

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Date Mailed:

December 27, 2023

MCPB No. 23-130

Preliminary Plan Amendment No. 11989032A

Bucklodge Tract

Date of Hearing: December 7, 2023

RESOLUTION

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

WHEREAS, the Planning Board, by a Memorandum dated June 10, 1991, approved Preliminary Plan No. 119890320, creating two (2) buildable lots and three (3) outlots for two (2) industrial buildings, limited to 7,760 square feet per building for a cumulative total of 15,520 square feet of industrial use on 22 acres of land in the IM and Rural zones, located on Buck Ridge Court, north of Bucklodge Road (“Subject Property”), in the Rural West Policy Area and 1985 *Approved and Adopted Boyds Master Plan* (“Master Plan”) area; and

WHEREAS, on June 15, 2022, Buck Ridge, LLC (“Applicant”) filed an application for approval of an amendment to the previously approved preliminary plan to subdivide two (2) existing platted lots and three (3) existing platted outlots into four (4) buildable lots for up to four (4) buildings with a total of 66,667 square feet of light industrial uses on the Subject Property; and

WHEREAS, Applicant’s application to amend the preliminary plan was designated Preliminary Plan Amendment No. 11989032A, Bucklodge Tract (“Preliminary Plan,” “Amendment,” 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 November 24, 2023, providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on December 7, 2023, the Planning Board held a public hearing on the Application and voted to approve the Application subject to conditions, on the motion of Commissioner Hedrick, seconded by Commissioner Linden, with a vote of 5-0; Chair Harris, Vice Chair Pedoeem, Commissioners Bartley, Hedrick and Linden voting in favor.

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Approved as to

Legal Sufficiency: /s/ Emily Vaias

M-NCPPC Legal Department

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan Amendment No. 11989032A to subdivide two (2) existing platted lots and three (3) existing platted outlots into four (4) buildable lots for up to four buildings with a total of 66,667 square feet of light industrial uses on the Subject Property by adding the following conditions, which supersede all previous conditions:¹

General Approval

1. This Preliminary Plan is limited to four (4) lots for four (4) light industrial buildings up to a combined total of 66,667 square feet.

Adequate Public Facilities and Outside Agencies

2. The Adequate Public Facilities (“APF”) review for the Preliminary Plan will remain valid for five (5) years from the initiation date (as defined in Montgomery County Code Section 50.4.3.J.5).

Plan Validity Period

3. The Preliminary Plan will remain valid for three (3) years from its initiation date (as defined in Montgomery County Code Section 50.4.2.G), and before the expiration date 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 filed.

Outside Agencies

4. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated October 27, 2023, and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations in the letter, which may be amended by MCDOT if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
5. Before recording a plat for the Subject Property, the Applicant must satisfy MCDOT’s requirements for access and improvements.
6. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (“MCDPS”) – Water Resources Section in its stormwater management concept letter dated October 20, 2023, and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations 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.

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.

7. The Planning Board has reviewed and accepts the recommendations of the MCDPS – Well and Septic Section in its letter dated July 12, 2023, and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations 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.
8. The Planning Board has reviewed and accepts the recommendations of the MCDPS, Fire Department Access and Water Supply Section in its letter dated June 7, 2023, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in the letter, which MCDPS may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.

Other Approvals

9. Before approval of a record plat or any demolition, clearing or grading for the Subject Property, the Applicant must receive Staff certification of this Preliminary Plan.

Environment and Noise

10. 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.
11. 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 Inspection Staff.
12. The Limits of Disturbance (“LOD”) shown on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved Final Forest Conservation Plan.
13. Before recordation of the plat and the start of any demolition, clearing, grading, or construction, whichever comes first, for this development Application, the Applicant must:
 - a) Record a Category I Conservation Easement over all areas of forest retention, forest planting and environmental buffers as specified on the approved Final Forest Conservation Plan. The Category I Conservation Easement must be in a form approved by the M-NCPPC Office of the General Counsel and must be recorded in the Montgomery County Land Records by deed. The Book/Page for the easement must be referenced on the record plat.
 - b) Install permanent conservation easement signage along the perimeter of the conservation easements as shown on the FCP, or as directed by the M-NCPPC Forest Conservation Inspection Staff.

- c) Install the permanent conservation easement fencing along the perimeter of the conservation easements as shown on the FCP, or as directed by the M-NCPPC Forest Conservation Inspection Staff.
 - d) Execute a five-year Maintenance and Management Agreement (“MMA”) in a form approved by the M-NCPPC Office of the General Counsel. The MMA is required for all forest planting areas, mitigation tree plantings, including variance tree mitigation plantings, and landscape plantings credited toward meeting the requirements of the FCP. The MMA includes invasive species management control measures as deemed necessary by the M-NCPPC Forest Conservation Inspection Staff.
 - e) Submit financial surety, in a form approved by the M-NCPPC Office of the General Counsel, to the M-NCPPC Planning Department for the 5.36 acres of new forest planting and maintenance, including invasive species management controls, credited toward meeting the requirements of the FCP.
14. The Applicant must install the Afforestation/Reforestation plantings as shown on the approved FCP, within the first planting season following the release of the first Sediment and Erosion Control Permit from the Montgomery County Department of Permitting Services for the Subject Property, or as directed by the M-NCPPC Forest Conservation Inspection Staff.

Transportation

Existing Frontage Improvements

15. The Applicant must provide the following dedications and show them on the record plat(s) for the following existing roads:
- a) All land necessary to accommodate a minimum of forty (40) feet from the existing pavement centerline along the Project Area frontage for Buck Ridge Court.

Surety

16. Before issuance of any building permit or sediment control permit, whichever comes first, the Applicant must enter into a Surety and Maintenance Agreement with the Planning Board in a form approved by the M-NCPPC Office of General Counsel that outlines the responsibilities of the Applicant. The Agreement must include a performance bond or other form of surety, with the following provisions.
- a) A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
 - b) The cost estimate must include a natural surface trail and landscape screening.
 - c) Completion of all improvements covered by the surety will be followed by inspection and potential reduction of the surety.
 - d) The bond or surety for each item shall be clearly described within the Surety & Maintenance Agreement, including all relevant conditions.

Record Plats

17. There shall be no clearing or grading of the site before recordation of plat(s).

Easements

18. The record plat must show necessary easements.
19. The record plat must reflect common ingress/egress and utility easements over all shared driveways.
20. The record plat must reflect a common use and access covenant for the benefit of the public over all trails, sidewalks and paths not included in a public right-of-way or private street parcel. The covenant must be in a form approved by the M-NCPPC Office of the General Counsel and recorded among the Montgomery County Land Records.

Notes and Labels

21. The record plat must reflect all areas under common ownership.
22. The record plat must reference the Common Open Space Covenant recorded among the Montgomery County Land Records at Book 28045 Page 578 ("Covenant").

Landscape and lighting plans

23. A landscape and lighting plan must be included in the Certified Preliminary Plan with the following items:
 - a) Landscape screening and amenity open space, including a natural surface trail.

Certified Preliminary Plan

24. The certified Preliminary Plan must contain the following notes:
 - a) *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.*
 - b) *The Applicant must schedule an on-site preconstruction meeting with M-NCPPC inspection staff before any demolition, clearing, or grading occurs on-site. The Applicant, along with their representatives, must attend the pre-construction meeting with the M-NCPPC inspector. A copy of the approved Certified Preliminary Plan is required to be on-site at all times.*
25. Before submittal of the Certified Preliminary Plan, the Applicant must make the following changes:
 - a) Show resolutions and approval letters on the certified set.
 - b) Include the approved Fire and Rescue Access plan in the certified set.

BE IT FURTHER RESOLVED that having considered 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 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.*

The Preliminary Plan meets all applicable sections of the Subdivision Regulations. The approved lots' size, width, shape, and orientation are appropriate for the location of the subdivision, taking into account the recommendations of the Master Plan, and for the approved use (Industrial) to be located on the Subject Property.

The lots were reviewed for compliance with the dimensional requirements for the IM Zone (Standard Method) as specified in the Zoning Ordinance in effect after October 30, 2014. Lot 1 (6.10 acres), Lot 2 (7.19 acres), Lot 4 (4.41 acres), and Lot 5 (4.30 acres) will meet all of the dimensional requirements for area and frontage and can accommodate the approved industrial use, which can reasonably meet the minimum width and setback requirements within the IM Zone, and provide adequate space to meet the 10% amenity open space requirement and accommodate on-site stormwater management, parking and other necessary infrastructure. Additionally, the size and shape of the lots is determined by the requirements to accommodate on-site well and septic systems. A summary of this review is included in the data table on the Certified Preliminary Plan. The Preliminary Plan has been reviewed by other applicable County agencies, all of whom have recommended approval.

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

a) Land Use

The approved industrial development will be located in Boyds just north of the CSX railroad tracks, on the west side of Bucklodge Road within the 1985 *Boyds Master Plan*. Bucklodge Road was recently designated as a Rustic Road by the 2023 *Rustic Roads Functional Master Plan Update*.

The 1985 *Boyds Master Plan* does not have specific recommendations for the Subject Property. The main purpose of the Master Plan was to determine if it was appropriate to permit a large rock quarry in Boyds for the extraction of a large diabase rock deposit, given the opposition of the use by many residents. The Master Plan did designate areas that were suitable for the extraction of mineral resources under stringent conditions if an application for the use were ever filed. The diabase extraction area from the Master Plan was located south of the Subject Property to the east and west of Hoyles Mill and White Ground Roads (two roads also in the Rustic

Roads Program). The extraction of the diabase never came to fruition and a portion of the area was incorporated into the Hoyles Mill Conservation Park.

The eastern edge of the Subject Property is located along Bucklodge Road, a designated Rustic Road. Rustic Roads are historic and scenic roadways that reflect the agricultural character and rural origins of the County. Each road in the Rustic Roads Program has a written profile that provides a history of the road, the traveling experience along the road, environmental features along or near the road, the road characteristics (i.e. the extents, width, surface, lanes and shoulder of the road), and a map that identifies features that contribute to its designation as a Rustic Road. The significant features of Rustic Roads must be preserved when the road is maintained or improved. The significant features along Bucklodge Road are as follows:

- Numerous long views across fields
- Wooded areas
- Hedgerows along road
- Roadside embankments
- Views of horse fields
- National Register-eligible two-lane bridge over Bucklodge Branch
- One-lane bridge over Bucklodge Branch tributary
- Seneca sandstone building very close to road
- Seneca sandstone wall along the road at Friends Advice

The significant features contribute to the character that defines Bucklodge Road as a Rustic Road. All of these features will be preserved. Although there are no scenic views or significant features within the immediate vicinity of the Subject Property, the Applicant will ensure that there will be proper screening to minimize the impacts of development as seen from the Rustic Road so that it does not detract or negatively impact the character of Bucklodge Road.

b) Environment

The Master Plan does not provide any environmental recommendations for the Subject Property.

c) Transportation

The Subject Property is located on two frontages – Buck Ridge Court and Bucklodge Road. Egress and ingress points are derived from Buck Ridge Court, itself accessed from Bucklodge Road. Buck Ridge Court carries no designation in the 2018 *Master Plan of Highways and Transitways* or the 2018 *Bicycle Master Plan*. Buck Ridge Court was constructed to Commercial/Business District Street specifications with an approximate right-of-way ("ROW") of 80 feet. The Applicant will provide 40 feet of dedication from the existing pavement centerline along the Subject Property frontage for Buck Ridge Court to accommodate all land necessary to achieve the complete Master Plan ROW. The entirety of the site is located within a Road Code Rural Zone.

Typically, properties of more than 25,000 square feet in a rural zone are precluded from providing pedestrian or bicycle facilities as outlined in Section 49-33(1)(A) of the County Code.

Secondarily, the portion of the Subject Property with frontage on Bucklodge Road is excluded from constructing bicycle and pedestrian facilities. Bucklodge Road is classified as a Rustic Road in the 2023 *Rustic Roads Functional Master Plan*. Section 49-33(1)(B) stipulates that roads classified as rustic or exceptional rustic are exempt from frontage improvements.

Pedestrian access is provided via a system of internal natural surface trails connecting each lot. A 5-foot sidewalk exists along both sides of Buck Ridge Court.

The Subject Property is not transit accessible. There are no existing Ride On bus routes near Buck Ridge Court (property frontage), Bucklodge Road (east-west arterial), or Barnesville Road (north-south arterial). The Boyds MARC Station is located approximately two miles southeast of the Subject Property at the confluence of Clopper and White Ground Roads.

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

a) *Roads and other Transportation Facilities*

As discussed in the section below, adequate public facilities exist to support and service the Subject Property under Section 50.4.3.J of the Subdivision Regulations. The Property is located in the Rural West Policy Area, categorized as a green Policy Area under the 2020 – 2024 *Growth and Infrastructure Policy* (the “GIP”).

b) *Local Area Transportation Review (LATR)*

This Application was reviewed under the 2020 - 2024 *Growth and Infrastructure Policy* and associated 2022 *Local Area Transportation Review* (“LATR”) Guidelines. As demonstrated on the Applicant’s Traffic Statement, dated May 9, 2022, the Preliminary Plan is exempt from completing a Transportation Impact Study (“TIS”) because the Site will not generate 50 or more net-new peak-hour person trips. The Subject Property is projected to generate a net increase of 43 morning peak-hour person trips and 25 evening peak-hour person trips. Therefore, it is exempt from additional review under both LATR and the GIP. Roads and other transportation facilities are adequate to support the Application.

The new peak-hour person trips were calculated by subtracting the proposed future generated by the previously approved use as general light industrial. Based on the trip generation table, the approved development will not exceed the 50 peak-hour person trip threshold, exempting the Project from a Transportation Impact Study. A summary of the trip generation analysis is provided in Table 1 below. As a note of clarification, Applicants are permitted to request credit for any existing trips per

Existing Use Trip Credits. Per LATR guidelines, if use and occupancy permits were issued more than 12 years before the most recent Transportation Exemption or Impact Statement, the Applicant(s) can take credit for existing trips based on the current LATR methodology for trip generation. The previous site approval is from 1991, thereby satisfying the requirement.

Table 1 - Trip Generation Analysis

ITE Trip Generation											
						AM Peak Hour			PM Peak Hour		
Proposed						In	Out	Total	In	Out	Total
ITE Generation Code – 110 (General Light Industrial) @ 66,667 sq. ft.						43	6	49	4	26	30
Total Vehicle Trips Per ITE 11 th Edition						43	6	49	4	26	30
Policy Area Adjustment Factor (Rural West – 100%)						43	6	49	4	26	30
Total LATR Adjusted Vehicle Trips by Mode Share (Auto Driver at 76.1% for Rural West Policy Area)						AM Peak Hour			PM Peak Hour		
						In	Out	Total	In	Out	Total
Auto Driver						43	6	49	4	26	30
Auto Passenger						11	2	13	1	7	8
Transit						0	0	0	0	0	0
Non-Motorized (Bike)						2	0	3	0	1	1
Total Person Trips						56	8	64	5	34	39
						AM Peak Hour			PM Peak Hour		
Previous Site Approval						In	Out	Total	In	Out	Total
ITE Generation Code – 110 (General Light Industrial) @ 66,667 sq. ft.						14	2	16	2	9	11
Total Vehicle Trips Per ITE 11 th Edition						14	2	16	2	9	11
Policy Area Adjustment Factor (Rural West – 100%)						14	2	16	2	9	11
Total LATR Adjusted Vehicle Trips by Mode Share (Auto Driver at 76.1% for Rural West Policy Area)						AM Peak Hour			PM Peak Hour		
						In	Out	Total	In	Out	Total
Auto Driver						14	2	16	2	9	11
Auto Passenger						3	1	4	0	3	3
Transit						0	0	0	0	0	0
Non-Motorized (Bike)						1	0	1	0	0	0
Total Person Trips			18	3	21	2	12	14			

		AM Peak Hour			PM Peak Hour		
Net Trip Generation	Proposed	56	8	64	5	34	39
	Previous Site Approval	18	3	21	2	12	14
	TOTAL PERSON TRIPS	38	5	43	3	22	25

*Pedestrian trips are calculated by adding the number of estimated non-vehicular trips to the number of estimated transit trips. Trip generation rates are based on the ITE Trip Generation Manual, 11th Edition and adjusted as detailed in the 2022 LATR Guidelines. Figures are rounded to nearest whole number. Source: Lenhart Traffic Consulting Local Area Transportation Review – May 9th, 2022, modified by Staff.

c) Other Public Facilities and Services

Other public facilities and services are available and adequate to serve the approved lots. The lots will be served by on-site wells and septic systems. The Application has been reviewed by the MCDPS, Well and Septic Section, and was approved on July 12, 2023.

The Application has been reviewed by the MCDPS, Fire Department Access and Water Supply Section, and a Fire Access Plan was approved on June 7, 2023. The Fire Department Access Plan provides fire compliant entrances and drives to adequately access the approved buildings. The entrances and drives meet all required turning radii, widths, and turnaround requirements for fire trucks serving the Subject Property.

Electric and telecommunications services are available and adequate to serve the Subject Property. Other public facilities and services, such as police stations, firehouses, and health services are currently operating within the standards set by the Growth and Infrastructure Policy currently in effect. The Application can be adequately served by all applicable public facilities and services. Because this Application will create new lots for light industrial uses with no new dwelling units, it does not have an impact on schools.

4. All Forest Conservation Law, Chapter 22A requirements are satisfied.

a) Preliminary/Final Forest Conservation Plan

The Application meets the requirements of Chapter 22A of the Montgomery County Forest Conservation Law (“FCL”) and the Montgomery County Planning Department’s Environmental Guidelines. As required by Chapter 22A, a Forest Conservation Plan was submitted with the Application. The total net tract area for forest conservation purposes is 22.12 acres which includes the Subject Property of 22 acres, plus off-site work of 0.12 acres. The Subject Property is zoned IM and is classified as Institutional Development Area (IDA) as defined in Section 22A-3 of the FCL and specified in the Trees Technical Manual. The Subject Property contains 4.12 acres of forest. The Applicant will remove 2.68 acres of forest and retain 1.44

acres of forest. This results in a total reforestation requirement of 5.36 acres as calculated in the Forest Conservation Worksheet. The Applicant will meet this requirement by planting onsite and immediately adjacent to the Subject Property on existing Outlot E. All areas of forest retention, planting, or environmentally sensitive areas will be placed into Category I conservation easements.

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

The Preliminary Plan Application received a stormwater management plan approval from the Montgomery County Department of Permitting Services, Water Resources Section on October 20, 2023. The Application will meet stormwater management goals through the use of micro-bioretenment, micro-infiltration, and a raingarden to provide full ESD.

6. *Any burial site of which the applicant has actual notice or constructive notice or that is included in the Montgomery County Cemetery Inventory and located within the subdivision boundary is approved under Subsection 50-4.3.M.*

Not applicable to this Property.

7. *Any other applicable provisions specific to the property and necessary for approval of the subdivision is satisfied.*

No other provisions apply to 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:

December 27, 2023

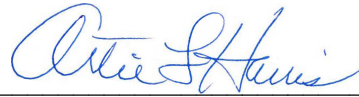
(which is the date that this Resolution is mailed to all parties of record); and

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 5-0, Chair Harris, Vice Chair Pedoeem, and Commissioners Bartley, Hedrick, and Linden, voting in favor of the motion, its regular meeting held on Thursday, December 21, 2023, in Wheaton, Maryland and via video conference.



Artie Harris, Chair
Montgomery County Planning Board