



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

MCPB No. 16-081  
Pre-Preliminary Plan No. 720150170  
Stella's Dream Farm  
Date of Hearing: July 21, 2016

JUL 26 2016

**RESOLUTION**

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review a pre-preliminary plan application for a minor subdivision under Section 50-35A; and

WHEREAS, on May 27, 2015, Linda Pepe ("Applicant") filed an application for approval of a pre-preliminary plan of subdivision of property that would create one lot and one farm remainder on 145.78 acres of land in the AR zone, located at 19100 Barnesville Road, located on the south side of Barnesville Road, approximately one mile west of West Harris Road ("Subject Property"), in the Rural West Policy Area and the Preservation Of Agricultural and Rural Open Space Functional Master Plan ("Master Plan") area; and

WHEREAS, Applicant's pre-preliminary plan application was designated Pre-Preliminary Plan No. 720150170, Stella's Dream Farm ("Pre-Preliminary Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated July 8, 2016, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on July 21, 2016, the Planning Board held a public hearing on the Application at which it heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the hearing the Planning Board voted to approve the Application, subject to certain conditions, by the vote certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Pre-Preliminary Plan No. 720150170 to create one lot and one farm remainder on the Subject Property, subject to the following conditions:<sup>1</sup>

<sup>1</sup> For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

Approved as to  
Legal Sufficiency:

*Nick Dumais/CS 7/14/16*  
MNCPPC Legal Department  
www.MCParkandPlanning.org E-Mail: mcp-chairman@mncppc.org

8787 Georgia Avenue, Prince Georges, Maryland 20910 Chairman's Office: 301.495.4695 Fax: 301.495.1320

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."

BE IT FURTHER RESOLVED that having considered the recommendations and findings of its Staff as presented at the hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

1. *The Pre-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 Subject 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 and the Master Plan recommends the entire Western Sector, including the Subject Property, be zoned RDT.

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The vast majority of the Subject Property is used for agriculture or is environmentally sensitive and 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 agriculturally workable, therefore the Planning Board finds the Application in conformance with 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 approved 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 already exist 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 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 3 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 approved lot also 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 2 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 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 approved 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 surrounds 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 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 existing dwelling and 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 5-acre maximum desired by Section 50-35A(a)(8) for Minor Subdivision. If a lot was created to follow the existing driveway, it would bifurcate the farm remainder and create setback issues for the existing farmhouse. If a pipe stem was created directly to Barnesville Road for the exclusive purpose of creating frontage, it would create a very long and 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. Therefore, the Planning Board approves the creation of a lot without direct frontage on a public street.

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

The lot will 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. The Planning Board approves this Application to create 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 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 this Resolution, 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 lot is 4.2 acres in size.

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

Forest conservation requirements are satisfied. The Subject 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.

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

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 Subject Property was granted an exemption from forest conservation (No. 42015021E). 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 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.*

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

BE IT FURTHER RESOLVED that this Pre-Preliminary Plan will remain valid for 60 months from its initiation date (as defined in Montgomery County Code Section 50-35(h)), and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Pre-Preliminary Plan must be recorded in the Montgomery County Land Records, or a request for an extension must be filed; and

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JUL 26 2016 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

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**CERTIFICATION**

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner Presley, seconded by Commissioner Dreyfuss, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Dreyfuss, Presley, and Fani-González voting in favor at its regular meeting held on Thursday, July 21, 2016, in Silver Spring, Maryland.

  
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Casey Anderson, Chair  
Montgomery County Planning Board