

Baltimore County Agriculture Advisory Board
Meeting Minutes

(Minutes Approved June 11, 2014)

MEETING: April 9, 2014 Field Meeting – 3:00pm – 5:00 pm & Board Meeting – 6:30pm – 8:30 pm @ The Baltimore County Center for Maryland Agriculture, 1114 Shawan Road, Cockeysville, MD 21030

FIELD MEETING INTRODUCTION: The field meeting convened at 3:30 pm by Gail Ensor, Chair.

BOARD MEMBERS PRESENT: Gail Ensor, John Merryman, David Sparks, Russell Berk

MEMBERS ABSENT: Harriet McGinnis, David Martin, Ann Jones

OTHERS PRESENT: Wally Lippincott, Carmela Iacovelli, Jennifer Belt, (landowner at the field meeting).

MALPF Easement Landowner Requests/Issues

Pearce - Belt #03-89-09AE– 16417 J.M. Pearce Road, Monkton ~92.8 +/- acres

Requests For recommendation to the State for an increase in lot size from 1 acre to 1.827 acres for Donald Belt.

Discussion: The Board and staff members visited this property during the field meeting and met with Jennifer Belt on site. During the field meeting the Board members discussed the lot location with Mrs. Belt and the reasons for the request to increase the lot size. The Board discussed the issues with the old configuration; that the old layout created a narrow piece of land between the lot and the road that would be very difficult to farm. It would be much better for farming to square off the lot.

RECESS: The meeting was recessed at 3:35 pm.

MEETING RECONVENED: The meeting was reconvened at 3:40 pm by Gail Ensor, Chair.

Baltimore County Easement/Landowner Requests/ Issues

South Branch Partnership –16425 Old York Rd, Monkton, 50 acres (MET Easement)

Request #1 – for an agricultural subdivision of 16425 Old York Road (an MET easement) to create a 9.803 acre parcel and a 42 acre parcel to be added to Linden Farm a MALPF easement (03-98-16) located at 16607 Old York Road.

Request #2 – to designate an existing dwelling on the property as a tenant dwelling.

Discussion: The Board and staff members visited this property during the field meeting. Staff (Wally Lippincott) presented the owners request and additional background information that was provided by

Jay Young (attorney for South Branch). This property was originally preserved through a donation to the Maryland Environmental Trust which continues to hold the easement. A condition of that easement gave the owners (current and future) the right to demolish the existing tenant house and rebuild within a designated 8 acre building area somewhere in the field. The property was recently purchased by South Branch Partnership. The proposal is to subdivide off the 42 acres of farm fields/pastures/forest. The remainder (~9.8 ac.) including the dwellings and other infrastructure will be sold to someone that operates the horse operation as a “grief counseling” activity. The Board’s questions/comments are as follow:

Request #1 Subdivision of the Property

- Was this a purchased easement? No, was donated to MET, the MET Board is agreeable to the proposal since it will extinguish the building right. The challenge from the environmental side is that there is no pasture or riding ring remaining on the 9.8 acres.
- What kind of agreement/ is there an agreement? for the new owners to use the land (42 acre portion) for maintaining the horses? Need assurance of an agreement.
- Will this property (both the 9.8 and 42 acres) remain under easement? Yes, still under MET.

Request #2 Tenant House designation

- Is there a sufficient need for a tenant farmer on the 9.8 acre property to justify the tenant designation for the dwelling?

Meeting Recessed at 4:00 pm by Gail Ensor, Chair.

BOARD MEETING AT THE BALTIMORE COUNTY CENTER FOR MARYLAND AGRICULTURE

BOARD MEETING INTRODUCTION: The meeting was re-convened at 6:30 pm.

BOARD MEMBERS PRESENT: Gail Ensor, Harriet McGinnis, John Merryman, David Sparks, Russell Berk

MEMBERS ABSENT: David Martin

OTHERS PRESENT: Ann Jones, Wally Lippincott, Megan Maffeo (rep. for Morris-Ritchie Assoc.), Wayne & Phyllis Fegely (landowners), Jack & Patti Bell (landowners), Jay Young, attorney for South Branch Limited Ptnrshp. (by telephone).

I. APPROVAL OF MINUTES/ADDITION OR DELETION OF AGENDA ITEMS:

- A.** Approval of Minutes of: February 12, 2014.

Motion: To approve the minutes as presented.

Motion made by: John Merryman Second: Russell Berk

Decision: Unanimous Approval

- B.** Addition or Deletion of Agenda Items.
 - 1. Addition of the Wisner Lot change.
 - 2. Discussion of FY15 Optimization.

Motion: To accept the additions to the agenda.

Motion made by: David Sparks Second: Russell Berk
Decision: Unanimous Approval

II. MALPF Easement Landowner Requests/Issues

A. Pearce - Belt #03-89-09AE– 16417 J.M. Pearce Road, Monkton ~92.8 +/- acres

Requests For recommendation to the State for an increase in lot size from 1 acre to 1.827 acres for Donald Belt.

Background

Donald and Jennifer Belt are requesting approval for a reconfiguration of the child's lot from 1 acre to 1.827 acres (approved by MALPF April 23, 2002) to include the area in front of the lot as it is not practical to farm that area and to align the house lot with the adjacent house lot. Markoe Road is not a scenic byway.

The location of the proposed (1.827 acre) child's lot is at the SW edge of the property boundary along Markoe Road and clustered with another residential lot. There will be direct access to the lot via Markoe Road. The soils in the proposed lot location are 20% GdA (Class I), and 80% GhB and GdB (Class II).

Once a family lot is approved there is a three year time limit to build the house and then the family member must reside in the dwelling for 5 years before the property can be transferred.

Discussion: The Board visited this property during the field meeting and met with Jennifer Belt on site. During the field meeting it was discussed that the old layout created a narrow piece of land between the lot and the road that would be very difficult to farm. While the request letter mentioned an issue with a swale, it was clear from a farming perspective that it would be much better for farming to square off the lot.

Motion: The Board recommends the request for the new configuration/location of the child's lot and an increase in size of the lot for Donald Belt.

Motion made by: John Merryman Second: Harriet McGinnis
Decision: Unanimous Approval

B. Cornwell, Kim & John #03-97-02 E#1 – 4401 Black Road Road, Upperco 55.05 acres

Request For a reorientation/relocation of a child's lot for Patti Bell.

Background

Mr. and Mrs. Cornwell and Mr. & Mrs. Bell are requesting a swap of approximately ¾ acre in order to make Mr. & Mrs. Bell's child's lot buildable. The farm was placed under easement by their parents, Mr. & Mrs. Fegely, in 2000. In 2011 Mr. & Mrs. Fegely conveyed this portion of the farm to Mr. & Mrs. Cornwell subsequent to the MALPF approval of the child's lot for Mr. & Mrs. Bell.

Following the construction of a drive way into the farm that was to serve as access for the Bell's lot as well as the other child lot approved for the property, it was found that the approved lot configuration could not be built upon. This request is for a reorientation of that lot in order to make it buildable. The submitted drawing illustrates that the request is a change in orientation from being parallel to the access lane to being perpendicular to it.

The request will be neutral with respect to soils with the same soils being swapped. The location is in essentially the same location. It will protrude more into the farm with the proposed orientation, however, given the steepness of the land the area is marginal for crop production and thus the impact on the agricultural capability of the easement is expected to be minimal.

Discussion:

The Board asked the Bells where the house would be located. Mr. Fegely drew it on the photo. The Board members requested that Mr. Fegely provide an engineering plan with the exact house location.

Motion: The Board recommends the request for a swap of ¾ acre.

Motion made by: David Sparks Second: Russell Berk

Decision: Unanimous Approval

C. Wisner Farms, Inc. #03-98-15AC– Black Rock Road, Upperco (Map 26, parcel 18) ~77.95 +/- acres.

Request For recommendation to the State for an adjustment to the lot location.

Discussion: The Wisners discussed with Staff that they will be buying the rest of the farm and discussed other locations for the approved lot. They want to adjust the lot location slightly to improve the lot. The new lot area protrudes slightly more into a field but retains adjacency to the boundary.

Motion: The Board moved to approve the new location and a lot up to 2 acres.

Motion made by: Dave Sparks Second: John Merryman

Decision: Unanimous Approval

III. Baltimore County Easement/Landowner Requests/ Issues

A. Churchill, David & Diann BC #97-17– 2044 Freeland Road, Freeland, 144.2 +/- Acres

Request for a transfer of a released unimproved child’s lot on the property to the current owners of the property. Mr. and Mrs. Churchill are the subsequent owners of the property and not the original easement grantors. This request was reviewed by the Advisory Board Sub-committee. They will present their report and recommendation.

Background

Mr. and Mrs. Churchill are presenting a request to the Board for consideration of a transfer of a child’s lot that was released to Patrick O’Neill (son of the original easement grantors). The lot was transferred to Patrick O’Neill and subdivided in 2007. A well exists on the lot but a dwelling on the child’s lot was never constructed. The Churchills would like to purchase the lot from the O’Neills and are proposing three scenarios:

- 1) Allow a direct transfer of the one (1) acre O’Neill child’s lot to their son Ian Churchill. The Churchills would also agree to place an easement on an adjacent 2.37 acre parcel (p. 44) that they own and was not included in the initial easement donation.
- 2) Allow a transfer the O’Neill child’s lot to the easement extinguishing Mr. O’Neill’s ownership/lot rights while retaining the ability for the Churchills to request a child’s lot somewhere on their property in the future. The Churchills will also consider transfer of the 2.37 acre adjacent parcel 44 to the easement.
- 3) Extinguish the child’s lot for Patrick O’Neill and return the 1 acre lot to the easement.

Motion: Recommendation to bring back the motion to the table.

Motion made by: John Merryman Second: Russell Berk
Decision: Approved

Discussion: Russell Berk and John Merryman were the subcommittee members who reviewed this request. They addressed the Board regarding their decision. There are laws on the books regarding the assignation of child’s lots and the subcommittee felt that these laws should not be changed to allow subsequent owners of an easement property (beyond the original grantees) to have the ability to retain/grant child’s lots. “Other people who have sold the land and next owners do not have the right for lots. Leave it alone.” As for the Churchill’s concern that Patrick O’Neill’s family might not reside in the house, the Board indicated the regulations require Patrick O’Neill to reside there with the full meaning of the word “reside” and that the County should monitor to assure that the regulations are enforced. If not used legitimately by Patrick O’Neill, the lot is to be returned to the easement. This would be the third option in the Churchill request.

Motion: The Board recommendations denial of the request by Mr. and Mrs. Churchill for transfer of a lot right from seller of the original easement (Mr. O’Neill) to the new owner (the Churchills).

Motion made by: David Sparks Second: Russell Berk
Decision: Unanimous Approval

IV. Baltimore County Zoning or Nuisance Issues

A. Wirtz, Gary – 11956 Philadelphia Rd, Kingsville, 23.55 acres (For the Board’s Information Only)

Zoning violation for construction of a metal building on the property.

Background

An enforcement citation was referred to the Baltimore County Agricultural Land Preservation Advisory Board regarding construction of a metal building on the property.

The property is an RC-5 zone and assessed as agricultural use according to Maryland SDAT and was recently purchased by Mr. Wirtz. Mr. Wirtz has been doing an extensive clean up and will be growing hay on the Philadelphia Road property this year. The structure that has been constructed has five large bays. Large bins will be constructed in the heated bays for the production of worms and worm castings (a soil amendment). Some of the other bays will be used for equipment storage.

Discussion: Board discussion of whether worm castings are agricultural products but will wait until Mr. Wirtz gets the business going before coming to an opinion. Mr. Wirtz currently produces wood products, mulch, and topsoil. He is into soil and amendments.

B. South Branch Partnership –16425 Old York Rd, Monkton, 50 acres (MET Easement)

Request #1 – for an agricultural subdivision of 16425 Old York Road (an MET easement) to create a 9.803 acre parcel and a 42 acre parcel to be added to Linden Farm a MALPF easement (03-98-16) located at 16607 Old York Road.

Request #2 – to designate an existing dwelling on the property as a tenant dwelling.

Background

Robert Kinsley, Managing Partner of the South Branch Limited Partnership, has recently purchased the property. He is requesting an amendment to the Maryland Environmental Trust Easement and a Tenant Dwelling designation for the agricultural subdivision of the property to create a 9.803 acre parcel (Lot 1) and a 42 acre parcel (Lot 2). The 9.803 acre parcel will include the main dwelling, a smaller dwelling, barn, and outbuildings. The 42 acre parcel will include the farmland/pastures/forested areas/streams, some run-in-sheds, and most of the riding ring (the riding ring is split by the proposed new boundary).

Mr. Kinsley is also requesting designation of the smaller dwelling on proposed “Lot 1” as a Tenant House. There is a currently horse riding/boarding stable adjacent to the tenant dwelling that is operated

and managed by Jillian Temple (the tenant farmer). Mr. Kinsley resides in Pennsylvania and a tenant farmer is needed to oversee the property and horses.

The request was reviewed and approved by the MET Board.

Discussion: Gail Ensor discussed her concern for the split of the riding ring. Jay Young – available by telephone – indicated that the therapy does not include much riding. Key is to get away from the grieving situation that reminds them of the loss. Children and potentially adults will groom, tack, see the horse, etc. Experience is less based on the riding.

General agreement, however, that it would be more viable if the riding ring was on the property. Mr. Kinsley would support that idea. It would be more viable for the request for the tenant house. More viable if the riding ring was on the portion of the property to be subdivided. Jay Young remarked that the owner is favorable of the Board’s suggestion to increase the subdivision size of the smaller lot. Ms Maffeo drew a line that boxes off the area of the riding ring and added it to the 9 acre lot. This does not agree with the original easement but if the Baltimore Co. Advisory Board is supportive, it will likely happen. Jay Young indicated the flexibility for new operations has a positive effect for new easements.

Motion #1: The Board recommends approval as a tenant house subject to the inclusion of the riding ring into the lot and the elimination of the option in the MET easement to build a secondary primary dwelling and subject to agreement of MET.

Motion made by: John Merryman Second: Russell Berk
Decision: Unanimous Approval

Discussion: of whether the 42 acres would be added to the adjoining Linden Farm. Mr. Young advised that the State did not want to combine the two parcels.

Motion #2: The Board recommends approval for an agricultural subdivision whether or not the 42 acres is added to the adjacent property and would support the request subject to the State decision so long as it’s recognized that the 42 acres is undevelopable for any dwellings inclusive of a tenant house. Would permit construction of run-in sheds, barns or other agricultural structures.

Motion made by: John Merryman Second: Russell Berk
Decision: Unanimous Approval

V. OLD BUSINESS – Update

A. Dubel, David & Mary - MALPF #03-83-09E: Request for an extension on the “Final Release” for building a child’s lot. A five year extension (to June 30, 2020) was approved at the March 25, 2014 MALPF Board meeting.

B. Wisner Farms, Inc. – MALPF #03-98-15AC: Request for a child’s lot for David B. Wisner. This request was approved at the March 25, 2014 MALPF Board meeting.

C. Greene, David & Nancy – MALPF #03-95-05E: The solar panel array has been constructed on the farm. Staff photos of the array and the impacts on the landscape.

D. Medley, James R. – MALPF # 03-88-08: The cell tower on the property has been constructed. Staff photos of the cell tower and the impacts on the landscape.

VI. PROGRAM POLICY

A. Proposed changes to MALPF COMAR regulations governing agricultural subdivision/corrective easements.

1. This regulation was approved with revisions at the March 25, 2014 MALPF Board meeting.

Discussion: Reviewed the new State draft that includes the changes recommended by the Board.

B. MALPF Uses Committee – Uses Policy – Food Preparation and Sales/seating For the Board’s Information Only:

1. This policy was approved as presented at the March 25, 2014 MALPF Board meeting. **Did not discuss this item.**

C. 2014 Legislative Update

1. There were five (5) bills discussed at the MALPF meeting of March 25, 2014 that were presented to the Maryland State Legislature. SB 71 (Value of an Easement), SB 259 & HB 861 (Renewable Energy Generation Facilities), HB 1402 (Agricultural Transfer Tax – Distribution to Mel Noland Woodland Incentives Fund), HB 1437 (MALPF Lot Release – Demonstrated Financial Hardship).

Discussion: Ann Jones reported on the funding of Program Open Space, the legislature did not change the Governor’s budget which was ½ of what was collected from the transfer tax with a plan to add the other ½ back in out years. This is how the program has been funded for the last several years. No new money this year but plan that POS funds will be restored and fully cash funded by 2019. Ann Jones said she has been in discussion with the land trusts for a legislative breakfast after the primary.

D. LESA-

Discussion: Wally Lippincott discussed making changes to put the scale on gradient. Board concerned that this would change the weights and did not want to do it this year. They would like to review the LESA for the next meeting since they have not had time to fully review. There was discussion about the Imminent Threat points. It was not clear who gets the points and it did not seem logical at first that producers were getting points. After staff explained that the points go to producers who are buying a farm and then putting it under easement, the Board agreed with this concept but indicated the language was not clear. Staff indicated would work on changes to clarify. John Merryman asked if we meet with landowners when do the ranking. The suggestion is that we do so in order to get their input when looking at the land.

Optimization-

Discussion: of using a two tier process for optimization with the first tier being keystone properties. Review of the original concept and how it was based on getting the most acreage with the most benefits and that this often meant that the best farms which are often more expensive would not be selected. This process has resulted in significant cost savings and more acreage but creates a problem in not selecting the very best farms. Staff described that the consultants from whom the optimization was purchased related to us that some jurisdictions use a two tier system. They allocate some funding for the top farms in a first round. Then in a second round the remainder farms are fully optimized. The Board is interested in this and would like the staff to use it on last year's easement ranking to show what the outcome would have been if this process was used in the last round of applications.

VII. INSPECTIONS

A. Easement Inspections: Inspections have begun for the MALPF program. Three properties were inspected during March (Dubel, deBorja, Robert Morris).

VIII. STATUS OF EASEMENT TRANSACTIONS/ UPDATES

A. 2014 MALPF Offers: A) Easements Settled: Green Valley Training Center

B) Easement Updates: Four more FY '13/'14 applicants have received an easement offer from MALPF: Marilyn Smith, Leonard & Mildred Hutschenreuter, Sullivan-Higgs, and Tranquility Manor Farm (Merryman-Gilmore) 210 acre property.

IX. MISCELLANEOUS/ INFORMATION/ CORRESPONDENCE/ NEWS ARTICLES

X. FUTURE MEETING DATES

Next Meeting Date(s): May 14, 2014 (regular monthly meeting) and June 11, 2014 for ranking of applications.

XI. ADJOURNMENT

Motion: To adjourn

Motion made by: David Sparks Second: Harriet McGinnis

Decision: Unanimous

Time: Meeting adjourned at 8:08 pm