



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING
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**HOWARD COUNTY AGRICULTURAL LAND PRESERVATION BOARD
AND STATE AGRICULTURAL PRESERVATION ADVISORY BOARD**

March 12, 2012

Attendance:

Board Members: Sean Hough, Chairman
John Komsa, Vice Chairman
Ricky Bauer
Howie Feaga
Shirley Matlock
Lynn Moore

Staff: Joy Levy, Administrator, Agricultural Land Preservation Program
Lisa O'Brien, Senior Assistant County Solicitor, Office of Law
Mary Smith, Secretary, Agricultural Land Preservation Program

Public: Mike Clark
Richard Warfield
Robert Long
Sandy Lutes

Action Items

1) **Minutes from the February 13, 2012 meeting** – Chairman Hough called the meeting to order at 7:35 p.m. and asked for additions or corrections to the February 13, 2012 minutes. Mr. Bauer motioned to accept the minutes as mailed. Ms. Matlock seconded the motion. The motion carried unanimously.

2) **Request for Approval, Exchange of Land under Easement for Land not under Easement; Limestone Valley Farm property, 13-79-04Ae, 342 Acres (APAB)** – Ms. Levy stated that Limestone Valley Farm is the current owner of the subject property, and noted that the farm was placed in the MALPF program in August 1982 by Barbara Warfield. In 1995, the property transferred to Limestone Valley Farm, a Maryland general partnership comprised of Mrs. Warfield and three of her six children. The easement covers 342 acres of a 367 acre farm. Ms. Levy stated that there is a 25 acre area that was withheld from the easement restrictions. She stated that this unencumbered acreage has frontage on both Sheppard Lane and Rt. 108. Ms. Levy referred to the land preservation map, which shows the unencumbered portion relative to the remainder of the farm.

Ms. Levy explained that the current request is to exchange land under easement for land not under easement, noting that the actual exchange amount is approximately 10 acres. The 15 acres that form the base of the triangle of the land that is currently unencumbered will remain unencumbered. Ms. Levy referred to the attached maps to help explain what is being proposed relative to present day conditions.

Ms. Levy introduced Mike Clark and Richard Warfield, stating that they are both members of the Limestone Valley partnership. She indicated that she has met with Mr. Clark several times to review and discuss the request. She noted that there are two letters from Mr. Clark as part of the request submission and both are included in the staff report.

Ms. Levy summarized Mr. Clark's request, stating that when the property was put under easement, there wasn't a lot of consideration given to the configuration of the withheld acreage relative to the layout and function of the farm. Ms. Levy noted that this proposal attempts to rectify that by changing the boundary line to more accurately reflect current pasture areas and access to them. She stated that the current easement line runs through the only usable pasture ground in this section of the farm. She referred to the attached aerial and topographical maps, noting that most of the mid section of the eastern portion of the property is wooded.

Ms. Levy pointed out that in Mr. Clark's narrative explaining the reasoning behind the request, it is noted that the only access point to the non-wooded pasture area is a gate along Sheppard Lane. He states that should the 25 acre piece, as currently configured, be sold in the future, a 4.38 acre adjacent area would be isolated with no access. Mr. Clark indicates that this area would quickly revert to woods if left unmanaged and would therefore be lost as pasture.

Ms. Levy referred to the topographical map provided by Mr. Clark and showed the Board the location of this potentially isolated pasture area, noting that the 4.38 acre figure seems high given the amount of woods. Mr. Clark agreed that the pasture area is not that large, and didn't realize that a mistake had been made on the map prior to reading the staff report. He said the area is probably closer to an acre.

Ms. Levy told the Board that the MALPF program does not specifically provide for the ability to exchange land under easement for land not under easement. It is completely within the MALPF Board's discretion whether a land swap should be allowed. MALPF has taken the position in the past that there is no incentive to allow a land swap if the proposal does not benefit the program.

Ms. Levy informed the Board that typically the MALPF Board will analyze whether the size and soils capability of the area coming under easement is equal or superior to that of the area being released. It is generally expected that at the very least, the acreage and capability values will be equal. In the current situation, the acreage values are the same. Limestone Valley is proposing to swap an even 10.19 acres.

Ms. Levy explained that the problem is the relative capability of the soils. The analysis prepared by the Howard Soil Conservation District (SCD) shows that the area to be released is almost 98% Class I, II and III soils whereas the area to be encumbered is only 65% Class I, II and III soils. In addition, according to the topographical map provided by the applicant, 8.66 acres of the area to be released is considered "usable" compared to 6.82 acres of the area to be encumbered.

Looking again at the topo map, Ms. Levy stated that both areas show a stream crossing, but it is a more significant feature of the area to be encumbered because of all of the steeply sloped land around it. According to SCD staff, based on the soil capabilities and the amount of relative slope of the two areas, they cannot be considered equitable for long term agricultural purposes.

Ms. Levy noted Mr. Clark's anecdotal information regarding on-the-ground management issues, stating that the soils are thin and don't produce much grass on approximately 5 acres of the proposed release area. He also indicated the presence of rock outcroppings that make mowing difficult. The applicant believes these factors outweigh the unfavorable soils comparison.

Ms. Levy stated that staff is sympathetic to the applicant's position that the original boundary line was hastily drawn and may not reflect the family's best interests, but an objective analysis of the situation results in a recommendation of denial to the APAB.

Ms. Levy stated that the property owner is invited and encouraged to attend the MALPF meeting and address the Board. The APAB's recommendation will be forwarded to the MALPF Board for their consideration at their April meeting.

Chairman Hough asked the property owners if they had any comments.

Mr. Clark stated that MALPF would only pay for the 342 acres as stated in the deed, despite the survey turning up 25 additional acres, so the family decided to leave it out of the easement.

Mr. Hough sought clarification as to whether the family got to choose the boundary line.

Mr. Clark stated that at the time, his stepfather had recently passed away and they were putting the farm into preservation to counteract some of the problems that developed as a result. He indicated that they were farming full time and left it to the surveyors and the lawyers to decide where to place the line.

Mr. Clark stated that there are six children who are entitled to one acre lots and that the family would consider the possibility of giving up the right to one of them. Mr. Clark also stated that in contrast to what he'd previously told Ms. Levy, the family might consider giving up some additional acreage in order to make the swap happen. He indicated that they were initially unwilling to consider this because developable land in Clarksville is very valuable. The family has talked about it further and they have possibly reconsidered.

Ms. Matlock asked why the 25 acres aren't in the property deed and how the survey turned up so much additional acreage.

Mr. Clark stated that he wasn't sure but he confirmed that the old deeds did include the 25 acres. He attributed the discovery to modern surveying. He said that he had been trying to get a corrective deed done, but that hasn't happened yet. He also confirmed that the 25 acres is not a separate parcel.

After reviewing the survey and the calls on the deed, everyone agreed that the farm is comprised of 367 acres, and only 342 are encumbered by the easement. Ms. Levy confirmed that this is MALPF's understanding as well.

Mr. Feaga motioned for the Board to not accept staff's recommendation and to recommend approval to the MALPF Board. The motion was seconded by Mr. Bauer and passed unanimously.

Discussion Items

1. Program Updates - No Report

2. Legislative Update – Ms. Levy provided the following information:

- a. Family Farm Preservation Act of 2012 – This bill would alter the determination of the MD estate tax to exclude from the value of the gross estate up to \$5 million of the qualified agricultural property. Staff recommendation was to support. No action.
- b. Fair Market Appraisal Requirement – This bill would increase from one to two the number of fair market appraisals required for easement termination. Staff recommended approval. Passed in the Senate and on to the House for a hearing on 3/28/12.
- c. Voluntary Agricultural Nutrient & Sediment Credit Certification Program – This bill would authorize MDA to establish requirements for the voluntary certification and registration of sediment credits on ag land. Staff recommendation was no objections. Passed in the Senate and on to the House for a hearing on 3/28/12.
- d. MALPF Easements – This bill's primary function would be to repeal obsolete language relating to agricultural districts. Also a housekeeping measure to update and clarify the process for MALPF easement acquisition. Staff recommendation was no objections. Passed in the Senate and on to the House for a hearing on 3/28/12.

e. MALPF Lot Releases – This bill would alter specific conditions that must be met before MALPF is required to release lots. Staff recommendation was to support in principle. Passed in the Senate and on to the House for a hearing on 3/28/12.

3. **Presentation of Certificate of Recognition to John Komsa** – Chairman Hough presented the certificate from the County Executive to Vice Chairman John Komsa, thanking him for his 10 years of service to the Board.

Chairman Hough asked if there were any additional discussion items. There being none, Mr. Feaga made a motion to adjourn the meeting. The motion was seconded by Ms. Matlock and unanimously approved. The meeting was adjourned at 8:48 P.M.

Joy Levy, Executive Secretary
Agricultural Land Preservation Board