

**OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
for**

**MONTGOMERY COUNTY
Stella B. Werner Council Office Building
100 Maryland Avenue, Room 200
Rockville, Maryland 20850**

<https://www.montgomerycountymd.gov/ozah/index.html>

Phone: (240) 777-6660; Fax (240) 777-6665

CASE NO. CU 22-07

APPLICATION OF CHAPINGO, LLC.

**NOTICE OF PUBLIC HEARING AFTER REMAND
AND SCHEDULING ORDER**

Notice of Public Hearing on Remand

On September 8, 2022, the Hearing Examiner denied the above-captioned conditional use. The Applicant seeks to operate as a *landscape contractor* under Section 59-3.5.5.A. of the Zoning Ordinance. The subject property is located at 12120 Prices Distillery Road, in Damascus, Maryland (Tax Account 02-103674207) in the Agricultural Reserve (AR) Zone.

The Hearing Examiner's decision was appealed to the Board of Appeals on September 19, 2022. By resolution effective February 1, 2023, the Board of Appeals remanded the case to the Hearing Examiner for:

...further analysis and the taking of additional evidence, if needed, on the matters described above and any other matters necessary to the full and fair evaluation of this conditional use application ...

The matters "described above: include the following:

1. Onsite Bathroom Requirement
 - a. ... consider whether there are any landscape contractor uses that have been granted in Montgomery County without the requirement for a bathroom to serve the use's workers
 - b. or without any inquiry into and evaluation of the adequacy of facilities, including but not limited to [certain] special exception cases...
 - c. ... explore and consider other existing special exceptions or conditional uses ... for which sanitary facilities have either not been required or have not been fully evaluated prior to the approval of the use
2. Mobile Workforce Argument
 - a. ... whether the proposed use would be served by adequate public services and facilities, namely sanitary sewer, in light of the mobile workforce argument

3. Conformance with 1996 Rustic Roads Functional Plan
 - a. ... review the existing evidence regarding the impact of the proposed use on the new viewshed...
 - b. ... develop new evidence as necessary to assess the impact of the use on the viewshed and conformity with the Rustic Roads Functional Master Plan
 - c. ... revisit ... concerns about the weight of the Petitioner's various vehicles and their resultant impact on the surrounding Rustic Roads...

Please take notice that Office of Zoning and Administrative Hearings for Montgomery County, Maryland (OZAH), will hold a public hearing on **Tuesday, June 27, 2023, at 9:30 a.m.**, or as soon thereafter as this matter can be heard, on the Board of Appeals' remand of the above-captioned applications.

PLEASE NOTE: Due to the COVID-19 pandemic, this hearing will be held remotely via Microsoft Teams. You do not need to sign up in advance to testify or view the hearing. You do not need a subscription to Microsoft Teams to join the hearing. Instructions to access the public hearing may be found under the link "Public Hearing Remote Access and Exhibits" and the Hearing Calendar on OZAH's website at least two days before the public hearing.

All exhibits filed in the case will be available to view via the link "Public Hearing Remote Access and Exhibits" on OZAH's website at least two days before the public hearing. Exhibits are removed the day after the public hearing so that staff can prepare for the next hearing. If you wish to download any of the exhibits, you should do so no later than 5:00 p.m. of the day of the public hearing.

OZAH is now operating remotely to the extent possible. You may review the application online at <https://montgomeryplanning.org/development> under the application number CU202207. If you wish to review the full file (all submissions in the case) before it is published on the website or have other questions, please contact Nana Johnson at (240) 777-6663 or nana.johnson@montgomerycountymd.gov.

Persons or associations that are (1) represented by counsel, (2) intending to appear in organized opposition, **or** (3) intending to introduce expert evidence or testimony must file a pre-hearing statement containing the information required by Rules 3.4 and 3.5 of OZAH's Rules of OZAH's Amended Land Use Rules of Procedure. These Rules may be found on OZAH's website listed above.

Any party submitting documentary evidence for the record must file electronic copies of their submissions by email. Paper copies must also be sent by U.S. mail, postmarked the day of the email. This includes all amended filings.

In compliance with Maryland requirements regarding the practice of law, groups or associations must have counsel unless their witnesses are members of the group or association who will offer testimony in narrative form (*i.e.*, there is no need for an attorney to conduct a direct examination).

Nothing in this notice is intended to limit the rights of individual members of the public to testify during the hearing or to submit pertinent written materials at any time while the record remains open for that purpose. You may submit a signed letter to OZAH, which will be considered by the Hearing Examiner as part of the record but doing so will not automatically make you a party of record. Applicants and members of the public who testify at an OZAH hearing, whether for or against the application, are automatically considered parties of record. A person or organization that does not wish to appear at the OZAH hearing but wishes to be a party of record may request that status in a signed letter to OZAH. *See* OZAH Rule 3.1.

If you need services to participate in a public hearing, please contact this Office no later than seven (7) days in advance of the public hearing by calling 240-777-6660 (TTY 240-777-7914) or emailing us at ozah@montgomerycountymd.gov. OZAH cannot guarantee that an interpreter can be made available if notified of the request less than seven (7) days in advance of the public hearing. This document is available in alternative format such as large print upon request, via the same phone numbers and email address.

Scheduling Order

1. Tuesday, May 30, 2023 before 5:00 pm: The Applicant, represented by counsel, must file a pre-hearing statement. The pre-hearing statement must list all experts to be called in the case and must include a summary of testimony and a written reports from each expert.
2. Wednesday, June 7, 2023 before 5:00 pm: Persons or associations in ***opposition***, if represented by counsel or as an organized group, must file a supplement pre-hearing statement. The supplemental pre-hearing statement must include a summary of testimony from each expert witness and any additional written information to be relied on at the public hearing.

Order and Notice sent this 10th day of May, 2023.



Kathleen E. Byrne
Hearing Examiner

COPIES TO:

Jose Alvarez, Applicant
Sean Hughes, Esquire
Attorney for the Applicant
Laura Van Etten, in Opposition
Leslie Saville, in Opposition
Thomas Hartsock, in Opposition
James Ryan, in Opposition

Karen Ryan, in Opposition
Timothy Hunt, in Opposition
Cliff Royalty, Esquire, Office of the County Attorney
Joshua Penn, Planner III
Patrick Butler, Chief, Planning
Victor Salazar, DPS

Abutting and Confronting Property Owners
(or a condominium's council of unit owners or renters, if applicable) Civic, Renters' and Homeowners' Associations within a half mile of the site and Any Municipality within a half mile of the site.