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**HOWARD COUNTY AGRICULTURAL LAND PRESERVATION BOARD
AND STATE AGRICULTURAL PRESERVATION ADVISORY BOARD**

**Batch 14 Public Hearing Minutes
October 19, 2009**

Attendance:

Board Members:

Sean Hough, Chairman
John Komsa, Vice Chairman
Ricky Bauer
James Eacker
Howie Feaga
Shirley Matlock
Lynn Moore

Public:

Ian Carroll
James Pfefferkorn
Will Slade

Staff:

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

Action Items

1) Minutes from October 19, 2009 Meeting –Chairman Hough called the meeting to order at 7:30 p.m., and then asked for additions or corrections to the minutes of the September 21 and October 5 meetings. There being none, Mr. Eacker motioned to accept both sets of minutes as received. Ms. Moore seconded the motion. The motion carried unanimously.

Chairman Hough opened the Batch 14 public hearing at 7:35 p.m.

2) Genevieve Carroll – Ms. Levy stated this property is located on the east side of Manor Lane, north of Rt. 108. She stated that Ms. Carroll's property is the southernmost of three contiguous Batch 14 parcels that partially comprise what used to be called South Manor Farm. South Manor was recently subdivided and distributed among the Carroll and Ziegler cousins who previously owned the farm as tenants-in-common. Ms. Carroll's brothers, Ian and Teige, own the other two Carroll parcels, which are now collectively referred to as Vineyard Farm. They also own a 330-acre parcel on the west side of Manor Lane that was put into preservation in 1996, which is also known as Vineyard Farm.

Ms. Levy said that she visited the farm, along with ALPB members Sean Hough and Jim Eacker and Brandy King of the Natural Resources Conservation Service (NRCS), on September 18, 2009. They met with Genevieve and Ian Carroll who explained the division of South Manor using the subdivision plats and then provided a driving tour of the applicant parcels. According to Ms. Carroll, Ricky Bauer farms the ground, which is planted in a corn and wheat rotation. For clarification, Ms. Levy referred to an e-mail she sent to the Board earlier in the day,

noting that Ricky Bauer custom farms all three Carroll parcels. She stated that this is significant as it pertains to the “owner operated” element of the score sheet because as a custom farmer, Mr. Bauer assumes no financial risk; therefore, the Carrolls are considered the operators.

Ms. Levy noted that according to Brandy King, the Soil Conservation and Water Quality Plan for this property is current and fully implemented.

Ms. Levy stated that this property meets all eligibility criteria for acquisition of an agricultural preservation easement. In addition, she indicated that it is almost completely surrounded by land that is already protected, has a very high percentage of Class I, II and III soils and there are almost 1,800 acres of preserved land within a mile. There is also a history of a fully implemented conservation plan, which is very desirable. She recommended that the ALPB take those factors into consideration when awarding their optional points.

Ms. Levy noted an error on the score sheet (#7) that will be corrected and factored in prior to the November 2 meeting. She stated that she inadvertently gave 75 points instead of 100 for the amount of land in agricultural use.

Referring to the sign-in sheet, Chairman Hough requested Ian Carroll to step forward and then swore him in. Mr. Carroll stated that he would be representing all three Carroll properties. Mr. Carroll thanked the Board for their time and consideration, stating that he supports the ALPP program and it has been beneficial to this family in the past. Mr. Carroll asked for questions from the Board.

Mr. Feaga asked for clarification as to why the Carroll properties all received a “0” for road frontage. Ms. Levy explained that it is because Manor Lane is a private road, so it does not count.

Mr. Feaga complimented the Carrolls for having up-to-date and fully implemented Soil Conservation plans.

3) John L. (Ian) Carroll, Jr. – Ms. Levy stated that this property is the middle of the three contiguous Carroll parcels. Ms. Levy referred to the map set, noting that there is an area approximately one acre in size that is not part of the application. She stated that Mr. Carroll is building a new home in that location. Ms. Levy referred to the aerial map, pointing out the existing house on the property, which is included in the application. She stated that this house, which is very old, is the only dwelling on the three Carroll properties. Mr. Carroll noted that from his research, he thinks it was constructed in 1830 and was probably a farm manager’s house.

Ms. Levy noted that the current size of the lot is 1.2 acres, but that Mr. Carroll is attempting to increase the lot size to 3 acres to accommodate a geothermal system. Mr. Carroll noted on the aerial map the location of a grassed waterway area adjacent to the new dwelling site, which is where the geothermal trenching is located. He stated that it is situated in order to minimize disturbance to the farm field. Mr. Carroll has applied for an exemption from the Zoning Regulations to allow a 3 acre lot. If the exemption is granted, the parcel coming into the program will be reduced by 1.8 acres. Mr. Carroll stated that he is working with Benchmark Engineering and he will inform the Board of his progress.

Ms. Levy stated that she will update the scoring to reflect the reduced acreage if the exemption is granted.

Ms. Levy stated that the property meets all of the eligibility criteria for acquisition of an agricultural preservation easement. In addition, it has 100% Class I, II and III soils and there are 1,400 acres of preserved land within a mile. There is also a history of a fully implemented conservation plan, which is very desirable. She recommended that the ALPB take those factors into consideration when awarding their discretionary points.

Mr. Komsa asked about access from the new house out to Manor Lane. Mr. Carroll stated that there will be an access easement across his parcel.

4) Thomas Teige Carroll – Ms. Levy stated that this property is the northernmost of three contiguous Carroll parcels. She stated that as with the other two, the Soil Conservation and Water Quality Plan for this property is current and fully implemented.

Ms. Levy stated that the property meets all eligibility criteria for acquisition of an agricultural preservation easement. In addition, it has 100% Class I, II and III soils, a very high percentage of the farm is in active agricultural use and there are almost 1,200 acres of preserved land within a mile. There is also a history of a fully implemented conservation plan.

Referring to the map set, Mr. Ian Carroll explained that there is an interfamilial 15-year easement that was established with the specific intent to prevent the Carroll and Ziegler families from developing certain portions of their properties before 15 years had expired. Mr. Carroll stated that just east of his brother, Teige's, parcel there is a 50-acre parcel owned by their aunt. The easement stipulates that with the exception of immediate family members, the 50 acres cannot be developed for the 15-year time period. In exchange for that provision, the three Carroll siblings encumbered a strip along the entire frontage of Manor Lane. These covenants expire upon acceptance into the ALPP.

5) James Pfefferkorn, et al - Ms. Levy stated that James Pfefferkorn and his five children are the trustees of the James W. Pfefferkorn Revocable Living Trust, which is the owner of the property. There are two single family residences and one multi-family residence (a legal non-conforming use) on the parcel. The main dwelling, which is resided in by Mr. and Mrs. Pfefferkorn, is on the Howard County Historic Sites Inventory.

Ms. Levy stated that she visited the farm, along with ALPB member Ricky Bauer and Brandy King of the NRCS, on August 26, 2009. Mr. Pfefferkorn provided a riding and walking tour of a portion of the property. According to Mr. Pfefferkorn, the Mullinix brothers are farming the ground and it is planted in a corn, bean and small grain rotation.

Ms. Levy noted that Ms. King did not see any erosion problems, but that the Soil Conservation and Water Quality Plan for this property needs to be updated.

Referring to the map set, Ms. Levy noted that the property boundary and the proposed easement boundary are not the same. She stated that this is due to an almost 9-acre preservation parcel debt that exists to support the three cluster lots adjacent to Pfefferkorn Road, created in December 2007. The 9 acres will be dedicated to the ALPP as a result of the subdivision, so that acreage had to be subtracted from the total and delineated in order to properly score the portion of the property that is proposed for easement sale, which is 37 acres.

Ms. Levy stated that the property meets all eligibility criteria for acquisition of an agricultural preservation easement, and that its most desirable feature is its proximity to almost 1,600 acres of land already preserved. The acquisition of this parcel, along with Mr. Pfefferkorn's brother's parcel to the south, which is also a Batch 14 applicant, would create a large block of protected land. However, she stated that the property is relatively small and has limited road frontage. Ms. Levy recommended that the ALPB take these factors into consideration when awarding the discretionary points.

Referring to the sign-in sheet, Chairman Hough requested Mr. Pfefferkon to step forward and then swore him in. Mr. Pfefferkorn thanked the Board and county staff for their consideration. Mr. Pfefferkorn detailed several examples of expense he has incurred to conserve water and reduce run off on his farm, including the installation of a "water fall" in the forest conservation area to prevent erosion, and an underground drainage system in his barn which catches rain water and inserts it into the ground.

6) William Slade Property – Ms. Levy stated that William Slade has owned this parcel since 1971. There is one dwelling on the property, in which Mr. Slade and his wife reside. Ms. Levy said that she visited the farm, along with ALPP Chairman Sean Hough and Brandy King of the NRCS, on September 18, 2009. Mr. Slade provided a walking tour of a portion of the property. According to Mr. Slade, he presently has two horses on his pasture ground, which comprises slightly less than half of the property.

Ms. Levy stated that Ms. King did not see any erosion problems, and that the Soil Conservation and Water Quality Plan for this property is up-to-date.

Ms. Levy stated that the property meets all eligibility criteria for acquisition of an agricultural preservation easement. The property has a very high percentage of Class I, II and III soils; however, it is located in the RR (Rural Residential) zoning district, is relatively small and currently has minimal use as agricultural land. Ms. Levy recommended that the ALPB take those factors into consideration when awarding their optional points.

Referring to the sign-in sheet, Chairman Hough requested Mr. Slade to step forward and then swore him in. Mr. Slade stated that for the past forty years he has had up to three acres in crops and up to six boarding horses on the property at any one time.

The public hearing closed at 9:00 P. M.

Discussion Items

1) Guidance on revisions to recorded forest conservation planting – Ms. Levy informed that Board that she needs their guidance regarding how to treat proposals to change the location of forest conservation plantings. She indicated that she had a relocation request on a property that was platted in 2007, prior to the 2008 revision of the ALPP's Forest Conservation Planting policy. She stated that it is unclear how to proceed since the allowable areas for planting have changed, and the calculations for meeting forest mitigation requirements are based on those criteria.

This specific situation involves a cluster subdivision residue preservation parcel owned by Tom and Sharon Smith, who are working with Brian Cleary, an engineer with Benchmark Engineering, to reposition several areas of forest conservation planting. The Smiths were hoping to present their case at this meeting, however, Ms. Levy felt that the Board had to first settle certain policy issues before being able to review and vote on a specific property. The main policy issue is whether the Board will evaluate the entire parcel under the new policy or will they only evaluate the changes being proposed? And along the same lines, is the base acreage to establish the 10% flexibility area the sum of all previously approved forest conservation easement areas or is it based only on the acreage of all the areas that comply with the current policy?

Ms. Levy handed out several documents to the Board for their consideration: an e-mail from Brian Cleary detailing the policy issues mentioned above, an email she sent Mr. Cleary summarizing the results of a meeting on June 30, 2009 with the property owners, a "track changes" version of the 2006 Forest Conservation Planting policy that shows the 2008 revisions, and a portion of the May 12, 2008 ALPB minutes where the policy revisions were discussed and finalized.

Ms. Levy indicated that she did not want to discuss the specifics of the Smith request in detail, but instead have the Board consider the issues at hand so that she can advise Mr. Cleary how he needs to calculate and depict the planting areas for future consideration by the Board.

After some discussion, Mr. Komsa motioned that changes to forest conservation plantings would be based on the provisions of the current policy, which states that the allowable acreage must be calculated on the 100' stream buffer, plus the 50' wetland buffer, plus 25% steep slopes. These areas should be planted first and if there is additional acreage proposed based on the 10% flexibility clause, the 10% is calculated on the total of the above allowable areas. Mr. Eacker seconded the motion. The motion passed unanimously.

2) Wetland Litigation – Ms. Levy handed out a first draft of a wetland mitigation policy, and a portion of the August 17, 2009 minutes to initiate a discussion with the Board. She stated that the August meeting was when Jim Morris from Ecotone, Inc. and Wes Earp of Howard Soil Conservation District attended and the initial conversation about allowing wetland mitigation on ag preservation properties took place. Mr. Morris has requested guidance pertaining to the conditions under which wetland mitigation is permissible. Ms. Levy asked the Board to review the handouts and to be prepared to discuss the issue at the November 23 meeting.

3) Schedules - Chairman Hough stated he will be on vacation during the November 23 meeting and that Vice Chairman Komsa will chair it.

Mr. Eacker motioned for adjournment. Ms. Matlock seconded the motion. The meeting was adjourned at 9:45 p.m.

Joy Levy, Executive Secretary
Agricultural Land Preservation Board