



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

MCPB No. 19-063
Preliminary Plan No. 120190020
Windridge Winery
Date of Hearing: June 6, 2019

JUL 24 2019

CORRECTED RESOLUTION

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

WHEREAS, on October 23, 2018, Jeremy Butz (“Applicant”) filed an application for approval of a preliminary plan of subdivision of property that would create one lot on 44.72 acres of land in the RC zone, located at 15700 Darnestown Road, 500 feet northwest of Bellingham Drive (“Subject Property”), in the Rural West Policy Area and 2002 Potomac Subregion Master Plan (“*Master Plan*”) area; and

WHEREAS, Applicant’s preliminary plan application was designated Preliminary Plan No. 120190020, Windridge Winery (“Preliminary 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 May 24, 2019, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on June 6, 2019, the Planning Board held a public hearing on the Application at which it heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on June 6, 2019 the Planning Board voted to approve the Application, subject to certain conditions, on motion of Commissioner Patterson, seconded by Commissioner Fani-Gonzalez, with a vote of 5-0; Commissioners Anderson, Cichy, Dreyfuss, Fani-Gonzalez, and Patterson voting in favor.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 120190020 to create one lot on the Subject Property, subject to the following conditions:¹

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.

Approved as to
Legal Sufficiency:

8787 Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320
MNCPPC Legal Department
www.montgomeryplanningboard.org E-Mail: mcp-chair@mncppc-mc.org

General Approval

1. This Preliminary Plan is limited to one lot and no more than 5,000 square feet of *commercial (Wine Tasting Room)* space. Other agricultural land uses permitted in the zone will continue to occur.

Adequate Public Facilities and Outside Agencies

2. The Adequate Public Facility (“APF”) review for the Preliminary Plan will remain valid for sixty (60) months from the date of mailing of this Planning Board Resolution.

Outside Agencies

3. The Planning Board accepts the recommendations of the Maryland State Highway Administration (“SHA”) in its email dated February 13, 2019 and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the email, which may be amended by MDSHA if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
 4. Before the issuance of access permits, the Applicant must satisfy the Maryland State Highway Administration’s requirements for access and improvements.
 5. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services (“MCDPS”) – Water Resources Section in its stormwater management concept letter dated March 18, 2019 and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
 6. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services (“MCDPS”) – Well and Septic Section in its letter dated March 12, 2019 and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Well and Septic Section if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
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7. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services ("MCDPS"), Fire Department Access and Water Supply Section in its letter dated February 14, 2019 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.

Forest Conservation

8. The Applicant must comply with the following conditions of approval of Final Forest Conservation Plan 120190020, approved as part of this Preliminary Plan.
 - a) The Applicant must schedule the required site inspections with M-NCPPC staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
 - b) The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC forest conservation inspector.
 - c) Prior to the Use and Occupancy Permit, the Applicant must record a Category I Conservation Easement over all areas of forest retention and environmental buffers as specified on the approved Forest Conservation Plan. The Category I Conservation Easement approved by the M-NCPPC Office of the General Counsel must be recorded in the Montgomery County Land Records by deed and the Liber Folio for the easement must be referenced on the record plat.
 - d) The Applicant must install permanent Category I Conservation Easement signage along the perimeter of the conservation easements.
 - e) The Final Sediment Control Plan must be consistent with the final limits of disturbance shown on the approved Final Forest Conservation Plan.

Transportation

Existing Frontage Improvements

9. The Applicant must provide the following dedications and show them on the record plat(s) for the following existing roads:
 - a) All land necessary along the Subject Property frontage for Darnestown Road (MD 28) to accommodate the Master Plan recommended 120 feet of right-of-way.
10. Prior to the recordation of plat(s), the Applicant must satisfy all necessary requirements of MDSHA to construct a 10-foot wide shared use path along the Property frontage on Darnestown Road (MD 28).

Record Plats

- ~~11. There shall be no clearing or grading of the site prior to recordation of plat(s).~~

Easements

~~12.11.~~ The record plat must show necessary easements.

Notes and Labels

~~13.12.~~ The record plat must reflect all areas under common ownership.

Certified Preliminary Plan

~~14.13.~~ The Applicant must include the stormwater management concept approval letter and Preliminary Plan Resolution on the approval or cover sheet(s).

~~15.14.~~ The certified Preliminary Plan must contain the following note:

Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of issuance of building permit(s). Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot.

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. *The layout of the subdivision, including size, width, shape, orientation and density of lots, and location and design of roads is appropriate for the subdivision given its location and the type of development or use contemplated and the applicable requirements of Chapter 59.*

a. *The block design is appropriate for the development or use contemplated*

The block design for the winery/tasting room use is suitable length and width, including adequate provision for pedestrians, parking, deliveries, and truck maneuvering.

b. *The lot design is appropriate for the development or use contemplated*

Lot size, width, shape, and orientation is appropriate for the location of the subdivision and for the type of use contemplated, considering the recommendations of the master plan and the applicable requirements of Chapter 59. The dimensions of the lot are able to accommodate the proposed building and other infrastructure necessary to serve the lot, including but not limited to any

accessory structure, stormwater management, parking, access drive, and off-street service.

c. *The Preliminary Plan provides for required public sites and adequate open areas*

2. *The Preliminary Plan substantially conforms to the Master Plan.*

The Property is located in the Darnestown Planning Area, the westernmost portion of the 2002 *Potomac Subregion Master Plan*. It is in the Rural Cluster Zone, as recommended by the Master Plan. The Master Plan intends that this area "provide a compatible mix of agricultural uses and low-density residential development that promotes agriculture and protects scenic and environmentally sensitive areas." (p 94) The proposed winery and tasting room will support continued active farming on this Property. The proposal is consistent with the Master Plan.

3. *Public facilities will be adequate to support and service the area of the subdivision.*

a. Roads and Other Transportation Facilities

Transportation access is adequate to serve the proposed development by this Preliminary Plan.

i. *Existing Facilities*

The Subject Property is along MD 28 Darnestown Road, classified by the 2018 *Master Plan of Highways and Transitways* as a 2-lane arterial with a 120 ft. right-of-way.

ii. *Proposed public transportation infrastructure*

The Applicant will provide full dedication to accommodate the 120 feet right of way for MD 28. The 2018 *Bicycle Master Plan* recommends bikeable shoulders to be constructed on the frontage along MD 28, however, shoulders do not exist along this stretch of roadway and none will be added by the subject application. In lieu of constructing shoulders, the Applicant will construct a 10-foot wide shared use path along the frontage to accommodate cyclists and pedestrians. Staff finds that this proposal fully accommodates bike and pedestrian traffic, meeting the requirements of the Master Plan.

b. Local Area Transportation Review (LATR)

The Applicant submitted a transportation exemption statement because the Project will generate fewer than 50 new peak hour person trips during the weekday morning and evening peak periods. As a result of the anticipated weekday operation, the Project will not generate any weekday morning peak

period person trips (6:30 AM – 9:30 AM) and is estimated to generate fewer than 50 evening peak period person trips (4:00 PM – 7:00 PM).

The Project will operate seven days a week, between 12 PM and 10 PM, with up to 10 employees each day. The majority of retail customers are anticipated during the weekend, outside the weekday peak periods, at times when adjacent roadways experience lower levels of travel demand. As a result, the LATR requirements are satisfied without further analysis.

Other Public Facilities and Services

Other public facilities and services are available and adequate to serve the proposed lot. The Subject Property has W-6 and S-6 water and sewer service categories, respectively, and well water and private septic systems. Montgomery County Department of Permitting Services, Well and Septic Division approved the plans on March 12, 2019 (Attachment B).

The Application has been reviewed by the Montgomery County Department of Permitting Services, Fire Department Access and Water Supply Section, which approved a fire department access plan on February 14, 2019.

Other utilities, public facilities and services, such as electric, telecommunications, police stations, firehouses and health services are currently operating within the standards set by the Subdivision Staging Policy Resolution currently in effect. This Application is for a commercial winery use and does not propose any new dwellings unit. Therefore, the Application does not generate any new students, and no school adequacy test is required.

4. *The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code Chapter 22A.*

A. Forest Conservation

The Board finds that as conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law.

A Final Forest Conservation Plan (FFCP) 120190020 for the Application was submitted as part of the Preliminary Plan Application (Attachment D).

This Property is zoned RC which is assigned a Land Use Category of Agricultural and Resource Areas (ARA) in the Land Use Table of the Environmental Guidelines. This gives the Property an afforestation requirement of 20% of the net tract and a conservation threshold of 50%.

The total tract area including offsite work was 45.57 acres, however 40.03 acres of land were exempt from forest conservation and will remain in agricultural use. Therefore, the net tract area subject to the forest conservation worksheet is 5.54 acres.

The FFCP shows no forest within the net tract area and does not propose removal of any forest. Accordingly, the Forest Conservation Worksheet results in a 1.1-acre afforestation/reforestation requirement. This requirement will be met onsite at a 2:1 ratio of forest retention, or 2.22 acres. The Applicant has proffered all 3.34 acres of existing forest on the Property in Category I conservation easement, exceeding the 2.22-acre afforestation/ reforestation requirement.

The FFCP meets all applicable requirements of Chapter 22A of the County Code. Therefore, Staff recommends approval the Final Forest Conservation Plan with the conditions cited in this Staff Report.

5. All stormwater management, water quality plan, and floodplain requirements of Chapter 19 are satisfied.

This finding is based upon the determination by MCDPS that the Stormwater Management Concept Plan meets applicable standards.

The Preliminary Plan Application meets the stormwater management requirements of Chapter 19 of the County Code. The Applicant received a stormwater concept approval from MCDPS water resources division on March 18, 2019. The Application will meet stormwater management goals through a variety of techniques including landscape infiltration, micro bioretention, and non-structural practices.

BE IT FURTHER RESOLVED that this Preliminary Plan will remain valid for 36 months from its initiation date (as defined in Montgomery County Code Section 50.4.2.G, and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded in the Montgomery County Land Records, or a request for an extension must be filed; 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 JUL 24 2019 (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 Cichy, seconded by Commissioner Patterson, with Chair Anderson and Commissioners Cichy and Paterson voting in favor of the motion, and Vice Chair Dreyfuss and Commissioner Fani-González absent, at its regular meeting held on Thursday, July 18, 2019, in Silver Spring, Maryland.



Casey Anderson, Chairman
Montgomery County Planning Board