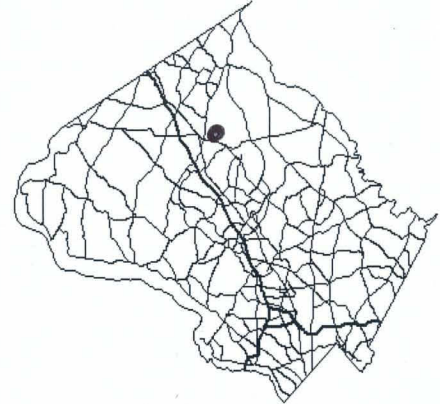




MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

**MCPB
ITEM #
9/17/10**



MEMORANDUM

DATE: September 17, 2010

TO: Montgomery County Planning Board

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

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

REVIEW TYPE: Preliminary Plan of Subdivision (Amendment)

APPLYING FOR: Subdivision for five (5) one family residential lots.

PROJECT NAME: Burton Woods Phase III
CASE #: 12006027B
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: Agricultural and Rural Open Space

APPLICANT: Mitchell and Best Homebuilders, L.L.C.
ENGINEER: Macris, Hendricks and Glascock
ATTORNEY:

FILING DATE: March 8, 2007
HEARING DATE: September 30, 2010

RECOMMENDATION: Approval, subject to the following conditions:

- 1) Approval under this preliminary plan amendment is limited to five (5) lots for five (5), one family dwelling units.
- 2) The proposed development must comply with the conditions of the preliminary forest conservation plan. The applicant must satisfy all conditions prior to recording of plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits: Conditions include but are not limited to:
 - a. Applicant must obtain approval of final forest conservation for the Phase III development prior to any further clearing, grading or demolition within the Phase III portion of the site. The final forest conservation plan must include an ISA Certified Arborist's tree save plan (TSP) for the hedgerow of trees just south of the proposed roadway for Phase III.
- 3) A Category I conservation easement must be recorded over all stream buffers and forest conservation areas.
- 4) The applicant must dedicate property along the Davis Mill Road frontage to provide 35 feet of right-of-way from the centerline of the road. Record plat(s) must reflect the dedication.
- 5) The record plat must reflect public use and access easements over all private streets.
- 6) The record plat must reflect all areas under Homeowners Association ownership and specifically identify stormwater management parcels.
- 7) The record plat must contain a note that states: "Outlot A contains the septic field and reserve area for Lot 39".
- 8) The applicant must comply with the conditions of the Montgomery County Department of Permitting Services (MCDPS) stormwater management approval dated June 29, 2010. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the preliminary plan approval.
- 9) The applicant must comply with the conditions of the MCDPS, Well and Septic Section approval letters dated July 12, 2010 and August 16, 2010. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the preliminary plan approval.
- 10) 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 during the building permit process. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval."
- 11) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board opinion.
- 12) The record plat must show necessary easements.

SITE DESCRIPTION (Attachment A – vicinity map)

The Burton property, known as the Burton Woods Property subdivision, is located opposite the intersection of Davis Mill Road and Huntmaster Road near Germantown. The entire Burton property is approximately 107 acres in size and is zoned RE-2. As a whole, the Burton property includes one existing house, numerous accessory structures, a cemetery, forests, farm fields, and paddocks. It sits atop a conspicuous hilltop, the geology of which has caused the adjacent Wildcat Branch and Magruder Branch streams to meander around it. Davis Mill Road separates the Burton property from these stream valleys which borders to the east and south. One-family residential and undeveloped agricultural land (the former Bethel World Church property) abuts the Burton property 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 the entire site. The Burton property is within the Great Seneca Creek watershed and is classified as use I-P waters by the Maryland Department of Natural Resources.

The Phase III portion of the Burton property “Subject Property” or “Property”, is 28.13 acres in size and contains 11.62 acres of forest. Phase III is located in the easternmost section of the Burton property along a broad ridgeline that drops in elevation down to Davis Mill Road on the south and east sides and into a stream valley on the north side. The lower elevations are forested while the higher and flatter elevations have been cleared for pasture. Development in Phase III will be located along the ridgeline, using to the extent possible the cleared, open areas.

PROJECT DESCRIPTION (Attachment B – proposed plan)

This preliminary plan of subdivision is the third phase of a four phase development for the Burton property. Phase I, Preliminary Plan No. 120060270, was approved on October 19, 2006 for five, one family lots on approximately 14 acres. Phase II, Preliminary Plan No. 12006027A, was approved on September 27, 2007 for 16, one-family lots on 47 acres of land. Phase IV, totaling 11.62 acres, has not yet been approved. It will include the existing Burton family residence. (Attachment C – Phasing Plan)

The five lots that are proposed as part of Phase III will be accessed by a continuation of the 20 foot wide private road system built to access Phases I and II. The private road will be constructed to secondary road standards and will be contained within a 60 foot wide Homeowners Association parcel. The extension of the private road connects with what has already been constructed for Phase II and ultimately it connects to Davis Mill Road at a single access point. This access point has been reviewed and approved by both the Montgomery County Department of Transportation and the Rustic Roads Advisory Committee (RRAC) since Davis Mill Road is classified as an exceptional rustic road. As part of the approval of Phase II, the RRAC made specific recommendations for the access point to and the landscaping along Davis Mill Road.

The aforementioned private road system was considered at the Planning Board hearings for both Phases I and II, and the Board agreed that a private street system was appropriate for this subdivision. The private street will serve lots approved as part of Phase I and Phase II and will be continued as a private road into 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.

The five lots range in size from 3.33 acres to 7.93 acres. Although four of the lots have approved, on-lot, septic systems, the approved septic area for Lot 39 is located on the opposite side of the private street on which it fronts. This off-lot septic area will be placed in an outlot that can be conveyed with Lot 39 in perpetuity. This configuration has been reviewed and approved by MCDPS staff. Staff does not object to this arrangement but has required a note to be placed on the record plat that clearly identifies the purpose of the outlot.

ANALYSIS AND FINDINGS

Master Plan Compliance

Functional Master Plan for the Preservation of Agriculture and Rural Open Space (AROS, 1980)

The property falls within the Central Sector of the master plan area. When the Master Plan was written in 1980, it noted that 76% of the area was still receiving agricultural assessments but that most of the area had already been subdivided. The Master Plan recommended retaining the RE-2 zoning designation and acknowledged that additional RE-2 lots will be developed. This proposed preliminary plan conforms to the AROS plan as it proposed lots developed to the RE-2 zoning standards.

Rustic Road Functional Master Plan (RRFMP)

The property is located on Davis Mill Road, a rustic road identified in the RRFMP. The master plan makes the following observations about the road:

Significant Features: (pg.76)

- Road alignment above Great Seneca Creek
- Mature woodlands surround southern portion of road

The Road is named for the stone grist and sawmill formerly located on Great Seneca Creek near the intersection of Davis Mill Road and Huntmaster Road. Driving from the south (Brink Road) to the north, Davis Mill Road passes through agricultural land with hedgerows and light woods, passing Blunt Road and Huntmaster Road on the right. The Burton family residence, on the Subject Property, was formerly identified as a historic resource by the Historic Locational Atlas as the "Dr. Washington Waters House." The house is described in the RRFMP as a "fine example of a telescope-type house which has evolved over time. The earliest section of this residence is believed to have been constructed in the early 1700s." The house has since been removed from the historic locational atlas. The road is narrow, has trees at its sides and sharp turns, and follows Great Seneca Creek.

The proposed house locations will not be visible from the road due to the tree buffer along the side of the road; however, good screening should be maintained to protect the driving experience on the road. As submitted, an extension of an existing private street will be used for accessing the lots, obviating additional impacts to Davis Mill Road. Forest conservation easements will eliminate any potential for tree clearing along this road. Staff finds that this Preliminary Plan is consistent with the Rustic Roads Functional Master Plan.

Public Facilities

Transportation and School Facilities

The proposed lots, in addition to those already approved as part of Phases I and II, do not generate 30 or more vehicle trips during the morning or evening peak-hours, therefore; there are no Local Area Transportation Review requirements for this development. The project is also not subject to Policy Area Mobility Review (PAMR) because the plan filing date of the application for the preliminary plan (120060270) predates the trigger for PAMR review. The review of this application was delayed because the entire Clarksburg High School cluster was in moratorium for new development due to inadequate capacity within the cluster. Funding included in the current Capital Improvement Program will provide the necessary capacity at the elementary, middle and high school levels, therefore, the moratorium was lifted as of July 1, 2010, and the application can proceed with no School Facilities Payment requirement.

The rights-of-way as shown on the plan comply with the Rustic Road Functional Master Plan. No sidewalks on the private street are proposed due to the low-density zoning in the rural area of the County as defined in the Road Code. There is no sidewalk system on Davis Mill Road to connect to. Proposed vehicle and pedestrian access for the subdivision will be safe and adequate with the proposed private road system.

Other Public Facilities and Services

The application has been reviewed by the Montgomery County Fire and Rescue Service who have determined that the Property has appropriate access for fire and rescue vehicles. Other public facilities and services, such as police stations, firehouses and health services, are operating within the standards set by the Growth Policy Resolution currently in effect. Local electric and telecommunication utilities are all adequate to serve the proposed lots. All of the lots have approved well locations and approved septic systems. Staff finds that all public facilities and services are adequate to serve the proposed lots.

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 are 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 on the overall Burton Woods Property, including a cluster of American chestnut trees located entirely within the Phase II section or within 100 feet of the Phase II boundary. According to the Maryland Department of Natural Resources Natural Heritage Program, the American chestnut is a Rare, Threatened, and Endangered species. There are, however; no American chestnut trees within the Phase III portion of this development.

The property is within the Great Seneca Creek watershed, a Use I/IP watershed. The Countywide Stream Protection Strategy (CSPS) rates the tributaries in this watershed as good. This property is not located within a Special Protection Area or Primary Management Area.

Forest Conservation

The preliminary forest conservation plan was submitted for the entire 107.4 acre property and approved on March 30, 2006. Forest conservation requirements for the site are met by the proposed forest retention shown on the plans. Individual final forest conservation plans are required for each phase of the project. For Phase III (12006027B), no specimen trees are being removed or negatively affected and all areas of forest retention are to be placed into category I conservation easements. The Property is not subject to the tree variance review since the preliminary forest conservation plan was approved for the entire tract, prior to inception of the variance law.

As part of the Phase III development application, the applicant has agreed to implement an ISA Certified Arborist's tree save plan (TSP) for the hedgerow of trees just south of the proposed roadway. This hedgerow contains numerous shingle oaks that staff and the community have looked to preserve. The hedgerow is within the future Phase IV of this project, but the TSP will provide protection from roadway construction elements for the Phase III development of the site.

The Phase III preliminary plan is consistent with the previously approved preliminary forest conservation plan. A final forest conservation plan will be required prior to DPS issuance of a sediment control permit for development of Phase III. The table below summarizes the various forest conservation plans and indicates the amount of forest to be retained and removed for each phase of development. The preliminary forest conservation plan show retention of forest above the break even point, therefore; there is no forest planting requirement for any of the four phases. Staff finds that the Phase III portion of the Burton Woods development (12006027B) is in compliance with Chapter 22A of the Montgomery County Code, the Forest Conservation Law.

Forest Conservation Summary Table					
	Net Tract Area (acres)	Forest Saved (acres)	Forest Cleared (acres)	Planting Requirement (acres)	Plan Status
Preliminary Forest Conservation Plan (Overall)	107.4	32.4	16.98	0	Approved
Final Forest Conservation Plan (Phase I)	20.46	5.47	6.46	0	Approved
Final Forest Conservation Plan (Phase II)	46.98	15.07	8.92	0	Approved
Final Forest Conservation Plan (Phase III)	29.36	11.62	1.6	0	Not submitted*
Final Forest Conservation Plan (Phase IV)	10.6	0.04	16.98	0	Not Submitted
* the Applicant submitted a more detailed preliminary forest conservation plan (PFCP) which is consistent with the approved PFCP. A final forest conservation plan must be approved by staff prior to any issuance of sediment and erosion control permit.					

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 each lot shown on the plan 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

The property was appropriately signed and notices of the plan submission were sent out to adjacent and confronting property owners and local civic associations. The submission date of this application pre-dated the requirement for a pre-submission meeting. No correspondence on this plan amendment has been received by staff.

CONCLUSION

The proposed lots meet all requirements established in the Subdivision Regulations and the Zoning Ordinance, and comply with the recommendations of the Agricultural and Rural Open Space Master Plan and the Rural and Rustic Roads Functional 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 Map
- Attachment B – Preliminary Plan
- Attachment C – Phasing Plan

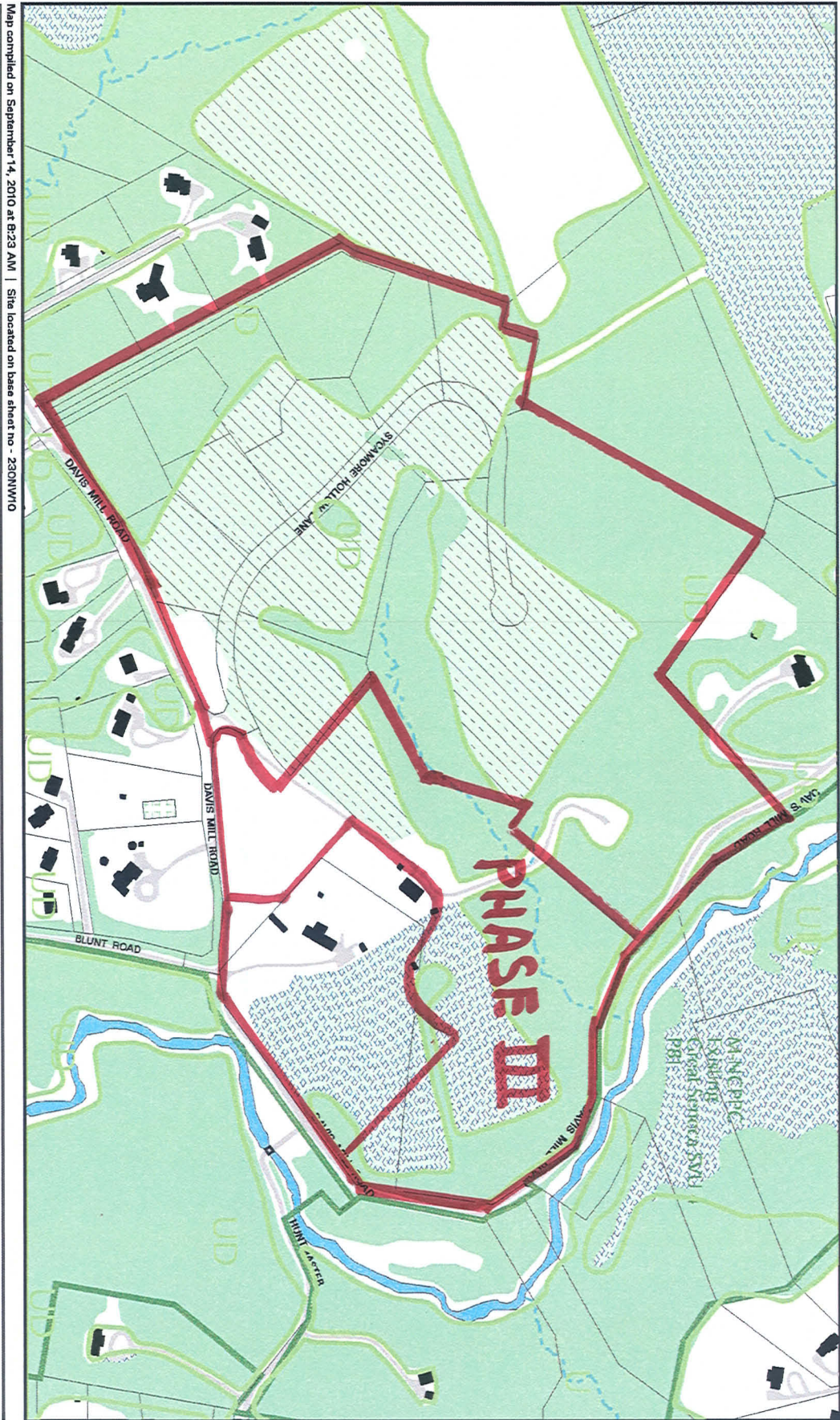
Table 1: Preliminary Plan Data Table and Checklist

Plan Name: Burton Woods Phase III				
Plan Number: 12006027B				
Zoning: RE-2				
# of Lots: 5				
# of Outlots: 0				
Dev. Type: One Family Residential				
PLAN DATA	Zoning Ordinance Development Standard	Proposed for Approval the Preliminary Plan	Verified	Date
Minimum Lot Area	87,120 sq. ft.	145,054 sq. ft. is minimum proposed	RW	9/17/10
Lot Width	150 ft.	150 ft. is minimum proposed	RW	9/17/10
Lot Frontage	25 ft.	25 ft. is minimum proposed	RW	9/17/10
Setbacks				
Front	50 ft. Min.	Must meet minimum ¹	RW	9/17/10
Side	17/35 ft. Min./ total ft.	Must meet minimum ¹	RW	9/17/10
Rear	35 ft. Min.	Must meet minimum ¹	RW	9/17/10
Height	50 ft. Max.	May not exceed maximum ¹	RW	9/17/10
Max Resid'l d.u. per Zoning	53 for entire Burton Property	5 Lots (Phase III), 21 total	RW	9/17/10
MPDUs	N/A		RW	9/17/10
TDRs	N/A		RW	9/17/10
Site Plan Req'd?	No		RW	9/17/10
FINDINGS				
SUBDIVISION				
Lot frontage on Public/Private Street	Yes	RW		9/17/10
Road dedication and frontage improvements	Yes	Phase III		9/17/10
Environmental Guidelines	Yes	Staff memo		9/7/10
Forest Conservation	Yes	Staff memo		9/7/10
Master Plan Compliance	Yes	Staff memo		4/23/10
Historic Preservation	No	Staff memo		6/9/10
ADEQUATE PUBLIC FACILITIES				
Stormwater Management	Yes	Agency letter		6/29/10
Water and Sewer (WSSC)	N/A			
10-yr Water and Sewer Plan Compliance	Yes	DRC comment		9/17/10
Well and Septic	Yes	Agency letter		7/12/10-8/16/10
Local Area Traffic Review	No	Staff comment		9/17/10
Fire and Rescue	Yes	Agency letter		8/16/10
Other (i.e., schools)				

¹ As determined by MCDPS at the time of building permit.

BURTON WOODS PHASE III (12006027B)

Attachment A



Map compiled on September 14, 2010 at 8:23 AM | Site located on base sheet no - 23GN1W10

NOTICE

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MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING
 THE MARYLAND NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MNCPPC
 8787 Georgia Avenue - Silver Spring, Maryland 20910-5700



Key Map



Research & Technology Center
 500
 1 inch = 500 feet
 1 : 6000

