



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

MCPB No. 17-083

OCT 06 2017

Preliminary Plan No. 12006123A

Butz Property (a.k.a The Reserve at Black Rock) Lot 17, Block A

Date of Hearing: September 28, 2017

**RESOLUTION**

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review preliminary plan applications; and

WHEREAS, on June 27, 2007, the Planning Board, approved Preliminary Plan No. 120061230, Butz Property, establishing 43 lots on 258 acres of land located west of Darnestown Road (MD 28) and north of Berryville Road, in the Potomac Subregion Master Plan ("Master Plan") area; and

WHEREAS, on July 17, 2015, Jeremy F. Butz ("Applicant," "Property Owner"), filed an application for approval of an amendment to the previously approved Preliminary Plan requesting release of two areas of Category I Conservation Easement from the Butz Property (a.k.a. The Reserve at Black Rock) Lot 17, Block A ("Subject Property") as follows; and

1. Request to release without mitigation 1.40 acres of Category I Conservation Easement subject to United States Department of Agriculture, Natural Resource Conservation Service (USDA NRCS), Maryland Pond Code 378 maintenance activities; and
2. Request to release an additional 1.43 acres of Category I Conservation Easement with onsite mitigation consisting of the protection of 0.90 acres of existing forest and planting of 0.70 acres within an existing unplanted Category I Conservation Easement; and
3. Request to release 0.05 acres of fire access road encroachment from Category I Conservation Easement and to allow the developer to plant 0.05 acres of additional forest planting on the Subject Property.

WHEREAS, The Applicant's application to amend the Preliminary Plan was designated Preliminary Plan No. 12006123A, Butz Property (a.k.a. The Reserve at Black Rock) Lot 17, Block A ("Preliminary Plan," "Amendment," or "Application"); and

WHEREAS, the Amendment is also a Final Forest Conservation Plan Amendment ("Forest Conservation Plan") for the Subject Property; and

Approved as to  
Legal Sufficiency:

WHEREAS, following review and analysis of the Application, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated September 15, 2017, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on September 28, 2017, 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 Plan No. 12006123A subject to the following conditions, with all previous conditions of Preliminary Plan No. 120061230 remaining in full force and effect:

1. Within sixty (60) days of the mailing of the Planning Board Resolution approving plan number 12006123A, the Property Owner must submit a cost estimate for the 0.70 acres of additional onsite forest planting and two-year maintenance requirements of the Forest Conservation Plan for staff review and approval.
2. Within ninety (90) days of the mailing date of the Planning Board Resolution, the Property Owner must submit financial security for the 0.70-acre planting and maintenance requirements of the Forest Conservation Plan in an amount and form approved by Staff.
3. Within ninety (90) days of the mailing date of the Planning Board Resolution, the Property Owner must enter into a Maintenance and Management Agreement in a form approved by the M-NCPPC Office of General Counsel to ensure compliance with the conditions of the Forest Conservation Plan
4. Within ninety (90) days of the mailing date of the Planning Board Resolution, the Applicant must record a Category I Conservation Easement by deed, in a form approved by the M-NCPPC Office of the General Counsel, in the Land Records of Montgomery County, Maryland for the existing and new conservation easement areas on the Subject Property.
5. By December 31, 2017 the Property Owner must plant the 0.70 new planting area and have the plantings approved by the M-NCPPC forest conservation inspector.

6. After recordation of the Category I Conservation Easement and posting of financial security for the requirements of the approved Forest Conservation Plan, the Property Owner must obtain and record a Release of the existing Category I Conservation Easement, in a form approved by the M-NCPPC Office of the General Counsel, in the Land Records of Montgomery County, Maryland. All existing conservation easements remain in full force and effect until this deed of release is recorded.
7. Within one hundred and fifty (150) days of the mailing date of the Resolution for this Amendment, the Property Owner must submit a complete Record Plat application that delineates and references the new Category I Conservation Easement

BE IT FURTHER RESOLVED, that having considered 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 Planning Board FINDS, with the conditions of approval, that:

1. Except as specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved Preliminary Plan, and all findings not specifically addressed remain in effect.
2. The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County, Chapter 22A.

This Amendment resolves the outstanding forest clearing violation on the Subject Property and does not alter the minimum forest planting requirements of the subdivision.

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 06 2017 (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 (30) 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).

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**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 Cichy, seconded by Commissioner Patterson, with Vice Chair Dreyfuss and Commissioners Fani-González, Cichy, and Patterson voting in favor, and Chair Anderson absent at its regular meeting held on Thursday, September 28, 2017, in Silver Spring, Maryland.



Norman Dreyfuss, Vice Chair  
Montgomery County Planning Board