

**Stella's Dream Farm - Pre-Preliminary Plan No. 720150170**

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**Staff Report Date: 7-8-16**

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**Description**

**Stella's Dream Farm - Pre-Preliminary Plan No. 720150170:**

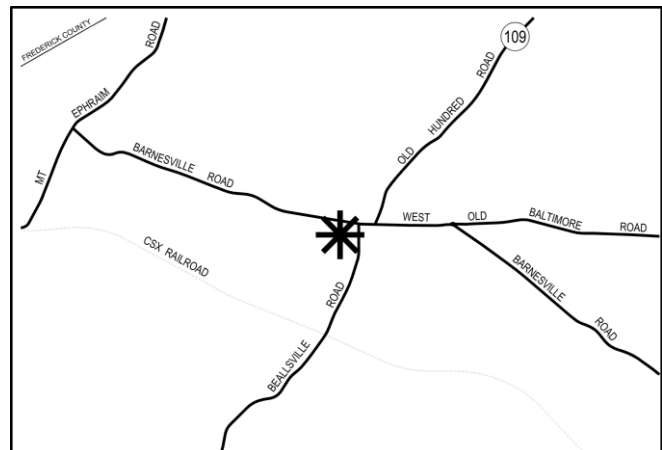
Request for one, 4.2 acre lot without frontage and a 141.58 acre farm remainder, 145.78 total acres; 19100 Barnesville Road, approximately one mile west of West Harris Road; Agricultural Reserve Zone, Agricultural and Rural Open Space (AROS) Master Plan.

**Submittal Date:** May 27, 2015

**Applicant:** Linda Pepe ("Applicant")

**Review Basis:** Chapter 50

**Staff Recommendation:** Approval of the pre-preliminary plan prior to submittal of a minor subdivision record plat pursuant to Section 50-35A(a)(8) with conditions.



**Summary**

The Application requests the Planning approve the pre-preliminary plan prior to the submittal of a record plat for one lot, through the minor subdivision process, to permit a lot without street frontage.

- Section 50-33A of the County Code, Alternative procedure for pre-application submissions to seek Planning Board approval to submit a minor subdivision record plat for a lot without street frontage.
- Section 50-35A(a)(8) of the County Code, up to five lots are permitted under the minor subdivision procedure in the RDT (now AR) zone if a pre-preliminary plan is approved by the Planning Board or Planning Board Staff.
- Chapter 50-29(a)(2) of the County Code, the Board may approve not more than two lots without frontage on a private driveway with additional findings.

## SECTION 1 – RECOMMENDATIONS AND CONDITIONS

**RECOMMENDATION:** Approval of a lot without frontage, subject to the following conditions:

1. This Pre-Preliminary Plan is limited to one (1) lot.
2. Prior to recordation of plat, a deed of easement must be recorded on the farm remainder noting that density and a TDR has been used for the approved lot. This easement must be referenced on the record plat.
3. The record plat must reference a shared ingress-egress easement over the existing shared driveway providing access to the proposed lot and show all other necessary easements.
4. Prior to recordation of plat, the Applicant must provide an affidavit for Staff approval of the availability of one TDR for the lot shown on the plat, one TDR for the existing main house on the farm remainder parcel, and one TDR for the accessory tenant house.
5. The record plat(s) must contain the following note:  
*“Agriculture is the preferred use in the Rural Density Transfer Zone. All agricultural operations shall be permitted at any time, including the operation of farm machinery and no agricultural use shall be subject to restriction because it interferes with other uses permitted in the Zone.”*

## SECTION 2 – SITE LOCATION AND ANALYSIS

### SITE DESCRIPTION

The Stella’s Dream Farm property is located on the south side of Barnesville Road, approximately one mile west of the intersection with West Harris Road, at address 19100 Barnesville Road. The total property is 145.78 acres in size and is located in the AR zone (Figure 1). The use of the property is primarily agricultural, and contains three existing dwellings, including a main house, a tenant house, and a second main dwelling, which will be located on the proposed lot. Barnesville Road which runs across the property’s northern boundary is a Rustic Road and the CSX and MARC train tracks form the site’s southern property boundary. The Property is in the Little Monocacy River Watershed (Use I-P) and contains two east-west running streams, over 23 acres of forest buffers, approximately 11 acres in floodplain, and 10 acres that are wetlands. The 4.2 acre proposed lot has none of the aforementioned environmental features and already has an existing dwelling and area of lawn associated with the dwelling. The property is surrounded on all sides by land located with the AR zone and the predominant land use in the vicinity is agriculture and some very low density residential.

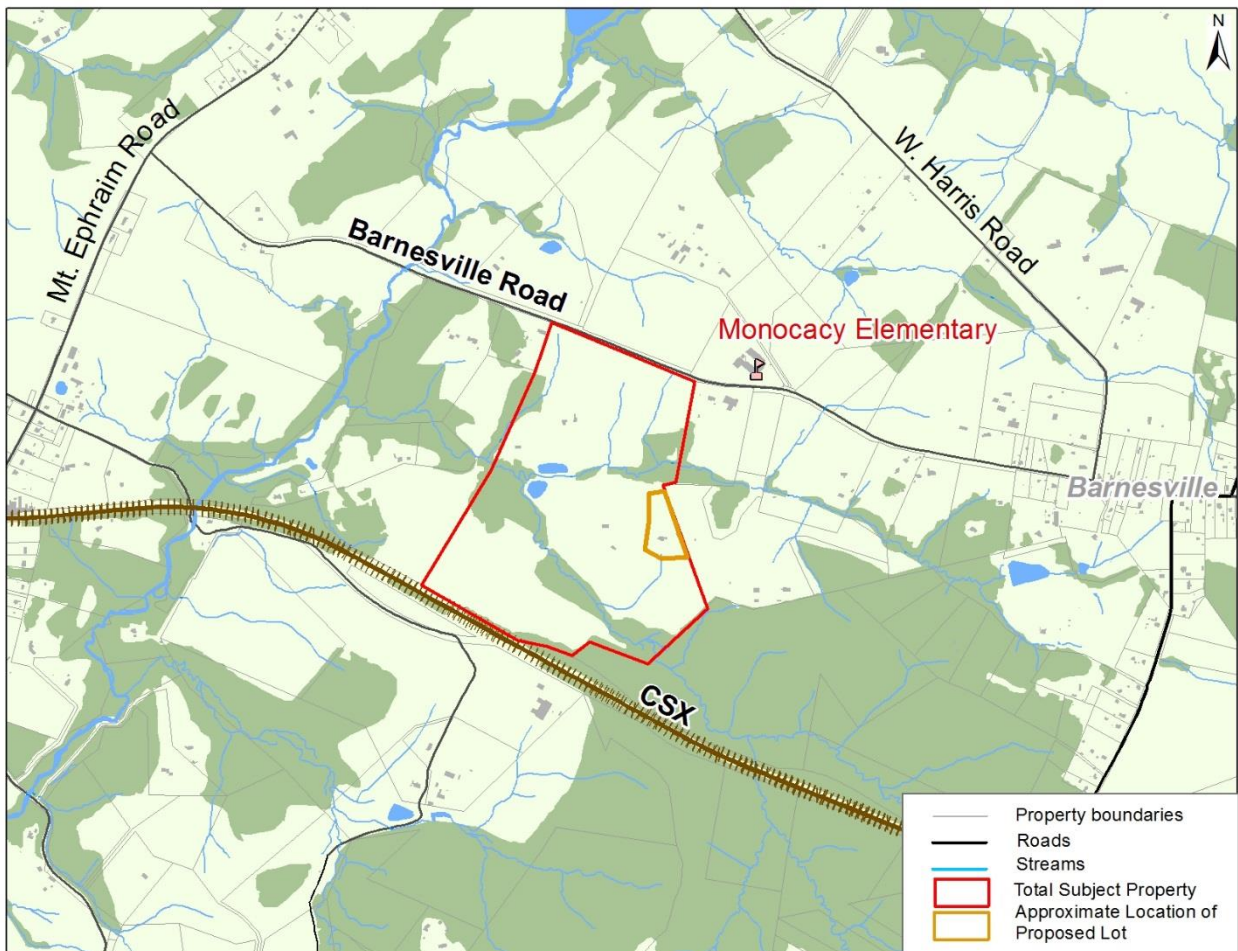


Figure 1

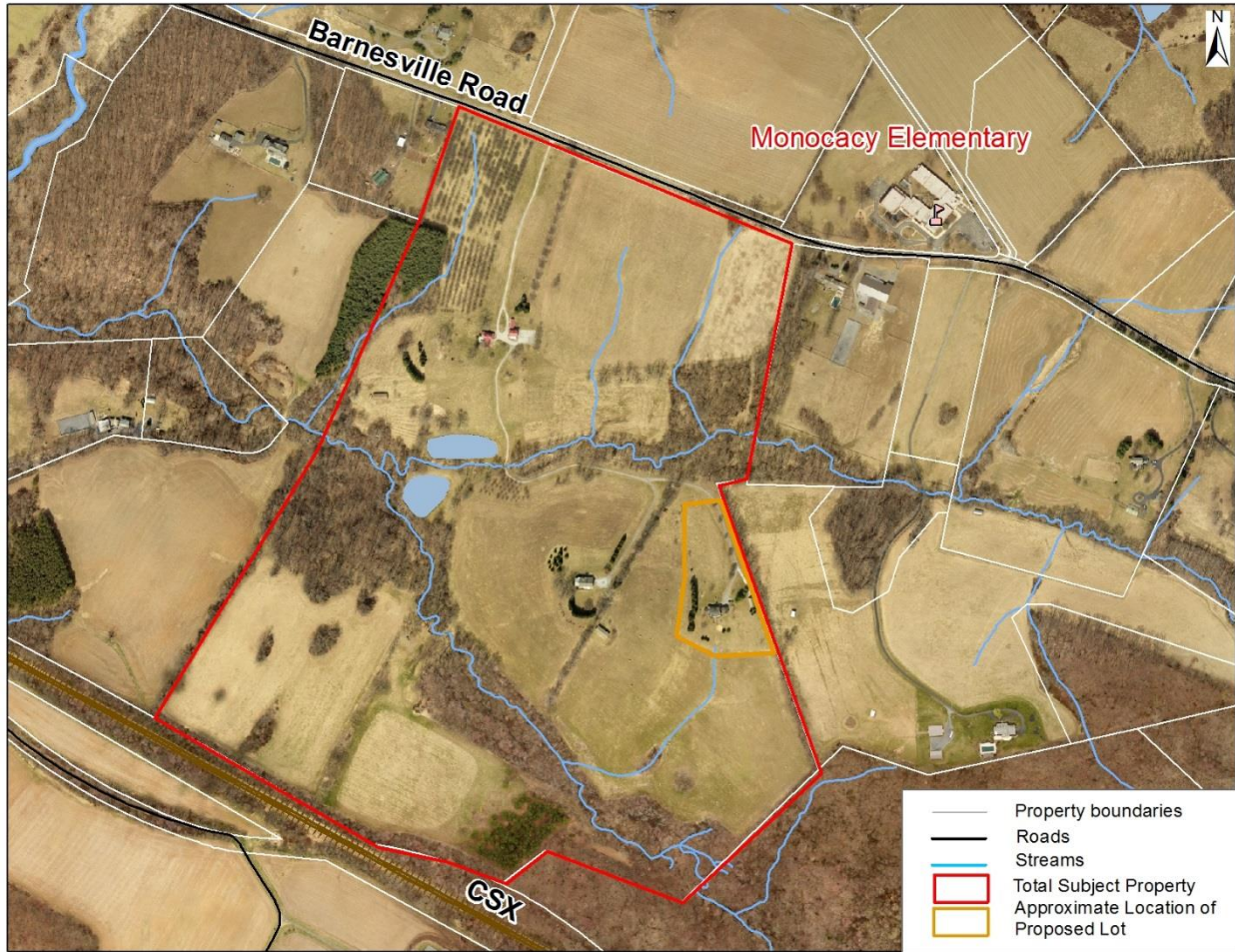


Figure 2

**HISTORY**

In 1981, the 145 acre property was part of a larger approximately 220 acre property. In 1997, 31.64 acres was deeded off with a TDR and a dwelling was built. An additional 42.84 acres was transferred to a separate owner in 2006 with a TDR but this property remains undeveloped. The remaining 145 acres subject to this application contains the main farm house, a tenant house, and another dwelling which is proposed to be located on its own lot.

**PROJECT DESCRIPTION**

The current Application, designated Pre-Preliminary Plan number 720150170, Stella’s Dream Farm, requests approval of one (1) lot, at 4.2 acres, to accommodate an existing one-family detached dwelling (Attachment 1). The Application is submitted under the minor subdivision process outlined in Section 50- 35A(a)(8) of the Subdivision Regulations. This Section permits creating up to five lots in the RDT (now AR) zone, “if a pre-preliminary plan is submitted and approved by either the Planning Board or Planning Board staff.” In this case, because the proposed lot does not have frontage on a public street, Staff is bringing the Application to the Planning Board as a 50-33A, Binding Pre-Preliminary Plan, to make the finding that approving this lot without frontage is appropriate as detailed in Section 50-29(a)(2) of the Subdivision Regulations.

The proposed lot is located on the eastern edge of the 145 acre parent property. Access for the proposed lot, the existing main house and accessory tenant house, and the farm remainder will be from the existing shared driveway to Barnesville Road. A shared use and access easement will be required prior to approval of the plat to guarantee future access. The proposed lot already has an approved septic system and a well that serves the existing house. The Applicant only wishes to record the proposed 4.2 acre lot and does not propose to record any of the 141.58 acre farm remainder.

The Application includes an approved forest conservation exemption No. 42015210E which was approved under Chapter 22A-5(m) based on a real estate transfer to provide a security, leasehold, or other legal or equitable interest in a portion of a lot or parcel (Attachment 2).

### **SECTION 3 – ANALYSIS AND FINDINGS PRE-PRELIMINARY PLAN 720150170**

*1. The Preliminary Plan substantially conforms to the Master Plan.*

The Application is located within the boundary of the Functional Master Plan for the Preservation of Agriculture and Rural Open Space of 1980 (“Master Plan”). The Master Plan contains goals and objectives for the preservation of critical masses of farmland and rural open space in the county. The Master Plan encourages the preservation of farmland and establishes policy that will contribute to the continuation of farming. The property falls within the Western Sector of the Master Plan which was recognized in 1980 as having very little non-farm development with large undeveloped and agriculturally workable areas that lend opportunity for continuing agricultural practices. The Master Plan recommends the entire Western Sector, including the subject property, be zoned RDT and established it as a possible Transfer of Development Rights (TDR) sending area.

The vast majority of the subject property is used for agriculture or is environmentally sensitive. The proposed lot will be created around an existing one-family detached dwelling, including the area surrounding the house that is already maintained as a private lawn and contains the well and septic system. Approval of this lot does not measurably change the amount of land area that is used for agricultural resources, therefore, Staff finds the Application is in substantial conformance to the Master Plan.

In addition to the Master Plan finding, the approval of the proposed lot will not result in any new buildings or changes to the driveway access on Barnesville Road which is identified as a rustic road in the Rustic Roads Functional Master Plan. Therefore, there are no impacts to the adjacent rustic road.

*2. Public facilities will be adequate to support and service the area of the approved subdivision.*

The proposed lot is for an existing dwelling; no new building permits are required, therefore there are no new impacts to transportation or to the other public facilities and services. No transportation improvements are required. Access will continue to be provided by the existing driveway within an access easement and because the proposed lot has no frontage, there will be no dedication of Barnesville Road. Wells and septic systems were approved and already exist (Attachment 3) as do other necessary utilities for telecommunications and electric service.

*3. The size, width, shape, and orientation of the approved lots are 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.*

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50 "Subdivision Regulations" and Chapter 59 "Zoning Ordinance". The lot meets the dimensional requirements for area, frontage, width and setbacks in the AR zone. The Planning Board has historically sought to reduce the size of new residentially-used lots in the AR zone to be the minimum necessary to accommodate the house and an on-site well and septic in order to maximize agricultural opportunities elsewhere on farmed properties. Generally, that has resulted in lots that are under three acres in size. However, in this instance, the proposed 4.2-acre lot envelops the existing house and the associated lawn area that has long been removed from agricultural productivity. The proposed lot has also been agreed to by all parties involved with the parent property and reflects the established and reasonable use of the land around the house for lawn, wells, septic systems, landscaping and usable outdoor family space.

#### Section 50-29(a)(2) Lot Frontage Requirements

The Subdivision Regulations require all lots to abut on a public street, except as otherwise provided for in the Zoning Ordinance. In exceptional circumstances, the Planning Board may approve not more than two lots on a private driveway without public street frontage if the following provisions are met:

- a. *Proper showing is made that such access is adequate to serve the lots for emergency vehicles;*

The lot being created is for an existing single dwelling; fire and rescue has indicated they have no comments on applications that do not include new development. The existing shared driveway is made of asphalt and there are multiple opportunities for emergency or other vehicles to pull off to let others pass in the event of an emergency.

- b. *There is access to install public utilities;*

The dwelling on the proposed lot is serviced by an existing private well and septic system and is already served by other utilities.

- c. *Access is available for other public services, and;*

The lot is proposed around an existing dwelling which has already been connected to available telecommunications and electric utilities.

- d. *It is not detrimental to future subdivision of adjacent lands.*

The lot, as proposed, in no way hinders the future subdivision of adjacent lands or further subdivision of the farm remainder. The location of the lot is to the far side of the parent property and is not located in a position that would preclude public road or utility access to the neighboring properties.

The proposed lot will accommodate an existing dwelling that already has access off of an existing private driveway. There is one other primary residential dwelling that shares this driveway and an additional accessory tenant dwelling; both of which will be located on the farm remainder. The existing dwelling and proposed lot are located over 1,500 feet removed from Barnesville Road. It is not desirable to create a pipe stem of this length for the sole purpose of providing frontage because it would substantially increase the total lot size, likely above the five-acre maximum desired by Section 50-35A(a)(8) for Minor Subdivision. Additionally, if the lot were to surround the existing driveway, it would bifurcate the farm

remainder and create setback issues for the existing farmhouse. Additionally, if the pipe stem were created for the exclusive purpose of creating frontage, it would be a very long, narrow (25 ft. wide) strip of land that would have to cross environmentally sensitive lands and could lead to possible disputes over ownership and use (Figure 3). Staff recommends the Planning Board approve the creation of a lot without direct frontage on a public street.



Figure 3

Section 50-35A(a)(8) (Minor Subdivision) requirements

The proposed lot is to be platted pursuant to Section 50-35A(a)(8) of the Subdivision Regulations. This section establishes the ability to plat up to five (5) lots in the RDT (now AR) zone through the minor subdivision process after Planning Staff or Planning Board approval of a pre-preliminary plan. As discussed previously, Staff has elected to bring this Application to the Planning Board for a binding decision on a lot without frontage. Applications for minor subdivision under Section 50-35A(a)(8) must meet the following criteria:

- 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;*

The Montgomery County Department of Permitting Services, Well and Septic Division issued an approval of the existing well and septic system on May 23, 2016.

- b. *Any required street dedications along the frontage of the proposed lot(s) must be shown on the record plat;*

The proposed lot does not front on a public street and the remainder of the farm will be unplatted, therefore no dedication is required.

- 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;*

By condition of the Resolution considered with this Application, the Applicant is required to record an easement on the balance of the property noting that a TDR was utilized for the new lot.

- 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*

The proposed lot is 4.2 acres in size.

- e. *Forest conservation requirements must be satisfied prior to recording of the plat.*

Forest conservation is satisfied. The property obtained a forest conservation exemption No. 42015210E based on a real estate transfer to provide a security, leasehold, or other legal or equitable interest in a portion of a lot or parcel.

#### Density in the RDT zone

Per Section 59-C-9.41 of the Zoning Ordinance, only one single-family dwelling unit per 25 acres is permitted in the RDT zone. A development right has to be retained for each single family dwelling. The parent Stella's Dream Farm property is approximately 145.78 acres in size and would have been assigned 29 TDRs as part of the rezoning in 1980 that established the old RDT zone.

As conditioned, prior to recordation of a plat the Applicant must provide verification for Staff approval of the availability of a development right for the lot shown on the plat and the plat must include a note referencing such. An easement must also be recorded for the balance of the Property (farm remainder) noting that density has been used for proposed Lot 1, and the easement must be referenced on the record plat for the lot.

- 4. *The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code Chapter 22A.*

#### Environmental Guidelines

The Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) #42015210E was submitted for the parent property. The NRI/FSD identifies the environmental constraints and forest resources on the Subject Property. There are 38.01 acres of forest, 10.1 acres of wetlands, 10.8 acres of 100-year floodplain, 30.02 acres of stream buffer, and multiple streams. Within the area of the proposed 4.2 acre lot there are no significant environmental features, and construction activities for a one-family detached dwelling have already been completed.



### Forest Conservation

The Applicant has demonstrated that, in accordance with Section 50-35A(a)(8)(e) of the Subdivision Regulations, forest conservation can be satisfied prior to record plat. The property was granted an exemption from forest conservation (No. 42015021E) (Attachment 2). The exemption, under Section 22A- 5(m) is for a real estate transfer to provide a security, leasehold, or other legal or equitable interest in a portion of a lot or parcel, if the transfer does not involve a change in land use, or new development or redevelopment, with associated land disturbing activities; and both the grantor and grantee file a declaration of intent. The proposed lot will be created around an existing dwelling, therefore, no land disturbing activities are proposed, and both the grantor and grantee filed a declaration of intent with M-NCPPC prior to the approval of the exemption.

5. *All stormwater management requirements shall be met as provided in Montgomery County Code Chapter 19, Article II, titled "Storm Water Management," Sections 19-20 through 19-35.*

Because no new construction is proposed with this Application, no stormwater requirements are necessary under Chapter 19.

## **SECTION 4 – CITIZEN CORRESPONDENCE AND ISSUES**

The applicant notified adjacent and confronting property owners of the pre-preliminary plan submission, as required. As of the date of posting of the Staff Report, staff has not received any responses.

## **SECTION 5 – CONCLUSION**

Staff recommends that the Planning Board approve this Application for the purposes of allowing it to proceed as a minor subdivision, and to permit the creation of a lot that does not have public street frontage. The lot proposed under this Application meets all of the requirements under Section 50-38A(a)(8) of the Subdivision Regulations pertaining to the minor subdivision process. The Application complies with the 1980 AROS Master Plan and is of the appropriate size shape, width and orientation to accommodate the residential use. The lot does not conflict with the continuation of agricultural uses on the farm remainder created by the subdivision of the Property.

- Attachment 1 – Pre-Preliminary Plan
- Attachment 2 – Forest Conservation Exemption
- Attachment 3 – DPS Well & Septic Approval

# Attachment 1



**LEGEND:**

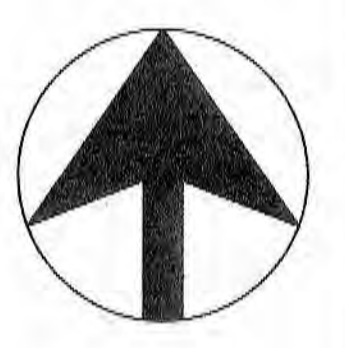
CANOPY COVERAGE	
EXISTING BUILDING	
EXISTING / PROPOSED WELL	
PROPERTY LINE	
SOILS SERIES DIVIDE	
STEEP SLOPES ≥ 25%	
STREAM BUFFER	
WETLAND	
100 YEAR FLOODPLAIN	
SEPTIC AREA OUTLINE	

- GENERAL NOTES:**
1. AREA OF PROPERTY - 145.78 ACRES\*
  2. EXISTING ZONING: AR
  3. METHOD OF DEVELOPMENT- MINOR SUBDIVISION (per Section 50-35A(8))
  4. NO. OF LOTS PERMITTED - 5
  5. NO. OF LOTS PROPOSED - 1 + Farm Remainder
  6. AREA IN LOT - 4.2 AC
  7. REMAINDER AREA NOT INCLUDED IN SUBDIVISION - 141.58 AC
  8. EXISTING SEWER & WATER SERVICE CATEGORIES: S-6, W-6
  9. LOT TO BE SERVED BY PRIVATE WELLS & ON-SITE SEPTIC SYSTEMS.
  10. LOCATED IN *LITTLE MONOCACY RIVER WATERSHED* (CLASS I-P)
  11. PROPERTY LOCATED ON TAX MAPS CV343 AND CV342; WSSC GRID SHEETS 231NW19 AND 230NW19.
  12. UTILITIES (as available): Washington Gas, Verizon, Potomac Edison
  13. PROPOSED LOT IS EXEMPT FROM THE FOREST CONSERVATION LAW PER SECTION 22A-5(m) PER APPROVAL ISSUED ON 5-27-15 (42105210E).
  14. FLOODPLAIN SHOWN PER FEMA FLOODMAP PANEL 24031C0132D AND 24031C0134D FOR MONTGOMERY COUNTY.
  15. WETLANDS SHOWN PER THE NATIONAL WETLAND INVENTORY MAPS FOR MONTGOMERY COUNTY.
- \* according to survey and deed records

**ZONING STANDARDS:**

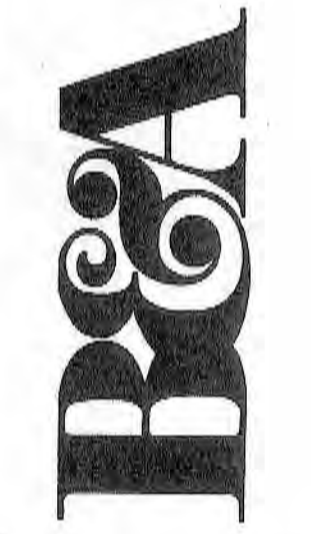
ZONE: AR	Required	Provided
Site Area	25 acres	145.78 acres
Density	1 lot / 25 ac	1 lot / 145.78 ac
Lot Area	40,000 sf	182,952 sf
Front Setback	50'	50' or more
Sideyards	20' minimum	20' or more
Rearyard	35'	35' or more
Building Height	50' maximum	50' or less
Lot Coverage	10% maximum	10% or less
Frontage	25'	0'*
Lot Width @ Building Line	125'	125' or more

\* waiver of frontage requested



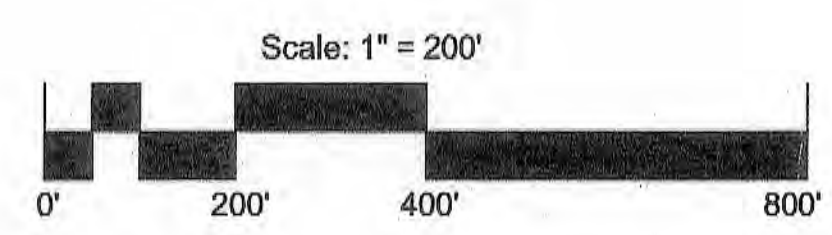
date: Rev. 1/7/16  
scale: 1" = 200'

Benning & Associates, Inc.  
Land Planning Consultants  
8933 Shady Grove Court  
Gaithersburg, MD 20877  
(301) 948-0240

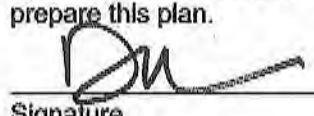


Pre-Application Plan  
**Stella's Dream Farm**  
Montgomery County, Maryland

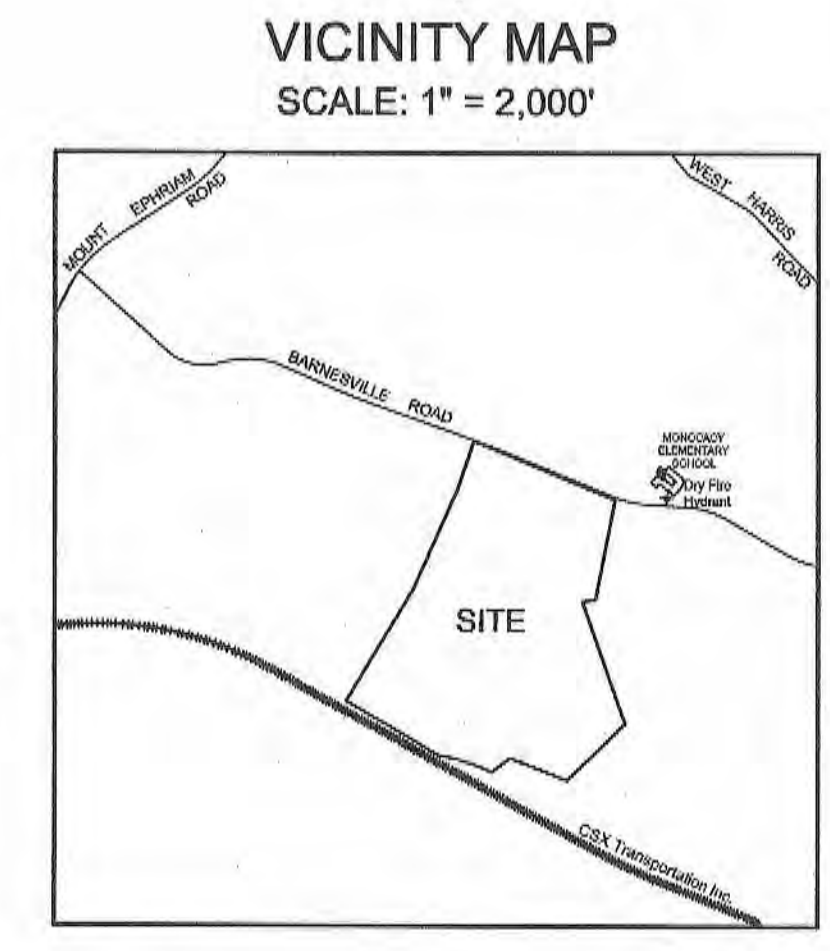
Source of Topography:  
M-NCP&PC, 2-foot contour interval maps; sheets 231NW19 and 230NW19.

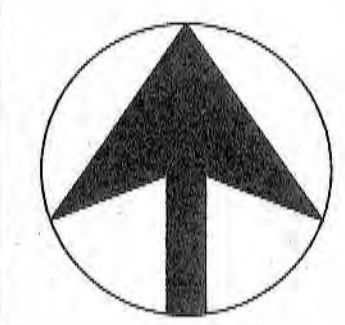


Test Site Certification Statement:  
I hereby certify that the test sites which appear on this plan are shown accurately from available records obtained from Montgomery County Department of Permitting Services files. No new tests were conducted to prepare this plan.

 2-10-16  
Signature Date

PREPARED FOR:  
**Stella's Dream Limited Partnership**  
c/o Linda P. Pepe  
P.O. Box 381  
19100 Barnesville Road  
Barnesville, Maryland 20838  
(301) 972 - 8266



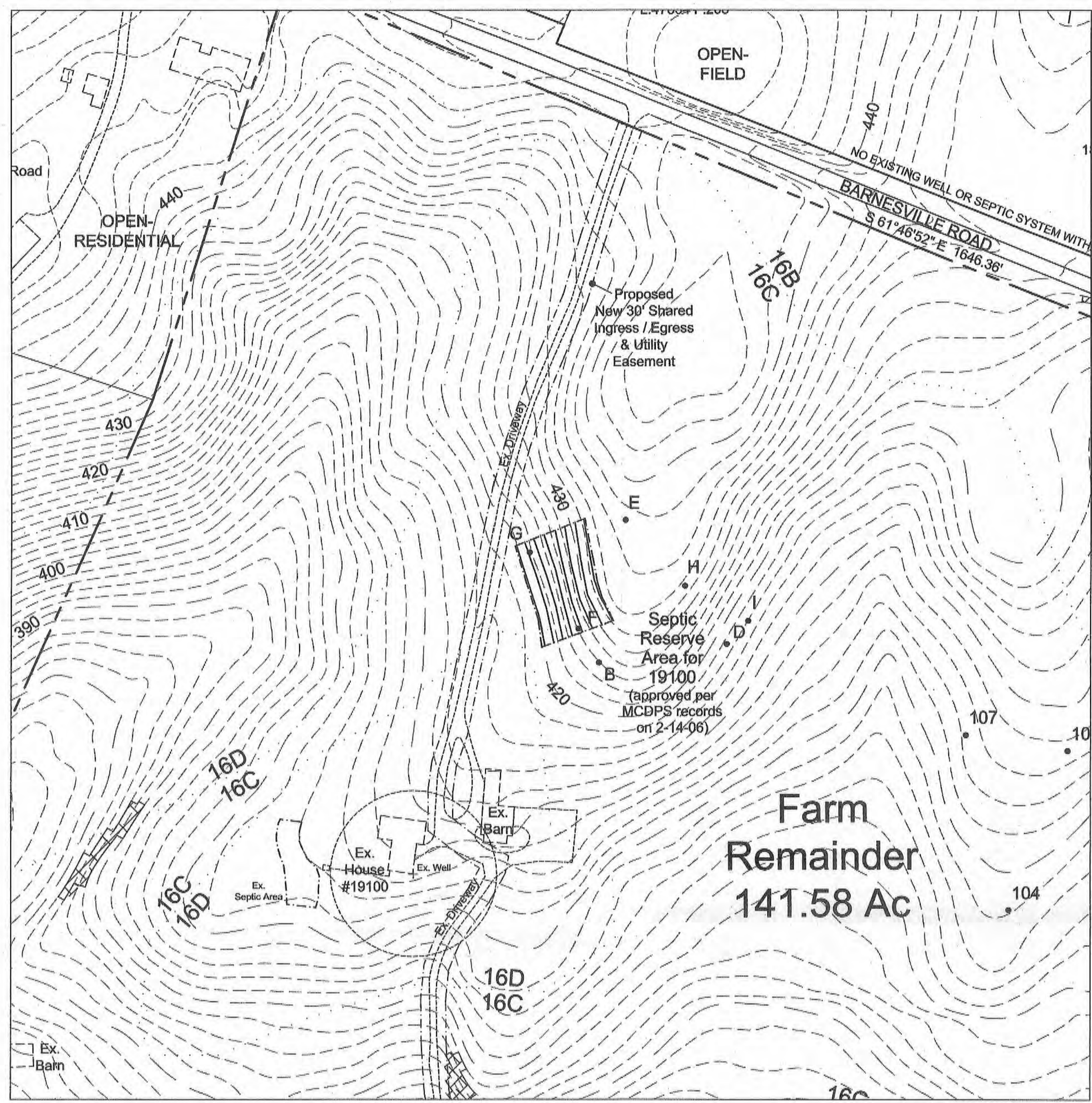
date: Rev. 1/7/16

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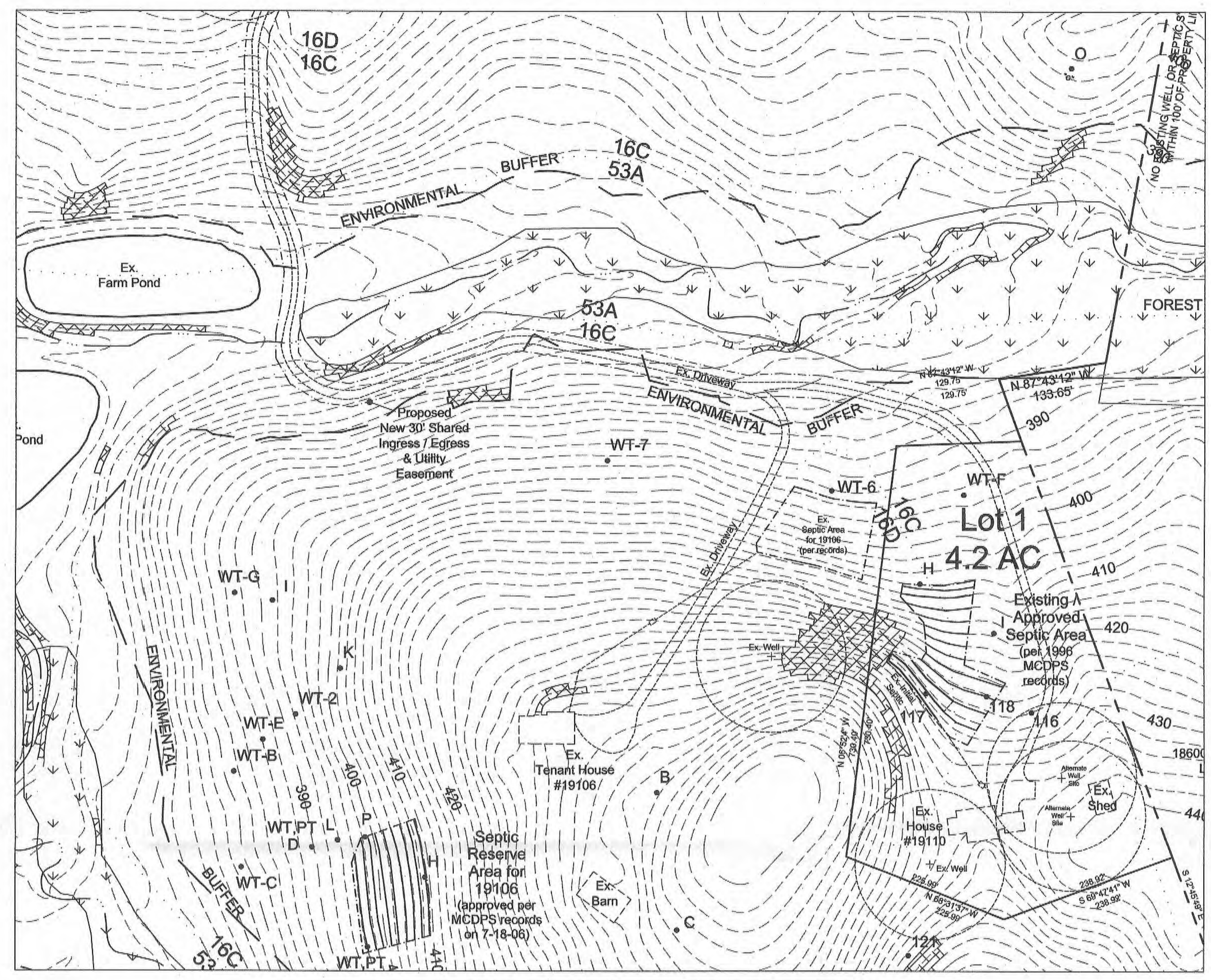
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Pre-Application Plan  
**Stella's Dream Farm**  
Montgomery County, Maryland



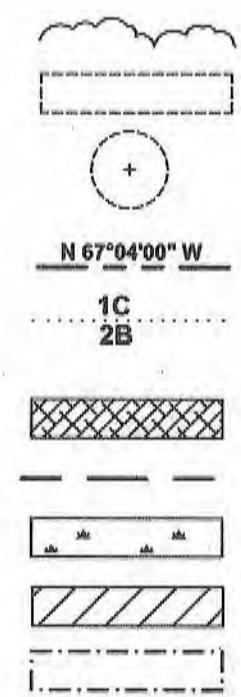
DETAIL VIEW: Main House & Shared Access  
1" = 100'



DETAIL VIEW: Proposed Lot, Tenant House & Shared Access  
1" = 100'

LEGEND:

- CANOPY COVERAGE
- EXISTING BUILDING
- EXISTING / PROPOSED WELL
- PROPERTY LINE
- SOILS SERIES DIVIDE
- STEEP SLOPES ≥ 25%
- STREAM BUFFER
- WETLAND
- 100 YEAR FLOODPLAIN
- SEPTIC AREA OUTLINE

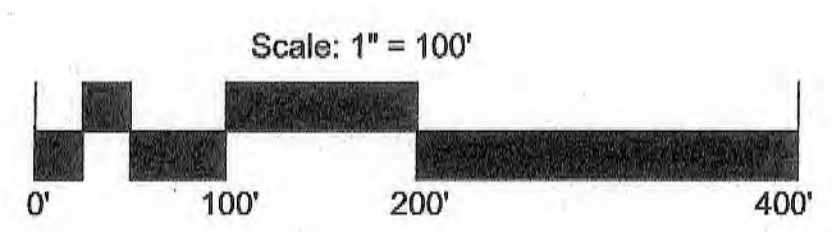


SEWAGE DISPOSAL SYSTEM DESIGN DATA:

Lot / House #	# Bedrooms	Test Site	Time (min.)	Depths	Test Site	Time (min.)	Depths	Test Site	Time (min.)	Depths	Ave. Rate	Inv. Low Fixture	Inv. In	Inv. Out	Inv. Beg.	Initial Length	Depth of Stone	Total Length
Main (19100)	4	E	18	3' & 13'	F	30	3.5' & 13.5'	G	27	3' & 15'	25	Existing	Existing	Existing	429.0	250'	4'	1,000'
Tenant (19106)	5	H	30	3' & 14'	P	24	3' & 15'	F	25	5' & 14'	27	Existing	Existing	Existing	406.0	338'	4'	1,344'
Lot 1 (19110*)	6	117	16	3' & 11'	118	24	5' & 15'	H	15	3' & 13'	19	Existing	Existing	Existing	Existing	277'	4'	1,100'

\*house constructed as a tenant house in 1996 with permit issued under address 19110 Barnesville Road

Source of Topography:  
M-NCP&PC, 2-foot contour interval  
maps: sheets 231NW19 and 230NW19.



Test Site Certification Statement:  
I hereby certify that the test sites which appear on this plan are shown accurately from available records obtained from Montgomery County Department of Permitting Services files. No new tests were conducted to prepare this plan.  
*DM* 2-10-16  
Signature Date



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

May 27, 2015

Ms. Linda P. Pepe  
19100 Barnesville Road  
Barnesville, MD 20838

Re: Forest Conservation Exemption Request  
Property Name: Stella's Dream Farm  
Plan Number: 42015210E

Dear Ms. Pepe:

Based on the review by staff of the Montgomery County Planning Department, the Forest Conservation Exemption Request submitted on May 15, 2015 for the plan identified above, is confirmed.

The project site is exempt from Article II of the Montgomery County Code, Chapter 22A (Forest Conservation Law), Section 22A-5(m) because this activity covers a real estate transfer to provide a security, leasehold, or other legal or equitable interest in a portion of a lot or parcel if;

- (1) the transfer does not involve a change in land use, or new development or redevelopment, with associated land disturbing activities; and
- (2) both the grantor and grantee file a declaration of intent.

Any unauthorized changes from the approved exemption request may constitute grounds to rescind or amend any approval actions taken and to take appropriate enforcement actions. If you have any questions regarding these actions, please feel free to contact me by email at [douglas.johnsen@montgomeryplanning.org](mailto:douglas.johnsen@montgomeryplanning.org) or at (301) 495-4712.

Sincerely,

A handwritten signature in blue ink that reads "Doug Johnsen".

Doug Johnsen, PLA  
Senior Planner  
Development Application and Regulatory Coordination Division

Cc: 42015210E  
Josh Maisel (Benning & Associates, Inc.)

# ATTACHMENT 3



## DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett  
*County Executive*

Diane Schwartz Jones  
*Director*

### MEMORANDUM

May 23, 2016

TO: Cathy Conlon, Development Review  
Maryland National Capital Park and Planning Commission

FROM: Diane R. Schwartz Jones, Director  
Department of Permitting Services

SUBJECT: Status of Pre-Preliminary Plan: Stella's Dream Farm  
720150170

This is to notify you that the Well & Septic Section of MCDPS approved the plan received in this office on April 22, 2106.

Approved with the following reservations:

1. The record plat must be at the same scale as the preliminary plan, or submit an enlargement of the plat to match the preliminary plan.
2. The record plat must show the septic reserve area as it is shown on this plan.

If you have any questions, please contact Heidi Benham at (240) 777-6318.