



PLANNING COMMISSION

TO: Planning Commission Members
VIA: Robert S. Cohn, AICP, Planning Commission Administrator *RC*
FROM: Olivia Vidotto, Planner *[Signature]*
PC DATE: January 20, 2010
RE: **SD 00-08, Homestead, Fencing Requirement**

BACKGROUND:

The Planning Commission granted preliminary approval of this subdivision on January 17, 2001. Condition 11, Section II of the Preliminary Approval Letter required fencing to be installed between the proposed subdivision lots and the adjacent parcel, Parcel 89, the Sarah Smith, LLC property. This requirement was also reflected on the Homestead Plat Two, Lots 9-19 (recorded at KPS 2/403) under Note #8.

DISCUSSION:

The requirements for fencing in the Zoning Ordinance in place at the time of approval were, "Fencing such as cattle fencing and chain link fencing shall be required adjacent to all active farms and Agricultural Preservation District (APD) to protect farming operations from intruders (i.e., dogs and off road vehicles) that can cause damage to crops and farm machinery."

To determine if parcels (those not in an APD), adjacent to a proposed subdivision need fencing, staff has always referred to the Land Use category by the Maryland State Assessments & Taxation. Parcels that are shown as Agriculture have had applications submitted stating they are an active farm or in forest management. There are required qualifications that must be met for Tax Assessments to grant an Agriculture assessment on a parcel and then verified before an Agricultural assessment is granted. These qualifications are reviewed every three years for compliance and also when a property changes ownership.

CONCLUSION:

The adjacent parcel was assessed Agriculture at the time that staff reviewed the subdivision. Nine years later, the current tax records show that the parcel is now assessed Residential (the acreage and ownership have remained the same). Based on the change in assessment, staff recommends that the fencing requirement be deleted from Condition 11, Section II of the Preliminary Approval provided that the applicant submits a revised plat (Homestead Plat Two) for recording that removes the fencing requirement from Note 8.

Staff also requests that for future approvals the following conditions be required for fencing: 1) an easement shall be provided along the adjacent boundary for installation of the fence and any buffers; and 2) all fencing and buffers required adjacent to farms or APDs shall be installed prior to the issuance of any building permits.



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November 24, 2009

Ms. Olivia Vidotto
Dept. of Planning and Zoning
150 Main Street
Prince Frederick, MD 20678

Re: Homestead Cattle Fence

SD0008

Dear Ms. Vidotto,

On January 17, 2001 the Planning Commission granted preliminary approval of the above referenced subdivision located on Coster Road. Item #11 of the preliminary approval letter dated March 13, 2001 (attached) required fencing to be installed along the boundary line between the subdivision and Parcel 89, the Sarah Smith, L.L.C., property. This requirement was based on the provisions of Section 5-1.03.6 of the zoning ordinance in place at the time which stated "Fencing such as cattle fencing and chain link fencing shall be required adjacent to all active farms and Agricultural Preservation Districts to protect farming operations from intruders (i.e., dogs and off road vehicles) that can cause damage to crops and farm machinery."

At that time the Planning Commission had the authority to modify this provision, and others, to address conflicts between provisions or to address unique site constraints. I do not recall if I, or our engineering representative, asked the Planning Commission for a modification at that time but, if we did we were apparently unsuccessful.

Listed below are a few facts regarding the subdivision and the fence:

1. The cattle fence was bonded (approximately an \$800.00 cash bond).
2. The fence was not installed. As project manager it was my responsibility to have it installed and it simply fell off my radar.
3. All lots and open space parcels have been conveyed.
4. I've contacted all current adjoining property owners and requested permission to enter onto their property to install the fence. Only one has granted this request.

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5. No easements were required or provided for the installation of the fence.
6. The adjoining property was not then, nor is it now, an "active" farm.

Although the fault in not installing the fence rests entirely with me, I cannot change the fact that it's not there. I also can't change the fact that most of the current owners don't want it installed. Additionally, had the fence been installed, or if it were to be installed now, it wouldn't be protecting an "active" farm or any other kind of farm.

I'd like an opportunity to make a case before the Planning Commission to eliminate the fencing requirement as soon as possible.

Sincerely,

Dean Jones

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HOMESTEAD
EXISTING ACTIVE FARM?

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