



MCPB  
Item #8  
10/10/05

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




**MEMORANDUM**

**DATE:** September 29, 2005

**TO:** Montgomery County Planning Board

**VIA:** Rose Krasnow, Chief  
Development Review Division

**FROM:** Catherine Conlon, Supervisor   
Development Review

**REVIEW TYPE:** Preliminary Plan Review  
**APPLYING FOR:** Subdivision of Parcel 563

**PROJECT NAME:** Butz Property  
**CASE #:** 120050340 (formerly 1-05034)  
**REVIEW BASIS:** Chapter 50, Montgomery County Subdivision Regulations

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**ZONE:** RDT  
**LOCATION:** Located on the east side of Sugarland Road, approximately 2,600 feet south of Whites Ferry Road  
**MASTER PLAN:** Agricultural and Rural Open Space (AROS)

**APPLICANT:** Robert & Thompson Butz  
**ENGINEER:** CAS Engineering

**FILING DATE:** September 9, 2004  
**HEARING DATE:** October 10, 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 three (3) one-family detached dwelling units.
- 2) At the time of record plat application, applicant to submit a notarized affidavit indicating that three TDR's are available for the three lots. Record Plat to contain a note indicating that three TDR's were available on the parent parcel and have been retained to create the three lots.
- 3) Compliance with the conditions of approval of the preliminary forest conservation plan approved by Environmental Planning staff on August 10, 2005.
- 4) Compliance with the conditions of approval of the MCDPS stormwater management approval dated June 15, 2005.
- 5) Compliance with conditions of MCDPWT letter dated January 30, 2005 unless otherwise amended.
- 6) Record Plat shall reflect dedication of the right-of-way for Sugarland Road along the property frontage to the full width mandated by the Agricultural and Rural Open Space Master Plan.
- 7) Compliance with conditions of MCDPS (Health Dept.) septic approval dated August 10, 2005 with correction dated September 2, 2005.
- 8) Applicant to provide a 25' wide Public Use Trail Easement along the entire southern edge of proposed Lot 1 to facilitate non-motorized pedestrian/equestrian access from Sugarland Road to Seneca Creek State Park and the trails therein. Easement to be adequately delineated and signed to identify it for public use.
- 9) Other necessary easements.

**SITE DESCRIPTION:**

The subject property, identified as Parcel 563 ("Subject Property"), is on the south side of Sugarland Road, an exceptional rustic road, approximately 2,600 feet south of Whites Ferry Road (Attachment A). The Subject Property contains 125.18 acres and is zoned RDT. The property includes two small creeks, stream buffers, floodplains, and wetlands. The streams and wetlands separate the property into 4 distinctive open field areas that are used for farming. The Butz family has farmed the property for more than 40 years. In the most recent growing season, the farm was planted with food grade soybeans. In the past, the family has grown hay, wheat, barley, corn, and soybeans on the farmland. The subject property includes 14 acres of onsite forest primarily located within the wetlands and stream buffers. The subject property is entirely within the Seneca Creek watershed, a Use I-P watershed.

**PROJECT DESCRIPTION:**

This is an application to subdivide the Subject Property into three (3) lots for the construction of three (3) one-family detached dwellings (Attachment B). As originally filed, the application was proposing five lots. After completion of septic testing and further analysis of the

property, the application was revised to eliminate two of the proposed lots. The currently proposed three lots are 70.91 acres, 39.33 acres and 13.8 acres in size, respectively; with the remaining 1.14 acres of the gross tract being dedicated for road right-of-way. The two large lots will be occupied by the owners of the property who plan to continue farming. A "Declaration of Intent" to continue agricultural use has been filed for these two lots in association with the forest conservation exemption that has been granted. The smaller third lot is large enough to support agricultural activities, but is not to included in the agricultural declaration of intent. A forest conservation plan with associated protection easements is, therefore, required for this lot.

The new lots will have access from Sugarland Road via private driveways. A Public Use Trail Easement has been requested along the southern property boundary to provide access for pedestrians and equestrians to the adjacent Seneca Creek State Park. The lots will be served by private wells and private septic sand mound systems.

## **RELATIONSHIP TO THE MASTER PLAN**

The Agricultural and Rural Open Space (AROS) Master Plan establishes agriculture as the preferred use for land in the Rural Density Transfer (RDT) zone. Staff believes the proposed lot configuration on the preliminary plan promotes the continued use of the property for agricultural purposes. Large contiguous areas of agricultural fields will be maintained on two of the three lots. The size of the third lot is logical given its location at the northern tip of the property and the stream valley which separates this 13.8 acres from the rest of the site. Although smaller in size, this lot would be suitable for smaller-scale agricultural uses. The proposed plan meets the goal of the master plan for agricultural preservation and the requirements for the RDT zone.

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. The proposed density on the property is less than the one lot per twenty-five acres permitted under the zone.

## **ENVIRONMENTAL ANALYSIS**

The 125 acre site includes 7 acres of stream buffers, 6.6 acres of wetlands, 2.4 acres of floodplains, and 14.3 acres of existing forest. The majority of the wetlands and floodplains have been maintained as natural areas as part of the existing farming operations. Portions of the designated stream buffers are currently part of the agricultural fields. The agricultural fields will remain in the buffers and conservation easements have not been required except for those associated with the forest conservation plan on proposed Lot 3.

### **Forest Conservation**

The applicant submitted a preliminary forest conservation plan as part of the preliminary plan of subdivision. Under section 22A-12(f) of the Montgomery County code properties in agricultural resource areas must plant or retain a certain percentage of the forest onsite. Section 22A-5(b) of the Montgomery County Code allows exemptions from the forest conservation

requirements for agricultural properties. The applicant has submitted an "Agricultural Declaration of Intent" to continue farming approximately 111-acres of the subject property. This corresponds to Lots 1 and 2, which are 71 acres and 40 acres in size. The remainder of the property, 13.8 acres, which corresponds to lot 3, is subject to a forest conservation plan. The applicant will meet the afforestation threshold on lot 3 by preserving all existing forest on lot 3 (1.6-acres) and planting 1.86-acres of new forest within the unforested stream buffer on lot 3. The existing and new forest on lot 3 will be permanently protected by a Category I forest conservation easement.

**CONCLUSION:**

Staff finds that Preliminary Plan #1-05034, Butz Property, conforms to the Agricultural and Rural Open Space Master Plan and meets all necessary requirements of the Subdivision Regulations as summarized in attached Table 1. 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:**

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|--------------|-----------------------|
| Attachment A | Vicinity Map          |
| Attachment B | Preliminary Plan      |
| Attachment C | Agency Correspondence |

TABLE 1. Preliminary Plan Data Table and Checklist

Plan Name: <b>BUTZ PROPERTY</b>				
Plan Number: <b>120050340</b>				
Zoning: <b>RDT</b>				
# of Lots: <b>3</b>				
# of Outlots: <b>0</b>				
Dev. Type: <b>3 one-family detached dwelling units</b>				
PLAN DATA	Required/Permitted	Provided	Verified	Date
Minimum Lot Area	40,000 sq.ft.	13.8 ac, 39.33 ac, and 70.91 ac	CAC	9/29/05
Lot Width	125 ft.	Meets minimum	CAC	9/29/05
Lot Frontage	25 ft.	Meets minimum	CAC	9/29/05
Setbacks			CAC	9/29/05
Front	50 ft. Min.	Meets minimum	CAC	9/29/05
Side	20 ft. Min.	Meets minimum	CAC	9/29/05
Rear	35 ft. Min.	Meets minimum	CAC	9/29/05
Height	50 ft. Max.	May not exceed maximum	CAC	9/29/05
Max Resid'l d.u. or Comm'l s.f. per Zoning	5 dwelling units	3 dwelling units	CAC	9/29/05
MPDUs	Not required	0	CAC	9/29/05
TDRs	3	3	CAC	9/29/05
Site Plan Req'd?	No	No	CAC	9/29/05
<b>FINDINGS</b>				
<b>SUBDIVISION</b>				
Lot frontage on Public Street	Yes	Yes	CAC	9/29/05
Road dedication and frontage improvements	Dedication of 40' from centerline of Sugarland Road	Dedication has been provided	By agency memo	1/30/05
Environmental Guidelines	Yes	Yes	By staff memo	9/22/05
Forest Conservation	Yes, Proposed Lot 3	Yes	By staff memo	9/22/05
Master Plan Compliance	Yes	Yes	CAC	9/29/05
Other	TDR available for each lot	Will be verified at record plat		
<b>ADEQUATE PUBLIC FACILITIES</b>				
Stormwater Management	Yes	Yes	By agency memo	6/15/05
Well and Septic	Yes	Wells and Sand Mounds	By agency memo	9/10/05
Local Area Traffic Review	N/a	N/a	CAC	9/29/05
Fire and Rescue	No comments <sup>1</sup>			

<sup>1</sup> Agency received 30-day opportunity to review plans. No comments received within the review period is understood as acceptance of the plan.