



MCPB  
Item # 6  
6/14/05

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
Office of the Chairman, Montgomery County Planning Board



**MEMORANDUM**

**DATE:** June 8, 2005

**TO:** Montgomery County Planning Board

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

**FROM:** Richard A. Weaver, Planner Coordinator *RAW*  
Development Review

**REVIEW TYPE:** Preliminary Plan Review

**APPLYING FOR:** Subdivision of Parcel 142

**PROJECT NAME:** Hunter Property

**CASE #:** 1-05044

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

**ZONE:** RDT

**LOCATION:** Located on the south side of West Hunter Road, approximately  
3,200 feet southwest of Darnestown Road

**MASTER PLAN:** Agricultural and Rural Open Space (AROS)

**APPLICANT:** John R. Hunter, Jr.

**ENGINEER:** Benning and Associates, Inc.

**FILING DATE:** October 7, 2004

**HEARING DATES:** April 14, 2005 and June 16, 2005

**STAFF RECOMMENDATION:** Approval, pursuant to Chapter 50 of the Montgomery County Subdivision Regulations, and subject to the following conditions:

- 1) Approval under this preliminary plan is limited to two (2) one-family detached dwelling units.
- 2) Prior to recordation of plat, Applicant shall record a Deed for the parcel being created from the parent parcel stipulating that no additional density may be taken from the parcel. Record Plat to reference the recorded deed
- 3) At the time of record plat application, applicant to submit a notarized affidavit indicating that two TDR's are available for the two lots. Record Plat to contain a note indicating that two TDR's were available on the parent parcel and have been retained to create the two lots.
- 4) Compliance with the conditions of approval of the MCDPS stormwater management approval dated October 25, 2004.
- 5) Compliance with conditions of MCDPWT letter dated April 4, 2005 unless otherwise amended.
- 6) Record Plat shall reflect dedication of the right-of-way for West Hunter Road along the property frontage to the full width mandated by the Agricultural and Rural Open Space Master Plan.
- 7) Record plat to reflect common ingress/egress and utility easements over all shared driveways.
- 8) Compliance with conditions of MCDPS (Health Dept.) septic approval dated March 17, 2005.
- 9) Other necessary easements.

**SITE DESCRIPTION:**

The subject property, identified as Parcel 142 ("Subject Property"), is on the south side of West Hunter Road, approximately 3,200 feet southwest of Darnestown Road (Attachment A). The Subject Property contains 55.28 acres and is zoned RDT. The property also contains a stream and associated stream valley buffer.

**PROJECT DESCRIPTION:**

This is an application to subdivide the Subject Property into two (2) lots (25 acres and 27.8 acres) for the construction of two (2) one-family detached dwellings and continued farm use (Attachment B). The application also includes creation of a 2.2 acre deed parcel around existing farm support buildings which would be retained in ownership by the applicants who also own, and live on an adjacent parcel of land. The new lots will have access via a shared driveway from West Hunter Road. The lots will be served by private well and septic systems. Lot 1 would use a standard trench septic system and Lot 2, a sand mound system.

The Subject Property is currently farmed by the applicant who intends to continue using the property in this manner until such a time that the lots are sold or passed on to other family members. An agricultural exemption from forest conservation has been granted for the property based upon the applicant's filing of an Agricultural Declaration of Intent committing to continued agricultural use for at least five years.

#### **PREVIOUS PLANNING BOARD ACTION:**

This preliminary plan application was previously considered by the Planning Board at the April 14, 2005 hearing. In deliberation, members of the Planning Board expressed concern that the proposed lot configuration, and the potential locations shown for future residences on the lots (Attachment C), did not preserve usable, agricultural portions of the property as is the priority in the RDT zone. The applicant, Mrs. Jane Hunter, was not present at the hearing, but was represented by her engineer. In consideration of the Board's concerns, the applicant's engineer requested that the hearing be deferred so that he and the applicant could discuss possible solutions. The Board granted the request for deferral.

#### **ANALYSIS OF CURRENT PRELIMINARY PLAN**

Since the previous public hearing, the applicant has revised the configuration of the two proposed lots. The revised configuration now proposes one panhandle lot with minimum frontage on West Hunter Road. The new configuration results in two lots which are rectangular in shape and contain wider, more contiguous field areas. The applicant continues to propose a lot layout that maximizes the size of each lot (25 acres and 27.8 acres, respectively). The large lot configuration leaves open the possibility for future houses located in the middle of the lots. The applicant has specifically requested the ability to maintain this flexibility for house location because it would allow more flexibility in the types of agricultural uses that could be placed on the lots. By way of example, the applicant pointed out to staff in a field visit to farms on smaller properties adjacent to the subject property that equestrian facilities are more typically designed with a house in the middle of pastures to maintain views and enhance security.

Although the proposed plan does not cluster lots or limit the locations of houses, staff agrees with the applicant that the proposed lots can be used for agricultural purposes, as many 10-40 acre properties adjacent to the Subject Property currently are. Staff believes that with the appropriate taxation assessment, each lot can qualify as a farm under the definitions found in the Zoning Ordinance and the Subdivision Regulations. The AROS plan recognizes the economic viability of 25-acre parcels (lots). The applicant anticipates continuation of agriculture on these lots and suggests that family members may live in the proposed homes. It is appropriate to note here that the applicant does have the ability to request child lots on the subject property, but has not done so. Child lots allowed under Section 59-C-9.74 would be additional to any lots that could be achieved under the standard one unit per twenty-five acres allowed under the RDT zone. With this subdivision and the resulting change to the parent parcel, the applicant is

relinquishing any future rights to child lots and developing only the minimum allowed by zoning.

Staff believes the proposed preliminary plan conforms to the recommendations for preservation of agricultural uses which are included in the Agricultural and Rural Open Space Master Plan. Both proposed lots are large enough to support agricultural uses and, with the revised configuration of lot lines, provide more contiguous field area than the previous plan. The proposed density on the property is less than the applicant might achieve if they had chosen to exercise their right to lots for their two children in addition to the one lot per twenty-five acres permitted under the zone.

**CONCLUSION:**

Staff finds that Preliminary Plan #1-05044, Hunter Property, conforms to the Agricultural and Rural Open Space and meets all necessary requirements of the Subdivision Regulations. Staff further finds that the size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision. 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	Previous Preliminary Plan
Attachment D	Citizen Correspondence