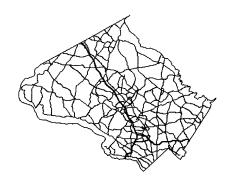
MCPB Item # 4/26/07



MEMORANDUM

DATE:

April 13, 2007

TO:

Montgomery County Planning Board

VIA:

Cathy Conlon, Acting Chief

Development Review Division

FROM:

Richard A. Weaver, Subdivision Coordinator

Development Review Division

(301) 495-4544

REVIEW TYPE:

Preliminary Plan Review

APPLYING FOR:

Subdivision to create 43 lots for 43 one-family residential dwelling units

PROJECT NAME: Butz Property

CASE #:

120061230

REVIEW BASIS:

Chapter 50, Montgomery County Subdivision Regulations

ZONE:

RC

LOCATION:

Located in the southwest corner of the intersection of Berryville Road and

Darnestown Road (MD 28)

MASTER PLAN:

Potomac (Darnestown)

APPLICANT:

Michael Harris Homeplace, L.L.C.

ENGINEER:

Rodgers Consulting

ATTORNEY:

Lerch, Early and Brewer

FILING DATE:

June 5, 2006

HEARING DATE: April 26, 2007

STAFF RECOMMENDATION: Approval, subject to the following conditions:

- 1) Approval under this preliminary plan is limited to 43 lots for forty-three (43) one family detached dwelling units.
- 2) The Applicant must comply with the conditions of approval of the preliminary forest conservation plan prior to issuance of building permits or sediment and erosion control permits
- 3) All Environmental Buffers must be placed in a Category I Conservation Easement, except for areas required to meet Fire and Rescue access requirements, or necessary utilities.
- 4) The record plat shall show dedications of all road rights-of-way as shown on the approved preliminary plan.
- The applicant shall construct all road rights-of-way shown on the approved preliminary plan to the full width mandated by the Master Plan and to the design standards imposed by all applicable road codes. Only those roads (or portions thereof) expressly designated on the preliminary plan, "To Be Constructed By ______" are excluded from this condition.
- 6) In addition to the transportation impact tax, the Applicant shall make an additional payment equivalent to 50% of the applicable transportation impact tax for the area to the Montgomery County Department of Permitting Services (DPS), prior to release of any building permit for the proposed new dwelling units, to mitigate traffic impact related to the subject development.
- 7) Record Plat to contain the following notes:
 - "Access denied" along Berryville Road.
 - "Access denied except at approved location(s)" along Darnestown Road.
 - "The land contained hereon is within an approved cluster development and subdivision or resubdivision is not permitted after the property is developed."
- 8) The Applicant shall comply with the conditions of the MCDPWT approval letter dated July 19, 2006, unless otherwise amended.
- 9) The Applicant shall comply with the conditions of the MCDPS (Health Dept.) septic approval letter dated September 21, 2006.
- 10) The Applicant shall comply with the conditions of the MCDPS stormwater management approval letter dated January 3, 2007.
- 11) The Applicant shall comply with the recommendations of the SHA letter dated August 4, 2006, prior to issuance of access permits.
- 12) The certified preliminary plan drawing and record plat must reflect a 25 ft. public access easement along Berryville Road and to the State Park as shown on the preliminary plan.
- 13) Record plat to reflect all areas included as Rural Open Space.
- 14) Record plat to reflect common ingress/egress and utility easements over any shared driveways.
- 15) Record plat to reference the Common Open Space Covenant recorded at Liber 28045, Folio 578 ("Covenant"). Applicant shall provide verification to Commission staff prior to release of final building permit that Applicant's recorded HOA Documents incorporate by reference the Covenant.
- 16) Record Plat shall reflect all parcels under Homeowners Association control, and separately designate stormwater management parcels.

- 17) 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.
- 18) Other necessary easements shall be shown on the record plat.

I. SITE DESCRIPTION: (Attachment A).

The subject property is comprised of three parcels totaling 257 acres, identified as Parcels 912, 606 and 315 on Tax Map DS43, DS52 and DS 53. The property is located on the south side of Darnestown Road (MD 28) and on the west side of Berryville Road. The property is actively farmed and is occupied by a house and numerous outbuildings associated with the farming activity.

The property lies within the Seneca Creek watershed (a Use I-P stream). The mainstem of Seneca Creek flows north to south just offsite along the northwestern boundary of the site, separated from the property by a section of Seneca Creek State Park. There are several tributary streams, a pond and associated wetlands, and buffer area located on the property. The stream valleys contain moderate to steep slopes and associated forest. These environmentally sensitive areas significantly limit the buildable area on the site. There are about 62.7 acres of environmental buffers and 92.7 acres of forest on the property.

II. PROJECT DESCRIPTION (Attachment B)

This is an application to subdivide the property into forty-three (43) lots. Forty (40) of the lots will be typical cluster lots ranging is size from 1.5 acres to 3.73 acres. Under the cluster development option 60% of the site must remain as open space or farm. Three lots will comprise the majority of the open space requirement for the cluster plan of subdivision. Proposed lots 17, 18 and 21 will all exceed 25 acres and total 155.28 acres in gross area. The Zoning Ordinance establishes 25 acres as the minimum size of a farm in the area reserved for farming in the Rural Cluster Zone. Therefore, the cluster open space is in conformance with the guidelines established for the optional method pursuant to Section 59-C-9.53 of the Zoning Ordinance. This plan envisions further protection of the required amount of open space through conservation easements on two open space parcels totaling approximately 12.7 acres in size.

The lots will be served by wells and standard private septic systems. Thirty-nine (39) of the proposed lots will have access to an internal public street network with a single access point to Darnestown Road. The proposed streets will end as over-length cul-de-sacs. Four lots will have a single, shared driveway access point to Darnestown Road. Berryville Road is an Exceptional Rustic Road as identified in the 2004 Potomac Subregion Master Plan. No access points to Berryville Road are shown on this plan, nor have any agencies required improvements to Berryville Road; the existing hedgerow that borders Berryville Road will be left undisturbed. The 10 ft. Public Utilities Easement (PUE) will be located outside of the hedgerow to avoid any future disturbance by public utility agencies that may need to do work, installing or repairing underground utility lines in the PUE. The proposed lots have been clustered to preserve all the onsite stream buffer areas.

The plan will utilize standard septic systems for all of the lots, however, Lot 17, which includes the existing farmhouse, will require a sand mound system to serve as the reserve area for the house's existing standard septic system. The sand mound would only need to be constructed and used in the event that the existing trench field fails and cannot be repaired. The fact that the sand mound would serve as a back up to the existing system for an existing house that is to be retained on the property is a fairly unique circumstance.

III. ANALYSIS AND FINDINGS

A. Master Plan Compliance

The 2004 Potomac Master Plan did not specifically address the subject property but did provide general guidance and recommendations for development patterns and density. The plan reconfirms the RC zoning for low density residential communities that can accomplish the goals of protecting agriculture and open space. The preliminary plan complies with the master plan goals in that it proposes a one-family, residential development that also provides for three farm properties and other open space.

Exceptional Rustic Roads

Per the 1996 Rustic Roads Functional Master Plan, certain rustic and exceptional rustic roads may have designated view sheds worthy of protection at the time of subdivision. The Functional Plan states, "Should development occur within these view sheds, this Master Plan recommends that, at the time of subdivision, a review should be undertaken in the development approval process, *not to restrict development*, but to recommend placement of buildings in order to maintain a scenic vista, if practical." The Functional Plan did not include Berryville Road as Rustic or Exceptional Rustic, however, the 2004 Potomac Plan does classify Berryville Road as an exceptional rustic road but does not make any specific recommendations for the preservation of views from the roadway.

The residential units along the southern portions of this property will be visible from Berryville Road. The location of lots along Berryville is a function of the septic limitations of the site. Extensive percolation testing was done to establish the buildable envelope for this property. Because of the limited area that ultimately passed the county's percolation testing procedures, moving lots from view along Berryville Road would result in a significant reduction in the overall number of lots. Since neither the Master Plan nor Functional Plan identify a view shed to be protected, it is staff's opinion that preserving the roadside character by maintaining the existing hedgerow, and not making any road connections, driveway access points or other improvements is the priority. The plan accomplishes the goal of the Functional Plan in this regard.

B. Transportation

The subdivision application proposes 42 new lots for new one-family dwellings and one (1) new lot that will include the existing farmhouse and structures. The plan has been

evaluated for adequate access, vehicular and pedestrian safety and for Local Area Transportation Review (LATR).

Site Access, and Vehicular/Pedestrian Circulation

Access points to the site and the vehicular and pedestrian circulation shown on the plan are adequate. Darnestown Road is classified as a major highway with two lanes and a master plan width of 120 feet. The State Highway Administration (SHA) has the authority to issue access permits for the proposed secondary street and shared driveway from Darnestown Road (MD 28). The locations, as shown on the plan, have been reviewed for site distance and have been approved by SHA. Construction of the new internal street network is subject to review by the Department of Public Works and Transportation (DPWT). In their letter dated July 19, 2006 approval is recommended subject to finalizing the road profile and completed storm drain and site distance studies prior to release of the record plats by Montgomery County.

Local Area Transportation Review

A traffic study was required for the subject preliminary plan in accordance with the *Local Area Transportation Review (LATR) Guidelines* since the development proposed 45 one-family dwelling units (43 currently proposed) that will generate 30 or more peak-hour trips during the typical weekday morning (6:30 a.m. – 9:30 a.m.) and evening (4:00 p.m. – 7:00 p.m.) peak-periods. The current lot count of 43 also requires an LATR.

The consultant for the applicant submitted a traffic study that presented the trafficrelated impacts of the development within the study area during weekday morning and evening peak-periods. Staff review of the traffic study indicated that the study complied with the requirements of the LATR Guidelines and the traffic study scope provided by the staff.

Under total future traffic conditions, Critical Lane Volume (CLV) at the intersections of Darnestown Road (MD 28) and Germantown Road (MD 118) exceed the congestion standard for the Rural Policy Area (1,400 CLV) during the morning peak-hour. However, as a development that would generate between 30 and 49 peak-hour trips during the typical weekday morning and evening peak-periods, the development is eligible for the "limited LATR" review as provided for in the FY05 Annual Growth Policy (AGP). Under this provision, the Planning Board must require the applicant to either implement/construct all required LATR mitigation improvements, or make an *additional* payment equal to 50% of the applicable transportation impact tax before the subdivision receives any building permit. As agreed to by the applicant, staff recommends that the Planning Board require the applicant to pay the additional transportation impact tax and satisfy the LATR requirements of the Adequate Public Facilities test.

Over-length Cul-de-sac

The roadway design for the property includes the creation of two cul-de-sac roads that will be greater than 500 feet in length. Per Section 50-26(d) of the Montgomery County

Code, a cul-de-sac road should be no longer than 500 feet unless a greater length is justified by reason of property shape, size, topography, large lot size, or improved street alignment.

In staff's opinion, the shape of the property and the fact that the proposed street alignment provides protection of environmentally sensitive areas and avoids stream and wetland crossings justifies design of these over-length roadways. Further, Berryville Road is an exceptional rustic road; as discussed above, the preliminary plan does not propose any new street connections to Berryville Road to protect its character and to preserve the existing hedgerow. Any roadway loop or secondary public street access; therefore, needs to be to Darnestown Road, which is a high volume, major highway. While not prohibited, the SHA attempts to minimize new curb cuts or intersections that may otherwise impede traffic flow on State highways. The location of the two access points for this development are shown at existing intersections where traffic entering the highway can be controlled by signage or signalization if conditions warrant. Therefore, the roadways, including the overlength culder-sacs are justified by reason of property shape and improved street alignment that better protects environmental features.

C. Environment

The Natural Resource Inventory/Forest Stand Delineation (NRI/FSD #4-02202)for this site was originally approved on February 5, 2002, and re-certified on March 9, 2005. The NRI/FSD identifies the environmental constraints and forest resources on the subject property. The site includes 62.37 acres of stream buffer and 92.7 acres of forest. ¹

Forest Conservation

The subject property has a gross tract area of 257.86-acres. With an agricultural exemption for 138.71 acres and 2.87 acres removed as unimproved roadway dedication, the net tract area for forest conservation purposes is reduced to 116.28 acres, of which 22.85 acres is forested. The non-exempt portion of the site includes the developable area of the site, and uses the Medium Density Residential land use category and corresponding afforestation and conservation thresholds. The resulting split of the property into exempt and non-exempt portions places all the environmental buffers on the exempt portion of the site. To protect the natural resources in these environmental buffers, they will be placed in a Category I conservation easement.

Since the project proposes to utilize the optional cluster method of development it must comply with Section 22A-12(f) of the Montgomery County Code ("Minimum Retention"). This section of the code requires developments utilizing an optional method of development to either retain or plant a certain percentage of the net tract area in forest. The preliminary forest conservation plan proposes removal of 22.27 acres of forest, and the preservation of 0.58 acres of forest, within the net tract area. The forest removal generates a 44.54-acre planting requirement. To meet this requirement, the plan proposes to retain all forest on the agriculturally exempt portion of the property, which reduces the planting requirement to

¹ The amount of forest increased slightly between the NRI/FSD and the PFCP due to more detailed information on property boundaries that were not available at the time of the NRI/FSD

10.03 acres. This required planting will be done within stream buffers on the exempt portion of the site. The preliminary forest conservation plan satisfies the requirements of section 22A of the Montgomery County Code, including section 22A-12(f). All retained and planted forest will be protected in a Category I conservation easement. The plan further protects upland forest contiguous to forest in the stream buffer that maintains a large area suitable in size to provide habitat for Forest Interior Dwelling Species (FIDS).

Stormwater Management

The MCDPS Stormwater Management Section approved the stormwater management concept for the project on January 3, 2007. The proposed stormwater management plan includes on-site water quality control via three dry ponds and onsite recharge and quality control with nonstructural and structural methods.

D. Parks

Public access to the Seneca Creek State Park is accomplished by providing a 25-foot wide public use trail easement along the southern border of the property. The easement will provide general public access from MD 28 and Berryville Road to the State Park. Access to the Park from the subdivision is provided through the open space areas of the project.

E. 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. Access and public facilities will be adequate to support the proposed lots and uses. The proposed lot sizes, widths, shapes and orientation are appropriate for the location of the subdivision.

The proposed subdivision will meet the requirements for the RC zone as specified in the Zoning Ordinance. The plan provides the forested portions of the site recommended by Chapter 22A of the County Code, and minimizes disturbance to environmentally sensitive area. The proposed cluster development is compatible with surrounding development in that the proposed lots will be appropriately located and sized and the plan preserves large lots that can continue to be in agricultural production.

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 (see Attachment E for referenced agency correspondence).

<u>Citizen Correspondence and Issues</u> (Attachment C)

This application pre-dated any requirement for pre-submission meetings with interested parties; however, the application and the date of the public hearing were noticed.

Staff has received written correspondence pertaining to this plan from the Darnestown Civic Association. The Association's request is to increase the number and percentage of lots that are greater than 2.0 acres in size so that future property owners can pasture horses and other livestock. The Association believes that with this property being on the edge of the agricultural reserve, there should be more opportunities for agricultural uses on individual lots that can take advantage of the adjoining Park and open space in the abutting agricultural zones. The Association also maintains that 2.0 acre lots would be more compatible with the large lot nature of the agriculture reserve lots. The letter goes on to suggest that the open space requirement for the RC zone be reduced from 60% of the site to 50% of the site to allow for more developable area that would tend to allow larger residential lots.

Staff is of the opinion that the lot sizes are appropriate for the property and its location in the subdivision. The use of cluster for this property has optimized the ability to preserve medium to large-scale agricultural uses in the open space areas of the plan. The three large farm lots could very well serve the purpose of providing pasture areas for residents in the community who are unable to pasture livestock on their own lots. This plan proposes thirty-nine of the forty three lots within the 1.5 acre to 3.0 acre range. It is in direct conformance with the cluster zone intent to concentrate development on the 40% of the property that is developable and to preserve agriculture and open space on the remainder.

IV. CONCLUSION

Staff finds that Preliminary Plan #120060830 conforms to the recommendations of the Potomac Master Plan. In staff's opinion, the plan preserves the required amount of open space, preserves agriculture, and minimizes priority forest loss. The lots conform to all applicable zoning requirements and the plan conforms to the Subdivision Regulations. Staff further finds that vehicular and pedestrian access to the subdivision will be safe and adequate. As such, Staff recommends approval of the preliminary plan, subject to compliance with the above conditions.

ATTACHMENTS:

Attachment A Vicinity Map
Attachment B Preliminary Plan

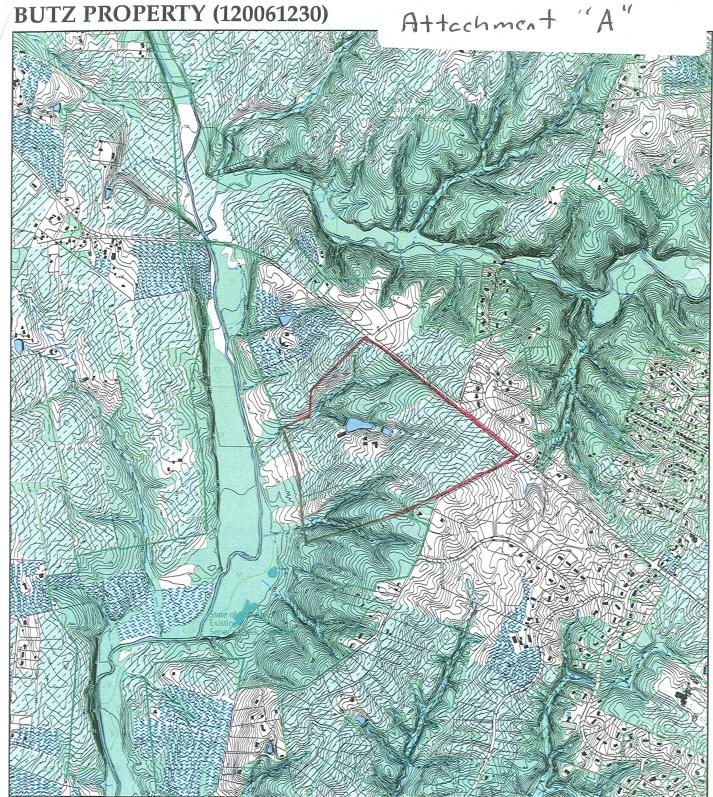
Attachment C Citizen Correspondence

Attachment D Agency Letters

Table 1. Preliminary Plan Data Table and Checklist

Plan Number: 12006123 Zoning: RC # of Lots: 43 # of Outlots: 0 Dev. Type: Residential PLAN DATA Minimum Lot Area Lot Width Lot Frontage Setbacks		Proposed for Approval on the Preliminary Plan 65,349 sq.ft. is minimum proposed Meets minimum Meets minimum	Verified RAW RAW RAW RAW	4/13/07 4/13/07 4/13/07 4/13/07	
# of Lots: 43 # of Outlots: 0 Dev. Type: Residential PLAN DATA Minimum Lot Area Lot Width Lot Frontage	Zoning Ordinance Development Standard 40,000 sq.ft. 125 ft. 25 ft. 50 ft. Min. 17 ft. Min./35 ft. total	Approval on the Preliminary Plan 65,349 sq.ft. is minimum proposed Meets minimum Meets minimum Must meet minimum	RAW RAW RAW	4/13/07 4/13/07 4/13/07	
# of Lots: 43 # of Outlots: 0 Dev. Type: Residential PLAN DATA Minimum Lot Area Lot Width Lot Frontage	Zoning Ordinance Development Standard 40,000 sq.ft. 125 ft. 25 ft. 50 ft. Min. 17 ft. Min./35 ft. total	Approval on the Preliminary Plan 65,349 sq.ft. is minimum proposed Meets minimum Meets minimum Must meet minimum	RAW RAW RAW	4/13/07 4/13/07 4/13/07	
Dev. Type: Residential PLAN DATA Minimum Lot Area Lot Width Lot Frontage	Zoning Ordinance Development Standard 40,000 sq.ft. 125 ft. 25 ft. 50 ft. Min. 17 ft. Min./35 ft. total	Approval on the Preliminary Plan 65,349 sq.ft. is minimum proposed Meets minimum Meets minimum Must meet minimum	RAW RAW RAW	4/13/07 4/13/07 4/13/07	
PLAN DATA Minimum Lot Area Lot Width Lot Frontage	Zoning Ordinance Development Standard 40,000 sq.ft. 125 ft. 25 ft. 50 ft. Min. 17 ft. Min./35 ft. total	Approval on the Preliminary Plan 65,349 sq.ft. is minimum proposed Meets minimum Meets minimum Must meet minimum	RAW RAW RAW	4/13/07 4/13/07 4/13/07	
PLAN DATA Minimum Lot Area Lot Width Lot Frontage	Zoning Ordinance Development Standard 40,000 sq.ft. 125 ft. 25 ft. 50 ft. Min. 17 ft. Min./35 ft. total	Approval on the Preliminary Plan 65,349 sq.ft. is minimum proposed Meets minimum Meets minimum Must meet minimum	RAW RAW RAW	4/13/07 4/13/07 4/13/07	
Minimum Lot Area Lot Width Lot Frontage	Development Standard 40,000 sq.ft. 125 ft. 25 ft. 50 ft. Min. 17 ft. Min./35 ft. total	Approval on the Preliminary Plan 65,349 sq.ft. is minimum proposed Meets minimum Meets minimum Must meet minimum	RAW RAW	4/13/07 4/13/07	
Lot Width Lot Frontage	125 ft. 25 ft. 50 ft. Min. 17 ft. Min./35 ft. total	minimum proposed Meets minimum Meets minimum Must meet minimum	RAW RAW	4/13/07 4/13/07	
Lot Frontage	25 ft. 50 ft. Min. 17 ft. Min./35 ft. total	Meets minimum Must meet minimum ¹	RAW RAW	4/13/07	
	50 ft. Min. 17 ft. Min./35 ft. total	Must meet minimum ¹	RAW		
Setbacks	17 ft. Min./35 ft. total			4/13/07	
	17 ft. Min./35 ft. total		DNJ		
Front		Must meet minimum ¹	K/T ~	4/13/07	
	35 ft. Min.		RAW.	4/13/07	
Rear		Must meet minimum ¹	'DAU	4/13/07	
Height	50 ft. Max.	May not exceed maximum ¹	RAW	4/13/07	
Max Resid'l d.u.	51	43	RAW	4/13/07	
MPDUs	N/A			4/13/07	
TDRs	N/A			4/13/07	
Site Plan Req'd?	No			4/13/07	
FINDINGS					
SUBDIVISION					
Lot frontage on Public Street	Yes		RAW	4/13/07	
Road dedication and frontage improvements	Yes		Agency letters	7/19/06 and 8/4/06	
Environmental Guidelines	Yes		Staff memo	3/21/07	
Forest Conservation	Yes		Staff memo	3/21/07	
Master Plan Compliance	Yes	S	Staff comments	4/13/07	
Parks	Ye:	s	Staff memo	7/17/06	
ADEQUATE PUBLIC FAC					
Stormwater Management	Yes		Agency letter	1/7/07	
Water and Sewer (WSSC)	N/A				
10-yr Water and Sewer Plan Compliance	Yes		Agency comments	1/7/06	
Well and Septic			Agency letter	9/21/06	
Local Area Traffic Review			Staff memo	3/7/07	
Fire and Rescue			Agency letter	1/27/07	

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



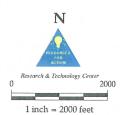
Map compiled on July 05, 2006 at 1:54 PM | Site located on base sheet no - 221NW15

The planimetric, property, and topographic information shown on this map is based on copyrighted Map Products from the Montgomery County Department of Park and Planning of the Maryland -National Capital Park and Planning Commission, and may not be copied or reproduced without written permission from M-NCPPC.

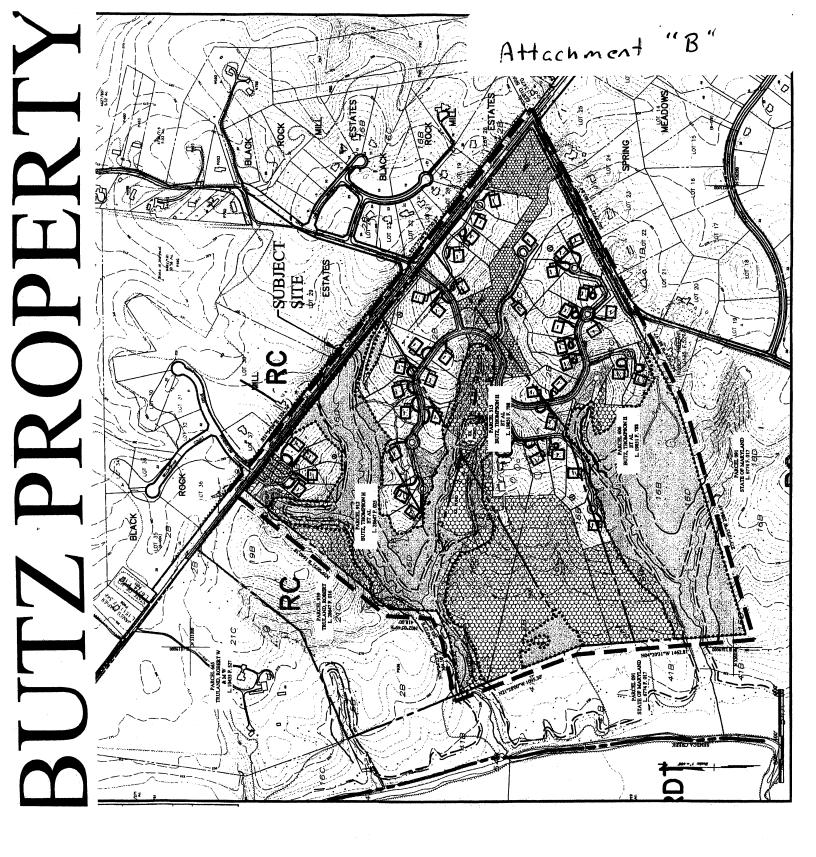
Property lines are compiled by adjusting the property lines to topography created from aerial photography and should not be interpreted as actual field surveys. Planimetric features were compiled from 1:14400 scale aerial photography using stereo photogrammetric methods.

This map is created from a variety of data sources, and may not reflect the most current conditions in any one location and may not be completely accurate or up to date. All map features are approximately within five feet of their true location. This map may not be the same as a map of the same are a plotted at an earlier time as the data is continuously updated. Use of this map, other than for general planning purposes is not recommended. - Copyright 1998









Attachment "C"

Darnestown Civic Association

14100 Darnestown Road Darnestown Md. 20878

March 15, 2007

Montgomery County Planning Board 8787 Georgia Avenue Silver Spring, Md. 20910

Re: Butz Property / Homeplace @ 15330 Darnestown Road Preliminary Plan #120061230

Dear Chairman Hanson and Board Commissioners,

The Darnestown Civic Association (DCA) has not to our knowledge ever objected to the number of lots in a subdivision in the RE-2 and RC zones. The DCA advocates a minimum lot size policy of approximately 2.0 acres in these zones. This is easily accomplished in the RE-2 zone. Two acre lots have usually been platted in the RC zone in Darnestown because of terrain, water table and septic restrictions. This Preliminary plan advocates 45 residential lots with an average lot size that would be just over 2.0 acres, but 19 of these lots, representing 42%, are currently planned for less than 2.0 acres.

- 1) According to the Montgomery County Code Chapter 50, Article 29 Lot Dimensions, Item (a) Lot size, width, shape and orientation shall be appropriate for the location of the subdivision taking into account the recommendations included in the applicable master plan, and for the type of development or use contemplated in order to be approved by the board. The DCA offers the following explanations and examples that demonstrate that the lot sizes should at a minimum, be two acres in keeping with traditional lot sizes in this vicinity:
 - a. The most proximate and recent subdivision of this nature is across Berryville Road from the Butz property known as Finnegan Farm. Every lot in Finnegan Farm is a minimum of 2.0 acres with an average lot size of approximately 2.5 acres.
 - b. Lots along Berryville Road across the street from the Butz property range in size from 3.72 acres up to 10.0 acres with the average lot size of approximately 5.6 acres.
 - c. Lots along nearby Kelley Farm Drive range in size from 2.0 to 20.5 acres with the majority of lots in the 2.0 to 3.0 acre range but the average lot size is over 6.0 acres per lot.
 - d. More broadly speaking, in addition to the above referenced lot sizes, the majority of residential lots west of Seneca Road and south of Route 28 / Darnestown Road are two acres in size or greater (including the entire Spring Meadows subdivision, Springfield Road, Plainfield Road, etc).
 - e. The Butz property (part of which is highly visible) is adjacent to the Seneca State Park and RDT 25.0 acre agricultural zone.
- 2) Given that the minimum lot size for stabling horses and other large animals on a property is 2.0 acres and the preliminary plan provides equestrian/hiker easements, maximizing the two acre minimum lot sizes is very important. For example, along Darnestown Road at the northwestern border of the property where there is a cluster of four lots (#1-4 pre site plan) located in a cul-de-sac across from Bellingham Drive, none of the lots are over two acres and these lots are the only ones with direct access to this equestrian easement on this side of the property.

Page 2 Butz Property

3) By eliminating one lot in the cluster mentioned in Item #2 (lots #1-4), the remaining three lots would then be all over 2.0 acres. (Please note that these lots are directly across from Bellingham Road which is comprised of a 10-home cul-de-sac all of which are over 2 acres in size). There is another cluster of lots (#32-38) that are all less than two acres, and they are not compatible with the lots directly across Berryville Road. The elimination of one lot in this cluster, say lot #36, would create four (almost five) additional lots that satisfy the two acre threshold. Reducing the total number of lots from 45 to 43 reduces the number of lots under 2.0 acres from 19 to 10 (maybe 9). The overall percentage of lots less than two acres would then decrease to approximately 23% from 42% while the total number of lots being developed decreases from 85% of the total allowable to 81%.

While the DCA recognizes that the site is encumbered by multiple conservation easements, stream buffers and storm water management areas, by eliminating two lots the developer loses 4% of the total number of allowable units (81% compared to 85%) versus gaining close to 20% more lots over the 2.0 acre desired threshold. Under this scenario, more potential homeowners at Homeplace would at least be able to have horses or other animals on their property and enjoy the equestrian/hiker easements which have been satisfactorily designed. It is understood that these equestrian easements can be accessed via designed open space from "interior" lots since these easements buffer the north and southern boundaries of the property. In addition, equestrians residing on the other side of Darnestown Road in Black Rock Mills Estates will benefit from access to these easements.

The preliminary plan also designates three lots (reportedly lots 17, 18 and 21) as "farmettes" which will "own perpetual use and maintenance rights" to additional open space comprised of three parcels totaling on the order of 40-50 acres. Inclusion of this open space as functioning pasture land enhances the overall site design and the DCA supports these farmettes.

The DCA intends to advocate continued farm / equestrian uses and will support requested Special Exceptions for all lots over 2.0 acres wanting to accommodate large animals / equestrian facilities (subject to all applicable County regulations) in this RC zone as established in the Montgomery County Code Zoning Ordinance Chapter 59 Article A adopted in June 2004.

The DCA would also like to request a similar scenic easement setback on Darnestown Road / Rt. 28 as established across Darnestown Road in the Black Rock Estates Subdivision of at least 50 feet.

The Butz family has been very cooperative and responsive to our inquiries and has hosted several meetings on our behalf. We regret the conflict over the number of houses. The RC zone, which we truly appreciate, seems to have put us at odds with the developers. If the original or a second cluster option required a two acre minimum and utilization of 50% (versus the current requirement of 40%) of the property for subdivision, then this would be a fantastic development that would satisfy all.

Thank you for consideration of our concerns regarding this planning matter.

Sincerely,

Pam DuBois, DCA Zoning Chairman

Stephen Ellis, DCA Zoning Co-Chairman

March 7, 2007

MEMORANDUM

TO:

Cathy Conlon, Supervisor

Development Review Division

VIA:

Shahriar Etemadi, Supery

Transportation Planning

FROM:

Ki H. Kim, Planner/Coordinator

Transportation Planning

SUBJECT:

Preliminary Plan Application No. 120061230

Butz property Poolsville

This memorandum is Transportation Planning staff's adequate public facilities (APF) review of the subject preliminary plan application. The application includes 226.54 acres of land, the Butz Property, located west of Berryville Road south of Darnestown Road (MD 28) in the Rural Policy Area. The subject site is proposed for 45 single-family detached units residential development under the RC zone.

RECOMMENDATION

Based on our review of the submitted traffic analysis and preliminary plan, Transportation Planning staff recommends the following condition as part of the APF test for transportation requirements related to approval of this preliminary application.

- 1. Total development under this preliminary plan application is limited to a maximum of 45 single-family detached houses as shown on the preliminary plan and analyzed in the traffic study.
- 2. The applicant pays an additional 50% development unit transportation tax for each new unit at building permit.

DISCUSSION

Site Access and Vehicular/Pedestrian Circulation

Two access points to the site are proposed from Darnestown Road (MD 28). Darnestown Road (MD 28) is classified as a major highway with two lanes and a master plan right-of-way of 120 feet. Staff finds that the access point and the vehicular/pedestrian circulation system shown on the preliminary plan are adequate.

The countywide Bikeways Functional Master Plan recommends a Signed Shared Roadway (SR-41) along Darnestown Road (MD 28) in the vicinity of the site.

Local Area Transportation Review

The applicant submitted a traffic study required as part of the Local Area Transportation Review. Three local intersections were identified as critical intersections to be affected by the proposed development and were examined to determine whether they meet the applicable congestion standard of 1,400 Critical Lane Volume (CLV) for the Rural Policy Area. The morning and evening peak hour traffic condition was analyzed for impact of the proposed development. There is no approved but unbuilt development in the study area. Therefore, the existing and background traffic conditions remain same. The proposed development's trips were added to the existing and the background traffic to determine the total future traffic. The total future traffic was assigned to the critical intersections to determine the total future CLVs. The result of CLV calculation is shown in the following table. The CLV impacts of the proposed development on these intersections were analyzed and are summarized in Table I.

Table I

Intersection Capacity Analysis with CLV Under Various Development Schemes During the Peak Hour									
·	Existing		Background		Total				
	AM	PM	AM	PM	AM	PM			
MD 28/MD 118/Spring Meadows	1,496	1,332	1,496	1,332	1,522	1,360			
MD 28/Black Rock Road	1,097	1,100	1,097	1,100	1,079	1,093			
MD 28/Bellingham Dr	1,151	1,099	1,151	1,099	1,150	1,098			



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Montgomery County Planning Department 8787 Georgia Avenue, Silver Spring, Maryland 20910

MEMORANDUM

TO:

Cathy Conlon, Supervisor, Development Review

VIA:

Mark Pfefferle, Planner Coordinator, Environmental Planning

FROM:

Josh Penn, Senior Planner, Environmental Planning

DATE:

March 21, 2007

SUBJECT:

Preliminary Plan # 120061230 - Butz Property

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

- 1) Compliance with the conditions of approval of the preliminary forest conservation plan.
- 2) All Stream Valley Buffers, Wetland Buffers and Environmental Buffers must be placed in a Category I Conservation Easement, except for areas required to meet Fire and Rescue conditions.

Discussion

The 257.86-acre property is located north of the intersection of Darnestown Road and Berryville Road. The site is in the Little Seneca watershed, Use Class I-P. There are two main branches of streams flowing east to west across the subject Property. There are 62.7-acres of environmental buffers and 92.7-acres of forest on the subject property. There is currently one existing farmstead on the subject property consisting of a house and farm outbuildings. The property is zoned R-C and uses the cluster option.

Environmental Guidelines

The Natural Resource Inventory/Forest Stand Delineation (NRI/FSD #4-02202) for this site was originally approved on February 5, 2002, and re-certified on March 9, 2005. The NRI/FSD identifies the environmental constraints and forest resources on the subject property. The site includes 62.37 acres of stream buffer and 92.7 acres of forest. ¹

¹ The amount of forest increased slightly between the NRI/FSD and The PFCP due to more detailed information on property boundaries that were not available at the time of the NRI/FSD

Forest Conservation

The subject property has a gross tract area of 257.86-acres. The preliminary forest conservation plan reduces the net tract area to 116.28-acres; 138.71-acres is removed from the gross tract area with an agricultural exemption and 2.87 is removed through an unimproved roadway dedication. This leaves a net tract area of 116.28-acres, of which 22.85-acres is forested and 0.0-acres of environmental buffers.

This project uses a cluster method of development in the RC zone and the agricultural portion of the site is subtracted from the net tract area. The non-exempt portion of the site only includes the developable area of the site and uses the MDR land use category and the corresponding afforestation and conservation thresholds. However, the resulting split of the property into exempt and non-exempt portions of the site, places all of the stream valley buffers, wetland buffers, and environmental buffers in the forest conservation exempt portion of the site. To adequately protect the natural resources for the property all stream valley buffers, wetland buffers and environmental buffers must be placed in a Category I Conservation Easement.

The project proposes to utilize the optional cluster method of development and therefore must comply with Section 22A-12(f) ("*Minimum Retention*") of the Montgomery County Code. This section of the code requires developments utilizing an optional method of development to either retain or plant a certain percentage of the tract area in forest.

The preliminary forest conservation plan indicates the removal of 22.27-acres of forest and the preservation of 0.58-acres of forest within the net tract area. This generates a 44.54-acre planting requirement, which the applicant will meet through a combination of forest retention and planting on-site within the agriculturally exempt portion. The applicant proposes to retain all forest on the agriculturally exempt portion of the property. After retaining all forest on the agriculturally exempt portion of the site. The preliminary forest conservation plan submitted satisfies the requirements of section 22A of the Montgomery County Code, including section 22A-12(f). All retained and planted forest will be protected in a category I conservation easement. The plan protects forests within the stream buffer and contiguous upland forest to maintain a large area suitable in size to provide habitat for Forest Interior Dwelling Species (FIDS)

Staff Recommendation

Environmental Planning staff recommends approval of the preliminary plan of subdivision and the preliminary forest conservation plan. The plan complies with Section 22A of the Montgomery County Code and the M-NCPPC Environmental Guidelines.



DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION

Arthur Holmes, Jr. Director

July 19, 2006

Ms. Catherine Conlon, Subdivision Supervisor Development Review Division The Maryland-National Capital Park & Planning Commission 8787 Georgia Avenue Silver Spring, Maryland 20910-3760

RE:

Preliminary Plan #1-20061230

Butz Property

Dear Ms. Conlon:

Douglas M. Duncan

County Executive

We have completed our review of the preliminary plan dated 06/13/06. This plan was reviewed by the Development Review Committee at its meeting on 07/17/06. We recommend approval of the plan subject to the following comments:

All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to DPS in the package for record plats, storm drain, grading or paving plans, or application for access permit. Include this letter and all other correspondence from this department.

- 1. Show/label all existing planimetric and topographic details specifically paving, storm drainage on the preliminary plan.
- 2. Justify the location of proposed R/W for Berryville Road. Once that is accomplished provide necessary dedication for Darnestown Road and Berryville Road in accordance with the Master Plan.
- 3. Full width dedication and construction of all interior public streets.
- 4. Grant necessary slope and drainage easements. Slope easements are to be determined by study or set at the building restriction line.
- 5. Prior to approval of the record plat by the Department of Permitting Scrvices (DPS), the applicant's consultant will need to obtain the approval of grade establishments for new public streets from DPS.
- 6. Wells and septic systems cannot be located within the right of way nor slope or drainage easements.

Ms. Catherine Conlon Preliminary Plan No. 1-20061230 Date July 19 Page 2

- 7. The plan should provide horizontal alignment for all interior public streets which satisfies this design speed.
- 8. Proposed interior public streets sections shown on the plan are not in conformance with County design criteria and standards for publicly maintained streets. The preliminary plan will need to show roadways designed in accordance with M-NCPPC and MCDPW&T requirements. Any proposed modifications to the applicable DPWT standards will need to be accompanied by appropriate supporting documents for our approval.
- 9. Perform the necessary adjustments so driveway aprons do not cross the property lines.
- 10. On public streets, limit driveways for each house to one.
- 11. Re-classify Street "K" and Street "B" past cul-de-sac as "private" or common driveway. Please note DPWT access policy typically allows no more than four (4) lots to be served by a common driveway.
- 12. Record plat to reflect denial of access along Berryville Road.
- Berryville Road is included in the Rustic Roads Program, as such, coordination with Rustic Roads Committee will be necessary and every effort must be made to preserve the significant features within the right of way of that roadway.
- 14. Waiver from the Montgomery County Planning Board for overlength cul-de-sac(s).
- 15. Waiver from the Montgomery County Planning Board for lot(s) on a private right of way per item#11 above.
- 16. The owner will be required to submit a recorded covenant for the operation and maintenance of private streets, storm drain systems, and/or open space areas prior to MCDPS approval of the record plat. The deed reference for this document is to be provided on the record plat.
- 17. Access and improvements along Darnestown Road (MD 28) as required by the Maryland State Highway Administration.
- 18. Trees in the County rights of way species and spacing to be in accordance with the applicable DPWT standards. A tree planting permit is required from the Maryland Department of Natural Resources, State Forester's Office [(301) 854-6060], to plant trees within the public right of way.
- 19. Please coordinate with Department of Fire and Rescue about their requirements for emergency vehicle access.
- 20. Provide driveway access for the stormwater management facilities per associated DPS guidelines.
- 21. Public Improvements Agreement (PIA) will be an acceptable method of ensuring construction of the required public improvements within the County right of way. The PIA details will be determined at the record plat stage. The PIA will include, but not necessarily be limited to, the following improvements:

Ms. Catherine Conlon Preliminary Plan No. 1-20061230 Date July 19 Page 3

- A. Street grading, paving, shoulders, side drainage ditches and appurtenances, and street trees along interior public streets.
- B. Permanent monuments and property line markers, as required by Section 50-24(e) of the Subdivision Regulations.
- C. Erosion and sediment control measures as required by Section 50-35(j) and on-site stormwater management where applicable shall be provided by the Developer (at no cost to the County) at such locations deemed necessary by the Department of Permitting Services (DPS) and will comply with their specifications. Erosion and sediment control measures are to be built prior to construction of streets, houses and/or site grading and are to remain in operation (including maintenance) as long as deemed necessary by the DPS.
- D. Developer shall ensure final and proper completion and installation of all utility lines underground, for all new road construction.
- E. Developer shall provide street lights in accordance with the specifications, requirements, and standards prescribed by the Traffic Engineering and Operations Section.

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact me at sam.farhadi@montgomerycountymd.gov or (240) 777-6000.

Sincerely,

Sam Farhadi, P.E., Senior Planning Specialist Development Review Group

Traffic Engineering and Operations Section Division of Operations

m:/subdivision/farhas01/preliminary plans/ 1-20061230, Butz Property.doc

Enclosures ()

Michael Schwalb, Michael Harris Homeplace
Kim McCary, Rogers Consulting
Robert Brewer, Lerch, Early & Brewer
Joseph Y. Cheung; DPS RWPPR
Christina Contreras; DPS RWPPR
Sarah Navid; DPS RWPPR
Shahriar Etemadi; M-NCPPC TP
Gregory Leck, DPWT TEOS
Raymond Burns, MSHA
Preliminary Plan Folder
Preliminary Plans Note Book



FIRE MARSHAL COMMENTS

DATE:

JANUARY 22, 2007

TO:

RYAN WHITE, RODGERS CONSULTING

FROM:

MARIE LABAW

RE:

BUTZ PROPERTY 1-20061230

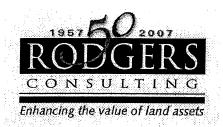
PLAN APPROVED.

- 1. Review based only upon information contained on the plan submitted <u>01-19-07</u>. Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
- 2. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.

Department of Permitting Services

MNCPPC-MC

cc:



S. Marie LaBaw, P.E. Montgomery County Fire & Rescue Fire Code Enforcement 255 Rockville Pike, 2nd Floor Rockville, Maryland 20850 Pire Department Access Keview

Review based only upon information contribut on this plan. Does not cover unsatisfactory layout resulting from omissions, errors, or failure of Detely January 4,2007 s on this plan. Correction of such unsatisfactory layout to afford require access will be required if found upon inspection after installation.

5-91 43 mm 1/22/69

Re: Butz Property

MNCPPC No. 120061230

Pond Storage Capacity Certification

RCI Project No.:0713B1

Dear: Ms. LaBaw

On behalf of our client, Michael Harris Homes Inc., we are certifying that the existing pond located on the Butz Property, as shown on the Fire & Rescue exhibit, providing fire protection water storage capacity, is adequate for the proposed 45 unit preliminary subdivision plan, pending approval by the MNCPPC.

Our understanding is that the existing pond was designed by the Army Corp. of Engineers, and was constructed to meet the requirements set forth by Montgomery County Department of Permitting Services. The pond is constructed just below an existing spring head, which was improved with concrete stabilization, and has a drain tile conveyance under the existing driveway, providing a continuous flow of water to and through the pond. The average depth of the existing pond is approximately 8-10 feet, which would provide under normal circumstances 1,244,672 gallons. Understanding that the required fire protection capacity is below 4% of the total volume within this pond, these numbers indicate that even under drought and freezing conditions, the pond would provide more than adequate water storage capacity for fire protection, within the proposed subdivision. Should you have any questions please contact me at 301-948-4700.

Sincerely,

Rodgers Consulting, Inc.

Frank G. Bossong IV/ Senior Vice President

Director of Operations

Cc: Kim McCary
Tom Butz
Harris Schwalb

Robert Brewer

n:\projdocs\713b1\mcfrs\mcfrs_water storage letter.doc

Water Supply Calculation Form

Project:

Butz - Homplace

Project #: 713-B1

Date:

1/3/2007

Per NFPA 1142 (2007 edition)

pg. 1142-6, -7, -8

Variables

volume of structure (ft 3) occupancy hazard classification construction classification #

70' deep x 100' wide x 27' tall

* Horse Stables (18)

Worst case - classification --

47,250.00 = (WS min) gallons required

The Department Auges Meniew

Existing Pond Water Capasity:

W/S Area

Pond Ft3

166,400 (8' depth)

Avail. Pond Gallons =

1,244,672

Review based only upon information contained on this plan. Does not cover unsatisfactory layout resulting from omissions, errors, or failure to clearly indicate conditions on this plan. Correction 20,800 (180' x 130') of such unsatisfactory layout to afford required access will be required if found upon inspection after installation.

Required WS min equals 3.9 % of availale water volume within the existing pond.

*Note: Using an (OHC = 7) for Dwellings within the above formula, the required (WS min) gallons = 40,500.00.

TO:

Cathy Conlon, Subdivision Supervisor, Development Review Division Richard Weaver, Subdivision Review, Development Review Division

FROM:

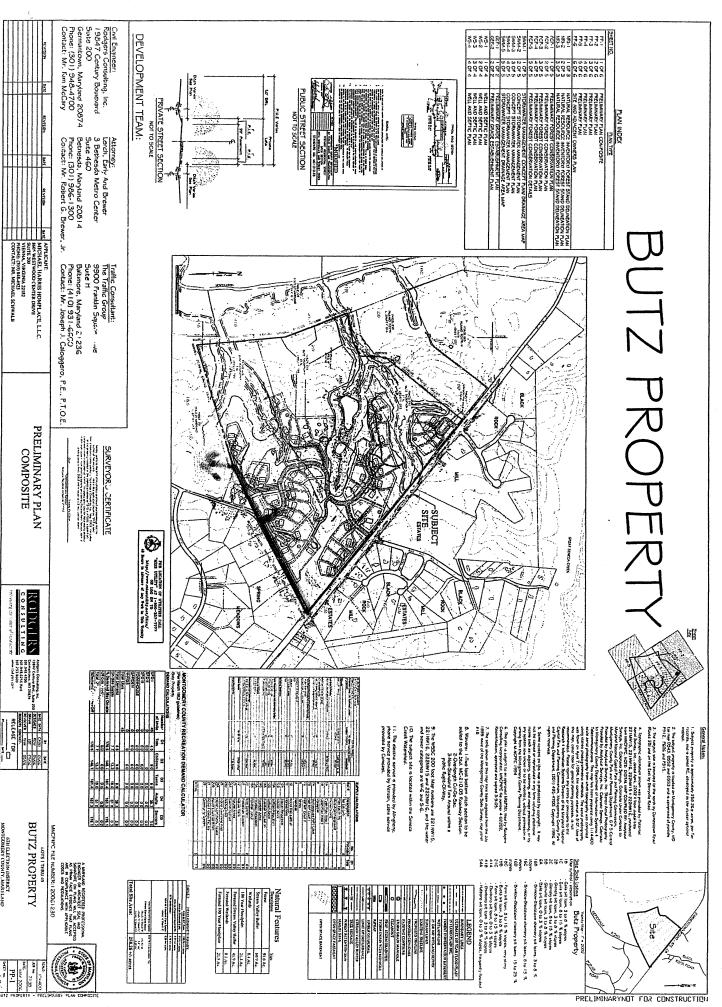
Doug Powell, Plan Review Coordinator, Park Planning and Resource Analysis Unit, Countywide Planning Division

RE:

Park and Natural Resources Issues involved in plan 1-20061230, Butz Property

1-20061230 Butz Property

- Provide a 25' wide Public Use Trail Easement along the southern border of the property to allow access to adjacent parkland (Seneca Creek State Park) from Route 28 and Barryville Road.
- Consider dedication of open space along the west portions of the property to State of Maryland for addition to Seneca Creek State Park. Contact Bernie Wentker at DNR at (410) 260-8438.
- Provide adequate public access from the community to the adjacent parkland.



יחשֿ-Montgonery\Butz (Honeplace)\dmg\Prelininary Fians\dj-CDVER_PRELIH.dmg | 6/13/2006 | 33610 AH ES



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett County Executive

January 3, 2007

Reginald Jetter Acting Director

Ms. Pam Shank Rodgers Consulting 19847 Century Boulevard, Suite 200 Germantown, MD 20874

Re:

Stormwater Management CONCEPT Request

for Butz Property

Preliminary Plan #: 120061230

SM File #: 226544

Tract Size/Zone: 302.1 acres/RC Total Concept Area: 80.4 acres

Lots/Block: 1-45

Parcel(s): P939,P912,P606,P315 Watershed: Great Seneca Creek

Dear Ms. Shank:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept consists of on-site channel protection measures via three dry ponds; on-site water quality control via seven surface sand filters, one biofilter and water quality swales; and onsite recharge via water quality swales and rooftop disconnect.

The following **items** will need to be addressed **during** the detailed sediment control/stormwater management plan stage:

- Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
- A detailed review of the stormwater management computations will occur at the time of detailed plan review.
- 3. An engineered sediment control plan must be submitted for this development.
- All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of MDE approved material.
- 5. The entire length of public streets "C" and "B" from cul-de-sac to cul-de-sac will have swales with a two foot flat bottom cross section as per the approval letter from Joe Cheung.

This list may not be all-inclusive and may change based on available information at the time.

Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 is not required.

This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this



office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact William Campbell at 240-777-6345.

Richard R. Brush, Manager

Water Resources Section

Division of Land Development Services

RRB:dm

CC:

C. Conlon S. Federline

SM File # 226544

QN -onsite;

Acres: 80.4

Acres: 80.4

QL - onsite;

Recharge is provided