

MCPB
Agenda Item #10
Date: 4/7/05



MEMORANDUM

DATE: April 1, 2005

TO: Montgomery County Planning Board

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

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

REVIEW TYPE: Pre-Preliminary Plan of Subdivision

APPLYING FOR: Request to proceed under Section 50-35A(a)(8), minor subdivision process.

PROJECT NAME: MDR - Shiloh

CASE #: 7-05017

REVIEW BASIS: Chapter 50, Montgomery County Subdivision Regulations.

ZONE: RDT

LOCATION: Located on the west side of Big Woods Road, approximately 4000 feet northwest of Beallsville Road.

MASTER PLAN: Agricultural and Rural Open Space

APPLICANT: Shiloh, L.L.C.

HEARING DATE: April 7, 2005

STAFF RECOMMENDATION: Approval of Two (2) Lots to be Platted Under the Provisions of Section 50-35A(a)(8) of the Montgomery County Subdivision Regulations and a 144 acre remainder parcel, Subject to the Following Conditions:

- 1) Compliance with Montgomery County Forest Conservation law (agricultural exemption) prior to recordation of plat.
- 2) Record Plat to reflect dedication 35 feet from centerline on Big Woods Road.
- 3) Record Plat to reference a recorded easement indicating that density for these lots was removed from the parent parcel, Parcel 368 at liber 5894, folio 643 and that two TDR's were available on the parent parcel for creation of the two lots.
- 4) Plat to reflect a liber and folio reference for the off-site ingress/egress and utility easement for proposed Lot 1.
- 5) Applicant to submit a complete record plat application for both lots to M-NCPPC within ninety days of the date of issuance of the opinion for this pre-preliminary plan.
- 5) Other necessary easements to be reflected on plat.

SITE DESCRIPTION:

The subject property is located on the south and west side of Big Woods Road, approximately 4000 feet northwest of the intersection with Beallsville Road. The property contains 189.86 acres and is zoned RDT. A two-story house currently exists in the southern portion of the site. The property has 88 acres of forest and is bisected by a stream that flows to the Potomac River. The property operates as a private farm.

PROJECT DESCRIPTION:

This pre-preliminary plan is being brought before the Planning Board as a request to allow the two lots to be platted under the minor subdivision process. The application seeks approval of two (2), twenty-five (25) acre lots in the RDT zone to be platted pursuant to Section 50-35A(a)(8) of the Subdivision Regulations. Section 50-38A(a)(8) establishes the ability to plat up to five (5) lots (see "d." below) in the RDT zone that average five (5) acres in size contingent upon the submittal of a pre-preliminary plan that is approved by *either* the Planning Board or the Planning Board staff. If the applicant wishes to create lots that exceed the five acre average, the pre-preliminary plan *must* be approved by the Planning Board.

In addition to the requirement for pre-preliminary plan approval, applications for minor subdivision under Section 50-35A(a)(8) must meet certain other criteria that are stated below:

- a. Written approval for a proposed septic area must be received from the Montgomery County Department of Permitting Services, Well and Septic Section prior to recordation of the plat;
- b. Any required street dedications along the frontage of the proposed lot must be shown on the record plat;

- c. An easement must be recorded for the balance of the property noting that density and TDR's have been utilized for the new lots. Reference to this easement must be reflected in the record plat for the lots;
- d. Lots created in the RDT zone through the minor subdivision procedure must not exceed an average lot size of five (5) acres in size unless approved by the Planning board in the review of a pre- preliminary plan of subdivision, and
- e. Forest conservation requirements must be satisfied prior to recording of the plat.

Many requirements listed above are typically reviewed as part of a preliminary plan, but as evidenced, under the minor subdivision regulations, they are to be reviewed as part of a record plat application. The Department of Permitting Services and the Department of Public Works and Transportation will, as a matter of process, review the record plat application(s) for compliance with their requirements. Notable on the pre-preliminary plan is the possibility for the use of sand mound systems for both Lots 1 and 2. Future septic percolation testing on the property may prove sand mounds to be unnecessary and the plats would show a typical septic reserve area. Approval of septic systems is under the authority of the Department of Permitting Services. Approval of a stormwater management concept plan will occur simultaneously with sediment and erosion control plans at the time of building permit.

DISCUSSION:

Although each of these lots could qualify as a farm (with verification of proper tax assessment), and thereby be exempt from platting under Section 50-9(a)(1) of the County's Subdivision Regulations, the State regulations regarding septic approval require that the lots be platted. The minor subdivision process is an appropriate means to get the lots to the platting stage to meet the State requirement. The Planning Board will have approval authority of the record plat application.

The applicant wishes to leave the remaining 144 acres of the parent parcel as an unplatted remainder that will continue to be farmed. The applicant has requested an agricultural exemption of the forest conservation law. An Agricultural Declaration of Intent has been provided that requires continued agricultural use of the property for at least five (5) years to meet the forest conservation exemption requirements. The Agricultural Declaration of Intent encumbers all of the remainder parcel and the two lots proposed under this application.

The remainder parcel will continue to operate as a farm under the forest conservation exemption. The remainder parcel can receive building permits for agricultural structures (barns, storage buildings, etc.) currently allowed under Section 50-20 of the Subdivision Regulations. Future requests for any residential structure(s) on the remainder parcel will need to be evaluated for consistency with Chapter 50 and Chapter 59. It is likely that future home sites will also need to be platted consistent with State septic requirements. Staff would evaluate the potential to continue the forest conservation

exemption when/if applications for subdivision or minor subdivisions are received and reviewed.

The Agricultural and Rural Open Space Master Plan states that agriculture is the preferred use in the RDT zone. This application is consistent with the Plan, in that it creates two lots of twenty-five acres each and a large parcel that will continue to operate as a farm or individual farms. The lots, as proposed, meet the size and dimensional requirements for lots in the RDT zone as outlined in Chapter 59, Section 59-C-9.41, the Montgomery County Zoning Ordinance. The application complies with the requirements of Section 50-35A(a)(8) of the Montgomery County Subdivision Regulations regarding minor subdivisions.

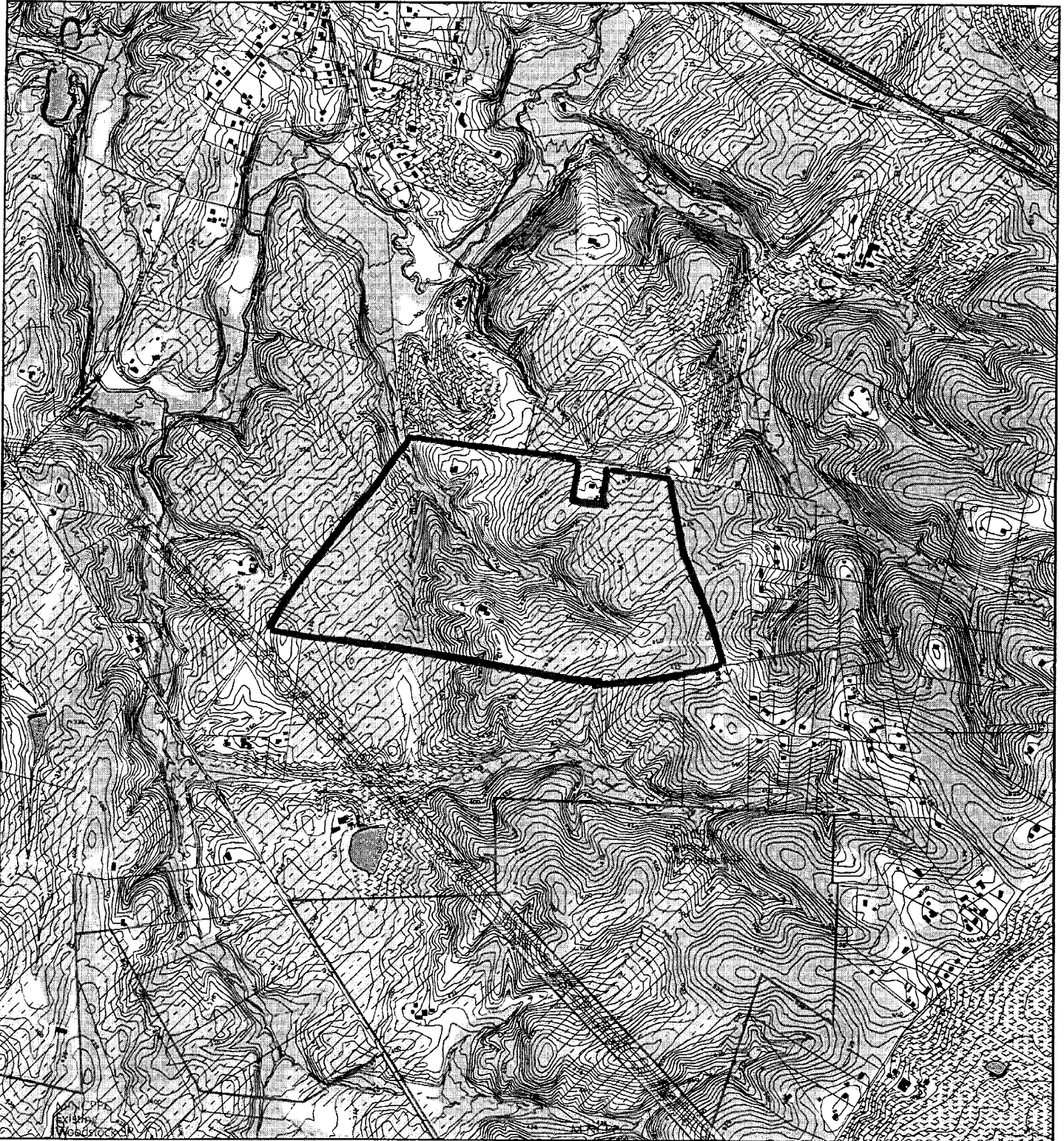
CONCLUSION:

This request complies with all applicable ordinances and regulations regarding the subdivision of land in Montgomery County. Based on the discussion above, staff recommends approval of the request to allow this application to proceed through the minor subdivision process, subject to the conditions cited above. The applicant will need to satisfy all conditions prior to recordation of the plat(s).

ATTACHMENTS:

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| Attachment A | Vicinity Map |
| Attachment B | Preliminary Plan |

MDR - SHILOH PROPERTY (7-05017)



Map compiled on January 24, 2005 at 1:38 PM | Site located on base sheet no - 229NW20

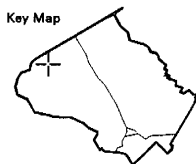
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Key Map



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1 inch = 1500 feet
1 : 18000