incorporates them as conditions of the Water Quality Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by DPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Water Quality Plan approval.
5. Before the start of any demolition, clearing, grading or construction for this development application, whichever comes first, the Applicant must record an M-NCPPC approved Certificate of Compliance in an M-NCPPC approved off-site forest bank to satisfy the reforestation requirement for a total of 2.96 acres of mitigation

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.

credit. The off-site requirement may be met by making a fee-in-lieu payment, subject to Staff approval, if forest mitigation bank credits are not available at any bank.

BE IT FURTHER RESOLVED that having given full consideration to the recommendations of its Staff as presented at the hearing and/or 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.

The Application satisfies all of the applicable requirements of Chapter 19 of the Montgomery County Code, the requirements of the Upper Rock Creek Overlay Zone, and the Planning Board approved Environmental Guidelines.

The Application met applicable requirements for environmental buffer protection, forest conservation, and planting requirements as specified in a Tree Save Plan required under Sect. 22A-9 of the Forest Conservation Law. 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

February 16, 2024

(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 consistent with the Maryland Rules for the judicial review of administrative agency decisions.

* * * * *

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 the motion of Commissioner Hedrick, seconded by Vice Chair Pedoeem, with a vote of 4-0-1; Chair Harris, Vice Chair Pedoeem, and Commissioners Hedrick, and Linden, voting in favor of the motion, Commissioner Bartley abstaining, at its regular meeting held on Thursday, February 15, 2024, in Wheaton, Maryland and via video conference.



Artie L. Harris, Chair
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Water Quality Plan No. MR2023016
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