

**MCPB**  
**Item #**  
**9/27/07**

**MEMORANDUM**

**DATE:** September 14, 2007

**TO:** Montgomery County Planning Board

**VIA:** Rose Krasnow, Chief  
Catherine Conlon, Subdivision Supervisor  
Development Review Division

**FROM:** Richard A. Weaver (301-495-4544)  
Development Review Division

**REVIEW TYPE:** Preliminary Plan of Subdivision

**APPLYING FOR:** Subdivision for sixteen (16) one family residential lots and one outlot

**PROJECT NAME:** Burton Woods Phase II

**CASE #:** 12006027A

**REVIEW BASIS:** Chapter 50, Montgomery County Subdivision Regulations

**ZONE:** RE-2

**LOCATION:** Located on the south side of Davis Mill Road between the intersections of Wildcat Road and Huntmaster Road.

**MASTER PLAN:**

**APPLICANT:** Mitchell and Best Homebuilders, L.L.C.

**ENGINEER:** Macris, Hendricks and Glascock

**ATTORNEY:**

**FILING DATE:** March 8, 2007

**HEARING DATE:** September 27, 2007

**RECOMMENDATION:** Approval, subject to the following conditions:

- 1) Approval under this preliminary plan is limited to 16 lots for 16 one family dwelling units.
- 2) Compliance with the conditions of approval of the preliminary forest conservation plan dated May 11, 2007. The applicant must satisfy all conditions prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permits, as applicable.
- 3) The applicant must dedicate all road rights-of-way shown on the approved preliminary plan to the full width mandated by the Master Plan unless otherwise designated on the preliminary plan.
- 4) The applicant must construct all road improvements within the rights-of-way shown on the approved preliminary plan to the full width mandated by the master plan and/or to the requirements of the Rustic Roads Advisory Committee and the Montgomery County Department of Permitting Services (MCDPS) Right-of-Way Permitting and Plan Review Section as applicable.
- 5) The record plat to reflect a Category I easement over all areas of stream valley buffers and forest conservation.
- 6) The record plat to reflect common ingress/egress and utility easements over all shared driveways.
- 7) The record plat must reflect all areas under Homeowners Association ownership and specifically identify stormwater management parcels.
- 8) The applicant must comply with the conditions of the MCDPS stormwater management approval dated March 29, 2007.
- 9) The applicant must comply with the conditions of the MCDPWT letter dated August 30, 2006, unless otherwise amended.
- 10) The applicant must comply with the conditions of the MCDPS, Well and Septic Section approval letter dated February 6, 2007.
- 11) Prior to issuance of access permit(s), the Applicant must submit a Landscape Plan for the area south of the private entrance road on to Davis Mill Road to the Rustic Roads Advisory Committee for review and to the MCDPS Right-of-Way Permitting and Plan Review Section for approval.
- 12) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board opinion.
- 13) Other necessary easements.

**SITE DESCRIPTION** (Attachment A – vicinity map)

The Burton Woods Property (“Subject Property” or “Property”) is located near the intersection of Davis Mill Road and Huntmaster Road in Germantown. The entire Burton property is approximately 107 acres in size and is zoned RE-2. The portion of the Property under consideration as part of “Phase II, Burton Woods” is 50.62 acres in size. The Property includes one existing house and accessory structures, a cemetery, forests, farm fields, and paddocks. The Property sits atop a conspicuous, land mass “dome” that has caused the adjacent Wildcat Branch and Magruder Branch streams to meander around it. Davis Mill Road separates the Property from these stream valleys which borders to the east and south, one-family residential and the

Bethel World Church property abut to the north and one-family residential abuts to the west. There are steep slopes, streams, wetlands, a floodplain, environmental buffers and approximately 50 acres of forest on site. The property is within the Great Seneca Creek watershed and is classified as use I-P waters by the Maryland Department of Natural Resources.

## **PROJECT DESCRIPTION** (Attachment B – proposed plan)

This preliminary plan of subdivision is the second phase of a three phase development for the Burton property. Phase I, preliminary plan No. 120060270, was approved on October 19, 2006 and consists of five-one family lots on approximately 14 acres located to the south of Phase II. Phase II consists of 16 one-family lots on 47 acres of land. The Phase III portion of the property is currently undergoing groundwater and percolation testing to determine the potential number of lots and septic areas. When the percolations tests are complete for the remainder of the property it is the applicant's intent to submit a preliminary plan of subdivision and forest conservation plan for the third and final stage.

The 16 lots that are proposed as part of Phase II will be accessed by a private road system built to 60 foot, secondary street standards. The single access point to Davis Mill Road has been reviewed and approved by the Rustic Roads Advisory Committee (RRAC) since Davis Mill Road is classified as an exceptional rustic road. The RRAC has made specific recommendations for the access point to, and the landscaping along Davis Mill Road. The RRAC will have review authority of the proposed landscaping in this area with the ultimate approval authority by MCDPS. TO meet other goals of the RRAC, the plan has been modified to show conceptually that the house on Lot 35 will be sited so that it faces a side to Davis Mill Road and not the rear, to minimize visual impact. There will also be landscaping placed between the house and Davis Mill Road to minimize visual impact. For lots 11 and 12, which are also potentially visible from Davis Mill Road, a 200 foot wide category I easement will protect a swath of mature forest. Given the rather extreme topography from Davis Mill Road up to the homesites in this location, it is reasonable to expect that the homes will not be visible, even in the leaf-off season.

The preliminary plan also proposes a homeowners association parcel (Parcel D) which will have the potential of accommodating a below ground storage tank for water, to be used by fire and rescue emergency personnel as a local water source. This was required as part of the review by Montgomery County Fire and Rescue Services. The construction of the underground tank will not be required of the applicant or developer.

The aforementioned private road system was considered at the previous Planning Board hearing where it was discussed. The private street system will serve lots approved as part of Phase I and appears as if it would be used to access lots approved as part of Phase III. The private streets will be built to secondary street standards and must be certified to meet structural standards established in the County Code. MCDPS and any affected homeowners association will receive notification of the certification.

## **ANALYSIS AND FINDINGS**

## **Master Plan Compliance**

The Agricultural and Rural Open Space Master Plan (AROS) makes no specific recommendations on the Subject Property; however, it does make the general recommendation that the RE-2 zone continue to be applied to the site. The proposed subdivision complies with the recommendations adopted in the Master Plan in that it is a residential subdivision that complies with the RE-2 zone and that it makes the proper right-of-way dedications as required by the Master Plan. The Rustic Road Functional Master Plan actually establishes the 70 foot width for Davis Mill Road. The plan has complied with this recommendation.

## **Transportation**

The proposed lots and those already approved as part of Phase I, do not generate 30 or more vehicle trips during the morning or evening peak-hours. Therefore, the application is not subject to Local Area Transportation Review. The right-of-ways as shown on the plan comply with the Rustic Road Functional Master Plan. The internal private street system will provide adequate pedestrian and vehicular access for the new and existing lots. No sidewalks on the private street are proposed due to the low-density zoning of this and surrounding properties. There is no sidewalk system on Davis Mil Road to connect to.

## **Environment**

### **Natural Resources and Environmental Buffers**

A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) was submitted for the entire property and approved by Environmental Planning staff on February 24, 2006. The NRI/FSD indicates rolling farmland, steep slopes, streams, wetlands, floodplains, and associated environmental buffers on the 107-acre property. There is 20.45 acres of stream/environmental buffers, 0.74-acres of wetlands, and 5.06-acres of floodplains on the entire property.

The NRI/FSD identified 50.54-acres of existing forest and one American Chestnut tree on the property. There are at least 25 American Chestnut trees on the property or within 100 feet of the subject property. None of the American Chestnut trees on the subject property are within the environmental buffers. Most if not all these trees are impacted by the chestnut blight. Some of the trees bear fruit. According to the Maryland Department of Natural Resources Natural Heritage Program the American chestnut is a Rare, Threatened, and Endangered species.

### **Forest Conservation**

The forest conservation plan for the entire property is being approved as a phased plan. Individual forest conservation plans are being approved with each preliminary plan of subdivision. The first phase forest conservation plan covered approximately 21 acres, has no environmental buffers, and includes 11.9 acres of upland forest. There were no planting requirements associated with the phase I forest conservation plan. The second phase, which is covered by preliminary plan of subdivision 120070050 covers 47-acres, includes 24-acres of existing forest. A third forest conservation plan will be submitted for the remainder of the

property. The Planning Board is requested to vote on the forest conservation plan that is applicable to only the phase II development.

#### Phase I Forest Conservation Plan

The approved phase I forest conservation plan allows the applicant to remove 6.46 acres of existing forest and retain 5.47 acres of forest. There is no forest planting requirements associated with this phase and construction has started. The Phase I forest conservation plan includes a forest conservation worksheet for the entire 107-acre property. There was the recognition on the phase I forest conservation plan that the number of lots and upland forest conservation areas outside of the phase I limits could not be finalized without approved septic perc.

#### Phase II Forest Conservation Plan

The applicant has submitted a second preliminary forest conservation plan that matches preliminary plan of subdivision 120070050. This plan is the second of the three phase development and covers approximately 47 acres and includes 24 acres of existing forest. The applicant is proposing to remove 9 acres of forest and retain 15 acres of forest. There are no planting requirements associated with this preliminary forest conservation plan; however the applicant is proffering to plant 1.92-acres of unforested stream/environmental buffers. The phase II forest conservation plan updates the worksheet for the approved portions of the site.

The preliminary forest conservation plan shows the permanent protection of a forest approximately 200 feet deep from Davis Mill Road. This will permanently protect forest to the top of the ridge line that parallels Davis Mill Road. In addition, the applicant is retaining forest beyond the permanent protection area resulting in a forest of more than 200 feet deep along Davis Mill Road.

As previously mentioned, there are approximately 25 American Chestnut trees on the property or within 100 feet of the property limits. Some of these trees are affected by the phase II development proposal. The applicant's engineer contacted the Maryland Department of Natural Resource Natural Heritage Program to determine if a buffer was warranted around the trees. The engineer erroneously reported that none of the trees bear fruit but the Maryland Chapter of the American Chestnut Foundation has determined that some of the trees do bear fruit.

Section 50-32(c) of the Montgomery County Code allows the Planning Board to incorporate "*Specific measures that also may be required to protect any rare, threatened, or endangered plants or animals*". Environmental Planning is not requesting a specific condition for the protection of the American Chestnut trees. The plan shows the removal of one 3-inch American Chestnut tree. After the forest removal occurs another 3-inch chestnut tree will be within 10 feet of the new tree line. All other American Chestnut trees on the subject site are further from the new tree line, within the retained forest, and protected by a future conservation easement. The largest American Chestnut tree is not on the subject property but is within 100 feet within the property line. According to the Maryland Chapter of the American Chestnut

Foundation, this tree is 15 inches in diameter, approximately 70 feet tall and bearing fruit. The largest American Chestnut tree on the subject property is 9 inches in diameter and approximately 55 feet tall and 60 feet from the limits of disturbance.

### **Phase III Forest Conservation Plan**

The applicant will need to submit a preliminary forest conservation plan for the third phase of development. This future plan will address the land area not covered by either the phase I or phase II preliminary plans of subdivision. Upon the submission and approval of the phase III forest conservation plan there will be approved forest conservation plans covering all 107 acres of the property.

### **Compliance with the Subdivision Regulations and Zoning Ordinance**

This application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The application meets all applicable sections. As discussed in this report, access and public facilities will be adequate to support the proposed lots and uses. Septic systems have been approved for the property and access to the homes is adequate for Fire and Rescue purposes. Based on the review of the subdivision layout by staff, the proposed lot size, width, shape and orientation are appropriate for the location of the subdivision.

The lots were reviewed for compliance with the dimensional requirements for the RE-2 zone as specified in the Zoning Ordinance. The lots as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. A summary of this review is included in attached Table 1. The application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan.

### **Citizen Correspondence and Issues**

This plan application was received prior to any requirement for the applicant to host a pre-submission meeting as envisioned by the draft development manual. Staff has, however, had numerous meetings with local citizens and citizens groups. At the meetings staff explained the planning process specific to this site including the Natural Resource Inventory plan, the zoning standards of the RE-2 zone, and percolation test requirements. Citizens shared their concerns and all were greatly concerned about Davis Mill as a rustic road and the impact the development could have on the road. Dust, left turns into the site, drainage, stormwater, access to water for emergency equipment, wells and septic impacts and the presence of American chestnut trees was also discussed.

Staff further explained that drainage, stormwater, septic disposal, and water supply for emergency vehicles were all reviewed by agencies other than MNCPPC. This plan has approval from the MCDPS for a stormwater management concept that will control runoff from the site. The septic systems that are approved by MCDPS meet County and State design standards which have proven themselves as very reliable. The MCFRS reviewed the plan for emergency access and has required that an area be dedicated for a future underground water storage tank to be used

in the event water is needed for fire control. Dust control is done during construction as part of the permits and is enforced by MCDPS.

Staff from Environmental Planning met an adjacent neighbor on the site to discuss the American Chestnuts that are located there and which have established themselves on the Subject Property. It was concluded that most if not all of the Chestnuts suffer from the blight that has almost decimated them in North America. Few small chestnuts will be removed for this development. As discussed in the environmental section of this report, staff did not provide any long term protection measures for these trees.

## **CONCLUSION**

The proposed lots meet all requirements established in the Subdivision Regulations and the Zoning Ordinance, and comply with the recommendations of the Sandy Spring/Ashton Master Plan. Access and public facilities will be adequate to serve the proposed lots, and the application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan. Therefore, approval of the application with the conditions specified above is recommended.

## **Attachments**

- Attachment A – Vicinity Development Map
- Attachment B – Proposed Development Plan
- Attachment C –
- Attachment D –
- Attachment E –

Table 1: Preliminary Plan Data Table and Checklist

<b>Plan Name: Burton Woods Phase II</b>				
<b>Plan Number: 120060270 (aka120070050)</b>				
<b>Zoning: RE-2</b>				
<b># of Lots: 16</b>				
<b># of Outlots: 0</b>				
<b>Dev. Type: One Family Residential</b>				
<b>PLAN DATA</b>	<b>Zoning Ordinance Development Standard</b>	<b>Proposed for Approval the Preliminary Plan</b>	<b>Verified</b>	<b>Date</b>
Minimum Lot Area	87,120 sq. ft.	87, 120 sq. ft. is minimum proposed		9/14/07
Lot Width	150 ft.	150 ft. is minimum proposed		9/14/07
Lot Frontage	25 ft.	25 ft. is minimum proposed		9/14/07
Setbacks				
Front	50 ft. Min.	Must meet minimum <sup>1</sup>		9/14/07
Side	17/35 ft. Min./ total ft.	Must meet minimum <sup>1</sup>		9/14/07
Rear	35 ft. Min.	Must meet minimum <sup>1</sup>		9/14/07
Height	50 ft. Max.	May not exceed maximum <sup>1</sup>		9/14/07
Max Resid'l d.u. per Zoning	53 for entire Burton Property	16 (Phase II)		9/14/07
MPDUs	N/A			
TDRs	N/A			
Site Plan Req'd?	No			9/14/07
<b>FINDINGS</b>				
<b>SUBDIVISION</b>				
Lot frontage on Public/Private Street		Yes		9/14/07
Road dedication and frontage improvements		Yes	Agency letter	8/30/06
Environmental Guidelines		Yes	Staff memo	9/5/07
Forest Conservation		Yes	Staff memo	9/5/07
Master Plan Compliance		Yes	Staff memo	Pending new memo
Other (i.e., parks, historic preservation)				
<b>ADEQUATE PUBLIC FACILITIES</b>				
Stormwater Management		Yes or exempt	Agency letter	3/29/07
Water and Sewer (WSSC)		N/A		
10-yr Water and Sewer Plan Compliance		N/A		
Well and Septic		Yes	Agency letter	2/6/07
Local Area Traffic Review		N/A		
Fire and Rescue		Yes	Agency letter	7/23/07
Other (i.e., schools)				

<sup>1</sup> As determined by MCDPS at the time of building permit.



# BURTON WOODS - PHASE TWO (120070050) (12006027B)



Map compiled on August 17, 2006 at 12:04 PM | Site located on base sheet no - 230NW10

### NOTICE

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Property lines are compiled by adjusting the property lines to topography created from aerial photography and should not be interpreted as actual field surveys. Planimetric features were compiled from 1:14400 scale aerial photography using stereo photogrammetric methods.

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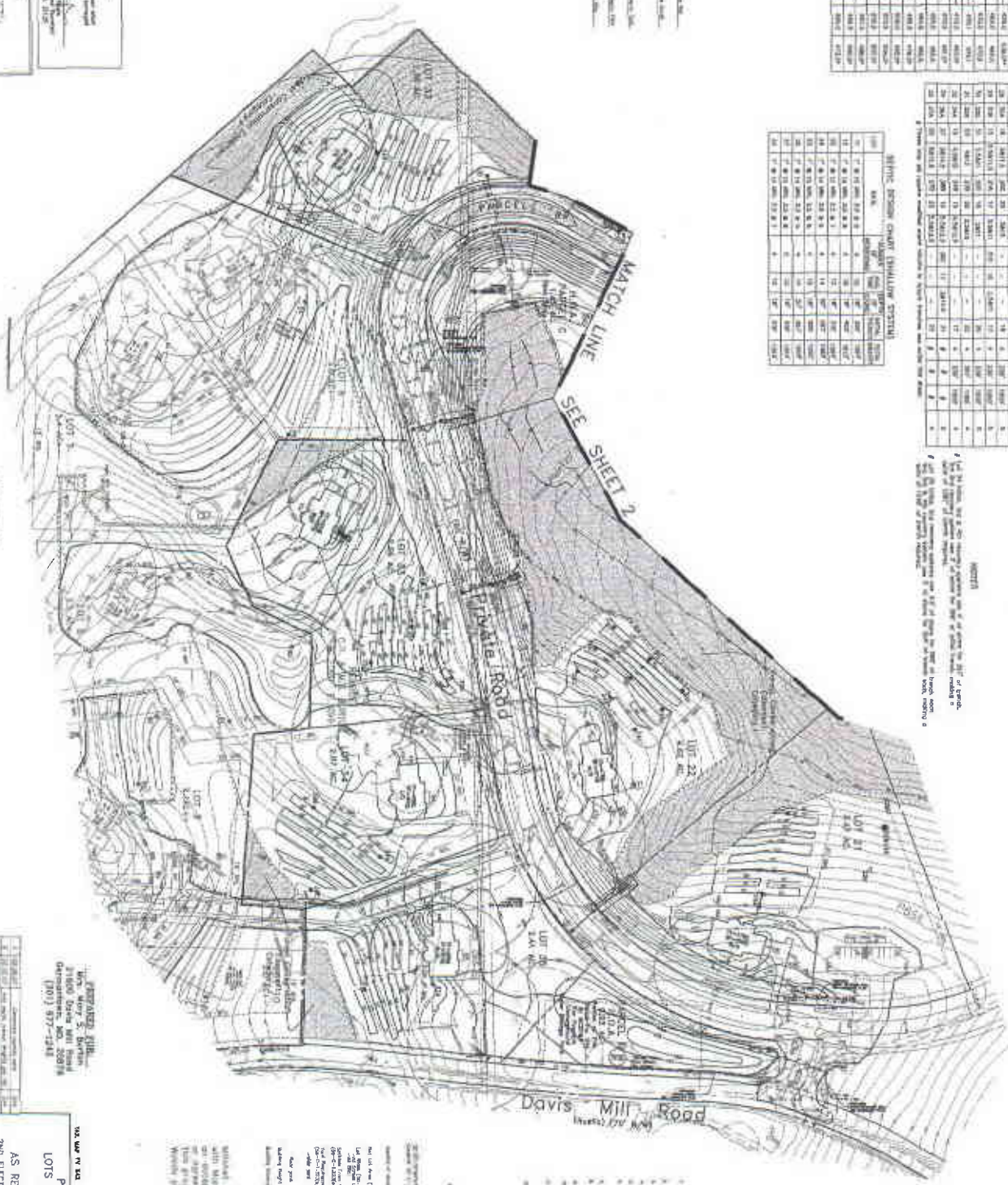


TABLE 1  
PROPERTY DATA

Lot No.	Area (Ac.)	Area (Sq. Ft.)	Volume (Cu. Yd.)	Volume (Cu. Ft.)
1	0.000	0.000	0.000	0.000
2	0.000	0.000	0.000	0.000
3	0.000	0.000	0.000	0.000
4	0.000	0.000	0.000	0.000
5	0.000	0.000	0.000	0.000
6	0.000	0.000	0.000	0.000
7	0.000	0.000	0.000	0.000
8	0.000	0.000	0.000	0.000
9	0.000	0.000	0.000	0.000
10	0.000	0.000	0.000	0.000
11	0.000	0.000	0.000	0.000
12	0.000	0.000	0.000	0.000
13	0.000	0.000	0.000	0.000
14	0.000	0.000	0.000	0.000
15	0.000	0.000	0.000	0.000
16	0.000	0.000	0.000	0.000
17	0.000	0.000	0.000	0.000
18	0.000	0.000	0.000	0.000
19	0.000	0.000	0.000	0.000
20	0.000	0.000	0.000	0.000
21	0.000	0.000	0.000	0.000
22	0.000	0.000	0.000	0.000
23	0.000	0.000	0.000	0.000
24	0.000	0.000	0.000	0.000
25	0.000	0.000	0.000	0.000
26	0.000	0.000	0.000	0.000
27	0.000	0.000	0.000	0.000
28	0.000	0.000	0.000	0.000
29	0.000	0.000	0.000	0.000
30	0.000	0.000	0.000	0.000
31	0.000	0.000	0.000	0.000
32	0.000	0.000	0.000	0.000
33	0.000	0.000	0.000	0.000
34	0.000	0.000	0.000	0.000
35	0.000	0.000	0.000	0.000
36	0.000	0.000	0.000	0.000
37	0.000	0.000	0.000	0.000
38	0.000	0.000	0.000	0.000
39	0.000	0.000	0.000	0.000
40	0.000	0.000	0.000	0.000
41	0.000	0.000	0.000	0.000
42	0.000	0.000	0.000	0.000
43	0.000	0.000	0.000	0.000
44	0.000	0.000	0.000	0.000
45	0.000	0.000	0.000	0.000
46	0.000	0.000	0.000	0.000
47	0.000	0.000	0.000	0.000
48	0.000	0.000	0.000	0.000
49	0.000	0.000	0.000	0.000
50	0.000	0.000	0.000	0.000
51	0.000	0.000	0.000	0.000
52	0.000	0.000	0.000	0.000
53	0.000	0.000	0.000	0.000
54	0.000	0.000	0.000	0.000
55	0.000	0.000	0.000	0.000
56	0.000	0.000	0.000	0.000
57	0.000	0.000	0.000	0.000
58	0.000	0.000	0.000	0.000
59	0.000	0.000	0.000	0.000
60	0.000	0.000	0.000	0.000
61	0.000	0.000	0.000	0.000
62	0.000	0.000	0.000	0.000
63	0.000	0.000	0.000	0.000
64	0.000	0.000	0.000	0.000
65	0.000	0.000	0.000	0.000
66	0.000	0.000	0.000	0.000
67	0.000	0.000	0.000	0.000
68	0.000	0.000	0.000	0.000
69	0.000	0.000	0.000	0.000
70	0.000	0.000	0.000	0.000
71	0.000	0.000	0.000	0.000
72	0.000	0.000	0.000	0.000
73	0.000	0.000	0.000	0.000
74	0.000	0.000	0.000	0.000
75	0.000	0.000	0.000	0.000
76	0.000	0.000	0.000	0.000
77	0.000	0.000	0.000	0.000
78	0.000	0.000	0.000	0.000
79	0.000	0.000	0.000	0.000
80	0.000	0.000	0.000	0.000
81	0.000	0.000	0.000	0.000
82	0.000	0.000	0.000	0.000
83	0.000	0.000	0.000	0.000
84	0.000	0.000	0.000	0.000
85	0.000	0.000	0.000	0.000
86	0.000	0.000	0.000	0.000
87	0.000	0.000	0.000	0.000
88	0.000	0.000	0.000	0.000
89	0.000	0.000	0.000	0.000
90	0.000	0.000	0.000	0.000
91	0.000	0.000	0.000	0.000
92	0.000	0.000	0.000	0.000
93	0.000	0.000	0.000	0.000
94	0.000	0.000	0.000	0.000
95	0.000	0.000	0.000	0.000
96	0.000	0.000	0.000	0.000
97	0.000	0.000	0.000	0.000
98	0.000	0.000	0.000	0.000
99	0.000	0.000	0.000	0.000
100	0.000	0.000	0.000	0.000

TABLE 2  
STATION ELEVATION CHART (ELEVATION SYSTEM)

Station	Elevation (ft.)	Station	Elevation (ft.)
1+00	100.00	1+50	100.00
1+10	100.00	1+60	100.00
1+20	100.00	1+70	100.00
1+30	100.00	1+80	100.00
1+40	100.00	1+90	100.00
2+00	100.00	2+40	100.00
2+10	100.00	2+50	100.00
2+20	100.00	2+60	100.00
2+30	100.00	2+70	100.00
2+40	100.00	2+80	100.00
2+50	100.00	2+90	100.00
3+00	100.00	3+40	100.00
3+10	100.00	3+50	100.00
3+20	100.00	3+60	100.00
3+30	100.00	3+70	100.00
3+40	100.00	3+80	100.00
3+50	100.00	3+90	100.00
4+00	100.00	4+40	100.00
4+10	100.00	4+50	100.00
4+20	100.00	4+60	100.00
4+30	100.00	4+70	100.00
4+40	100.00	4+80	100.00
4+50	100.00	4+90	100.00
5+00	100.00	5+40	100.00
5+10	100.00	5+50	100.00
5+20	100.00	5+60	100.00
5+30	100.00	5+70	100.00
5+40	100.00	5+80	100.00
5+50	100.00	5+90	100.00



**PROFESSIONAL CONTRACT**  
 I, the undersigned, being a duly Licensed Professional Engineer, do hereby certify that I am a duly Licensed Professional Engineer in the State of Pennsylvania, and that I am the author of the above described plan, and that the same is a true and correct copy of the original plan on file in my office, and that I am not aware of any falsification of the same.

**REGISTERED PROFESSIONAL ENGINEER**  
 License No. 12345  
 State of Pennsylvania  
 Date: 10/10/2024



**PREPARED BY:**  
 Mr. Jerry S. Burton  
 21600 Davis Mill Road  
 Duncansville, PA 16828  
 (814) 877-1244

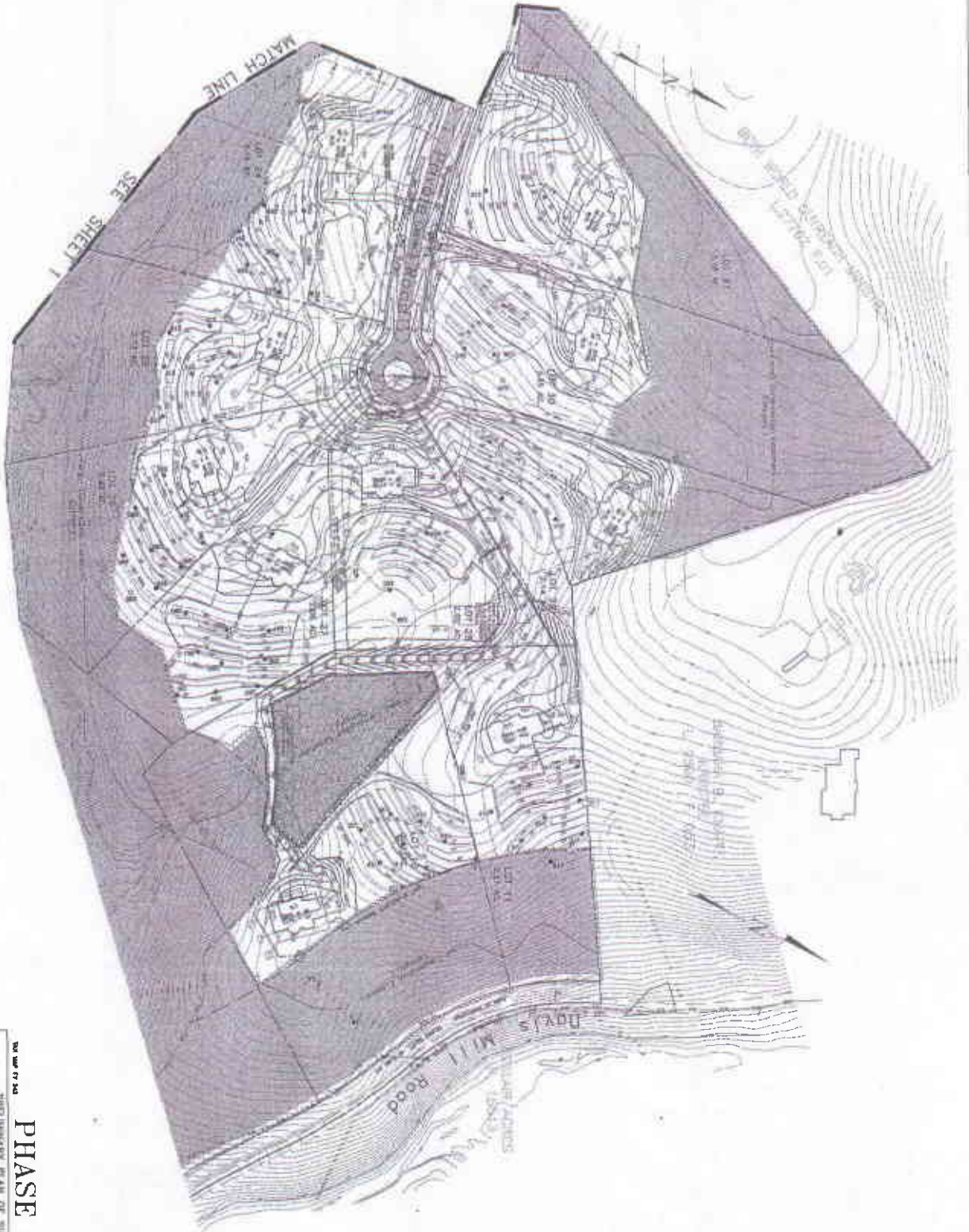
**PHASE II**  
 PRELIMINARY PLAN OF SUBDIVISION  
 BURTON WOODS  
 AS RECORDED IN LIBER 2260 AT FOLIO 299  
 2ND ELECTION DISTRICT - NORTHWEST COUNTY - MARYLAND

**MHC** Mason, Hironaka & Glazovick, P.A.  
 1000 West Street, Suite 200  
 Annapolis, MD 21401  
 Phone: 410-293-1000  
 Fax: 410-293-1001

**NOTICE TO CONTRACTORS**  
 The undersigned hereby certifies that the above described plan is a true and correct copy of the original plan on file in my office, and that I am not aware of any falsification of the same.

**NOTICE TO CONTRACTORS**  
 The undersigned hereby certifies that the above described plan is a true and correct copy of the original plan on file in my office, and that I am not aware of any falsification of the same.





# PHASE II

NO. 100 77 242

PRELIMINARY PLAN OF SUBDIVISION  
 LOTS 11, 12, 24-31 & PARCEL B  
**BURTON WOODS**  
 AS RECORDED IN LIBER 2380 AT FOLIO 289  
 2ND EDITION: 1981 - AMENDMENT: 1982 - AMENDMENT

**MHC** Moore, Heidtke & Gensler, P.A.  
 1000 North 10th Street, Suite 100  
 York, Pennsylvania 17402  
 Phone: 717/765-1111  
 Fax: 717/765-1112





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

**MEMORANDUM**

TO: Cathy Conlon, Supervisor, Development Review  
Rich Weaver, Planning Coordinator, Development Review

FROM: Mark Pfefferle, Planning Coordinator, Environmental Planning Division *MP*

DATE: September 5, 2007

SUBJECT: Preliminary Plan 120070050  
Burton Woods – Phase II

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The Environmental Planning staff has reviewed the preliminary plan referenced above. Staff recommends approval of the preliminary plan of subdivision plan with the following condition:

1. Compliance with the conditions of approval of the preliminary forest conservation plan dated May 11, 2007.

**BACKGROUND**

The Burton Woods Property is located at the intersection of Davis Mill Road and Huntmaster Road in Germantown. The subject property is approximately 107 acres. Davis Mill Road is to the east and south of the subject property. Single-family residential and the Bethel World Church property is to the north and single-family residential to the west. The property includes one existing house and accessory structures, a cemetery, forests, farm fields, and paddocks. There are steep slopes, streams, wetlands, a floodplain, and associated environmental buffers on the property. There is approximately 50 acres of forest on site. The property is within the Great Seneca Creek watershed and is classified as use I-P waters by the Maryland Department of Natural Resources.

This preliminary plan of subdivision is the second phase of a three phase development. The first phase, preliminary plan of subdivision 120060270 was approved on October 19, 2006 and consists of five-single family lots on approximately 14 acres. The second phase consists of 16 single-family lots on 47 acres of land. The third phase is currently undergoing percolation and groundwater testing to determine the potential number of lots and septic areas. When the percolations tests are complete for the remainder of the property it is the applicant's intent to submit a preliminary plan of subdivision and forest conservation plan for the third and final stage. The entire property is zoned RE2.

**DISCUSSION**

**Natural Resources and Environmental Buffers**

A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) was submitted for the entire property and approved by Environmental Planning staff on February 24, 2006. The NRI/FSD indicates rolling farmland, steep slopes, streams, wetlands, floodplains, and associated environmental buffers on the 107-acre property. There is 20.45 acres of stream/environmental buffers, 0.74-acres of wetlands, and 5.06-acres of floodplains on the entire property.

The NRI/FSD identified 50.54-acres of existing forest and one American Chestnut tree on the property. There are at least 25 American Chestnut trees on the property or within 100 feet of the subject property. None of the American Chestnut trees on the subject property are within the environmental buffers. Most if not all these trees are impacted by the chestnut blight. Some of the trees bear fruit. According to the Maryland Department of Natural Resources Natural Heritage Program the American chestnut is a Rare, Threatened, and Endangered species.

### **Forest Conservation**

The forest conservation plan for the entire property is being approved as a phased plan. Individual forest conservation plans are being approved with each preliminary plan of subdivision. The first phase forest conservation plan covered approximately 21 acres, has no environmental buffers, and includes 11.9 acres of upland forest. There were no planting requirements associated with the phase I forest conservation plan. The second phase, which is covered by preliminary plan of subdivision 120070050 covers 47-acres, includes 24-acres of existing forest. A third forest conservation plan will be submitted for the remainder of the property. The Planning Board is requested to vote on the forest conservation plan that is applicable to only the phase II development.

#### **Phase I Forest Conservation Plan**

The approved phase I forest conservation plan allows the applicant to remove 6.46 acres of existing forest and retain 5.47 acres of forest. There is no forest planting requirements associated with this phase and construction has started. The Phase I forest conservation plan includes a forest conservation worksheet for the entire 107-acre property. There was the recognition on the phase I forest conservation plan that the number of lots and upland forest conservation areas outside of the phase I limits could not be finalized without approved septic perc's.

#### **Phase II Forest Conservation Plan**

The applicant has submitted a second preliminary forest conservation plan that matches preliminary plan of subdivision 120070050. This plan is the second of the three phase development and covers approximately 47 acres and includes 24 acres of existing forest. The applicant is proposing to remove 9 acres of forest and retain 15 acres of forest. There are no planting requirements associated with this preliminary forest conservation plan; however the applicant is proffering to plant 1.92-acres of unforested stream/environmental buffers. The phase II forest conservation plan updates the worksheet for the approved portions of the site.

The preliminary forest conservation plan shows the permanent protection of a forest approximately 200 feet deep from Davis Mill Road. This will permanently protect forest to the top of the ridge line that

parallels Davis Mill Road. In addition, the applicant is retaining forest beyond the permanent protection area resulting in a forest of more than 200 feet deep along Davis Mill Road.

As previously mentioned, there are approximately 25 American Chestnut trees on the property or within 100 feet of the property limits. Some of these trees are affected by the phase II development proposal. The applicant's engineer contacted the Maryland Department of Natural Resource Natural Heritage Program to determine if a buffer was warranted around the trees. The engineer erroneously reported that none of the trees bear fruit but the Maryland Chapter of the American Chestnut Foundation has determined that some of the trees do bear fruit.

Section 50-32(c) of the Montgomery County code allows the Planning Board to incorporate "*Specific measures that also may be required to protect any rare, threatened, or endangered plants or animals*". Environmental Planning is not requesting a specific condition for the protection of the American Chestnut trees. The plan shows the removal of one 3-inch American Chestnut tree. After the forest removal occurs another 3-inch chestnut tree will be within 10 feet of the new tree line. All other American Chestnut trees on the subject site are further from the new tree line, within the retained forest, and protected by a future conservation easement. The largest American Chestnut tree is not on the subject property but is within 100 feet within the property line. According to the Maryland Chapter of the American Chestnut Foundation, this tree is 15 inches in diameter, approximately 70 feet tall and bearing fruit. The largest American Chestnut tree on the subject property is 9 inches in diameter and approximately 55 feet tall and 60 feet from the limits of disturbance.

### **Phase III Forest Conservation Plan**

The applicant will need to submit a preliminary forest conservation plan for the third phase of development. This future plan will address the land area not covered by either the phase I or phase II preliminary plans of subdivision. Upon the submission and approval of the phase III forest conservation plan there will be approved forest conservation plans covering all 107 acres of the property.

### **RECOMMENDATION**

Environmental Planning staff recommends approval of the preliminary plan of subdivision for 120070050 and the preliminary forest conservation plan for the Phase II development.

## Weaver, Richard

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**From:** Navid, Sarah [Sarah.Navid@montgomerycountymd.gov]  
**Sent:** Friday, January 19, 2007 9:36 AM  
**To:** Weaver, Richard  
**Cc:** Saville, Leslie; Farhadi, Sam; Cheung, Joseph; Kim, Brian; Curtin, Adam; Rufe, Adam; butlersorchard@cs.com; cimperat@aol.com; lech04@msn.com; jarnoult@gaitthersburgmd.gov; kfooster@glwpa.com; LVEAmazon@aol.com; mike@kellerbrothers.com; Saville, Leslie  
**Subject:** Burton Woods - Phase II Preliminary Plan 1-20070050,

Rich,

The Rustic Roads Advisory Committee (RRAC) and DPS Right of Way Permitting and Plan Review Section reviewed the plan for the site dated 6/26/06. Our comments were as follows:

1) The proposed single access point to the site on Davis Mill Road is at an acceptable location and sight distance has been verified and accepted. No clearing/grading will be permitted except the minimum required to construct the driveway and provide adequate sight distance to the north (left). It appears that no clearing is needed to the south (right). The limits of disturbance need to be approved by the DPS right of way inspector prior to construction.

2) Additional screening in the form of landscaping along the right-of-way on Davis Mill Road will be required from the entrance south where there is little roadside foliage to shield views of the new residence on Lot 35. The proposed landscaping plan will require review of the RRAC and approval/permitting by DPS.

3) No disturbance to existing trees or foliage within the right-of-way along Davis Mill Road will otherwise be allowed.

Since reviewing the 6/26/06 plan, DPS has subsequently reviewed an 11/16/06 plan. This plan has not changed with regard to the right-of-way except for the proposal to install curb and gutter at the radii on the entrance on Davis Mill Road with some minor widening. **NO CURB AND GUTTER OR ANY ROADWAY WIDENING ON DAVIS MILL ROAD IS ALLOWED.**

Thank you for the opportunity to comment on this plan.

Sarah Navid

Rustic Roads Advisory Committee Coordinator  
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