MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION OPEN MEETING MINUTES SEPTEMBER 27, 2022

This meeting was held via internet and telephone conference call.

Trustees Participating:

William Allen, Chair
Cricket Goodall, Vice Chair
Alex Butler, representing Comptroller Peter Franchot
Deborah Herr Cornwell, representing Secretary Robert McCord, Maryland
Department of Planning
Catherine Cosgrove
Gary Dell
Joseph Wood
J. Bruce Yerkes

Trustees Absent:

Steve Connelly, representing Secretary Joseph Bartenfelder, Maryland Department of Agriculture
Joanna Kille, representing Treasurer Dereck E. Davis
Gilbert "Buddy" Bowling
Elizabeth Hill

Others Participating:

Michelle Cable, MALPF Executive Director Sarel Cousins, MALPF Administrator Kim Hoxter, MALPF Monitoring, Enforcement and Database Coordinator Cherelle Miles, MALPF Fiscal Temp Patrick Martyn, Assistant Attorney General, Department of General Services Renee Dyson, Assistant Attorney General, Department of General Services Mike Steadman, Jr., Assistant Attorney General, Maryland Department of Agriculture Rob Baker, Montgomery County landowner Stephen Davis, Assistant Attorney General, Department of General Services Megan Benjamin, Baltimore County Program Administrator Mike Scheffel, Montgomery County Program Administrator Anne Bradley, Frederick County Program Administrator Shannon O'Neil, Frederick County Staff Beth Ahalt, Frederick County Staff Amanda Whitmore, Frederick County Historic Preservation Staff Sandra Storm, Frederick County landowner Josh Frey, Frederick County landowner Noel Manolo, Frederick County Attorney, representing Frey Billy Gorksi, Anne Arundel County Staff Laura Andrews, Anne Arundel County landowner Jennifer David, Calvert County Staff Kathleen Seay, Charles County Staff Chris Boggs, Washington County Program Administrator Bill Amoss, Harford County Program Administrator Beth Beales, Caroline County Program Administrator Catherine Skeeter, Somerset County Program Administrator

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Beth Beales, Caroline County Program Administrator
Catherine Skeeter, Somerset County Program Administrator
Donna Landis-Smith, Queen Anne's County Program Administrator
Will LeFort, Department of General Services Appraiser
Julie Reinhart

Mr. Allen, Chair, called the meeting to order at 9:05 a.m. via internet and telephone conference call. Ms. Cable stated the names of the participants on the conference call, for the record, and asked anyone that was not named to identify themselves.

I. APPROVAL OF MINUTES

A. Approval of Open Minutes from August 23, 2002.

Motion #1:

To approve minutes from August 23, 2022, incorporating

correction to the attendee list, as discussed.

Motion:

Yerkes

Second:

Herr Cornwell

Status:

Approved

II. ADDITION / DELETION OF AGENDA ITEMS

N/A

III. ANNOUNCEMENTS

Ms. Cable introduced the newest hire to the MALPF team, Stephen Davis. Mr. Davis will work with Mr. Martyn and Ms. Dyson on MALPF easement transactions out of the Department of General Services. Mr. Davis shared that he was happy to join MALPF and looked forward to working here.

Ms. Cable also asked all participants to keep themselves muted, and when unmuted, to clearly state their names before asking a question, or making a motion, etc. She reminded the Board members that when motions were made, Board members only needed to state their names if they were voting in opposition to the motion, rather than saying "aye" to vote in favor of a motion.

IV. EASEMENT AMENDMENTS

A. ANNE ARUNDEL COUNTY

1. 02-21-02 Andrews, Laura,

PR of the Estate of King, Eleanor R.

~67.5 acres

Request – Anne Arundel County:

Request approval to exclude up to 2 acres for an unrestricted lot.

Recommendation:

Staff recommends approval.

Ms. Cousins introduced the item. Mr. Gorski and Ms. Andrews were available to address the Board.

Motion #2:

To approve an unrestricted lot, up to 2-acres, as presented.

Motion: Status: Dell Approved Second:

Goodall

B. MONTGOMERY COUNTY

1, 15-19-01 Baker, Nancy and Paul

~ 101 acres

Request - Montgomery County:

Request for approval for a shop on the property. The shop will be a farm market shop which will sell processed farm products, as well as "accessory sales," as defined in the MALPF Uses Policy (below). The floor area dedicated for accessory sales will be no more than 600 square feet consistent with MALPF policy.

Recommendation:

After reviewing the requests and considering the criteria set forth in COMAR 15.15.07.03 and the MALPF Uses Policy, and considering the historical relationship of the requested activities to farming, Staff recommends approval subject to the following requirements and conditions:

- 1. The majority of the products must be grown on site; the remainder must be grown in Maryland or regionally produced,
- 2. Accessory Sales are limited to 600 square feet in area and
- 3. Compliance with all applicable federal, state and local planning, zoning or other statutes and regulations affecting the property and the approved uses.

Ms. Cousins introduced the item. Mr. Scheffel and Mr. Baker were available to address the Board. A Board member asked Mr. Scheffel questions regarding the accessory sales limitation, what Montgomery County permits. Mr. Scheffel stated that the County requires 75% of the products sold may be from on site or regionally sourced. Mr. Scheffel also stated that the farm structure access utilizes an existing ingress/egress entry way.

Motion #3:

To approve the establishment of a farm market shop, including an area for accessory sales, incorporating staff recommendations, as

presented.

Motion: Status: Cosgrove Approved

Second:

Herr Cornwell

Withdrawn

C.

- D. FREDERICK COUNTY
 - 1. Withdrawn
 - 10-79-04 Frey, Josh

~258 acres

Request - Frederick County:

Request conceptual approval to establish an animal byproducts incinerator on the MALPF property.

Recommendation:

MALPF Staff recommends approval, conditioned upon landowner meeting all County, State and Federal requirements.

If approved, MALPF Staff further recommends the owner proceed with obtaining all necessary county, state, and federal approvals required and submit the final plan to MALPF for Staff and OAG review. If the final plan is substantially the same as what the Board conceptually approved, MALPF Staff will send final approval letter. However, if there have been any significant changes, MALPF Staff will submit to the Board for a final review.

Ms. Cable introduced the item. Ms. Bradley, Ms. O'Neil, Ms. Ahalt, Mr. Manolo, and Mr. Frey were available to address the Board. Ms. Cable informed the Board that Mr. Connelly, who was not able to attend the meeting today, expressed support for this request and stressed this will help fill a need in the agricultural community as a whole. Ms. Bradley stated that Frederick County may need to pass zoning changes to allow this use, but it looks promising that action could occur. Mr. Manolo and Mr. Frey answered some clarifying questions from the Board, including that most likely this service will be available to receive shipments from Frederick County and the surrounding areas, but not from long distances away due to the nature of the remains.

Motion #4:

To provide a conceptual approval to establish an animal remains incineration facility, incorporating staff recommendations, as

presented.

Motion: Status: Goodall Approved Second:

Dell

3. 10-21-08 Storm, Jason and Sandra

~393 acres

Request - Frederick County:

Request for inclusion of a MALPF-eased property (the "Storms' MALPF Farm") in the Peace and Plenty Historic District ("HPD"), to be established by the County's Historic Preservation Commission ("HPC").

Recommendation:

MALPF Staff supports approval of the "tiered," "Full HPC Review" (see below) designation of a portion of the Storm's MALPF Farm limited solely to the area surrounding the dwelling, and the cemetery, as MALPF did not pay for those acres.

MALPF Staff is, however, concerned that the requested inclusion of certain agricultural structures on the Storm's MALPF Farm in the "Full HPC Review" designation, would allow for future complications, given the conflict between the mission and the restrictions of the HPD – preservation of the historical character of structures on a property – and MALPF's mission to ensure that farms operate to provide food and fiber for the citizens of the state of Maryland, in perpetuity.

Ms. Cable introduced the item. Ms. Bradley, Ms. O'Neil, Ms. Ahalt, Ms. Whitmore, and Ms. Storm were available to address the Board. The Board engaged in a robust discussion about the request, recognizing that the decision could impact not only this request, but also future historic district designations.

Ms. Whitmore clarified that the HPC review is only for the exterior of structures, and that in the last 5 years at least, the HPC has been able to work with all owners that submit requests to provide an approval. The HPC goal is to find a solution that allows the owner to complete the work they desire, while maintaining the historic integrity of the structures.

Ms. Storm confirmed that she and her husband agree that they do not want their agriculture operation hindered in any way, which she felt that the tier designation method accomplishes. She shared that the James Bank Barn is in dire needs of repair to maintain and restore it. The HPC designation would give them opportunity to receive grant funds to enable them to restore the bank barn and bring it into more functional use for their operation.

A Board member shared that he has an old bank barn on his farm in disrepair, stating that most bank barns around the state are not very useful in modern agricultural operations, but most farmers do not have the means to maintain or restore them. Instead, they often sit primarily vacant and unused, as most people like the way they look and don't want to demolish them, but can't afford to fix them. Having the opportunity for a grant fund to repair the barn would be helpful.

The Board asked Ms. Whitmore about clarification regarding the tax credit and the tier designation. Only the areas that are designated with full HPC review would be eligible for the tax benefit.

Ms. Cable walked the Board through the possible options of approval, separating the four yellow box areas into different motions. Ms. Cable also went through the various possible conditions the Board may want to incorporate as part of the approval. The Board asked Ms. Storm to provide her opinion on four possible listed conditions, and she did not have an objection to them.

At the end of the discussion, the Board made the suggestion that Staff may want to convene a committee to consider adopting a policy to help guide MALPF when or if future HPC designations arise.

Motion #5:

To approve the tiered designation of a historic preservation district over the designated 0.98 acre Daniel James Farm House area and the 0.2 acre Daniel James Cemetery area, incorporating the following four staff recommendations, as presented.

- Frederick County adopts the proposed changes to the Frederick County Historic Preservation Ordinance ("Ordinance") that will establish the tiered level of HPD designation, in form and content as presented to MALPF prior to the September 27, 2022 meeting;
- Frederick County Council approves the formal designation of the Peace and Plenty Historic Preservation District under the newly adopted Ordinance;
- Frederick County Historic Preservation Commission adopts the proposed Peace and Plenty Guidelines, in form and content as presented to MALPF prior to the September 27, 2022 meeting; and
- 4. Frederick County Historic Preservation Planning staff will forward any proposed changes to the Peace and Plenty Design guidelines to MALPF staff for their review and feedback prior to presenting the proposed changes to the Historic Preservation Commission. If a subcommittee is formed to review changes to the guidelines, County staff will invite MALPF to participate. MALPF staff will also be invited to attend the public meeting when the changes are to be discussed and adopted.

Motion:

Dell

Second:

Herr Cornwell

Status: Approved

Motion #6:

To approve the tiered designation of a historic preservation district over the designated 0.55 acre Higgens Bennett Farm area, incorporating the following four staff recommendations, as presented.

- Frederick County adopts the proposed changes to the Frederick County Historic Preservation Ordinance ("Ordinance") that will establish the tiered level of HPD designation, in form and content as presented to MALPF prior to the September 27, 2022 meeting;
- Frederick County Council approves the formal designation of the Peace and Plenty Historic Preservation District under the newly adopted Ordinance;
- Frederick County Historic Preservation Commission adopts the proposed Peace and Plenty Guidelines, in form and content as presented to MALPF prior to the September 27, 2022 meeting; and
- 4. Frederick County Historic Preservation Planning staff will forward any proposed changes to the Peace and Plenty Design guidelines to MALPF staff for their review and feedback prior to presenting the proposed changes to the Historic Preservation Commission. If a subcommittee is formed to review changes to the guidelines, County staff will invite MALPF to participate. MALPF staff will also be invited to attend the public meeting when the changes are to be discussed and adopted.

Motion: Status: Goodall Approved Second:

Dell

Motion #7:

To approve the tiered designation of a historic preservation district over the designated 0.98 acre Daniel James Bank Barn area, incorporating the following four staff recommendations, as

presented.

- Frederick County adopts the proposed changes to the Frederick County Historic Preservation Ordinance ("Ordinance") that will establish the tiered level of HPD designation, in form and content as presented to MALPF prior to the September 27, 2022 meeting;
- 2. Frederick County Council approves the formal designation of the Peace and Plenty Historic Preservation District under the newly adopted Ordinance;
- Frederick County Historic Preservation Commission adopts the proposed Peace and Plenty Guidelines, in form and content as presented to MALPF prior to the September 27, 2022 meeting; and
- 4. Frederick County Historic Preservation Planning staff will forward any proposed changes to the Peace and Plenty Design guidelines to MALPF staff for their review and feedback prior to presenting the proposed changes to the Historic Preservation Commission. If a subcommittee is formed to review changes to the guidelines, County staff will invite MALPF to participate. MALPF staff will also be invited to attend the public meeting when the changes are to be discussed and adopted.

Motion: Status: Goodall Approved Second:

Dell

4. Withdrawn

5. 10-86-01e Sub#1 Wood, Nicholas

~128 acres

Request - Frederick County:

Request approval to install a free-standing array of solar panels on the easement property owned by Nicholas Wood to produce approximately 108% of the current electric utility consumption of this farm and the adjacent lot owned by Mr. Wood which is used as his residence (residential and agricultural uses). The panels will be installed next to an existing alpaca shed and will be accessed by an existing gravel lane and driving on a field a short distance to the proposed site which veterinarians and shearers routinely do.

Recommendation:

Staff recommends approval.

Ms. Cousins introduced the item. Ms. Bradley, Ms. O'Neil, and Ms. Ahalt were available to address the Board.

Motion #8:

To approve the establishment of the solar panels, as presented.

Motion:

Dell

Second:.

Herr Cornwell

Status:

Approved

E. WASHINGTON COUNTY

1. 21-90-06e Harp, James T. Jr.

~157.34 acres

Request - Washington County:

Request approval to exclude up to 2 acres for a child's lot.

Recommendation:

Staff recommends approval.

Ms. Cousins introduced the item. Mr. Boggs was available to address the Board. He informed the Board that the lot will most likely only be one acre, but recommending keeping the up to two acres for approval in case additional acreage is needed when the engineering work is completed. Mr. Boggs also stated that the lot and access are all in fee so the lot acreage will include the driveway.

Motion #9:

To approve a child's lot for James Tyler Harp, up to 2-acres, as

presented.

Motion:

Wood

Second:

Yerkes

Status:

Approved

F. QUEENE ANNE'S COUNTY

 1.
 17-86-04Sub#1 Caleb Rossing
 ~11 acres

 17-86-04Sub#2 Faith Rossing
 ~58 acres

 17-86-04Sub#3 Faith & Caleb Rossing
 ~63 acres

 17-86-04Sub#4 Faren & Edward Jeeter
 ~64 cares

Request - Queen Anne's County:

Request approval of a boundary line adjustment between Sub#1 and Sub#3, increasing the Caleb Rossing parcel to ~50 acres, and reducing the Faith and Caleb Rossing parcel to ~24.63 acres. In addition, all four parcels, which were previously approved as subdivisions under the original deed of easement, will enter into new corrective easements.

Recommendation:

Per the terms of COMAR 15.15.11.01 *et seq*, Staff recommends approval, subject to the following conditions:

- 1. All regulatory requirements have been met;
- 2. New survey work for Sub#1 and Sub#3 to document the boundary line adjustment, at the expense of the owners:
- 3. New corrective easements to be completed for all four parcels that will include:
 - a. The pre-existing dwelling on Sub#1 will be non-subdividable;
 - b. The removal of the request to terminate the easement clause in all four parcels;
 - c. The existing legal descriptions for Sub#2 and Sub#4 will be used for the corrective easements:
 - d. Updated title work for the boundary line adjustment between Sub#1 and Sub#3 will be at the expense of the owners; and
 - The owners of Sub#2 and Sub#4 will have no additional expenses.
- 4. The landowners from all four parcels will sign an acknowledgement letter stating approval conditions.

Ms. Cable introduced the item. Ms. Landis-Smith was available to address the Board. Ms. Cable reviewed the history of the previous subdivision approvals and explained how the current request will result in a benefit to the owners as well as the MALPF Program as a whole.

Motion #10:

To approve boundary line adjustment between Sub#1 and Sub#3, incorporating Staff recommendations, as presented.

Motion:

Status:

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Approved

Second:

Wood

V. NEW AGRICULTURAL PRESERVATION EASEMENT PETITIONS:

A. Howard County

1. 13-23-02 The Kennard Warfield, Jr. Family LLLP

~58.4596 acres (includes unpaid acres)

Request to approve the application designating 1-acre as a non-subdividable building envelope for a future dwelling.

Motion #11:

To approve the Howard County request as presented

Motion: Status: Wood Approved Second: Herr Cornwell

VI. PROGRAM POLICY

N/A

VII. INFORMATION AND DISCUSSION

N/A

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; and (7) to consult with counsel to obtain legal advice.

Motion #12:

To adjourn the regular session at 11:04 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; and to consult with counsel to obtain legal advice.

Motion:

Yerkes

Second: Herr Cornwell

Status:

Approved

The Closed Meeting of the Board was held from 11:20 a.m. to 11:32 a.m. on September 27, 2022 via internet and telephone conference call, pursuant to the provisions of the General Provisions Article Section 3-305 (b): Annotated Code of Maryland:

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

During the Closed Meeting, the following Board members were present: William Allen, Chair, Cricket Goodall, Vice Chair, Deborah Herr Cornwell, representing Secretary Robert McCord, Maryland Department of Planning, Cathy Cosgrove, Gary Dell, Joe Wood, and J. Bruce Yerkes.

The following Board members were absent:

Steve Connelly, representing Secretary Joseph Bartenfelder, Maryland Department of Agriculture

Alex Butler, representing Comptroller Peter Franchot Joanna Kille, representing Treasurer Dereck E. Davis Gilbert "Buddy" Bowling

Elizabeth Hill

The following MALPF staff and legal representatives were also present during the closed session meeting: Michelle Cable, Sarel Cousins, Kim Hoxter, Cherelle Miles, MALPF Fiscal Temp, Michael Steadman, Jr., Assistant Attorney General, Maryland Department of Agriculture, Patrick Martyn, Assistant Attorney General, Maryland Department of General Services, Renee Dyson, Assistant Attorney General, Maryland Department of General Services, and Stephen Davis, Assistant Attorney General, Maryland Department of General Services.

TOPICS DISCUSSED:

- A. Approval of August 23, 2022 Closed Session Minutes
- B. Status Report of Pending Legal Issues
- C. Approval of title expenses

Respectfully Submitted:

Michelle Cable, MAI PE Executive Directo