

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Date Mailed:

February 1, 2024

MCPB No. 24-009

Water Quality Plan No. MR2023006

Life Science Center Loop Trail

Date of Hearing: January 18, 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 and coordination 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 October 24, 2023, the Montgomery County Department of Transportation (“Applicant”) filed an application for approval of a water quality plan on approximately 4.87 acres of LSC and EOF zoned property located along the western and northern side of Omega Drive and Medical Center Drive from the boundary of the City of Gaithersburg to Great Seneca Highway (“Subject Property”) in the Piney Branch Special Protection Area (“SPA”) within the R&D Village (Orange) Policy Area and ***Great Seneca Science Corridor Master Plan***] (the “Plan”) area; and

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Approved as to

Legal Sufficiency: /s/ Matthew T Mills

M-NCPPC Legal Department

WHEREAS, Applicant's water quality plan application was designated Water Quality Plan No. **MR2023006, Life Science Center Loop** ("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 January 4, 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 December 28, 2022 from DPS conditionally approving the elements of the Preliminary/Final Water Quality Plan under its purview; and

WHEREAS, on January 18, 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 Linden, seconded by Commissioner Hedrick, with a vote of 4-0; Chair Harris, Commissioners Bartley, Hedrick and Linden voting in favor, with Vice Chair Pedoeem being absent.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary/Final Water Quality Plan No. **MR2023006, Life Science Center Loop Trail** on the Subject Property, subject to the following conditions:¹

1. The impervious surfaces are limited to the areas shown on the Preliminary/Final Water Quality Plan.
2. The graphic showing the impervious surface changes must be included in the Preliminary/Final Water Quality Plan submitted for certification and signature.
3. A Final Tree Save Plan must be submitted to the Montgomery County Planning Department for review and approval prior to scheduling the pre-construction meeting.
4. Applicant shall provide tree protection measures and mitigation for priority trees removed according to the approved Tree Save Plan and at the direction of the Forest Conservation Inspector.
5. The Applicant must conform to the conditions as stated in DPS' Preliminary/Final Water Quality Plan for the Life Sciences Center ("LSC") Loop Trail letter dated December 28, 2022.

BE IT FURTHER RESOLVED that having given full consideration to the recommendations of Staff as presented at the hearing and/or as set forth in the Staff Report,

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.

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.

Forest Conservation

Forest Conservation Exemption No. 42023109E was confirmed by Staff on October 2, 2023. The exemption submission included a preliminary Tree Save Plan as required. A final Tree Save Plan must be submitted and approved by Planning Staff prior to clearing and grading for construction.

Environmental Buffer Protection

Section IV.A.1.b of the Planning Department’s *Environmental Guidelines* notes that “No buildings, structures, impervious surfaces, or activities requiring clearing or grading will be permitted in stream buffers, except for infrastructure uses, bikeways and trails found to be necessary, unavoidable, and minimized by the Planning Department and Department of Parks environmental staff working closely with the utility or lead agency.” Construction of the LSC Loop Trail is required by the approved and adopted *Great Seneca Science Corridor (“GSSC”) Master Plan* (2010) to provide non-motorized alternatives to travel within the Life Science Center and link the five LSC districts together. The general alignment of the trail and its design have been established by the GSSC Master Plan and the *LSC Loop Design Guidelines* (2015). Due to its status as a required element of the GSSC Master Plan, the Board determined that construction of the LSC Loop Trail is necessary and unavoidable. Planning Department environmental Staff have worked closely with the Montgomery County Department of Transportation to design the trail in a way that minimizes impacts to the stream buffer and to the Piney Branch SPA. The Planning Board hereby finds that the LSC Loop Trail plans submitted in this Mandatory Referral review are in conformance with the *Environmental Guidelines*.

Impervious Surfaces

The Piney Branch Special Protection Area (SPA) intersects briefly with the LSC Loop alignment in a portion of the southern loop of the trail along Medical Center Drive. The LSC Loop trail proposes to add approximately 0.26 acres of new impervious surface within the Piney Branch SPA.

The Piney Branch SPA does not include a specific impervious limit on land development projects. In SPAs without a cap on imperviousness, developments are required to demonstrate that imperviousness has been minimized. Montgomery County Executive Regulation 29-95, Regulations for Water Quality Review-Special Protection Areas, requires that the Final Water Quality Plan must include a plan that describes how the

proposed development minimizes impervious areas and, if applicable, meets any required imperviousness limits.

As noted earlier, construction of the LSC Loop Trail is required by the *Great Seneca Science Corridor Master Plan*, and its alignment through the Piney Branch SPA, as well as its design, have been established in the Master Plan and by the LSC Loop Trail Design Guidelines. Although the total impervious area of the trail within the Piney Branch SPA is approximately 0.40 acres, the trail will replace an existing impervious sidewalk area, so the actual new impervious area is limited to 0.26 acres. Given that the Piney Branch SPA covers 2,369 acres, the total impervious area being added by this project is approximately .0001 percent of the total SPA area. The Board finds that the Applicant has minimized the total amount of impervious surface while maintaining the public purpose of the trail.

The Application met applicable requirements for environmental buffer protection, forest conservation, and planting requirements under an approved forest conservation plan. 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 1, 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 motion of Commissioner Hedrick, seconded by Commissioner Linden, with a vote of 4-0-1 Chair Harris, and Commissioners Bartley, Hedrick, and Linden, voting in favor of the motion, Vice Chair Pedoeem abstaining, at its regular meeting held on Thursday, January 25, 2024, in Wheaton, Maryland and via video conference.



Artie L. Harris, Chair
Montgomery County Planning Board

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