

OCT 28 2011



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

MCPB No. 11-91
SPA Combined Preliminary and Final Water Quality Plan No. S-2807
J.B. Kline, Jr. Landscaping and Lawn Maintenance, Inc.
Date of Hearing: September 22, 2011

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 19, Article V, Water Quality Review in Special Protection Areas, the Montgomery County Planning Board ("Planning Board" or "Board") has the authority to review Special Protection Area ("SPA") water quality plan applications; and

WHEREAS, on April 22, 2011, Brian M. Kline ("Applicant"), filed an application for approval of a SPA Water Quality Plan on approximately 5.77 acres of land located on Parcel P560 and Outlot B at 6720 Olney-Laytonsville Road, 200 feet northwest of Golf Estates Drive ("Property" or "Subject Property"), in the Upper Rock Creek Area master plan area ("Master Plan"); and

WHEREAS, Applicant's SPA water quality plan application was designated Water Quality Plan No. S-2807, J.B. Kline, Jr. Landscaping and Lawn Maintenance, Inc. at Parcel P560 and Outlot B, 6720 Olney-Laytonsville Road, Laytonsville ("Preliminary/Final Water Quality Plan" or "Application"); and

WHEREAS, Planning Board Staff issued a memorandum to the Planning Board on August 31, 2011, setting forth its analysis and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Planning Board staff and the staff of other governmental agencies, the Planning Board held a public hearing on the Application on September 22, 2011; and

WHEREAS, at the hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on September 22, 2011, the Planning Board approved the Water Quality Plan subject to certain conditions on motion of Commissioner Dreyfuss; seconded by Vice Chair Wells-Harley, with a vote of 5-0; Chair Carrier, Vice Chair Wells-Harley, and Commissioners Dreyfuss, Presley, and Anderson voting in favor.

Approved as to
Legal Sufficiency:

8787 Georgia Avenue, NCFPC Legal Department 910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

www.MCParkandPlanning.org E-Mail: mcp-chairman@mncppc.org

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the relevant provisions of Montgomery County Code Chapter 19, Article V, the Planning Board approved SPA Water Quality Plan No. S-2807 on approximately 5.77 acres of land located at 6720 Olney–Laytonsville Road, 200 feet northwest of Golf Estates Drive (“Property” or “Subject Property”), in the Upper Rock Creek master plan area (“Master Plan”) subject to the following conditions:

1. Applicant must conform to the conditions as stated in Montgomery County Department of Permitting Services preliminary/final water quality plan approval letter dated September 1, 2011.

BE IT FURTHER RESOLVED, that having given full consideration to the recommendations and findings of its Staff 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 the SPA Law, Montgomery County Code, Chapter 19, Article V.

The Applicant proposes a special exception for a landscape contractor resulting in 1.5 acres of impervious surface on the Property. This represents a total impervious surface coverage of approximately 34.1 percent for the Property. There is no overlay zone or Master Plan recommendation that sets a numeric impervious limit for this Property because it is not served by community sewer. However, Chapter 19, Article V, Section 19-64 requires this plan to minimize impervious area. The Applicant proposes to permanently remove approximately 0.63 acres of impervious surface consisting of compacted gravel and dirt and a commercial metal garage. The Applicant has demonstrated minimization of impervious surfaces on the Property, with the remaining impervious area identified as necessary for the applicant’s continued operation. The stormwater management plan, the sediment and erosion control plan, and the water quality monitoring component have been reviewed and conditionally approved by the Montgomery County Department of Permitting Services, in coordination with the Montgomery County Department of Environmental Protection, the lead agencies for these components of the SPA Water Quality Plan.

The Planning Board finds that the Application satisfies all of the applicable requirements of the SPA law that are under the Board’s purview: to determine if environmental buffer protection, SPA forest conservation and planting requirements, and the Environmental Overlay Zone requirements, including impervious limits have been satisfied.

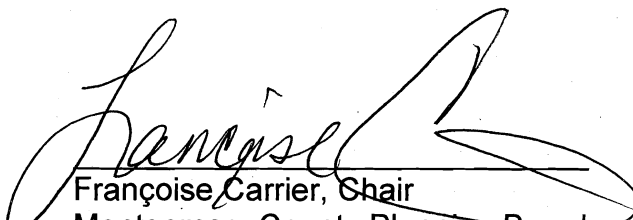
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is OCT 28 2011 (which is the date that this Resolution is mailed to all parties of record); and

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, and Dreyfuss present and voting in favor of the motion, and Commissioner Presley absent, at its regular meeting held on Thursday, October 20, 2011, in Silver Spring, Maryland.


Françoise Carrier, Chair
Montgomery County Planning Board