

MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION
OPEN MEETING MINUTES
November 25, 2014

TRUSTEES PRESENT:

John Draper, Jr., Chair
Bernard L. Jones, Sr., Vice Chair
Susanne Brogan, representing Treasurer Nancy Kopp
Michael Calkins
Jerome W. Klasmeier, representing Comptroller Peter Franchot
Patricia A. Langenfelder
Donald T. Moore
James (Bubby) Norris, Jr.
Eugene Roberts, Jr.
Jason Dubow, representing Secretary Richard E. Hall, Maryland Department of Planning
James Wallace, representing Secretary Earl F. Hance, Maryland Department of Agriculture

TRUSTEES ABSENT:

Jonathan C. Quinn

OTHERS PRESENT:

Bill Amoss, Harford County, Program Administrator
William Boniface, Harford County, Landowner
Michelle Cable, MALPF Administrator
Diane Chasse, MALPF Administrator
Tamekia Dent, MALPF Staff
Rama Dilip, MALPF Administrative Specialist
Angela Gaither, MALPF Secretary
Billy Gorski, Anne Arundel County, Assistant Program Administrator
Rob Gunter, Queen Anne's County, Program Administrator
Justin Hayes, Assistant Attorney General, Maryland Department of Agriculture
Kim Hoxter, MALPF Monitoring, Enforcement, and Database Coordinator
Ann Jones, Howard County, Partners for Open Space
Craig Nielsen, Assistant Attorney General, Maryland Department of Agriculture
Jeanine Nutter, Prince George's County, Program Administrator
Stephen O'Connor, Cecil County, Program Administrator
Charles Rice, Charles County, Program Administrator
Donna Sasscer, St. Mary's County, Program Administrator
J. R. Ramsburg, Jr., Frederick County, Landowner
Chana Turner, MALPF Administrator
Tyson Utt, Apex Clean Energy, Director of Development Mid-Atlantic
Carol West, MALPF Executive Director
Albert Young, Harford County, Attorney for Mr. Boniface

OTHERS PRESENT BY WEB CONFERENCING:

Craig Highfield, MALPF Board of Trustee Member (no audio)
Carmela Iacovelli, Baltimore County, Assistant Program Administrator
Ned Sayre, Harford County, Assistant Program Administrator
David Severn, Frederick County, Ramsburg Attorney
Martin Sokolich, Talbot County, Program Administrator
Katrina Tucker, Kent County, Program Administrator
John Zawitoski, Montgomery County, Program Administrator

MALPF Board Open Meeting Minutes 11-25-2014: Page 1

John W. Draper, Jr., Chair, called the meeting to order at 9:00 a.m. at the Maryland Department of Agriculture building, Annapolis, Maryland. The guests and then the Board and staff introduced themselves.

I. APPROVAL OF MINUTES

A. Approval of Open Minutes: October 28, 2014 Minutes with changes.

Motion #1: Approve minutes for October 28, 2014.

Motion: Susanne Brogan Second: Patricia Langenfelder
Status: Approved

II. ADDITION / DELETION OF AGENDA ITEMS

A. Item VII.A, Presentation - Partners for Open Space, will be presented as the first item on the agenda.

III. ANNOUNCEMENTS

A. None

IV. EASEMENT AMENDMENTS

A. OVERLAY EASEMENT REQUESTS

1. MONTGOMERY COUNTY

a) 15-00-01 (the "Easement") Evans, James & Meg ~234 acres
(Inverness Farm)

Request – Montgomery County:

Request for a retroactive approval of a 34.03 acre, 2007 forest mitigation bank overlay easement, under the 2008 MALPF Forest Mitigation Policy and Procedures.

Recommendation:

Staff recommends approval, with the required condition that the easement be amended to remove the 25-year termination clause, as stated in the governing policy. Staff recommends an additional condition to consider as part of the easement amendment process – adding the current easement subdivision language to clarify/strengthen the original easement language.

Background:

Mr. and Mrs. Evans are the original grantors of the Easement. There are two documented pre-existing dwellings located on the property and the owners are eligible to request family lots. No lot release requests have been submitted for this Easement.

The only previous request regarding this Easement was in August 2007, requesting approval for 34.03 acres to be encumbered with a forest mitigation bank easement (2007 submission and Board decision letter enclosed). At that time, the Foundation was nearing the completion of the review and establishment of its first Forest Overlay Easement Policy. The Foundation informed the Evans that their request was tabled until the Foundation approved and adopted the Forest Overlay Easement policy. The Evans were informed that when the Forest Overlay Easement policy is approved, MALPF Staff would re-submit the Evans' request for the Board to consider and make a determination under the upcoming Policy's criteria. MALPF Staff informed the Evans that they would not need to be present at the re-submission and Staff would send the formal decision of the Board in writing at that time.

Below are pertinent sections from the August 2007 Board meeting minutes:

MALPF Board Open Meeting Minutes 11-25-2014: Page 3

impact future owners, but the area impacted is still able to contribute to a productive operation through timber harvesting.]

- The amount of land proposed for mitigation, *[The size of the area is approximately 14.5% of the Easement property. The 2008 policy does not place a limit on the size of a forest mitigation easement; however, the size of the proposed area must be taken into account when the Board deliberates their decision.]*
- The resource conservation purpose being served, if applicable, *[The purpose and benefit of the forest mitigation easement, per the NRCS 2007 letter, states that "[the forest mitigation easement] will in no way interfere with the current SCWQP [Soil Conservation and Water Quality Plan], and in fact will enhance the resource stewardship currently in place on this farm."*
- The recommendation of the county agricultural advisory board, and *[The county supports the request.]*
- Whatever other considerations it finds appropriate and necessary to determine the proposal's compatibility with the Foundation's goals and objectives.

The 2008 policy also includes the following as a requirement, which the landowners have been made aware:

"If the forest mitigation/forest mitigation bank request is for a property that was approved for MALPF easement purchase by the Board of Public Works prior to October 1, 2004, and is therefore eligible to apply for termination of the easement after twenty-five years, then the owner shall be required to amend the deed of easement to waive the right to request termination of the easement after twenty-five years, and clarify the perpetual nature of the easement."

The County Advisory Board approved this request initially in 2007 and re-affirmed their previous recommendation in 2014.

Ms. Cable presented the item. Mr. John Zawitoski, Program Administrator, representing Montgomery County was available by web conferencing, and both were available for questions and comments.

Discussion:

Mr. Draper asked if the removal of the 25 year termination clause was discussed with the landowner. Mr. Zawitoski informed the Board that a County TDR easement also encumbers this property, which is perpetual, so the removal of the MALPF 25 year termination clause has no impact on the overall restrictions on this property. Mr. Zawitoski also informed the Board that updating the subdivision language in the amendment would be acceptable, as it is a clarification of the subdivision restriction and does not change the owner's ability to make a request within the exceptions provided in the easement and regulations.

Mr. Zawitoski went on to explain that the owners were planning to harvest the timber on the property, which is how the county realized the final approval was never obtained for the forest overlay easement. Mr. Zawitoski told the owners that there may be additional conditions associated with the MALPF Board approval at this time.

Motion #2 Approve a retroactive request of 34.03 acres - forest mitigation bank overlay easement, under the 2008 MALPF Forest Mitigation Policy and Procedures. Approval includes the removal of the 25-year termination clause and replacing the subdivision prohibition language in the easement amendment with the current easement language regarding subdivision to clarify the meaning of subdivision and the restrictions associated with it.

Motion: Michael Calkins Second: Bernard Jones, Sr.
Status: Approved

2. BALTIMORE COUNTY

- a) 03-97-08 (the "Easement") Marshall, Susan C. ~197 acres

Request – Baltimore County:

Request for a 1-acre historic overlay easement to encumber a historic structure and associated access and parking.

Recommendation:

Staff recommends approval, with the following conditions required per the 1997 Foundation Policy on Overlay Easements:

1. MALPF Staff and attorney must approve overlay easement agreement prior to execution and recording.
2. Survey of overlay easement, including access and parking areas, must be provided and approved by MALPF Staff and attorney.

Background:

The Easement was established by John Marshall in 1999. There was one documented pre-existing dwelling (the main house on the farm, not the historic structure that is the subject of this overlay request). The Board approved a retroactive request for two tenant dwellings in 2009. Susan C. Marshall is the wife of the original Grantor and is the current owner of the Easement property. No other requests have been submitted regarding this Easement property.

The Foundation's Overlay Easement Policy is attached, which includes historic preservation easements as an example of an overlay easement. The 1-acre area of the overlay easement requested will have minimal to no impact on the agricultural operation of the property. The details and importance of the historic structure for this area of Baltimore and Harford Counties has been researched and well documented (report for review available upon request).

Allowing the historic overlay easement will enable the long-term preservation and maintenance of this important historic structure with minimal to no impact on the current or future agricultural operation of the Easement property. Once the rehabilitation of the structure has been completed, there will be limited opportunities for the public to tour the structure for educational purposes, as well as ability for gatherings/meeting of The Manor Conservancy, the non-profit land trust that will be the Grantee of the historic overlay easement.

This request is recommended for approval by Baltimore County and the Baltimore County Agricultural Advisory Board.

Ms. Cable presented the item. Ms. Carmela Iacovelli, Program Assistant, representing Baltimore County was available by web conferencing; both were available for questions and comments.

Discussion:

Ms. Iacovelli added the Fugate House is a historical Baltimore County landmark; and is actually the oldest recorded structure in the Historic District National Registry. If the request is approved, the structure will be renovated/rebuilt, eventually opened to the public during designated hours for educational purposes, and be used for Manor Conservancy meetings and as a library to house historical documents.

Ms. Brogan requested MALPF staff to address all the matters that the Conservancy's attorney mentioned in their request letter when MALPF staff sends the Board response letter for this item, specifically the attorney's comments regarding fencing and ingress and egress to the area.

- Motion #3 Approve request for a 1-acre historic overlay easement to encumber a historic structure including associated access and parking.

MALPF Board Open Meeting Minutes 11-25-2014: Page 5

Motion: Bernard Jones, Sr. Second: James Wallace
Status: Approved

3. HARFORD COUNTY

a) 12-86-06 Bonita Farm Corporation (Boniface, J. William) ~392.13 acres

Request –Harford County:

Request retroactive approval for off-site septic reserve areas from Lots 1,2 and 3 that overlay the MALPF easement – shown on attached survey.

Recommendation:

Staff recommends approval in accordance with Foundation Policy (attached) that:

“The overlay easement shall not prohibit any agricultural operation within the proposed easement area, unless otherwise approved by the Board.

There are no easement documents for these overlays - only shown on plat.

The overlay easement should have minimal interference on the overall operation of the farm.

Small size and they are underground.

Access shall be defined as to its location and potential uses.

Shown on plat.

The overlay easement shall clearly list all activities that may be permitted.”

There are no easement documents for these overlays - only shown on plat.

Background:

In September 2013, the Board approved a 30-acre agricultural subdivision for the farm. In April 2014, the Board approved a revised configuration (a panhandle was added) with the requirement that a right-of-way be secured along an existing road to the property from Glen Vale Drive.

Title work has revealed some unapproved overlays. In the past the Board has approved overlay easements if they are necessary to build approved family lots and do not extend to other properties.

The local agricultural advisory board and planning office approved the overlays.

Ms. Chasse presented the item. Mr. Bill Amoss, Program Administrator, representing Harford County, Mr. Albert Young, Attorney representing (William Boniface – Landowner) were present and Mr. Ned Sayre, Program Assistant, also representing Harford County was available by web conferencing. All were available for questions and comments.

Motion #4 Approve request for retroactive approval for off-site septic reserve areas for Lots 1, 2 and 3 that overlay the MALPF easement – shown on attached survey.

Motion: Eugene Roberts, Jr. Second: Michael Calkins
Status: Approved

b) 12-86-06 Bonita Farm Corporation (Boniface, J. William) ~392.13 acres

MALPF Board Open Meeting Minutes 11-25-2014: Page 6

Request - Harford County:

The request for approval of a forest conservation easement as an overlay on the 29.5-acre portion of the easement property. The County's Forest Conservation Law requires the easement as a condition of subdivision.

Recommendation:

Staff recommends approval of the request, subject to receiving metes-and-bounds for the Forest Retention Area, as the request meets the regulations as follows:

15.15.13.03.B. To be eligible for consideration by the Foundation, a proposal for a forest easement overlay shall be limited to 10 acres, or 10 percent of the total easement acreage, whichever is smaller. To be eligible, forest easement overlays shall allow prescribed harvests.

The landowner proposes to only restrict 10% of the 29.5 acres. Harford County ordinance regarding Forest Retention Areas allow prescribed harvest.

15.15.13.03. E. Mitigation for Residential Development.

(1) If a county requires on-site forest mitigation because of on-site residential development, the landowner shall so inform the Foundation at the time of the lot release request.

This is not a lot release request but it is necessary for the subdivision of the 30 acres, which is an approved Foundation request.

(2) If the lot release request is approved, the forest mitigation easement overlay document shall:

(a) Be submitted to the Foundation for review in advance of recordation;

County has agreed to this.

(b) Be subordinate to the agricultural land preservation easement unless otherwise required;

Subordination is not recommended by counsel – instead use “Acknowledgment” language.

and (c) Allow prescribed harvests unless harvesting is restricted under the soil conservation and water quality plan.

County Ordinance allows prescribed harvests.

The regulations also require:

15.15.13.04. A.(1). A current soil conservation and water quality plan, developed by the local soil conservation district, that describes the resource conservation purpose served;

The Soil and Water Conservation Plan is current, according to Soil Conservation District.

15.15.13.04. A.(2). For properties with 25 acres or more in contiguous woodland, or where required by an underlying easement, a forest stewardship plan or forest management plan...

This property does not have 25 acres of more in contiguous woodland nor is it required by the underlying easement.

15.15.13.04.B. After receiving the proposal and recommendation from the Foundation staff, the Board shall determine if the forest easement overlay is consistent with the Foundation's mission and is appropriate for the easement property. The approval for a forest easement overlay on a Foundation easement or district property is not an absolute right of a landowner, and requests shall be reviewed by the Foundation on a case-by-case basis.

MALPF Board Open Meeting Minutes 11-25-2014: Page 7

Board discretion.

15.15.13.04.C. The Foundation shall also take into account the following criteria when reviewing a forest easement overlay proposal:

- (1) The restrictions that would be imposed on the current and future production options for the land;
Restrictions are shown on the attached ordinance and staff opinion is that they are not overly restrictive.
- (2) The potential effect of the forest easement on the ability of subsequent owners of the land to conduct profitable activities on the land, compatible with the Foundation's easement;
Staff's opinion is that the fact that the land is all ready forested and it is of a small acreage, that there is minimal effect.
- (3) The amount of land proposed for and easement overlay;
Small acreage – 2.95 acres.
- (4) The productivity of the soil or soils. *Soils are about 2 acres of Wooded Class 2 (Class 3, if cleared) and about 1 acre of Wooded Class 2.*

(5) The resource conservation purpose being served;

Retention of forest.

(6) The recommendation of the county agricultural advisory board; and

Approved by the local agricultural advisory board and planning office.

(7) Any other considerations appropriate and necessary to determine the proposal's compatibility with the Foundation's goals and objectives.

15.15.13.05. E. If the forest easement overlay request is for a property subject to an easement with a 25-year termination clause, the landowner shall amend the deed of easement to waive the right to request termination of the easement after 25 years and to clarify the perpetual nature of the easement.

This will be accomplished in the Corrective Easements.

Ms. Chasse presented the item. Mr. Bill Amoss, Program Administrator, representing Harford County, Mr. Albert Young, Attorney representing (William Boniface – Landowner) were present. Mr. Ned Sayre, Program Assistant, also representing Harford County, was available by web conferencing. All were available for questions and comments.

Discussion:

Mr. Hayes asked Mr. Young if the landowner is aware and understands the condition requiring a metes-and-bounds description for the forest overlay area and whether the landowner understands that the 25 year termination clause will be waived. Mr. Young responded that the landowner is aware.

Motion #5 Approve the request for a forest conservation easement as an overlay on the 29.5-acre portion of the easement property, subject to the landowner providing a metes and bounds description of the forest conservation overlay area and the landowner waiving any right to petition the Foundation for easement termination after 25 years.

Motion: Michael Calkins Second: Eugene Roberts, Jr.
Status: Approved

B. AGRICULTURAL SUBDIVISION REQUESTS

1. FREDERICK COUNTY

MALPF Board Open Meeting Minutes 11-25-2014: Page 8

a) 10-09-08 Ramsburg Family LLC (Ramsburg, J.R.) ~249.37 acres

Request –Frederick County:

Request to subdivide ~54.61 acres (“Parcel A”) from the above-referenced Easement through the agricultural subdivision process. As shown on the attached maps, Parcel A straddles Angleberger Road and consists of six record tax parcels.

If the subdivision is approved, the remaining Easement area shall be~194.76 acres. (Note the next Board item requests to subdivide an additional 46.25 acres from the Easement (“Parcel B”). If both subdivision requests are approved, the remaining Easement area shall be 148.51 acres.)

Recommendation:

Staff recommends that the applicant explain how the 54.61 acre parcel can sustain long-term agricultural production independent from the remainder of the Easement area. This criterion is required for agricultural subdivision approval.

If the Board approves this agricultural subdivision request, staff recommends that approval be conditioned with a restriction that Mr. Zeitz, or any subsequent owner of the subdivided land, cannot further subdivide Parcel A in the future. Staff also recommends that approval be conditioned upon eliminating all lot lines above Angleberger Road and below Angelberger Road so that Parcel A becomes two tax parcels. In Frederick County, this can be done by the “Addition” plat process.

In addition, there is federal money in this easement so the Farm and Ranch Protection Program must also approve the subdivision prior to assignment to the Office of the Attorney General.

Background:

Ramsburg Family LLC is the original easement grantor. The easement was conveyed to the Foundation in 2010. The easement is partially funded by federal Farm and Ranchland Protection Program monies. There are no pre-existing dwellings on the easement property and the landowner waived any future lot rights.

Subdivision Regulation Criteria:

Under COMAR 15.15.12.04 B if the Board approves an agricultural subdivision, approval shall accommodate a plan that the Foundation has determined will benefit the agricultural operation. The required Corrective Easements may include other additional terms, conditions, waivers, or restrictions that the Foundation considers appropriate to protect the agricultural purpose and the future profitability of resulting divided parcels. The regulations provide landowners the ability to request a subdivision if the following conditions are met:

- (1) The proposed agricultural subdivision serves an agricultural purpose;

The division will allow an adjoining farmer, John Gary Zeitz, to expand his operation. Mr. Ramsburg will retain ownership of the remainder which he farms along with other acres in the area.

- (2) The proposed agricultural subdivision will enhance or have no effect upon the agricultural operations being conducted upon the land; and

The agricultural subdivision will have no effect on Mr. Ramsburg’s operation, except that Mr. Ramsburg will not need to cross Angleberger Road to access that field. If Mr. Zeitz uses Parcel A to expand his operation, it appears that there will be no effect upon the agricultural operations conducted upon the land.

- (3) The resulting divided parcels from the agricultural subdivision are able to sustain long-term agricultural production, independent from each other.

MALPF Board Open Meeting Minutes 11-25-2014: Page 10

If the prior request (Parcel A) was not approved, then this item cannot be approved since the subdivision of this proposed portion automatically subdivides the other portion.

Therefore, if Parcel A is approved, then, in accordance with our Agricultural Subdivision regulations, Staff recommends approval of this request, subject to the granting of an easement on 10 acres owned by the Libertos.

As with the prior request, staff also recommends that approval be conditioned upon eliminating all lot lines so that the components of Parcel B and the 10 acres become a single tax parcel.

In addition, there is federal money in this easement so the Farm and Ranch Protection Program must also approve this subdivision prior to assignment to the Office of the Attorney General.

Background:

Ramsburg Family LLC is the original easement grantor. The easement was conveyed to the Foundation in 2010. The funding for the easement included federal Farm and Ranchland Protection Program (FRPP) monies. There are no pre-existing dwellings on the easement property and the landowner waived any future lot rights.

Subdivision Regulation Criteria:

Under COMAR 15.15.12.04 B if the Board approves an agricultural subdivision, approval shall accommodate a plan that the Foundation has determined will benefit the agricultural operation. The required Corrective Easements may include other additional terms, conditions, waivers, or restrictions that the Foundation considers appropriate to protect the agricultural purpose and the future profitability of resulting divided parcels. The regulations provide landowners the ability to request a subdivision if the following conditions are met:

- (1) The proposed agricultural subdivision serves an agricultural purpose;

The division will allow an adjoining farmer more land for a sheep operation, which is currently operating on 10 acres. Mr. Ramsburg will retain ownership of the remainder which he farms along with other acres in the area.

- (2) The proposed agricultural subdivision will enhance or have no effect upon the agricultural operations being conducted upon the land; and

The agricultural subdivision will enhance the overall operations conducted upon the sheep farm without an impact to Mr. Ramsburg's operation.

- (3) The resulting divided parcels from the agricultural subdivision are able to sustain long-term agricultural production, independent from each other.

The 46-acre portion plus the 10 added acres are going to sustain long-term agricultural production independently as a sheep operation.

Since the farm is 98% Class I-III soils the resulting parcels will meet the soils criteria.

This request meets the exception for the 50 acre size requirement. The regulation states that the Foundation may permit resulting dividing parcels of less than 50 acres of land if:

- (1) One of the following exists for the resulting divided parcel comprised of less than 50 acres:

- (a) The Foundation determines that physical limitations of the land, including but not limited to, bodies of water, public roads, and steep slopes create constraints making the 50 acre minimum impractical, and the resulting parcel of less than 50 acres continues to meet minimum soils requirements as provided by COMAR 15.15.01.03D independently of the original farm; or

approval conditions apply to the amended approval.

Recommendation:

Staff recommends approval of the request, subject to the Office of the Attorney General's approval of a recorded easement creating the newly proposed access way to the 30 acre portion of the property. The applicant has only provided a draft of the proposed easement to the Foundation. The terms of the easement, as well as a metes and bounds description of the access way, have not yet been finalized. Accordingly, the Board should issue only a conditional approval at this time. The Board previously approved the agricultural subdivision subject to obtaining a right-of-way from Glenville Road to access the 30-acre parcel to avoid the creation of a land-locked parcel. If the 30 acre parcel is landlocked, a future owner of the 30 acre parcel may request access over the remaining larger parcel of land. The Board approved the 30 acre subdivision because access to the 30 acre parcel over the remaining parcel was difficult. Accordingly, the Board should not entertain a request for access over the larger remaining parcel in the future. The new proposed documented access will cross the Foulk property, which adjoins the 30 acre parcel on the north side.

Background:

In September 2013, the Board approved a 30-acre agricultural subdivision for the farm. The minutes for the approval are attached. In April 2014 (minutes attached), the Board approved a revised configuration (a panhandle was added) to satisfy County subdivision requirements. During the April 2014 meeting, the Board also required a right-of-way to be secured along an existing road to the property from Glenville Road. This condition would prevent the owner of the 30 acre parcel from coming back to the Board in the future to request an access way over the larger remaining portion of the farmland.

Mr. Boniface was unable to obtain all signatures needed to document the access from Glenville Road. In recent months, however, he has obtained a contract on the 30 acres from adjoining landowner, Mr. Foulk.

The local agricultural advisory board and planning office did not require a documented right-of-way. The local agricultural advisory board recently affirmed that decision.

Original a) 12-86-06 Bonita Farm Corporation (Boniface, J. William) ~392.13 acres

Request –Harford County:

Request removal of a condition, relating to access, of a previously-approved agricultural subdivision.

Recommendation:

Staff recommends denial of the request. The Board previously approved the agricultural subdivision subject to obtaining a right-of-way to access the 30-acre parcel to avoid the creation of a land-locked parcel.

Background:

In September 2013, the Board approved a 30-acre agricultural subdivision for the farm. The minutes for the approval are attached. In April 2014 (minutes attached), the Board approved a revised configuration (a panhandle was added) with the requirement that a right-of-way be secured along an existing road to the property from Glenville Road.

Mr. Boniface was unable to obtain all signatures needed to document the access from Glenville Road. In recent months, however, he has obtained a contract on the 30 acres from adjoining landowner, Mr. Foulk.

Mr. Boniface requests removal of the right-of-way requirement because:

1. Mr. Foulk has access via his own land. (Foundation staff visited the Foulk property on October 7th and found that there are no barriers to access the 30 acre portion from the Foulk property.)
2. The County approved the Glenville Road access without the condition of recorded right-of-way. It is relying on a deed reference as documentation of the Glenville Road access. The County specifically states on both the 30-acre survey and the Preliminary Plan Approval that that the panhandle not be used for access. See attached Preliminary Plan Approval.

MALPF Board Open Meeting Minutes 11-25-2014: Page 13

For Staff the issue that remains is what to do should the Glenville Road access be challenged. If Mr. Foulk does not grant a legal right-of-way and he sells the land, there is not an alternative route –except for the panhandle. And if the Foundation were to approve the panhandle, it would be contradicting the reasoning for the approval of a subdivision of less than 50 acres. The concern is that the 30 acres could become land-locked and hence unusable for farming.

The local agricultural advisory board and planning office did not require a documented right-of-way. The local agricultural advisory board recently affirmed that decision.

Ms. Chasse presented the item. Mr. Bill Amoss, Program Administrator, representing Harford County, Mr. Albert Young, Attorney representing (Mr. Boniface – Landowner), Mr. William Boniface, Landowner was present and Mr. Ned Sayre, Program Assistant, also representing Harford County was available by web conferencing. All were available for questions and comments.

Discussion:

Mr. Young discussed Mr. Boniface's history of advocating for preservation and then Mr. Young's involvement with preservation in his 30-year career. He discussed that his legal opinion is that the Glenville Road right-of-way is valid per the 1941 deed, but since the MALPF Board did not accept it, his client pursued sale of the 30-acre property to an adjoining property owner. Mr. Boniface was able to get a contract with Mr. Foulk, who has three parcels which abut the property on the north and has road frontage. MALPF staff asked that Mr. Boniface request that Mr. Faulk record a right-of-way to the 30 acre portion, but Mr. Foulk will not agree to do so. Mr. Young argued that the Board should waive the condition of a right-of-way agreement as long as the property sells to an adjoining owner. In addition, there could be language put in the easement which says that the Foundation will not approve access over the main farm at any time in the future. Mr. Young argued that it would not be in Mr. Foulk's interest to sell the 30 acres without securing access.

The decrease in the horse racing business was due to the declining economy. This has left Mr. Boniface and Bonita Farms in turmoil. If he is not able to get this request adequately approved for the buyer, he will withdraw his request and will be subject to selling his entire farm.

Mr. Amoss mentioned that the county advisory board, County Planning and Zoning, and the County Law Department have all approved the 1941 right-of-way easement for recordation. They are in support of allowing this subdivision to take place using the right of way to Glenville Road. His other concern was the panhandle and not allowing its use for the access due to environmental and farming impacts.

Mr. Hayes said that staff was not notified that obtaining a right-of-way on Mr. Foulk's property was going to be an issue. The Board's interest is making sure that this property is not land-locked in the future. The 1941 right-of-way may not be sufficient in the future, and the Board may be forced to entertain a future request for access over the larger remaining portion of the easement property. Such a request would be contrary to why this Board allowed the subdivision of the 30 acre parcel to begin with, where access over the larger remaining portion of the easement property is difficult.

Mr. Nielson advised the Board not to make a hasty decision, particularly because Mr. Forrester was absent. Mr. Draper concurred.

Ms. West is concerned that if the Board makes a motion today and does not support Ms. Forrester's prior concerns, they could face serious consequences. The Board decided to table the request in order to get more information. They asked Mr. Young to provide a memorandum regarding his opinion of the right-of-way as referenced in the 1941 deed. Also, Ms. Forrester would be asked for a memorandum regarding her legal opinion of the same. This information would be presented at the Board's December Meeting.

Motion #8 The Board moved to table the agenda item to a December 2014 Board meeting. The Board asked Mr. Young and Ms. Forrester to prepare reports addressing the validity of the 1941 right-of-way to Glenville Road. The Board asked that both reports be submitted in

advance of the December 2014 meeting.

Motion: Susanne Brogan Second: Michael Calkins
Status: Table

C. BUILDING ENVELOPE REQUESTS

1. CECIL COUNTY

- a) 07-87-12 (the "Easement") Glenmede Trust Company N.A. ~131.838 acres
(Bohemia Stables Corrective Easement #4)

Request - Cecil County:

Request to relocate a 1.0 acre non-subdividable building envelope.

Recommendation:

Staff recommends approval of relocation of the non-subdividable building envelope, including required conditions per the terms of the Corrective Easement #4:

1. Survey required delineating new building envelope area.
2. An amendment to the corrective easement to document the relocation of the building envelope to be recorded in the Cecil County Land Records.
3. Enter into a Relocation Agreement reciting the new location of the building envelope to be recorded in the Cecil County Land Records.

Background:

This Easement property was original part of two separate easements established by Bohemia Stables in 1996. In 2013, the Board approved a comprehensive reconfiguration of all the Bohemia Stables properties encumbered with MALPF easements. That reconfiguration resulted in this Easement property as a new, stand-alone easement with the right to construct a dwelling within the delineated non-subdividable building envelope.

At the time of the corrective easements, no engineering work was completed to ensure that the building envelope would meet the necessary health and county requirements when building a dwelling. The current owner acquired the Easement property in July 2013. The owner began the process of obtaining the necessary engineering work and required approvals to construct a dwelling. During that process, it was determined that the location of the building envelope needs to be moved approximately 65-feet to the northwest in order to include the approved septic reserve area.

The Cecil County Agricultural Advisory Board has approved this request.

Ms. Cable presented the item. Ms. Cable and Mr. Stephen O'Connor, Program Administrator, representing Cecil County were available for questions and comments.

Discussion:

Mr. O'Connor added that the landowners are requesting the relocation to allow the septic area be established in a more appropriate area based on the topography of the area.

Motion #9 Approve request to relocate a 1.0 acre non-subdividable building envelope.

Motion: Eugene Roberts, Jr. Second: Patricia Langenfelder
Status: Approved

V. EASEMENT PETITIONS

MALPF Board Open Meeting Minutes 11-25-2014: Page 15

A. CECIL COUNTY

- | | | | |
|----|----------|-----------------------------|----------------|
| 1. | 07-15-08 | Reisler, J. David Sr. & Jr. | ~ 120.66 acres |
| 2. | 07-15-09 | Brewer, Rodney & Rebecca | ~ 70.49 acres |

Ms. Cable presented the items. Ms. Cable and Mr. O'Connor, Program Administrator, representing Cecil County were available for questions and comments.

07-15-08 Reisler, J. David Sr. & Jr.

Request is to approve the J. David, Sr. & J. David, Jr. Reisler petition for a preservation easement withholding 4.75 acres; a 1.25-acre lot with 1 development right associated with it and 3.5 acres area for non-agricultural commercial activities. The landowners are reserving family lot rights for future development.

07-15-09 Brewer, Rodney & Rebecca

Request is to approve the Rodney & Rebecca Brewer petition for a preservation easement withholding 2.5 acres with 1 development right associated with it. The landowners are reserving family lot rights for future development.

Motion #10 Approve Cecil County Easement Petitions 1-2 as requested.

Motion:	James Norris	Second:	Bernard Jones, Sr.
Status:	Approved		

B. CHARLES COUNTY

- | | | | |
|----|----------|---|-----------------|
| 1. | 08-15-04 | Blake, Paco & Linda | ~61.987 acres |
| 2. | 08-15-06 | Bowling, Chester & Mary | ~76.392 acres |
| 3. | 08-15-08 | Bowling, Gilbert Sr. | ~100 acres |
| 4. | 08-15-10 | Fortune's Retreat LLC | ~155.8 acres |
| 5. | 08-15-15 | Mt. Tizrah Family Limited Partnership (North) | ~118.6 acres |
| 6. | 08-15-17 | Murray Revocable Trusts | ~92 acres |
| 7. | 08-15-18 | Ptack, Kenneth & JoAnn | ~211.25 acres |
| 8. | 08-15-21 | Von Braunhut, Yolanda | ~165.4454 acres |

Ms. Cable presented the items. Ms. Cable and Mr. Charles Rice, Program Administrator, representing Charles County were available for questions and comments.

08-15-04 Blake, Paco & Linda

Request is to approve the Paco & Linda Blake petition for a preservation easement withholding 2 acres with 1 development rights associated with it. The landowner is reserving the right to an unrestricted lot for future development.

08-15-06 Bowling, Chester & Mary

Request is to approve the Chester & Mary Bowling petition for a preservation easement withholding 7 acres with 2 development rights associated with it. The landowner is reserving the right to an unrestricted lot for future development.

08-15-08 Bowling, Gilbert Sr.

Request is to approve the Gilbert Bowling, Sr. petition for a preservation easement withholding 25 acres with 1 development rights associated with it. The landowner is reserving the right to an unrestricted lot for future development.

MALPF Board Open Meeting Minutes 11-25-2014: Page 16

Motion #11 Approve Charles County Easement Petitions 1-3 as requested.

Motion: Bernard Jones, Sr. Second: James Wallace
Status: Approved

08-15-10 Fortune's Retreat LLC (Hancock Family)

Request is to approve the Fortune's Retreat LLC (Hancock Family) petition for a preservation easement withholding 17.2 acres consisting of 0.2 acres for a cell tower lease and access to the area, and a ~17 acre area with 5 development rights associated with it that is in the formal subdivision process at the County level. The landowners are reserving family lot rights for future development.

Discussion:

Ms. Cable presented the item, discussing how the request falls outside of current Foundation withheld policy criteria, as the owners are requesting five residential lots to be established from the ~17 acre withheld area. Mr. Rice explained the history of the property, specifically the steps, process, and requirements that have been taken to formally subdivide the 5 lots from the parent parcel. The owners have actively pursued obtaining subdivision approval of these five lots for almost two years and had anticipated the subdivision to be complete prior to the application deadline for this cycle of MALPF applications. Unfortunately, due to a combination of State and County requirements or delays, the subdivision has not yet been completed.

Mr. Rice informed the Foundation Board that the Charles County Agricultural Advisory Board unanimously voted to approve the landowner's request for an exception to the number of lots permitted on withheld acres, due to the lengthy subdivision process that contained multiple months delays for a variety of reasons, including the County establishing a Tier Map acceptable by the Department of Planning under the Septic Law. Mr. Rice went on to state that if this application is not able to proceed in its current configuration, the exact same application will be submitted the next MALPF easement cycle, after the subdivision has been completed, with no other differences. Mr. Rice endorsed his Advisory Board's recommendation for an exception under these circumstances.

Motion #12 Approve Charles County Easement Petition 4 request as presented.

Motion: Bernard Jones, Sr. Second: James Norris, Jr.
Status: Approved

08-15-15 Mt. Tizrah Family Limited Partnership (North)

Request is to approve the Mt. Tizrah Family Limited Partnership petition for a preservation easement withholding 1 acre with 1 development right associated with it. The landowner is reserving the right to an unrestricted lot for future development.

08-15-17 Murray Revocable Trusts

Request is to approve the Murray Revocable Trusts petition for a preservation easement withholding 3 acres with 1 development right associated with it. The landowners are reserving family lot rights for future development.

08-15-18 Ptack, Kenneth & JoAnn

Request is to approve the Kenneth & JoAnn Ptack petition for a preservation easement withholding 12 acres with 3 development rights associated with it. The landowners are reserving family lot rights for future development.

08-15-21 Von Braunhut, Yolanda

Request is to approve the Yolanda Von Braunhut petition for a preservation easement designating 2 acres with 0 development rights as future "non-conforming use envelope areas" to be used for non-agricultural, commercial activities in the future. These two, 1-acre areas will be encumbered by the MALPF easement as unpaid acres. The landowner has waived lot rights, so no additional residential lots will be permitted on the easement property (one pre-existing dwelling).

Discussion:

Ms. Cable, Mr. Rice, and Mr. Norris performed a site visit of the property since it is located within a Tier 1 area that has access to water and sewer services. Ms. Cable briefed the Board about the visit, informing them that the visit confirmed the property has the potential for highly productive timber or agricultural operations. Additionally, the property contains significant environmental features that will benefit from a perpetual easement protecting the property.

A Board Member asked if this property would be considered as a Rural Legacy Program applicant. Mr. Rice replied that this property is not located within the County's Rural Legacy Area, but he is currently reviewing other possible programs that may be suited for this property.

Motion #13 Approve Charles County Easement Petitions 5-8 as requested.

Motion: Bernard Jones, Sr. Second: Eugene Roberts, Jr.
Status: Approved

C. BALTIMORE COUNTY

1. 03-15-06 Huggins, Richard W. ~64.3879 acres
2. 03-15-14 White, Milton & Dorothy ~302.035 acres

Ms. Cable presented the items. Ms. Carmela Iacovelli, Program Assistant, representing Baltimore County was available by web conferencing; both were available for questions and comments.

03-15-06 Huggins, Richard W.

Request is to approve the Richard Huggins petition for a preservation easement withholding 2.0 acres with 1 development right associated with it. The landowners are reserving family lot rights for future development.

03-15-14 White, Milton & Dorothy

Request is to approve the Milton & Dorothy White petition for a preservation easement withholding 9.0 acres with 0 development rights associated with it consisting of two separate areas; 7-acres to be added to an adjoining residential parcel and 2-acres to be withheld for non-agricultural commercial uses. The landowners are reserving family lot rights for future development.

Motion #14 Approve Baltimore County Easement Petitions 1-2 as requested.

Motion: Michael Calkins Second: Jerry Klasmeier
Status: Approved

D. WICOMICO COUNTY

1. 22-15-07 Harcum, Michael and Dawn ~174.91 acres
2. 22-15-08 McGrath, James R. ~159.38 acres

Ms. Turner presented the items and was available for questions and comments.

22-15-07 Harcum, Michael and Dawn

VIII. CLOSED SESSION

John W. Draper, Jr. asked for a motion for adjournment of the meeting to move into a closed session, pursuant to the provisions of State Government Article Section 10-508 (a) (3) to consider the acquisition of real property for a public purpose and matters directly related thereto.

Motion #15 To adjourn the regular session to move into a closed session to consult with counsel to consider the acquisition of real property for a public purpose and matters directly related thereto.

Motion: James Wallace Second: Jerry Klasmaier
Favor: John Draper, Jr., Bernard Jones, Sr., Susanne Brogan, Michael Calkins, Jerome W. Klasmeier, Patrica A. Langenfelder, Donald T. Moore, James Norris, Jr., Eugene Roberts, Jr., Jason Dubow, and James Wallace.

Status: Approved

The Open Board Meeting was adjourned at approximately 11:28 a.m.

The Closed Meeting of the Board was held from 11:32 am. to 12:05 p.m. at the Maryland Department of Agriculture building, Annapolis, Maryland, pursuant to the provisions of State Government Article Sections 10-508(a) (3), Annotated Code of Maryland:

State Government Article Section 10-508(a):

[X] (3) To consider the acquisition of real property for a public purpose and matters directly related there thereto;

During the Closed Meeting, the following Board members were present: John Draper, Jr., Michael Calkins, Craig Highfield, (no audio), Jerome W. Klasmeier, Patrica A. Langenfelder, Donald T. Moore, James Norris, Jr., Eugene Roberts, Jr., Jason Dubow for Dan Rosen and James Wallace.

TOPICS DISCUSSED:

- VIII.A Approval of September 23, 2014 Closed Session Minutes
- VIII.B Status Report of Pending legal Issues
- VIII.C Mullinix Request for Easement Termination – Consultation with legal counsel regarding Findings of Fact and Conclusions of Law regarding October 28, 2014 contested case hearing.

Respectfully Submitted:

Angela Gaither, MALPF Secretary

Carol S. West, Executive Director