

**MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION
OPEN MEETING MINUTES**

January 25, 2022

This meeting was held via internet and telephone conference call.

Trustees Participating:

William Allen, Chair
Cricket Goodall, Vice Chair
Steve Connelly, representing Secretary Joseph Bartenfelder, Maryland Department
of Agriculture
Joanna Kille, representing Treasurer Dereck E. Davis
Jerome Klasmeier, representing Comptroller Peter Franchot
Deborah Herr Cornwell, representing Secretary Robert McCord, Maryland
Department of Planning
Catherine Cosgrove
Elizabeth Hill
J. Bruce Yerkes
Joe Wood
Robin Kable

Trustees Absent:

Gilbert "Buddy" Bowling

Others Participating:

Michelle Cable, MALPF Executive Director
Diane Chasse, MALPF Administrator
Chana Turner, MALPF Administrator
Sarel Cousins, MALPF Administrator
Amanda Massoni, MALPF Fiscal Specialist
Kim Hoxter, MALPF Monitoring, Enforcement and Database Coordinator
Patrick Martyn, Assistant Attorney General, Department of General Services
Mike Steadman, Jr., Assistant Attorney General, Maryland Department of Agriculture
Renee Dyson, Assistant Attorney General, Department of General Services
Ron Marney, Calvert County Program Administrator
Megan Benjamin, Baltimore County Program Administrator
Donna Landis-Smith Queen Anne County Program Administrator
Bill Amoss, Harford County Program Administrator
Shannon O'Neil, Frederick County Staff
Billy Gorski., Anne Arundel County
Jason Boothe, Dorchester County Program Administrator
Chad Fike, Garrett County
Fatimah Hasan, Prince George's County
Carla Gerber, Kent County Program Administrator
Kathleen Farrell, Baltimore County Landowner
James Dunning, Baltimore County Landowner
Carly Poe, daughter of James Dunning
Zachary Smith, Attorney for Stevens (Dorchester County landowners)
Darryl Andrews, Appraiser, Department of General Services
Will LeFort, Appraiser, Department of General Services

Ms. Cable called the meeting to order at 9:01 a.m. via internet and telephone conference call. She stated the names of the participants on the conference call, for the record, and asked anyone that was not named to identify themselves.

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IV. EASEMENT AMENDMENTS

A. HOWARD COUNTY

1. 13-79-03 Idiot's Delight ~192 acres

Request:

Request approval of the sale of mitigation credits outside of a Priority Funding Area (PFA) for a residential project located at 2600 Marriottsville Road in Howard County.

Recommendation:

Staff recommends Board approval as the project location is within the County Priority Service Area (PSA) and Howard County staff are submitting a request to the Maryland Department of Planning to have their PFA map updated.

Ms. Cousins introduced the item and was available for questions from the Board. Ms. Kille had a number of questions about the project location (Ellicott City area & water/sewer district), as compared to the location of the MALPF easement (Woodbine rural/agricultural area). MALPF staff explained that Next Era Energy bought the stream credits for future mitigation projects including this one, and that the sale of credits outside of a PFA are allowed on a case-by-case basis if approved by the Foundation. The reason the request needed to come to the Board for approval is that the Foundation does not want to appear to be facilitating development or urban sprawl outside of the PFA. Ms. Herr-Cornwell commented that the County has submitted a PFA Amendment request to the Maryland Department of Planning and the request is currently in the review process with public comments due back by February 4, 2022. Ms. Cable commented that this project is in a high density water sewer district, and almost certainly will be developed at some point, whether or not the credits are from the MALPF easement property or someplace else.

Motion #2: To approve the sale of mitigation credits outside of a Priority Funding Area (PFA) for a residential project located at 2600 Marriottsville Road in Howard County, as presented.

Motion: Klasmeier Second: Connelly
Vote no: Kille
Status: Approved

2. 13-79-05Ces1 Reuwer Family Resource Trust ~213 acres
13-79-05Ces2 FAL Properties, LLC ~81 acres

Request:

Due to expiration of a prior Board approval, request of re-approval of a 2019 agricultural subdivision request of the Easement property creating an approximately 195 acre parcel and an approximately 103 acre parcel. The 103 acres parcel includes the addition of a previously released 1-acre owner's lot as a non-subdivideable dwelling.

Recommendation:

In accordance with the Foundation's Agricultural Subdivision regulations and Corrective Easement regulations, Staff recommends approval, subject to regulatory conditions.

Ms. Cousins introduced the item and was available for questions from the Board.

Motion #3: To approve the request for re-approval of a 2019 agricultural subdivision, as presented.

Motion: Herr-Cornwell Second: Yerkes
Status: Approved

B. ST. MARY'S COUNTY

1. 18-21-01 Abell, David Lloyd, Jr. ~85 acres

Request:

Landowner requests approval to donate a 1.12 acre parcel by adding the donation to the pending easement.

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Recommendation:

Staff recommends approval since the county has confirmed there is a development right to extinguish from the 1.12 acres.

Ms. Cousins introduced the item and was available for questions from the Board.

Motion #4: To approve the donation of a 1.12 acre parcel, as presented.

Motion: Wood Second: Cosgrove
Status: Approved

C. CAROLINE COUNTY

1. INTENTIONALLY DELETED

2. INTENTIONALLY DELETED

3. 05-19-08 Ringgold's Green, LLC (J.D. Neal) & ~141.847 acres
05-91-20 (D. Wheatley Neal & Carol Ann Neal) ~203.36 acres

Request:

Request approval of a land exchange/boundary line adjustment for Parcels 77 & 31 to correct a tax ditch boundary.

Recommendation:

Per the terms of COMAR 15.15.11.03 C (3), Staff recommends approval, subject to the required regulatory conditions.

Ms. Cousins introduced the item and was available for questions from the Board.

Motion #5: To approve a land exchange/boundary line adjustment between two MALPF easements, incorporating Staff recommendations, as presented.

Motion: Yerkes Second: Cosgrove
Status: Approved

D. BALTIMORE COUNTY

1. 03-88-03AE Lentz, Ken and Carol ~80 acres

Request:

Request retroactive approval to allow for non-conforming use of a cell tower lease established prior to the District and Easement.

Recommendation:

Staff recommends approval to establish a non-conforming use envelope of a one acre or less surrounding the cell tower, as shown on the attached map, and as described in this memo.

Staff's recommendation is subject to the following conditions:

1. The landowner shall submit, at landowner's sole expense, a boundary line survey and metes and bounds description of the non-conforming use envelope. The envelope shall be approximately .85 of an acre, to include the leased site and the surrounding treed area, and the access thereto. The survey shall be prepared by a licensed surveyor authorized to do business in the state of Maryland, or as otherwise approved by MALPF.
2. The non-conforming use envelope will be memorialized by the recording of an amended deed of easement in the land records of Baltimore County.
3. The landowner shall reimburse MALPF for the amount paid to the original grantor for the acreage of the use envelope as determined by the survey at the rate of \$1,500 per acre.
4. If the cell tower ceases to operate, the landowner may continue use of the non-conforming use envelope for any non-residential, commercial purpose allowed by county regulations without any further consideration by the Foundation.

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Ms. Turner introduced the item. Megan Benjamin, the Baltimore County Program Administrator, was present to address the Board.

Motion #6: To approve the establishment of a non-conforming use envelope of a one acre, or less surrounding the cell tower, incorporating Staff recommendations, as presented.

Motion: Wood Second: Kable
Status: Approved

2. 03-04-01 Dunning, James and Richard ~52.75 acres

Request:

Request for approval for a child lot of up to 2.0 acres for Carly Poe, daughter of James Dunning.

Recommendation:

Staff recommends approval.

Ms. Turner introduced the item. Ms. Benjamin, the Baltimore County MALPF Program Administrator, and landowners Ms. Farrell and Mr. Dunning, and Mr. Dunning's daughter, Ms. Poe, were present to address the Board.

Motion #7: To approve the request for a child lot of up to 2.0 acres for Carly Poe, as presented.

Motion: Cosgrove Second: Kille
Status: Approved

E. GARRETT COUNTY

1. 11-08-10 Parandhamaia, GK and Jan ~145.898 acres

Request:

Request approval for an overlay easement of ~.271 of an acre for a portion of a septic drain field that services a dwelling located on land withheld from the easement property when the easement was established.

Recommendation:

Staff recommends approval subject to:

1. The landowners signing a letter acknowledging the conditions of approval as provided herein, and of any other conditions of approval as determined by the Foundation's Board;
2. Satisfaction of all applicable requirements/conditions of COMAR 15.15.16. – Guidelines for Granting Overlay Easements and Rights-of-Way as provided below;
3. Approval of the overlay easement by the Foundation and the Office of the Attorney General as required by COMAR 15.15.16; and
4. Approval of a survey by the Foundation and the Office of the Attorney General as required by COMAR 15.15.16.

Ms. Turner introduced the item. Mr. Fike, the Garrett County Staff was present to address the Board.

Motion #8: To approve the request for an overlay easement of ~.271 of an acre for a portion of a septic drain field as recommended by staff, incorporating Staff recommendations, as presented.

Motion: Wood Second: Yerkes
Status: Approved

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F. QUEEN ANNE'S COUNTY

1. 17-95-06 Bramble, Thomas and Evelyn ~213.749 acres

Request:

Request approval for a correction to the legal description in their Deed of Easement. If approved, the description would be changed from 213.749 acres to 208 acres.

Recommendation:

Staff recommends approval due to MALPF mistake in placing the Deed of Easement over the entire 213.749 acres without excluding land that was withheld from the District. The request also requires Board of Public Works Approval.

Ms. Chasse introduced the item. Ms. Landis-Smith, Queen Anne's County Program Administrator, was present to address the Board.

Motion #9: To approve the correction to the legal description in their Deed of Easement from 213.749 acres to 208 acres, incorporating Staff recommendations, as presented.

Motion: Herr-Cornwell Second: Goodall
Status: Approved

G. FREDERICK COUNTY

1. 10-83-05cex1 Rushovich, Errol and Berenice ~127.76 acres

Request:

Request for approval for a tasting room, including an accessory sales area.

Recommendation:

Staff recommends approval pursuant to Agriculture Article- Annotated Code of Maryland, Section 2-513(b), COMAR 15.15.07.03 and the MALPF Uses Policy, subject to the following requirements and conditions:

1. At all times, some of the products must come from grapes grown on site with the remainder of grapes grown in Maryland or regionally grown; and
2. Compliance with all applicable federal, state, and local planning, zoning, or other statues and regulations affecting the property and the approved uses.

Ms. Chasse introduced the item. Ms. O'Neil, Frederick County Staff, was present to address the Board.

Motion #10: To approve the request for a tasting room and accessory sales area, incorporating Staff recommendations, as presented.

Motion: Cosgrove Second: Hill
Status: Approved

H. HARFORD COUNTY

1. 12-04-02 Smith, James Jr. ~147.87 acres

Request:

Request for approval of an owner's lot.

Recommendation:

Staff recommends approval.

Ms. Chasse introduced the item. Mr. Amoss, Harford County Program Administrator, was present to address the Board.

Motion #11: To approve the request of an owner's lot, up to 2 acres, as presented.

Motion: Goodall Second: Kille
Status: Approved

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I. DORCHESTER COUNTY

1. 09-19-11 Stevens, Russell and Cynthia ~124 acres

Request:

Request for a land exchange of approximately 9.7 acres released from the easement in exchange for approximately 12.5 acres added.

Recommendation:

Staff recommends approval of the proposed items, subject to:

1. Department of General Services Appraisal review of value to confirm that the value of the easement will not be diminished by the exchange;
2. Completion of a Corrective Easement;
3. Approval by the Board of Public Works of the land exchange, and
4. Requirement that the landowners shall pay for all expenses associated with the corrective easement transaction, including all title work, title insurance premiums, and surveys.

Ms. Chasse introduced the item. Mr. Boothe, Dorchester County Program Administrator, and Mr. Smith, attorney for the landowners, were available to address the Board.

Motion #12: To approve the request for a land exchange of approximately 9.7 acres released from the easement in exchange for approximately 12.5 acres added, incorporating Staff recommendations, as presented.

Motion: Hill Second: Wood
Status: Approved

V. NEW AGRICULTURAL PRESERVATION EASEMENT PETITIONS:

- A. N/A

VI. PROGRAM POLICY

- A. Matching Funds Participation Request

Ms. Cable introduced the request of matching funds;

Motion #13: To approve the matching funds request.

Motion: Kille Second: Herr-Cornwell
Status: Approved

- B. 08-81-01C Serenity Farm, Inc ~222.755 acres

Request:

To approve oyster aquaculture education program.

Recommendation:

Staff recommends approval, based on the fact that the current definition of agriculture that MALPF applies specifically includes aquaculture. The purpose of the oyster aquaculture program is to establish an aquaculture operation, which includes education as part of the operation. Per the current MALPF definition of agriculture, this is an allowable agricultural use.

Ms. Cousins introduced the item, with Ms. Cable providing additional information. The Board discussed and agreed with MALPF staff interpretation that an aquaculture lease should be treated as any other type of farm lease, with no MALPF review or approval of the terms of the lease.

Motion #14: Concurrence with MALPF staff interpretation of the MALPF definition of agriculture to include any type of aquaculture lease the same as any other type of farm lease. Therefore, no MALPF approval is required for a landowner to enter into a farm lease.

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Motion: Cosgrove Second: Goodall
Status: Approved

C. Calvert County Recertification

Recommendation:

Calvert County's land preservation program complies with the requirements under COMAR 34.03.03; therefore, MALPF staff recommend, and MDP approved, recertification for Fiscal Years 2022 – 2026 (July 1, 2021 – June 30, 2025). *

*Please note that the MDP Secretary and the MALPF Board approved Calvert County's prior certification request for FY 2019-2021 (July 1, 2018 – June 30, 2021). Through no fault of the County, the deadline for the recertification was not met. As the reporting period for this recertification request includes FY 2018-2020, data from FY 2021 will be included in the reporting period for the next recertification request.

Ms. Turner presented the item. Ms. Herr-Cornwell provided the Department of Planning's agreement and recommended approval. Mr. Marney, Calvert County Program Administrator, was available to address the Board.

Motion #15: To approve Re-Certification Request from Calvert County land preservation program under COMAR 34.03.03.

Motion: Cosgrove Second: Wood
Status: Approved

D. Baltimore County Ranking

Request:

Baltimore County requests approval to revise its Easement Ranking System.

Recommendation:

Staff recommends approval.

Ms. Turner introduced the item. Ms. Benjamin, the Baltimore County Program Administrator, was present to address the Board.

Motion #16: Approve revisions to Baltimore County's Easement Ranking System.

Motion: Herr-Cornwell Second: Goodall
Status: Approved

VII. INFORMATION AND DISCUSSION

A. FY 2022 Quarterly Inspection Report

Ms. Hoxter provided the Board with the quarterly inspection report.

VIII. CLOSED SESSION

Mr. Allen asked for a motion for adjournment of the meeting to move into a closed session, pursuant to the applicable provisions of General Provisions Article Section 3-305 (b): (3) to consider the acquisition of real property for a public purpose and matters directly related to the acquisition; (7) to consult with counsel to obtain legal advice; and (8) to consult with staff, consultants, or other individuals about pending or potential litigation.

Motion #17: To adjourn the regular session at 10:40 a.m. to move into a closed session to consider the acquisition of real property for a public purpose and matters directly related to the acquisition; to consult with counsel to obtain legal advice; and to consult with staff, consultants, or other individuals about pending or potential litigation.

