

8/20/09

IN THE MATTER OF	*	BEFORE THE
PETITION FOR SPECIAL HEARING	*	
PROPERTY LOCATED ON THE N AND S	*	BOARD OF APPEALS
SIDE LONG GREEN ROAD, W SIDE OF	*	
LONG GREEN ROAD & LONG GREEN DRIVE	*	OF
(4851 LONG GREEN ROAD)	*	
	*	BALTIMORE COUNTY
11 TH ELECTION DISTRICT	*	
3 RD COUNCILMANIC DISTRICT	*	CASE NO. 08-506-SPH

* * * * *

ORDER OF DISMISSAL

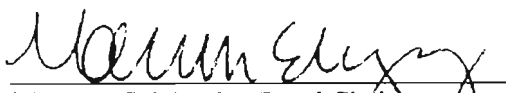
This matter comes to the Board of Appeals by way of an appeal filed by The Long Green Valley Association, Inc., Roger Hayden, President, Charlotte Pine, Catherine Ebert and John and Susan Yoder, by and through their attorney J. Carroll Holzer, P.A., from a decision of the Deputy Zoning Commissioner dated August 12, 2008, in which the requested relief was denied.

WHEREAS, the Board is in receipt of a Notice of Withdrawal of Appeal filed via facsimile on August 18, 2009, by J. Carroll Holzer, P.A., Counsel for the Appellants (a copy of which is attached hereto and made a part hereof); and

WHEREAS, said Appellants request that the appeal taken in this matter be withdrawn and dismissed as August 18, 2009,

IT IS THEREFORE ORDERED this 20th day of August, 2009 by the Board of Appeals of Baltimore County that the appeal taken in Case No. 08-506-SPH be and the same is hereby **DISMISSED**.

**BOARD OF APPEALS
OF BALTIMORE COUNTY**


Maureen E. Murphy, Panel Chairman


Lawrence S. Wescott


Wendell H. Grier

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
N & S Side Long Green Road, W side of *
Long Green Rd. & Long Green Dr. * BALTIMORE COUNTY
(4851 Long Green Road) * BOARD OF APPEALS
11th Election District *
3rd Councilmanic District *
LGVA, Inc.; Charlotte Pine, Catherine Ebert; *
And John & Susan Yoder, Petitioners * Case No.: 08-506-SPH

* * * * *

NOTICE OF WITHDRAWAL OF APPEAL

THE LONG GREEN VALLEY ASSOCIATION, INC., PO BOX 91, BALDWIN, MD
21013, CHARLOTTE PINE, PRESIDENT; and individuals CHARLOTTE PINE, 13310 FORK
ROAD, BALDWIN, MD, 21013; CATHERINE EBERT, 12815 KANES ROAD, GLEN ARM,
MD 21057; AND JOHN & SUSAN YODER, PO BOX 399, PHOENIX, MD 21131, all
Appellants in the above captioned matter, by and through their attorney, J. Carroll Holzer, P.A.,
hereby withdraw their appeal to the Board of Appeals in Case No. 2008-506-SPH effectively
immediately. Therefore, there will be no need for a hearing scheduled for Wednesday, August 19,
2009 and Appellants will not attend.

Respectfully submitted,

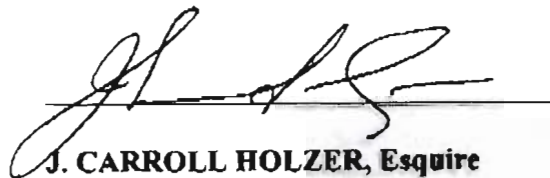

J. CARROLL HOLZER, Esquire
Holzer & Lee
508 Fairmount Avenue
Towson, Maryland 21286
410-825-6961
Attorney for Appellants

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AUG 18 2009

BALTIMORE COUNTY
BOARD OF APPEALS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 18th day of August, 2009, a copy of the foregoing Notice of Withdrawal of Appeal was faxed to: John B. Gontrum, Esquire, Whiteford, Taylor & Preston, LLP, 210 W. Pennsylvania Ave., Towson, MD 21204; County Board of Appeals, Jefferson Building, Suite 203, 105 W. Chesapeake Ave., Towson, MD 21204; and People's Counsel for Baltimore County, Jefferson Building, Room 204, 105 W. Chesapeake Ave., Towson, M, 21204.



J. CARROLL HOLZER, Esquire



County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

August 20, 2009

J. Carroll Holzer, Esquire
508 Fairmount Avenue
Towson, MD 21286

John Gontrum, Esquire
Whiteford, Taylor & Preston, LLP
1 W. Pennsylvania Ave, Ste 300
Towson, MD 21204

RE: *In the Matter of: Robert Prigel (Prigel Family Creamery)-Legal Owner*
Case No.: 08-506-SPH

Dear Counsel:

Enclosed please find a copy of the Order of Dismissal issued this date by the Board of Appeals of Baltimore County in the above subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number.** If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Theresa Shelton/kc

Theresa R. Shelton
Administrator

TRS/klc
Enclosure

Duplicate Cover letter

c: Robert Prigel
Michael Fisher/Site Resources, Inc.
Long Green Valley Church of the Brethren
Robert Carter
Susan and John Yoder
The Long Green Valley Association/Roger Hayden, President
Timothy Kotroco, Director/PDM
William J. Wiseman, III, Zoning Commissioner

Steve Weber/Maryland Farm Direct Market Assoc.
Paul Conczewski
Katherine Ebert
Charlotte Pine
Office of People's Counsel
Arnold F. "Pat" Keller, III, Director/Planning
John E. Beverungen, County Attorney

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BALTIMORE COUNTY
BOARD OF APPEALS

IN THE MATTER OF:
PETITION FOR SPECIAL HEARING
4851 Long Green Road N/S sides of Long Green Rd.
w/side of Long Green Road and Long Green Drive
Charlotte Pine, Catherine Ebert, John &
Susan Yoder ,Long Green Valley
Association, Inc. – Petitioners
11th Election District
3rd Council District

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. 2008-0506-SPH

* * * * *

MOTION TO DISMISS

The Respondent, Prigel Family Creamery, Inc., by and through its attorneys, John B. Gontrum and Whiteford, Taylor & Preston, LLP, hereby moves to dismiss the above-referenced Petition for Special Hearing based on newly enacted legislation addressing the claims for relief and for failure to state a claim, lack of standing and lack of jurisdiction.

In support of its Motion to Dismiss, the Respondent states the following:

AMENDED PETITION FOR SPECIAL HEARING

1. Petitioners seek the following relief in the Amended Petition for Special Hearing:
 - a. Whether a dairy processing facility, a creamery, a milk pasteurization facility, or a dairy products store are permitted in an [sic] R.C. 2 zone. Said processing facility contains the characteristics defined in Exhibits A, B, and C previously submitted on April 4, 2004; and
 - b. May the property owner lease the dairy processing facility to a third party?
2. In their Petition, the Petitioners do not allege any violation of any zoning regulations.
3. In their Petition, the Petitioners do not seek any non-conforming use on any premises.
4. In their Petition, the Petitioners do not raise any site specific issues.

NEWLY ADOPTED ZONING LEGISLATION

5. In County Council Bill 34-09, a copy of which is attached hereto and made a part hereof, the County Council addressed the issues raised by the Petitioners and defined a Farmstead Creamery as follows:

An establishment, that is part of a commercial dairy farm, where dairy products such as milk, butter, cheese, ice cream, and yogurt are made, processed, or prepared.

6. County Council Bill 34-09 further permitted dairy products to be sold on the premises subject to limitations as part of a farmer's roadside stand.

7. County Council Bill 34-09, which became effective June 3, 2009, clarifies and enacts amendments to the Baltimore County Zoning regulations, which directly address the issues raised by the Petitioners.

THE APPLICABLE BALTIMORE COUNTY ZONING REGULATIONS

8. This Special Hearing Petition was filed by Petitioners pursuant to Section 500.6 and 500.7 of the Baltimore County Zoning Regulations (hereinafter cited as "BCZR").

9. Section 500.6 of the Baltimore County Zoning Regulations was adopted in 1955 as a zoning enforcement regulation and has never been amended. At the time of its enactment, Section 503 (providing for criminal proceedings) and Section 504 (providing for injunctive relief) were the only BCZR provisions that pertained to the enforcement of the regulations.

10. Section 32-3-103(2) Baltimore County Code, originally enacted in similar form by Bill No. 80-1960, states:

In the case of a conflict between the Baltimore County Zoning Regulations and the provisions of this title, **this title** shall control.
[Emphasis added].

11. Section 32-3-102 of the Baltimore County Code, entitled “Interpretation and Enforcement of Zoning Regulations” and enacted subsequent to the Charter Amendment in 1990 states:

The Director of Permits and Development Management shall **interpret and enforce** the Baltimore County Zoning Regulations to insure that uses or buildings, including structures, landscaping, roads, and streets, conform to plans approved by the county. [Emphasis added].

12. Sections 32-3-601 et seq. of the Baltimore County Code establish the regulatory scheme for the enforcement of the Baltimore County Zoning Regulations and the orders of the Zoning Commissioner or Board of Appeals. Those sections provide for civil administrative proceedings, criminal proceedings and circuit injunctive proceedings and comprehensively regulate the enforcement of the zoning regulations not only by government agencies but also by private entities.

13. Section 32-3-607 of the Baltimore County Code specifically affords Petitioners relief against zoning violations.

14. Section 32-3-301 of the Baltimore County Code limits the powers of the Zoning Commissioner to the following:

- (1) Grant variances from area and height regulations;
- (2) Interpret the zoning regulations; and
- (3) Grant Special Exceptions.

15. Section 500.6 of the BCZR pertaining to zoning violations consequently is no longer pertinent, and in any event no violation of the zoning regulations has been alleged. Consequently, Petitioners have failed to state a claim under which relief can be granted under this Section.

16. Section 500.7 of the BCZR was adopted in 1955 and has never been amended. Section 500.7 pertains to orders “for the proper enforcement of all zoning regulations.” In addition, it states:

The power given hereunder shall include the right of any interested person to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any purported non-conforming use on any premises or **to determine any rights whatsoever of such person in any property in Baltimore County** insofar as they are affected by these regulations.
[Emphasis added]

17. The County Board of Appeals derives its authority to entertain this appeal as a de novo appeal of a zoning order pursuant to Baltimore County Charter Section 602 (a). If the Zoning Commissioner lacked the authority to grant special hearing relief in this matter, then the Board similarly lacks the ability to grant the requested relief.

18. In *Trail v. Terrapin Run, LLC*, 403 Md. 523 at 536-537, 943 A.2d 1192 (2008), the Court said:

More important even, in analyzing land use issues that impact upon the fundamental constitutional rights of property owners, it is appropriate to start with a position stated by this Court long ago (and still relevant) in *Landay v. Zoning Appeals Board*, 173 Md. 460, 465-466, 196 A.2d 293, 295-296 (1938): “In a constitutional sense, the only justification for the restrictions imposed by such [zoning] laws as the ordinance under consideration on the use of private property is the protection of the public health, safety, or morals.... Such ordinances are in derogation of the common law right to so use private property as to realize its highest utility, and while they should be liberally construed to accomplish their plain purpose and intent, they should not be extended by implication to cases not clearly within the scope of the purpose and intent manifest in their language.” (Citations Omitted). And see *Aspen Hill Venture v. Montgomery County Council*, 265 Md. 303, 313, 289 A.2d 303, 308 (1972), where we stated further: “[W]e are mindful of the fact that the ‘constitutionality and validity of zoning laws depend essentially upon a reasonably balancing of public interest in zoning as against opposing private interests in property’ In such a situation we must not forget the underlying

principle that, 'such ordinances [zoning ordinances] are in derogation of the common law right to use private property as to realize its highest utility, ... they should not be extended by implication....' " (Citations omitted.)

STANDING

19. The Petition for Special Hearing references real property located at 4851 Long Green Road, which is zoned R.C. 2.

20. A "property right" is defined in Webster's Third New International Dictionary as "a right protected by a constitution to make contracts, conduct a business, labor, or use, enjoy, and dispose of property; ... a legal right or interest in or against a specific property as opposed to a right enforceable against a person."

21. Bellevale Farm Limited Partnership, Bellevale Farm, Inc. and Prigel Family Creamery, Inc. are all owned by members of the Prigel family.

22. 4851 Long Green Road is the address for a 260 acre dairy farm owned by Bellevale Farm Limited Partnership, the bulk of which is occupied by a dairy business operated by Bellevale Farm, Inc.

23. The Respondent, Prigel Family Creamery, Inc., is a Maryland Corporation that intends to operate a Farmstead creamery as part of the farming operation on the north side of Long Green Road, which is part of the property known as 4851 Long Green Road.

24. In their Petition, the Petitioners admit that they are not the owners of 4851 Long Green Road, whether individually or collectively. The Petitioners have not identified their property rights in 4851 Long Green Road and have never alleged any property rights in 4851 Long Green Road.

25. Based on the statements in the Petition and the failure to identify their property rights in the subject property the Petitioners lack the standing to bring the Petition for Special Hearing pursuant to Section 500.7 of the BCZR.

CONCLUSION

26. By clarifying and enacting amendments to the Baltimore County Zoning Regulations, County Council Bill 34-09 has addressed the issues raised by the Petitioners rendering their requested relief moot.

27. The Petition fails to request any relief afforded by the BCZR Section 500.6 and, therefore, it fails to state a claim.

28. The Petitioners have no property rights in 4851 Long Green Road and, therefore, they have no standing to bring their Petition for Special Hearing pursuant to Section 500.7 of the BCZR.

29. Although the Zoning Commissioner has the power to interpret zoning regulations, such interpretations must take place within the context of validly requested special exceptions, variances or special hearings by persons with a cognizable right in the subject property.

30. The Petitioners have no right to request a generalized interpretation of the regulations, which is akin to a rule making process. Interested persons in such a wide ranging request would include more than the property owners at 4851 Long Green Road.

31. By bringing and maintaining this action particularly in view of the enactment of County Council Bill 34-09 Petitioners seek to expand the scope of the zoning regulations beyond that which is necessary to maintain the public health, safety and general

welfare and to directly impinge on the private property rights of the Respondent in contravention of the statutory and case law.

WHEREFORE, the Respondent, Prigel Family Creamery, Inc., respectfully requests that this County Board of Appeals dismiss the Special Petition Hearing with prejudice and, further, provide other relief as necessary.

Respectfully submitted,

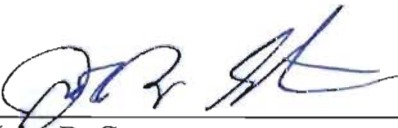
A handwritten signature in blue ink, appearing to read 'John B. Gontrum', is written over a horizontal line.

John B. Gontrum
Whiteford, Taylor & Preston, LLP
1 W. Pennsylvania Avenue, Suite 300
Towson, Maryland 21204
410-832-2000
Attorneys for Respondent,
Prigel Family Creamery, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of July, 2009, a copy of the foregoing Motion to Dismiss and proposed Order were mailed, via first class mail, postage prepaid and email, to:

J. Carroll Holzer, Esquire
508 Fairmount Avenue
Towson, Maryland 21286



John B. Gontrum

8/12/08

IN RE: PETITION FOR SPECIAL HEARING

N and S of Long Green Road, W side of
Long Green Road and Long Green Drive
11th Election District
3rd Councilmanic District
(4851 Long Green Road)

Prigel Family Creamery, Inc.
Legal Owners

Charlotte Pine, Catherine Ebert, John
and Susan Yoder, and the Long Green
Valley Association, Inc.
Petitioners

BEFORE THE
DEPUTY ZONING
COMMISSIONER
FOR BALTIMORE COUNTY

Case No. 2008-0506-SPH

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Special Hearing filed by J. Carroll Holzer, Esquire, on behalf of the Long Green Valley Association, Inc., by Roger Hayden, President, and several named individuals including Charlotte Pine, Catherine Ebert, and John and Susan Yoder. The subject property is owned by the Prigel Family Creamery. The Special Hearing relief was filed on or about April 4, 2008 pursuant to Sections 500.7 and 500.6 of the Baltimore County Zoning Regulations (B.C.Z.R.) to determine: (1) whether a dairy processing facility is permitted in an R.C.2 zone, said processing facility having the characteristics defined in Exhibits A, B, and C attached to the Petition; and (2) whether a property owner may lease the dairy processing facility to a third party. Following the filing of the instant Petition, Petitioners' counsel, Mr. Holzer, submitted an Amended Supplemental Sheet to Accompany Petition for Special Hearing Through Interlineation dated June 27, 2008. This supplemental sheet again requests special hearing relief pursuant to Sections 500.7 and 500.6 of the B.C.Z.R., to determine: (1) whether a dairy processing facility, a creamery, a milk pasteurization facility, or a dairy products store are permitted in an R.C.2 Zone,

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said processing facility containing the characteristics defined in Exhibits A, B, and C attached to the original Petition; and (2) whether a property owner may lease the dairy processing facility to a third party.

Appearing at the requisite public hearing in support of the requested relief was J. Carroll Holzer, Esquire, representing Petitioners Charlotte Pine, Catherine Ebert, John and Susan Yoder, and the Long Green Valley Association, Inc. (hereinafter referred to as "Petitioners"). Representing the legal owners of the subject property, the Prigel Family Creamery, Inc. (hereinafter referred to as "Respondents"), were John B. Gontrum, Esquire and Jennifer R. Busse, Esquire, with the law firm of Whiteford, Taylor & Preston, LLP. Several representatives of Baltimore County agencies also appeared and testified in the case, including Wally Lippincott, Jr. with the Department of Environmental Protection and Resource Management (DEPRM) and David L. Greene, Chairman of the Baltimore County Agricultural Land Preservation Advisory Board.

This matter also generated significant public interest in the Long Green community and a number of citizens appeared at the public hearing. While all of these individuals are not specifically named in this Order, their names are listed on the sign-in sheets that are contained within the case file and made a part of the record of this case. In particular, those citizens that appeared in support of Petitioners are listed on the "Petitioner's Sign-In Sheet" and those that appeared in support of Respondents are listed on the "Citizen's Sign-In Sheet." Those who wished to be designated as "neutral" in the proceedings placed an "N" next to their names on the sign-in sheet.

Prior to reaching the merits of the request for special hearing, the parties presented oral argument on several preliminary motions filed by Respondants. At the outset of the hearing,

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Respondants argued in support of their Motion to Dismiss, which was filed on July 22, 2008, prior to the public hearing on July 24, 2008. The Motion to Dismiss is predicated on Respondants' contention that Petitioners do not have standing to bring the Petition for Special Hearing because they are not "interested persons" that have any legal rights in the subject property as required by Section 500.7 of the B.C.Z.R, which states in part that:

The power given hereunder shall include the right of any interested person to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any purported nonconforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they are affected by these regulations.

Respondants further argued that any resulting ruling in this case would unfairly subject the Respondants to an interpretation of what they can and cannot do on their own property. Additionally, since this case presents a legal question that affects all farmers throughout Baltimore County, Respondants argue that Petitioners failed to properly serve all affected parties prior to the public hearing. Thus, they argue that dismissal is appropriate.

Petitioners responded that neighbors and associations such as the Long Green Valley Association, Inc. have successfully filed a number of past zoning cases that withstood an analysis of legal standing.¹ These cases revealed a history of generous latitude accorded litigants in administrative and zoning proceedings.

After careful consideration, I am persuaded that the Motion to Dismiss should be denied. Under Maryland law, an agency's long-term and consistent interpretation of a statute is entitled to legal deference. *Ideal Fed. Savings Bank v. Murphy*, 339 Md. 446, 461 (1995). Given the historically broad interpretation of Section 500.7 of the B.C.Z.R., I find that the individual Petitioners as well as the Long Green Valley Association, Inc., as nearby neighbors of the

¹ Petitioners pointed to a laundry list of cases including 04-508-SPH, 04-600-SPH, 96-244-SPH, and 96-245-SPH, where the Office of the Zoning Commissioner permitted similarly framed cases to proceed.

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proposed creamery, qualify as "interested persons" within the meaning of the statute. This is not to state, however, that Petitioners have any specific constitutionally protected property interest in the subject property; only that Petitioners may, as interested persons, request a determination as to certain uses related to the property, to the extent they are affected by the Zoning Regulations. Additionally, contrary to the urging of Respondants, the case-by-case nature of zoning proceedings prevents the ruling in this matter from affecting farmers throughout Baltimore County. Thus, the public hearing was permitted to proceed.

The second preliminary Motion that was reviewed at the public hearing was Respondants' "Motion in Limine and to Quash Subpoenas." In support of this Motion, Respondants argued that no additional testimony or evidence is necessary at the hearing since Respondants have fully admitted the factual basis of this Petition; namely that the Prigel Family Creamery does intend to operate a facility to process milk, butter, cheese, yogurt, and ice cream for wholesale and retail sale. Since all facts have been stipulated, Respondants argue that none of the Subpoenas for documents or witness testimony are necessary, and the hearing should proceed on oral argument related to the sole legal question of whether a creamery (and/or related uses as dairy processing facility, milk pasteurization facility, or dairy products store) is permitted within the R.C.2 Zone. Petitioners responded that the underlying facts are important, particularly since zoning matters are site specific and determined on a case-by-case basis. In short, Petitioners should be entitled to present their case, including testimony and documentary evidence, on issues specifically germane to the proposed dairy processing, creamery, and milk pasteurization facility.

After careful consideration, I am persuaded that the Motion in Limine and to Quash Subpoenas should be Granted in part and Denied in part. I found that the underlying facts related

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to the creamery operation are relevant, and that Petitioners should be permitted to present evidence pertaining to the inner workings of the Prigel Family Creamery. In that respect, the Motion in Limine was denied. However, Petitioners also served a Subpoena Duces Tecum on numerous State and County agencies and employees such as Stan Jacobs with the Baltimore County Department of Economic Development, Ted Elkin with the Maryland Department of Health and Mental Hygiene, Stephen McHenry with the Maryland Agricultural & Resource Based Industrial Development Corp., Dave Martin with the University of Maryland Cooperative Extension, Jim Conrad with the Maryland Department of Agriculture, James Water with the United States Department of Agriculture, Wally Lippencott with DEPRM, and David Greene with the Baltimore County Agricultural Land Preservation Advisory Board. With the exception of Mr. Greene and Mr. Lippencott, who appeared and testified at the public hearing, I determined that the subpoenas compelling the remainder of these witnesses to appear and testify were irrelevant and unnecessary. In this respect, the Motion to Quash was granted.² The end result is that Petitioners were permitted to use a variety of documents and witnesses to lay the factual basis for their Petition for Special Hearing, but the subpoenaed State employees were permitted to submit documents without being forced to attend and testify at the public hearing.

By way of brief background, the subject property is an irregular-shaped property containing approximately 280 acres of land zoned R.C.2. The property is situated between Manor Road to the west and Long Green Pike to the east and is bisected by Long Green Road in the Glen Arm area of Baltimore County. The property primarily consists of open fields which Respondents use on a rotational basis for dairy farming operations. The subject property is currently being improved with an approximately 10,000 square foot structure on the north side of

² The case file reflects that several State agencies filed Motions to Quash Subpoenas. Since the Respondents filed an overarching Motion that reflected the State's concerns, these Motions were denied as Moot.

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Long Green Road. The majority of the structure will be used as a dairy processing facility. The Prigel family utilizes the subject property to operate the only organic dairy farm in Baltimore County. Currently, the Prigel family sells the majority of their milk to the Horizon Organic Dairy Company, which transports the milk via tractor-trailer to a processing plant in Buffalo, New York and then sells the milk throughout the country under the Horizon label. The Prigels would like to keep the milk "in house" by locally processing and selling dairy products made from their milk under the Prigel Family Creamery label. Conversely, the Long Green Valley Association, Inc. as well as several individual citizens oppose the facility to process the milk into dairy products for wholesale or retail sale. They contend that the facility is contrary to the agricultural easement given by the Prigel family to the Maryland Agricultural Land Preservation Foundation (MALPF) in 1996. The crux of the instant matter is a determination of whether the facility is permitted in an R.C.2 Zone.

Petitioners began their case by presenting a copy of the tape recording of the public hearing in prior zoning case number 08-456-X, which was heard by this Deputy Zoning Commissioner several months prior to the instant case. The tapes were marked and accepted into evidence as Petitioners' Exhibit 1. The prior case was a Petition for Special Exception filed by Mr. and Mrs. Prigel, who requested relief to operate a farmer's roadside stand, or alternatively, a farm market, in the front portion of the building that is now being reviewed as a potential dairy processing facility. While the prior proceeding may serve to provide an overview of the layout of the subject property, that ruling has no bearing on the questions presented in the Petition for Special Hearing currently before this Deputy Zoning Commissioner.

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Petitioners first proceeded to call Robert Prigel as a fact witness.³ Mr. Holzer asked Mr. Prigel a series of questions in an effort to elicit testimony that would provide a general factual overview of the Prigel Family Creamery business. Mr. Prigel testified that the proposed operation would involve milking cows on the south side of Long Green Valley Road, where the milk is produced into a larger cooler. The milk would then be transported on a trailer across the street to the creamery located on the north side of Long Green Valley Road. The milk trailer would actually be driven inside the entrance at the north end of the creamery, facing away from Long Green Valley Road, where the milk would be unloaded and prepared for processing. According to Mr. Prigel, the County and State Health Departments would regulate the conditions of the trailer as well as how the milk is transferred and stored prior to processing. The roadway leading up to the creamery would be comprised of an environmentally friendly pervious surface rather than solid asphalt pavement.

Petitioners proceeded to introduce three packets of information as evidence of the inner workings of the creamery operation.⁴ The first packet, which was marked and accepted into evidence as Exhibit 2A, was entitled "Developing New Markets for Local Organic Dairy Products by the Prigel Family Creamery." The second and third packets, which were marked and accepted into evidence as Petitioners' Exhibits 2B and 2C, respectively, were entitled "Executive Summary" and "Prigel Family Creamery Business Plan and Financials." While the Business Plan made reference to the Prigels eventually bringing in milk from other farms to process on site, Mr. Prigel testified that he never had any plans to use any milk other than that

³ Respondents first objected and argued that Mr. Prigel's presence at the hearing was not mandatory and he could not be compelled to testify. The situation escalated to the point where counsel actually instructed Mr. Prigel to leave the hearing rather than testify. However, as the situation calmed, Mr. Prigel rejoined the hearing and agreed to testify.

⁴ On behalf of Respondents, Mr. Gontrum made a continuing objection to the introduction of any business and financial records on the basis that such information was irrelevant.

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which is produced by his own cows. Mr. Prigel stated that using other milk would not be feasible since he maintains strict organic standards and is constructing a facility specifically tied to his current production needs. This response led Mr. Holzer to inquire as to the coordination of the size of the processing facility with the amount of milk currently produced on the Prigel family farm.

The Prigel family currently raises approximately 200 cows that produce around 500 gallons of milk per day. Mr. Prigel testified that the layout of the proposed creamery was specifically designed to process only the amount of milk that is produced on the Prigel family farm. Mr. Holzer submitted a schematic design of the creamery, which was marked and accepted into evidence as Petitioners' Exhibit 3.⁵ The schematic design reveals that the creamery will first contain a washing station for the milk trailer, which will not require a separate septic system. The remainder of the facility will be broken into approximately ten sections where the raw milk will be stored, processed, converted to goods such as yogurt, cheese and butter, and stored in either a cooler or freezer. The creamery will also contain an office, restroom, and break room as well as a general storage area. Mr. Prigel testified that he plans to eventually produce and process all of the harvested milk from his farm in the facility, but conceded there will be a bit of a time lag in the short term where some of the milk will still be loaded onto a truck and sent to other companies, such as Horizon Dairy, for processing.

At this point in the hearing, Petitioners called Mr. Edward L. Blanton, Vice President of the Long Green Valley Association, Inc. to testify as both a neighbor of the Prigel family and a retired attorney with an opinion on the interpretation of the B.C.Z.R. Mr. Blanton has lived on

⁵ Mr. Prigel noted that the design has changed from the layout depicted in Exhibit 3, but that the Exhibit does still demonstrate all of the same sections that will exist in the actual creamery. For example, the Exhibit depicts a washing station and a mechanical area in certain locations, but these sections have traded places in the final design. Thus, this Exhibit was admitted for the limited purpose of demonstrating the various components of the creamery.

eight and a half acres of nearby property for over 40 years.⁶ According to Mr. Blanton, the neighborhood first learned about the Prigel family's request to operate a roadside stand in March 2008, and was later shocked to discover that the roadside stand would be part of a 10,000 square foot building that would contain a milk processing facility. Mr. Blanton also testified that the reason he was so surprised that the Prigels were attempting to operate a creamery is that the property is zoned R.C.2 agricultural, and he believed that a creamery was only permitted in the M.L. or B.L. Zones. Permitting a creamery in the middle of an R.C.2 zone, according to Mr. Blanton, would constitute illegal "spot zoning." This contention lies at the heart of Petitioners' argument that since the M.L. and B.L. Zones specifically permit creamery and dairy processing centers, the absence of a similar provision in the R.C.2 Zone prevents Respondents from constructing such a facility on the subject property. Petitioners submitted one additional document containing the Maryland Agricultural Land Preservation Foundation (MALPF) file received from the Office of the Attorney General. The file was marked and accepted into evidence as Petitioners' Exhibit 5.⁷ At this point, Petitioners rested their case.

Prior to permitting Respondents to present their case, the public hearing was opened to any interested citizens who wished to testify in opposition to the Prigel family's attempt to operate a creamery in the R.C.2 Zone. One citizen, Brenda Lyons, exercised this opportunity. Ms. Lyons, of 13818 Baldwin Mill Road, identified herself as a registered nurse and indicated this status entitled her to render an opinion in these proceedings. She testified that the Prigel family received compensation from the State for preserving their property in an agricultural

⁶ On cross-examination, Respondents submitted a tax map of the area surrounding the subject property, which was marked and accepted into evidence as Respondents' Exhibit 1. Mr. Blanton marked the location of his residence directly on the Exhibit.

⁷ The file indicated that MALPF exercised its discretionary authority and approved the facility on the subject property for use as a creamery.

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easement, and that the family should not be later permitted to build a commercial milk processing facility on previously preserved land. Ms. Lyons also attempted to make several personal attacks on Mr. Prigel's character, but her comments were stricken from the record on Respondents' appropriate objections.

Respondents began their case by re-calling Mr. Prigel to provide further information about the proposed dairy processing operation. Mr. Prigel testified that 100 lbs. of milk would typically be needed to produce approximately 11 lbs. of cheese. After the cheese is processed, the whey byproduct would be reused to fertilize the surrounding farmland. The Prigels currently produce approximately 160,000 lbs. of milk each month, and their goal is to process all of the milk on their property rather than shipping their products to other companies who would retain a significant portion of the milk's potential profits. Mr. Prigel reiterated that he has no interest in adding other milk from outside his farm to his operation since he wishes to maintain organic standards and would be producing all of the milk that can be timely processed in the Prigel Family Creamery.

Mr. Prigel further testified that he originally came up with the idea to process his own milk on his farm after learning that several farms in counties throughout Maryland and Pennsylvania have been producing dairy products from their own milk for many years.⁸ Mr. Prigel testified that his family's business plan is actually modeled on the plans of other farms such as the South Moon Creamery in Frederick County, Maryland, and the Gilbey Ice Cream Company in Cecil County, Maryland.

The second witness called by Respondents was David Greene, Chairman of the Baltimore County Agricultural Land Preservation and Advisory Board, which serves an advisory role to the MALPF Board. Mr. Greene testified that he reviewed the Prigel's application to process milk on

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their farm and made a favorable recommendation to the MALPF Board. Various factors, including the B.C.Z.R., were considered when making the favorable recommendation. The Baltimore County Board was primarily persuaded by the fact that there are only eight surviving dairy farms in Baltimore County and that the numbers have dwindled in recent years due to the difficult competitive landscape. Since the Prigel Family Creamery is the only organic dairy farm in Baltimore County, Mr. Greene testified that the Board hoped to take steps to assist the family in improving and preserving their agricultural business. While Mr. Greene conceded on cross examination that he is not “intimately familiar” with the R.C.2 Zone in terms of exactly what is and what is not a permitted use, and that he is not a zoning expert, he indicated he believes that approval of the creamery is in the best interest of promoting agricultural businesses throughout Baltimore County. At this point, Respondents rested their case.

Upon request from this Deputy Zoning Commissioner, Wally Lippincott, Jr. with DEPRM provided testimony from his extensive experience working with the R.C.2 regulations. Mr. Lippincott was directly questioned whether he agreed with Petitioners’ contention that the listing of creameries and dairy products stores as acceptable uses in the M.L. and B.L. zones thereby prohibits Respondents from operating one of these facilities in the R.C.2 zone. Mr. Lippincott testified that, to the contrary, Commercial Agriculture is the preferred use in the R.C.2 Zone and is afforded preferential treatment over other permitted uses, and that Section 101 of the B.C.Z.R. specifically defines “commercial agriculture” to include “dairying” as well as ancillary activities such as “processing and packing.” Thus, while the regulations do not afford relief to construct a stand-alone dairy store such as a High’s or a WaWa, or to erect a stand-alone processing facility that is not an “ancillary activity” to the dairying aspect of commercial agriculture, the R.C.2 regulations anticipated and specifically accounted for dairy farming and

⁸ Mr. Holzer made a continuing objection to any testimony about farms located outside of Baltimore County.

processing, including the activities proposed by Respondents.⁹ Therefore, In Mr. Lippincott's view, Respondents' proposed creamery or dairy processing facility or milk pasteurization facility is a direct extension of the use of the property as a farm for commercial agriculture. Put simply, the proposed facility is merely another component of commercial agriculture.

Prior to permitting the parties to present closing argument, the public hearing was opened to members of the public who wished to testify in support of the Prigel family's attempt to operate a creamery in the R.C.2 Zone. One citizen, Thomas Albright, exercised this opportunity. Mr. Albright testified that his family has owned neighboring property since 1835, and he is currently using his property to operate a commercial beef farm. At one point, his family owned a dairy farm and a roadside stand, but they had to stop selling dairy products because they were unable to maintain any level of profitability. Mr. Albright testified that he is aware as a farmer of just how important wholesale and retail operations are to the sustainability of Baltimore County businesses. Profit margins are narrowing and businesses are unable to compete unless they are permitted to capture additional income by processing and selling their own products. If beef and dairy farmers were not entitled to sell their own products, maintaining a business would essentially become impossible. Furthermore, Mr. Albright testified that Respondents have acted fully within their easement rights because in this day and age, the most important part of "agricultural preservation" is preserving agricultural businesses, not simply preserving open space or pastures merely to enhance peoples' views of the countryside.

⁹ It should be noted that on cross-examination, Mr. Holzer questioned Mr. Lippincott about a draft of a proposed bill that Mr. Holzer suggested came from someone within the Baltimore County Administration. The proposed bill, which was marked as Petitioners' Exhibit 6 but was not accepted into evidence, suggested an amendment to the R.C.2 regulations to specifically allow for creameries. However, after Mr. Gontrum objected and acknowledged that he had drafted the bill, and that it did not reflect the opinion of anyone within the Baltimore County Government, the bill was added to the case file but was not officially admitted into evidence for consideration.

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As a beef farmer, Mr. Albright also testified that he currently partakes in secondary processing activities similar to those requested by the Prigel family. According to Mr. Albright, beef farmers routinely package and sell produce and also grind corn into "hayalage" which is wrapped in a bag, fermented for several weeks, and used to feed the beef cows. In Mr. Albright's opinion, the processing and packaging that the Prigel Family Creamery has proposed is part of their farming activities and should also be permitted in the R.C.2 Zone.

This marked the end of the evidentiary portion of the hearing, and the parties were permitted to take a short break to prepare and present oral arguments. On behalf of Petitioners, Mr. Holzer declined to present any closing argument and also declined the opportunity to present a written memorandum pertaining to any of the issues raised in this case. On behalf of Respondents, Mr. Gontrum presented a closing argument and indicated that he would prepare a written memorandum in support of the Prigel Family Creamery's request to operate the proposed facility.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. The comments indicate no opposition or other recommendations concerning the requested relief.

After carefully considering all of the testimony and evidence, I am convinced that the Prigel Family Creamery should be permitted to operate the proposed dairy processing facility on the north side of the property known as 4851 Long Green Road. I arrive at this decision after hearing all the testimony and reviewing the documents presented at the public hearing, and reviewing the applicable regulations. While Mr. Holzer declined to summarize any of the Petitioners' contentions through closing argument or the submission of a written memorandum, I glean from the presentation of his case that the primary contention against permitting the Prigel

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family to operate a milk processing facility in the R.C.2 Zone is that the B.L. Zone specifically permits a "dairy products store" at Section 230.9 of the B.C.Z.R. and the M.L. Zone specifically permits "creameries or milk pasteurization or distributing stations" at Section 253.1.A.18 of the B.C.Z.R., while the R.C.2 Zone fails to directly reference the use of property for those purposes. Since these two regulations specifically account for a creamery or dairy products store, Petitioners argue that Respondents are prohibited from operating the proposed facility in the R.C.2 Zone.

In my judgment, Petitioners' contention is not correct and takes too narrow a view of the Zoning Regulations in order to suit their own interpretation of those regulations, and to bootstrap their view of how the Prigels should conduct their dairying business. First, I disagree with Petitioners' argument from a legal standpoint. Pursuant to Section 1A01.2.B.2 of the B.C.Z.R., "Farms" are permitted as of right in the R.C.2 Zone. Section 101 of the B.C.Z.R. defines a "Farm" as follows:

Three acres or more of land, and any improvements thereon, **used primarily for commercial agriculture**, as defined in these regulations, or for residential and associated agricultural uses. The term does not include the following uses as defined in these regulations: limited-acreage wholesale flower farms, riding stables, landscape service, firewood operations and horticultural nursery businesses.

(emphasis added). The term "Agriculture, Commercial" is defined in Section 101 of the B.C.Z.R. It states that:

Commercial agriculture includes the production of field crops, **dairying**, pasturage agriculture, horticulture, floriculture, aquiculture, apiculture, viticulture, forestry, animal and poultry husbandry, the operation of an equestrian center, horse breeding and horse training **and also includes ancillary activities such as processing, packing, storing, financing, managing, marketing or distributing, provided that any such activity shall be secondary to the principal agricultural operations.**

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(emphasis added). While the term "dairying" is not defined in the B.C.Z.R., Section 101 provides that any word or term not defined in this section shall have the ordinarily accepted definition as set forth in the most recent edition of Webster's Third New International Dictionary of the English Language, Unabridged. Thus, turning to the dictionary definition of the term "dairying," Webster's defines it as "the business of conducting a dairy." The term "dairy" is also undefined in the B.C.Z.R., but the dictionary provides the following definition:

Dairy -- 1: a room, building or establishment where milk is kept and butter or cheese is made; 2: the department of farming or of a farm that is concerned with the production of milk, butter, and cheese; 3: a dairy farm; collectively: the cows of a farm; 4: an establishment for the sale or distribution of milk or milk byproducts.

Since "dairying" is expressly permitted in the R.C.2 zone, I am convinced after consulting the definition of "dairy" that the legislature specifically intended to include the storage, production, distribution and sale of milk, butter, cheese, and milk byproducts as permissible uses in the R.C.2 Zone. Furthermore, since "Agriculture, Commercial" is defined in the B.C.Z.R. to include ancillary activities such as "processing, packing, marketing or distributing," I am convinced that the activities proposed for the Prigel Family Creamery are appropriate in the R.C.2 Zone.

I am also inclined to reject Petitioners' argument because, while I am not necessarily in agreement with Respondents' position that the MALPF decision binds the Office of the Zoning Commissioner, I do find MALPF's approval of the proposed creamery to be persuasive. MALPF exercised its discretionary authority pursuant to Section 2-513(b)(i) of the Agricultural Article of the Maryland Annotated Code to permit Respondents, whose land is subject to a State-held agricultural preservation easement, to use the land "for farm and forestry related uses and home occupations" compatible with agriculture. I am persuaded by MALPF's determination that the proposed creamery is "compatible with agriculture" and a permissible use under Maryland

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law. I also agree with Thomas Albright's testimony that the concept of "agricultural preservation" includes taking steps to preserve agricultural businesses rather than simply preserving open space and pastures and attractive views of the countryside for non-farmers who happen to live in agricultural areas.

Finally, while I respect Petitioners' point of view in this case, I find that their central argument is an attempt to interpret the wording of the B.C.Z.R. in a manner that contradicts the spirit and intent of the R.C.2 Zone. The R.C.2 zone was established in Section 1A01.1.B of the B.C.Z.R. "in order to foster conditions favorable to a continued agricultural use of the productive agricultural areas of Baltimore County by preventing incompatible forms and degrees of urban uses." I have repeatedly heard testimony related to the difficulties associated with R.C.2 Zones maintaining their agricultural integrity, and agricultural businesses maintaining their productivity and competitive viability. Respondents maintain the only organic dairy farm in Baltimore County, and Mr. Prigel has detailed the difficulty in maintaining an organic agricultural dairy business due to the increased costs associated with meeting the requirements of certified organic products. I find that permitting Respondents to operate the processing facility as a secondary activity to the principal agricultural operations of their farm will facilitate the preservation of an agricultural business, which is entirely consistent with the purposes of the R.C.2 Zone. In short, the facility will help this local dairy farm keep its milk entirely on the farm and allow it to process the milk in house and sell organic dairy products made therefrom directly to members of the public -- all from the center of their 280 acre farm. Frankly, it is difficult to imagine anything more in line with the spirit and intent of the R.C.2 Zone.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered by the parties, I find that the

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proposed processing facility is permitted in the R.C.2 Zone and Petitioners' request for special hearing on this issue should be denied. I also find, based on the testimony from Mr. Prigel that he does not intend to lease the facility to a third party and the lack of any additional evidence on this issue from Petitioners, that the request for special hearing concerning whether a property owner may lease the dairy processing facility to a third party should be dismissed as moot.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County, this 12th day of August, 2008 that the dairy processing facility, creamery, milk pasteurization facility, or dairy products store proposed by the Prigel Family Creamery, Inc. on the subject property is permitted in the R.C.2 Zone, and the Petition for Special Hearing on this issue be and is hereby DENIED.

IT IS FURTHER ORDERED that the Petition for Special Hearing as to whether a property owner may lease a dairy processing facility to a third party be and is hereby DISMISSED AS MOOT.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.


THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

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JUL 31 2008
BY 

IN THE MATTER OF:
PETITION FOR SPECIAL HEARING
4851 Long Green Road N/S sides of Long Green Rd.
w/side of Long Green Road and Long Green Drive
Charlotte Pine, Catherine Ebert, John &
Susan Yoder ,Long Green Valley
Association, Inc. – Petitioners
11th Election District
3rd Council District

* BEFORE THE
* ZONING COMMISSIONER
* OF
* BALTIMORE COUNTY
* Case No. 2008-0506-SPH

* * * * *

MOTION TO DISMISS

The Respondent, Prigel Family Creamery, Inc., by and through its attorneys, John B. Gontrum, Jennifer R. Busse and Whiteford, Taylor & Preston, LLP, hereby moves to dismiss the above-referenced Petition for Special Hearing for failure to state a claim, lack of standing and lack of jurisdiction.

In support of its Motion to Dismiss, the Respondent states the following:

THE APPLICABLE BALTIMORE COUNTY ZONING REGULATIONS

1. Section 32-3-103(2) Baltimore County Code, originally enacted in similar form by Bill No. 80-1960, states:

In the case of a conflict between the Baltimore County Zoning Regulations and the provisions of this title, this title shall control.

2. Section 32-3-102 of the Baltimore County Code, entitled “Interpretation and Enforcement of Zoning Regulations” and enacted subsequent to the Charter Amendment in 1990, states:

The Director of Permits and Development Management shall interpret and enforce the Baltimore County Zoning Regulations to insure that uses or buildings, including structures, landscaping, roads, and streets, conform to plans approved by the county.

3. Section 32-3-301 of the Baltimore County Code in Subtitle 3. Variances states that the Zoning Commissioner may: “(1) Grant variances from area and height regulations; (2) Interpret the zoning regulations; and (3) Grant Special Exceptions.”

4. Sections 32-3-601 et seq. of the Baltimore County Code provide the regulatory scheme for the enforcement of the Baltimore County Zoning Regulations and the orders of the Zoning Commissioner or Board of Appeals. Those sections provide for civil administrative proceedings, criminal proceedings and circuit injunctive proceedings.

5. Section 500.6 of the Baltimore County Zoning Regulations (hereinafter cited as the “BCZR”) was adopted in 1955 and has never been amended. At the time of its enactment, Section 503 (providing for criminal proceedings) and Section 504 (providing for injunctive relief) were the only BCZR provisions that pertained to the enforcement of the regulations.

6. Section 500.7 of the BCZR was adopted in 1955 and has never been amended. Section 500.7 pertains to orders “for the proper enforcement of all zoning regulations.” In addition, it states:

The power given hereunder shall include the right of any interested person to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any purported non-conforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they are affected by these regulations.

7. The Petitioners must have legal standing in order to be afforded a legal remedy pursuant to Section 32-3-607 of the Baltimore County Code. The legal standing test states:

[A]ny person whose property is affected by any violation, including abutting and adjacent property owners, whether specially damaged or not, may maintain an action in an appropriate court for an injunction:

(1) Enjoining the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, and land in violation of this

title or the zoning regulations and restrictions adopted under this title; and

(2) Requiring the return of the property, to the extent possible, to its condition before the violation, including the removal of the source of the violation.”

THE PARTIES AND THE PETITION

8. The Petition for Special Hearing references real property located at 4851 Long Green Road, which is zoned R.C. 2.

9. A “property right” is defined in Webster’s Third New International Dictionary as “a right protected by a constitution to make contracts, conduct a business, labor, or use, enjoy, and dispose of property; ... a legal right or interest in or against a specific property as opposed to a right enforceable against a person.”

10. Bellevale Farm Limited Partnership, Bellevale Farm, Inc. and Prigel Family Creamery, Inc. are all owned by members of the Prigel family.

11. 4851 Long Green Road is the address for a 260 acre farm owned by Bellevale Farm Limited Partnership, the bulk of which is occupied by a dairy business operated by Bellevale Farm, Inc.

12. The Respondent, Prigel Family Creamery, Inc., is a Maryland Corporation that intends to operate a milk processing business as part of the farming operation on the north side of Long Green Road, which is part of the property known as 4851 Long Green Road.

13. In their Petition, the Petitioners admit that they are not the owners of 4851 Long Green Road, whether individually or collectively. The Petitioners have not identified their property rights in 4851 Long Green Road.

14. In their Petition, as amended, the Petitioners request the following relief:

1. Whether a dairy processing facility, a creamery, a milk pasteurization facility, or a dairy products store are permitted in an [sic] R.C. 2 zone. Said processing facility contains the characteristics defined in Exhibits A, B, and C previously submitted on April 4, 2004; and

2. May the property owner lease the dairy processing facility to a third party?

15. In their Petition, the Petitioners do not allege any violation of any zoning regulations.

16. In their Petition, the Petitioners do not seek any non-conforming use on any premises.

17. In their Petition, the Petitioners do not raise any site specific issues.

CONCLUSION

18. The Petitioners have no property rights in 4851 Long Green Road and, therefore, they have no standing to bring their Petition for Special Hearing.

19. The Petition fails to request any relief afforded by the BCZR and, therefore, it fails to state a claim.

20. Although the Zoning Commissioner has the power to interpret the zoning regulations, such interpretations must take place within the context of validly requested special exceptions, variances or special hearings by persons with a cognizable right in the subject property.

21. The Petitioners have no right to request a generalized interpretation of the regulations, which is akin to a rule making process. Interested persons in such a wide ranging request would include more than the property owners at 4851 Long Green Road.

22. Section 32-3-607 specifically affords Petitioners relief against impermissible uses on properties owned by others.

WHEREFORE, the Respondent, Prigel Family Creamery, Inc., respectfully requests that this Zoning Commissioner dismiss the Special Petition Hearing with prejudice and, further, provide other relief as necessary.

Respectfully submitted,



John B. Gontrum
Jennifer R. Busse
Whiteford, Taylor & Preston, LLP
1 W. Pennsylvania Avenue, Suite 300
Towson, Maryland 21204
410-832-2000
Attorneys for Respondent,
Prigel Family Creamery, Inc.

403069

WHITEFORD, TAYLOR & PRESTON L.L.P.

JOHN B. GONTRUM
DIRECT LINE (410) 832-2055
DIRECT FAX (410) 339-4058
JGontrum@wtplaw.com

TOWSON COMMONS, SUITE 300
ONE WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-5025
MAIN TELEPHONE (410) 832-2000
FACSIMILE (410) 832-2015

BALTIMORE, MD
COLUMBIA, MD
FALLS CHURCH, VA
TOWSON, MD
WASHINGTON, DC
WILMINGTON, DE*

WWW.WTPLAW.COM
(800) 987-8705

July 22, 2008

VIA HAND DELIVERY

Thomas H. Bostwick
Deputy Zoning Commissioner
Zoning Commissioner's Office
Jefferson Bldg.
Suite 103
105 W. Chesapeake Avenue
Towson, Maryland 21204

RECEIVED
JUL 22 2008

BY:

RE: Case No. 2008-0506-SPH

Dear Mr. Bostwick:

Enclosed please find Respondent's Motion to Dismiss, to be raised and argued at Thursday's hearing.

Sincerely,


John B. Gontrum

JBG:dae

Enclosure

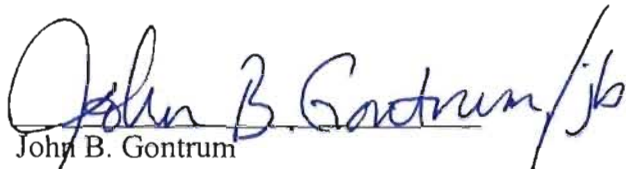
cc: J. Carroll Holzer, Esquire (via email and regular mail)

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CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of July, 2008, a copy of the foregoing Motion to Dismiss and proposed Order were mailed, via first class mail, postage prepaid and email, to:

J. Carroll Holzer, Esquire
508 Fairmount Avenue
Towson, Maryland 21286


John B. Gontrum

7/22/08
IN THE MATTER OF:
PETITION FOR SPECIAL HEARING
4851 Long Green Road N/S sides of Long Green Rd.
w/side of Long Green Road and Long Green Drive
Charlotte Pine, Catherine Ebert, John &
Susan Yoder, Long Green Valley
Association, Inc. – Petitioners
11th Election District
3rd Council District

RECEIVED
JUL 24 2008
* BEFORE THE
* ZONING COMMISSIONER
* OF
* BALTIMORE COUNTY
* Case No. 2008-0506-SPH

* * * * *

MOTION TO QUASH SUBPOENA

The State of Maryland, by and through its undersigned attorneys, hereby moves to quash the Special Hearing Subpoena Duces Tecum served by the Petitioners on Jim Conrad, Executive Director, Maryland Agricultural Land Preservation Foundation, a unit of the Maryland Department of Agriculture (hereinafter referred to as the “Subpoena”).

In support of its Motion to Quash, the State of Maryland states the following:

1. Petitioners have requested the Zoning Commissioner to determine the following:

(a) Whether a dairy processing facility, a creamery, a milk pasteurization facility, or a dairy products store are permitted in an R.C. 2 zone. Said processing facility contains the characteristics defined in Exhibits A, B, and C previously submitted on April 4, 2008; and

(b) May the property owner lease the dairy processing facility to a third party?”

2. Petitioners have caused to be issued a Subpoena Duces Tecum to Jim Conrad, Director, Executive Director, Maryland Agricultural Land Preservation Foundation, to appear in person and to produce the following documents or objects:

“Provide any and all information related to easement or easements on Prigels’/Bellevalle Farm property and Prigel’s request for processing facility, creamery, farm store, etc. All [sic] MALPF comments and documents regarding AG. Easements [sic] on Prigels’ property and MALPF regulations and policies on milk processing facilities.”

3. This subpoena should be quashed in that none of the requested information relates to any relevant evidence pertinent to any issue in the Baltimore County Zoning Regulations. Specifically, MALPF's approval of the proposed creamery was based upon its discretionary authority under Agriculture Article, §2-513(b)(i), Annotated Code of Maryland, to permit a landowner, whose land is subject to a State-held preservation easement, to use the land "for farm and forestry related uses and home occupations" that are compatible with agriculture. MALPF determined that the proposed creamery was a permissible use under this statute.

4. Additionally, Mr. Conrad has a prior commitment on the day of the hearing that will prevent him from attending. Given the lateness that the subpoena was issued, Mr. Conrad is unable to alter his calendar. A telephone call was placed to discuss this matter with Mr. Holzer, but he has not returned this call.

WHEREFORE, the State of Maryland respectfully requests that the Zoning Commissioner quash the subpoena referenced and, provide such other relief as the nature of its cause may require.

Respectfully submitted,

DOUGLAS F. GANSLER
Attorney General



Craig A. Nielsen
Assistant Attorney General



Thomas F. Filbert
Assistant Attorney General
Office of the Attorney General
Maryland Dept. of Agriculture
50 Harry S. Truman Parkway
Annapolis, MD 21401
410-841-5883

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of July, 2008, a copy of the foregoing Motion to Quash Subpoena was mailed, first class, postage prepaid to: John Gontrom, Esquire, Whiteford Taylor & Preston, LLP, 210 W. Pennsylvania Avenue, Suite 400, Towson, Maryland 21204-4515, Attorney for the Prigel Family Creamery, Inc.; J. Carroll Holzer, P.A., 508 Fairmount Avenue, Towson, Maryland 21286, Attorney for the Long Green Valley Association.

WHITEFORD, TAYLOR & PRESTON L.L.P.

JOHN B. GONTRUM
DIRECT LINE (410) 832-2055
DIRECT FAX (410) 339-4058
JGontrum@wtplaw.com

TOWSON COMMONS, SUITE 300
ONE WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-5025
MAIN TELEPHONE (410) 832-2000
FACSIMILE (410) 832-2015

BALTIMORE, MD
COLUMBIA, MD
FALLS CHURCH, VA
TOWSON, MD
WASHINGTON, DC
WILMINGTON, DE*

WWW.WTPLAW.COM
(800) 987-8705

July 22, 2008

VIA HAND DELIVERY

Thomas H. Bostwick
Deputy Zoning Commissioner
Zoning Commissioner's Office
Jefferson Bldg.
Suite 103
105 W. Chesapeake Avenue
Towson, Maryland 21204

RECEIVED
JUL 22 2008

BY:

RE: Case No. 2008-0506-SPH

Dear Mr. Bostwick:

Enclosed please find Respondent's Motion in Limine and To Quash Subpoenas, to be raised and argued at Thursday's hearing.

Sincerely,


John B. Gontrum

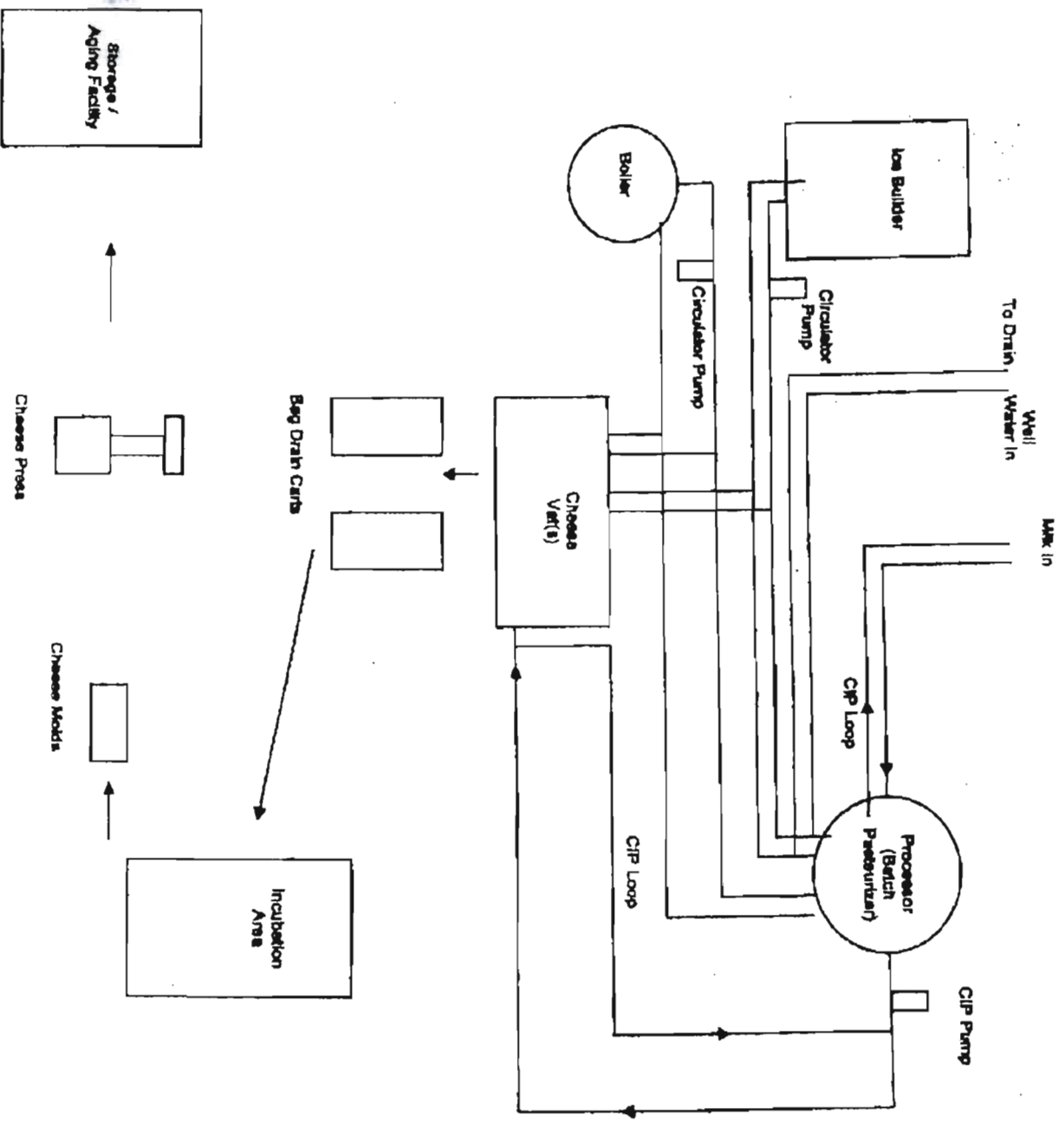
JBG:dae

Enclosure

cc: J. Carroll Holzer, Esquire (via email and regular mail)

403210

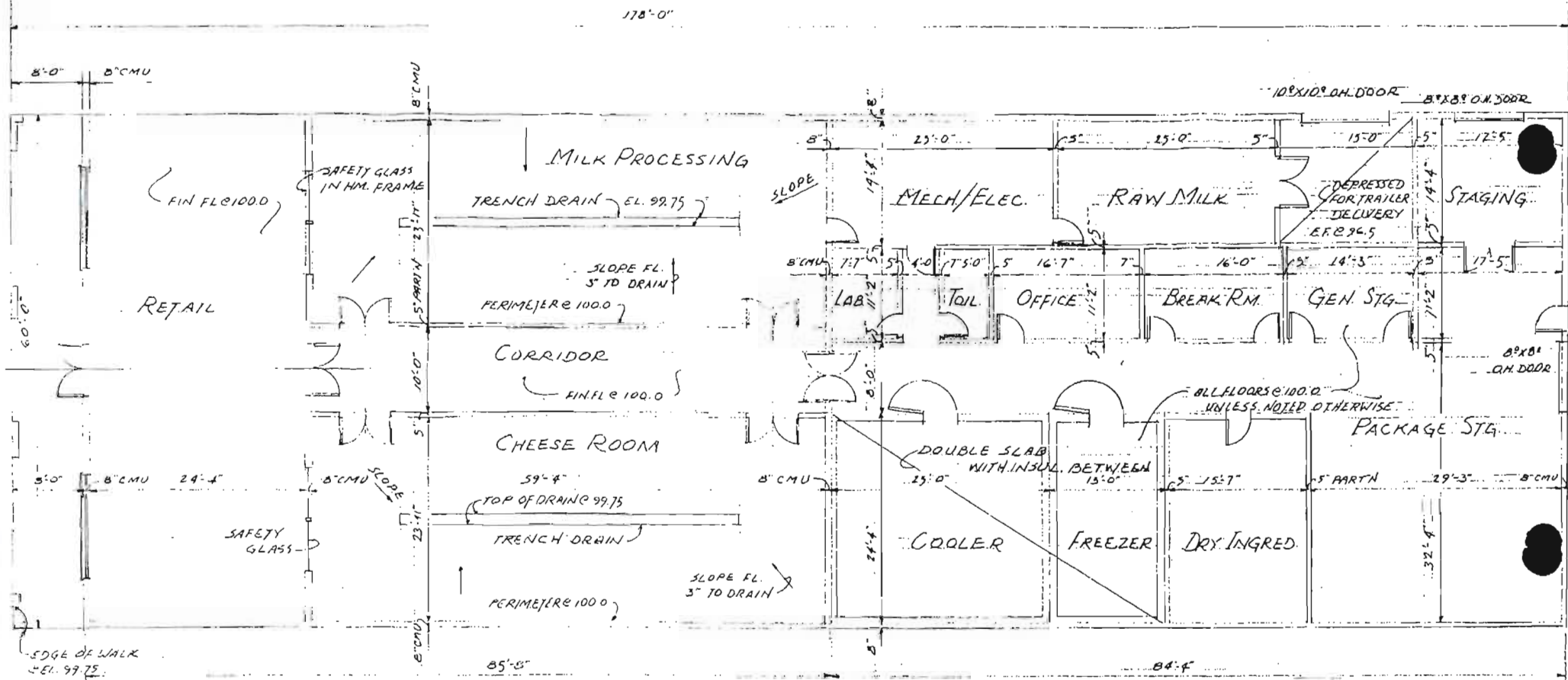
Typical Flow Chart for a Cheese Plant (soft & semi-hard cheeses)



0506

Exh A

0500



FLOOR PLAN

Exh B

PRELIM. PRINT 9/1/07
NOT FOR CONSTRUCTION

SCALE: 1/8" = 1'-0"	APPROVED BY:	DRAWN BY:
DATE:		
DRAWING NUMBER		700190-01

500.6 In addition to his aforesaid powers, the Zoning Commissioner shall have the power, upon notice to the parties in interest, to conduct hearings involving any violation or alleged violation or noncompliance with any zoning regulations, or the proper interpretation thereof, and to pass his order thereon, subject to the right of appeal to the County Board of Appeals as hereinafter provided.

500.7 The said Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall, in his discretion, be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals as hereinafter provided. The power given hereunder shall include the right of any interested person to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any purported nonconforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they are affected by these regulations.

With respect to any zoning petition other than a petition for a special exception, variance or reclassification, the Zoning Commissioner shall schedule a public hearing for a date not less than 30 days after the petition is accepted for filing. If the petition relates to a specific property, notice of the time and place of the hearing shall be conspicuously posted on the property for a period of at least 15 days before the time of the hearing. Whether or not a specific property is involved, notice shall be given for the same period of time in at least two newspapers of general circulation in the county. The notice shall describe the property, if any, and the action requested in the petition. Upon establishing a hearing date for the petition, the Zoning Commissioner shall promptly forward a copy thereof to the Director of Planning (or his deputy) for his consideration and for a written report containing his findings thereon with regard to planning factors. [Bill No. 18-1976]

500.8 He shall have the power to prescribe rules and regulations for the conduct of hearings before him, to issue summons for and compel the appearance of witnesses, to administer oaths and to preserve order.¹¹

500.9 The Zoning Commissioner shall have the power to require the production of plats of developments or subdivisions of land, or of any land in connection with which application for building or use permits or petition for a special exception, a reclassification or a temporary use shall be made, such plats to show the location of streets or roads and of buildings or other structures proposed to be erected, repaired, altered or added to. All such plats shall be drawn to scale and shall clearly indicate the proposed location, size, front, side and rear setbacks from property lines and elevation plans of proposed buildings or other structures. Such details shall conform in all respects with the Zoning Regulations. No such plats or plans, showing the opening or laying out of roads or streets, shall be approved by the Zoning Commissioner unless such plats or plans shall have been previously approved by the Baltimore County Office of Planning and the Department of Public Works. [Resolution, November 21, 1956]

¹¹ Editor's Note: See Appendix G of this volume.

Section 1A01
R.C.2 (Agricultural) Zone

1A01.1 General provisions.

A. Legislative statement of findings.

1. Declaration of findings. It is found:

- a. That Baltimore County is fortunate in that it is endowed with a variety of very productive agricultural soil types which should not be lost unnecessarily to urbanized development;
- b. That the agricultural industry is an integral part of the Baltimore economy and that a continued conversion of agricultural land will continue to undermine this basic industry;
- c. That scattered development is occurring in a sporadic fashion in areas of Baltimore County containing productive agricultural land;
- d. That continued urban intrusion into productive agricultural areas not only destroys the specific area upon which the development occurs but is incompatible with the agricultural use of the surrounding area;
- e. That heretofore Baltimore County has been unable to effectively stem the tide of new residential subdivisions in productive agricultural areas of Baltimore County;
- f. That Baltimore County has certain wetlands along Chesapeake Bay and its tributaries which serve as breeding grounds and nursery areas for the bay's biotic life; and
- g. That Baltimore County possesses numerous areas which are highly suitable for urban development, including residential subdivisions which are not located in areas of productive agricultural land.

- B. Purposes. The R.C.2 zoning classification is established pursuant to the legislative findings above in order to foster conditions favorable to a continued agricultural use of the productive agricultural areas of Baltimore County by preventing incompatible forms and degrees of urban uses.

1A01.2 Use regulations.

- A. Preferred use permitted as of right. Agricultural operations, when conducted in accordance with good and reasonable husbandry practices, shall be afforded preferential treatment over and above all other permitted uses in R.C.2 Zones.
- B. Uses permitted as of right.¹ The following uses only are permitted as of right in all R.C.2 Zones: [Bill No. 178-1979]
 1. Dwellings, one-family detached. [Bill No. 178-1979]

¹ Editor's Note: "Churches and schools for agriculture training," originally included in this section by Bill No. 98-1975, were moved to Section 1A01.2.C by Bill No. 178-1979.

2. Farms and limited acreage wholesale flower farms (Section 404). [Bill Nos. 178-1979; 51-1993]
3. Open space, common. [Bill No. 178-1979]
4. Public schools. [Bill Nos. 63-1980; 47-1982; 47-1985]
5. Streets and ways. [Bill No. 178-1979]
6. Telephone, telegraph, electrical-power or other lines or cables, provided that any such line or cable is underground; underground gas, water or sewer mains or storm drains; or other underground conduits, except interstate or international pipelines. [Bill No. 178-1979]
7. Trailers, provided that any trailer allowed under this provision must be used or stored in accordance with the provisions of Subsection B, C, E or F of Section 415.1 and Section 415.2.A.1 or 415.3.C.1, as applicable. [Bill No. 178-1979]
8. Antennas used by CATV systems operated by companies franchised under Article 25 of the Baltimore County Code, if situated on property owned by the county, state or federal government or by a governmental agency. [Bill Nos. 220-1981; 137-2004]
9. Accessory uses or structures, including, but not limited to, the following:
 - a. Excavations, uncontrolled. [Bill No. 178-1979]
 - b. Farmer's roadside stand and produce stand, subject to the provisions of Section 404.4. [Bill Nos. 178-1979; 41-1992]
 - c. Home occupations (see Section 101). [Bill Nos. 124-1978; 178-1979]
 - d. Offices or studios of physicians, dentists, lawyers, architects, engineers, artists, musicians or other professional persons, provided that any such office or studio is established within the same building as that serving as the professional person's primary residence at the time of application; does not occupy more than 25% of the total floor area of that residence; and does not involve the employment of more than one nonresident employee. [Bill Nos. 78-1979; 105-1982; 65-1999]
 - e. Parking space, including residential-garage space and space for recreational vehicle (Section 415A). [Bill No. 178-1979]
 - f. Piers, wharves, docks and bulkheads, subject to the provisions of Section 417. [Bill No. 178-1979]
 - g. Radio operator antennas, subject to Section 426A. [Bill Nos. 178-1979; 30-1998]
 - h. Swimming pools, tennis courts, garages, utility sheds, satellite receiving dishes (subject to Section 429) or other accessory structures or uses (subject to the height and area provisions for buildings as set forth in Section 400). [Bill No. 178-1979; Bill No. 71-1987]

- i. Tenant houses, including trailers used as tenant houses. [Bill No. 178-1979]
 - j. Rubble landfills, provided that the actual fill area does not exceed 3% of the total contiguous acreage of the property in the same ownership and subject to the provisions of Section 412.7 only. [Bill No. 97-1987]
 - k. Signs, subject to Section 450. [Bill No. 89-1997]
10. Commercial film production, subject to Section 435. [Bill No. 57-1990]
 11. Transit facilities. [Bill No. 91-1990]
 12. Equestrian centers, provided that any such equestrian center has access to two roads, one of which is a road having, within two miles from the equestrian center, an interchange with an interstate expressway; contains no permanent grandstand; and contains no lights other than those consistent with farm use. Temporary structures, such as removable tents, viewing stands and seating, are permitted, provided that they are removed within a reasonable time following the event or events which they serve. [Bill No. 24-2002]
- C. Uses permitted by special exception.¹ The following uses, only, may be permitted by special exception in any R.C.2 Zone, provided that in each case the hearing authority empowered to hear the petition finds that the use would not be detrimental to the primary agricultural uses in its vicinity; and, in the case of any use permitted under Item 29, further provided that the hearing authority finds that the use would support the primary agricultural use in its vicinity and would not itself be situated on land more appropriately used for primary agricultural uses: [Bill No. 178-1979]
1. Airports. [Bill No. 178-1979]
 2. Animal boarding places (regardless of class), commercial kennels, private kennels, veterinarians' offices or veterinarians (see Section 421). [Bill Nos. 178-1979; 87-2001]
 3. Antique shops (see Section 402B). [Bill No. 178-1979]
 4. Camps, including day camps. [Bill No. 178-1979]
 5. Community care centers provided that no residential community care center, i.e., a center which serves as the residence of the persons for whom care is provided, shall provide care for more than 15 persons per site, and no day community care center shall provide care for more than 15 persons per acre nor more than 75 persons per site. [Bill Nos. 178-1979; 157-1986]
 6. Churches or other buildings for religious worship. [Bill No. 178-1979]

¹ Editor's Note: The following uses were included in this section by Bill No. 98-1975, and deleted by Bill No. 178-1979: "baseball batting ranges," "cemeteries," "community bldgs. swimming pools," "fish hatcheries," "golf driving ranges, miniature-golf," "helistops," "hospitals," "nursing, convalescent homes," "railroads," "sanitariums" and "shooting preserves."

7. Excavations, controlled. [Bill No. 178-1979]
8. Farm market, subject to the provisions of Section 404.4. [Bill Nos. 178-1979; 41-1992]
9. Fishing and shellfishing facilities, Class I and II. [Bill No. 178-1979]
10. Golf courses or country clubs. [Bill No. 178-1979]
11. Home occupations of disabled persons, where the use is established in a structure originally constructed as a dwelling or as accessory to a dwelling or where the use is established in a structure that is situated on the same lot as a dwelling and which the Zoning Commissioner finds to be compatible with its surrounding neighborhood, provided that:
 - a. Only three persons, including the disabled person and the members of his immediate family who are residents of the dwelling, are employed in the use on the premises; and
 - b. In any case the use is conducted by a disabled person whose domicile is the dwelling to which the use is accessory and whom the hearing authority finds is so severely disabled as to be unable to engage in his occupation away from the premises of his home.

Any provision of Section 502.2 to the contrary notwithstanding, any special exception granted pursuant to this item shall expire upon the first to occur of the following:

- (1) Five years after the issuance of the permit;
- (2) The death of a disabled person;
- (3) The termination of the disability; or
- (4) The failure of the disabled person to permanently reside at the premises.

A new special exception for the use may be granted when the previous special exception expires but only upon the completion of the entire application and hearing process in the same manner as if it were the initial application for this special exception. It is the purpose of this provision to prevent the use of residential property for business purposes by an occupant other than a disabled person and to ensure that any occupation permitted pursuant to this item will be conducted in a manner appropriate to its surroundings. [Bill No. 27-1981]

12. Horticultural nurseries, subject to the provisions of Sections 404.1 and 404.2. [Bill No. 41-1992]
13. Hunting or fishing preserves. [Bill No. 178-1979]
14. Landscape service operations, subject to the provisions of Sections 404.1 and 404.3. [Bill No. 41-1992]

15. Offices for agriculture-related uses. [Bill Nos. 178-1979; 37-1988]
16. Offices or studios of physicians, dentists, lawyers, architects, engineers, artists, musicians or other professional persons as an accessory use, provided that any such office or studio is established within the same building as that serving as the professional person's primary residence at the time of application; does not occupy more than 25% of the total floor area of that residence; and does not involve the employment of more than one nonresident professional associate nor two other nonresident employees. [Bill Nos. 105-1982; 65-1999]

(Cont'd on page 1A-9)

17. Public utility uses not permitted as of right. [Bill No. 178-1979]
18. Rail passenger station, subject to Section 434. [Bill No. 91-1990¹]
19. Residential art salons (see Section 402C). [Bill No. 178-1979]
20. Standard restaurants or tearooms converted from dwellings (Section 402.3). [Bill Nos. 178-1979; 110-1993]
21. Riding stables. [Bill No. 178-1979]
22. Sanitary landfills, or rubble landfills in which the actual fill area exceeds 3% of the total contiguous acreage of the property in the same ownership. However, the fill area of a rubble landfill may not exceed 7% of the total contiguous acreage, nor may the fill area exceed a depth of 20 feet unless the Zoning Commissioner specifically finds that the landfill should be exempt from the depth limitation (see Section 412). [Bill Nos. 178-1979; 97-1987]
23. Schools, including schools for agricultural training, private preparatory schools, business or trade schools, conservatories or colleges. [Bill No. 178-1979]
24. Shooting ranges, including archery, pistol, skeet, trap or small-bore rifle ranges, or turkey shoots. [Bill No. 178-1979]
25. Sludge disposal facility – landspreading (Section 412A.2.E). [Bill No. 46-1982]
26. Trailers, as provided in Section 415.I.D. [Bill No. 178-1979]
27. Volunteer fire company or ambulance-rescue facilities. [Bill No. 178-1979]
28. Wireless telecommunications towers, subject to Section 426. [Bill No. 30-1998]
29. The following “agricultural-support” uses as principal commercial uses: [Bill Nos. 178-1979; 51-1993]
 - a. Farm-machinery sales, storage or service; blacksmithing. [Bill No. 178-1979]
 - b. Feed or grain mills or driers. [Bill No. 178-1979]
 - c. Fertilizer sales or storage. [Bill No. 178-1979]
 - d. Sawmills. [Bill No. 178-1979]
 - e. Slaughterhouses or manufacture, processing or packing of fruit, vegetables, animal or meat products, or by-products. [Bill No. 178-1979]

¹ Editor's Note: Former Item 14, “Research institutes (see Section 418),” which followed this item, was repealed by Bill No. 122-1984.

- f. Spirits manufacture, including the manufacture of alcohol to be used in gasoline/alcohol mixtures, but excluding the production of these mixtures. [Bill Nos. 178-1979; 51-1993]
- g. Firewood operations. [Bill No. 151-1992]
- h. Winery, including accessory retail and wholesale distribution of wine produced on-premises. Temporary promotional events, such as wine tastings or public gatherings associated with the winery, are permitted, within any limits set by the special exception. [Bill No. 51-1993]
- i. Bottled water plant, if the source of the water is located on the same site as the plant, and provided that the Director of Environmental Protection and Resource Management makes a recommendation that the proposed facility will not adversely affect the quality or capacity of surface water or groundwater. [Bill No. 51-1993]

1A01.3 Height and area regulations.

- A. Height regulation. No structure hereafter erected in an R.C.2 Zone shall exceed a height of 35 feet, except as otherwise provided under Section 300.
- B. Area regulations. [Bill No. 178-1979]
 - 1. Subdivision lot density. No lot of record lying within an R.C.2 Zone and having a gross area of less than two acres may be subdivided. No such lot having a gross area between two and 100 acres may be subdivided into more than two lots (total), and such a lot having a gross area of more than 100 acres may be subdivided only at the rate of one lot for each 50 acres of gross area. In cases where land in single ownership is crossed by existing or proposed roads, rights-of-way or easements, the portions of land on either side of the road, right- of-way or easement shall not be considered separate parcels for the purpose of calculating the number of lots of record. [Bill Nos. 199-1990; 125-2005]
 - 2. Lot size. A lot having an area less than one acre may not be created in an R.C.2 Zone.
 - 3. Setback requirements. No principal structure or dwelling (whether or not it is a principal structure) in an R.C.2 Zone may be situated within 75 feet of the center line of any street or within 35 feet of any lot line other than a street line.
 - 4. Principal dwellings per lot. No more than one principal dwelling is permitted on any lot in an R.C.2 Zone.

1A01.4 Maryland Agricultural Land Preservation Program. The use or development of land in an agricultural district established in accordance with Title 2, Subtitle 5 of the Agriculture Article of the Annotated Code of Maryland shall be governed by agricultural land preservation provisions enacted by the County Council pursuant to § 2-513 of the Agriculture Article in the case of any conflict between those provisions and these regulations. [Bill Nos. 178-1979; 137-2004]

Agriculture Article of the Annotated Code of Maryland shall be governed by agricultural land preservation provisions enacted by the County Council pursuant to § 2-513 of the Agriculture Article in the case of any conflict between those provisions and these regulations. [Bill Nos. 178-1979; 137-2004]



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 7851 Long Green Road
which is presently zoned R.C.2

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

→ and 500.6

(See Supplemental Sheet Attached)

Property is to be posted and advertised as prescribed by the zoning regulations.

I, or we, agree to pay expenses of above Special Hearing, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

(See Petitioners' Supplemental Sheet Attached)
petitioners are Not owners of
Contract Purchaser/Lessee: subject Property

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Legal Owner(s):

Prigel Family Creamery, Inc.
Name - Type or Print

Signature

Name - Type or Print

Signature

4851 Long Green Rd. 410-592-6014
Address Telephone No.

Glen Ann, MD 21057
City State Zip Code

Representative to be Contacted:

J. Carroll Holzer, P.A.
508 Fairmount Ave.
Towson, MD 21286

City

State

Zip Code

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Name - Type or Print

Signature

J. Carroll Holzer, P.A.
508 Fairmount Ave.
Towson, MD 21286

Telephone No.

City

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By DEPT-055 Date 4-25-88

Case No. 2008-0506-SH

**SIGNATURE PAGE
PETITION FOR SPECIAL HEARING
4851 LONG GREEN ROAD, PRIEGEL FAMILY CREAMERY**

Charlotte Pine

Charlotte Pine, Petitioner
13310 Fork Road
Baldwin, MD 21013

Roger Hayden

The Long Green Valley Association, Inc., Petitioner
P.O. Box 91
Baldwin, MD 21013
Roger Hayden, President

Catherine Ebert

Ms. Catherine Ebert
12815 Kanes Road
Glen Arm, MD 21057

John & Susan Yoder

John & Susan Yoder
P.O. Box 399
Phoenix, MD 21131

SUPPLEMENTAL SHEET TO ACCOMPANY

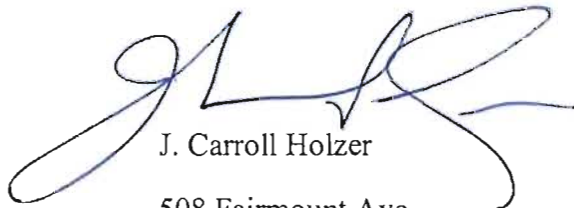
PETITION FOR SPECIAL HEARING

4851 LONG GREEN ROAD

Pursuant to §500.6 & 500.7 of the B.C.Z.R., the Petitioners request the Zoning Commissioner determine:

1. Whether a dairy processing facility is permitted in an R.C. 2 Zone? Said processing facility contains the characteristics defined on attached Exhibits A, B and C and;
2. May the property owner lease the dairy processing facility to a third party?

Respectfully submitted,

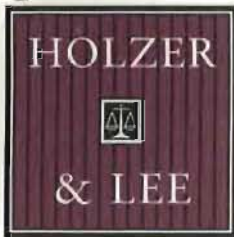


J. Carroll Holzer

508 Fairmount Ave.

Towson, MD 21286

410-825-6961



LAW OFFICES

J. CARROLL HOLZER, PA
J. HOWARD HOLZER
1907-1989

THOMAS J. LEE
OF COUNSEL

THE 508 BUILDING

508 FAIRMOUNT AVE.
TOWSON, MD 21286
(410) 825-6961
FAX: (410) 825-4923

~~XXXXXXXXXXXXXXXXXXXX~~
jcholzer@cavtel.net

TPB
7-24-08

June 27, 2008
#7778

William Wiseman, Esquire
Zoning Commissioner
401 Bosley Avenue
Suite 405
Towson, Maryland 21204

RECEIVED
JUN 30 2008

RE: Case No.: 2008-0506-SPH

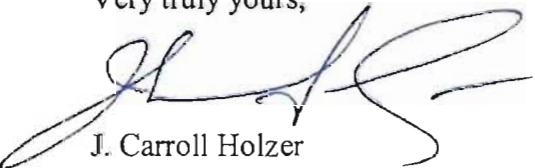
BY:

Dear Mr. Wiseman:

Please find Petitioners' Amended Supplemental Sheet by way of interlineation which includes whether a dairy processing facility, a creamery, a milk pasteurization facility, or a dairy products store are permitted in an R.C. 2 Zone.

I appreciate your attention and consideration.

Very truly yours,



J. Carroll Holzer

JCH:mlg

Enclosure

Cc: John Gontrum, Esq.
LGVA, Inc.
Timothy Kotroco, Esq.

**AMENDED SUPPLEMENTAL SHEET TO ACCOMPANY
PETITION FOR SPECIAL HEARING THROUGH INTERLINEATION**

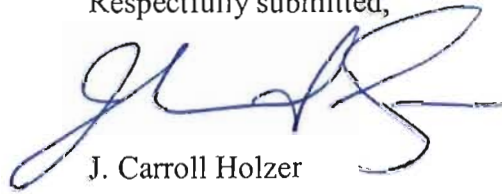
4851 LONG GREEN ROAD

CASE NO. 2008-0506-SPH

Pursuant to §500.6 & 500.7 of the B.C.Z.R., the Petitioners request the Zoning
Commissioner determine:

1. Whether a dairy processing facility, a creamery, a milk pasteurization facility, or a dairy products store are permitted in an R.C. 2 Zone. Said processing facility contains the characteristics defined in Exhibits A,B, and C previously submitted on April 4, 2008; and
2. May the property owner lease the dairy processing facility to a third party?

Respectfully submitted,



J. Carroll Holzer

508 Fairmount Ave.

Towson, MD 21286

410-825-6961

SITE RESOURCES
incorporated

Comprehensive Land Planning & Site Design Services

March 31, 2008

ZONING DESCRIPTION
4851 LONG GREEN ROAD
11TH ELECTION DISTRICT AND THE 3RD COUNCILMANIC
DISTRICT OF BALTIMORE COUNTY, MARYLAND

Beginning at the point of intersection of the centerline of Long Green Road and the westernmost limit of the Baltimore Gas & Electric right-of-way thence proceeding westerly along the centerline of Long Green Road for a distance of approximately 778' to a point on the centerline then proceeding on a bearing of North 9° 28' 52" West 30 feet +/- to the point of beginning. Thence North 80°31'08" West a distance of 130.00'; thence North 09°28'52" East a distance of 105.00'; thence South 80°31'08" East a distance of 130.00'; thence South 09°28'52" West a distance of 105.00'; which is the point of beginning, having an area of 13,650.00 square feet, or 0.313 acres more or less.

Note: This description only satisfies the requirements of the Office of Zoning and is not to be used for the purpose of conveyance.



14315 Jarrettsville Pike, P.O. Box 249 Phoenix, MD 21131-0249

(410) 683-3388 • fax (410) 683-3389

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: # 2008-0506-SPH

4851 Long Green Road,
North and south of Long Green Road,
w/side of Long Green Road and Long Green Drive
11th Election District - 3rd Councilmanic District

Legal Owner(s): Prigel Family Creamery, Inc.

Petitioners: Long Green Valley Assoc., Charlotte Pine, Catherine Ebert, John & Susan Yoder

Special Hearing: to determine whether a dairy processing facility is permitted in an RC-2 zone. Said processing facility contains the characteristics, defined on attached Exhibits A, B and C; May the property owner lease the dairy processing facility to a third party?

Hearing: Thursday, July 24, 2008 at 9:00 a.m. in Room 104, Jefferson Building, 105 W. Chesapeake Avenue, Towson 21204

WILLIAM J. WISEMAN, III
Zoning Commissioner for
Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

JT 7/620 July 8

177857

CERTIFICATE OF PUBLICATION

7/10/, 2008

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 7/8/, 2008.

- ☒ The Jeffersonian
- ☐ Arbutus Times
- ☐ Catonsville Times
- ☐ Towson Times
- ☐ Owings Mills Times
- ☐ NE Booster/Reporter
- ☐ North County News

S. Wilkinson

LEGAL ADVERTISING

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS RECEIPT

No. **14045**

PAID RECEIPT

Date: **4-25-08**

BUSINESS ACTUAL TIME DRW
 4/25/2008 4/25/2008 11:45:12 2

REG # 505 WALKIN DDOL DMD
 >>RECEIPT # 441966 4/25/2008 OFLN

Fund	Agcy	Orgn	Sub Orgn	Rev Source	Sub Rev	Rept Catg	BS Acct	Amount
001		000		pr 50				65.00

Dept 5 528 ZONING VERIFICATION
 CR # 014045

Recpt Tot \$65.00
 \$65.00 CK \$0.00 CA
 Baltimore County, Maryland

Total: **65.00**

Rec From: **J. CARROLL HOLTEK**

For: **2008-0506-SPH**
7857 LEAD GREEN IS

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

**CASHIER'S
 VALIDATION**

CERTIFICATE OF POSTING

RE: Case No: 2008-0506-SPH

Petitioner/Developer: J. CARROLL
HOLZER, LONG GREEN VALLEY ASSOC.

Date Of Hearing/Closing: July 8, 2008

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue

Attention:

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary
sign(s) required by law were posted conspicuously on the property
at 4851 LONG GREEN ROAD

This sign(s) were posted on July 8, 2008
(Month, Day, Year)

Sincerely,

Martin Ogle 7/8/08
(Signature of sign Poster and Date)

Martin Ogle

Sign Poster

16 Salix Court

Address

Balto. Md 21220

(443-629 3411)



Matthew De July 8, 2008

Requested: September 29, 2008

APPEAL SIGN POSTING REQUEST

CASE NO.: 08-456-X

~~138-140 Eastern Blvd~~

11th ELECTION DISTRICT

APPEALED: 8/1/2008

ATTACHMENT – (Plan to accompany Petition – Petitioner's Exhibit No. 1)

*****COMPLETE AND RETURN BELOW INFORMATION*****

CERTIFICATE OF POSTING

TO: Baltimore County Board of Appeals
The Jefferson Building, Suite 203
102 W. Chesapeake Avenue
Towson, MD 21204

Attention: Kathleen Bianco
Administrator

CASE NO.: 08-456-X

LEGAL OWNER: Prigel Family Creamery, Inc. (Robert Prigel)

This is to certify that the necessary appeal sign was posted conspicuously on the property located at:

4851 LONG GREEN ROAD
N/S LONG GREEN ROAD, 1500' W C/L LONG GREEN VALLEY DR.

The sign was posted on 12-8-08, 2008.

By:

M. Stuart
(Signature of Sign Poster)

M STUART KEAY
(Print Name)

PHOTOGRAPHIC RECORD

08-456-X

Citation/Case No.:

08-506-SPH

4851 Long Green Rd

Date of Photographs:

12-8-08



I HEREBY CERTIFY that I took the 2 (number of photos) photographs set out above, and that these photographs fairly and accurately depict the condition of the property that is the subject of the above-referenced citation/case number on the date set out above.

Michael Kelly
Enforcement Officer

Requested: October 29, 2008

APPEAL SIGN POSTING REQUEST

CASE NO.: 08-506-SPH

4851 Long Green Rd

11th ELECTION DISTRICT

APPEALED: 8/12/2008

ATTACHMENT – (Plan to accompany Petition – Petitioner's Exhibit No. 1)

*****COMPLETE AND RETURN BELOW INFORMATION*****

CERTIFICATE OF POSTING

TO: Baltimore County Board of Appeals
The Jefferson Building, Suite 203
102 W. Chesapeake Avenue
Towson, MD 21204

Attention: Kathleen Bianco
Administrator

CASE NO.: 08-506-SPH

LEGAL OWNER: **PRIGEL FAMILY CREAMERY**

This is to certify that the necessary appeal sign was posted conspicuously on the property located at:

4851 LONG GREEN ROAD
N & S LONG GREEN RD, W/S LONG GREEN DRIVE

The sign was posted on 12-8-08, 2008.

By: M Stuart Kelly
(Signature of Sign Poster)

M Stuart Kelly
(Print Name)

**DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW**

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:

Item Number or Case Number: 2008-0506
Petitioner: CHARLOTTE PINE
Address or Location: 7851 LONG GREEN RD

PLEASE FORWARD ADVERTISING BILL TO:

Name: J. CARROLL HOLZER
Address: 508 FAIRMOUNT RD
TOWSON MD 21286

Telephone Number: 410-825-6961

Revised 2/20/98 - SCJ

TO: PATUXENT PUBLISHING COMPANY
Tuesday, July 8, 2008 Issue - Jeffersonian

Please forward billing to:
J. Carroll Holzer
508 Fairmount Avenue
Towson, MD 21286

410-825-6961

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 2008-0506-SPH

4851 Long Green Road

North and south of Long Green Road, w/side of Long Green Road and Long Green Drive

11th Election District – 3rd Councilmanic District

Legal Owners: Prigel Family Creamery, Inc.

Petitioners: Long Green Valley Assoc., Charlotte Pine, Catherine Ebert, John & Susan Yoder

Special Hearing to determine whether a dairy processing facility is permitted in an RC-2 zone. Said processing facility contains the characteristics, defined on attached Exhibits A, B and C; May the property owner lease the dairy processing facility to a third party?

Hearing: Thursday, July 24, 2008 at 9:00 a.m. in Room 104, Jefferson Building,
105 W. Chesapeake Avenue, Towson 21204



WILLIAM J. WISEMAN III
ZONING COMMISSIONER FOR BALTIMORE COUNTY

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



BALTIMORE COUNTY

M A R Y L A N D

June 13, 2008

JAMES T. SMITH, JR.
County Executive

NOTICE OF ZONING HEARING

TIMOTHY M. KOTROCO, *Director*
Department of Permits and
Development Management

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 2008-0506-SPH

4851 Long Green Road

North and south of Long Green Road, w/side of Long Green Road and Long Green Drive

11th Election District – 3rd Councilmanic District

Legal Owners: Prigel Family Creamery, Inc.

Petitioners: Long Green Valley Assoc., Charlotte Pine, Catherine Ebert, John & Susan Yoder

Special Hearing to determine whether a dairy processing facility is permitted in an RC-2 zone. Said processing facility contains the characteristics, defined on attached Exhibits A, B and C; May the property owner lease the dairy processing facility to a third party?

Hearing: Thursday, July 24, 2008 at 9:00 a.m. in Room 104, Jefferson Building,
105 W. Chesapeake Avenue, Towson 21204

Timothy Kotroco
Director

TK:klm

C: J. Carroll Holzer, 508 Fairmount Avenue, Towson 21286
John Gontrum, 1 West Pennsylvania Avenue, Ste. 300, Towson 21204
Charlotte Pine, LGVA, 13310 Fork Road, Baldwin 21013
Roger Hayden, LGVA, P.O. Box 91, Baldwin 21013
Catherine Ebert, 12815 Kaness Road, Glen Arm 21057
John & Susan Yoder, P.O. Box 399, Phoenix 21131

- NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, JULY 9, 2008.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

**Hearing Room #2, Jefferson Building
105 W. Chesapeake Ave., Second Floor
(Adjacent to Suite 203)**

January 27, 2009

NOTICE OF POSTPONEMENT

CASE #: 08-506-SPH

IN THE MATTER OF: LONG GREEN VALLEY ASSOCIATION, INC.,
ET AL – PROTESTANTS /PETITIONERS; PRIGEL FAMILY
CREAMERY, LEGAL OWNER
4851 Long Green Road 11th E; 3rd C

8/12/2008 - D.Z.C.'s decision in which Protestants' special hearing request
was DENIED in part and dismissed in part; proposed facility is permitted in
R.C. 2 zone

NOTE: Related Case No. 08-456-X/ pending outcome of 08-506-SPH

This matter was scheduled for Thursday, February 5, 2009 and has been postponed. This postponement has
been granted over the objection of Counsel for the Legal Owner; **TO BE RE-ASSIGNED.**

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in
compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date
unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

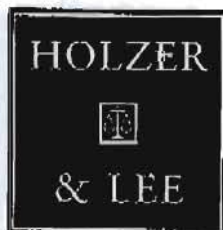
Theresa R. Shelton, Administrator

c: Counsel for Appellants /Protestants : J. Carroll Holzer, Esquire
Appellants /Protestants (Petitioners in this matter) : The Long Green Valley Assn., Inc.
Roger Hayden, President
Charlotte Pine Catherine Ebert
John and Susan Yoder

Counsel for Legal Owner : John B. Gontrum, Esquire
Jennifer R. Busse, Esquire
Legal Owner : Robert E. Prigel
Robert and Carol Prigel

Michael Fisher /Site Resources, Inc.

Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM



LAW OFFICES

J. CARROLL HOLZER, PA

J. HOWARD HOLZER

1907-1989

THOMAS J. LEE

OF COUNSEL

THE 508 BUILDING

508 FAIRMOUNT AVE.

TOWSON, MD 21286

(410) 825-6961

FAX: (410) 825-4923

~~XXXXXXXXXXXXXXXXXXXX~~

jcholzer@cavtel.net

January 27, 2009
#7803

VIA FAX 410-887-3182

Ms. Maureen Murphy, Chair
Baltimore County
Board of Appeals
Jefferson Building
105 West Chesapeake Avenue
Second Floor, Suite 203
Towson, Maryland 21204

RE: *In the Matter of Petition for Special Hearing*
4851 Long Green Road
Long Green Valley Association, Inc.
Charlotte Pine, Catherine Ebert, John & Susan Yoder, Petitioners
11th Election District
3rd Councilmanic District
Case No.: 2008-0506-SPH

Dear Ms. Murphy:

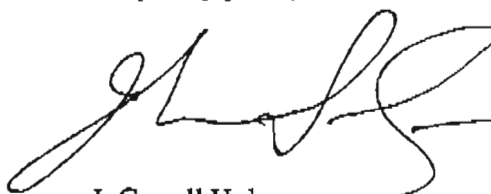
In response to Mr. Gontrum's letter to you dated January 26, 2009, I take exception with the allegations contained therein as follows:

1. The Petition for Special Hearing was filed by my clients whose names appear on our Petition
2. My clients did not cause the delay of nine months
3. The Planning Board has already conducted a public hearing on proposed legislation that would possibly eliminate the need for the hearing in this case; the vote will take place in early February
4. This matter will be promptly set before the County Council which is aware of the issue before the Planning Board
5. The instant appeal will take at least three (3) days of hearings before the Board of Appeals

6. Finally, the cost and effort of the Board of Appeals would be expended unnecessarily if the case proceeds on February 5, 2009 before the Board of Appeals.

Therefore, I again respectfully request that the Board grant my request for postponement.

Very truly yours,

A handwritten signature in black ink, appearing to read 'J. Carroll Holzer', with a stylized, cursive script.

J. Carroll Holzer

cc: John Gontrum, Esquire (Via Fax)
Peter Max Zimmerman, Esquire (Via Fax)
Ms. Catherine Ebert
Ms. Susan Yoder



County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

January 27, 2009

Via Facsimile

J. Carroll Holzer, Esquire
508 Fairmount Avenue
Towson, MD 21286

Re: *In the Matter of: Prigel Family Creamery, Inc.* – Legal Owner
Case No. 08-506-SPH

Dear Mr. Holzer:

This letter will acknowledge receipt of your Hand Delivered letter dated January 21, 2009 wherein you request a postponement of the subject case scheduled for hearing on Thursday, February 5, 2009, due to an Amendment to the Baltimore County Zoning Regulations that has been introduced by the Baltimore County Planning Office, which would directly impact the decision of the Board.

Your request for postponement is granted at this time, and this matter will be reassigned. However, it is to be noted that this postponement has been granted over the objection of John B. Gontrum, Counsel for the Legal Owner, pursuant to his letter dated January 26, 2009 and received via facsimile by this office on that date.

In addition, the matter scheduled for Thursday, March 12, 2009, Case No.: 08-456-X; which was scheduled separately, but was being heard based upon the outcome of this related case, is also being postponed and will be re-assigned.

Enclosed is a copy the Notice of Postponement for the above referenced case number and a copy of the Notice of Postponement for Case No.: 08-456-X. Please note that no further postponements will be granted in this matter except under extraordinary circumstances and upon review by the Board.

Should you have any questions, please call me at 410-887-3180.

Very truly yours,

A handwritten signature in black ink, reading "Theresa R. Shelton".

Theresa R. Shelton
Administrator

Enclosures: Notice of Postponement (2)

c: John B. Gontrum, Esquire (via Facsimile)
Office of People's Counsel
Robert E. Prigel
Catherine Ebert
Susan Yoder

COUNTY BOARD OF APPEALS

JEFFERSON BUILDING •
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
PHONE: 410-887-3180 • FAX: 410-887-3182

FACSIMILE TRANSMITTAL SHEET

January 27, 2009

TO AND FAX NUMBER:

J. CARROLL HOLZER, ESQUIRE
FAX : 410-825-4923

JOHN B. GONTRUM, ESQUIRE
FAX : 410-339-4058

FROM:

THERESA R. SHELTON
FAX : 410-887-3182

TELEPHONE : 410-887-3180

TOTAL NO. OF PAGES INCLUDING
COVER:
FOUR (4)

RE: POSTPONEMENT –
PRIGEL FAMILY CREAMERY

URGENT FOR REVIEW FOR YOUR RECORDS PLEASE REPLY PLEASE RECYCLE

PERSONAL AND CONFIDENTIAL

ATTACHED IS A COPY OF THE NOTICE(s) OF POSTPONEMENT (2) GOING OUT VIA USPS THIS DATE – POSTPONING THE SUBJECT MATTER(s) FROM THE SCHEDULED DATE(s) OF FEBRUARY 5, 2009 AND MARCH 12, 2009, RESPECTIVELY.

TO BE RE-ASSIGNED.

THANK YOU.

This message is intended only for the addressee and may contain information that is privileged and/or confidential in nature. If the reader is not the intended recipient or the employee or agent responsible for delivering the message to the intended recipient, and/or received this communication in error, please notify the sender immediately by telephone and return the original message to the sender.

WHITEFORD, TAYLOR & PRESTON L.L.P.

JOHN B. GONTRUM
DIRECT LINE (410) 832-2055
DIRECT FAX (410) 339-4058
JGontrum@wtplaw.com

TOWSON COMMONS, SUITE 300
ONE WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-5025
MAIN TELEPHONE (410) 832-2000
FACSIMILE (410) 832-2015

BALTIMORE, MD
COLUMBIA, MD
FALLS CHURCH, VA
TOWSON, MD
WASHINGTON, DC
WILMINGTON, DE*

WWW.WTPLAW.COM
(800) 987-8705

June 4, 2009

Ms. Maureen Murphy, Esquire
Chair, Baltimore County Board of Appeals
Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, Maryland 21204



Re: Case No. 2008-0506-SPH
Case No. 2008-456-X
4851 Long Green Road

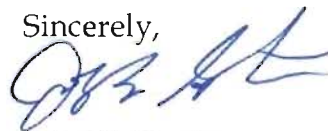
Dear Ms. Murphy:

On behalf of my clients, the property owner and operator of the proposed creamery in the above referenced cases, we would request that these cases be reassigned for hearing.

You may recall that at the request of the Appellants the Board postponed hearings set for these two matters in February and March due to legislation then proposed by the Baltimore County Planning Board. This past month legislation was adopted by the Baltimore County Council, effective June 3, 2009. A copy of County Council Bill 34-2009 pertaining to Farmstead Creamery is attached, and there is no further legislation pending impacting the issues before the Board.

Your consideration in promptly rescheduling these matters will be greatly appreciated.

Sincerely,



John B. Gontrum

JBG:jbg
Attachment
cc. J. Carroll Holzer, Esq.



County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

**Hearing Room #2, Jefferson Building
105 W. Chesapeake Ave., Second Floor
(Adjacent to Suite 203)**

June 15, 2009

SECOND NOTICE OF POSTPONEMENT

CASE #: 08-506-SPH

IN THE MATTER OF: LONG GREEN VALLEY ASSOCIATION, INC.,
ET AL – PROTESTANTS /PETITIONERS; PRIGEL FAMILY
CREAMERY, LEGAL OWNER
4851 Long Green Road 11th E; 3rd C

8/12/2008 - D.Z.C.'s decision in which Protestants' special hearing request
was DENIED in part and dismissed in part; proposed facility is permitted in
R.C. 2 zone

NOTE: Related Case No. 08-456-X/ pending outcome of 08-506-SPH

This matter was scheduled for Wednesday, July 1, 2009 and has been postponed due to a scheduling conflict.

TO BE RE-ASSIGNED TO AN AGREED DATE BY COUNSEL.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Theresa R. Shelton, Administrator

c:	Counsel for Appellants /Protestants	: J. Carroll Holzer, Esquire
	Appellants /Protestants (Petitioners in this matter)	: The Long Green Valley Assn., Inc. Roger Hayden, President
		Charlotte Pine Catherine Ebert John and Susan Yoder
	Counsel for Legal Owner	: John B. Gontrum, Esquire
		: Jennifer R. Busse, Esquire
	Legal Owner	: Robert E. Prigel / Robert and Carol Prigel
	Michael Fisher /Site Resources, Inc.	

Office of People's Counsel
William J. Wiseman, III, Zoning Commissioner
Timothy Kotroco, Director/PDM
Arnold F. "Pat" Keller, Director/Planning
Nancy West, Assistant County Attorney
John E. Beverungen, County Attorney



County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

June 22, 2009

J. Carroll Holzer, Esquire
508 Fairmount Avenue
Towson, MD 21286

John B. Gontrum, Esquire
Jennifer R. Busse, Esquire
WHITEFORD TAYLOR & PRESTON LLP
Towson Commons, Suite 300
One West Pennsylvania Avenue
Towson, MD 21204

RE: *In the Matter of: Long Green Valley Association, Inc./*
Prigel Family Creamery, Inc.
Case No. 08-506-SPH and 08-456-X

Dear Counsel:

The above referenced cases need to be re-assigned to a mutually agreeable date.

The Board sits on Tuesday, Wednesday and Thursday of each week. The docket is currently scheduled through the end of September 2009. Pending confirmation from your respective offices, as to availability, I will hold the following six (6) dates for the scheduling of these two (2) cases. Each matter will be scheduled to a specific date and the cases will not be combined. Please let me know as soon as possible, which two dates you are available from the list below:

Thursday, October 8, 2009 at 10:00 a.m.
Wednesday, October 14, 2009 at 10:00 a.m.
Thursday, October 15, 2009 at 10:00 a.m.
Thursday, October 29, 2009 at 10:00 a.m.
Tuesday, November 3, 2009 at 10:00 a.m.; and
Wednesday, November 4, 2009 at 10:00 a.m.

Upon notification from you as to which two dates are available for everyone, a notice will be sent, reassigning each case matter to the confirmed date. Please contact this office upon receipt of this letter to confirm availability.

Thanking you in advance for your time and cooperation in this matter. Should you have any questions, please call me at 410-887-3180.

Very truly yours,


Theresa R. Shelton
Administrator

Duplicate Original

c: Roger Hayden, President / Long Green Valley Association
Robert E. Prigel / Robert and Carol Prigel



County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

WV + Dismissed

Hearing Room #2, Second Floor
Jefferson Building, 105 W. Chesapeake Avenue

August 6, 2009

NOTICE OF DELIBERATION / RESPONDENT'S MOTION TO DISMISS

CASE #: 08-506-SPH IN THE MATTER OF: LONG GREEN VALLEY ASSOCIATION, INC.,
ET AL – PROTESTANTS /PETITIONERS;
PRIGEL FAMILY CREAMERY, LEGAL OWNER/RESPONDENT
4851 Long Green Road 11th E; 3rd C

8/12/2008 - D.Z.C.'s decision in which Protestants' special hearing request was DENIED in part and dismissed in part; proposed facility is permitted in R.C. 2 zone

The Motion to Dismiss having been filed on July 14, 2009; public deliberation has been scheduled for the following date /time:

DATE AND TIME: WEDNESDAY, AUGUST 19, 2009 at 9:00 a.m.

LOCATION: Hearing Room #2, Jefferson Building
105 W. Chesapeake Avenue, Second Floor (adjacent to Suite 203)

NOTE: ALL PUBLIC DELIBERATIONS ARE OPEN SESSIONS; HOWEVER, ATTENDANCE IS NOT REQUIRED. A WRITTEN OPINION /ORDER WILL BE ISSUED BY THE BOARD AND A COPY SENT TO ALL PARTIES.

Theresa R. Shelton
Administrator

c: Counsel for Petitioners
Petitioners

: J. Carroll Holzer, Esquire
: The Long Green Valley Assn., Inc.
Roger Hayden, President
Charlotte Pine Catherine Ebert
John and Susan Yoder

Counsel for Respondent/ Legal Owner
Legal Owner
Michael Fisher /Site Resources, Inc.

: John B. Gontrum, Esquire
Jennifer R. Busse, Esquire
: Robert E. Prigel / Robert and Carol Prigel

People's Counsel for Baltimore County
William Wiseman, III, Zoning Commissioner
Timothy Kotroco, Director/PDM
Arnold F. "Pat" Keller, Director/Planning
Nancy West, Assistant County Attorney
John E. Beverungen, County Attorney

LAW OFFICES
J. CARROLL HOLZER, P.A.
508 FAIRMOUNT AVENUE
TOWSON, MARYLAND 21286
(410) 825-6961

FAX (410) 825-4923 / E-MAIL: JCHOLZER@CAVTEL.NET

RECEIVED

AUG 18 2009

BALTIMORE COUNTY
BOARD OF APPEALS

Facsimile Cover Sheet

To:

Theresa

From: J. Carroll Holzer/Sterling Leese/Peggy Gilley

Date: Aug. 18, 2009 Time: 9:25 a.m./p.m.

Total Number of Pages Including this Cover: 4

Original Will ____ / Will Not ☒ Follow.

★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★

For Sending Office Purposes:

Fax Number: 410-

Main Number: 410-

Client & Matter:

File Number: #

CONFIDENTIALITY NOTICE

The information in this transmittal is intended only for the individual or entity named above. The attached letter or documents may be legally privileged and confidential. If you have received this information in error, please notify the sender immediately and return the original transmission to us by mail. Return postage is guaranteed. If the reader of this message is not the intended recipient, you are hereby notified that any disclosure, dissemination, distribution or copying of this communication or its contents is strictly prohibited and a breach of confidentiality.



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

TIMOTHY M. KOTROCO, *Director*
Department of Permits and
Development Management

July 15, 2008

J. Carroll Holzer
508 Fairmount Ave.
Towson, MD 21286

Dear: J. Carroll Holzer

RE: Case Number 2008-0506-SPH, Address: 7851 Long Green Rd.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on April 25, 2008. This letter is not an approval, but only a **NOTIFICATION**.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:lnw

Enclosures

c: People's Counsel
Prisel Family Creamery, Inc., 7851 Long Green Rd., Glen Arm, MD 21057

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits &
Development Management

DATE: May 9, 2008

FROM: Dennis A. Kennedy, Supervisor
Bureau of Development Plans
Review

SUBJECT: Zoning Advisory Committee Meeting
For May 12, 2008
Item Nos. 08-504, 506, 507, 508, 509,
511, 512, 513, 515, 516, 517, and 519

The Bureau of Development Plans Review has reviewed the subject-zoning items, and we have no comments.

DAK:CEN:lrk
ZAC-04092008-NO COMMENTS
cc: File

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits and
Development Management

DATE: May 20, 2008

FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

SUBJECT: 4851 Long Green Road

INFORMATION:

Item Number: 8-506

Petitioner: Prigel Family Creamery, Inc

Zoning: RC 2

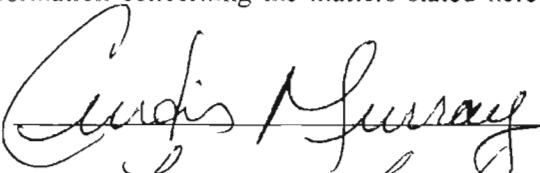
Requested Action: Special Hearing

SUMMARY OF RECOMMENDATIONS:

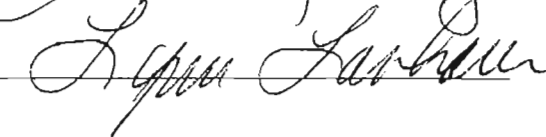
The Office of Planning has reviewed the petitioner's request. This office is of the opinion that uses associated with the subject property and the entity located on such is an agricultural use. Therefore this office is in support of the aforementioned.

For further information concerning the matters stated here in, please contact Jessie Bialek at 410-887-3480.

Reviewed by:



Division Chief:
AFK/LL: CM





Martin O'Malley, Governor
Anthony G. Brown, Lt. Governor

State Highway
Administration

John D. Porcari, Secretary
Neil J. Pedersen, Administrator

Maryland Department of Transportation

Date: **MAY 5, 2008**

Ms. Kristen Matthews
Baltimore County Office Of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. **B-506-SPH**
4851 LONG GREEN ROAD
PRIGEL PROPERTY
SPECIAL HEARING

Dear Ms. Matthews:

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. **B-506-SPH**.

Should you have any questions regarding this matter, please contact Michael Bailey at 410-545-2803 or 1-800-876-4742 extension 5593. Also, you may E-mail him at (mbailey@sha.state.md.us).

Very truly yours,

Foster Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/MB

My telephone number/toll-free number is _____

Maryland Relay Service for Impaired Hearing or Speech: 1.800.735.2258 Statewide Toll Free

Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone: 410.545.0300 • www.marylandroads.com

RE: PETITION FOR SPECIAL HEARING * BEFORE THE
4851 Long Green Road; N & S Long Green
Rd, W/S Long Green Rd & Long Green Dr * ZONING COMMISSIONER
11th Election & 3rd Councilmanic Districts
Legal Owner(s): Prigel Family Creamery, Inc* FOR
Petitioner(s): Charlotte Pine, Catherine Ebert,
John & Susan Yoder & Long Green Valley * BALTIMORE COUNTY
Association, Inc *
* 08-506-SPH

* * * * *

ENTRY OF APPEARANCE

Please enter the appearance of People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent and all documentation filed in the case.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Jefferson Building, Room 204
105 West Chesapeake Avenue
Towson, MD 21204
(410) 887-2188

RECEIVED

MAY 14 2008

Por.....

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of May, 2008, a copy of the foregoing Entry of Appearance was mailed to J. Carroll Holzer, Esquire, Holzer & Lee, 508 Fairmount Avenue, Towson, MD 21286, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

CASE # 08-506-SPH

IN THE MATTER OF: PRIGEL FAMILY CREAMERY – LEGAL
OWNER; LONG GREEN VALLEY ASSOCIATION, INC.,
ET AL
- PETITIONERS

SPH – To determine (1) whether a dairy processing facility is permitted in an RC

2 zone; and (2) whether a property owner may lease the dairy processing facility to a third party.

8/12/2008 – D.Z.C.'s decision -the dairy processing facility, creamery, milk pasteurization facility or dairy products store proposed by the Prigel Family Creamery, Inc., is permitted in RC 2 zone – Protestants' Petition for Special is **DENIED**; and Protestants' Petition for Special Hearing as to whether a property may lease a dairy processing facility to third party is **DIMISSED** as moot.

NOTE: Related Case No. 08-456-X is tentatively scheduled for March hearing, pending outcome of 2/05/09 hearing in subject 08-506-SPH.

9/19/08 – Letter from Jennifer R. Busse, Esquire, Counsel for Petitioner – requesting that the appeal hearing on the special

hearing (08-506-SPH) be scheduled for a hearing before the Board first in the interest of efficiency in that, if the Board rules that the use is not allowed, then “very likely the special exception for the Farmer’s Market question will be moot.”

9/23/08 – Letter received from J. Carroll Holzer, Esquire, Counsel for Appellants /Protestants – would suggest that both cases

be put in for joint hearing to prevent two separate hearings.

9/30/08 – Received letter from Ms. Busse in response to Mr. Holzer’s letter – objecting to combining of cases; two different

burdens of proof and production; while combining is usually most efficient, in this case it could complicate the matter; reiterating that, should the use of the property as a creamery be denied, the special exception request could very well become moot.

10/27/08 - Notice of Assignment sent to following; assigned for hearing on Thursday, February 5, 2009 at 10 a.m.:

J. Carroll Holzer, Esquire
The Long Green Valley Assn., Inc.
Roger Hayden, President
Charlotte Pine Catherine Ebert
John and Susan Yoder
John B. Gontrum, Esquire
Jennifer R. Busse, Esquire
Robert E. Prigel
Robert and Carol Prigel
Michael Fisher /Site Resources, Inc.
Office of People’s Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

**IN THE MATTER OF: PRIGEL FAMILY CREAMERY – LEGAL
OWNER; LONG GREEN VALLEY ASSOCIATION, INC.,
ET AL
- PETITIONERS**

SPH – To determine (1) whether a dairy processing facility is permitted in an RC 2 zone; and (2) whether a property owner may lease the dairy processing facility to a third party.

8/12/2008 – D.Z.C.'s decision -the dairy processing facility, creamery, milk pasteurization facility or dairy products store proposed by the Prigel Family Creamery, Inc., is permitted in RC 2 zone – Protestants' Petition for Special is **DENIED**; and Protestants' Petition for Special Hearing as to whether a property may lease a dairy processing facility to third party is **DIMISSED as moot**.

NOTE: Related Case No. 08-456-X is tentatively scheduled for March hearing, pending outcome of 2/05/09 hearing in subject 08-506-SPH.

1/21/09 - Letter from Mr. Holzer (Hand Delivered) requesting PP of case scheduled for February 5, 2009 due to pending proposal to change zoning regulations brought forth by the Planning Board. Telephoned Chairman and related request.

1/26/09 – Spoke to Mr. Gontrum and inquired if he was going to object. Told him to submit by end of day. Received facsimile letter from Mr. Gontrum objecting to PP.

1/27/09 – Spoke to Chairman and replayed Gontrum's objection – Case to be PP over objection of Counsel for Legal Owners. Also PP related case 08-456-X. Notice of Postponement and Letter sent via facsimile to counsel for petitioner and protestant (Holzer and Gontrum). Notice of Postponement sent on both cases this date.

1/27/08 – Received fax from Mr. Holzer taking exception to Mr. Gontrum's allegations.

CASE ON HOLD PENDING LEGISLATION

6/4/09 Letter from Mr. Gontrum requesting that matters be set back in for hearing.

6/8/09 Case re-assigned for Wednesday, July 1, 2009 @ 10 am. Notices sent.
The Related case (08-456-X) will be scheduled At the conclusion of this matter.

REMEMBER TO SET TO THE SAME BOARD/ KEEP FILES TOGETHER

6/12/09 Received postponement request from Mr. Holzer.

6/15/09 Telephoned Mr. Gontrum and Mr. Holzer. Postponement request will be granted. I will send a letter with 6 dates for availability to set in. Explained the docket was full until the end of September.

PAGE 3

CASE # 08-506-SPH

**IN THE MATTER OF: PRIGEL FAMILY CREAMERY – LEGAL
OWNER; LONG GREEN VALLEY ASSOCIATION, INC.,
ET AL
- PETITIONERS**

SPH – To determine (1) whether a dairy processing facility is permitted in an RC 2 zone; and (2) whether a property owner may lease the dairy processing facility to a third party.

8/12/2008 – D.Z.C.'s decision -the dairy processing facility, creamery, milk pasteurization facility or dairy products store proposed by the Prigel Family Creamery, Inc., is permitted in RC 2 zone – Protestants' Petition for Special is **DENIED**; and Protestants' Petition for Special Hearing as to whether a property may lease a dairy processing facility to third party is **DIMISSED** as moot.

NOTE: Related Case No. 08-456-X is tentatively scheduled for March hearing, pending outcome of 2/05/09 hearing in subject 08-506-SPH.

6/22/09

Duplicate Original letter to Counsel listing 6 dates that I am holding for confirmation of 2 for the hearings in this cases.

be sure to set the same Board.

The following dates are available:

Thursday, October 8, 2009 at 10:00 a.m.

Wednesday, October 14, 2009 at 10:00 a.m.

Thursday, October 15, 2009 at 10:00 a.m. – agreed date

Thursday, October 29, 2009 at 10:00 a.m. – agreed date

Tuesday, November 3, 2009 at 10:00 a.m.; and

Wednesday, November 4, 2009 at 10:00 a.m.

7/14/09

Motion to Dismiss / Amended Petition for Special Hearing filed by John Gontrum on this case only due to new legislation. Memos delivered to Maureen – Wendell – Bob. This is the original panel.

*** Note case 08-456 is being assigned for a hearing (roadside stand) to the agreed date of October 15, 2009.

PAGE 4

CASE HISTORY WILL BE FOR THIS CASE ONLY FROM THIS POINT FORWARD.

CASE # 08-506-SPH

**IN THE MATTER OF: PRIGEL FAMILY CREAMERY – LEGAL
OWNER;
LONG GREEN VALLEY ASSOCIATION, INC., ET AL
- PETITIONERS**

SPH – To determine (1) whether a dairy processing facility is permitted in an RC 2 zone; and (2) whether a property owner may lease the dairy processing facility to a third party.

8/12/2008 – D.Z.C.'s decision -the dairy processing facility, creamery, milk pasteurization facility or dairy products store proposed by the Prigel Family Creamery, Inc., is permitted in RC 2 zone – Protestants' Petition for Special is DENIED; and Protestants' Petition for Special Hearing as to whether a property may lease a dairy processing facility to third party is as DISMISSED as moot.

- 8/5/09 Discussion with regards to setting this matter (Motion to Dismiss and no response from Petitioners) with the Chair; also spoke to PC with regards to setting in. Spoke with John Gontrum attorney for Respondents. Tentative for Hearing on Argument and immediate Deliberation for 9/17/09.
- 8/6/09 Spoke with Chair. This matter will now be a Deliberation only scheduled for August 19th. Wendell and Maureen are already scheduled that day. Telephoned Bob – he is able to be here. Telephone Mr. Gontrum and informed him that notices will be sent this date – Matter scheduled for DELIBERATION ONLY ON THE MOTION TO DISMISS WITH REGARDS TO THE CREAMERY ONLY. Sent the Chair the Memo via U.S. Mail this date. Notices of Deliberation sent this date to call parties.
- 8/18/09 Received Notice to Withdrawal Appeal from Mr. Holzer. Prepared Order for signature. Board notified.



BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

TIMOTHY M. KOTROCO, *Director*
Department of Permits and
Development Management
September 25, 2008

J. Carroll Holzer
Holzer & Lee
508 Fairmount Avenue
Towson, MD 21286

Dear Mr. Holzer:

RE: Case: 08-506-SPH, 4851 Long Green Road

Please be advised this office received your appeal of the above-referenced case on August 18, 2008. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

If you have any questions concerning this matter, please do not hesitate to call the Board at 410-887-3180.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy Kotroco".

Timothy Kotroco
Director

TK:klm

c: William J. Wiseman III, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
Robert Prigel
John Gontrum
See Attached

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE DEPUTY
N & S Side Long Green Road, W side of	*	ZONING COMMISSIONER
Long Green Rd. & Long Green Dr.	*	OF BALTIMORE COUNTY
(4851 Long Green Road)		
11th Election District		
3rd Councilmanic District	*	
LGVA, Inc.; Charlotte Pine, Catherine Ebert;		
And John & Susan Yoder, Petitioners	*	Case No.: 2008-0506-SPH

* * * * *

NOTICE OF APPEAL

THE LONG GREEN VALLEY ASSOCIATION, INC., PO BOX 91, BALDWIN, MD 21013, ROGER HAYDEN, PRESIDENT; CHARLOTTE PINE, 13310 FORK ROAD, BALDWIN, MD, 21013; CATHERINE EBERT, 12815 KANES ROAD, GLEN ARM, MD 21057; AND JOHN & SUSAN YODER, PO BOX 399, PHOENIX, MD 21131, Appellants in the above captioned matter, by and through their attorney, J. Carroll Holzer, P.A., feeling aggrieved by the decision of the Deputy Zoning Commissioner in Case No. 2008-0506-SPH, hereby note an appeal to the County Board of Appeals from Findings of Fact and Conclusions of Law dated August 12, 2008 attached hereto, and incorporated herein as **Exhibit #1**.

Filed concurrently with this Notice of Appeal is Appellants' check made payable to Baltimore County to cover the costs of the appeal. Appellants were parties below and fully participated in the proceedings.

RECEIVED

AUG 18 2008

KCh

Respectfully submitted,



J. CARROLL HOLZER, Esquire

Holzer & Lee
508 Fairmount Avenue
Towson, Maryland 21286
410-825-6961
Attorney for Appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 14th day of August, 2008, a copy of the foregoing Notice of Appeal was mailed first class, postage pre-paid to John B. Gontrum, Esquire, Whiteford, Taylor & Preston, LLP, 210 W. Pennsylvania Ave., Towson, MD 21204; County Board of Appeals, Jefferson Building, Suite 203, 105 W. Chesapeake Ave., Towson, MD 21204; and People's Counsel for Baltimore County, Jefferson Building, Room 204, 105 W. Chesapeake Ave., Towson, M, 21204.



J. CARROLL HOLZER, Esquire

IN RE:

PETITION FOR SPECIAL HEARING
N & S Side Long Green Road, W side of
Long Green Rd. & Long Green Dr.
(4851 Long Green Road)

11th Election District
3rd Councilmanic District

* BEFORE THE COUNTY
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. 2008-0506-SPH

*

* * * * *

ENTRY OF APPEARANCE

Please enter the appearance of John B. Gontrum and Whiteford, Taylor & Preston,
LLP as counsel for Bellevale Farms, Inc., Bellevale Farms Limited Partnership, Prigel
Family Creamery, Inc., Robert E. Prigel and Carol A. Prigel .



John B. Gontrum
Whiteford, Taylor & Preston L.L.P.
Towson Commons, Suite 300 One
West Pennsylvania Avenue
Towson, Maryland 21204-5025
(410) 832-2055

RECEIVED

AUG 21 2008

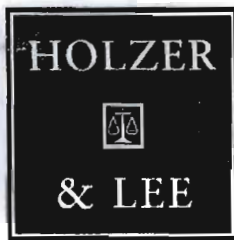
BALTIMORE COUNTY
BOARD OF APPEALS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27⁵ day of August, 2008, a copy of the Entry of Appearance was mailed first class, postage prepaid to J. Carroll Holzer, Esquire, Holzer & Lee, 508 Fairmount Avenue, Towson, Maryland; County Board of Appeals, Jefferson Building, Suite 203, 105 W. Chesapeake Avenue, Towson, Maryland 21204; and People's Counsel for Baltimore County, Jefferson Building, Room 204, 105 W. Chesapeake Avenue, Towson, Maryland 21204.

A handwritten signature in dark ink, appearing to read 'JB Gontrum', written over a horizontal line.

John B. Gontrum



LAW OFFICES

J. CARROLL HOLZER, PA

J. HOWARD HOLZER

1907-1989

THOMAS J. LEE

OF COUNSEL

THE 508 BUILDING

508 FAIRMOUNT AVE.

TOWSON, MD 21286

(410) 825-6961

FAX: (410) 825-4923

~~E-MAIL: JCHOLZER@CAVTEL.NET~~

jcholzer@cavtel.net

September 22, 2008
#7778

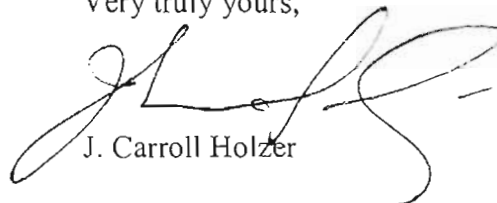
Mr. Edward W. Crizer, Jr.
Chairman
Baltimore County Board of Appeals
Jefferson Building
105 West Chesapeake Avenue
Second Floor
Towson, Maryland 21204

RE: Case Nos.: 2008-0456-X (Special Exception for Farmer's Market
Case No.: 08456-X (Petition for Special Hearing – Use of Property)
Your File No: 82999.1

Dear Mr. Crizer:

I received a letter from Jennifer Busse dated September 19, 2008. I previously suggested that both cases be put in for a joint hearing and I would suggest that it would prevent us from having two separate hearings.

Very truly yours,



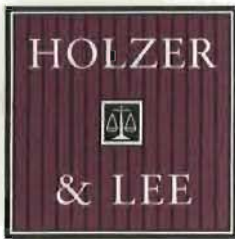
J. Carroll Holzer

JCH:mlg

cc: John Gontrum, Esquire
Ms. Susan Yoder

Received
9/23/08
SC

23 2008



LAW OFFICES

J. CARROLL HOLZER, PA

J. HOWARD HOLZER

1907-1989

THOMAS J. LEE
OF COUNSEL

THE 508 BUILDING

508 FAIRMOUNT AVE.

TOWSON, MD 21286

(410) 825-6961

FAX: (410) 825-4923

E-MAIL: JCHOLZER@BCPL.NET

August 18, 2006
7638

HAND DELIVERED

Carl Richards
Department of Permits &
Development Management
County Office Building
Towson, MD 21204

Re: In the Matter of Petition for Special Hearing, 4851 Long Green Road

Dear Mr. Richards:

On behalf of my clients, The Long Green Valley Association and several named individuals regarding property located at 4851 Long Green Road, attached you will find three original Petitions for Special Hearing filed by my clients, 12 plats, three copies of a sealed description of the property and one copy of a 200' scale official zoning map as well as the filing fee. It is my understanding that the property owners, Prigel Family Creamery, has recently filed a Petition for Special Exception for a portion of the subject property located at 4851 Long Green Road. My clients in the instant Petition are not aware of any zoning violation involving the subject property.

For advertising purposes, the following language is to be used for posting and advertising purposes only:

"Whether a dairy processing facility is permitted in an R.C. 2 zone and may the property owner lease the dairy processing facility to a third party?"

I appreciate your assistance in this matter and if you need to call, I can be reached at 410-825-6961

Very truly yours,

J. Carroll Holzer

JCH:clh

cc: LGVA, Inc

RECEIVED
JUL 16 2008
BY:.....

IN THE MATTER OF:
LGVA, ET AL. PETITION FOR SPH
(4851 Long Green Road)
N/side Long Green Road
11th Election District
3rd Councilmanic District
Legal Owners:
Prigel Family Creamery, Inc., Robert Prigel

* BEFORE THE ZONING
* COMMISSIONER OF
* BALTIMORE COUNTY
* Case No. 2008-0506-SPH

* * * * *

SUBPOENA DUCES TECUM

Please process in accordance with Zoning Commission Rule IV (c).
TO: David Green, Chair
Balto. Co. Agricultural Advisory Board
2014 White Hall Rd.
White Hall, MD 21161

YOU ARE HEREBY COMMANDED TO: () Personally appear; () Produce documents and or objects only;
(X) Personally appear and produce documents or objects;
at Room 104, Jefferson Bldg. 105 W. Chesapeake Ave, Towson, MD 21204
(Place where attendance is required)

on Thursday, the 24th day of July, 2008 at 9: 00 a.m. for such witness' testimony and continuing thereafter as necessary without need for separate subpoena for such witness' testimony as determined by the Zoning Commissioner. The witness can be "on call" and available in their office until called to appear as a witness.

YOU ARE COMMANDED TO produce the following documents or objects:
Provide any and all information related to Prigels'/Bellevale Farm request for dairy processing facility; description of use of facility, Prigel business plan, list of equipment, compliance with county & state Ag. Regulations; minutes of County Ag. Advisory Brd. Mtgs. & notes of any site visits.

J. Carroll Holzer, 508 Fairmount Ave., Towson, MD 21286 410-825-6961 Fax # 410-825-4923
(Name of Party or Attorney, Address and Phone Number requesting subpoena)

Date _____
15 / 7-16-08
Zoning Commissioner

SHERIFF'S RETURN

()- Served and copy delivered on date indicated below.
()- Unserved, by reason of

Date: _____ Fee: \$

SHERIFF

WHITEFORD, TAYLOR & PRESTON L.L.P.

JENNIFER R. BUSSE
DIRECT LINE (410) 832-2077
DIRECT FAX (410) 339-4027
jbusse@wtplaw.com

TOWSON COMMONS, SUITE 300
ONE WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-5025
MAIN TELEPHONE (410) 832-2000
FACSIMILE (410) 832-2015

BALTIMORE, MD
COLUMBIA, MD
FAJLS CHURCH, VA
TOWSON, MD
WASHINGTON, DC
WILMINGTON, DE*

WWW.WTPLAW.COM
(800) 987-8705

September 19, 2008

Edward W. Crizer, Jr., Chairman
Board of Appeals for Baltimore County
Suite 203, Jefferson Building
105 W. Chesapeake Avenue
Towson, MD 21204

Re: Case Nos. 2008-0456-X (Special Exception for Farmer's Market);
Case No. 2008-506-SPH (Petition for Special Hearing Questioning the Use
of the Property)
Our File 82999.1

Dear Mr. Crizer:

We are in receipt of Mr. Holzer's letter dated September 22, 2008 wherein he requests hearings on the above-referenced matters be combined. We strongly object to any such combination of hearings. These two cases involve different burdens of proof and production, and while we agree that typically combining hearings is most efficient, in this particular case combining hearings will more likely complicate the matters. We have requested that the Petition for Special Hearing (regarding the use of the property as a creamery) be heard first because without that being approved, the special exception request for a farmer's market most likely will become moot. The underlying ability to use the property as a creamery is logically the first and most important matter to be decided.

Thank you for your attention to this matter.

Sincerely,

Jennifer R. Busse

JRB:tdm

cc: Mr. and Mrs. Prigel
John B. Gontrum, Esq.
Peter Max Zimmerman, Esq.
J. Carol Holzer, Esq.
Kathleen Bianco, Administrator

404760v2

RECEIVED
SEP 30 2008
BALTIMORE COUNTY
BOARD OF APPEALS

WHITEFORD, TAYLOR & PRESTON L.L.P.

JENNIFER R. BUSSE
DIRECT LINE (410) 832-2077
DIRECT FAX (410) 339-4027
jbusse@wtplaw.com

TOWSON COMMONS, SUITE 300
ONE WEST PENNSYLVANIA AVENUE
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WWW.WTPLAW.COM
(800) 987-8705

September 19, 2008

Edward W. Crizer, Jr., Chairman
Board of Appeals for Baltimore County
Suite 203, Jefferson Building
105 W. Chesapeake Avenue
Towson, MD 21204

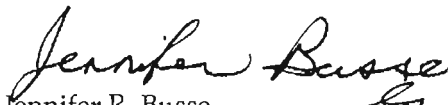
Re: Case Nos. 2008-0456-X (Special Exception for Farmer's Market);
Case No. 08-456-X (Petition for Special Hearing Questioning the Use of the
Property)
Our File 82999.1

Dear Mr. Crizer:

This office represents the owner of the property affected by the two (2) above-referenced zoning cases. Both of them are on appeal to the Board of Appeals, but have not yet been scheduled for a Hearing. The case involving the Special Exception for the Farmer's Market was heard by the Deputy Zoning Commissioner first. However, we are respectfully requesting that the other Hearing, the one calling into question the ability for a creamery to exist at the property, be scheduled for a Hearing before this Board first. We make this suggestion because we believe taking the use question first would be most efficient. Specifically, if the Board rules that the use is not allowed, then very likely the special exception for the Farmer's Market question will be moot.

Thank you for your consideration of this request. Please do not hesitate to contact me with any questions or concerns.

Sincerely,


Jennifer R. Busse

JRB:tdm

cc: Mr. and Mrs. Prigel
John B. Gontrum, Esq.
Peter Max Zimmerman, Esq.
J. Carol Holzer, Esq.
Kathy Bianco, Administrator

404760



WHITEFORD, TAYLOR & PRESTON L.L.P.

JOHN B. GONTRUM
DIRECT LINE (410) 832-2055
DIRECT FAX (410) 339-4058
JGontrum@wtplaw.com

TOWSON COMMONS, SUITE 300
ONE WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-5025
MAIN TELEPHONE (410) 832-2000
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BALTIMORE, MD
COLUMBIA, MD
FALLS CHURCH, VA
TOWSON, MD
WASHINGTON, DC
WILMINGTON, DE*

WWW.WTPLAW.COM
(800) 987-8705

August 5, 2008

Via Hand Delivery

Thomas H. Bostwick, Esquire
Deputy Zoning Commissioner
Jefferson Building
Suite 103
105 W. Chesapeake Avenue
Towson, Maryland 21204

RECEIVED
AUG 05 2008

BY:

Re: Zoning Case No. 2008-0506-SPH
Long Green Valley Association's Petition for Special Hearing

Dear Mr. Bostwick:

As a follow up to the hearing of July 24, 2008, I wanted to provide some additional information with respect to the Maryland Agricultural Land Preservation easements and how we perceive the state program as explicitly controlling local zoning uses.

In its establishment of the Maryland Agricultural Land Preservation Program, the Annotated Code of Maryland created a legislative scheme whereby local governments could opt into the program and purchase agricultural easements so long as the local governments subjugated their land use regulations and approval process to the state process. The state process gives the authority to create, interpret and terminate state agricultural easements within state agricultural districts to the Maryland Agricultural Land Preservation Foundation ("MALPF").

Baltimore County has adopted the state program and has explicitly stated not only that its regulations comply with the state program but also that in the event that there is a conflict between its use regulations and the state program that the state program shall prevail.

Maryland Agricultural Land Preservation Program

The Maryland Agricultural Land Preservation Program was adopted in 1977 primarily to preserve the agricultural base in Maryland and "to provide for the continued production of food and fiber for the citizens of Maryland." COMAR 15.15.01.01. It was a cooperative program among the state of Maryland, local jurisdictions and the agricultural community. Land would be placed in an agricultural district only in a cooperating county upon the petition

of local farmers. Easements would then be purchased by the state on properties within the districts based on a rating system of value for preservation and threat of development.

"A landowner who includes his land within a district will receive the following benefits:

- (1) Direct and indirect support of agriculture;
- (2) Insulation of normal agricultural activities from nuisance complaints; and
- (3) Eligibility to make application to sell an agricultural land preservation easement to the Foundation." COMAR 15.15.01.01-1B.

A program was established whereby local agricultural preservation advisory boards would make recommendations as to agricultural districts and with respect to the purchase of agricultural easements and the use of land within easements.

The cooperation of local jurisdictions was always critical to the program. First, the local jurisdiction had to adopt regulations in keeping with the program. The Annotated Code of Maryland, Agriculture, §2-509(d)(5) states: "Land may be included in an agricultural district or easement only if the county regulations governing the land permit the activities listed under §2-513(a) of this subtitle." Section 2-513(a) states:

"Provisions to be included in easement and county regulations. ---- Agricultural land preservation easements may be purchased under this subtitle for any land in agricultural use which meets the minimum criteria established under §2-509 of this subtitle if the easement and county regulations governing the use of the land include the following provisions:

- (1) Any farm use of land is permitted.
- (2) Operation at any time of any machinery used in farm production or the primary processing of agricultural products is permitted.
- (3) All normal agricultural operations performed in accordance with good husbandry practices which do not cause bodily injury or directly endanger human health are permitted including, but not limited to, sale of farm products produced on the farm where such sales are made."

Section 2-513(b) further states "(1) A landowner whose land is subject to an easement may not use the land for any commercial, industrial, or residential purpose except: (i) As determined by the Foundation, for farm and forest related uses and home occupations; or (2) As otherwise provided under this section."

The county is given explicit power to deny an application, if the Foundation has denied the application. Annotated Code of Maryland, Agriculture, Section 2-513.1(a).

The Foundation is the Maryland Agricultural Land Preservation Foundation ("MALPF"), which was given the power to enter into easement agreements and in addition "to restrict the use of agricultural land and woodland as may be designated to maintain the

character of the land as agricultural land or woodland." Annotated Code of Maryland, Agriculture, §2-504(3). MALPF was also given the power to adopt regulations. MALPF was given total control over the designation of districts, the purchase of easements, modifications to easements, and the termination of easements subject to the local regulations being in place. COMAR 15.15.01.17(G.).

Accordingly, COMAR contains provisions requiring local governments to establish an ordinance relative to all agricultural preservation districts permitting any farm use of land. In addition, the regulations state: "Local governments are encouraged to minimize regulatory requirements for non-residential farm structures and related agricultural improvements." COMAR 15.15.01C(8).

COMAR 15.15.01.17G(2) further provides: "A landowner may not use land subjected to a preservation easement for any purpose that is otherwise prohibited, inconsistent with, or contrary to State or local law, or the restrictions imposed by the preservation easement." Section 15.15.01.17G(3) states:

"In determining whether a particular use is inconsistent with or contrary to the preservation easement, the Foundation shall consider the following factors:

- (a) Whether it is a commercial, industrial, or residential use;
- (b) Whether it will likely have a negative impact on the agricultural operations of the farm on which it is to be implemented;
- (c) Whether it has an historical relationship to farming (for example, goose hunting); and
- (d) Whether it is temporal, seasonal, or permanent in nature."

COMAR further makes clear that any agricultural use of the land is permitted. "However, industrial or commercial use is not permitted with the exception of uses related to the primary processing of agricultural and/or woodland products and the direct sale of locally produced agricultural and woodland products to the public." COMAR 15.15.01.19.D(2)(b).

Baltimore County Code

Title 2 of Article 24 of the Baltimore County Code was explicitly adopted to conform to the state eligibility requirements for the Maryland Agricultural Land Preservation program. Section 24-2-101 explicitly states that the agricultural districts "shall be established by legislative act of the County Council and in accordance with the provisions of state law." Section 24-2-102 not only parrots the language contained in Section 2-513(a) of the Agriculture Article of the Annotated Code of Maryland, but also states that agricultural uses are "the preferred uses in state agricultural districts". Section 24-2-102(b) enumerates certain prohibited uses but states: "(4) All other rules and regulations relating to the release and use of this land shall be as specified under state law."

Section 24-2-104 states:

"Notwithstanding any contrary provisions of the Baltimore County Zoning Regulations, the use and development of the land subject to a state easement shall be in accordance with:

- (1) § 2-513 of the Agriculture Article of the Annotated Code of Maryland; and
- (2) The terms and provisions of the deed of easement."

Baltimore County's Agricultural Land Preservation Advisory Board plays an important role not only as part of the state mandated program for designating districts and prioritizing properties for easement acquisition but also in making recommendations to MALPF. Section 24-2-102(b)(3) states that the local board is to make recommendations to MALPF on proposed uses. In addition, Section 3-3-305(b) states that in addition to the duties of the local advisory board under Article 24 of the Code the local board shall: "(5) Review and make recommendations to the Department of Permits and Development Management on zoning regulation proposals that relate to agricultural uses including tenant buildings, farmer's roadside stands, and other agricultural issues."

Baltimore County Zoning Regulations

The Baltimore County Zoning Regulations (BCZR) also complements Section 24-2-104 of the County Code in that it contains a provision in the R.C. 2 zone which states:

"1A01.4. Maryland Agricultural Land Preservation Program. The use or development of land in an agricultural district established in accordance with Title 2, Subtitle 5 of the Agriculture Article of the Annotated Code of Maryland shall be governed by agricultural land preservation provisions enacted by the County Council pursuant to §2-513 of the Agriculture Article in the case of any conflict between those provisions and these regulations."

Discussion

As your file from the MALPF Board indicates, an application was made in August, 2007, to both the County Advisory Board and to the MALPF Board for permission to construct the milk processing facility and retail sales. Both boards granted approval of the application.

The MALPF minutes and subsequent correspondence to Mr. Blanton clearly indicate that they were absolutely convinced that the proposed dairy processing facility constituted an agricultural use. In addition, a site visit was made by MALPF staff and MALPF Board members including the Chairman. There was never any question about the processing facility being an agricultural use, or of the farmer's market being an agricultural support use.

The Court of Appeals of Maryland has several times indicated that an agency's interpretation of its own regulations is entitled to deference by the courts. In Marzullo v. Kahl, 366 Md. 158, 171-173, 783 A. 2d 169 (2001), the Court quoted Board of Physician Quality Assurance v. Banks, 354 Md. 59, 729 A.2d 376 (1999) as follows:

"Despite some unfortunate language that has crept into a few of our opinions, a 'court's task on review is *not* to " ' "substitute its judgment for the expertise of those persons who constitute the administrative agency," ' " United Parcel v. People's Counsel, *supra*, 336 Md. at 576-577, 650 A.2d at 230, *quoting* Bulluck v. Pelham Woods Apts., *supra*, 283 Md. at 513, 390 A.2d at 1124. Even with regard to some legal issues, a degree of deference should often be accorded the position of the administrative agency. Thus, an administrative agency's interpretation and application of the statute which the agency administers should ordinarily be given considerable weight by reviewing courts. Lussier v. Md. Racing Commission, 343 Md. 681, 696-697, 684 A.2d 804, 811-812 (1996), and cases there cited; McCullough v. Wittner, 314 Md. 602, 612, 552 A.2d 881, 886 (1989) ('The interpretation of a statute by those officials charged with administering the statute is ... entitled to weight'). Furthermore, the expertise of the agency in its own field should be respected. Fogle v. H & G Restaurant, 337 Md. 441, 455, 654 A.2d 449, 456 (1995); Christ [ex rel. Christ] v. Department of Natural Resources, 335 Md. 427, 445, 644 A.2d 34, 42 (1994) (legislative delegations of authority to administrative agencies will often include the authority to make 'significant discretionary policy determinations'); Bd. of Ed. For Dorchester Co. v. Hubbard, 305 Md. 774, 792, 506 A.2d 625, 634 (1986) ('application of the State Board of Education's expertise would clearly be desirable before a court attempts to resolve the' legal issues)."

Consequently, deference should be given to the interpretation of the MALPF Board that the proposed uses constituted agricultural uses and agricultural support uses. Once these uses are considered agriculture and agriculture support uses, then the state and local code provisions become applicable making it mandatory that the uses be permitted in the agricultural district subject.

The provision of COMAR 15.15.01.01-1B that a landowner putting his property into the MALPF program should receive support is absolutely critical to the MALPF program. The legislature and the Department of Agriculture understood that agriculture and farming is a commercial and industrial activity. Large and sophisticated equipment is used as are commercial vehicles and chemicals. Farming may be, but is not necessarily, a passive activity. Unless farmers know that farming activities will be supported, there is little incentive to agree to put land in an agricultural district because so few properties are actually selected for purchase of an easement. The fact is that the "safe haven" provisions of the MALPF program were intended to protect farmers from this very kind of zoning hearing.

A review of the regulations and their purpose makes it clear that the State, which has authority over land use as evidenced through the critical area program among others, deliberately intended that recipient jurisdictions of the easement monies protect farms and

Thomas H. Bostwick, Esquire

August 5, 2008

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farming activities by mandating that all farming activities be permitted. The MALPF Board determination that these proposed uses are farming activities and farm support activities becomes determinative of the local land use issue because it is that Board which determines whether uses are permitted by the easement and district or not. It is that Board which has the right to set conditions to the use of the property.

In summary, we believe that Baltimore County is bound by the decision of the MALPF Board in this regard.

Sincerely,



John B. Gontrum

cc. J. Carroll Holzer, Esquire
Baltimore County Office of People's Counsel

#403554

C. STEPHEN BASINGER
Attorney at Law



1740 E. Joppa Road, Suite 2
Baltimore, Maryland 21234

Phone - 410-665-2427
Fax - 410-665-5847
E-Mail: csbasingerlaw@msn.com

December 4, 2008

County Board of Appeals
Suite 203, Jefferson Building
105 W. Chesapeake Avenue
Towson, MD 21204

Re: Long Green Valley Association v Belleview Farms

Dear Madams/Sirs:

Please find enclosed a letter that I have written to John Gontrum, the attorney for Belleview Farms, expressing my support for Belleview Farms' position in this matter before you.

Please give a call with any questions.



Yours truly,


C. Stephen Basinger

CSB: ren

cc: John B. Gontrum, Esq.
J. Carroll Holzer, Esq.
File



C. STEPHEN BASINGER
Attorney at Law

 COPY

1740 E. Joppa Road, Suite 2
Baltimore, Maryland 21234

Phone - 410-665-2427
Fax - 410-665-5847
E-Mail: csbasingerlaw@msn.com

November 20, 2008

Whiteford, Taylor and Preston, LLP
Attention: John B. Gontrum, Esquire
210 W. Pennsylvania Avenue, Suite 400
Towson, Maryland 21204-5332

Re: Long Green Valley Association v Belleview Farms

Dear John:

I hope this letter finds you and your family well. It is written to state my point of view about the Prigel's family creamery operation, or petition for it, on their family farm. I reside in Glen Arm, although on the east side about four miles, as the crow would fly, from Prigel's dairy. We travel the road, specifically, to see the cows, and try to arrive, especially now that I have grandchildren at 3:00 or 4:00 in afternoon when the cows are crossing the road. It is quite a sight, and one that I remember vividly as a child growing up in rural North Carolina.

By way of background, I have milked cows by hand, without artificial milkers, and with them. I had an uncle who maintained a herd of seventy-one, primarily Holstein cows, and belonged to a milking co-op called Coble in South Central North Carolina. I worked on that farm most summers from the time I was five years, until I was sixteen. My uncle reminds me that I was much more help at age sixteen than I was at five. Nonetheless, what I learned from my uncle was this: agriculture is a dying industry, and but for our crop farming, there would not be enough money to be made to support us off of the milk business. In those days, the milk from the automatic milkers was taken by hand and poured into a hundred gallon vat that was emptied daily by a huge tanker that came in from Coble Dairy Company. From there it went to processing at a plant less than fifteen miles away. My uncle and his family were old enough to remember being able to sell milk in a mason jar, with a metal lid squeezed down tight, to neighbors. I remember taking it home pretty much the same way. My uncle's point was well taken. Had he been able to do what Bobby Prigel seeks to do, have a creamery on his land, and my uncle's farm was five hundred and twenty-five acres large, that without removing the middle man, meaning Cobel, he had to rely on more than four hundred and twenty-five acres of land that he cropped.

I, too, reside in Glen Arm, and until my heart surgery back in 2004, I had a small horse farm where I kept six horses, trained them and rode them back in the Gun Powder State Park.

November 20, 2008

Page 2

While the only thing I cropped was my own hay, and I spread horse manure with an appropriate device, I am not in the position to pass judgment on the Yoders or their concerns. However, I think the complaint filed by the Long Green Valley Homeowners Association is so much smoke. If you think I would be useful, and sometimes trial attorneys are the worst witnesses, I would be more than happy to show up as a nearby previous farm/current homeowner and testify on behalf of the Prigel family. The last thing I want I to see, repeat, the last thing I want to see, is for the Prigels to go out of business and ridiculous looking overly large homes to be erected where dairy cows use to roam. In any event, you have my phone number, you have my thoughts. Please give me a ring with any questions.

Yours truly,

C. Stephen Basinger

CSB: jcs

cc: File



Maryland Department of Agriculture

Office of the Secretary

Martin O'Malley, Governor

Anthony G. Brown, Lt. Governor

Roger L. Richardson, Secretary

Earl F. Hance, Deputy Secretary

The Wayne A. Cawley, Jr. Building
50 Harry S. Truman Parkway
Annapolis, Maryland 21401
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2 of 2

MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION

October 29, 2007

Mr. Robert Prigel, Jr.
Bellevale Farm, Inc.
4851 Long Green Road
Glen Arm, Maryland 21057

Re: MALPF File #03-83-14C

Dear Mr. Prigel:

We appreciate your attendance at the October 23, 2007 Foundation Board meeting. The purpose of this letter is to confirm that the Board approved the construction of a 7,000 to 10,000 square foot building to house the creamery operation, processing facility and farm store. The Board also approved a pervious parking area that would accommodate fewer than 10 vehicles. The parking area is to be located on Long Green Road with the creamery directly behind it.

The approval requires that the structure and the parking lot be in compliance with the following (once built and in the future):

- Must not interfere with other agricultural or silvicultural operations.
- Must not limit future agricultural or silvicultural production.
- Easement owner must have an ownership interest in the operation.
- Some of the products must come from animals raised or crops grown on site; the remainder from animals or crops indigenous to Maryland.
- Facility and parking area must cover no more than 2% (two percent) of the easement/district, or two acres, whichever is smaller.
- Parking area must be pervious.
- Accessory sales area must not exceed 600 sq. ft.

If you have any questions, please feel free to call me at 410-841-5715.

Sincerely,

Diane Chasse
Administrator

CC: Wally Lippincott, County Program Administrator

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2009, Legislative Day No. 8

Bill No. 34-09

Joseph Bartenfelder, Chairman and Councilmembers Olszewski & Oliver
By Request of County Executive

By the County Council, April 20, 2009

A BILL
ENTITLED

AN ACT concerning

Zoning Regulations - Farmstead creamery

FOR the purpose of permitting farmstead creameries as of right in certain zones; placing certain limitations on the use of a farmstead creamery; clarifying certain law regarding agricultural uses in certain zones; defining a certain term; amending certain definitions; and generally relating to the use of creameries in certain zones.

By adding

Sections 101.1 (Definition of "Farmstead creamery"), 1A01.2.B.13, 1A01.5, 1A02.2.A.13, 1A03.3.A.13, 1A05.2.A.11, 1A05.6, 1A08.3.A.9, 1A09.3.A.9, and 404.13
Baltimore County Zoning Regulations, as amended

By repealing and reenacting, with amendments

Sections 101.1 (Definitions of "Farmer's roadside stand" and "Farm market") and ~~253.1.A.18~~
Baltimore County Zoning Regulations, as amended

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike out~~ indicates matter stricken from bill.
Underlining indicates amendments to bill.

BILL 34-09

SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that Sections 101.1 (Definition of "Farmstead creamery"), 1A01.2.B.13, 1A01.5, 1A02.2.A.13, 1A03.3.A.13, 1A05.2.A.11, 1A05.6, 1A08.3.A.9, 1A09.3.A.9, and 404.13, are hereby added to the Baltimore County Zoning Regulations, as amended, to read as follows:

Section 101. Definitions

§ 101.1 Word usage; definitions

FARMSTEAD CREAMERY – AN ESTABLISHMENT, THAT IS PART OF A COMMERCIAL DAIRY FARM, WHERE DAIRY PRODUCTS SUCH AS MILK, BUTTER, CHEESE, ICE CREAM, AND YOGURT ARE MADE, PROCESSED, OR PREPARED.

Section 1A01
R.C. 2 (Agricultural) Zone

§1A01.2

B. Uses permitted as of right.

The following uses only are permitted as of right in all R.C.2 Zones:

13. FARMSTEAD CREAMERY, SUBJECT TO THE PROVISIONS OF SECTION 404.13.

§1A01.5

INCONVENIENCES ARISING FROM AGRICULTURAL OPERATIONS. ANY DWELLING ~~IN~~ BUSINESS OR USE IN OR NEAR AN R.C. 2 ZONE MAY BE SUBJECT TO INCONVENIENCES OR DISCOMFORTS ARISING FROM AGRICULTURAL OPERATIONS, INCLUDING BUT NOT LIMITED TO NOISE, ODORS, FUMES, DUST, THE OPERATIONS OF MACHINERY OF ANY KIND DURING ANY TWENTY-FOUR-

1 HOUR PERIOD (INCLUDING AIRCRAFT), THE STORAGE AND DISPOSAL OF
2 MANURE AND THE APPLICATION BY SPRAYING OR OTHERWISE OF CHEMICAL
3 FERTILIZERS, SOIL AMENDMENTS, HERBICIDES AND PESTICIDES. THE COUNTY
4 SHALL NOT CONSIDER AN AGRICULTURAL OPERATION TO BE A PUBLIC OR
5 PRIVATE NUISANCE IF THE OPERATION COMPLIES WITH THESE REGULATIONS
6 AND ALL FEDERAL, STATE OR COUNTY HEALTH OR ENVIRONMENTAL
7 REQUIREMENTS.

8 Section 1A02
9 R.C. 3 (Deferral of Planning and Development) Zone

10 § 1A02.2

11 A. Uses permitted as of right. The following uses, only, are permitted as of right in R.C.3

12 Zones:

13 13. FARMSTEAD CREAMERY, SUBJECT TO THE PROVISIONS OF
14 SECTION 404.13.

15 Section 1A03
16 R.C. 4 (Watershed Protection) Zone

17 § 1A03.3

18 A. Uses permitted as of right. The following uses, only, are permitted as of right in R.C.4

19 Zones:

20 13. FARMSTEAD CREAMERY, SUBJECT TO THE PROVISIONS OF
21 SECTION 404.13.

22 Section 1A05

R.C. 20 (Critical Area) and R.C. 50 (Critical Area, Agricultural) Zones

§ 1A05.2

In the R.C.20 and R.C.50 Zones, the letter "P" in the following table indicates a land use permitted by right in the respective zone(s), and the letters "SE" indicate a use permitted by special exception pursuant to Section 502.7:

Zone

R.C.20 R.C.50

A. Natural resources and agricultural uses.

11. FARMSTEAD CREAMERY, SUBJECT TO THE

PROVISIONS OF § 404.13.

P

§ 1A05.6

INCONVENIENCES ARISING FROM AGRICULTURAL OPERATIONS. ANY DWELLING
~~IN, BUSINESS OR USE IN OR NEAR~~ AN R.C. 50 ZONE MAY BE SUBJECT TO
INCONVENIENCES OR DISCOMFORTS ARISING FROM AGRICULTURAL
OPERATIONS, INCLUDING BUT NOT LIMITED TO NOISE, ODORS, FUMES, DUST,
THE OPERATIONS OF MACHINERY OF ANY KIND DURING ANY TWENTY-FOUR-
HOUR PERIOD (INCLUDING AIRCRAFT), THE STORAGE AND DISPOSAL OF
MANURE AND THE APPLICATION BY SPRAYING OR OTHERWISE OF CHEMICAL
FERTILIZERS, SOIL AMENDMENTS, HERBICIDES AND PESTICIDES. THE COUNTY
SHALL NOT CONSIDER AN AGRICULTURAL OPERATION TO BE A PUBLIC OR
PRIVATE NUISANCE IF THE OPERATION COMPLIES WITH THESE REGULATIONS

1 AND ALL FEDERAL, STATE OR COUNTY HEALTH OR ENVIRONMENTAL
2 REQUIREMENTS.

3 Section 1A08
4 R.C. 7 (Resource Preservation) Zone

5 § 1A08.3

6 A. Uses permitted by right. In addition to the uses in Paragraph E of this subsection, the
7 following uses are permitted by right in an R.C.7 Zone:

8 9. FARMSTEAD CREAMERY, SUBJECT TO THE PROVISIONS OF
9 SECTION 404.13.

10 Section 1A09
11 R.C. 8 (Environmental Enhancement) Zone

12 § 1A09.3

13 A. Uses permitted by right. In addition to the uses in Paragraph D of this subsection, the
14 following uses are permitted by right in an R.C. 8 Zone:

15 9. FARMSTEAD CREAMERY, SUBJECT TO THE PROVISIONS OF
16 SECTION 404.13.

17 Section 404
18 Farm and Agricultural Operations

19 § 404.13

20 FARMSTEAD CREAMERIES IN R.C. ZONES ARE SUBJECT TO THE FOLLOWING
21 REQUIREMENTS:

22 ~~A. THE MAJORITY OF THE DAIRY PRODUCTS PRODUCED BY THE~~
23 ~~FARMSTEAD CREAMERY MUST BE FROM MILK PRODUCED ON THE PREMISES, ON~~
24 ~~ADJACENT LAND, OR ON PROPERTIES FARMED BY THE SAME AGRICULTURAL~~

1 ~~PRODUCER. A FARMSTEAD CREAMERY MAY NOT PROCESS MORE THAN 2,000~~
2 ~~GALLONS OF RAW MILK PER DAY.~~

3 A. THE MAJORITY OF THE MILK USED BY THE FARMSTEAD CREAMERY TO
4 PRODUCE DAIRY PRODUCTS, ON AN ANNUAL BASIS, MUST BE PRODUCED ON THE
5 PREMISES, ON ADJACENT LAND, OR ON PROPERTIES FARMED BY THE SAME
6 AGRICULTURAL PRODUCER LOCATED WITHIN 25 MILES. A FARMSTEAD
7 CREAMERY MAY NOT PROCESS MORE THAN 2,000 GALLONS OF RAW MILK PER
8 DAY.

9 B. ALL PROCESSING, PREPARING, AND PACKAGING ACTIVITIES OF THE
10 FARMSTEAD CREAMERY AND ANY FARMER'S ROADSIDE STAND OR FARM
11 MARKET ON THE PREMISES USED TO SELL THE DAIRY PRODUCTS, SHALL
12 OCCUPY NO MORE THAN 10% OF THE CONTIGUOUS FARM PROPERTY ON WHICH
13 THE OVERALL DAIRYING OCCURS OR 2 ACRES IN AREA, WHICHEVER IS LESS.
14 THE MILKING OPERATION IS NOT INCLUDED IN THIS LIMITATION.

15 C. THE COMBINED SQUARE FOOTAGE OF ALL STRUCTURES OR BUILDINGS
16 ASSOCIATED WITH THE FARMSTEAD CREAMERY AS WELL AS ANY FARMER'S
17 ROADSIDE STAND OR FARM MARKET ON THE PREMISES USED TO SELL THE
18 DAIRY PRODUCTS MAY NOT EXCEED A TOTAL OF 12,000 SQUARE FEET. THE
19 MILKING OPERATION IS NOT INCLUDED IN THIS LIMITATION.

20 ~~D. BUILDINGS THAT EXCEED THE REQUIREMENTS OF SUBSECTION C. OF~~
21 ~~THIS SECTION MAY BE PERMITTED BY SPECIAL EXCEPTION.~~

D. THIS SECTION IS NOT SUBJECT TO THE VARIANCE PROVISIONS OF SECTION 307.

E. SIGNAGE SHALL BE IN ACCORDANCE WITH SECTION 450, BUT MAY NOT BE INTERNALLY ILLUMINATED.

SECTION 2. BE IT FURTHER ENACTED, that Sections 101.1 (Definitions of “Farmer’s roadside stand” and “Farm market”) and ~~253.1.A.18~~ of the Baltimore County Zoning Regulations, as amended, are hereby repealed and reenacted, with amendments, to read as follows:

Section 101

Definitions

§ 101.1 Word usage; definitions

FARMER'S ROADSIDE STAND – An accessory structure owned and operated by an agricultural producer, used for the sale of indigenous farm products, the majority of which have been grown OR GROWN AND PRODUCED on the premises, on adjacent land or on properties farmed by the same agricultural producer.

FARM MARKET – An accessory or principal building or structure other than a dwelling which is used by one or more farmers for the sale of [produce] PRODUCTS grown OR GROWN AND PRODUCED primarily on their own farms or for the sale of other [locally grown produce] INDIGENOUS FARM PRODUCTS. A farm market may sell a limited amount of locally produced nonagricultural goods such as handcrafted items, homemade baked goods, homemade preserves, AND jams [and processed dairy products].

- 500.6 In addition to his aforesaid powers, the Zoning Commissioner shall have the power, upon notice to the parties in interest, to conduct hearings involving any violation or alleged violation or noncompliance with any zoning regulations, or the proper interpretation thereof, and to pass his order thereon, subject to the right of appeal to the County Board of Appeals as hereinafter provided.
- 500.7 The said Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall, in his discretion, be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals as hereinafter provided. The power given hereunder shall include the right of any interested person to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any purported nonconforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they are affected by these regulations.
- With respect to any zoning petition other than a petition for a special exception, variance or reclassification, the Zoning Commissioner shall schedule a public hearing for a date not less than 30 days after the petition is accepted for filing. If the petition relates to a specific property, notice of the time and place of the hearing shall be conspicuously posted on the property for a period of at least 15 days before the time of the hearing. Whether or not a specific property is involved, notice shall be given for the same period of time in at least two newspapers of general circulation in the county. The notice shall describe the property, if any, and the action requested in the petition. Upon establishing a hearing date for the petition, the Zoning Commissioner shall promptly forward a copy thereof to the Director of Planning (or his deputy) for his consideration and for a written report containing his findings thereon with regard to planning factors. **[Bill No. 18-1976]**
- 500.8 He shall have the power to prescribe rules and regulations for the conduct of hearings before him, to issue summons for and compel the appearance of witnesses, to administer oaths and to preserve order.¹¹
- 500.9 The Zoning Commissioner shall have the power to require the production of plats of developments or subdivisions of land, or of any land in connection with which application for building or use permits or petition for a special exception, a reclassification or a temporary use shall be made, such plats to show the location of streets or roads and of buildings or other structures proposed to be erected, repaired, altered or added to. All such plats shall be drawn to scale and shall clearly indicate the proposed location, size, front, side and rear setbacks from property lines and elevation plans of proposed buildings or other structures. Such details shall conform in all respects with the Zoning Regulations. No such plats or plans, showing the opening or laying out of roads or streets, shall be approved by the Zoning Commissioner unless such plats or plans shall have been previously approved by the Baltimore County Office of Planning and the Department of Public Works. **[Resolution, November 21, 1956]**

¹¹ Editor's Note: See Appendix G of this volume.

(e) The county board of appeals shall have original and exclusive jurisdiction over all petitions for reclassification. (Bill No. 85, 1978, § 3) (Approved by voters Nov. 7, 1978; effective Dec. 8, 1978)

Annotation—This section cited in Meadows of Greenspring Homeowners Association, Inc. v. Foxleigh Enterprises, Inc., 133 Md.App. 510, 758 A.2d 611 (2000).

This section cited in Hammen v. Baltimore County Police Department, 373 Md. 440, 818 A.2d 1125 (2003).

Sec. 603. Rules of practice and procedure.

Subject to the approval of the county council, the county board of appeals shall have authority to adopt and amend rules of practice and procedure to cover the conduct of its proceedings. Such rules may include matters relating to filing fees, meetings and hearings conducted by the board, the manner in which the chairman of the board shall be selected and the term for which he shall serve as chairman, and all other matters deemed appropriate or necessary for the board to conduct its proceedings. Said rules and regulations when approved by the county council shall have the force and effect of law. All decisions of the county board of appeals shall be made after notice and opportunity of hearing upon the issues before said board. All hearings held by the board shall be heard de novo, unless otherwise provided by legislative act of the County Council, and shall be open to the public. The board shall cause to be maintained complete public records of its proceedings, with a suitable index.

(Bill No. 85, 1978, § 1) (Approved by voters Nov. 7, 1978; effective Dec. 8, 1978)

Annotation—This section cited in Pollard's Towing, Inc. v. Berman's Body, Frame & Mechanical, Inc. 137 Md.App. 277, 768 A.2d 131 (2001).

This section cited in Hammen v. Baltimore County Police Department, 373 Md. 440, 818 A.2d 1125 (2003).

Sec. 604. Appeals from decisions of the board.

Within thirty days after any decision by the county board of appeals is rendered, any party to the proceeding who is aggrieved thereby may appeal such decision to the circuit court of Baltimore County, which shall have power to affirm the decision of the board, or, if such decision is not in accordance with law, to modify or reverse such decision, with or without remanding the case for rehearing, as justice may require. Whenever such appeal is taken, a copy of the notice of appeal shall be served on the board by the clerk of said court, and the board shall promptly give notice of the appeal to all parties to the proceeding before it. The board shall, within fifteen days after the filing of the appeal, file with the court the originals or certified copies of all papers and evidence presented to the board in the proceeding before it, together with a copy of its opinion which shall include a statement of the facts found and the grounds for its decision. Within thirty days after the decision of the circuit court is rendered, any party to the proceeding

who is aggrieved thereby may appeal such decision to the court of appeals of this state. The review proceedings provided by this section shall be exclusive.

Annotation—Improvement association which was neither a taxpayer nor an aggrieved party had no standing to maintain appeal from order of Circuit Court affirming decision of county board of appeals granting special exception to allow property zoned for residential apartments to be sued for construction of an office building. *Southland Hills Improvement Assn. v. Raine*, 220 Md. 213, 151 A.2d 735 (1959).

This section is cited in Prince George's County v. Donohue, 220 Md. 372, 152 A.2d 560 (1959).

Referred to in Renz v. Bonfield Holding Co., 223 Md. 34, 158 A.2d 615 (1960); and in *Jobar Corp. v. Rodgers Forge*, 236 Md. 106, 202 A.2d 612 (1964).

Certain persons owning property near property proposed for rezoning constitute "parties aggrieved" within the meaning of this section. Wier v. Witney Land Company, 257 Md. 600, 263 A.2d 833 (1970).

Sec. 605. Employees of the board.

The board may appoint such employees, and the county executive shall make available to the board such services and facilities of the county as are necessary or appropriate for the proper performance of its duties. The county attorney or some member of the legal staff whom the county attorney designates shall serve as counsel to the board.

(Bill No. 172, 1981, § 1) (Approved by voters Nov. 2, 1982; effective Dec. 3, 1982)

Sec. 606. Furthering legislation.

The county council shall have the power to enact furthering legislation not inconsistent with the provisions of this article to implement and define the powers and functions of the county board of appeals as herein specified. To the extent permitted by the public general laws of this state, the county council shall also have the power, by legislative act, to prescribe other appeals to be heard by the county board of appeals in addition to those specified in this article.

(Bill No. 85, 1978, § 1)

Sec. 607. [Repealed.]

Repealed by Bill No. 85, 1978, § 2.

(v) Prevent the overcrowding of land to avoid undue concentration of population; and

(vi) Facilitate adequate provision for schools, parks, water, sewerage, transportation, and other public requirements, conveniences, and improvements, including gas and electric structures and facilities.

(1988 Code, § 26-116) (Bill No. 103-02, § 2, 7-1-2004; Bill No. 72-04, § 1, 8-11-2004)

§ 32-3-102. INTERPRETATION AND ENFORCEMENT OF ZONING REGULATIONS.

The Director of Permits and Development Management shall interpret and enforce the Baltimore County Zoning Regulations to insure that uses or buildings, including structures, landscaping, roads, and streets, conform to plans approved by the county.

(1988 Code, § 26-121) (Bill No. 18, 1990, § 2; Bill No. 88, 1990, § 1; Bill No. 4, 1992, § 1; Bill No. 69-95, § 10, 7-1-1995; Bill No. 103-02, § 2, 7-1-2004)

§ 32-3-103. VALIDATION OF EXISTING ZONING REGULATIONS.

(1) The zoning regulations adopted by the county on March 30, 1955 and as adopted and amended are declared to be in full force and effect.

(2) In the case of a conflict between the Baltimore County Zoning Regulations and the provisions of this title, this title shall control.

(1988 Code, § 26-117) (Bill No. 65, 1993, § 3, 6-2-1993; Bill No. 32-99, § 1, 7-5-1999; Bill No. 103-02, § 2, 7-1-2004)

§ 32-3-104. PUBLICATION OF REGULATIONS AND RESTRICTIONS.

(a) *Duty of the Department of Permits and Development Management.* The Department of Permits and Development Management shall keep a separate book of all regulations and restrictions and amendments or supplements to the regulations and restrictions adopted by the County Council under the authority of this title.

(b) *Duty of office of law to copy and distribute.* The Office of Law shall print and make available for general distribution copies of the regulations and restrictions.

(1988 Code, § 26-118) (Bill No. 65, 1993, § 3, 6-2-1993; Bill No. 103-02, § 2, 7-1-2004)

Annotation—Title 23, § 366(h) of the code (1948) cited in Commissioners of Baltimore County v. Oxford Company, 209 Md. 373, 121 A.2d 239 (1956).

BCC § 32-3-102 AND § 32-3-301

SUBTITLE 3. VARIANCES**§ 32-3-301. AUTHORITY OF ZONING COMMISSIONER.**

(a) *In general.* Except as provided in § 32-3-515 of this title and consistent with the general purpose, intent, and conditions set forth in the Baltimore County Zoning Regulations, upon petition, the Zoning Commissioner may:

- (1) Grant variances from area and height regulations;
- (2) Interpret the zoning regulations; and
- (3) Grant special exceptions.

(b) *Appeal.* A decision of the Zoning Commissioner under subsection (a) of this section may be appealed to the Board of Appeals as provided in this article.

(c) *Conditional or restricted variance.* The Zoning Commissioner may grant a variance with conditions or restrictions that the Zoning Commissioner determines are appropriate for the purpose of protecting the health, safety, or general welfare of the surrounding community.

(1988 Code, § 26-127) (Bill No. 18, 1990, § 2; Bill No. 91, 1990, § 2; Bill No. 1, 1992, § 2; Bill No. 103-02, § 2, 7-1-2004)

§ 32-3-302. SAME – HEARING REQUIRED; NOTICE.

(a) *In general.* Except as provided in §32-3-303 of this subtitle, the Department of Permits and Development Management shall schedule a public hearing on a petition for a variance or special exception for a date not less than 21 days and not more than 90 days after the petition is accepted for filing.

(b) *Notice.*

(1) The Department of Permits and Development Management shall ensure that notice of the time and place of the hearing relating to the property under petition be provided:

(i) By conspicuously posting the notice on the property for a period of at least 15 days before the date of the hearing; and

(ii) By a notice in at least one newspaper of general circulation at least 15 days before the hearing.

(b) *Notice and posting.* The Department of Permits and Development Management shall advertise and post the special exceptions and variances in accordance with the procedures provided in this subtitle for advertising and posting reclassification petitions.

(1988 Code, § 2-356) (Bill No. 103-02, § 2, 7-1-2004)

§ 32-3-516. SUSPENSION OF PETITION DURING PREPARATION OR REVISION OF ZONING MAP.

(a) *In general.* The Board of Appeals may not receive a reclassification petition, other than a petition exempted under § 32-3-509 of this subtitle, for filing from April 16 through October 15 of any year in which the County Council is scheduled to adopt the new or comprehensively revised zoning map.

(b) *Request submitted to Planning Board or County Council.* A property owner may present a request for a zoning reclassification to the Planning Board or County Council for consideration at the appropriate time during the preparation or modification of the new or comprehensively revised zoning map.

(1988 Code, § 2-357) (Bill No. 103-02, § 2, 7-1-2004)

§ 32-3-517. RECLASSIFICATION HAS THE FORCE OF LAW.

When granted by the Board of Appeals, a reclassification shall, in the absence of an appeal of the Board's decision, have the force and effect of law.

(1988 Code, § 26-132) (Bill No. 18, 1990, § 2; Bill No. 116, 1990, § 2; Bill No. 4, 1992, § 1; Bill No. 103-02, § 2, 7-1-2004)

Annotations:

Remedy provided under title 34 of 1958 Code held to be an alternative to that afforded by this section, at least where it is affirmatively alleged that the Planning Board has violated zoning regulations and that a violation of either the zoning or the subdivision regulations was subject to an injunction under title 34. Lynn v. Goldman, 216 Md. 562, 141 A.2d 172 (1958).

County Council need not follow the recommendations of the Planning Board, and need not have any further or additional hearing in regard to any changes or amendments the County Council may see fit to make. Swathmore Company v. Kaestner, 258 Md. 517, 266 A.2d 341 (1970).

The people's counsel has the right to appeal zoning decisions. People's Counsel for Baltimore County v. Williams, 45 Md. App. 617, 415 A.2d 585 (1974).

SUBTITLE 6. ENFORCEMENT

§ 32-3-601. "DEFENDANT" DEFINED.

In this subtitle "defendant" means a person who:

BCC § 32-3-601 et. seq.

(1) Is charged with violating the Baltimore County Zoning Regulations; and

(2) Has a relationship to the property as the owner, occupant, landlord, or tenant.

(1988 Code, § 26-121) (Bill No. 18, 1990, § 2; Bill No. 88, 1990, § 1; Bill No. 4, 1992, § 1; Bill No. 69-95, § 10, 7-1-1995; Bill No. 103-02, § 2, 7-1-2004; Bill No. 75-03, § 5, 7-1-2004)

§ 32-3-602. CIVIL PENALTY IMPOSED FOR ZONING VIOLATION.

(a) *In general.* After inspection by a representative of the Department of Permits and Development Management, a person is subject to the civil penalty provided in subsection (c) of this section if the use of property by a person is alleged to be in violation of:

(1) The Baltimore County Zoning Regulations, policies, rules, or regulations interpreting the zoning regulations; or

(2) Orders of the Zoning Commissioner or Board of Appeals.

(b) *Enforcement powers and duties of Department of Permits and Development Management.* Representatives of the Department of Permits and Development Management:

(1) Shall enforce the Baltimore County Zoning Regulations, policies, rules, or regulations interpreting the zoning regulations and inspect property for enforcement purposes; and

(2) May enter upon open land during the performance of their duties.

(c) *Amount of penalty.*

(1) The civil penalty is \$200 for each violation.

(2) Each day shall be considered a separate violation.

(3) A citation may charge the defendant with more than one violation.

(1988 Code, § 26-121) (Bill No. 18, 1990, § 2; Bill No. 88, 1990, § 1; Bill No. 4, 1992, § 1; Bill No. 69-95, § 10, 7-1-1995; Bill No. 103-02, § 2, 7-1-2004)

§ 32-3-603. CITATION – ISSUANCE AND CONTENTS.

(a) *Director to issue.* On receipt of the initial inspection report alleging a civil violation of the Baltimore County Zoning Regulations, the Director of Permits and Development Management shall:

(1) On a form adopted by the Director, issue a citation to the person alleged to be in violation of the Baltimore County Zoning Regulations; and

(2) Affirm that the contents of the citation are correct to the best of Director's knowledge.

(b) *Contents of the citation.* The citation shall include:

(1) The date of issuance of the citation;

(2) The name and address of the person charged;

(3) The section number of the zoning regulation, policy, rule, or regulations interpreting the zoning regulations or reference to the Zoning Commissioner's order that has been violated;

(4) The nature of the civil zoning violation and the location and dates of the violation and whether the violation may be continuing in nature;

(5) The amount of the a civil penalty;

(6) The instructions for paying the civil penalty; and

(7) Information on the defendant's right to elect to stand trial for the civil zoning violation and the instructions for making the election.

(1988 Code, § 26-121) (Bill No. 18, 1990, § 2; Bill No. 88, 1990, § 1; Bill No. 4, 1992, § 1; Bill No. 69-95, § 10, 7-1-1995; Bill No. 103-02, § 2, 7-1-2004)

§ 32-3-604. SAME – PAYMENT OF CIVIL PENALTY OR STAND TRIAL.

(a) *Person to pay civil penalty or request a trial.*

(1) Any person who receives a citation may:

(i) Pay the civil penalty within 35 days; or

(ii) Elect to stand trial for the violation by filing a notice of intention to stand trial with the Director of Permits and Development Management at least 5 days before the date of payment as set forth in the citation.

(2) On receipt of a notice of intention to stand trial, the Director of Permits and Development Management shall forward a copy of the citation and the notice of intention to stand trial to the District Court of Maryland for Baltimore County.

(b) *Failure to pay civil penalty or request a trial.*

(1) If the civil penalty remains unpaid at the expiration of 35 days after the date of the citation, the Director of Permits and Development Management may request adjudication of the case in the District Court.

(2) The Director of Permits and Development Management shall send a formal notice of violation to a person who received a citation and who fails to either pay the civil penalty or elect to stand trial for the civil zoning violation.

(3) If the civil penalty remains unpaid at the expiration of 35 days from the date of the formal notice of violation, the Director of Permits and Development Management may request adjudication of the case in the District Court.

(4) Unless the person has elected to stand trial under subsection (a) of this section, if the citation is not satisfied within 15 days from the date of the formal notice of violation, the person is liable for an additional civil penalty not to exceed twice the original civil penalty.

(c) *County Attorney to prosecute civil violations.* The County Attorney shall prosecute civil zoning violations in the courts.

(1988 Code, § 26-121) (Bill No. 18, 1990, § 2; Bill No. 88, 1990, § 1; Bill No. 4, 1992, § 1; Bill No. 69-95, § 10, 7-1-1995; Bill No. 103-02, § 2, 7-1-2004)

§ 32-3-605. CIVIL PENALTY NOT EXCLUSIVE OF OTHER REMEDIES.

(1) This section may not be construed to prevent the county from instituting any appropriate action or proceeding at law or in equity for the enforcement of zoning violations or the correction of the violations.

(2) The provisions of this section shall be in addition to any other remedy allowed by law to the county for this purpose.

(1988 Code, § 26-121) (Bill No. 18, 1990, § 2; Bill No. 88, 1990, § 1; Bill No. 4, 1992, § 1; Bill No. 69-95, § 10, 7-1-1995; Bill No. 103-02, § 2, 7-1-2004)

§ 32-3-606. CRIMINAL PENALTY.

A person who violates the zoning regulations or policies, rules, or regulations interpreting the zoning regulations or a final written order made or adopted under this title is guilty of a misdemeanor.

(1988 Code, § 26-119) (Bill No. 18, 1990, § 2; Bill No. 88, 1990, § 1; Bill No. 103-02, § 2, 7-1-2004)

§ 32-3-607. INJUNCTIVE PROCEEDINGS.

In addition to all other remedies provided by law, the Director of Permits and Development Management or any person whose property is affected by any violation, including abutting and adjacent property owners, whether specially damaged or not, may maintain an action in an appropriate court for an injunction:

(1) Enjoining the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, and land in violation of this title or the zoning regulations and restrictions adopted under this title; and

(2) Requiring the return of the property, to the extent possible, to its condition before the violation, including removal of the source of the violation.

(1988 Code, § 26-120) (Bill No. 18, 1990, § 2; Bill No. 4, 1992, § 1; Bill No. 103-02, § 2, 7-1-2004)

Annotation:

Similar section of 1955 County Code cited in Commissioners of Baltimore County v. Oxford Company, 209 Md. 373, 121 A.2d 239 (1956).

**MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION
MINUTES
October 23, 2007**

TRUSTEES PRESENT:

Daniel Colhoun, Chairman
Vera Mae Schultz, Vice Chairman
John W. Draper, Jr.
Jerry Klasmeier, representing Comptroller Peter Franchot
Dr. James Pelura
Joe Tassone, representing Secretary Richard E. Hall, Department of Planning
Doug Wilson, representing Secretary Roger L. Richardson, Department of Agriculture

TRUSTEES ABSENT:

Howard S. Freedlander, representing Treasurer Nancy Kopp
Robert F. Stahl, Jr.,
Christopher H. Wilson

OTHERS PRESENT:

Bill Amoss, Harford County, Program Administrator
Anne Bradley, Frederick County, Ag. Preservation Planner
Rob Burk, Executive Director, Horse Industry Board, Maryland Department of Agriculture
Pam Bush, Department of Natural Resources, Senior Policy Analyst
Vince Berg, Citizen, Montgomery County
Elizabeth Brown, Landowner, Frederick County
Tammy Buckle, Caroline County, Program Administrator
Diane Chasse, MALPF Administrator
James Conrad, MALPF Executive Director
Carol Council, MALPF Administrator
Veronica Cristo, Calvert County, Rural Planner
Rama Dilip, MALPF Secretary
James Evans, Landowner, Inverness Farm, Montgomery County
Charles Fenwick, Jr., Representative for Land Preservation Trust/Shawan Downs, Baltimore County
Nancy Forrester, Assistant Attorney General, Department of General Services
Billy Gorski, Ag. Program Planner, Anne Arundel County
David Greene, Chair, Baltimore County Advisory Board, Baltimore County
Buddy Hance, Deputy Secretary, Maryland Department of Agriculture
Sibbald Hereth, Landowner, Howard County
Edward Hereth, Landowner, Howard County
Rob Hoffman, Representative for Land Preservation Trust/Shawan Downs, Baltimore County
Kimberly Hoxter, MALPF Monitoring, Enforcement, and Database Coordinator
Dale Hutchins, Landowner, Calvert County
Carmela Iacovelli, Baltimore County, Natural Resource Specialist
Joy Levy, Howard County, Program Administrator
Wally Lippincott, Jr., Baltimore County, Program Administrator
Carla Martin, Kent County, Program Administrator
Elta Martin, Landowner, Frederick County
Daniel Rosen, Planner, Maryland Department of Planning
Charles Rice, Charles County, Program Administrator
Caythee and Charles Ruby, Landowners, Frederick County
Donna Sasscer, St. Mary's County, Program Administrator
Ned Sayre, Harford County, Program Assistant
Steward B. Smith, Prince George's County, Soil Conservation District
Donna K. Landis-Smith, Queen Anne's County, Program Administrator
Samantha Stoney, Howard County, Planner
Elizabeth Weaver, MALPF Administrator

Daniel Colhoun, Chairman, called the meeting to order at 9:05 a.m., at the Maryland Department of Agriculture building, Annapolis, Maryland.

The Chair asked the guests to introduce themselves.

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

A. APPROVAL OF MINUTES OF THE REGULAR MEETINGS

Motion #1: To approve the minutes of September 25, 2007 with amendments.

Motion:	Vera Mae Schultz	Second:	Jerry Klasmeier
Status:	Approved		

B. ADDITIONS OR DELETIONS OF AGENDA ITEMS:

None

Mr. Colhoun informed the Board that the Foundation has hired Kimberly Hoxter to be the Foundation's monitoring coordinator and introduced her at the meeting. Carol Council, MALPF staff, shared background information on Ms. Hoxter.

Kim comes from the USDA Farm Service Agency in Queen Anne's County, and was responsible for maintaining the GIS maps of all the farms in the County's FSA program. Prior to her work in FSA, she worked for many years in Quality Assurance for a private research company, inspecting and auditing ongoing research projects, auditing protocols and writing standard operating procedures. She is a University of Delaware graduate in animal sciences and lives in Queen Anne's County

Kim's title is: "Monitoring, Enforcement, and Database Coordinator." Not only will she be working to meet MALPF's monitoring requirements, she will be taking the lead in any enforcement actions and implementing and maintaining MALPF's new databases, first in Oracle to allow us to better understand the program for management purposes and to provide information to the Governor's Office, the General Assembly, and other state agencies, and eventually taking over and maintaining the MALPF layer of the spatial database of properties in GIS. Her first priority with MALPF, however, will be to get MALPF's monitoring responsibilities under control. She will not be doing monitoring in place of program administrators, but instead will coordinate with them to ensure monitoring is done in a timely manner and will help out where there are problems meeting monitoring requirements.

The Foundation asked the County Program Administrators to contact her if they have site inspections in the near future, so that she can accompany them on the visits and see what they do to prepare for those visits in the office (baseline documentation, title updates, or whatever the County Program Administrators do that is part of their standard operating procedure). The Foundation asked them not to restrict any invitations to the monitoring of MALPF properties. It would be useful for Kim to accompany the County Program Administrators on any Rural Legacy or county program site inspections as well, to see how they are similar and how they are different from MALPF inspections.

Mr. Colhoun stated that the MALPF Board had appointed Mr. Jerry Klasmeier, Board member, representing Comptroller Peter Franchot, as the committee chair for the MALPF Easement Valuation System. The Foundation has prepared a memo outlining the committee's duties. The committee will comprise of representatives from the MALPF Board, and Mr. Colhoun urged the County Program Administrators to volunteer. John Draper, Board

member, had expressed an interest and will be representing the MALPF Board in this committee. Mr. Klasmeier will be selecting another Board member for the committee.

Ms. Council informed the Board that the Foundation has a new MDA sign that will be made available to MALPF easement landowners. When the easement is settled, Jeanine Nutter, MALPF staff, will be sending a letter to the landowners. The letter will inform the landowners that the Foundation has the sign available for them if they would like to display it on their farm and that it will be available at no cost. If the landowners are interested, the sign will be conveyed to the County Program Administrators; the signs will be made available to the landowners only through the County Program Administrators.

II. DISTRICT /EASEMENT AMENDMENTS

H. ST. MARY'S COUNTY

1. 18-00-06e Linda Long 204.15 acres
Addition of map to Agenda Item II.C.1 from the August 28, 2007 meeting

At the August 28, 2007 Board meeting, the Board approved the request of Mrs. Linda Long for a child's lot exclusion for son, Brian Christopher Long. The Board also approved an alternative right-of-way location marked and agreed by the landowner and the MALPF administrators (that the location be approved so that the owner and the subsequent owner have the right to insist that a third party owner of the lot use the alternative right-of-way for access).

At the time, the Board asked that the map be included in the materials for the meeting.

Staff recommends approval of the attached map for inclusion in the materials for the August 28, 2007 meeting.

Donna Sasscer, Program Administrator, was available at the meeting.

Motion #2: To approve the request of Linda Long for an alternative right-of-way location as marked on the map submitted to the MALPF Board.

Motion: Doug Wilson Second: John Draper
Status: **Approved**

A. CALVERT COUNTY

1. 04-84-02e Raymond E., Hutchins, Sr., 202.109 acres
Request for a child's lot on easement property

Mr. Hutchins is the original grantor of the easement. The current request is a re-review of a request for a child's lot for the use of his son, Dale Hutchins.

There is one pre-existing dwelling on the property. Two child's lots have been approved on the property. On 9-22-92, the Board approved a lot for Raymond, Jr., and on 5-22-07, the Board approved a lot for Mark Hutchins. Mr. Raymond Hutchins, Sr., does not own any other MALPF district or easement property.

The Board reviewed a request for a child's lot for Dale and his brother, Mark, during the May 22, 2007 Board meeting. At that time, the Board approved the request for a child's lot for Mark, but tabled the request for a child's lot for Dale because the Board was concerned about the location of his lot in the middle of the farm. Dale Hutchins informed the Board that his family intended to request an agricultural subdivision of the property at

some point in the future. The property would be subdivided into three parcels, with each brother receiving approximately a third of the property.

It was suggested by some Board members during the May meeting (minutes attached with the agenda memo) that the location of the child's lot would be viewed more favorably after the subdivision because the lot would then be located close to the edge of the subdivided property. Additionally, some Board members advised Mr. Hutchins that, because of the concerns regarding the location of the lot, it would be preferable if the lot was made non-subdividable from the property. Initially, Mr. Hutchins stated that he thought that this would probably be acceptable to him and his family. However, following some discussion, Mr. Hutchins stated that he was concerned that making the lot non-subdividable could impact his ability to acquire a mortgage.

On August 28, 2007 the Board approved a request to agriculturally subdivide the property into three separate parcels (minutes attached with agenda memo). Mr. Hutchins indicated that he would come back to the Foundation at a later date to request the child's lot.

According to Calvert County, the proposed child's lot is located at the edge of a field that is in a bean and wheat rotation. Access for the proposed lot will be via right-of-way using an existing farm road. The lot is not clustered with the pre-existing dwellings or farm buildings because of topography.

A location along the wood line is unsuitable due to fairly steep slopes in that area (topo lines on aerial attached with agenda memo). A location closer to the existing child's lot (Raymond's) is not desirable also due to fairly steep slopes and a ravine (topo lines on aerial attached with staff memo). Mr. Hutchins plans to use both the area between the proposed lot and the woods and the area between Raymond's lot and the proposed lot as a pasture area for goats. The area is currently planted in grass to control erosion. Mr. Hutchins intends to run a goat cheese operation on the farm. He wants to locate the buildings associated with the operation and the pasture area close to his dwelling. He believes that the operation will be easier to monitor and will have a better chance of success if he lives in a dwelling adjacent to it. Additionally, the proposed lot location is located along the end of an existing farm lane, requiring no further road improvements on the farm.

The request was approved by the local advisory board and conforms to local zoning regulations. If the lot is approved, there will be a required payback of \$1,484.35 per acre to the Foundation.

The family is currently working with an estate planning attorney. Dale Hutchins indicated that his father intends to convey to him the 74.33-acre area surrounding the proposed lot as part of the settlement of the estate.

The Hutchins family would prefer not to make the lot non-subdividable. In addition to the complications associated with acquiring a mortgage for the dwelling, his father and brothers are concerned that, should something unforeseen happen to Dale Hutchins in the future, the family could be compelled to sell off the 74.33-acre parcel if it is connected to the lot. The family would prefer to have the ability to retain the 74.33-acre parcel in the family farm by keeping it separate from the lot.

Mr. Hutchins stated that it was his understanding that completing the agricultural subdivision of the farm, as requested by Board members at the May meeting, was sufficient to satisfy the concerns of the Board. The family was encouraged to make the lot non-subdividable, but it was not a requirement.

Foundation staff recommends approval, conditioned on the completion of the subdivision of the lot at the county level. Mr. Hutchins has indicated that he is currently working with the county to complete the subdivision process. (Note: Mr. Hutchins, Sr., cannot convey the 74.33-acre parcel to Dale Hutchins at this time because doing so would terminate the right to exercise a child's lot right. The property may be transferred once the child's lot right has been exercised.)

Dale Hutchins and Veronica Cristo, Program Administrator, were available at the meeting.

Ms. Cristo stated that Mr. Hutchins has located the lot to be more suitable for the dairy production and is also located in an area that cannot be otherwise farmed.

Mr. Hutchins stated that while considering the location of the proposed lot he and his family looked at all the potential locations and tried to find a spot that meets the Foundation's lot location guidelines and also would not be detrimental to the current and the future farming operations. It would positively impact the future farming.

Mr. Hutchins stated that the large area between the areas is wet pasture, as can be seen in the aerial map. The area above has two areas that has fairly significant slope and can be used for pasture as well. The house and the three building allow Mr. Hutchins to use all the areas that are currently unused for farming. Mr. Hutchins stated that he could have located the house elsewhere, but he is trying to have the best impact on the agricultural use of the land. The current proposed location has the least negative impact. If he chose another location, it might meet the Foundation guidelines, but he would be placing the house, the farm buildings, and the dairy building in the best tillable land. Also he would have to use the best tillable land to create pastures for the goat operation. The lot is located in the worst land that would pass a perc test.

Mr. Hutchins believed that it is important for the house to be co-located with the dairy operations.

Mr. Hutchins mentioned that, in an earlier meeting, the MALPF Board had wanted to know if his family would be willing to keep the lot with the rest of the farm. Initially, he had said "yes" because he planned to live there forever. However, a Board member mentioned about the issues involved in obtaining a loan.

Mr. Hutchins stated that many times families plan their future operations well. However, when the head of the family passes away, the families sometimes get into tremendous financial problems that can result in the loss of the farm. To avoid such problems, his family had hired an attorney four years back. The attorney works with farmers to protect their properties. The Hutchins family was originally willing to have the lot location approved without subdividing the lot from the agricultural subdivision parcel, but their attorney informed them that doing so would compromise their plan because of the number of legal issues that can arise. There are many situations that can occur, such as a family member passing away or moving to a nursing home etc. The attorney believed it could have a detrimental impact on the plans to keep the farm in the family.

Mr. Colhoun asked Nancy Forrester, Assistant Attorney General, Department of General Services, to comment on the request.

Ms. Forrester stated that, at the last Board meeting when the property was discussed, the MALPF Board had approved the agricultural subdivision of three large parcels. Mr. Dale Hutchins's parcel will be 74.33 acres. Ms. Forrester stated that 74.33 acres cannot be conveyed to Mr. Dale Hutchins at this time because then it would terminate the owner's right to exercise a child's lot right. Ms. Forrester was concerned that the subdivision into three parts could move forward and occur even if it is not conveyed to Dale. Ms.

Forrester wanted to make sure that the actual subdivision plat is filed before the child's lot is released. There is a timing issue.

Ms. Cristo stated that the subdivision plat will be filed before the child's lot is released. Mr. Dale Hutchins's request has been addressed by the County Advisory Board and has received approval. The parcel needs to be surveyed and the plat needs to be recorded and stamped by the Zoning Office as non-buildable. Ms. Cristo has double checked with the subdivision staff and the County Director for Planning and Zoning, and they do not foresee any issues.

Joe Tassone, representing Secretary Richard E. Hall, Department of Planning, asked if Mr. Dale Hutchins has any dwelling on the 74.33-acre parcel. Mr. Dale Hutchins confirmed that there are none.

Motion #3: To approve the request of Raymond E. Hutchins for approval of a child's lot of up to 2 acres.

Motion: Doug Wilson Second: John Draper
Status: Approved

B. QUEEN ANNE'S COUNTY

- | | | | |
|----|---|-----------------|--------------|
| 1. | 17-88-07 | Linda G. Willis | 224.01 acres |
| | Request for an owner's lot and child's lot on easement property | | |

Ms. Willis is the original grantor of the easement. The current request is for approval of a child's lot and an owner's lot of up to two acres each on easement property.

There is one pre-existing dwelling on the property. Additionally, a child's lot was approved in 2001 for Ms. Willis's other daughter, Julie. Ms. Willis does not own any other district or easement properties.

According to Queen Anne's County, the proposed lots are to be located along the road, adjacent to one another. The lots could not be located adjacent to the existing child's lot because a stream is located on one side of the lot and a driveway leading to the existing main farm dwelling is located on the other side. The proposed lots will be accessed directly from the road.

The request was approved by the local advisory board and conforms to local zoning regulations. The request includes a letter from the Health Department stating a minimum lot size requirement of two acres each. If the lots are approved, there will be a required payback of \$600.00 per acre to the Foundation.

Staff recommends approval of the release of two acres for each lot as required by the County Health Department, and in accordance with Agricultural Article, Section 2-513(b), Annotated Code of Maryland, which grants an allowance of a maximum lot size of up to 2 acres if required by regulations adopted by the Department of the Environment or the county. The lot locations conform to the Foundation's lot location guidelines: they are located along the road; the lots could not be clustered with existing dwellings for the reasons stated above.

Donna Landis-Smith, Program Administrator, was available at the meeting to answer questions from the Board.

Mr. Colhoun said that the aerial map indicated that a child's lot for Julie was approved in 2001. He wanted to know if the lot has been built.

Ms. Landis-Smith stated that she was not sure if the process for the transfer of the lot was completed, but the house has been constructed.

Motion #4: To approve the request of Linda G. Willis to approve an owner's lot and a child's lot on easement property.

Motion: John Draper Second: Doug Wilson
Status: **Approved**

Vera Mae Schultz, Vice Chair, wanted to know if the lot was located in the woods.

Ms. Landis-Smith stated that the septic reserve areas (SRAs) are together in the middle of both the lots and Ms. Landis-Smith is aware that Mrs. Elburn is going to place her house behind the SRAs. So there would be enough area to farm in between the woods and the place where the house is going to be built.

Mrs. Schultz asked if Ms. Landis-Smith was aware of the order in which the lots are going to be developed.

Ms. Landis-Smith stated that Mrs. Elburn is the daughter and will be constructing her house first. She is waiting for the (MALPF Board's) approval to get a building permit. Mrs. Elburn's lot is the closest to the woods.

C. FREDERICK COUNTY

- | | | |
|----|--|--------------|
| 1. | 10-01-04 Elizabeth Brown, et al
Request for agricultural subdivision of easement property | 115.00 acres |
|----|--|--------------|

Ms. Brown, et al, is the original grantor of the easement. The current request is for an agricultural subdivision of the farm.

According to Frederick County, the landowner proposes to subdivide an approximately 63-acre parcel which she intends to sell to Charles Ruby, the contract purchaser. Ms. Brown will retain the remaining 52 acres, which include the farm house.

Mr. Ruby, who lives one mile from the property, wants to operate a sheep and pig operation on the farm. He currently operates a 7-acre horse operation. The contract is contingent upon an approval of a tenant house, which is also being requested at this meeting (agenda item II.C.2). Ms. Brown will continue her crop rental operation on the portion she retains.

Both parcels would continue to meet minimum qualifying soils criteria. The portion proposed to be subdivided contains 100% qualifying soils. The remaining parcel contains 98% qualifying soils.

The request was approved by the local advisory board and is consistent with local zoning regulations.

Foundation staff recommends approval based on meeting minimum size and soils criteria. Additionally, both resulting parcels have the ability to support viable agricultural operations.

Elizabeth Brown, her mother, Ella Martin, Mr. and Mrs. Charles Ruby, and Anne Bradley, Program Administrator, were present at the meeting to answer questions from the Board.

Ms. Bradley informed the Board that she has a statement from the Assessment and Taxation Office that the assessment of the parcels would remain agricultural, provided that 25% of the land is actively farmed.

Responding to a question from a Board member, Ms. Brown stated that most of the land is being farmed.

Mr. Charles Ruby stated that he intends to put a house for his son to live in, if the request is approved by the MALPF Board.

Motion #5: To approve the request of Elizabeth Brown, et al, for an agricultural subdivision of easement property.

Motion: Doug Wilson Second: John Draper
Status: **Approved**

2. 10-01-04 Elizabeth Brown/Charles Ruby (Contract Purchaser) 115.00 acres
Request for a tenant house on easement property

Ms. Brown, et al, is the original grantor of the easement. Mr. Ruby is a contract purchaser of a 63-acre portion of the property. An agricultural subdivision of the property is also being requested. (Agenda Item II.C.1.) The current request is for a tenant house for the use of Mr. Ruby's son who, if the agricultural subdivision is approved, would be fully engaged in the operation of the farm.

Mr. Ruby plans to run a sheep and pig operation on the property. The operation will include approximately 150 sheep and 5 to 10 sows that would each produce about 10 piglets for sale per year.

According to Frederick County, the proposed tenant house is to be located along the edge of the property, close to the road. Access will be through a driveway that will run along a wood line.

The request was approved by the local advisory board and conforms to local zoning regulations. Mr. Ruby has been informed that he should be prepared to provide details regarding the size of the proposed tenant house during the Board meeting.

Staff recommends approval in accordance with Agricultural Article, Section 2-513(b)(4), Annotated Code of Maryland, which provides for an exception to the one tenant house per 100 acres restriction, at the discretion of the Foundation's Board of Trustees, when a landowner can demonstrate a compelling need. Sheep and pig operations are labor intensive and would require a full-time operator to be available on site. The Board may want to consider approving the tenant house, subject to the condition that Mr. Ruby starts the sheep and pig operation. If plans for the operation change once he acquires the property, he should come back to the Board for review of the request for the tenant house with the details concerning an alternative operation.

(Note: Staff has requested that Mr. Ruby be notified that, should his son inherit the property from his father in the future, the son must vacate the tenant house. Owners of easement property may not live in tenant houses.)

Mr. Colhoun asked Mr. Ruby if he has been informed about the Foundation's guidelines that, if his son inherits the property from his father in the future, the son must vacate the tenant house because the owners of easement properties may not live in tenant houses. Mr. Ruby stated that he is aware and is agreeable.

Doug Wilson, representing Secretary Roger L. Richardson, Department of Agriculture, clarified why the Foundation has this practice. Mr. Ruby is requesting a tenant house. Subsequent owners of easement property are not allowed lot rights; otherwise theoretically, since the easement is in perpetuity, eventually the farm could have many houses. That is the reason for not allowing successors to have lot rights. In the current scenario, the tenant house is being occupied by Mr. Ruby's son, who operates the farm. The situation is acceptable until the son owns the farm. Mr. Doug Wilson wanted to make sure Mr. Ruby understands the restrictions.

Motion #6: To approve the request of Elizabeth Brown and Charles Ruby for a tenant house on easement property.

Motion: Joe Tassone Second: James Pelura
Status: **Approved**

E. HOWARD COUNTY

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| 1. | 13-79-03A | Idiot's Delight II, Inc.
Request for a tenant house on easement property | 195.55 acres |
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Idiot's Delight, Inc., is the original grantor of the easement. The current request is for a tenant house for the use of Sean Hereth.

Mr. Hereth will be responsible for 100 cows in addition to planting and harvesting crops and making hay. The tenant dwelling is to be located next to a barn and clustered in an area to be used for a future child's lot. Access will be directly onto Florence Road. The tenant house is proposed to be approximately 960 square feet in size.

According to Howard County, the request was approved by the local advisory board subject to obtaining county and state permits and approvals.

Staff recommends approval based on the provisions of the deed of easement and in accordance with Agricultural Article, Section 2-513(b)(4), Annotated Code of Maryland, which grants an allowance of one tenant house per 100 acres for use of a tenant fully engaged in the operation of the farm.

Sibbald Hereth, her son Edward Hereth, and Joy Levy, Program Administrator, were available at the meeting to answer questions from the Board.

Mr. Colhoun pointed out that the easement of the Idiot's Delight, Inc., is one of the older MALPF easements and has different restrictions on the number of child's lots than the current maximum of ten.

Ms. Forrester wanted to know about the ownership structure of the Corporation. Ms. Forrester specifically wanted to know if Mr. Sean Hereth has any shareholder interest in the Corporation.

Mr. Edward Hereth stated that Mr. Sean Hereth is his nephew. Mr. Sean Hereth's father died and Mr. Sean Hereth does have ownership interest in the Corporation.

Mr. Doug Wilson stated that Mr. Sean Hereth is a relative of the owner and is asking for a tenant house. Because of the current corporate structure Mr. Sean Hereth is also an owner. Since Mr. Sean Hereth is a part owner of the easement the law does not allow him to have a tenant house.

Ms. Forrester quoted from COMAR : "'Tenant' does not include a landowner or a person who has a financial interest in the landowner, including a shareholder interest, partnership interest, or membership interest, full limited or otherwise" COMAR 15.15.03.02.B.(2).

Mr. Colhoun asked if Ms. Levy had informed the landowner about this.

Ms. Levy stated that the thought had not occurred to her until Ms. Forrester pointed it out.

Mr. Doug Wilson stated that if the request is approved Mr. Sean Hereth will become a tenant and the tenant has a financial interest in the farm by the virtue of the ownership arrangement.

Ms. Forrester commented that the Corporation existed when the property entered the program. Obviously there has been a change since then. The State needs to know who the current shareholders are and there has to be a corporate resolution. The corporate resolution has to indicate whom the members of the Corporation want to have the child's lot; it needs to indicate if it wants a tenant house. If any shareholder disagrees as to what the Corporation wants, the Foundation will not be aware and it is important for the Foundation to know that. The Foundation needs documentation that all shareholders are in agreement.

Motion #7: To table the request of Idiot's Delight, Inc., for a tenant house on easement property.

Motion: Doug Wilson
Status: **Approved**

Second: John Draper

Ms. Levy asked if the owners have to come back when the request comes back with necessary documentation.

Mr. Colhoun stated that if the documentation provided is satisfactory to the legal counsel the owners need not come back.

2. 13-79-03B Idiot's Delight II, Inc. 195.55 acres
Request for a child's lot on easement property

Idiot's Delight Incorporated is the original grantor of the easement. The corporation consisted of Sibbald Hereth and her seven children. The current request is for the exclusion of a 1-acre child's lot from the easement for the purpose of constructing a dwelling for the personal use of Edward Hereth.

The following background on the property is taken from a January 8, 2007 memo by Joy Levy:

Walter and Sibbald Hereth acquired the subject property in 1965, along with another farm on the north side of Florence Road. The sum total of the land they acquired was approximately 194 acres. In December of 1974, the Hereths transferred the subject property to Idiot's Delight, Inc., and the other farm to Idiot's Delight Corporation II, both family-owned corporations. In October of 1981, the two corporations entered into an easement agreement with MALPF. Although there were two separate properties in separate ownership, only one easement agreement was done. In later years, presumably for ease of administration, each property was given an individual suffix in its file number; therefore, Idiot's Delight, Inc. became known as 13-79-03 Ace and Idiot's Delight Corporation II became known as 13-79-03Bce.

There were two other unusual aspects to the deed of easement. First, the three pre-existing

dwelling (one on Idiot's Delight Corporation II and two on Idiot's Delight, Inc) were specifically excluded from the terms of the easement through save and except language. Second, the typical boilerplate language regarding child lot rights was omitted, presumably due to the policy at the time that corporations can't have children. There is ample documentation in the file to suggest that the Hereths fought to preserve the right for lots for the five of their eight children who were not already living on the farm. The MALPF Board and the Office of the Attorney General apparently insisted that the policy be adhered to, and the Hereths finally agreed to strike the language from the deed of easement, rather than lose the opportunity to sell an easement to MALPF.

Sometime during the following 15 years, MALPF adopted the policy of "looking beyond the corporate veil" regarding child lot rights in situations like this where the corporation is completely comprised of family members who are actively engaged in the operation of the farm. On November 26, 1996, the MALPF Board of Trustees approved a child lot for daughter Mary Hereth Jones. The lot for Mary was never released from the easement or subdivided from the farm.

In April of 2004, Idiot's Delight, Inc. and Idiot's Delight Corporation II subdivided the three pre-existing dwellings from the farm. Since they were never encumbered by the terms of the easement, the lots did not have to be released. Daughter Mary and son Edward now own two of the three lots. Grandson Mark owns the third.

On February 27th, 2007 Sibbald Hereth requested a lot for her daughter Ellen. This lot has not yet been released. There have been no other lot requests, other than the owner's lot requested at this meeting. The location of the current request, a child's lot, is consistent with the location shown on a Future Plan which was reviewed by the Foundation at their meeting on February 27, 2007.

According to Howard County, the proposed child's lot is to be directly located on an existing farm lane. The request was approved by the local agricultural advisory board subject to obtaining county and state permits and approvals.

If the request is approved, there will be no payback as the deed of easement pre-dates the requirement for reimbursement of owner's and children's lots.

In conforming to the Foundation's Lot Location Policy, the physical location of the lot should be (in priority order from most to least desirable):

1. Along public roadway and (if they exist) clustered with other dwellings;
2. Along boundary lines, natural boundaries, or the edge of tillable land, and clustered with other dwellings (if they exist);
3. Clustered with farmstead dwellings and buildings
4. Other

Foundation staff recommends approval as it conforms to the Foundation's Lot Location Policy.

Sibbald Hereth and her son Edward Hereth, and Joy Levy, Program Administrator, were available at the meeting to answer questions from the Board.

Motion #8: To approve the request of Idiot's Delight, Inc., for a child's lot on easement property.

Motion: Doug Wilson
Status: Approved

Second: Jerry Klasmeier

Ms. Forrester suggested amending the motion to require the Corporation to submit the necessary documentation. The Corporation officers should submit the documentation to the Foundation and the Corporation should agree that the child's lot can be given to this particular child.

Motion #8a: To approve the request of Idiot's Delight, Inc., for a child's lot on easement property subject to submission of necessary documentation by the Corporation officers.

Motion: Doug Wilson Second: Jerry Klasmeier
Status: **Approved**

Mr. Colhoun commented that it would help the Board to know if the Corporation has planned a sequence of child's lot requests. Mr. Colhoun believed it would be important to know otherwise the Foundation may end up with a blank lot that has not been built.

Mr. Doug Wilson commented that sometimes the Foundation has three people along the road and the owners will build two houses on the side and in the middle there is a big gap. The Foundation is trying to avoid such scenarios and would prefer if the lots are built in a sequence so that most of the properties will be contiguous and the rest of the farm property is not impeded by these changes.

Ms. Sibbald Hereth commented that the plan is to have one driveway and have four or five lots.

Bill Amoss, Program Administrator, Harford County, commented that when the family entered the program, they would have indicated the owners to the Corporation. When the lots are being requested are they being requested for owners or for children?

Ms. Council stated that the Foundation looks beyond the corporation to ascertain the ownership structure. For the purpose of lots, in the current request, Ms. Hereth is the owner of the lot and her children are entitled to child's lots, though they are also owners of the corporation.

Mr. Amoss thanked Ms. Council for her clarification.

3.	13-79-03B	Idiot's Delight II, Inc. Request for an owner's lot on easement property	195.55 acres
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Idiot's Delight Corporation II is the original grantor of the easement. The Corporation consisted of Sibbald Hereth and her seven children. The current request is for the exclusion of a 1-acre owner's lot from the easement for the purpose of constructing a dwelling for the personal use of Sibbald Hereth.

The following background on the property is taken from a January 8, 2007 memo by Joy Levy:

Walter and Sibbald Hereth acquired the subject property in 1965, along with another farm on the north side of Florence Road. The sum total of the land they acquired was approximately 194 acres. In December of 1974, the Hereths transferred the subject property to Idiot's Delight, Inc., and the other farm to Idiot's Delight Corporation II, both family-owned corporations. In October of 1981, the two corporations entered into an easement agreement with MALPF. Although there were two separate properties in separate ownership, **only one** easement agreement was done. In later years, presumably for ease of administration, **each** property was given an individual suffix in its file number; therefore, Idiot's Delight, Inc. became known as 13-79-03 Ace and Idiot's Delight Corporation II became known as 13-79-

03Bce.

There were two other unusual aspects to the deed of easement. First, the three pre-existing dwellings (one on Idiot's Delight Corporation II and two on Idiot's Delight, Inc) were specifically excluded from the terms of the easement through save and except language. Second, the typical boilerplate language regarding child lot rights was omitted, presumably due to the policy at the time that corporations can't have children. There is ample documentation in the file to suggest that the Hereths fought to preserve the right for lots for the five of their eight children who were not already living on the farm. The MALPF Board and the Office of the Attorney General apparently insisted that the policy be adhered to, and the Hereths finally agreed to strike the language from the deed of easement, rather than lose the opportunity to sell an easement to MALPF.

Sometime during the following 15 years, MALPF adopted the policy of "looking beyond the corporate veil" regarding child lot rights in situations like this where the corporation is completely comprised of family members who are actively engaged in the operation of the farm. On November 26, 1996, the MALPF Board of Trustees approved a child lot for daughter Mary Hereth Jones. The lot for Mary was never released from the easement or subdivided from the farm.

In April of 2004, Idiot's Delight, Inc. and Idiot's Delight Corporation II subdivided the three pre-existing dwellings from the farm. Since they were never encumbered by the terms of the easement, the lots did not have to be released. Daughter Mary and son Edward now own two of the three lots. Grandson Mark owns the third.

On February 27th, 2007 Sibbald Hereth requested a lot for her daughter Ellen. This lot has not yet been released. There have been no other lot requests. The location of the current request, an owner's lot, is consistent with the location shown on a Future Plan which was reviewed by the Foundation at its meeting on February 27, 2007.

According to Howard County, the proposed owner's lot is to be located directly on Florence Road. The request was approved by the local agricultural advisory board subject to obtaining county and state permits and approvals.

If the request is approved, there will be no payback as the deed of easement pre-dates the requirement for reimbursement of owner's and children's lots.

In conforming to the Foundation's Lot Location Policy, the physical location of the lot should be (in priority order from most to least desirable):

1. Along public roadway and (if they exist) clustered with other dwellings;
2. Along boundary lines, natural boundaries, or the edge of tillable land, and clustered with other dwellings (if they exist);
3. Clustered with farmstead dwellings and buildings
4. Other

Foundation staff recommends approval as it conforms to the Foundation's Lot Location Policy.

Sibbald Hereth and her son Edward Hereth, and Joy Levy, Program Administrator, were available at the meeting to answer questions from the Board.

Motion #9: To approve the request of Idiot's Delight, Inc., for an owner's lot on easement property subject to receiving documentation from the Corporation on its approval of the transaction.

Motion: Doug Wilson
Status: **Approved**

Second: Jerry Klasmeier

F. BALTIMORE COUNTY

1. 03-08-04 Land Preservation Trust 228.494 acres
Re-review of easement application

At last month's Board meeting, this easement application was approved subject to withholding two parcels totaling approximately 60 acres (10 acres and 50 acres) and subject to local advisory board approval. This configuration was not the same as the original application, but agreed upon by Land Preservation Trust representative, Ned Halle, at the meeting.

However, after full consideration of the Foundation's approval of 60-acre exclusion, the Land Preservation Trust, with the support of the County Administrator, requests the Foundation reconsider its decision and consider approving the original proposal of 10-acre exclusion.

The Land Preservation Trust understands that the property will only receive an offer if it receives a sufficient rank and is found to be consistent with the Equestrian Uses policy.

A proposal has been submitted to the County Development Board for the reallocation of 2 development rights onto the proposed easement acreage. This proposal was reviewed on October 22, 2007, and the decision will be reported at the Foundation's meeting. Without the transfer, the property would not have any density.

Staff recommends approval of the 2008 easement application.

Charles Fenwick, Jr., Rob Hoffman, Representatives for Land Preservation Trust/Shawan Downs, and Wally Lippincott, Program Administrator, were present at the meeting to answer questions from the Board.

Diane Chasse, MALPF staff, clarified that in the staff memo she had indicated transfer of 2 development rights, but in actuality it is a reallocation. A minor subdivision had been approved.

Mr. Lippincott stated that the farm is 238 acres and is located in Worthington Valley. Mr. Lippincott passed out the aerial maps indicating the location of the farm. The Worthington Valley is the heart of the equine farm community in Baltimore County. The Shawan Downs anchors the Worthington Valley on the east side. It is a very important anchor in the context of County's agricultural standards. It is a very important property strategically for equine uses and the preservation work in Worthington Valley. West of the property the County has MD Hunt Cup, MD Stallion Station and the Sagamore Farm. Sagamore Farm has been a part of the easement program since 1989.

Throughout the year, with the exception of event days, Shawan Downs is dedicated to farming. It has 45 acres of tillable land, 123 acres of pasture, 60 acres of woodland, and 10 acres of farm buildings. The Land Preservation Trust is asking for an exclusion of only 10 acres. The soils of the property are not only among the most productive in the County but are also among the most productive soils in the State. The Horse Industry in the Baltimore County is the largest agricultural sector and there is a considerable trickle down effect on other types of farm operations in the County. It is a very important component that helps maintain agriculture in the Baltimore County. For all these reasons, the Baltimore County Agricultural Land Preservation Advisory Board ranked this farm as number 1 out of the 3000 acres easements properties that applied.

Mr. Lippincott was told that the State is concerned that the transfer of development rights to the properties may create a precedent. Mr. Lippincott emphasized that the Baltimore County does not have transfer of development rights program and the TDR program was never established. The RC 2 zoning is complicated zoning and is created for agricultural preservation. There is one subdivision per 50 acres and that subdivision will be small as if creating a one acre lot or a 10-acre lot depending on the discretion of the landowner. The landowner has a certain number of rights based upon the size of the property under the zoning. The County reviews how the landowner uses his rights. Whether the landowner wishes to sell rights for subdivision or to sell an easement, Baltimore County reviews that. Mr. Lippincott stated that he makes sure the proposed outcome is in compliance with the County Zoning. In the current request the County has taken extra precautions at the suggestion of the MALPF staff. The County is going to document and verify the development rights, and, therefore, there should be no concerns on this issue.

Charles Fenwick stated that the Land Preservation Trust bought the property ten years earlier when it had six development rights. Around five or six years ago the Land Preservation Trust sold 50 acres to Mr. Kennedy. At that point, Mr. Kennedy had five development rights and the Land Preservation Trust had one. Last summer, Mr. Kennedy asked about reallocating rights back to the Land Preservation Trust part of the property.

Rob Hoffman stated that in 1995 he participated in a special hearing before the zoning commissioner to confirm how many development rights were available, not only on this property, but also on the additional 385 acres located on the west side of the property. Through that special hearing Mr. Hoffman confirmed the number of development rights available on the property. Subsequently a minor subdivision plan will show the areas. On the minor subdivision plan created, it is indicated that there are six lots permitted on the total acreage. It does not say where on the total acreage, but the lots are permitted. Baltimore County through zoning is not particular about the location of the unit as long as it is within the boundaries of the property marked for subdivision.

Mr. Hoffman agreed with Mr. Lippincott's plan and read from the 1995 case which stated that, "as it is well settled the estate and title of the property as on November 25, 1979 establishes the amount of subdivision which is permitted for any RC zoning tract." So the boundaries of the property on November 25, 1979, have to be determined and that gives the number of development units that are available. Beyond that, it is up to the private property owners within that ownership area to determine what density is allocated to which one of the lots, and that's how the allocation occurs.

Mr. Hoffman stated that within the area that is contained in the minor subdivision plan, the reallocation would normally be shown on the minor subdivision plan. In response to the concerns expressed, and keeping in mind the abundant caution desired, they met the County Development Review Committee and determined whether revisions to this particular plan will be considered. The next steps would be to take the plan and put a new date on it for approval by the Baltimore County. It goes back to the Permits and Development and they will re-execute the plan showing the allocation of the development rights.

Mr. Kennedy's acceptance of the reallocation of development rights would be reflected on the minor subdivision plan and also would be reflected in a new deed. The County permits this.

Mr. Tassone stated that after talking to a couple of Board members after the last month's Board meeting, he became concerned with the possible precedent. He remembered the concerns expressed by Tammy Buckle, Program Administrator, Caroline County, at the end of the last month's Board meeting. Mr. Tassone wanted to have Ms. Buckle's opinion about the possible implications of the current request.

Ms. Buckle stated that she was concerned after the last month's discussion about transferring development rights back to the property so that it will qualify for the MALPF Program. But hearing today's discussion Ms. Buckle concluded that she understood that the development rights are actually from the original tracts and it is just going to be a juggling of the original development rights that were on the entire original tract. Ms. Buckle stated that after hearing the discussions, she personally did not have any objection.

Mrs. Schultz wanted to know how many development rights were transferred back to this property.

Mr. Lippincott stated that two development rights are being allocated back to the property. The easement cannot be sold if it does not have development rights.

Mr. Fenwick stated that the Land Preservation Trust bought the property ten years earlier. The Trust wanted to preserve that piece of property and wanted to extinguish the development rights but they could not give them away. When the property was subdivided the Trust added some of its rights to get some compensation. When this came up and Mr. Lippincott presented the facts, the Land Preservation Trust wanted to extinguish the development rights. This looked the best way to accomplish that.

Mr. Tassone asked if Mr. Kennedy would like to use the rest of the development rights. Mr. Fenwick stated that Mr. Kennedy wants to get rid of the development rights.

Mr. Tassone commented that when the 60 acres was subdivided and given to Mr. Kennedy, the property as a whole before the subdivision had six development rights. Mr. Kennedy got five of them on the 60 acres. Mr. Kennedy used one for a dwelling on the property and has four remaining development rights. So if Mr. Kennedy gives two back to Shawan Downs he will have two development rights remaining and he somehow wants to get rid of them, though, not by building.

Mr. Doug Wilson wanted to know if Mr. Kennedy can exercise four development rights on his property. He wanted to make sure there is something to give before asking the State or the County to accept the easement.

Ms. Forrester stated that both the properties are covered by Forest Conservation easement. Those easements prohibit farming and parking of vehicles for public events. She was concerned that, given the fact that the Kennedy property is covered by much of a forest conservation easement, could he actually find the place to exercise his four development rights?

Mr. Hoffman stated that he has Mr. Kennedy's forest conservation easement plan. Looking at the plan there seems to be enough acres available for both the uses mentioned. There is a forest conservation easement on the site plan.

Ms. Forrester stated that there are 33 acres on one, 34.9 acres on the second and 35.5 and she is aware of the configuration.

Mr. Lippincott stated that there could not be any parking in the woods; parking will be only on the fields. The rest of the areas would be used for hay production. The Forest Conservation easements allow RC harvesting in accordance with their management plan and has the approval of the Baltimore County. Mr. Lippincott stated that forest buffer easements do not permit harvesting immediately adjacent to the stream.

Mr. Lippincott stated that 4 or 5 acres on Cuba Road are outside the forest conservation easement. Right outside Mr. Kennedy's house there are two developable locations. Given the soils and perc ability Mr. Lippincott did not see any issue.

Mr. Colhoun asked the MALPF Board if it would like to make a decision to rescind the exclusion of 50 acres or would like to make any other comments.

Mr. Tassone stated that whether or not the racetrack should be excluded is dependent on the outcome of the Equine Committee's discussions. The decision has to be consistent with the Committee's broader recommendations.

Mr. Colhoun stated that Howard Freedlander, Chair, Equine Committee, is not available at the meeting, and the Committee may possibly be submitting its report during November Board meeting for discussion. Depending upon that discussion or future changes, the Committee may submit its report for approval or further amendments in December 2007 or January 2008. Mr. Colhoun also wanted the Board to keep in mind that, given the request for 10 acres withheld in the middle of the farm, is that something the MALPF Board would like to look down the road? This could also set a precedent for future requests for excluded acreage.

Mr. Tassone stated that he is aware that the MALPF Board has allowed excluded acreage in the middle of the farm, but it seemed to be a questionable practice. The 10 acres is subject to constraints of the Baltimore County's RC 2 zoning and is owned by Shawan Downs which is not going to let anybody do something that is incompatible with the uses of the property. Mr. Tassone was concerned about the possibility of the owner selling it separately.

Mr. Doug Wilson wanted to know what is on the 10 acres area.

Mr. Fenwick stated that there are three rectangular milking barns. One of the barns is historic and an older barn. There are four structures that were used as milking parlors.

Mr. Doug Wilson recommended rescinding the previous exclusion of 50 acres around the racetrack. The MALPF Board had already approved the 10-acre exclusion. Mr. Doug Wilson considered the racetrack use to be short term.

Mr. Tassone stated that Mr. Freedlander spoke to him a day before the Board meeting. Mr. Freedlander expressed his concerns and stated that he was not sure how the request would come out relative to the Committee's conclusions. Mr. Freedlander did mention that the number of events may be six.

Mr. Fenwick stated that certainly there won't be six events this year but that may be a possibility in the future.

Mr. Tassone stated that Mr. Freedlander felt that even though events take place only on the racetrack, the implication is that the rest of the property is affected by the events.

Mr. Lippincott stated that, as indicated earlier, Land Preservation Trust understands that if the Foundation decides that the uses are not permitted under the MALPF easements, it would have to decide whether it wants to discontinue the uses and continue with the easement sale. Second that is exactly the configuration the MALPF Board approved when the request came in last year. It was decided that the request would move forward and, if the Uses Committee's report came in differently, the Land Preservation Trust would have to make a decision at that time.

Mr. Doug Wilson wanted to know how this change will affect the appraisals. The property is currently under the process of being appraised.

Ms. Forrester stated that currently the farm does not have any development rights. Ms. Forrester wanted to know if Department of General Services has been instructed about the

development rights. Further, Ms. Forrester pointed out that the Foundation cannot change its policy in the middle of the easement cycle.

Ms. Forrester commented that as of July 1, 2007, the date of the appraisal under statute, there were no development rights on the property. The appraisers have to be informed about the development rights.

Ms. Buckle stated that she believed the MALPF Board would face lot of issues like the current one. Earlier the MALPF Board reviewed all such issues when the property entered the program as a district. These things now have to be worked out before the deadline.

Mr. Doug Wilson agreed and stated the Foundation has to think about the process without the requirement of a district. 90% of the issues would have been resolved when the Foundation evaluated the district application. There has to be some modifications or changes in the way the easement applications are evaluated for the program.

Ms. Forrester pointed out that the district agreement on the property was recorded improperly. The district agreement was never signed by the MALPF Board and was not completed. It was incorrectly recorded by the Baltimore County. Ms. Forrester was concerned about the State tax benefit or the County tax benefit associated with this agreement.

Ms. Chasse agreed and stated that the district agreement should not have been recorded because the Equine Committee's report was not yet ready. Mr. Lippincott stated that one has to apply for the County tax credit to receive the tax benefit and Land Preservation Trust has not applied.

Motion #10: To rescind the previous exclusion of 50 acres around the racetrack.

Motion:	Doug Wilson	Second:	Joe Tassone
Opposed:	Vera Mae Schultz		
Status:	Approved		

2. 03-83-14c Bellevale Farm, Inc. (Prigel) 180 acres
Request to allow a creamery operation, processing facility and farm store on an easement property

Mr. Robert Prigel, of Bellevale Farm, Inc., is the original owner of the easement property. The current request is to allow a creamery operation, processing facility and farm store on an easement property. There is one pre-existing dwelling on the farm.

According to Baltimore County, Mr. Prigel would like to construct a 7,000 to 10,000 square foot building to house the creamery operation, processing facility and a farm store. As well, he is requesting a parking area that would accommodate fewer than 10 vehicles. The parking area is proposed to be located on Long Green Road with the creamery directly behind it. A short distance of access on an existing farm lane may be needed.

The request was approved by the local advisory board. Mr. Prigel would be required to obtain a special exception because county regulations do not allow the proposed activity in the area where the farm is located.

According to the Uses Table which was approved by the Board the following are the considerations for review:

- Must not interfere with other agricultural or silvicultural operations.
- Must not limit future agricultural or silvicultural production.
- Easement or district owner must have an ownership interest in the operation.

Some of the products must come from animals raised or crops grown on site; the remainder from animals or crops indigenous to Maryland.

Facility and parking area must cover no more than 2% (two percent) of the easement/district, or two acres, whichever is smaller.

Parking area must be pervious.

Accessory sales area must not exceed 600 sq. ft.

Foundation staff recommends approval of the request subject to the parking lot being pervious.

Robert Prigel and Carmela Iacovelli, Natural Resource Specialist, were present at the meeting. Mr. Prigel handed out aerial maps of his property.

Mr. Colhoun stated that he had visited the farm and believed the aerial map being circulated by Mr. Prigel accurately depicts the building and how it is going to be located on the property. The building is rectangular and is going to be parallel to the farm configuration.

Ms. Iacovelli stated that there were some concerns about the nature of the parking lot. The County Zoning requires a dust-less and durable parking surface. Ms. Iacovelli spoke to the staff at the County Zoning and they said that the owners could put in hard surface. The only downside of the requirement is that it could be expensive because it is a block with grass in the center which is pervious.

Mr. Prigel stated that his family has been dairy farming in Maryland for generations, and he is the fourth generation dairy farmer in Baltimore County. His family's future generation is also interested in farming. Currently Baltimore County has around eight or nine dairy farms remaining; dairy farming in Maryland has declined over the past twenty five years. People have to compete with farms in Russia, India and worldwide. Mr. Prigel has a comparatively small farm and stated that it is very difficult for small family dairy farms to compete with large corporate dairies. The farm is undergoing transition to become organic, and their desire is to construct a processing facility to process milk.

Mrs. Schultz pointed out that one of the Uses Committee's recommendations is that the parking area must cover no more than 2% (two percent) of the easement/district, or two acres, whichever is smaller. Mrs. Schultz wanted to know if Mr. Prigel has considered this requirement.

Mr. Prigel stated that his facility is not more than 10,000 square foot and the parking lot is very small.

Motion #11: To approve the request of Bellevale Farm, Inc., to allow a creamery operation, processing facility and farm store on an easement property subject to the parking lot being pervious.

[illegible]

Mr. Doug Wilson commented that there would be a problem if, during the easement inspections, it is discovered that the parking area is of impervious surface. The parking lot being pervious is the Foundation's requirement. Baltimore County would have to plan and have someone from the Health Department visit the property and help the client.

Mr. Amoss pointed out that the County may also have some provisions for impervious surfaces to meet the handicap requirements.

Mr. Lippincott stated that the County is trying to make the whole parking area totally

pervious, but it is little challenging. The State has developed many rules to utilize more and more pervious parking and sometimes it might put additional burdens on the farm users. Baltimore County will work it out.

Mr. Doug Wilson stated that he felt the other way. Mr. Doug Wilson believed the State and other institutions are putting the onus on local government, the people who design the parking lot, the handicap associations, etc, to be more respectful of the pervious surfaces. They would have to give more latitude on what will be allowed.

Mr. Lippincott stated that the problem is actually getting them to work. The County continues to work on the issue over time, but the issues continues to be an engineering challenge.

Mr. Colhoun commented that the discussions have been very useful and stated that Mr. Prigel's parking lot is very small compared to others.

F. SOMERSET COUNTY

1.	19-08-09	Gerard and Donna Dumsha	257.22 acres
		Re-review of easement application	

At the August 28, 2007 Board meeting, this easement application was approved with the withholding of 9 acres of barrow pits. However, since then, it has been determined that a portion of the property lies within a water and sewer district, and, therefore, additional review is necessary.

According to Somerset County, approximately 24 acres or 9 % of the property lies within the planned water and sewer district. On October 2, 2007, the County Commissioners approved the easement application with the inclusion of these acres. The County administrator reports that sewer and water may still be extended past the proposed easement by keeping it within the right-of-way of the road.

Staff recommends approval based on meeting minimum size and soils criteria. Normally, land located in the planned water and sewer area is not eligible for the program. However, § 2-509 (d) (4) provides an exception if the land "is outstanding in productivity and is of significant size." Staff recommends that the Foundation approve the exception because: 1) the property is relatively large for the county; 2) the soils are excellent quality (100% prime); and 3) the majority of the property lies outside the water and sewer area. It would not serve the interests of the program to require the landowner to exclude the area of the property from the easement. A letter from the Soil Conservation District was attached with the agenda memo.

Tom Lawton, Program Administrator, was available at the meeting. The County's water and sewer plans are fairly general and do not have a specific measurement to give the landowner. The County Zoning is R2 and that is 600 feet from the road. It is the policy of the County that service will be extended in the right-of-way and not across the property.

Mr. Colhoun had stepped out of the meeting at 11:10 am and returned at 11:15 am. Mrs. Vera Mae Schultz, Vice Chair, chaired the meeting in his absence.

Motion #12: To approve the re-review of Gerard and Donna Dumsha's easement application.

Motion: Doug Wilson
Status: Approved

Second: James Pelura

IV. PROGRAM POLICY

A. Forest Mitigation Report – an informational item

Mrs. Schultz, Chair, Forest Mitigation Committee, presented the draft recommendations and urged Board members and Program Administrators to comment on the draft. The Committee had received the comments from Carroll County and had forwarded it to Board members and Program Administrators.

At several recent Board meetings, forest mitigation was an issue, and the Committee was appointed to look at it and prepare a policy.

Forming the proposed policy were committee members Adam Block (Maryland Environmental Trust), Diane Chasse (MALPF staff), Marion Honeczky (Department of Natural Resources, Forest Service), Charles Rice (Program Administrator, Charles County), Carl Robinette (Soil Conservation District, Allegany County), Joe Tassone (Maryland Department of Planning), Dan Van Hassent (Department of Natural Resources, Forest Service) and John Zawitoski (Program Administrator, Montgomery County). Input was also received from Vince Berg (Forestry and Conservation, Inc.); Royden Powell (MDA Resource Conservation); Dan Colhoun, Jim Conrad, Carol Council, and Elizabeth Weaver. Mrs. Schultz thanked all the members of the Committee for their inputs.

Mrs. Schultz acknowledged that currently not all the counties allow forest mitigation on easement properties. Also Allegany and Garrett County are exempt from the Forest Conservation Act, because they already have 250,000 forested acres in their counties.

OVERVIEW

When land is developed in Maryland, the Forest Conservation Act of 1991 requires retention, reforestation, or afforestation of specified amounts of forested land onsite or, if necessary, offsite. As more land is developed throughout the state, there are increasing requests to mitigate forestland away from development sites. The Maryland Agricultural Land Preservation Foundation (MALPF) is beginning to receive requests from easement landowners for forest mitigation on their farms for off-site development.

The Foundation's mission is to preserve productive farmland and woodland

- 1) for the continued production of food and fiber for all of Maryland's citizens;
- 2) to curb the expansion of random urban development;
- 3) to help curb the spread of urban blight and deterioration;
- 4) to help protect agricultural and forest land as open space;
- 5) to protect wildlife habitat; and
- 6) to enhance the environmental quality of the Chesapeake Bay and its tributaries.

It is recognized that forest mitigation on land under MALPF easements has benefits. It can be a best management practice (BMP) under a Soil Conservation and Water Quality Plan to insure that sensitive areas or land unsuitable for field crops are not compromised or degraded. It can assure that the forest resource will remain forever for fiber production and for natural resource benefits, such as air quality, water quality, and wildlife habitat. It may provide income for the landowner that can help fund good stewardship of land and water resources and be an added incentive to enter the MALPF program.

At the same time, forest mitigation on land under MALPF easements may compromise or undermine the Foundation's goals by facilitating more, rather than less, development. It restricts the land to forestry in perpetuity, reducing the current and future landowners' flexibility in use of the land. It limits the opportunity to preserve other land that does not

have a conservation easement. It may provide a pool of land for developers needing to mitigate. It may be viewed as double dipping, if the landowner is compensated for the mitigation after he/she has received compensation for the MALPF easement. Mitigating on existing forest land rather than on non-forested land does not advance Maryland's goal of "no net loss of forestland" in protecting the Chesapeake Bay watershed.

The policies on forest mitigation under "sister" programs were noted. The Maryland Environmental Trust (MET) has language in its easements that states, "Grantor further agrees that the Property shall not be used to provide required open space for the development or subdivision of another property, nor shall it be used in determining any other permissible residential, commercial or agricultural uses of another property." However, MET recently has given conceptual approval to a forest mitigation banking proposal in conjunction with a conservation easement on a property in Frederick County. It appears that MET is at least willing to consider these proposals on a case-by-case basis. The Rural Legacy Program does not support forest conservation overlay easements that are intended to serve as mitigation. It is the belief of the Program that this would result in less overall forest conservation because already protected properties would be used for mitigation, as opposed to land that is unencumbered and still developable.

Mr. Doug Wilson wanted to know if MET restricts forest mitigation more than MALPF? He wanted more clarification.

Ms. Chasse clarified that MET earlier did allow forest mitigation, but then discontinued it, and then recently approved one property for mitigation.

Mr. Doug Wilson asked Pam Bush, Department of Natural Resources, for her comments on the position taken by Rural Legacy.

Ms. Bush stated that Rural Legacy does not allow it. Local policy in Department of Natural Resources is not to allow forest mitigation.

Ms. Chasse believed she was informed by Shaun Fenlon, Department of Natural Resources, that some counties allow it and some don't. Mrs. Schultz stated that she will get the clarification.

Mr. Doug Wilson stated that the MALPF Board has discussed in detail about allowing forest mitigation. The Foundation buys development rights, but doesn't restrict the landowners' ability to utilize the property. This brings up series of issues. It is not necessary that the Foundation's policy has to be the same as its sister programs, but when there are differences, the Foundation should be able to clearly articulate why the Foundation allows something that is not allowed in its sister programs. Mr. Doug Wilson personally believed there should be a discussion with Department of Natural Resources before the MALPF Board approves the policy.

Mr. Colhoun agreed and asked Ms. Chasse if she was aware what was the fundamental reason for the change in MET's approach.

Ms. Chasse stated that the landowner with large property approached MET and conveyed that he will donate an easement on his property but wanted MET to support mitigation on the wooded part. It was hard for MET to turn down the request.

It is acknowledged that some jurisdictions in the state do not allow forest conservation easements on land that already is under a preservation easement. Therefore, the following recommendations apply to land in those jurisdictions that allow forest conservation easement overlays on land under a preservation easement.

RECOMMENDATIONS:

POLICY AND PROCEDURES

Considering the above benefits and disadvantages, it is recommended that the Foundation limit forest mitigation on MALPF easements and districts, but consider mitigation proposals from landowners on a case-by-case basis. The following procedures are designed to ensure that, when forest mitigation is allowed, it will be a legitimate means to practice good stewardship that complements the Foundation's interest in farm and forest production and will facilitate development that supports and does not compromise the Foundation's goals.

LAND ELIGIBLE FOR FOREST MITIGATION

For land under a MALPF easement to be eligible for consideration for forest mitigation, it must be other than Class I, II, or III unless mitigation on that land will serve a resource conservation purpose as part of a Soil and Water Quality Plan prepared by the Soil Conservation District.

RESOURCE CONSERVATION

A forest mitigation proposal must serve a legitimate resource conservation purpose under a Soil Conservation and Water Quality Plan. To that end, Foundation staff, in coordination with the Soil Conservation District, will verify each of the following:

The proposed mitigation must

- contribute substantially to good land and environmental resource stewardship on the farm;
- be an appropriate best management practice (BMP) to achieve the resource conservation objectives for the farm, based on NRCS standards and estimates;
- be included in the Soil Conservation and Water Quality Management Plan and a Forest Stewardship Plan for the farm; and
- permit sustainable forest stewardship practices, including prescribed harvests.

The Maryland Department of Agriculture's Resource Conservation Operations (MDA-RCO) unit will be given the opportunity to review Soil Conservation District findings on these matters, advise the Foundation if it agrees with them or not, and if not, explain why.

COUNTY AGRICULTURAL ADVISORY BOARD RECOMMENDATION

The county agricultural land preservation advisory board must review a forest mitigation proposal and make a recommendation to the MALPF's Board of Trustees before a proposal will be considered by the Board. The county advisory board members should consider the factors established in this policy and procedure statement and should convey to the Foundation the basis for their recommendation.

DEVELOPMENT ACTIVITY AND ITS IMPLICATIONS FOR THE FOUNDATION'S GOALS

The development project(s) facilitated by a forest mitigation proposal must pass several screening tests.

- The local government (program administrator or responsible party, at the discretion of the county) must identify in writing the type of development activity for which mitigation is required, inform the Foundation if the development activity is subject to

the county's approval and, if it is, verify that the county either has approved the project or believes that the development project is consistent with the plans, ordinances, and regulations governing its approval.

- The Maryland Department of Planning (MDP) must provide a written opinion stating that the development project is in a Priority Funding Area recognized by the State, is consistent with the local comprehensive plan and State Planning Policy, and is not likely to encourage or support substantial further development in areas the Foundation is attempting to preserve.

BOARD ACTION

When it has received a recommendation from the Foundation staff, based on information from the county, the Natural Resources Conservation Service, the Maryland Department of Planning, and MDA's Resource Conservation Operations, the Board will determine if the mitigation is appropriate for the easement land and if the development project facilitated by the proposed mitigation is compatible with the Foundation's goals and objectives. The Board will consider:

- The restrictions that would be imposed on the current and future production options for the land;
- The potential effects of the forest mitigation on the ability of subsequent owners of the land to conduct profitable activities on the land, compatible with the Foundation's easement; and
- Whatever other considerations it finds appropriate and necessary to determine the proposal's compatibility with the Foundation's goals and objectives.

If the request is for forest mitigation banking, the Board will act on the concept after considering the criteria recommended herein and the county's forest conservation policies. If the mitigation banking request is approved by the Board, installment withdrawals from the mitigation bank can be approved by the MALPF staff and will not require additional Board approval.

ADDITIONAL CONSIDERATIONS

Unless it determines that the State's interest in the land is somehow compromised by the doing so, if the Board approves a forest mitigation proposal or forest mitigation bank proposal, it will

- not concern itself with mitigation payments from the developer to the landowner; and
- maintain the superior position of the Foundation's easement on the mitigation acreage, making appropriate adjustments in the forest conservation easement.

Mr. Doug Wilson stated that the Foundation has always permitted forest conservation easements as long as the forest remains harvestable. When the forested area is along a stream bed, the Foundation will allow non-harvesting (as long as it tie into the best management practice development plan). Landowners will be told not to farm that property; it is too close to the stream, too much slope, etc.

Mrs. Schultz concluded the presentation and noted that this month's presentation has been only informational, and the MALPF Board does not have to vote this month.

Ms. Forrester was concerned about the perpetual nature of the forest mitigation easements, especially because they could affect the MALPF Easements that have the right to request termination after 25 years if profitable farming is no longer feasible. Ms.

Forrester recommended that the forest mitigation policy should also require the landowner to waive the right to request termination of the MALPF easement.

Mr. Colhoun and Mr. Doug Wilson agreed with the suggestion. Mr. Doug Wilson added that the Foundation has always talked about the management decision of the current landowner, but the Foundation recognizes that, when it limits future options, such decisions have longer-term impacts. A waiver of the termination clause can be done by amending the easement.

Mr. Tassone stated that, by the same token, he does not want the waiver of the termination clause to distract the Board's attention from its own evaluation. In the draft policy outlined, two of the Board's considerations would be looking at the restrictions that the forest conservation easement will impose on current and future production options and the potential effects on the ability of subsequent owners to conduct profitable activity.

Mr. Doug Wilson suggested the Committee may consider the idea of waiving the 25-year clause given the size of forest mitigation being requested. If the landowner has 300-acre farm, 3 or 4 acres under forest conservation easements may be okay. He was not sure if the Foundation should force the farmer to waive. The Committee may consider a percentage or a number of acres to determine the implications.

Ms. Forrester agreed with Mr. Tassone's comments, because, although the newer MALPF easements do not have the right to request termination, in the future, maybe a '100 years from now, the whole purpose of the MALPF easement could be deemed to have been "frustrated" by the forest mitigation easement, and a court could order the MALPF easement terminated.

Tom Lawton, Program Administrator, Somerset County, stated that most of the County's woodland is going to stay in woodland. If someone approached the County and wanted to mitigate on the existing woodlands, the County would probably say 'No' because it is already protected.

Wally Lippincott, Program Administrator, Baltimore County, stated that the County would probably take the same stand as the MALPF Board. If the MALPF Board approves the forest mitigation, the County would agree because it would be difficult for the County not to do something that the State has decided.

Mr. Colhoun commented that Mr. Lippincott's comments illustrate that the MALPF Board's decision has a rippling effect across the State.

Mr. Doug Wilson commented that the MALPF Board has been working on this policy for 18 months. The Foundation has 23 county program administrators and the MALPF Board heard the response of the two counties. In the absence of other responses, Mr. Doug Wilson is assuming that the other 12 or 15 county program administrators are supporting this policy. Otherwise it makes no sense for the MALPF Board to be talking about the policy if the county administrators don't think it is a good policy. Mr. Doug Wilson was keen to hear from the county program administrators whether their Board supports or disagrees with the policy change.

Veronica Cristo, Program Administrator, Calvert County, commented that Calvert County's program do allow forest conservation on its agricultural districts. What the County does is also to request for "two for one program." If a landowner requires 1 acre of forest conservation and if he is purchasing forest conservation TDRs, the landowner will be required to purchase two instead of one. Calvert County has chosen to allow forest mitigation on already preserved land.

Ms. Bush shared one of the concerns at DNR. Public money has already been spent to extinguish the development rights. In some ways, the developers are getting a free ride in terms of public funds to pay for development rights, and then they can plant the trees and get compensated for planting the trees.

Mr. Doug Wilson stated that is the key point the Committee was wrestling with. Mr. Doug Wilson added that is the reason he wanted a statement of policy to clearly articulate why the Foundation is taking a particular posture.

Mrs. Schultz asked Vince Berg, Forester, Montgomery County, if he had any comments.

Mr. Berg stated that the forested land is not protected under MALPF easements. Mr. Berg is aware of forested properties where the landowner wanted to turn it all into pasture, but it was covered by a Forest Conservation easement. As soon as the farmer found out he could not do what he wanted, he purchased another farm. It is the long term management, long term conservation and long term stewardship interests of this land. That is what forest conservation easements are all about and that is why they are allowed in Montgomery County because they know these lands are not locked up in forests. All the easements handled by Mr. Berg are harvestable. The only things that are not harvestable are the buffers along the streams.

V. INFORMATION AND DISCUSSION

A. Kent County Re-certification

Certification of County Agricultural Land Preservation Programs: Recertification Request from Kent County

Kent County has submitted an application for Certification of a local Agricultural Land Preservation Program and is requesting Foundation approval. Below are some highlights:

- 5,589 acres were preserved during the reporting period (2003-2007).
- Strong, protective zoning in the Agricultural Zoning District where the base density is 1:30.
- The County's Comprehensive Plan emphasizes the preservation of the County's rural character and agricultural resources. Agriculture is considered a permanent and preferred land use, which is reflected in the goals and strategies in the plan and the regulations of the County's Land Use Ordinance.
- The County Ordinance, which became effective in October 2003, reflects a clear strategy that discourages fragmentation. Subdivisions within the Agricultural Zoning District cannot use more than 10% of the parcel for lots; however, subdivisions where all the proposed lots and the remainder are over 100 acres do not count toward the maximum developed percentage.
- The County prohibits uses in the Agricultural Zoning District that could be incompatible with farming, including new churches. The County has expanded uses that support agriculture, such as structures for processing of animals and farm products.
- Kent County has the highest percentage (66%) in the State of total land area dedicated to farms.
- As part of the Eastern Shore 2010 Agreement, the County agrees to guide at least 80% of new growth to designated growth areas.
- The County was successful in reversing an earlier trend of growth in areas designated for agriculture. Recently, more lots are created in areas designated for growth.
- The Comprehensive Plan calls for growth to occur slowly and deliberately at a manageable rate which does not exceed the County's historic growth rate.

- An updated right-to-farm law was adopted in 2004. As part of the new law, a right-to-farm notice is mailed to all county property owners.
- According to the 2002 US Census of Agriculture, the market value of production was \$66.8 million – up 8% from 1997.
- Competition for farmland to rent remains high, and active farmers are purchasing agricultural land.

However, in reviewing the recertification request report, Elizabeth Weaver, MALPF staff has identified one area for concern: the County does not provide significant matching funds for the MALPF program. Kent County is an important agricultural resource area with large contiguous blocks of prime farmland where farmers demonstrate a consistently high demand for farmland preservation. Acquisition costs are considerable lower than the State average. Additional matching funds would provide a significant return on investment for both the County and the State.

Staff acknowledges that, while the County's financial commitment to farmland preservation is not strong, it is clear that the principal reason for the lack of local funding is the low rate of conversion of land from agricultural to non-agricultural use, resulting in a minimal amount of agricultural transfer tax. The County should perhaps consider alternative methods for funding farmland preservation.

The staff's review of Kent County's recertification request, addressing general operations of the program, qualifying expenditures and program development strategies was attached with the agenda memo.

Carla Martin, Program Administrator, and Dan Rosen, Maryland Department of Planning, were available at the meeting.

Foundation staff recommends that Kent County be recertified as the county's local program continues to be successful in supporting viable agricultural operations and preserving agricultural land in perpetuity.

Mr. Rosen stated that the Maryland Department of Planning also recommends recertification. Mr. Rosen passed around two graphs at the meeting that compared the acreage converted to acreage preserved during the certification period. 714 acres were converted and 5,589 acres were preserved; the ratio is 9:1. The other chart showed acreage subject to agricultural land transfer tax. During the 17-year period, the average Maryland County saw 11,483 acres converted and the Kent County's was 1,650 acres. During the certification period, the County passed the Comprehensive Plan in 2006 that contains a number of goals and strategies.

Mr. Rosen was concerned about the designated area for the priority preservation areas. The concentration of easements is spread around the whole County, but conversion rates are still low and easement acquisition rates are still high.

Motion #13: To approve the recertification request of Kent County.

Motion: Doug Wilson
Status: **Approved**

Second: Vera Mae Schultz

Due to paucity of time and a need for quorum, discussions on agenda items IV.B and V.B. were postponed to November Board meeting.

There being no further business, Mr. Colhoun asked for a motion for adjournment of the meeting and a move into a closed Executive Session, pursuant to the provisions of:

MALPF Board Meeting Minutes (10-23-07): Page 28

- 1) State Government Article Section 10-508 (a) (3) to consider an offer to purchase an agricultural land preservation easement,
- 2) Section 10-508 (a)(7) to consult with counsel to obtain legal advice on two legal matters in Garrett County, and one legal matter in Howard County, and
- 3) Section 10-508 (a)(8) to consult with legal counsel about pending litigation concerning an Easement enforcement action (*State of Maryland v. Stitzel, et al., Circuit Court for Washington County*), and a title defense action (*Wood v. Hinderhofer, et al., Circuit Court for Harford County*), and potential litigation in Carroll County and potential litigation in Baltimore County.

Motion #14: To adjourn regular session and move into a closed Executive Session to consider the acquisition of an agricultural land preservation easement and to consult with legal counsel about five legal matters, and pending litigation.

Motion: Doug Wilson Second: Joe Tassone

Vote: 7 in favor
None opposed

Status: **Approved**

The regular session of the Board meeting was adjourned at approximately 11:50 am.

Respectfully Submitted:

Rama Dilip, MALPF Secretary

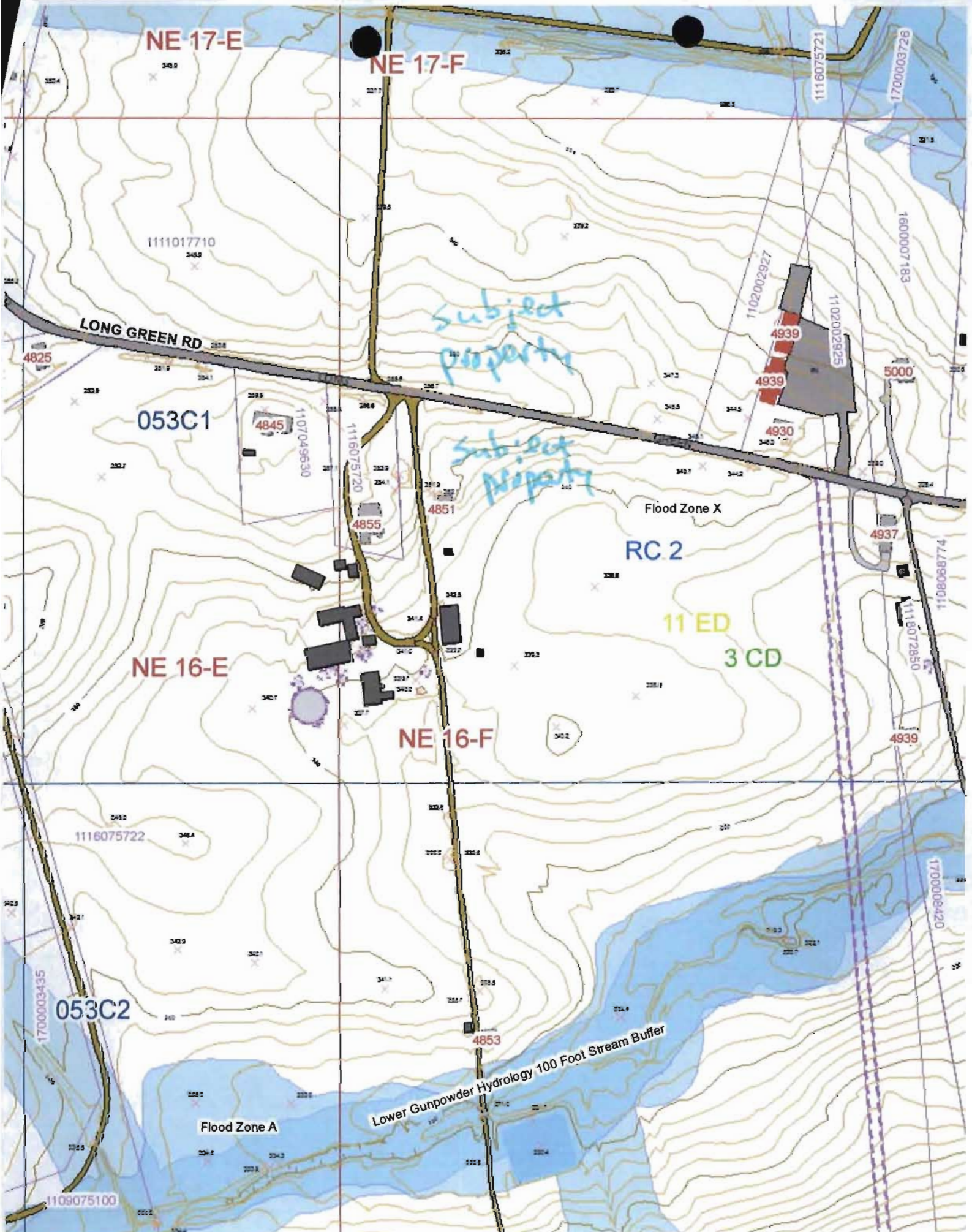
James Conrad, Executive Director

CASE NAME _____
CASE NUMBER 2008-0506-SPH
DATE 2-24-08

[illegible]

CASE NAME _____
CASE NUMBER 2008-0506-SPH
DATE 7-24-08

[illegible]



Case No.: 2008-0506-SPH

Exhibit Sheet

Petitioner/Developer

RESPONDENTS
~~Protestant~~

No. 1	Tapes (2) of min proceeding	Tax Map (MR BLANTON MARKED HIS PROPERTY)
No. 2	(A) Develop. Plan MKIS 3/17/08 (B) Executive Summary (C) Business Plan & FINANCIALS	
No. 3	Schematic Design of Building	
No. 4	(A) emails 2/14/07 & 4/22/08 (B) letter 7/2/08	marked NOT ADMITTED
No. 5	FILE FROM ATTNY GENERAL MALPF	
No. 6	PROPOSED BILL PROPOSED BILL (NOT ADMITTED)	
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

NOT ADMITTED

NOT ADMITTED

RECEIVED

Developing New Markets for Local Organic Dairy Products

by the Prigel Family Creamery of Baltimore County,

Maryland

An Application for the 2008 Value-Added Producer Grant Program

Submitted by:

Prigel Family Creamery
4851 Long Green Road
Glen Arm, Maryland 21057

March 17, 2008

PETITIONER'S

EXHIBIT NO. JA

APPLICATION FOR FEDERAL ASSISTANCE

Version 7/03

1. TYPE OF SUBMISSION: Application ☐ Construction ☒ Non-Construction		2. DATE SUBMITTED 3-17-08		Applicant Identifier	
Pre-application ☐ Construction ☒ Non-Construction		3. DATE RECEIVED BY STATE		State Application Identifier	
		4. DATE RECEIVED BY FEDERAL AGENCY		Federal Identifier	
5. APPLICANT INFORMATION					
Legal Name: Prigel Family Creamery			Organizational Unit: Department:		
Organizational DUNS: 809-880-649			Division:		
Address: Street: 4851 Long Green Road			Name and telephone number of person to be contacted on matters involving this application (give area code) Prefix: Mr. First Name: Robert		
City: Glen Arm			Middle Name: Earl		
County: Baltimore			Last Name: Prigel		
State: Maryland		Zip Code: 21057		Suffix: Jr.	
Country: USA			Email: reprigel@aol.com		
6. EMPLOYER IDENTIFICATION NUMBER (EIN): □□-□□□□□□□□			Phone Number (give area code) 410-592-6014		Fax Number (give area code)
8. TYPE OF APPLICATION: ☒ New ☐ Continuation ☐ Revision If Revision, enter appropriate letter(s) in box(es) (See back of form for description of letters.) Other (specify) □ □			7. TYPE OF APPLICANT: (See back of form for Application Types) (L) Individual Other (specify)		
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: TITLE (Name of Program): 116-332			9. NAME OF FEDERAL AGENCY: USDA		
12. AREAS AFFECTED BY PROJECT (Cities, Counties, States, etc.): Baltimore Metropolitan Area			11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT: Working capital for an on-farm dairy processing facility.		
13. PROPOSED PROJECT Start Date: November 1, 2008 Ending Date: October 31, 2009			14. CONGRESSIONAL DISTRICTS OF: a. Applicant 11th b. Project 11th		
15. ESTIMATED FUNDING:			16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?		
a. Federal \$ 300,000.00			a. Yes. ☐ THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON		
b. Applicant \$ 200,000.00			DATE:		
c. State \$ 100,000.00			b. No. ☒ PROGRAM IS NOT COVERED BY E. O. 12372		
d. Local \$.00			☒ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW		
e. Other \$.00			17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?		
f. Program Income \$.00			☐ Yes If "Yes" attach an explanation. ☒ No		
g. TOTAL \$.00					
18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.					
a. Authorized Representative					
Prefix Mr		First Name Robert		Middle Name Earl	
Last Name Prigel				Suffix Jr.	
b. Title President				c. Telephone Number (give area code) 410-592-6014	
d. Signature of Authorized Representative [Signature]				e. Date Signed 3/17/08	

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Standard Form 424 (Rev.9-2003)
Prescribed by OMB Circular A-102

BUDGET INFORMATION - Non-Construction Programs

Section A - Budget Summary

	Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated funds		New or Revised Budget		
			Federal ©	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1	USDA Rural Development	10.352	\$ -	\$ -	\$ 300,000	\$ 300,000	\$ 600,000
2							\$ -
3							\$ -
4							\$ -
5	Totals		\$ -	\$ -	\$ 300,000	\$ 300,000	\$ 600,000

Section B - Budget Categories

6. Object Class Categories	Grant Program, Function or Activity				Total
	USDA Rural Development				
a. Personnel	\$ 317,200				\$ 317,200
b. Fringe Benefits	\$ 73,100				\$ 73,100
c. Travel	\$ 9,200				\$ 9,200
d. Equipment	\$ 54,400				\$ 54,400
e. Supplies	\$ 33,800				\$ 33,800
f. Contractual	\$ 28,500				\$ 28,500
g. Construction	\$ -				\$ -
h. Other	\$ 598,400				\$ 598,400
i. Total Direct Charges	\$ 1,114,600	\$ -	\$ -	\$ -	\$ 1,114,600
j. Indirect Charges	\$ -				\$ -
k. TOTALS	\$ 1,114,600	\$ -	\$ -	\$ -	\$ 1,114,600
7. Program Income	\$ 1,340,200	\$ -	\$ -	\$ -	\$ 1,340,200

Section C - NON-FEDERAL RESOURCES

	Grant Program	Applicant	State	Other Sources	Totals
8	USDA Rural Development VAPG	\$ 200,000	\$ 100,000	\$ -	\$ 300,000
9					
10					
11					
12	Total	\$ 200,000	\$ 100,000	\$ -	\$ 300,000

Section D - FORECASTED CASH NEEDS

		Total for 1st Year	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr
13	Federal	\$ 300,000	\$ 225,000	\$ 45,000	\$ 30,000	\$ -
14	Non-Federal	\$ 300,000	\$ 225,000	\$ 45,000	\$ 30,000	\$ -
15	Total	\$ 600,000	\$ 450,000	\$ 90,000	\$ 60,000	\$ -

Section E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

Grant Program		FUTURE FUNDING PERIODS (Years)			
		First	Second	Third	Fourth
16	USDA Rural Development VAPG	\$ -	\$ -	\$ -	\$ -
17					
18					
19					
20	Total	\$ -	\$ -	\$ -	\$ -

Section F - OTHER BUDGET INFORMATION

21. Direct Charges:	22. Indirect Charges:
23. Remarks:	

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9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance:
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL

Robert E. Prigel Jr.

TITLE

Owner/producer

APPLICANT ORGANIZATION

Prigel Family Creamery

DATE SUBMITTED

EXECUTIVE SUMMARY

The Prigel Family Creamery, Inc., is a new venture of Bellevale Farms, Inc. We have completed a Business Plan and Feasibility Study to venture into a unique, untapped niche market for local organic pasture-grazed dairy products. As of April 15, 2008, after many years of preparation, Bellevale Farms will be producing certified organic raw milk. With the increased revenue afforded us by the organic commodity, we are building a new processing facility to pasteurize, separate, process and package our raw milk into marketable, organic whole, skim and reduced fat milk, yogurt, butter, ice cream, and cheese. We expect to complete construction of our processing facility by November 30, 2008.

We are requesting a USDA Working Capital Value-Added Producer Grant in the amount of \$300,000. With these funds, the Prigel Family Creamery, Inc. will begin production and market aggressively to maximize of our local retail audience before our target consumers become accustomed to purchasing our products through our wholesale markets. The working capital from this grant will afford us a potentially irretrievable opportunity to capture retail customers while our niche products are new and without competition. The increased revenue that we will realize from securing for ourselves our own retail market will protect our success and opportunity for continued growth.

Working capital funds are necessary for non-construction start up costs. With grant funds, the Prigel Family Creamery will pay operating costs and marketing expenses. We will furnish and outfit an office from which to administer our business, then hire a business management specialist to set up the office operations and train an office manager. We will hire a production manager and processing assistants; begin production; refine our value-added products; hire an advertising specialist to design our logo and labels for our line of Local Organic Pasture-Grazed dairy products. Once we procure packaging, we will begin market production of organic milk, yogurt, butter and ice cream; packaging and selling our new dairy products. We will build inventory; secure strong wholesale outlets; prepare ourselves for delivery of inventory; and aggressively promote our retail products. We will furnish, stock, and open a retail store within our existing processing facility. By November 30, 2009, we will have: captured our market; stabilized production and office administration; and poised ourselves to begin 2010 able to meet our own operating costs with positive cash flow.

ELIGIBILITY DISCUSSION

Applicant Eligibility

Prigel Family Creamery, Inc. is an independent producer of value-added dairy products, providing a marketing and retail outlet for Bellevale Farms, Inc. It is the retail outlet identical with Bellevale Farms, Inc., an independent producer of raw organic milk.

As of April 15, 2008, after years of preparation, Bellevale Farms will be producing Certified Organic raw milk. A new processing facility which we are building will add value to our raw organic milk by refining it into saleable packaged pasteurized Whole, Skim and Reduced Fat milk, yogurt, butter, and ice cream under the label of "Prigel Family Creamery, Inc."

Neither the Creamery nor the Farm is a cooperative. We do not contract out any of the production of any agricultural commodity. We directly produce all of our own raw milk ("Bellevale Farms, Inc.") to which we add value with our processing and label: "Prigel Family Creamery, Inc."

The Farm and the Creamery have 100% common ownership: farmers Pamela and Robert Prigel. The Creamery is a subsidiary of the farm with the sole intent of "providing a marketing and retail outlet for products produced by Bellevale Farms, Inc." (*Prigel Family Creamery Business Plan and Financials*, page 3.)

Product Eligibility

All Prigel Family Creamery products will involve differentiated production from the raw organic milk which our farm, Bellevale, has previously produced. The value of the raw milk will be increased as it will be processed in the creamery, changing its physical state from raw milk into marketable, pasteurized fluid milk (Whole, Skim and Reduced Fat Packaged milk,) yogurt, butter, ice cream and cheese.

Additionally, all Prigel Family Creamery products involve differentiated marketing as demonstrated in our *Business Plan and Feasibility Study* completed by David Opdahl, C.P.A. of Falcon Financial Group, Inc., on February 7, 2008. Specifically, our products will carry the "Local Organic" label and be marketed directly through local retailers and specialty markets, as well as through our own website and on-site retail store. (Working capital for the setup of our website and retail outlet are part of what we are requesting in this matching grant application; so these are not presently existing.)

Presently, as an independent producer of raw milk, we have only had one direct customer to manage, namely: our milk coop. Even when our organic certification takes effect on April 15, 2008, while our customer will change from Maryland & Virginia Milk Coop to Horizon Organics, we will still only have one direct customer to manage. With the addition of the value-added product line from the Creamery, we will be adding innumerable customers to our direct market, allowing us to diversify our financial base, as well as to keep a significantly larger portion of the product value for our farm's direct financial benefit. With the success of this grant

application, we will also be able to aggressively secure for ourselves our local retail market while our products are new and without competition.

Purpose Eligibility

We are applying for a Working Capital Grant for \$300,000. Thus, we are not applying for funds for any planning expenses.

The Prigel Family Creamery is itself a new venture, just beginning operation.

We are requesting funds for a time period after October 1, 2008, and ending prior to November 30, 2009. Working capital funds are necessary for non-construction start up costs. With grant funds, the Prigel Family Creamery will pay operating costs and marketing expenses. We anticipate that our production facility will be finished on or before January 31, 2009 (projected completion is October, 2008.)

Between October 1, 2008 and January 31, 2009, we will begin marketing: labels, packaging, preparing inventory, and seeking production employees: biologist, laborers, accounting. We will research, purchase and set-up hardware and software for inventory and client management, cash flow, etc.

As soon as we are in production, we will launch formal marketing with sampling and sales at farmers markets and at our retail facility. We will secure wholesale customers as soon as we are able to provide the with product. We will market aggressively, according to the detailed plans of our marketing strategy throughout all seasons of our entire first year. Thus, we will reach the extent of our local market's awareness through promotion.

We will continue selling our excess raw milk to Horizon, progressively stepping up our production of the value-added inventory through the Creamery's processing facility as we gain additional customers and demand for our new value-added products

All working capital funds we are requesting in this grant application are to subsidize operating costs and marketing activities only through November 30, 2009.

This is our only USDA grant application this cycle, and we have not previously applied for any USDA grant, including any previous planning or working capital grant for the Value-Added Producer Grant Program.

GOALS OF THE PROJECT

Ultimate Goals of the Project

With the support of a USDA Working Capitol Value-Added Producer Grant, the Prigel Family Creamery, Inc. will aggressively develop and stabilize a retail market at the same time that we are establishing our wholesale market for new Local Organic Pasture-Grazed Dairy products. By the end of the grant term we will have enough customer information to stabilize our production volume and processing efficiency. Then we will begin 2010 able to meet our own operating costs with positive cash flow.

Expanding Markets:

We will pioneer the Local Organic Dairy Product market in our area. The nearest and only competitor in this market is Trickling Springs Creamery in Pennsylvania. Trickling Springs' products are only similar, not identical to the ones we will produce. Additionally, Trickling Springs' products are not packaged in a manner convenient to our target customers, are not marketed through any of the retailers we will cultivate as our wholesale market, and they do not participate in the retail markets that we will grow.

Our milk market will be vastly expanded as we venture into marketable, processed organic dairy products. We are presently a producer of raw milk with a single customer. Prigel Family Creamery, Inc. presently has zero value-added product customers. With the benefit of Value-Added Producer Working Capitol Grant funds we will work aggressively to establish an original customer base as soon as the grant term begins.

Projected Increase in Revenue Accruing to Producers:

The projected increase in revenue accruing to the producers for the grant period in question is estimated to be approximately \$920,000 due to the transition of the raw milk commodity into various value-added products. This projected increase in revenue accruing to the producers equates to approximately \$5.44 per gallon of milk or an increase of 160% over the revenue gained on the same volume of milk sold entirely into traditional markets. The aforementioned projected increase in revenue will accrue to both owners equally in the amount of \$460,000 per owner.

This increase in revenue is evident in all product categories, but is most prevalent in the revenues associated with the yogurt and ice cream products with increases of \$17.50 and \$83.00 per gallon, respectively.¹

¹ All Financial Statements have been prepared by David Opdahl, C.P.A. of Falcon Financial Group, Inc., based on the Prigel Family Creamery, Inc. *Business Plan and Feasibility Study*, completed on February 7, 2008.

Not only do we need to establish an original customer base, but it is important to our long term success as sustainable family-scale farmers that we cultivate a careful balance between wholesale and retail markets. We require wholesale customers to regulate processing in ways that capture reasonable economies of scale. We also need to aggressively establish our own retail market in order to capture retail customer loyalty while our product is novel.

The above projections of increase in revenue accruing to the Creamery are based on the conservative *Business Plan and Feasibility Study* figures that were established before we became aware of the Value Added Producer Grant. These figures were based only on the market share that we expect to be able to reach without working capitol assistance. The market mix we could reach without grant funds has a greater weight towards wholesale customers, because we would not have cash flow to aggressively target the retail audience. Thus, we expect that revenue accruing to producers will be even more favorable when grant funds are received. Funding this marketing project will afford us a critical, time-sensitive opportunity that we could not otherwise exploit. Our comprehensive marketing strategy is explained in detail on page .

We initially intend to reinvest the improved revenue afforded us by the grant funds into the future operating costs of this business venture, since we are committed to our own conservative financial stability. We will first set aside funds in savings sufficient for the following year's (2010) projected operating costs before we spend profit in other ways.

By the end of the funding period, it is also our intention to afford to extend ownership interest of Bellevale Farms, Inc. to our present Assistant Manager. Scott Childs is invaluable to our raw dairy operation, and he is due to receive a secured long-term interest in the farm if we are to retain his services. Thus, increased revenue realized from the Creamery will afford the expanded ownership of the farm to include another new independent producer.

Incremental Goals:

We will furnish and outfit an office from which to administer our business, then hire a business management specialist to set up the office operations and train an office manager. We will hire a production manager and processing assistants; begin production; refine our value-added products; hire an advertising specialist to design our logo and labels for our line of Local Organic Pasture-Grazed dairy products. Once we procure packaging, we will begin market production of organic milk, yogurt, butter and ice cream; packaging and selling our new dairy products. We will build inventory; secure strong wholesale outlets; prepare ourselves for delivery of inventory and aggressively promote our retail products. We will furnish, stock, and open a retail store within our existing processing facility. Additional details of the Marketing Strategies we will implement are found on page of the Business Viability discussion.

PERFORMANCE EVALUATION CRITERIA

Projected Increase in Customer Base:

From 1 presently for Raw Agricultural commodity: MD/VA Dairy Coop to 1 (Horizon Raw Milk)

0 direct customers for value added products.

Complete processing facility by January 31, 2009

Have at least 5 direct retail customers by start of production.

Goal: Contact 5 local retailers with initial products. With ope of establishing at least 2 retailing clients.

[We have inquired with some retailers already, but they wnt the products before contracting.]

Wholesale sales

PFCI intends to market its main product offerings of yogurt and ice cream to both local and national chain markets. In terms of local markets, PFCI will be looking to distribute its product to area markets such as Graul's and Klein's. In terms of national markets, PFCI will be looking to distribute to Wegman's and Whole Foods both of whom cater to local produce markets. Whole Foods also has the added advantage of providing a distribution channel to its other stores via delivery to the local chain by the producer.

As product offerings become available, we will begin more intensive discussions with each of these players to determine the best fit for both parties.

(pg 7)

Time to open retail store.

Attend 10 farmers markets with

then to 5 (Whole Foods) - 50+ with creamery.

Projected Increase in Revenue Accruing to Producers:

Production Process

The entire production process is founded on the estimate that Bellevale Farms can and will provide approximately 21,000 gallons of raw milk per month. From that amount, we are estimating that Cowgirl Creamery will require upwards of 7,200 gallons per month and PFCI

VAPG 2007 Working Capital Application

direct milk processing and sales will require approximately 500 gallons per month. This then leaves 14,200 gallons for processing of the remaining products.

From that starting point, we are planning to allocate 80% of available milk to the processing of yogurt and the remaining 20% will be directed to the processing of ice cream and butter.

Yogurt - Yogurt production begins with raw milk which is first pasteurized and introduced into a separator in which the milk is separated from the cream. The milk will be standardized with regard to the desired fat content by the re-introduction of cream. It will then be homogenized with cultures introduced. Flavorings will be added directly to the container with incubation of the cultures taking place within the container. Incubation time can depend on the ambient temperatures, but can typically take between 10 and 12 hours. Distribution of a finished product can take place within 3 days of the start of the production process.

The by-product of residual cream left over from the yogurt production will then be used in the production of butter and ice cream in the ratio of 15%/85%, respectively.

Butter - Butter production will typically result in a combination of two products, butter and buttermilk in a ratio of 85%/15%. For purposes of this plan, approximately 40% of the resultant buttermilk will be introduced into the production of ice cream and the remainder will be considered spoilage.

Ice Cream - A gallon of ice cream will require approximately 2 quarts of cream and 1 quart of buttermilk. The additional 25% is comprised of flavorings, sweeteners and air utilized to increase the overall volume of the product.

(Pg 7-8)

Revenues

□ The financial projections assume price increases of 6%, 5% and 4% for 2009, 2010 and 2010.

□ The creamery is not anticipated to be fully operational (i.e., operating at 100% capacity) until the fourth quarter of 2010. Financial results for both 2011 and 2012 assume full capacity.

(pg 16)

From traditional to organic (not part of grant app, but hedges \$ capitol security)

From Organic Raw milk to Value-added product; (Wholesale like Whole Foods)

Wholesale sales

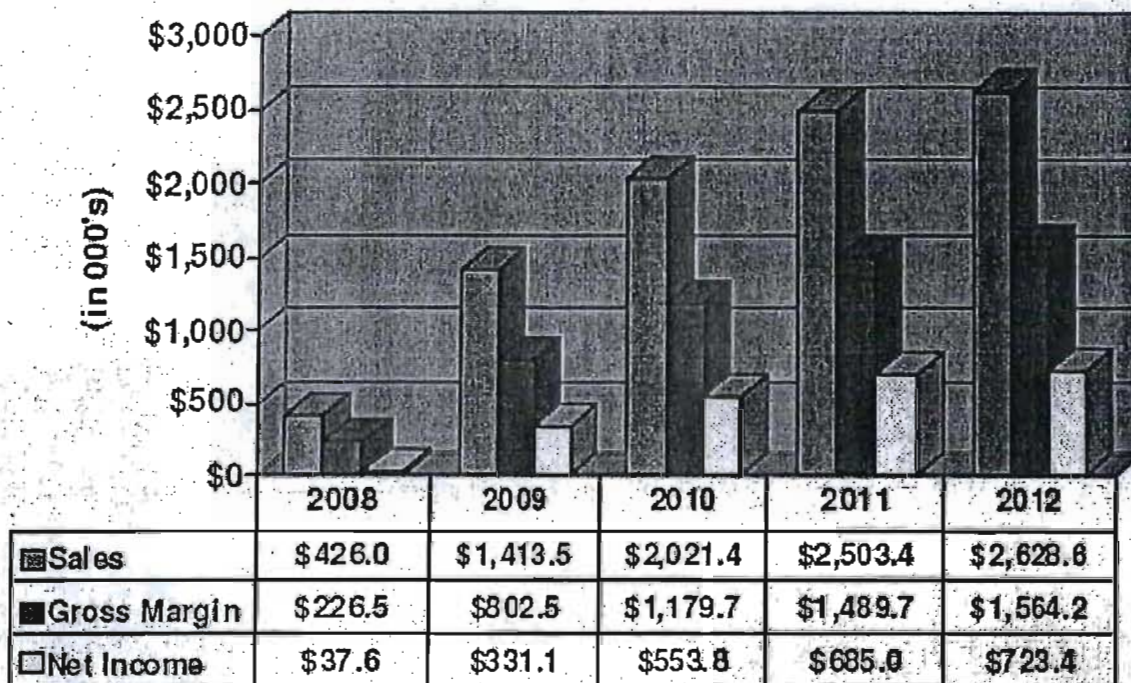
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As product offerings become available, we will begin more intensive discussions with each of these players to determine the best fit for both parties.

(pg 7)

Financials

PFCI anticipates that they will initiate operations in June, 2008. Significant startup costs associated with the construction of the production/retail facility and related equipment and other startup costs (see addendum) will generate negative cash flow from operations for the first fiscal year (offset by initial external funding sources). However, it is anticipated that this condition will be confined to the first year of operations as shown below.

Financial Highlights

(Pg 3)

From Producer direct Retail

Projected Increase in Number of Jobs:

Staffing

- Initial staffing will consist of a full-time Processing Manager, two (2) part-time processing staff and one part-time sales person to handle the retail operation.
- In 2009, we will add a full-time Store Manager to oversee all aspects of the retail operation.
- Years 2009 through 2011 will see the addition of one full time processing staff person per year to address increasing production needs.
- Staff trends overall are anticipated as noted below

Position	2008	2009	2010	2011
Processing Mgr (FT)	1	1	1	1
Processing Staff (FT)	0	1	2	3
Processing Staff (PT)	2	2	2	2
Retail Mgr (FT)	0	1	1	1
Retail Sales (PT)	1	1	1	1
Totals	4	6	7	8
FTE	2.5	4.5	5.5	6.5

Projected Increase in Energy Capacity (if applicable):

Not Applicable

PERFORMANCE EVALUATION CRITERIA

~~Projected Increase in Customer Base: "[Insert Increase in Customer Base here]"~~

~~Projected Increase in Revenue Accruing to Producers: —~~ *Projected Increase In Revenue
Accruing to Producers*

The projected increase in revenue accruing to the producers for the grant period in question is estimated to be approximately \$920,000 due to the transition of the raw milk commodity into various value-added products. This projected increase in revenue accruing to the producers equates to approximately \$5.44 per gallon of milk or an increase of 160% over the revenue gained on the same volume of milk sold entirely into traditional markets. The aforementioned projected increase in revenue will accrue to both owners equally in the amount of \$460,000 per owner.

This increase in revenue is evident in all product categories, but is most prevalent in the revenues associated with the yogurt and ice cream products with increases of \$17.50 and \$83.00 per gallon, respectively.

Projected Increase in Number of Jobs: "[Insert Increase in Jobs here]"

Projected Increase in Energy Capacity (if applicable): "[Insert Increase in Energy Capacity here]"

PROPOSAL EVALUATION CRITERIA

Business viability

A Timely Venture

As of April 15, 2008, after years of preparation, we will be producing Certified Organic raw milk. The success of the new Creamery is possible at this juncture because of our increased revenue from going organic. Organic certification brings us a 30% price increase in our commodity with a secure customer contract for 2 years.

All financial projections about the security of our creamery success are based on conservative contracted numbers from Horizon for the next 2 years and from a separate contract with Cowgirl Creamery, another national producer.

In Short: The Horizon and Cowgirl contracts cash flow will cover the debt service on the creamery construction costs. Thus, cash flow from production from the creamery needs only to cover the operating costs of the creamery.

Still, with this conservative approach to investment risk, once we operate the creamery, we need to be able to cover the costs of the very basic working capital, namely, salaries for competent staff and for employee retention. For example, while theoretically we only need to produce what we already have customers arranged to purchase (which would mean we make a quart of yogurt only when we sell it,) the reality of producing the quality product at a rate sufficient to supply retail demand requires working capital that we can not afford ourselves without grant funds.

All else being conservative, with this grant, we can plan to produce more aggressively to meet retail demand for the product. With working capital, we will aggressively expand our retail customer base and secure the new market for ourselves, capitalizing on known current market trends that may not last. In effect- we can strike while the iron is hot, and build customer loyalty before our wholesale clients outpace our access to our retail market.

We have a history of anticipating trends by knowing our market, doing our homework, investing conservatively at the strategically right time thereby surviving and thriving when others are hit hard by the market changes. I foresee the market changing in organics in such a way that I can uniquely capitalize on public interest (local sustainable) at a time where I can be part of the pioneering process in such a way that I will be the brand of choice when future competition gets wind, and establish a stable market on a sustainable level for me and future generations at our present location well-managed for comfortable capacity while still reaping the benefits of greater financial security having expanded into management/ delegation. Not only will this expansion create jobs and sustainability, it carefully divides labor so that quality of life can be maintained on a comfortable level for all involved, including myself and the future holders of the farm.

Also, we believe that if we do not seize this opportunity, we will repeat the pressures of the late eighties and early nineties where industrial scale farming squeezed out the independent producers by meeting demand for a limited market at lower prices than were sustainable on a non-industrial level. The same signs are showing this trend upcoming in the organic milk market.

Our Niche Market:

Market Analysis

U.S retail sales of organic milk have been on a consistent growth trend since the mid -1990's

with sales exceeding \$1 billion in 2005 which represented a 25% growth rate over 2004. By contrast, sales of overall milk products have remained fairly constant since the mid-1980's. By 2006, organic milk and ice cream products comprised approximately 6% of retail milk sales.

Increasing interest and demand for organic milk products has, in the past, generated significant shortages suggesting that consumer demand is unmet at certain price points. This shortage has prompted a number of retail grocers and big box retailers to distribute organic milk. These retailers typically carry nationally known organic products such as Organic Valley or Horizon Organic so branding is becoming increasingly important in this marketplace.

According to the USDA study on "Retail and Consumer Aspects of the Organic Milk Market", the following household characteristics would typify the most likely organic milk consumer:

☐ Region: East or West Coast

☐ Education: College graduate or Post College

☐ Age: Under 55

☐ Household Income: Annual income of at least \$70,000

Given our location and timing of entrance into the marketplace, PFCI believes that we are strategically placed to address the needs of these groups.

According to the statistics derived from the U.S. Bureau of the Census (2002) as shown on the following page, there are over 100,000 households in the Baltimore area that meet the aforementioned household characteristics for organic milk consumers. This estimate only takes into account eight of the largest suburban communities within a 25 mile radius of Glen Arm, Maryland. The 2002 Census data did not consider or specifically identify communities in Northern Baltimore County the inclusion of which could easily increase the estimate of households.

In terms of pricing, the East coast market has been able to command the highest premium of organic milk over conventional milk compared to all other regions. In 2004, that premium averaged over \$2.50 per half gallon or 126%. The national average at that time was \$1.99 or 98%. Some of the aforementioned regional differences may be attributed to the fact that the East and West coasts have had access to organic products for a longer period of time.

- Market Analysis derived from U. S. Department of Agriculture report "Retail and Consumer Aspects of the Organic Milk Market", May, 2007

Approximate 25 mile
radius from Glen Arm,
Maryland

Demographics Summary

	A	B	C	D	E	F	G	H
	Kingsville	Parkville	Towson	Lutherville	Bel Air	Cockeysville	Pikesville	Reisterstown
Distance	6.25	7	7	9	11	15	16	25
Median Age	42.4	37.6	37.6	45.5	34.9	33.1	45.4	34.6
Owner occupied	93.5	65.8	59.7	82.8	80.7	33	69.3	65
College	43.8	25.4	57.2	50.8	46.1	52.5	54.6	34.9
Household income >\$75K	53.7	17	34.4	49.9	37.3	25.1	39	24.9
No of Households	79,100	2,219	7,263	3,252	5,610	2,304	4,960	2,167
Median Household Income	\$ 78,025	\$ 41,410	\$ 53,775	\$ 61,573	\$ 62,064	\$ 43,681	\$ 58,598	\$ 47,587

Buying Locally Produced Goods

In addition to the move to organic products, PFCI also has the added benefit of being able to take advantage of the increasing trend toward buying locally-produced agricultural products.

"The trend toward smaller farming can be seen locally in farm Census data. While the number of farms in Maryland has fallen from 39,000 in 1950 to about 12,200 in 2002, the number of niche farms of 10 to 49 acres grew from 3,979 in 1992 to 4,412 in 2002. In Virginia, such farms grew from 10,361 in 1992 to 14,082 in 2002."

"Whole Foods recently announced a heightened focus on buying local produce, including a \$10 million budget to promote local agriculture, following pressure from author Michael Pollan, who has called into question the wisdom of industrial organics. Of course, nothing is ever truly easy in farming territory, particularly when it comes to the increasing development of houses, each bigger than the last one. Grohsgal understands his land is worth more to developers than it is to him as a farm. He turns home builders away anyway. "I know it's worth a fortune," he said, "but if we always sell to developers, our nation will just stop growing food.""

- A Growing Trend: Small, Local and Organic: Popularity of Farmers Markets, Natural Grocery Stores Helps Cultivate a Rise in Niche Farms, *Michael S. Rosenwald*, Washington Post Staff Writer, Monday, November 6, 2006; Page D01

According to an article in the December, 2007 edition of the Carroll County Times (a local periodical from Carroll County in Maryland), buying local is sometimes preferred over organic.

"What's more important than buying organic is buying local, Harbold said. Buying local cuts down on vehicle emissions from shipping, he said. Buying local produce also helps support local economies, he said, and allows consumers to build relationships with their food producers, ask for different products and learn more about how things are grown or raised."

Jackie Miller, owner of the organic farm De La Tierra Gardens in Harney, is also manager of the Downtown Westminster Farmers Market. The market is unique in that it requires producers to sell their own goods, not just items they may have picked up from other regional farms. And while it isn't required that producers be organic, there are multiple organic or all-natural farmers who have made this market one of their major sales outlets."

"I do feel local is more important than organic," Miller said. "Organic is sort of a personal preference for health and the health of the environment, but I think it's more important to keep the source of food local.""

- Carroll County Times, December 21, 2007, by Carrie Ann Knauer,

We see this combination of both organic and locally-produced goods as being the right combination to bring a significant competitive advantage to PFCI.

Strategy and Implementation

Our strategy is based on serving the organic dairy product needs found with the higher income consumer.

We will focus on connecting and serving these customers' needs through the following strategic initiatives.

Business Viability Outline

1. Prepared and positioned ourselves
2. Feasibility Study and Business Plan to build and start PFCI
 - A. Viable Niche Market

- B. Stable value even at wholesale Value-Added Production level.
3. We are poised financially by the Organic transition
4. Timing is sensitive in marketing. Generically speaking, one must know the pulse of the consumer's market *and* be positioned to capitalize on the trend.
5. Robert has unique insight and management skills that poise us to exploit a market that others are not able to enter.
6. From a management perspective, Robert's historically proven insight says: "The time is now."
- A. We want to become known while there is still no competition.
- B. We want to enter while we can afford investment.
We have a newly improved profit margin from our switch to organics.
We have a policy of reinvesting surplus revenues in the business when feasible.
It is not wise to expect that the raw commodity price for organics will remain viable. We need to reinvest while we have the chance, because the opportunity may pass.
- C. We have reached a professional plateau, and this is the natural next step.
- D. After carefully considering the management demands implied in the Business Plan Feasibility Study, Robert Prigel is confident that he is equipped and ready to successfully make the business management transitions.
- i. Transition from single variable management demands to multivariable
- a. Product management
- b. Customer management
- c. Personnel management
- ii. Robert is realistic and knows his own limitations. (This is not merely a self-assessment, but the consensus of friends and colleagues.)
7. We are entering the value-added dairy product market ourselves with commitment; risking ourselves with or without the grant. This is assurance of our own confidence and commitment to the venture.
8. The USDA Working Capitol Value-Added Producer grant affords us accelerated retail market penetration, which is crucial to our ability (both short and long term) to realize increased revenue from retail (versus wholesale) markets.
- A. While capturing wholesale customers represents a small increase in revenue over producing our raw milk, the profit margin does not justify our increased labor investment over the long haul.
We have long chosen to be dairy farmers because of a certain quality of life that it affords us. This quality of life is certainly not financially motivated, since it is often a lean standard of living for a committed 24-7 effort. We are not becoming value-added producers so that we can trade in our hard-won way of life to become processing plant managers.
- B. It is important for us to aggressively capture our retail market immediately once we begin production. Recall:

1. We want to become known while there is still no competition. (6-A)
2. We want to enter while we can afford investment and it is unwise to expect that our organic raw milk price will always remain viable.
We need to reinvest while we have the chance, because the opportunity may pass. (6-B)
4. Timing is sensitive in marketing.
"Generically speaking, one must know the pulse of the consumer's market and be positioned to capitalize on the trend.

C. Additionally capitalizes on the appeal of novelty to retail consumers.

If our creamery misses out on the initial retail market and loses the value of novelty, there is a big risk that we, the independent producer, will irrevocably miss the opportunity to capture our local retail audience. Our wholesale customers may secure loyalty and supplant our ability to capture the retail audience at a future time.

1. Our particular niche audience and retail marketing limitations make us particularly vulnerable to this risk.

- a. Our "Local" label would limit our ability to sustain necessary wholesale relationships without directly competing with our own geographically limited retail audience.

- b. We are limited to one rural outlet, plus labor-intensive participation in farmers markets for our sustainable capacity to directly reach our retail market. Our on-site retail store is the only permanent presence where customers can purchase our retail products. While we have carefully planned marketing strategies to passively draw existing customers back to this site, these tactics are not sufficient to compete with our wholesalers unless customers can be efficiently informed and brought to our store before they become complacent with their access to our product through wholesaler. Once they have come to our store, we will passively retain a reasonable number of direct retail customers who realize the proximity of our store and the draw of our Producer Exclusive products which are not available elsewhere.

D. We would like to maximize the effective employment of our own business momentum at the start of operations. We have long prepared and long planned for this venture, so we are excited to get started. Our vested interests and use owner-producer management skills make us uniquely able to best promote our products. Without sufficient working capital, our energies will be required to manage operations instead. We could become bogged down in the rut of operations management without the temporarily subsidized cash flow that would free us for immediate product promotion.

CONCLUSION:

While without the grant, we would be "stable" from a business and financial perspective, the grant primarily affords the opportunity to focus Bobbi's attentions on the development of markets, and to devote sufficient attention to securing and training the right personnel. So the grant affords us a critical opportunity to penetrate the retail market at a time when our product has no competition and enjoys the benefit of novelty. If we miss the opportunity to capitalize on novelty and exclusiveness for ourselves at this time, we will have forfeited much of our narrow retail market to our wholesale interests.

For clearer comparison, let us consider a scenario of what could happen if we are limited (without working capitol grant funds) to our own resources in 2008 while we open our processing facility. In order to justify production costs, we establish a couple of wholesale customers among local markets. (These stores must be local because that is a key interest of our particular niche market.) Since we need to be careful to cash flow our debt service (from constructing the processing facility), we have hired minimum operating staff to get things going, so owner-producer Robert Prigel is engrossed with operations management and has no time for prospecting retail customers. Cash-flow conscious, we choose to produce little more than what we can conservatively sell immediately or afford to waste. While we have quietly opened our retail outlet and attended a few farmers markets, we have not had the staffing resources or cash flow to spare for active retail market development. Meanwhile, our own target retail customers are thrilled to finally see our kind of product, but they become familiar with finding our products conveniently available on their grocery's shelf. A year passes before our limited staff is finally able to begin devoting some attention and cash flow to actively entering the retail market for our Local Organic dairy products. Except now, our target customer has become quite comfortable being able to get the most popularly demanded organic dairy products at the same time that they pick up all their other weekly organic, natural and local groceries. *If* they have checked our website or seen us at a farmers' market, they *may* have learned of our great ice cream and retail outlet and considered making a special trip to enjoy a tasty rural experience. Still, they never get around to it because they already have their pressing dairy needs satisfied so conveniently at the local grocery. If they do come out for ice cream or see us at the farmers' market, they realize they have at home already supplied their weekly demand for our products when they were at the grocer, so they overlook all of the rest of our retail products and remark to themselves that it is easier anyway to buy all their groceries all at once from that other source. While we are sad to miss the retail sales, we are reluctant to withdraw from our wholesale customers in order not to compete against ourselves. We need some wholesale volume to benefit from production economies of scale, and our product's continued presence on their shelves does bring us some passive publicity. We really regret that we were unable to capitalize for ourselves on securing this retail market when we first opened.

PERFORMANCE EVALUATION CRITERIA

The Prigel Family Creamery's aggressive marketing strategy will increase our value-added products customer base from zero to 462 or more: 2 of which are wholesale purchasers; 210 regular (weekly) retail customers; and 250 one-time sales. These are conservative estimates of what we expect to easily realize from our marketing strategy. Our focus is on initially stabilizing our loyal retail customer base. We will easily be able to add additional wholesale purchasers after we have secured for ourselves our local retail market.

Prigel Family Creamery Projected Increase in Customer Base				
	Wholesale		Retail	
	Contacts	Proj. Actual	Contacts	Proj. Actual
Current	None	None	None	None
Grant Period	7 to 10	2		

Source Breakdown of Estimated Retail Customers			
	Customers		Product Mix
	Weekly	One Time	
Markets			
Towson	50	weekly	Dairy Bundles Ice Cream
31st Street	50	100 weekly	Dairy Bundles Ice Cream
		100	
Retail Store			
	10		Dairy Bundles Seasonal Ice Cream
	100		Mixed
		50	
Totals	210	250	460

Prigel Family Creamery Inc.'s milk market will be vastly expanded as we venture into marketable, processed organic dairy, since we are presently merely a producer of raw milk with a single customer for our unrefined product. As a value added producer of our own line of specialty dairy products, we will reach a new market of Local Organic Pasture-Grazed Dairy Product consumers through wholesale sales to local and national specialty stores within a 100 mile radius of our farm. We will also market our products directly for retail sale through a farm-based store. We will promote our new products at weekly farmers' markets that reach many potentially interested retail customers. We will market our value-added products for retail sale at local events and promote them at the retail stores of our wholesale customers by offering product sampling sessions and company literature. With all that marketing, it seems practically inevitable that we will establish a good base of wholesale and retail customers for our new products.

Projected Increase in Revenue Accruing to Producers:

The projected increase in revenue accruing to the producers for the grant period in question is estimated to be approximately \$920,000 due to the transition of the raw milk commodity into various value-added products. This projected increase in revenue accruing to the producers equates to approximately \$5.44 per gallon of milk or an increase of 160% over the revenue gained on the same volume of milk sold entirely into traditional markets. The aforementioned projected increase in revenue will accrue to both owners equally in the amount of \$460,000 per owner.

This increase in revenue is evident in all product categories, but is most prevalent in the revenues associated with the yogurt and ice cream products with increases of \$17.50 and \$83.00 per gallon, respectively.

All Financial Statements have been prepared based on the Prigel Family Creamery, Inc. *Business Plan and Feasibility Study*, completed on February 7, 2008, by David Opdahl, C.P.A. of Falcon Financial Group, Inc.

Projected Increase in Number of Jobs:

Presently, Bellevale Farms, Inc. staffs its owner-producers and one, full-time assistant production manager. Prigel Family Creamery, Inc. will initially benefit from the donated labor of Robert Prigel, Jr. Nine new staff will be employed in Creamery operations, office management and retail sales.

Once our facility is completed, we will hire Production Manager with a bachelors degree in Food Science and experience in creamery processing. We will employ two production assistants to help operate the processing facility.

An office manager will be employed to oversee administrative aspects of the business. We will hire business and financial consultant, Falcon Financial Services, Inc., to set up and train this office staff. Management gaps will still need to be supplemented by hiring contracted professionals for computer and technology setup and support, and accounting.

Our marketing department will initially require a retail sales manager; two part-time sales associates for farmers markets and promotions; and two more part-time seasonal sales associates in the retail store from May to October for our seasonal ice cream sales increase.

Thus, 9 new employee jobs: 5 full-time and 4 part-time will be created by the Prigel Family Creamery, Inc. Additionally, a minimum of two part-time permanent professional contracts will be funded by our venture.

Customer base/increased returns

Marketing Strategy

The Prigel Family Creamery's aggressive marketing strategy will increase our value-added products customer base from zero to 462 or more: 2 of which are wholesale purchasers; 210 regular (weekly) retail customers; and 250 one-time sales. These are conservative estimates of what we expect to easily realize from our marketing strategy. Our focus is on initially stabilizing our loyal retail customer base. We will easily be able to add additional wholesale purchasers after we have secured for ourselves our local retail market.

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	Wholesale		Retail	
	Contacts	Proj. Actual	Contacts	Proj. Actual
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Source Breakdown of Estimated Retail Customers			
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	100	50	Mixed
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Wholesale Customers:

We will cultivate wholesale customers among local and national retailers for whom our niche product holds known interest. National retailers with this interest include Whole Foods Market and Wegmans. Since we will be putting a "Local" designation on our labels, we will restrict retail sales of any of products to stores within a 100 mile radius of our farm.

Local retailers we will approach to carry our product include upscale grocery stores such as Graul's, Eddie's, Klein's and The Health Concern.

Publicity through Wholesale Customers

Several retailers who will purchase wholesale products from us allow product representatives to do demonstrations and sampling at their stores. We will seek to take advantage of this opportunity to reach our special consumer audience. When possible, a family member employee of the Prigel Family Creamery will personally conduct product samplings at the retail stores of wholesale customers. We will do this to promote consumer awareness of our product's availability. We also desire to conduct these samplings *personally*,

because we believe we are uniquely able to educate the consumer about our product and to lend credence to the "family" appeal of our label.

On the surface, it might seem most cost effective to phase out our wholesale customers altogether as demand increases for products from our retail market. (At present, our plan is based on a fixed raw milk supply. We have a long range business plans to eventually increase our supply by expanding our farm.) Even once our retail customer base increases and stabilizes, we will deliberately maintain some wholesale customers. Presence on the shelves of these local specialty stores will provide us continued exposure, enhancing our local market presence. So keeping our wholesale relationships is a strategic part of our long-range publicity plan, not only to *reach*, but to *maintain* our target audience contact.

All of our products will have our address, web site and contact info on the back of our label. Once a consumer learns of our location, they may choose to purchase direct from us in the future at our retail outlet.

Producer Exclusives

We will maintain some of our value-added products as Producer Exclusives: available only directly from us at our retail outlet and markets. In this way, if a consumer wants that particular dairy product, when they necessarily come to our store or markets to purchase it, they will be inclined to bundle-shop (purchase other staple dairy products) while they are there. We believe it is wise to encourage direct consumer contact with us, because this close relationship will enhance customer loyalty.

Branding

We will develop a customized logo that aids in brand awareness through both creative design and connection with both the name and the product focus.

Packaging

Since the retail audience for our Local, Organic, Pasture-Grazed Dairy products tends to be an educated family consumer with health, environmental and social concerns, it will benefit us to cultivate customer awareness and loyalty with unique packaging and marketing strategies.

We will include on the back side of our product labels different stories about our family farming and information about the benefits of small-scale, local, organic, pasture-grazed farming in general. Thus, we will invest in careful designs our packaging labels to include variety among these stories and to clearly communicate facts in a fun way. Other Organic Dairy Producers have proven this marketing technique to improve customer awareness and product loyalty.

Retail Outlet

As the store front that will represent all of our value-added dairy products to the public, we believe the atmosphere in our retail outlet is crucial to our public image as well as to the customer's comfort and desire to return. As a farm-based facility, our store is not exactly convenient (except to a few neighbors) to picking up staple products on the way home, or here, or there. Accordingly, we think it is important to add some additional appeal to our customer's in-store experience. We hope to enhance our customer's shopping experience by coupling consumption with comfort and education.

To this end, we hope to decorate the 24' x 60' store front as a local farm history museum with country style. On the walls, we will hang nostalgic, poster-size, art-quality photographs of local agriculture. Alongside the photographs will be museum-style informational plaques (of the same style and quality as the enlarged photographs.) The information on these posters will include information similar to that on our packaging labels about why we are committed to local sustainable farming. For interest, we will also include local nostalgia

related to the various pictures. We will include some information about our own farm history, but we will also include other points of local interest to avoid anything boring.

Ice Cream Parlor

The store will also double as an ice cream parlor. We believe it is an excellent strategy to reach our very localized market (within 5 miles) who are inclined to be able to be long-term convenience shoppers. Seasonally, we will draw them to our site with the appeal of a cold ice cream experience. While they are there, ice cream consumers can conveniently pick up their dairy staples from the store at retail prices. When ice cream season is over, this very local audience will find it convenient to remember us for their staple dairy purchases. Since our site is pastoral and lovely (and our cows are even cute,) it will be a nice environment for consumers to sit and enjoy their ice cream experience, whether alone or with friends or family.

Local Events and Farmers' Markets

There are several annual local events and a few well-attended weekly farmers markets where it will be important for us to promote our new products, especially in the first year of production as we seek to make our local market aware of our products. Among these are the Towson Town Festival and the Hopkins Fair in the Spring of each year, the Towson Farmers' Market held weekly from May to October, and the 32nd Street Market in Baltimore City that continues year round. and offer them for sale directly to the retail customer that product is delivered.

Stories in Local Newspapers

Robert Prigel, Jr. is regularly called upon by local media and journalists for his expertise and experience with innovative, environmentally-sensitive, sustainable agriculture. In just the past year, articles citing Robert have included The Baltimore Sun paper, Patuxent Publishing (publisher of the Towson Times and other local periodicals,) the Examiner, and North County News. Once we are producing our value-added products, we will get in touch with these contacts to encourage them to write and publish stories and articles about our creamery and its products. We anticipate this will result in some strategic free publicity to our targeted "local" audience.

Website

The website will be informational only with the intent of educating consumers and drawing customers to the retail facility. While we will not sell products through the website, its appeal and educational value is an important part of our promotion and customer retention strategy due to the hunger of our particular niche market for information and local connection.

Direct mail

While we will not generally rely on direct mailings as a primary marketing strategy, we may find it useful to send our interested consumers information about periodic promotional events as a reminder of our presence and to promote connection and product loyalty. For example, we may want to invite contacts to a seasonal opening of our ice cream parlor in order to get them to visit our farm and retail outlet. A mailing list may be compiled at local and farmers' markets, retail stores, and on our website.

Open House/Grand Opening

We will host a grand opening event at our retail store & ice cream parlor. which will most likely take place in June to optimize turnout. Our purpose in this event will be introduction and/or further strengthening of existing relationships.

Flyers & Print Brochures

Since our audience is so local and information-interested, locally posted and flyers can be an effective way to reach prospective customers on a scale that is useful to us. Additionally, making brochures about our methods,

values, history and farming stories available to consumers at product samplings and markets will help them to recall our identity and location for future purchases.

Coupons

Coupons for redemption only at our retail store may be useful in drawing retail customers to our location. Coupons could be distributed by our staff at product samplings and local markets.

Apparel

All sales and marketing personnel will be attired in appropriate clothing displaying the Prigel Family Creamery logo and company name.

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All Financial Statements have been prepared by

David Opdahl

Mailing Address:

Falcon Financial Group, Inc.

P.O. Box 45

Long Green, Maryland 21092

Phone: 410.409.5734

Fax: 410.592.3761

e-mail: info@falconfinancialgroupinc.com

Website: <http://www.falconfinancialgroupinc.com/>

Based on the Prigel Family Creamery, Inc. *Business Plan and Feasibility Study*, completed on February 7, 2008.

Projected Increase in Number of Jobs:

Presently, Bellevale Farms, Inc. staffs its owner-producers and one, full-time assistant production manager. Prigel Family Creamery, Inc. will initially benefit from the donated labor of Robert Prigel, Jr. Nine new staff will be employed in Creamery operations, office management and retail sales.

Once our facility is completed, we will hire Production Manager with a bachelors degree in Food Science and experience in creamery processing. We will employ two production assistants to help operate the processing facility.

An office manager will be employed to oversee administrative aspects of the business. We will hire business and financial consultant, Falcon Financial Services, Inc., to set up and train this office staff. Management gaps

will still need to be supplemented by hiring contracted professionals for computer and technology setup and support, and accounting.

Our marketing department will initially require a retail sales manager; two part-time sales associates for farmers markets and promotions; and two more part-time seasonal sales associates in the retail store from May to October for our seasonal ice cream sales increase.

Thus, 9 new employee jobs: 5 full-time and 4 part-time will be created by the Prigel Family Creamery, Inc. Additionally, a minimum of two part-time permanent professional contracts will be funded by our venture.

Commitments and support

Prigel Family Creamery, Inc. is an independent producer of value-added dairy products, providing a marketing and retail outlet for Bellevale Farms, Inc. It is the retail outlet identical with Bellevale Farms, Inc., an independent producer of raw organic milk. The Farm and the Creamery have 100% common ownership: farmers Pamela and Robert Prigel. The Creamery is a subsidiary of the farm with the sole intent of "providing a marketing and retail outlet for products produced by Bellevale Farms, Inc." (*Prigel Family Creamery Business Plan and Financials*, page 3.) Thus, we presently have two owner-producers involved in our project.

Robert Prigel, Jr. completely manage the dairy operations and food production for 180-cows on Bellevale Farm's 260 acre grazing based raw milk production dairy farm. Pam supports Robert and the Farm by tending to the daily demands of family life, as well as doing the farm's bookkeeping. She manages office administration, which is relatively simple at present with a single customer for our raw milk sales. Robert spends about 12 hours per day, 6 days per week managing the farm. He also milks for 3 hours on Sunday. His work time affords him a comfortable pace and flexibility to keep abreast of new information about his innovative management-intensive grazing methods of farming.

Robert takes seriously his management practices and is always working to improve. He is concerned for environmental and lifestyle sustainability as well as economic production. Like family life, dairy management does not respect time boundaries from it's owner-producers for the work day. Robert must be on-call to handle the cow's needs, even if that is calving help in the middle of the night. Fortunately, Bellevale Farms is also blessed with the dedicated support assistant manager Scott Childs.

By the end of the funding period, it is also our intention to afford to extend ownership interest of Bellevale Farms, Inc. to Scott. He is as invaluable to our raw dairy operation as an owner would be. Scott is due to receive a secured long-term interest in the farm if we are to retain his services. Thus, increased revenue realized from the Creamery will afford the expanded ownership of the farm to include another new independent producer.

Scott's invaluable production assistance will afforded Robert to focus a lot of his attention on the new processing and marketing components of value-added dairy production. Robert is committed to being the chief force behind hiring qualified personnel, marketing according to the aggressive plan detailed in our market strategy, and overseeing production and retail for the Prigel Family Creamery, Inc. Pam has been instrumental in refining our venture and program goals, and she will continue to be important to many strategic decisions as we develop an attracting image for our product line of Organic Local Family-Farmed Pasture Grazed milk, yogurt, butter and ice cream.

Our market strategy is based on serving the organic dairy product needs found with the higher income consumer in our local area. We hired Falcon Financial Services to complete a careful market analysis for our Organic Local Family-Farmed Pasture Grazed milk, yogurt, butter and ice cream. We will focus on connecting and serving these customers' needs through the plan detailed in our comprehensive marketing strategy found on page .

—We have prior to the grant period secured a contract with Horizon to purchase our organic raw milk commodity a price which affords us the revenue to build our processing facility.

Looking forward to production of our whole-saleable packaged dairy goods, we have made preliminary inquiries with wholesalers in our area who cater to our consumer niche. While several have expressed interest, these specialized grocers are careful to control the quality of the products they will sell. They have asked us to contact their dairy purchasers once we have product samples to offer them.

We have conducted a Feasibility Study in conjunction with our Business plan to understand the retail market for our Organic Local Family-Farmed Pasture Grazed milk, yogurt, butter and ice cream. We have developed a comprehensive marketing strategy to aggressively target this particular retail audience.

Include letters of intent from some prospective retail buyers.

Robert will ask contacted wholesalers for an interest letter.

Include any support letters that are NOT providing matching funds in Appendix A. (Support letters verifying matching funds should be separated into Appendix B.) And remember that these letters count toward your 35 page limit for the Proposal Narrative. Loans and capitol for creamery.

Management team/work force

Robert Prigel, Jr., has been involved in dairy farm management for 25 years. In that time, he has sustained through difficult and changing markets several times when most of his peer farmers did not succeed. Robert has strong management skills and a history to prove them. He employs conservative financial practices. He enjoys continuous education and refinement of his farming techniques. Robert has a willingness to follow sensible innovative approaches and to invest in them with full commitment. He is positioned with many good and strategic relationships. Plus, he has a realistic view of his own limitations and a willingness to ask for directions. All of these characteristics and resources come together to make Robert uniquely qualified for this business venture. As analyzed in the business viability discussion on pg.--- Robert has done his homework with this present business venture, and the timing and viability of the endeavor is sound. Couple this with Roberts proven track record of exceptional management skills to successfully discern and implement dairy farm innovations, and it would be hard for this project not to be a good investment.

Robert will hire a Processing Manager with Food Science degree and creamery experience to manage production. The probable source of candidates for this job will be Penn State University where Robert has already inquired with the Assistant Professor of Food Science to confirm that graduates would be competent to meet the demands of this job description. Robert has also arranged for Susan Opdahl to take the position of Retail Manager. Susan is a qualified family member who is also dedicated to the success of the Creamery.

We tend to benefit from quality employees through our hiring practices which draw on an extensive local network of varied information resources. Robert Prigel, Jr. is proactive in maintaining a diverse network of relationships on which he will draw for hiring support staff for the Creamery operations and retail jobs. Robert keeps regular contact with our University of Maryland Extension Agent. He is on the Session of his church, committees at his children's school, and he is a member of the Third Gunpowder Farmers' Club whose 18 members meet monthly. Much of the extended Prigel family lives close by. Family members will be a source of competent staff who also further the family-farm image of our product's label.

Work plan/budget

"[Click and insert criterion discussion here]"

Example Budget Format

Task	Start	End	Budget			
	Date	Date	Federal	Cash	In-Kind	Total
Task 1						
Responsible Staff:						
Task 2						
Responsible Staff:						
Task 3						
Responsible Staff:						
Task 4						
Responsible Staff:						
Total Cost of Project						

Presently, Bellevalle Farms, Inc. staffs its owner-producers and one, full-time assistant production manager. Prigel Family Creamery, Inc. will initially benefit from the donated labor of Robert Prigel, Jr. Nine new staff will be employed in Creamery operations, office management and retail sales.

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Thus, 9 new employee jobs: 5 full-time and 4 part-time will be created by the Prigel Family Creamery, Inc. Additionally, a minimum of two part-time permanent professional contracts will be funded by our venture.

Amount requested

We are requesting a USDA Working Capital Value-Added Producer Grant in the amount of \$300,000. With these funds, the Prigel Family Creamery, Inc. will begin production and market aggressively to maximize of our local retail audience before our target consumers become accustomed to purchasing our products through our wholesale markets. The working capital from this grant will afford us a potentially irretrievable opportunity to capture retail customers while our niche products are new and without competition. The increased revenue that we will realize from securing for ourselves our own retail market will protect our success and opportunity for continued growth.

Project cost per owner-producer

$\$200,000/2 = \$100,000$ contribution per owner.

$\$600,000/2 =$ gross project cost per owner-producer $= \$300,000$.

Business Management Capabilities

Bobbi Prigel

Robert Prigel, Jr., has been involved in dairy farm management for 25 years. In that time, he has sustained through difficult and changing markets several times when most of his peer farmers did not succeed. Robert has strong management skills and a history to prove them. He employs conservative financial practices. He enjoys continuous education and refinement of his farming techniques. Robert has a willingness to follow sensible innovative approaches and to invest in them with full commitment. He is positioned with many good and strategic relationships. Plus, he has a realistic view of his own limitations and a willingness to ask for directions. All of these characteristics and resources come together to make Robert uniquely qualified for this business venture. As analyzed in the business viability discussion on pg.--- Robert has done his homework with this present business venture, and the timing and viability of the endeavor is sound. Couple this with Roberts proven track record of exceptional management skills to successfully discern and implement dairy farm innovations, and it would be hard for this project not to be a good investment.

For all of the following business management points, statements made in the second person are all Robert's.

Procurement Procedures

We tend to be proactive about our procurement procedures: looking ahead, committed to progress and longevity, seeking to be aware of timely opportunities and poised to move forward at the proper times.

Historically: Innovative and have benefited from it.

Computerized feed

Computerized milking Grazing

Local Expert and Celebrity

Some of these can also be illustrations of our flexibility and perseverance, since we continued to explore possible solutions when the innovations fell short; and we were wisely willing to cut our losses and take a new tack when the information pointed to better technologies. Weigh the cost to benefit and consider the timing. Some of it is basic math and research and part of it is uncommonly good practical sense.

Watch the times, trends and periodicals. Business Plan First, then pull together resources.

With regard to capitol investments like the processing facility which we are presently building, Bellevale Farms, Inc. and its subsidiary the Prigel Family Creamery, Inc. are committed to conservatively secured investments. We procure financing that is secured by our personal and business assets. We tend to be adverse to debt, except for important, short-term, business investment that is important to favorably secure our future in family-scale farming. Since we prefer to be debt free, both personally and in business, we practice accelerated debt-retirement whenever possible.

With regard to gaining other equipment or intangibles on behalf of our business, I, Robert Prigel, Jr., am proactive in maintaining a diverse network of relationships on which I can draw for wisdom, connection and current local opportunities in our agricultural community and beyond. I keep regular contact with our University of Maryland Extension Agent to stay abreast of new developments and important information. I keep informed of new developments in farming through reading (a lot of) periodicals. These presently include *Stockman Grass Farmer*, *Graze Magazine*, *Farm Shine*, *Lancaster Farmer*, *Hoards Dairyman*, *Farm Journal*, and *the North Coast Digest* quarterly. I have also had the unique privilege to belong to The Third Gunpowder Farmers' Club whose 18 members meet monthly over a meal for an informative program from diverse topics.

It was through this Farmers; Club that I learned of (MARBIDCO,) which has been a source of prospective low-interest construction financing for our Creamery venture. This is how we have also come to learn of and apply for MARBIDCO's USDA Value-Added Producer Grant Match.

Personnel Policies

We tend to benefit from quality employees through our hiring practices which draw on the extensive local network described above (under procurement procedures.) Through word of mouth and existing relationships, we can learn much about qualified candidates character reference before employing them for positions we may fill.

In order to fill positions that require technical expertise, we will seek qualified professionals by networking with knowledgeable sources. For our Creamery operations, we will contact Penn State University because some of their graduates have creamery experience.

We are committed to treating all employees with dignity and mutual respect, and to pay them a fair living wage. Basically, we strive to live by the Golden Rule: we strive to treat others as we would hope to be treated in their circumstance. This applies to personnel matters as well.

Property Management

The principles that govern our property management procedures are *stewardship* and *sustainability*. Just like we manage our land according to careful and conservative measure that give us residual gains for our animal's feed and dwelling, we also manage our equipment and facilities with a mind towards longevity. We are atable and committed to be here for the long run, so we know that we will reap what we sow. We tend to be careful about maintenance, realizes that neglect costs more in the long run. As farmers, we are well aware that there is no such thing as maintenance-free life. However, with sustainable practices, it seems fair to generalize that you can reap benefits that you didn't even have to labor to sow.

Travel Procedures

I travel a few times each year for business and agricultural-related education. 95% my trips are within driving distance. For these short-distance trips, I drive myself and stay overnight in accommodations like the Holiday Inn when I am gone from home. Occasionally, about once a year, I fly to a seminar or farm visitation to explore different business practices and consider their viability for my own operation. When I do fly, I travel coach. At work, I have competent employees who are committed and equipped to manage the daily responsibilities of the farm in my absence.

VAPG 2008 Working Capital Application

Sustainability and economic impact

This venture is both economically and environmentally sustainable. We are committed to wise stewardship.

Green/Organic. Local means not transportation and foreign market dependent; not oil dependent. Additionally, less middle-man dependent as we develop more clients. The most challenging period is this working capital transition period as we establish the new markets and methods of reaching, serving and accounting for them.

We are already established as pasture managed. Already Organic as of April 15, 2008.

The growth in organic markets as well as a need to improve Bellevale's position in the Maryland/Pennsylvania/Delaware milk market has precipitated Bellevale's move into organic products in an effort to remain competitive and improve its profitability. In addition, capacity and margin constraints found in the production and distribution of straight milk through traditional distribution channels for dairy farmers has necessitated a creative move into alternative markets.

In addition, dairy farmers are increasingly finding themselves in a position in which there is no direct correlation between retail and wholesale pricing. PFCI provides Bellevale with the ability to control its product distribution and related pricing.

The demand for organic products in the U.S. has provided an opportunity for PFCI to further expand and define Bellevale's production methods and allows for expansion into new markets

pg 4

Production to only keep pace with demand; minimize inventory

Sales Strategy and Forecast

Due to the nature of product costs between the groupings, product mix is critical to our success.

The following demonstrates our projected sales forecasts by product group.

\$0

\$500

\$1,000

\$1,500

\$2,000

\$2,500

\$3,000

(\$ in 000's)

Sales Forecasts

Cheese \$8.40 \$23.70 \$33.90 \$41.80

Ice Cream \$9.70 \$28.40 \$40.60 \$47.30

Yogurt \$10.80 \$31.80 \$45.40 \$55.60

Butter \$73.90 \$446.10 \$638.00 \$791.40

Liquid Milk \$323.20 \$883.40 \$1,263.50 \$1,567.30

2008 2009 2010 2011

Product Strategy

While we strongly believe that we will put forth only the best in product offerings, we also know that new and innovative products are being introduced continually. We will be proactive in searching out and investigating new technologies.

Financial Strategy

In addition to building cash and equity upon which to build and finance the continued growth of the business, there are several specific areas that we will pursue that should help to ensure the financial health of the organization.

Inventory - Due to the relatively short shelf-life of most of the products being offered along with the intention to utilize wholesale markets as the main delivery mechanism, we are anticipating that inventory will be minimal.

Technology Strategy

Technology will be utilized only in those areas where it a) provides a cost savings through process simplification or b) provides an enhanced product or service to the customer.

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Financials

PFCI anticipates that they will initiate operations in June, 2008. Significant startup costs associated with the construction of the production/retail facility and related equipment and other start-up costs (see addendum) will generate negative cash flow from operations for the first fiscal year (offset by initial external funding sources). However, it is anticipated that this condition will be confined to the first year of operations

processing section will be leased by Cowgirl Creamery solely for their use. While PFCI will provide the structure, Cowgirl Creamery will be providing and installing its own processing equipment.

The building shell will be owned and financed by Bellevale Farms Ltd and will be leased to PFCI. The financing and structural build-out required to support the processing facilities will be the responsibility of PFCI.

The cheese production portion of the facility will be rented to Cowgirl Creamery for \$1,875 per month or an effective rate of \$15 per square foot. Cowgirl will have full access to this portion of the facility and will pay all utilities for their portion.

Copies of estimated costs and architectural drawings are attached.

Start-up needs

In order to set up the operation, PFCI will need to fund a variety of items including the aforementioned build-out and standard start-up costs. The components and estimated costs of these items are detailed below:

Summary of Start-Up Costs

Total Capital Expense

Computer software	\$ 2,400	\$ 2,400	\$ 0
Phone & Internet Hardware	\$ 5,500	\$ 5,500	\$ 0
Legal & Professional	\$ 4,000	\$ 0	\$ 4,000
Advertising Website	\$ 3,500	\$ 0	\$ 3,500
Retail equipment	\$ 8,200	\$ 8,200	\$ 0
Office equipment	\$ 5,800	\$ 5,800	\$ 0
Build-out cash payment	\$ 77,440	\$ 77,440	\$ 0
Equipment cash payment	\$ 76,042	\$ 76,042	\$ 0
Other	\$ 0	\$ 10,000	\$ 0
Totals	\$ 175,882	\$ 175,382	\$ 17,500

All equipment will be purchased outright with the exception of a delivery van which will be leased. If available, we anticipate securing as much equipment as possible from local farm or restaurant equipment auctions or sales so as to minimize initial cash outlays.

EXECUTIVE SUMMARY

The Prigel Family Creamery, Inc., is a new venture of Bellevale Farms, Inc. We have completed a Business Plan and Feasibility Study to venture into a unique, untapped niche market for local organic pasture-grazed dairy products. As of April 15, 2008, after many years of preparation, Bellevale Farms will be producing certified organic raw milk. With the increased revenue afforded us by the organic commodity, we are building a new processing facility to pasteurize, separate, process and package our raw milk into marketable, organic whole, skim and reduced fat milk, yogurt, butter, ice cream, and cheese. We expect to complete construction of our processing facility by November 30, 2008.

We are requesting a USDA Working Capital Value-Added Producer Grant in the amount of \$300,000. With these funds, the Prigel Family Creamery, Inc. will begin production and market aggressively to maximize of our local retail audience before our target consumers become accustomed to purchasing our products through our wholesale markets. The working capital from this grant will afford us a potentially irretrievable opportunity to capture retail customers while our niche products are new and without competition. The increased revenue that we will realize from securing for ourselves our own retail market will protect our success and opportunity for continued growth.

Working capital funds are necessary for non-construction start up costs. With grant funds, the Prigel Family Creamery will pay operating costs and marketing expenses. We will furnish and outfit an office from which to administer our business, then hire a business management specialist to set up the office operations and train an office manager. We will hire a production manager and processing assistants; begin production; refine our value-added products; hire an advertising specialist to design our logo and labels for our line of Local Organic Pasture-Grazed dairy products. Once we procure packaging, we will begin market production of organic milk, yogurt, butter and ice cream; packaging and selling our new dairy products. We will build inventory; secure strong wholesale outlets; prepare ourselves for delivery of inventory; and aggressively promote our retail products. We will furnish, stock, and open a retail store within our existing processing facility. By November 30, 2009, we will have: captured our market; stabilized production and office administration; and poised ourselves to begin 2010 able to meet our own operating costs with positive cash flow.

PETITIONER'S

EXHIBIT NO.

2B

ELIGIBILITY DISCUSSION

Applicant Eligibility

Prigel Family Creamery, Inc. is an independent producer of value-added dairy products, providing a marketing and retail outlet for Bellevale Farms, Inc. It is the retail outlet identical with Bellevale Farms, Inc., an independent producer of raw organic milk.

As of April 15, 2008, after years of preparation, Bellevale Farms will be producing Certified Organic raw milk. A new processing facility which we are building will add value to our raw organic milk by refining it into saleable packaged pasteurized Whole, Skim and Reduced Fat milk, yogurt, butter, and ice cream under the label of "Prigel Family Creamery, Inc."

Neither the Creamery nor the Farm is a cooperative. We do not contract out any of the production of any agricultural commodity. We directly produce all of our own raw milk ("Bellevale Farms, Inc.") to which we add value with our processing and label: "Prigel Family Creamery, Inc."

The Farm and the Creamery have 100% common ownership: farmers Pamela and Robert Prigel. The Creamery is a subsidiary of the farm with the sole intent of "providing a marketing and retail outlet for products produced by Bellevale Farms, Inc." (*Prigel Family Creamery Business Plan and Financials*, page 3.)

Product Eligibility

All Prigel Family Creamery products will involve differentiated production from the raw organic milk which our farm, Bellevale, has previously produced. The value of the raw milk will be increased as it will be processed in the creamery, changing its physical state from raw milk into marketable, pasteurized fluid milk (Whole, Skim and Reduced Fat Packaged milk,) yogurt, butter, ice cream and cheese.

Additionally, all Prigel Family Creamery products involve differentiated marketing as demonstrated in our *Business Plan and Feasibility Study* completed by David Opdahl, C.P.A. of Falcon Financial Group, Inc., on February 7, 2008. Specifically, our products will carry the "Local Organic" label and be marketed directly through local retailers and specialty markets, as well as through our own website and on-site retail store. (Working capitol for the setup of our website and retail outlet are part of what we are requesting in this matching grant application; so these are not presently existing.)

Presently, as an independent producer of raw milk, we have only had one direct customer to manage, namely: our milk coop. Even when our organic certification takes effect on April 15, 2008, while our customer will change from Maryland & Virginia Milk Coop to Horizon Organics, we will still only have one direct customer to manage. With the addition of the value-added product line from the Creamery, we will be adding innumerable customers to our direct market, allowing us to diversify our financial base, as well as to keep a significantly larger portion of the product value for our farm's direct financial benefit. With the success of this grant application, we will also be able to aggressively secure for ourselves our local retail market while our products are new and without competition.

Purpose Eligibility

We are applying for a Working Capitol Grant for \$300,000. Thus, we are not applying for funds for any planning expenses.

The Prigel Family Creamery is itself a new venture, just beginning operation.

We are requesting funds for a time period after October 1, 2008, and ending prior to November 30, 2009. Working capital funds are necessary for non-construction start up costs. With grant funds, the Prigel Family Creamery will pay operating costs and marketing expenses. We anticipate that our production facility will be finished on or before January 31, 2009 (projected completion is October, 2008.)

Between October 1, 2008 and January 31, 2009, we will begin marketing: labels, packaging, preparing inventory, and seeking production employees: biologist, laborers, accounting. We will research, purchase and set-up hardware and software for inventory and client management, cash flow, etc.

As soon as we are in production, we will launch formal marketing with sampling and sales at farmers markets and at our retail facility. We will secure wholesale customers as soon as we are able to provide the with product. We will market aggressively, according to the detailed plans of our marketing strategy throughout all seasons of our entire first year. Thus, we will reach the extent of our local market's awareness through promotion.

We will continue selling our excess raw milk to Horizon, progressively stepping up our production of the value-added inventory through the Creamery's processing facility as we gain additional customers and demand for our new value-added products

All working capital funds we are requesting in this grant application are to subsidize operating costs and marketing activities only through November 30, 2009.

This is our only USDA grant application this cycle, and we have not previously applied for any USDA grant, including any previous planning or working capitol grant for the Value-Added Producer Grant Program.

GOALS OF THE PROJECT

Ultimate Goals of the Project

With the support of a USDA Working Capitol Value-Added Producer Grant, the Prigel Family Creamery, Inc. will aggressively develop and stabilize a retail market at the same time that we are establishing our wholesale market for new Local Organic Pasture-Grazed Dairy products. By the end of the grant term we will have enough customer information to stabilize our production volume and processing efficiency. Then we will begin 2010 able to meet our own operating costs with positive cash flow.

Expanding Markets:

We will pioneer the Local Organic Dairy Product market in our area. The nearest and only competitor in this market is Trickling Springs Creamery in Pennsylvania. Trickling Springs' products are only similar, not identical to the ones we will produce. Additionally, Trickling Springs' products are not packaged in a manner convenient to our target customers, are not marketed through any of the retailers we will cultivate as our wholesale market, and they do not participate in the retail markets that we will grow.

Our milk market will be vastly expanded as we venture into marketable, processed organic dairy products. We ~~are presently a producer of raw milk with a single customer. Prigel Family Creamery, Inc. presently has zero~~ value-added product customers. With the benefit of Value-Added Producer Working Capital Grant funds we will work aggressively to establish an original customer base as soon as the grant term begins.

Projected Increase in Revenue Accruing to Producers:

Prigel Family Creamery
Projected Increase in Revenue Accruing to Producers

3/25/2008

12:49 PM

2007 Results

	Milk in production (Gallons)	Revenues	Wholesale		Retail	
			Milk in production (Gallons)	Revenues	Milk in production (Gallons)	Revenues
Milk						
Prigel Family Creamery	151,200	\$ 316,000	\$ 151,200	\$ 316,000		
Cowgirl Creamery	-	-	-	-		
Total Liquid Milk	151,200	\$ 316,000	151,200	\$ 316,000		\$ -
Butter	-	-	-	-		
Yogurt	-	-	-	-		
Ice Cream	-	-	-	-		
Grand Total	151,200	\$ 316,000	151,200	\$ 316,000		\$ -
Gross Profit (Loss) per Gallon		\$ 2.09		\$ 2.09		\$ -

Grant Period Projections

	Milk in production (Gallons) *	Revenues **	Incremental Revenue Incr. by Product	Milk in production (Gallons)	Revenues	Incremental Revenue Incr. by Product	Milk in production (Gallons)	Revenues	Incremental Revenue Incr. by Product
Milk									
Prigel Family Creamery	6,000	\$ 19,900	\$ 1.23	5,400	\$ 15,920	\$ 0.86	600	\$ 3,980	\$ 4.54
Cowgirl Creamery	-	-	-	-	-	-	-	-	-
Total Liquid Milk	6,000	\$ 19,900	\$ 1.23	5,400	\$ 15,920	\$ 0.86	600	\$ 3,980	\$ 4.54
Butter	900	\$ 17,800	\$ 17.47	-	-	-	900	\$ 17,600	\$ 17.47
Yogurt	78,700	\$ 684,200	\$ 6.80	70,830	\$ 547,380	\$ 5.64	7,870	\$ 136,840	\$ 15.30
Ice Cream	3,000	\$ 256,200	\$ 83.31	300	\$ 17,934	\$ 57.89	2,700	\$ 238,268	\$ 88.16
Grand Total	88,600	\$ 977,900	\$ 0.95	76,530	\$ 581,214	\$ 5.50	12,070	\$ 396,688	\$ 30.78
Gross Profit (Loss) per Gallon		\$ 11.04							
Projected Increase in Revenue Accruing to Producers (per Gallon)		\$ 8.61			\$ 8.50			\$ 30.78	
		328.1%			163.4%			1372.5%	

* Includes the cost to Bellevue Farm of producing the milk.

The projected increase in revenue accruing to the producers for the grant period in question is estimated to be approximately \$977,900 due to the transition of the raw organic milk commodity into various value-added products. A weighted average (across all value-added product categories) of this projected increase in revenue accruing to the producers equates to approximately \$8.95 per gallon of milk or an increase of 428% over the revenue gained on the same volume of organic raw milk, since our profit margin for raw organic milk is only \$2.09 per gallon. The aforementioned projected increase in revenue will accrue to both owners equally in the amount of \$488,950 per owner.

This increase in revenue is evident in all product categories, but is most prevalent in the revenues associated with the retail yogurt and ice cream products with increases of \$17.50 and \$83.00 per gallon, respectively.¹

It is important to our long term success as sustainable family-scale farmers that we cultivate a careful balance between wholesale and retail markets as we establish an original customer base. We require wholesale customers to regulate processing in ways that capture reasonable economies of scale. We also need to aggressively establish our own retail market in order to capture retail customer loyalty while our product is novel.

The above projections of increase in revenue accruing to the Creamery are based on the conservative *Business Plan and Feasibility Study* figures that were established before we became aware of the Value Added Producer Grant. These figures were based only on the market share that we expect to be able to reach without working capitol assistance. The market mix we could reach without grant funds has a greater weight towards wholesale customers, ~~because we would not have cash flow to aggressively target the retail audience. Thus, we expect that~~ revenue accruing to producers will be even more favorable when grant funds are received. Funding this marketing project will afford us a critical, time-sensitive opportunity that we could not otherwise exploit. Our comprehensive marketing strategy is explained in detail on page 15-18.

We initially intend to reinvest the improved revenue afforded us by the grant funds into the future operating costs of this business venture, since we are committed to our own conservative financial stability. We will first set aside funds in savings sufficient for the following year's (2010) projected operating costs before we spend profit in other ways.

By the end of the funding period, it is also our intention to afford to extend ownership interest of Bellevale Farms, Inc. to our present Assistant Manager. Employee Scott Childs is invaluable to our raw dairy operation, and he is due to receive a secured long-term interest in the farm if we are to retain his services. Thus, increased revenue realized from the Creamery will afford the expanded ownership of the farm to include another new independent producer.

Incremental Goals:

We will furnish and outfit an office from which to administer our business, then hire a business management specialist to set up the office operations and train an office manager.

We will hire a production manager and processing assistants; begin production; refine our value-added products; hire an advertising specialist to design our logo and labels for our line of Local Organic Pasture-Grazed dairy products. Once we procure packaging, we will begin market production of organic milk, yogurt, butter and ice cream; packaging and selling our new dairy products.

¹ All Financial Statements have been prepared by David Opdahl, C.P.A. of Falcon Financial Group, Inc., based on the Prigel Family Creamery, Inc. *Business Plan and Feasibility Study*, completed on February 7, 2008.

We will build inventory; secure strong wholesale outlets; prepare ourselves for delivery of inventory and aggressively promote our retail products. We will furnish, stock, and open a retail store within our existing processing facility. Additional details of the Comprehensive Marketing Strategy we will implement are found on pages 15-18 of the Business Viability discussion.

PERFORMANCE EVALUATION CRITERIA

The Prigel Family Creamery's aggressive marketing strategy will increase our value-added products customer base from zero to 462 or more: 2 of which are wholesale purchasers; 210 regular (weekly) retail customers; and 250 one-time sales. These are conservative estimates of what we expect to easily realize from our marketing strategy. Our focus is on initially stabilizing our loyal retail customer base. We will easily be able to add additional wholesale purchasers after we have secured for ourselves our local retail market.

Prigel Family Creamery Projected Increase in Customer Base				
	Wholesale		Retail	
	Contacts	Proj. Actual	Contacts	Proj. Actual
Current	None	None	None	None
Grant Period	7 to 10	2	2000	460

Source Breakdown of Estimated Retail Customers			
	Customers		Product Mix
	Weekly	One Time	
Markets			
Towson	50	weekly	Dairy Bundles
		100	Ice Cream
31st Street	50	weekly	Dairy Bundles
		100	Ice Cream
Retail Store			
	10		Dairy Bundles
	100		Seasonal Ice Cream
		50	Mixed
Totals	210	250	460

Prigel Family Creamery Inc.'s milk market will be vastly expanded as we venture into marketable, processed organic dairy, since we are presently merely a producer of raw milk with a single customer for our unrefined product. As a value added producer of our own line of specialty dairy products, we will reach a new market of Local Organic Pasture-Grazed Dairy Product consumers through wholesale sales to local and national specialty stores within a 100 mile radius of our farm. We will also market our products directly for retail sale through a farm-based store. We will promote our new products at weekly farmers' markets that reach many potentially interested retail customers. We will market our value-added products for retail sale at local events and promote them at the retail stores of our wholesale customers by offering product sampling sessions and company literature. With all that marketing, it seems practically inevitable that we will establish a good base of wholesale and retail customers for our new products.

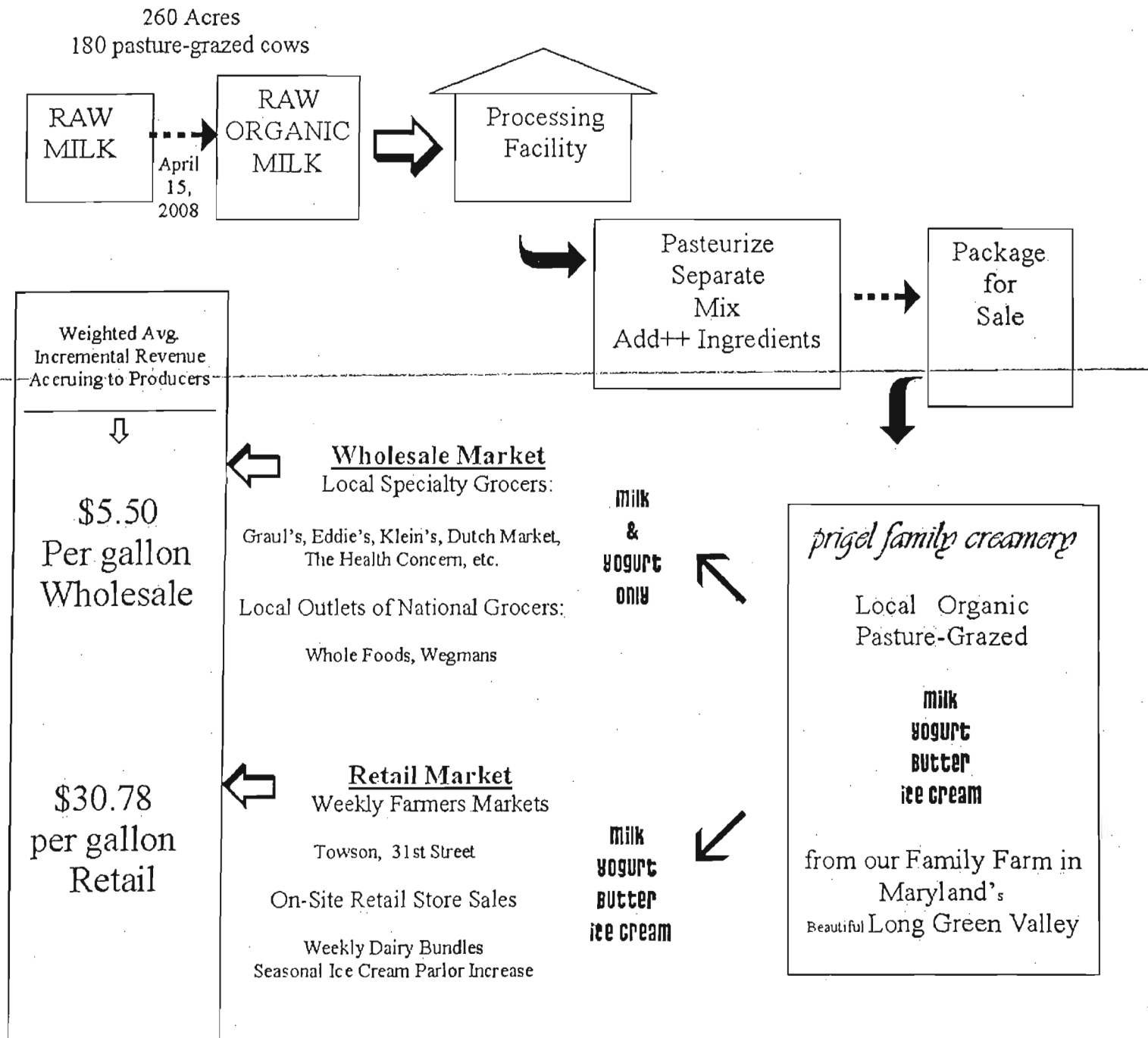
Projected Increase in Revenue Accruing to Producers:

As noted in our Goals, pages 4-5, the projected increase in revenue accruing to the producers for the grant period in question is estimated to be approximately \$977,900 due to the transition of the raw organic milk commodity into various value-added products. A weighted average (across all value-added product categories) of this projected increase in revenue accruing to the producers equates to approximately \$8.95 per gallon of milk or an

increase of 428% over the revenue gained on the same volume of organic raw milk, since our profit margin for raw organic milk is only \$2.09 per gallon. The aforementioned projected increase in revenue will accrue to both owners equally in the amount of \$488,950 per owner. The following diagram illustrates the difference in revenue outcomes between retail and wholesale markets.

Bellavale Farms Inc.

prigel family creamery inc.



Projected Increase in Number of Jobs:

Presently, Bellevale Farms, Inc. staffs its owner-producers and one, full-time assistant production manager. Prigel Family Creamery, Inc. will initially benefit from the donated labor of Robert Prigel, Jr. Nine new staff will be employed in Creamery operations, office management and retail sales.

Once our facility is completed, we will hire Production Manager with a bachelors degree in Food Science and experience in creamery processing. We will employ two production assistants to help operate the processing facility.

An office manager will be employed to oversee administrative aspects of the business. We will hire business and financial consultant, Falcon Financial Services, Inc., to set up and train this office staff. Management gaps will still need to be supplemented by hiring contracted professionals for computer and technology setup and support, and accounting.

Our marketing department will initially require a retail sales manager; two part-time sales associates for farmers markets and promotions; and two more part-time seasonal sales associates in the retail store from May to October for our seasonal ice cream sales increase.

Thus, 9 new employee jobs: 5 full-time and 4 part-time will be created by the Prigel Family Creamery, Inc. Additionally, a minimum of two part-time permanent professional contracts will be funded by our venture.

PROPOSAL EVALUATION CRITERIA

Business viability

Over the past several years, we have prepared our fields and cows for organic certification. In anticipation of the increased revenue which our organic commodity will bring, we conducted a Business Plan and Feasibility Study to consider whether we could successfully enter the value-added dairy product market by constructing a creamery at this time. The conclusions of our Business Plan and Feasibility Study affirm our ability to undertake this venture. The study also confirms the value of this venture for adding increased revenue accruing to producers, especially over the mid and long terms when the debts required for creamery construction and equipment are paid off.

As of April 15, 2008, after years of preparation, we will be producing Certified Organic raw milk. The success of the new Creamery is possible at this juncture because of our increased revenue from going organic. Organic certification brings us a 30% price increase in our commodity with a secure customer contract for 2 years. All financial projections in our Business Plan and Feasibility Study about the security of our creamery success are based on conservative contracted numbers from Horizon for the next 2 years and from a separate contract with Cowgirl Creamery, another national producer who contacted us to purchase our raw organic milk.

~~In Short: Our cash flow from the Horizon and Cowgirl contracts will cover the debt service on the processing facility construction costs.~~ Thus, cash flow from production from the creamery needs only to cover the operating costs of the creamery.

Still, with this conservative approach to investment risk, once we operate the creamery, we need to be able to cover the costs of the basic working capital. This working capital includes inventory production, promotion inventory, salaries for competent staff, and costs associated with getting our products to market and promoting them to consumers. It is these working capital costs for which we are requesting assistance from grant funds to pay for October 1, 2008 through November 30, 2009. For example, from a conservative risk standpoint, theoretically we only need to produce what volume we already have customers arranged to purchase. (E.g. - We make a quart of yogurt only when we sell it.) Yet the reality of producing quality products at a rate sufficient to supply retail demand requires inventory production that will initially cost us some increased spoilage until our market is stabilized. We are not financially able to take these risks without a working capital grant because our revenue is initially necessary service our debts from building the creamery.

All else being conservative, with this grant, we can plan to produce more aggressively to meet retail demand for the products. With working capital, we will aggressively expand our retail customer base and secure the new market for ourselves, capitalizing on known current market trends that may not last. In effect- we can strike while the iron is hot, and build customer loyalty before our wholesale clients outpace our access to our retail market.

We have a history of anticipating trends by knowing our market by doing our homework. We have invested conservatively at the strategically right time, which has allowed us to survive and thrive as family scale farmers when others have in the past been hit hard by dairy market changes. We foresee the market changing in organics. We have a unique opportunity capitalize on public interest in local and sustainable farming. We are able to pioneer this market so that Prigel Family Creamer products will be the brand of choice when future competition may follow our lead. Still, few will be able to follow because of the unique farming practices which we already employ are what now equips us to capture the market for Local Organic Pasture-Grazed dairy products provided by family farmers. (The practices are expended upon in greater detail under Business Management Capabilities on page .)

We will establish a stable market for our products on a level sustainable for us and future generations at our present location. In the future, we also hope to have sufficient demand for our products to expand supply by adding one more dairy independent producer-owned farm to our corporation, including Scott Childs, our present assistant manager, as an additional owner-interest. We would like to vest him and rely on him to manage future additional acreage.

With the increased revenue from value-added products, we will reap the benefits of greater financial security that will still allow us to keep our family farm and creamery well-managed, and at capacities comfortable for quality family farm life. By expanding into management and delegation, we will not only create jobs and improve sustainability, but we will also be carefully dividing labor so that quality of life can be maintained on a comfortable level for all involved. Our aim for a sustainable quality of farm life includes our own interest as owner-operators, as well as our governing policy for the future holders of the farm and creamery.

The Prigel Family Creamery, Inc., is concerned to seize this opportunity to enter the value-added market for our organic dairy products at this time, because we believe that the organic milk market will repeat the pressures and fluctuations that the late eighties and early nineties posed for raw dairy when industrial scale farming squeezed out independent producers. The rise in industrial scale supply met demand for a limited milk market at prices lower than were sustainable for family farmers. The same signs are showing this trend upcoming in the organic milk market. We will be securing a more stable future for ourselves by diversifying into markets that are broader based, less fickle, and which will keep more value-added revenue in our own pockets as we look to the future of our farm.

Our Niche Market:

Market Analysis

U.S retail sales of organic milk have been on a consistent growth trend since the mid -1990's with sales exceeding \$1 billion in 2005 which represented a 25% growth rate over 2004. By contrast, sales of overall milk products have remained fairly constant since the mid-1980's. By 2006, organic milk and ice cream products comprised approximately 6% of retail milk sales.

Increasing interest and demand for organic milk products has, in the past, generated significant shortages suggesting that consumer demand is unmet at certain price points. This shortage has prompted a number of retail grocers and big box retailers to distribute organic milk. These retailers typically carry nationally known organic products such as Organic Valley or Horizon Organic so branding is becoming increasingly important in this marketplace.

According to the USDA study on "Retail and Consumer Aspects of the Organic Milk Market", the following household characteristics would typify the most likely organic milk consumer:

- ☐ ☐ Region: East or West Coast
- ☐ ☐ Education: College graduate or Post College
- ☐ ☐ Age: Under 55
- ☐ ☐ Household Income: Annual income of at least \$70,000

Given our location and timing of entrance into the marketplace, PFCI believes that we are strategically placed to address the needs of these groups.

According to the statistics derived from the U.S. Bureau of the Census (2002) as shown on the following page, there are over 100,000 households in the Baltimore area that meet the aforementioned household characteristics for organic milk consumers. This estimate only takes into account eight of the largest suburban communities within a 25 mile radius of Glen Arm, Maryland. The 2002 Census data did not consider or specifically identify communities in Northern Baltimore County the inclusion of which could easily increase the estimate of

households.

In terms of pricing, the East coast market has been able to command the highest premium of organic milk over conventional milk compared to all other regions. In 2004, that premium averaged over \$2.50 per half gallon or 126%. The national average at that time was \$1.99 or 98%. Some of the aforementioned regional differences may be attributed to the fact that the East and West coasts have had access to organic products for a longer period of time.

- Market Analysis derived from U. S. Department of Agriculture report "Retail and Consumer Aspects of the Organic Milk Market", May, 2007

Approximate 25 mile
radius from Glen Arm,
Maryland

Demographics Summary

	A Kingsville	B Parkville	C Towson	D Lutherville	E Bel Air	F Cockeysville	G Pikesville	H Reisterstown
Distance	6.25	7	7	9	11	15	16	25
Median Age	42.4	37.6	37.6	45.5	34.9	33.1	45.4	34.6
Owner occupied	93.5	65.8	59.7	82.8	80.7	33	69.3	65
College	43.8	25.4	57.2	50.8	46.1	52.5	54.6	34.9
Household income >\$75K	53.7	17	34.4	49.9	37.3	25.1	39	24.9
No of Households	79,100	2,219	7,263	3,252	5,610	2,304	4,960	2,167
Median Household Income	\$ 78,025	\$ 41,410	\$ 53,775	\$ 61,573	\$ 62,064	\$ 43,681	\$ 58,598	\$ 47,587

Buying Locally Produced Goods

In addition to the move to organic products, PFCI also has the added benefit of being able to take advantage of the increasing trend toward buying locally-produced agricultural products.

"The trend toward smaller farming can be seen locally in farm Census data. While the number of farms in Maryland has fallen from 39,000 in 1950 to about 12,200 in 2002, the number of niche farms of 10 to 49 acres grew from 3,979 in 1992 to 4,412 in 2002. In Virginia, such farms grew from 10,361 in 1992 to 14,082 in 2002."

"Whole Foods recently announced a heightened focus on buying local produce, including a \$10 million budget to promote local agriculture, following pressure from author Michael Pollan, who has called into question the wisdom of industrial organics. Of course, nothing is ever truly easy in farming territory, particularly when it comes to the increasing development of houses, each bigger than the last one. Grohsgal understands his land is worth more to developers than it is to him as a farm. He turns home builders away anyway. "I know it's worth a fortune," he said, "but if we always sell to developers, our nation will just stop growing food.""

- A Growing Trend: Small, Local and Organic: Popularity of Farmers Markets, Natural Grocery Stores Helps Cultivate a Rise in Niche Farms, *Michael S. Rosenwald*, Washington Post Staff Writer, Monday, November 6, 2006; Page D01

According to an article in the December, 2007 edition of the Carroll County Times (a local periodical from Carroll County in Maryland), buying local is sometimes preferred over organic.

"What's more important than buying organic is buying local, Harbold said. Buying local cuts down

on vehicle emissions from shipping, he said. Buying local produce also helps support local economies, he said, and allows consumers to build relationships with their food producers, ask for different products and learn more about how things are grown or raised.

Jackie Miller, owner of the organic farm De La Tierra Gardens in Harney, is also manager of the Downtown Westminster Farmers Market. The market is unique in that it requires producers to sell their own goods, not just items they may have picked up from other regional farms. And while it isn't required that producers be organic, there are multiple organic or all-natural farmers who have made this market one of their major sales outlets.

"I do feel local is more important than organic," Miller said. "Organic is sort of a personal preference for health and the health of the environment, but I think it's more important to keep the source of food local.""

- Carroll County Times, December 21, 2007, by Carrie Ann Knauer,
We see this combination of both organic and locally-produced goods as being the right combination to bring a significant competitive advantage to PFCI.

Strategy and Implementation

Our strategy is based on serving the organic dairy product needs found with the higher income consumer. We will focus on connecting and serving these customers' needs through the Comprehensive Marketing Strategy detailed on pages 14-17.

The Prigel Family Creamery's Business Plan and Feasibility Study justifies the viability of the target niche market for our Local Organic Pasture-Grazed dairy products. The Plan also demonstrates that our business will be stable value even at wholesale Value-Added Production level since we are poised financially by the transition we've made to organics.

We know that timing is sensitive in marketing. The Prigel Family Creamery's plan senses the pulse of our specialized consumer market, and realizes we are uniquely positioned to capitalize on the trend towards Local Organic dairy products which are sustainably and environmentally-sensitively produced on a family farming scale. Owner-manager Robert Prigel has unique insight and management skills that poise us to exploit a market that others are not able to enter. From a management perspective, Robert's historically proven insight says: "The time is now."

- We want to become known while there is still no competition.
- We want to enter while we can afford investment.
 - We have a newly improved profit margin from our switch to organics.
 - We have a policy of reinvesting surplus revenues in the business when feasible.
 - Recent increased costs of organic production reduce revenue for raw milk. Thus, our revenue from the raw milk is vulnerable and may not remain viable over the long term.
 - We need to reinvest while we have the chance, because the opportunity may pass.
- We have reached a professional plateau, and this is the natural next step.

After carefully considering the management demands implied in the Business Plan Feasibility Study, Robert Prigel is confident that he is equipped and ready to successfully make the business management transitions. We will transition from single product to a range of products. We will add innumerable wholesale and retail customers to our present singular customer base. Robert will be responsible to oversee several additional personnel to manage this venture. Qualifying Him for these skills is Robert's own experience and character. He is realistic and knows his own limitations. (This is not merely a self-assessment, but the consensus of

friends and colleagues.) He is well-connected and informed. We are confident in both the venture itself and Robert's ability to carry it out. We are entering the value-added dairy product market, risking ourselves and our own resources with or without the grant. This is assurance of our own confidence and commitment to the venture.

The USDA Working Capital Value-Added Producer grant affords us accelerated retail market penetration, which is crucial to our ability (both short and long term) to realize increased revenue from retail (versus wholesale) markets.

While capturing wholesale customers represents a small increase in revenue over producing our raw milk, the profit margin does not justify our increased labor investment over the long haul.

We have long chosen to be dairy farmers because of a certain quality of life that it affords us. This quality of life is certainly not financially motivated, since it is often a lean standard of living for a committed 24-7 effort. We are not becoming value-added producers so that we can trade in our hard-won way of life to become processing plant managers.

It is important for us to aggressively capture our retail market immediately once we begin production. We want to become known while there is still no competition, and to enter the market while we can afford investment. We do not want to presume that our organic raw milk price will always remain viable. Thus, we need to reinvest while we have the chance, because the opportunity may pass. Bellevale Farms and it's Prigel Family Creamery are poised to capitalize on the consumer market for Local Organic Dairy products.

We are concerned to capitalize on the appeal of novelty to retail consumers. If our creamery misses out on the initial retail market and loses the value of novelty, there is a big risk that we, the independent producer, will irrevocably miss the opportunity to capture our local retail audience. Our wholesale customers may secure loyalty and supplant our ability to capture the retail audience at a future time. Our particular niche audience and retail marketing limitations make us particularly vulnerable to this risk. Our "Local" label will limit our ability to sustain necessary wholesale relationships without directly competing ourselves with our own geographically limited retail audience.

We are limited to one rural outlet, plus the more labor-intensive participation in farmers markets for our sustainable capacity to directly reach our retail market. Our on-site retail store is the only permanent presence where customers can purchase our retail products. While we have carefully planned marketing strategies to passively draw existing customers back to this site, these tactics are not sufficient to compete with our wholesalers unless customers can be efficiently informed and brought to our store before they become complacent with their access to our product through wholesaler. Once they have come to our store, we will passively retain a reasonable number of direct retail customers who realize the proximity of our store and the draw of our Producer Exclusive products which are not available elsewhere.

With a USDA Working Capital Value-Added Producer Grant in the amount of \$300,000, we would like to maximize the effective employment of our own business momentum at the start of operations. We have long prepared and long planned for this venture, so we are excited to get started. Our vested interests and useful owner-producer management skills make us uniquely able to best promote our products. Without sufficient working capital, our energies will be required to manage operations instead. We could become bogged down in the rut of operations management without the temporarily subsidized cash flow that would free us for immediate product promotion.

BUSINESS VIABILITY CONCLUSION:

While without the grant, we would be "stable" from a business and financial perspective, the grant primarily affords the opportunity to focus Robert's attentions on the development of markets, and to devote sufficient attention to securing and training the right personnel. So the grant affords us a critical opportunity to penetrate the retail market at a time when our product has no competition and enjoys the benefit of novelty. If we miss the opportunity to capitalize on novelty and exclusiveness for ourselves at this time, we will have forfeited much of our narrow retail market to our wholesale interests.

For clearer comparison, let us consider a scenario of what could happen if we are limited (without working capitol grant funds) to our own resources in 2008 while we open our processing facility.

In order to justify production costs, we establish a couple of wholesale customers among local markets. (These stores must be local because that is a key interest of our particular niche market.) Since we need to be careful to cash flow our debt service (from constructing the processing facility), we have hired minimum operating staff to get things going, so owner-producer Robert Prigel is engrossed with operations management and has no time for prospecting retail customers. Cash-flow conscious, we choose to produce little more than what we can conservatively sell immediately or afford to waste. While we have quietly opened our retail outlet and attended a few farmers markets, we have not had the staffing resources or cash flow to spare for active retail market development. Meanwhile, our own target retail customers are thrilled to finally see our kind of product, but they become familiar with finding our products conveniently available on their grocery's shelf. A year passes before our limited staff is finally able to begin devoting some attention and cash flow to actively entering the retail market for our Local Organic dairy products. Except now, our target customer has become quite comfortable being able to get the most popularly demanded organic dairy products at the same time that they pick up all their other weekly organic, natural and local groceries. If they have checked our website or seen us at a farmers' market, they *may* have learned of our great ice cream and retail outlet and considered making a special trip to enjoy a tasty rural experience. Still, they never get around to it because they already have their pressing dairy needs satisfied so conveniently at the local grocery. If they do come out for ice cream or see us at the farmers' market, they realize they have at home already supplied their weekly demand for our products when they were at the grocer, so they overlook all of the rest of our retail products and remark to themselves that it is easier anyway to buy all their groceries all at once from that other source. While we are sad to miss the retail sales, we are reluctant to withdraw from our wholesale customers in order not to compete against ourselves. We need some wholesale volume to benefit from production economies of scale, and our product's continued presence on their shelves does bring us some passive publicity. We really regret that we were unable to capitalize for ourselves on securing this retail market when we first opened.

The added value that the Working Capitol Grant afford us frees Robert to focus on hiring skilled, qualified employees to manage the processing facility and to oversee sales staff at retail markets. With grant funds, Robert is able to employ an office manager and hire a business planning and technology specialist to consult about and procure optimal office computers for the Creamery's particular management needs. This consultant affords the Creamery expertise to setup hardware, program inventory and payroll programs, and to train the office manager. Meanwhile, Robert is able to focus his attention on developing product quality and soliciting wholesale customers. By the end of the grant term, we will have secured retail and wholesale markets, put in place a reliable office management system, employed and trained sufficient processing staff to manage the creamery production to comfortable capacities, and established a known presence in our well-staffed retail store.

Customer base/increased returns

The Prigel Family Creamery's aggressive marketing strategy will increase our value-added products customer base from zero to 462 or more: 2 of which are wholesale purchasers; 210 regular (weekly) retail customers; and 250 one-time sales. These are conservative estimates of what we expect to easily realize from our marketing strategy. Our focus is on initially stabilizing our loyal retail customer base. We will easily be able to add additional wholesale purchasers after we have secured for ourselves our local retail market.

Prigel Family Creamery Projected Increase in Customer Base				
	Wholesale		Retail	
	Contacts	Proj. Actual	Contacts	Proj. Actual
Current	None	None	None	None
Grant Period	7 to 10	2		

Source Breakdown of Estimated Retail Customers			
	Customers		Product Mix
	Weekly	One Time	
Markets			
Towson	50		Dairy Bundles Ice
31st Street	50	300	Cream Dairy Bundles Ice
		200	Cream
Retail Store			
	10		Dairy Bundles Seasonal Ice
	100		Cream
		300	Mixed
Totals	210	800	460

Our Comprehensive Marketing Strategy:

Prigel Family Creamery Inc.'s milk market will be vastly expanded as we venture into marketable, processed organic dairy, since we are presently merely a producer of raw milk with a single customer for our unrefined product. As a value added producer of our own line of specialty dairy products, we will reach a new market of Local Organic Pasture-Grazed Dairy Product consumers through wholesale sales to local and national specialty stores within a 100 mile radius of our farm. We will also market our products directly for retail sale through a farm-based store. We will promote our new products at weekly farmers' markets that reach many potentially interested retail customers. We will market our value-added products for retail sale at local events and promote them at the retail stores of our wholesale customers by offering product sampling sessions and company literature. With all that marketing, it seems practically inevitable that we will establish a good base of wholesale and retail customers for our new products.

Wholesale Customers:

We will cultivate wholesale customers among local and national retailers for whom our niche products hold known interest. National retailers with this interest include Whole Foods Market and Wegmans. Since we will be putting a "Local" designation on our labels, we will restrict retail sales of any of Prigel Family Creamery products to stores within a 100 mile radius of our farm.

Local retailers we will approach to carry our products include upscale grocery stores such as Graul's, Klein's, Eddie's, and The Health Concern.

Publicity through Wholesale Customers

Several retailers who will purchase wholesale products from us allow product representatives to do demonstrations and sampling at their stores. We will take advantage of this opportunity to reach our special

consumer audience. When possible, a family member employee of the Prigel Family Creamery will personally conduct samplings at the retail stores of wholesale customers. We will do this to promote consumer awareness of our product's availability. We also desire to conduct these product samplings *personally*, because we believe we are uniquely able to educate the consumer about our product and to lend credence to the "family" appeal of our label.

On the surface, it might seem most cost effective to phase out our wholesale customers altogether as demand increases for products from our retail market. (At present, our plan is based on a fixed raw milk supply that will at some point be unable to meet additional demand.) Even once our retail customer base increases and stabilizes, we will deliberately maintain some wholesale customers. Presence on the shelves of these local specialty stores will provide us continued exposure, enhancing our local market presence. Thus, keeping our wholesale relationships is a strategic part of our long-range publicity plan, not only to *reach*, but to *maintain* our target audience contact.

All of our products will have our address, web site and contact info on the back of our label. Once a consumer learns of our location, they may choose to purchase direct from us in the future at our retail outlet.

Producer Exclusives

We will maintain some of our value-added products as Producer Exclusives: available only directly from us at our retail outlet and markets. In this way, if a consumer wants that particular dairy product, when they ~~necessarily come to our store or markets to purchase it, they will be inclined to bundle-shop (purchase other~~ staple dairy products) while they are there. We believe it is wise to encourage direct consumer contact with us, because this close relationship will enhance customer loyalty.

Branding

We will develop a customized logo that aids in brand awareness through both creative design and connection with both the name and the product focus.

Packaging

Since the retail audience for our Local, Organic, Pasture-Grazed Dairy products tends to be an educated family consumer with health, environmental and social concerns, it will benefit us to cultivate customer awareness and loyalty with unique packaging and marketing strategies.

We will include on the back side of our product labels different stories about our family farming and information about the benefits of small-scale, local, organic, pasture-grazed farming in general. Thus, we will invest in careful designs our packaging labels to include variety among these stories and to clearly communicate facts in a fun way. Other Organic Dairy Producers have proven this marketing technique to improve customer awareness and product loyalty.

Retail Outlet

As the store front that will represent all of our value-added dairy products to the public, we believe the atmosphere in our retail outlet is crucial to our public image as well as to the customer's comfort and desire to return. As a farm-based facility, our store is not exactly convenient (except to a few neighbors) to picking up staple products on the way home, or here, or there. Accordingly, we think it is important to add some additional appeal to our customer's in-store experience. We hope to enhance our customer's shopping experience by coupling consumption with comfort and education.

To this end, we hope to decorate the 24' x 60' store front as a local farm history museum with country style. On the walls, we will hang nostalgic, poster-size, art-quality photographs of local agriculture. Alongside the photographs will be museum-style informational plaques (of the same style and quality as the enlarged

photographs.) The information on these posters will include information similar to that on our packaging labels about why we are committed to local sustainable farming. For interest, we will also include local nostalgia related to the various pictures. We will include some information about our own farm history, but we will also include other points of local interest to avoid anything boring.

Ice Cream Parlor

The store will also double as an ice cream parlor. We believe it is an excellent strategy to reach our very localized market (within 5 miles) who are inclined to be able to be long-term convenience shoppers. Seasonally, we will draw them to our site with the appeal of a cold ice cream experience. While they are there, ice cream consumers can conveniently pick up their dairy staples from the store at retail prices. When ice cream season is over, this very local audience will find it convenient to remember us for their staple dairy purchases. Since our site is pastoral and lovely (and our cows are even cute,) it will be a nice environment for consumers to sit and enjoy their ice cream experience, whether alone or with friends or family.

Local Events and Farmers' Markets

There are several annual local events and a few well-attended weekly farmers markets where it will be important for us to promote our new products, especially in the first year of production as we seek to make our local market aware of our products. Among these are the Towson Town Festival and the Hopkins Fair in the Spring of each year, the Towson Farmers' Market held weekly from May to October, and the 32nd Street Market in Baltimore City that continues year round. and offer them for sale directly to the retail customer that product is delivered.

Stories in Local Newspapers

Robert Prigel, Jr. is regularly called upon by local media and journalists for his expertise and experience with innovative, environmentally-sensitive, sustainable agriculture. In just the past year, articles citing Robert have included The Baltimore Sun paper, Patuxent Publishing (publisher of the Towson Times and other local periodicals,) the Examiner, and North County News. Once we are producing our value-added products, we will get in touch with these contacts to encourage them to write and publish stories and articles about our creamery and its products. We anticipate this will result in some strategic free publicity to our targeted "local" audience.

Website

The website will be informational only with the intent of educating consumers and drawing customers to the retail facility. While we will not sell products through the website, its appeal and educational value is an important part of our promotion and customer retention strategy due to the hunger of our particular niche market for information and local connection.

Direct mail

While we will not generally rely on direct mailings as a primary marketing strategy, we may find it useful to send our interested consumers information about periodic promotional events as a reminder of our presence and promote connection and product loyalty. For example, we may want to invite contacts to a seasonal opening of our ice cream parlor in order to get them to visit our farm and retail outlet. A mailing list may be compiled at farmers' markets, retail stores, and on our website.

Open House/Grand Opening

We will host a grand opening event at our retail store & ice cream parlor. which will most likely take place in June to optimize turnout. Our purpose in this event will be introduction and/or further strengthening of existing relationships.

Signs & Print Brochures

Since our audience is so local and information-interested, locally posted and flyers can be an effective way to reach prospective customers on a scale that is useful to us. Additionally, making brochures about our methods, values, history and farming stories available to consumers at product samplings and markets will help them to recall our identity and location for future purchases.

Coupons

Coupons for redemption only at our retail store may be useful in drawing retail customers to our location. Coupons could be distributed by our staff at product samplings and local markets.

Apparel

All sales and marketing personnel will be attired in appropriate clothing displaying the Prigel Family Creamery logo and company name.

Projected Increase in Revenue Accruing to Producers:

The projected increase in revenue accruing to the producers for the grant period in question is estimated to be approximately \$920,000 due to the transition of the raw milk commodity into various value-added products. This projected increase in revenue accruing to the producers equates to approximately \$5.44 per gallon of milk or an increase of 160% over the revenue gained on the same volume of milk sold entirely into traditional markets. The aforementioned projected increase in revenue will accrue to both owners equally in the amount of \$460,000 per owner.

This increase in revenue is evident in all product categories, but is most prevalent in the revenues associated with the yogurt and ice cream products with increases of \$17.50 and \$83.00 per gallon, respectively.

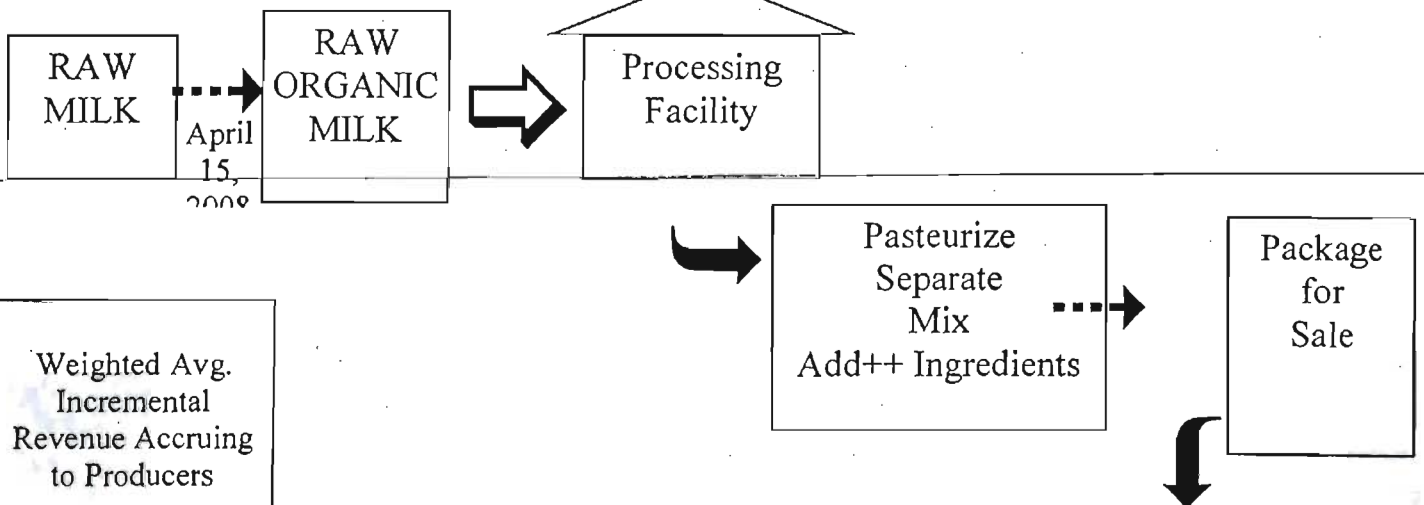
All Financial Statements have been prepared based on the Prigel Family Creamery, Inc. *Business Plan and Feasibility Study*, completed on February 7, 2008, by David Opdahl, C.P.A. of Falcon Financial Group, Inc.

prigel family creamery inc.

Bellerale Farms Inc.

prigel family creamery inc.

260 Acres
180 pasture-grazed cows



Weighted Avg.
Incremental
Revenue Accruing
to Producers



\$/gallon

\$/gallon

Wholesale Market Local Specialty Grocers:

Graul's, Eddie's, Klein's, Dutch
Market,
The Health Concern, etc.

Local Outlets of National Grocers:

Whole Foods, Wegmans

Retail Market Weekly Farmers Markets

Towson, 31st Street

On-Site Retail Store Sales

Weekly Dairy Bundles
Seasonal Ice Cream Parlor Increase

Milk
&
Yogur
t



Milk
Yogur
t
Butte

prigel family creamery

Local Organic
Pasture-Grazed

Milk
Yogurt
Butter
Ice Cream

from our Family Farm in
Maryland's
Beautiful Long Green Valley

Projected Increase in Number of Jobs:

Presently, Bellevale Farms, Inc. staffs its owner-producers and one, full-time assistant production manager. Prigel Family Creamery, Inc. will initially benefit from the donated labor of Robert Prigel, Jr. Nine new staff will be employed in Creamery operations, office management and retail sales.

Once our facility is completed, we will hire Production Manager with a bachelors degree in Food Science and experience in creamery processing. We will employ two production assistants to help operate the processing facility.

An office manager will be employed to oversee administrative aspects of the business. We will hire business and financial consultant, Falcon Financial Services, Inc., to set up and train this office staff. Management gaps. will still need to be supplemented by hiring contracted professionals for computer and technology setup and support, and accounting.

Our marketing department will initially require a retail sales manager; two part-time sales associates for farmers markets and promotions; and two more part-time seasonal sales associates in the retail store from May to October for our seasonal ice cream sales increase.

Thus, 9 new employee jobs: 5 full-time and 4 part-time will be created by the Prigel Family Creamery, Inc. ~~Additionally, a minimum of two part-time permanent professional contracts will be funded by our venture.~~

prigel family creamery inc.

Staffing Breakdown

Office
Processing
Marketing
Wholesale
Retail

Graul's, Eddie's, Klein's, Dutch
Market,
The Health Concern, etc.

Office

Full-Time Office Manager



Contractual Staff:
Legal, Systems & Technology



Processing Facility

Production Manager

Marketing

Wholesale Purchasers

Retail Staff

Prigel Family Creamery, Inc. is an independent producer of value-added dairy products, providing a marketing and retail outlet for Bellevale Farms, Inc. It is the retail outlet identical with Bellevale Farms, Inc., an independent producer of raw organic milk. The Farm and the Creamery have 100% common ownership: farmers Pamela and Robert Prigel. The Creamery is a subsidiary of the farm with the sole intent of "providing a marketing and retail outlet for products produced by Bellevale Farms, Inc." (*Prigel Family Creamery Business Plan and Financials*, page 3.) Thus, we presently have two owner-producers involved in our project.

Robert Prigel, Jr. completely manage the dairy operations and food production for 180-cows on Bellevale Farm's 260 acre grazing based raw milk production dairy farm. Pam supports Robert and the Farm by tending to the daily demands of family life, as well as doing the farm's bookkeeping. She manages office administration, which is relatively simple at present with a single customer for our raw milk sales. Robert spends about 12 hours per day, 6 days per week managing the farm. He also milks for 3 hours on Sunday. His work time affords him a comfortable pace and flexibility to keep abreast of new information about his innovative management-intensive grazing methods of farming.

Robert takes seriously his management practices and is always working to improve. He is concerned for environmental and lifestyle sustainability as well as economic production. Like family life, dairy management does not respect time boundaries from its owner-producers for the work day. Robert must be on-call to handle the cow's needs, even if that is calving help in the middle of the night. Fortunately, Bellevale Farms is also blessed with the dedicated support assistant manager Scott Childs.

By the end of the funding period, it is also our intention to afford to extend ownership interest of Bellevale Farms, Inc. to Scott. He is as invaluable to our raw dairy operation as an owner would be. Scott is due to receive a secured long-term interest in the farm if we are to retain his services. Thus, increased revenue realized from the Creamery will afford the expanded ownership of the farm to include another new independent producer.

Scott's invaluable production assistance will afforded Robert to focus a lot of his attention on the new processing and marketing components of value-added dairy production. Robert is committed to being the chief force behind hiring qualified personnel, marketing according to the aggressive plan detailed in our market strategy, and overseeing production and retail for the Prigel Family Creamery, Inc. Pam has been instrumental in refining our venture and program goals, and she will continue to be important to many strategic decisions as we develop an attracting image for our product line of Organic Local Family-Farmed Pasture Grazed milk, yogurt, butter and ice cream.

Our market strategy is based on serving the organic dairy product needs found with the higher income consumer in our local area. We hired Falcon Financial Services to complete a careful market analysis for our Organic Local Family-Farmed Pasture Grazed milk, yogurt, butter and ice cream. We will focus on connecting and serving these customers' needs through the plan detailed in our comprehensive marketing strategy found on page .

We have prior to the grant period secured a contract with Horizon to purchase our organic raw milk commodity a price which affords us the revenue to build our processing facility.

Looking forward to production of our whole-saleable packaged dairy goods, we have made preliminary inquiries with wholesalers in our area who cater to our consumer niche. While several have expressed interest, these specialized grocers are careful to control the quality of the products they will sell. They have asked us to contact their dairy purchasers once we have product samples to offer them.

We have conducted a Feasibility Study in conjunction with our Business plan to understand the retail market for our Organic Local Family-Farmed Pasture Grazed milk, yogurt, butter and ice cream. We have developed a comprehensive marketing strategy to aggressively target this particular retail audience.

Include letters of intent from some prospective retail buyers.

Robert will ask contacted wholesalers for an interest letter.

Include any support letters that are NOT providing matching funds in Appendix A. (Support letters verifying matching funds should be separated into Appendix B.) And remember that these letters count toward your 35 page limit for the Proposal Narrative. Loans and capitol for creamery.

Management team/work force

Robert Prigel, Jr., has been involved in dairy farm management for 25 years. In that time, he has sustained through difficult and changing markets several times when most of his peer farmers did not succeed. Robert has strong management skills and a history to prove them. He employs conservative financial practices. He enjoys continuous education and refinement of his farming techniques. Robert has a willingness to follow sensible innovative approaches and to invest in them with full commitment. He is positioned with many good and strategic relationships. Plus, he has a realistic view of his own limitations and a willingness to ask for directions. All of these characteristics and resources come together to make Robert uniquely qualified for this business venture. As analyzed in the business viability discussion on pg.--- Robert has done his homework with this present business venture, and the timing and viability of the endeavor is sound. Couple this with Roberts proven track record of exceptional management skills to successfully discern and implement dairy farm innovations, and it would be hard for this project not to be a good investment.

Robert will hire a Processing Manager with Food Science degree and creamery experience to manage production. The probable source of candidates for this job will be Penn State University where Robert has already inquired with the Assistant Professor of Food Science to confirm that graduates would be competent to meet the demands of this job description. Robert has also arranged for Susan Opdahl to take the position of Retail Manager. Susan is a qualified family member who is also dedicated to the success of the Creamery.

~~We tend to benefit from quality employees through our hiring practices which draw on an extensive~~
local network of varied information resources. Robert Prigel, Jr. is proactive in maintaining a diverse network of relationships on which he will draw for hiring support staff for the Creamery operations and retail jobs. Robert keeps regular contact with our University of Maryland Extension Agent. He is on the Session of his church, committees at his children's school, and he is a member of the Third Gunpowder Farmers' Club whose 18 members meet monthly. Much of the extended Prigel family lives close by. Family members will be a source of competent staff who also further the family-farm image of our product's label.

Work plan/budget

STAFF/SALARIES

In-Kind

Processing Manager \$65,000 annual \$ 65,000.00
Food Science Degree & Creamery Experience

Retail Store \$65,000 annual \$ 65,000.00
6 days, Seasonally Intensive,
Susan Opdahl

Full-Time Office Manager \$ 40,000.00
36 hours per week, skilled administrator, trained by business technologist

Processing Assistant \$45,000 annual \$ 22,500.00
x .5 fund for 6 months in 2009

Seasonal Promotional Staff (Ice Cream Parlour)
Ice Cream Parlour Assistance \$8 hourly 25 weeks
3 5 hour shift 6 days/wk \$ 18,000.00

Retail Promotional Director for Local Markets \$25 hourly 23 weeks \$ 11,500.00
Robert Prigel, Jr. 20 hrs/week IN KIND

Local Markets Assistance \$10 hourly 23 weeks
2 20 hrs/week \$ 9,200.00

Cultivate Wholesale Customers \$75 hour 20 weeks IN KIND \$ 22,500.00
Robert Prigel, Jr. 15 hrs/week

Management Oversight & Staffing of Creamery \$80 hour 30 weeks IN KIND \$ 48,000.00
Robert Prigel, Jr. 20 hrs/week

Incentive Plan 0.1 \$ 21,970.00

TAXES 0.1 \$ 24,167.00

BENEFITS 0.25 \$ 60,417.50

TOTALS:	\$ 326,254.50	\$ 82,000.00
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Rough Break Down of Proposed Working Capital Expenses

Delivery Truck RENTAL						\$	30,000.00
Inventory Storage						\$	27,000.00
Retail Marketing							
	Portable Temperature-Controlled Display Cases	8	4000	\$		\$	32,000.00
	Portable Utilities for Farmers' Markets			\$		\$	12,000.00
	Tables	4	60	\$		\$	240.00
	Cash Box			\$		\$	50.00
	portable register			\$		\$	400.00
	Misc. Markets			\$		\$	500.00
Office Start U Computers							
		2	\$1,200 each	\$		\$	2,400.00
	Phone System & Network			\$		\$	5,500.00
	Printers		Brochures Quality	\$		\$	500.00
			Office Quality	\$		\$	360.00
	Software (Accounting & Inventory)			\$		\$	1,000.00
	Technical Setup & Training	80 hours	\$150 hourly	\$		\$	12,000.00
	(Includes software, network programming)						
	Supplies (Paper, Ink, Pens, Filing, etc.)			\$		\$	3,000.00
	Accounts (Phone, DSL, Web subscriptions)		\$150 monthly	\$		\$	1,800.00
	Desks	2	\$250	\$		\$	500.00
	Chairs	4	\$100	\$		\$	400.00
	Copier Machine			\$		\$	1,000.00
Legal & Initial Business & Accounting Consult Services						\$	4,000.00
	Payroll		\$45 per head per period	\$		\$	500.00
	Bookkeeping		\$25 hourly 10 hrs/wk	\$		\$	13,000.00
	Accounting & Tax		\$300 monthly	\$		\$	3,600.00
			\$1,600 Corporate Return	\$		\$	1,600.00
Retail Store Promotion							
	Publicity (Flyers, Ads, Temporary Signs, News, includes flyer design.)			\$		\$	400.00
	Sampling (			\$		\$	300.00
	Store Hospitality			\$		\$	8,000.00
	Site Promotion/Signage			\$		\$	5,000.00
	Cash Register			\$		\$	600.00
	Interior Design for Customer Education (Promotional Retail Center)						
	Consulting	30 hours	\$50 hourly	\$		\$	1,500.00
	Hospitable Décor			\$		\$	1,500.00
Farmers Market Costs:							
	Towson Farmers' Market	25 wks	\$20	\$		\$	500.00
	Towsontown Festival			\$		\$	500.00
	32nd Street Farmer's Market (Year-round)						
Packaging							
	Logo Design	20 hours	\$25 hourly	\$		\$	500.00
	Label Designs	22 packages	80 hours	\$25 hourly	\$	\$	2,000.00
	Packaging for Inventory			\$		\$	90,600.00
Utilities						\$	31,300.00
Production Facility						\$	14,800.00
Sampling						\$	53,800.00
Inventory Spoilage						\$	
TOTAL:						\$	364,650.00

Task	Start	End	Budget			
	Date	Date	Federal	Cash	In-Kind	Total
Task 1 Retail Promotional Director for Local Markets Responsible Staff: Pam Prigel	March 2009	August 2009			\$11,500.	
Task 2 Cultivate Wholesale Customers Responsible Staff: Robert Prigel, Jr.	Nov 2008	April 2009			\$22,500.	
Task 3 Management Oversight & Staffing of Creamery Responsible Staff: Robert Prigel, Jr.	Nov 2008	Nov 2009			\$48,000.	
Task 4 Processing Responsible Staff: Processing Manager			32,500	32,500		
Task 4 Processing Responsible Staff: 2 Full-Time Processing Assistant			22,500	22,500		
Task 5 Retail Store Responsible Staff: Susan Opdahl	March 2009	August 2009				
Task 2 Office Management Responsible Staff: Full-Time Office Manager						
Task 3 Management Oversight & Staffing of Creamery Responsible Staff: Robert Prigel, Jr.						
Task 4 Processing Responsible Staff: Processing Manager						

Amount requested

We are requesting a USDA Working Capital Value-Added Producer Grant in the amount of \$300,000. With these funds, the Prigel Family Creamery, Inc. will begin production and market aggressively to maximize of our local retail audience before our target consumers become accustomed to purchasing our products through our wholesale markets. The working capital from this grant will afford us a potentially ir retrievable opportunity to capture retail customers while our niche products are new and without competition. The increased revenue that we will realize from securing for ourselves our own retail market will protect our success and opportunity for continued growth.

Project cost per owner-producer

As noted in our Eligibility Discussion, the Prigel Family Creamery, Inc. is an independent producer of value-added dairy products, providing a marketing and retail outlet for Bellevale Farms, Inc. It is the retail outlet identical with Bellevale Farms, Inc., an independent producer of raw organic milk.

The Farm and the Creamery have 100% common ownership: farmers Pamela and Robert Prigel. The Creamery is a subsidiary of the farm with the sole intent of "providing a marketing and retail outlet for products produced by Bellevale Farms, Inc." (*Prigel Family Creamery Business Plan and Financials*, page 3.)

Thus, the Prigel Family Creamery, Inc., is owner by two independent producers, Robert and Pamela Prigel, who are also the sole owners of Bellevale Farms, Inc. The total amount of Federal Funds we are requesting for this venture is \$300,000.00. According to the rules for allocation of points for this criterion, when we divide the amount requested by the number of owner-producers ($\$300,000/2$), we realize \$150,000 contribution per owner-producer; for an eligibility of two (2) points for this category.

Business Management Capabilities

Bobbi Prigel

Robert Prigel, Jr., has been involved in dairy farm management for 25 years. In this time, he has persevered through difficult and changing markets several times when many of his peer farmers did not succeed. Robert has strong management skills and a history to prove them. He employs conservative financial practices. He enjoys continuous education and refinement of his farming techniques. Robert has a willingness to follow sensible innovative approaches and to invest in them with full commitment. He is positioned with many good and strategic relationships. Plus, he has a realistic view of his own limitations and a willingness to ask for directions. All of these characteristics and resources come together to make Robert uniquely qualified for this business venture. As analyzed in the business viability discussion on pg.--- Robert has done his homework with this present Creamery venture, and the timing and viability of the endeavor is sound. Robert has a proven track record that shows his exceptional management skills and his successful discernment to implement dairy farm innovations. With the sound business practices, good management, and great timing, it will be hard for this project not to be a good investment.

For all of the following business management points, statements made in the second person all belong to Robert Prigel, Jr., the chief managing partner of Bellevale Farms, Inc. and the Prigel Family Creamery, Inc.

Procurement Procedures

We tend to be proactive about our procurement procedures: looking ahead, committed to progress and longevity, seeking to be aware of timely opportunities and poised to move forward at the proper times.

Historically, we have been innovative and have benefited from it. A few examples of our innovation follow. In 1985, when we were still dairy farming by conventional methods, we invested in a computerized feeding system to improve feeding efficiency in order to increase milk production on an individual level among our cows.

Increased production among our 85 cows.

Separate feed ration for each individual cow, monitors intake, also 1987 milking system monitored individual's output 1987.

Computerized milking

Entire present herd 45 yearling heifers, and 45 Heiffer calves n addition to the 180 milk cows and the bull.

Grazing financially: We had lower costs, and less income; but greater net income. In 1988 in had still gotten to the point where we were just breaking even, while I and my Dad were working 16 hours a day. The revenue had been getting tighter every year, so we could see the trend was unsustainable. The cost to produce milk was cow health. We had a Farm Analysis from the U of MD extension service by their farm management specialist Brad Hilty. Our strengths were that we were tight with money and didn't spend frivolously. He recommended increasing to 120 cows, but his statistics only had us in perpetuating the same financial duress we were already experiencing. At this point, we began diligently researching another way to be sustainable.

An extension agent from Carol County was conducting a tour in Western MD and PA among beef cattle grazers. Robert went on the tour. You could see that the cost to produce CWT of milk was a lot cheaper. So we could anticipate that although production per cow would drop, our overall revenue would increase. The machinery, labor and expensive ration ingredients required in conventional farming are not needed in grazing. The cattle harvest feed directly from the pasture, and fertilize it at the same time.

We were down to 75 Holstein cows when we converted to management intensive grazing. We gained about 10 cows per year steadily, adding Jersey sperm and Jerseys, until 1994 when bought 10 purebred Jerseys capping out around 140-150 about the turn of the century. We went from about 16 hours of crucial work daily to about five hours. The work was also more enjoyable: guiding cows through pastures with a lot less machinery which meant less expense.

Scott about 4 years ago at management level.

Local Expert and Celebrity

Some of these can also be illustrations of our flexibility and perseverance, since we continued to explore possible solutions when the innovations fell short; and we were wisely willing to cut our losses and take a new tack when the information pointed to better technologies. Weigh the cost to benefit and consider the timing. Some of it is basic math and research and part of it is uncommonly good practical sense.

Starting:

Organic Industrial trends

Desiring to be proactive, we started researching. Reading periodicals. Friend in DE who went from (non-organic) raw milk to ice cream about 5-6 years ago. Jim Mitchell known about 10 years. 7th or 8th generation on the farm. Started the Small 30 cow herd and soon went to the ice cream. Surrounded by development and decided to take advantage of it. Hired someone to manage the ice cream.

Beginning – 1st idea was organic local fluid milk or cheese. Hard cheese takes 18 mos to 2 years and a bit of art to do cheese. The profit margins in fluid milk didn't seem worth the trouble (at \$60-\$70 per CWT gross value not including processing.) The numbers for yogurt are compelling at about \$200 per CWT gross not including processing.) Ice cream & butter are byproducts of yogurt production. These also have a high profit margin, and they add consumer appeal in providing a bundled goods. I.e. the salt to go with the pepper. Kilbie Ice Cream Watch the times, trends and periodicals. Business Plan First, last June contacted David then pull together resources.

With regard to capital investments like the processing facility which we are presently building, Bellevale Farms, Inc. and its subsidiary the Prigel Family Creamery, Inc. are committed to conservatively secured investments. We procure financing that is secured by our personal and business assets. We tend to be adverse to debt, except for important, short-term, business investment that is important to favorably secure our future in family-scale farming. Since we prefer to be debt free, both personally and in business, we practice accelerated debt-retirement whenever possible.

With regard to gaining other equipment or intangibles on behalf of our business, I, Robert Prigel, Jr., am proactive in maintaining a diverse network of relationships on which I can draw for wisdom, connection and current local opportunities in our agricultural community and beyond. I keep regular contact with our University of Maryland Extension Agent to stay abreast of new developments and important information. I keep informed of new developments in farming through reading (a lot of) periodicals. These presently include *Stockman Grass Farmer*, *Graze Magazine*, *Farm Shine*, *Lancaster Farmer*, *Hoards Dairyman*, *Farm Journal*, and *the North Coast Digest* quarterly. I have also had the unique privilege to belong to The Third Gunpowder Farmers' Club whose 18 members meet monthly over a meal for an informative program from diverse topics.

It was through this Farmers' Club that I learned of (MARBIDCO,) which has been a source of prospective low-interest construction financing for our Creamery venture. This is how we have also come to learn of and apply for MARBIDCO's USDA Value-Added Producer Grant Match.

Historically: Innovative and have benefited from it.

Computerized feed

Computerized milking

Grazing-management conversion

From 75 to 180 cows by conversion.

Local Expert and Celebrity

Some of these can also be illustrations of our flexibility and perseverance, since we continued to explore possible solutions when the innovations fell short, particularly in the case of computerized feeding which ; and we were wisely willing to cut our losses and take a new tack when the information pointed to better technologies. Weigh the cost to benefit and consider the timing. Some of it is basic math and research and part of it is uncommonly good practical sense.

Watch the times, trends and periodicals. Business Plan First, then pull together resources.

With regard to capitol investments like the processing facility which we are presently building, Bellevale Farms, Inc. and its subsidiary the Prigel Family Creamery, Inc. are committed to conservatively secured investments. We procure financing that is secured by our personal and business assets. We tend to be adverse to debt, except for important, short-term, business investment that is important to favorably secure our future in family-scale farming. Since we prefer to be debt free, both personally and in business, we practice accelerated debt-retirement whenever possible.

With regard to gaining other equipment or intangibles on behalf of our business, Robert Prigel, Jr., is proactive in maintaining a diverse network of relationships on which I can draw for wisdom, connection and current local opportunities in our agricultural community and beyond. He is an elder on the Session of his church. He is on his children's school's building committee and has previously served on their board of directors. Robert keeps regular contact with our University of Maryland Extension Agent to stay abreast of new developments and important information. Robert is unusually progressive in how much he keeps informed of new developments in farming through reading (a lot of) periodicals. These presently include *Stockman Grass Farmer*, *Graze Magazine*, *Farm Shine*, *Lancaster Farmer*, *Hoard's Dairyman*, *Farm Journal*, and *the North Coast Digest* quarterly. It is not unusual for local newspapers and journalists to call upon Robert for his unique expertise in environmentally friendly farming and local agricultural matters. In the past year alone, he has been contacted by the Baltimore Sun, ~~ect...~~

Robert also has "the unique privilege" (as he says) to belong to The Third Gunpowder Farmers' Club whose 18 members meet monthly over a meal for an informative program from diverse topics. It was through this Farmers' Club that I learned of (MARBIDCO,) which has been a source of prospective low-interest construction financing for our Creamery venture. This is how we have also come to learn of and apply for MARBIDCO's USDA Value-Added Producer Grant Match.

Another key to Robert's success is his realism. "I know my limitations. I am not afraid to ask for help!" he remarked when asked how he has such an extensive, friendly and useful network.

Personnel Policies

We tend to benefit from quality employees through our hiring practices which draw on the extensive local network described above (under procurement procedures.) Through word of mouth and existing relationships, we can learn much about qualified candidates' character reference before employing them for positions we may fill.

In order to fill positions that require technical expertise, we will seek qualified professionals by networking with knowledgeable sources. For our Creamery operations, we will contact Penn State University because some of their graduates have creamery experience.

We are committed to treating all employees with dignity and mutual respect, and to pay them a fair living wage. Basically, we strive to live by the Golden Rule: we strive to treat others as we would hope to be treated in their circumstance. This applies to personnel matters as well.

Property Management

The principles that govern our property management procedures are *stewardship* and *sustainability*. We have chosen and refined management-intensive grass-based farming to nourish our herd of 180 dairy cows. While this method of farming results in less per-cow milk sustained milk production, our cows are healthier, live longer, and we have been able to increase our herd from 75 to 180 through the economies of having our cows harvest their own food while they naturally return nutrients to the soil. So, by not forcing an unnatural production load on each cow, we have benefited ourselves with much smoother and more enjoyable farming practices, including less disease, greater production and much nicer labor with less mucking and tilling and more time for family.

Just like we manage our land according to careful and conservative measures that give us residual gains for our animal's feed and dwelling, we also manage our equipment and facilities with a mind towards longevity. We are stable and committed to be here for the long run, so we know that we will reap what we sow. We tend to be careful about maintenance, realizing that neglect costs more in the long run. As farmers, we are well aware that there is no such thing as maintenance-free life. However, with sustainable practices, it seems fair to generalize that we reap benefits that we didn't even have to labor to sow.

Travel Procedures

Robert travels a few times each year for business and agricultural-related education. 95% of his trips are within driving distance. For these short-distance trips, Robert drives himself and stays overnight in accommodations like the Holiday Inn when he is gone from home. Occasionally, about once a year, Robert flies to a seminar or farm visitation to explore different business practices and consider their viability for our own operation. When Robert does fly, he travels coach. "At work, I have competent employees who are committed and equipped to manage the daily responsibilities of the farm in my absence," says Robert.

This venture is both economically and environmentally sustainable. We are committed to wise stewardship. Our Business Viability discussion shows how we are conservative in our approach to financial risk, and our business is stable from an economic standpoint. The Prigel Family Creamery venture also expects to secure for itself better market diversity, when we are afforded by grant funds the opportunity to implement our comprehensive marketing strategy.

Our products are Organic, "Green," and environmentally friendly. "Local" means that we do not consume lots of non-renewable resources to transport our goods to consumers. "Local" also means we dissuade foreign market dependence on economic bases as well; encouraging diversity and stability within our community.

By producing our own value-added dairy products, we will also be less middle-man dependent as we develop a broader customer base. The broadening of our present customer base is inevitable with this venture, since we presently serve only one customer with our raw milk, and we have zero value-added product customers. As soon as we add customers to our base, we are immediately less vulnerable to fickle raw commodity markets that can be strongly and quickly influenced by industrial-scale supplies or foreign influxes of product to the industry. With 25 years of dairy management history to his credit, owner-manager Robert Prigel, Jr. seeks to proactively avoid the vulnerability he saw and experienced in fluctuating milk markets during the late 1980's and early 1990's. Raw milk commodity fluctuations have continued, even though Bellevale Farms, under Robert's leadership has already been made less vulnerable to these fluctuations. With grazing methods we are able to milk a larger herd of cows, and we are able to do so with much less cost than conventional dairy farming affords. While we have also recently become organic, the organic market is becoming subject to tighter profit margins. This revenue reduction is due to increased cost of organic production. (While these costs are less with grass based farming, we still must buy in organic supplements and any shortages or winter feed. Increase in organic demands has increased the price of organic feed supplies in a market that can't yet meet the demand.)

We do not desire to be so vulnerable to these increased costs, and achieving a larger profit margin through value-added products will both stabilize and improve our financial outlook. The degree to which we diversify our consumer base is the subject of this grant request. The more retail customers we directly reach, the stronger our economic base and influence become.

As noted on page 4 in our discussion *Expanding Markets*:

We will pioneer the Local Organic Dairy Product market in our area. The nearest and only competitor in this market is Trickling Springs Creamery in Pennsylvania. Trickling Springs' products are only similar, not identical to the ones we will produce. Additionally, Trickling Springs' products are not packaged in a manner convenient to our target customers, are not marketed through any of the retailers we will cultivate as our wholesale market, and they do not participate in the retail markets that we will grow."

We will positively impact our local economy by providing needed goods to the local market. Providing our goods locally keeps resources within the community and furthers the economic stability of our local market by keeping it more economically and agriculturally diverse and more viable for small scale producers. While at present we will supply all the raw milk for our own dairy-product production, as market demand increases, we will establish our present dairy assistant manager as an independent owner-producer himself. We may also find it feasible to purchase raw organic milk from another local supplier. Thus, in the long run, we expect to provide a strong local means for other organic producers to realize good revenue for their dairy production.

At Bellevale Farms (parent company for the Prigel Family Creamery, Inc.), we are already committed to a very specialized and sound practice of management-intensive grazing-based dairy farming. See also Business Management Capabilities' Property Management section on page 27. Our practices are more healthy than conventional dairy farming, not only for the cows, but also for the environment, and (arguably) the farmer. Since our processed creamery products will carry special packaging labels that express our philosophy and commitments, when we look forward (long term) to expanding our organic raw milk supplies, we will support producers who share in our custom of agrarian, environmental and economical stewardship. This is a commitment we make to our niche concerned consumer base who will be purchasing our products not only for their food quality, but to support our professed values in farming and local economics.

Business size

The Prigel Family Creamery, Inc. is a start-up operation. We have not yet completed a fiscal year. We presently have \$0.00 (zero dollars) in gross sales, and we expect not to begin production until after October 1, 2008, the term for which the USDA Working Capital Value-Added Producer Grant applies.

Bellevale Farms, Inc., the parent company of Prigel Family Creamery, Inc., realized \$319,924 in gross sales for fiscal year 2007 (Schedule F, Form 1040, EIN 52-1118916.) Bellevale Farms is solely the producer of raw milk.

Administrator points

While Creamery Production of local value-added dairy products may not seem especially innovative, marketing local organic products to the educated consumer with a twist promoting also our environmentally sensitive grass-based farming practices is indeed an innovative and timely idea.

The Prigel Family Creamery, Inc. is located in the lush Long Green Valley of Baltimore County, Maryland. We will serve our Local Organic Pasture-Grazed packaged milk, yogurt, butter and ice cream to customers within a 100 mile radius of our farm.

There are no Local Organic Dairy products available in our market. As noted on page 4 in our discussion
Expanding Markets:

We will pioneer the Local Organic Dairy Product market in our area. The nearest and only competitor in this market is Tricking Springs Creamery in Pennsylvania. Tricking Springs' products are only similar, not identical to the ones we will produce. Additionally, Tricking Springs' products are not packaged in a manner convenient to our target customers, are not marketed through any of the retailers we will cultivate as our wholesale market, and they do not participate in the retail markets that we will grow.

Our milk market will be vastly expanded as we venture into marketable, processed organic dairy products. We are presently a producer of raw milk with a single customer. Prigel Family Creamery, Inc. presently has zero value-added product customers. With the benefit of Value-Added Producer Working Capital Grant funds we will work aggressively to establish an original customer base as soon as the grant term begins.

Nature of the Proposed Venture.....	1
Qualifications of Those Doing the Work	"page #"
Commitments and Support	"page #"
Project Leadership.....	"page #"
Work Plan/Budget.....	"page #"
Amount Requested.....	"page #"
Project Cost per Owner-Producer.....	"page #"
Business Management Capabilities.....	"page #"
Sustainability and Economic Impact.....	"page #"
Business Size.....	"page #"
Administrator Points (if applicable)	"page #"

Certification of Matching Funds

Prigel Family Creamery, Inc. certifies that matching Funds will be made available at the same time as the grant funds are anticipated to be sent and that All matching funds will be spent in advance of grant funding, such that for every dollar of grant funds advanced, not less than an equal amount of matching funds will have been expended prior to submitting the request for reimbursement.

Certification of Matching Funds		
	\$300,000	USDA VAPG Working Capitol Grant
	\$100,000.00	MARBIDCO Matching Grant
	\$200,000.00	Prigel Family Creamery Match As Follows:
\$ 82,000.00		In Kind Salaries
	\$118,000.00	Lender Certified Cash Match

Verification of Matching Funds

Attached:

- ★ Signed letter from lending institution *Farmers' Credit* verifying the availability of \$118,000 to Robert Prigel, Jr. for purposes of operations and marketing for Prigel Family Creamery, Inc.
- ★ Signed letter from Robert Prigel, Jr. verifying the goods and services to be donated, namely: \$70,500 value In kind Market Development and Operations Management labor and expertise.
- ★ Signed letter from Pam Prigel, verifying \$11,500 value donated In kind service as retail promotional staff for markets & sampling. Both Pam's and Robert's Certifications are on a single piece of letterhead to conserve space.
- ★ Signed letter from MARBIDCO for \$100,000 matching grant.

Prigel Family Creamery

Business Plan and Financials



Robert E. Prigel, Jr., President

February 7, 2008

PETITIONER'S

EXHIBIT NO.

2C

Confidentiality Agreement

The undersigned reader acknowledges that the information provided by _____ in this business plan is confidential; therefore, reader agrees not to disclose it without the express written permission of _____.

It is acknowledged by reader that information to be furnished in this business plan is in all respects confidential in nature, other than information which is in the public domain through other means and that any disclosure or use of same by reader, may cause serious harm or damage to _____.

Upon request, this document is to be immediately returned to _____.

Signature

Name (typed or printed)

Date

This is a business plan. It does not imply an offering of securities.

Executive Summary

The Company

Prigel Family Creamery, Inc. (hereafter referred to as PFCI) is a startup the purpose of which is to provide a marketing and retail outlet for products produced by Bellevale Farms, Inc. in Glen Arm, Maryland. PFCI's main product offerings will focus on organic dairy and related products.

Prigel Family Creamery will also have the benefit of a unique relationship with Cowgirl Creamery (www.cowgirlcreamery.com) based out of Point Reyes Station, California which will provide PFCI with both an outlet for its raw milk sales as well as a source of organic cheeses.

Products and Services

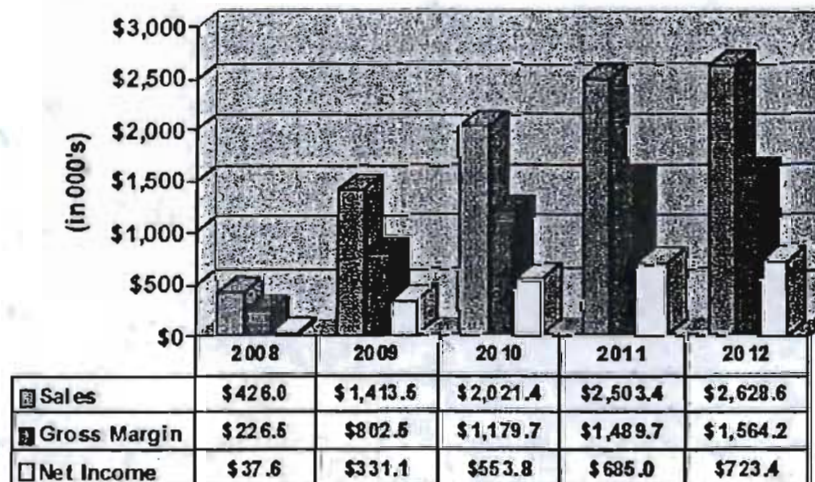
Prigel Family Creamery will provide organic dairy products to the marketplace including, but not necessarily limited to, fluid milk, yogurt, cheeses, ice cream and butter. All products will be locally produced and sold through Prigel's roadside stand and wholesale distribution.

All cheeses will be produced and sold through a processing and distribution arrangement with Cowgirl Creamery (www.cowgirlcreamery.com) based out of Point Reyes Station, California.

Financials

PFCI anticipates that they will initiate operations in June, 2008. Significant startup costs associated with the construction of the production/retail facility and related equipment and other startup costs (see addendum) will generate negative cash flow from operations for the first fiscal year (offset by initial external funding sources). However, it is anticipated that this condition will be confined to the first year of operations as shown below.

Financial Highlights



The Company

General

PFCI will produce and sell a variety of wholesome, organic dairy products to the central Mid-Atlantic marketplace. The initial purpose of the company is to provide a local retail and wholesale marketing outlet for Bellevale Farms' organic milk, but the concept may, over time, expand into other organic products such as organic, grass-fed meats.

The growth in organic markets as well as a need to improve Bellevale's position in the Maryland/Pennsylvania/Delaware milk market has precipitated Bellevale's move into organic products in an effort to remain competitive and improve its profitability. In addition, capacity and margin constraints found in the production and distribution of straight milk through traditional distribution channels for dairy farmers has necessitated a creative move into alternative markets.

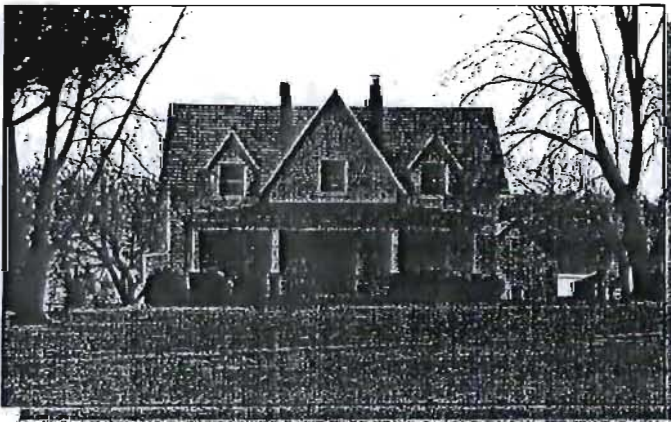
In addition, dairy farmers are increasingly finding themselves in a position in which there is no direct correlation between retail and wholesale pricing. PFCI provides Bellevale with the ability to control its product distribution and related pricing.

The demand for organic products in the U.S. has provided an opportunity for PFCI to further expand and define Bellevale's production methods and allows for expansion into new markets.

The formal corporate structure of PFCI has yet to be determined, but ownership of the business will be closely held.

History/Background

Bellevale Farm sits on 260 acres nestled in the beautiful Long Green Valley located in northeast Baltimore County and is approximately 15 miles from Baltimore City and 15 miles from Interstate 95. The farm has been owned by the Prigel family since 1906 when John



Mathias Prigel purchased the first 180 acres. Prigel began working on the farm in 1895 as a sharecropper.

The farm is one of the few remaining active dairy farms in this region of Maryland and has always been focused on the production of dairy and vegetable products.

Robert E. Prigel, Jr. currently oversees the daily operation of the farm.

Bellevale Farm has a history of being innovative and on the leading edge of the use of technology and alternative farming methods. For example, the Prigels began using DHIA (national record-keeping system) and artificial insemination in 1945 when most dairy farms did not begin utilizing these procedures until at least the late 60's. In addition, we introduced computerized feeding in 1985.

Prigel Family Creamery Business Plan

In 1989, Bellevale Farm became the second Maryland operation to become a Management Intensive Grazing (MIG) dairy farm. "On a MIG dairy farm, portable electric fencing is used to subdivide pastures into small areas called paddocks. Cows are moved to a fresh paddock once or twice a day. Grazed forage is the primary source of protein and energy for the cows, eliminating the need for crop production and its expensive, energy-demanding infrastructure. By grazing, the cows themselves, rather than machines, harvest the feed and spread the manure. Because the grazing lifestyle is less stressful on cows, veterinary bills are substantially lower than for confined animals. Although a cow under MIG typically produces less milk than one under confined feeding, it requires far less expense to maintain."

("Fact Sheet: Management Intensive Grazing: Environmental Impacts and Economic Benefits", Ray R. Well and Rachel E. Gilker, Department of Natural Science and Landscape Architecture, University of Maryland, College Park)

The switch to intensive grazing has been the key to Bellevale's ability to remain competitive in an otherwise extremely difficult marketplace that has seen the consistent demise of farms of similar size. Twenty-five years ago, Maryland had approximately 6,000 dairy farms. That number has dwindled to approximately 600 today.

The move to develop this new production facility is the next logical step for Bellevale in order to stay ahead of the curve and utilize its existing and develop new competitive advantages in a changing marketplace.

The Prigel family has been actively involved in its relationship with the local community associations and participates in land preservation activities. These relationships have proven helpful in the recent past in the development of the plans for these new facilities and the Long Green Valley Association has heartily endorsed the project plans to date. (Reference page 25 of this document.)

The organic certification process is underway with the cows being certified by April 15, 2008. It is anticipated that the land will be certified at the same time. The certification process is administered by the Maryland Department of Agriculture under the regulations of the USDA. Certification requires that Bellevale not use prohibited substances (chemical fertilizers, pesticides, sludge, etc.) for the preceding 3 years and such substances will not be used in the ongoing operations of the farm subject to the allowable uses outlined in the regulations.

Facilities

PFCI anticipates commencing operations in June, 2008 and will be located on the premises of Bellevale Farms at 4851 Long Green Road, Glen Arm, Maryland 21057.

The production/retail facility will be constructed on a 75 acre field that is located on the north side of Long Green Road directly across from the farm operations. The facility will be a 10,680 square foot pole barn structure encased in metal siding with architectural accents that will more closely match the architectural styles of the surrounding structures in the area.

This facility will be comprised of a 1,500 square foot cheese processing area with the remainder devoted to milk processing, warehousing and retail. The cheese



Proposed site of the processing facility facing east on Long Green Road.

Prigel Family Creamery

Business Plan

processing section will be leased by Cowgirl Creamery solely for their use. While PFCI will provide the structure, Cowgirl Creamery will be providing and installing its own processing equipment.

The building shell will be owned and financed by Bellevale Farms Ltd and will be leased to PFCI. The financing and structural build-out required to support the processing facilities will be the responsibility of PFCI.

The cheese production portion of the facility will be rented to Cowgirl Creamery for \$1,875 per month or an effective rate of \$15 per square foot. Cowgirl will have full access to this portion of the facility and will pay all utilities for their portion.

Copies of the estimated costs and architectural drawings are attached.

Start-up Needs

In order to set up the operation, PFCI will need to fund a variety of items including the aforementioned build-out and standard start-up costs. The components and estimated costs of these items are detailed below:

Summary of Start-Up Costs

	Total	Capital	Expense
Computer Hardware	\$ 2,400	\$ 2,400	\$ 0
Phone System Hardware	\$ 5,500	\$ 5,500	\$ 0
Legal & professional	\$ 4,000	\$ 0	\$ 4,000
Advertising/Website	\$ 3,500	\$ 0	\$ 3,500
Retail equipment	\$ 8,200	\$ 8,200	\$ 0
Office equipment	\$ 5,800	\$ 5,800	\$ 0
Build-out down payment	\$ 77,440	\$ 77,440	\$ 0
Equipment down payment	\$ 76,042	\$ 76,042	\$ 0
Other	\$ 10,000	\$ 0	\$ 10,000
Totals	\$ 192,882	\$175,382	\$17,500

All equipment will be purchased outright with the exception of a delivery van which will be leased. As available, we anticipate securing as much equipment as possible from local farm or restaurant equipment auctions or sales so as to minimize initial cash outlays.

While we believe that we can finance some of these costs through operating cash flow, however some of the cash commitments are prohibitive outside of additional financing. Consequently, the purpose of this plan is to secure financing to fund these start up costs and provide sufficient capital to manage the operations for the first few critical years.

Products and Services

Fundamentally, PFCI will be offering organic dairy and related products. The main focus will be to provide those products that the higher end consumer cannot purchase in the grocery store.

While the market for organic food and produce is growing, PFCI is going to retain its focus on organic dairy and dairy-related products which draw upon the history and experience of the owner.

Initial retail product offerings will include

- Liquid milk
- Butter
- Yogurt
- Ice Cream
- Cheeses

Future product offerings may include locally-grown organic, grass-fed meats and brick oven breads, but these products are not included within the context of this plan.

Cowgirl Creamery

Founded in 1997, Cowgirl Creamery operates a cheese production facility in West Marin County in Point Reyes Station, California. In addition, Cowgirl operates a mail order cheese business and three retail stores in San Francisco, Point Reyes Station and Washington, DC. Additional information regarding Cowgirl Creamery is attached as an addendum to this plan.

PFCI has entered into an agreement with Cowgirl Creamery whereby Cowgirl will purchase milk for its cheese production from Bellevale Farm and rent the cheese production facility in Glen Arm from PFCI. In return, Cowgirl will provide PFCI with ready access to fresh, organic cheeses produced from Bellevale's organic milk. In addition, PFCI will sell liquid milk to Cowgirl for sale in its Washington, DC retail store/coffee house.

PFCI will have access to purchase these cheeses from Cowgirl for sale in its retail facility and carrying joint branding. Any additional production by Cowgirl will be sold through its own retail outlets.

Initial estimates indicate that Cowgirl will require approximately 7,200 gallons of raw milk per month within the first 12 months. Cowgirl also has requested approximately 1,000 gallons of raw milk per month for use in its Washington, DC- based coffee house.

Milk for use in the cheese production will be sold to Cowgirl at \$34.00 per hundred pound and milk sold for use in the coffee houses will be sold for \$45.00 per hundred pounds.

PFCI currently has a letter of intent from Cowgirl Creamery which is included as an addendum to this document.

Wholesale sales

PFCI intends to market its main product offerings of yogurt and ice cream to both local and national chain markets. In terms of local markets, PFCI will be looking to distribute its product to area markets such as Graul's and Klein's. In terms of national markets, PFCI will be looking to distribute to Wegman's and Whole Foods both of whom cater to local produce markets. Whole Foods also has the added advantage of providing a distribution channel to its other stores via delivery to the local chain by the producer.

As product offerings become available, we will begin more intensive discussions with each of these players to determine the best fit for both parties.

Production Process

The entire production process is founded on the estimate that Bellevale Farms can and will provide approximately 21,000 gallons of raw milk per month. From that amount, we are estimating that Cowgirl Creamery will require upwards of 7,200 gallons per month and PFCI

direct milk processing and sales will require approximately 500 gallons per month. This then leaves 14,200 gallons for processing of the remaining products.

From that starting point, we are planning to allocate 80% of available milk to the processing of yogurt and the remaining 20% will be directed to the processing of ice cream and butter.

Yogurt - Yogurt production begins with raw milk which is first pasteurized and introduced into a separator in which the milk is separated from the cream. The milk will be standardized with regard to the desired fat content by the re-introduction of cream. It will then be homogenized with cultures introduced. Flavorings will be added directly to the container with incubation of the cultures taking place within the container. Incubation time can depend on the ambient temperatures, but can typically take between 10 and 12 hours. Distribution of a finished product can take place within 3 days of the start of the production process.

The by-product of residual cream left over from the yogurt production will then be used in the production of butter and ice cream in the ratio of 15%/85%, respectively.

Butter – Butter production will typically result in a combination of two products, butter and buttermilk in a ratio of 85%/15%. For purposes of this plan, approximately 40% of the resultant buttermilk will be introduced into the production of ice cream and the remainder will be considered spoilage.

Ice Cream – A gallon of ice cream will require approximately 2 quarts of cream and 1 quart of buttermilk. The additional 25% is comprised of flavorings, sweeteners and air utilized to increase the overall volume of the product.

Packaging – At this time we anticipate handling all product packaging within our production facility. Printing of labels and containers will be outsourced and all handling, packaging and storage will take place at PFCI. The new facility will include a 600 square foot cooler, a 300 square foot freezer and approximately 3,000 square feet of warehousing space.

All equipment required for the production and packaging of these products is included in this plan and is outlined in the addendum.

Distribution

All products produced by PFCI will be sold through wholesale outlets and PFCI's retail facility. All pricing included in the financial section of this plan assumes wholesale pricing only.

Competition

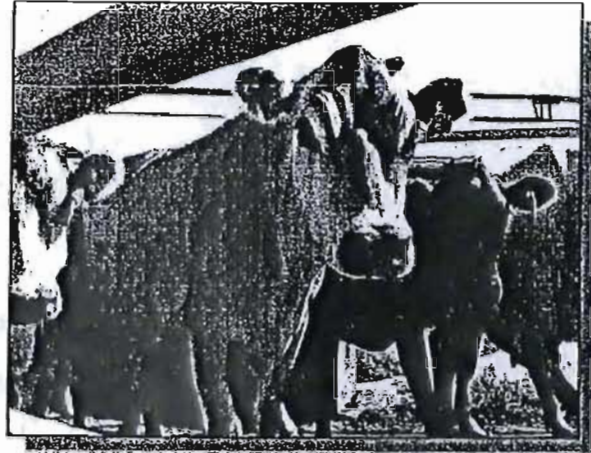
Competitive Landscape

In a general sense, the organic market is continuing to mature and, therefore, has a number of established players. However, the ability to market and distribute these products via PFCI's retail location as well as established wholesale channels will, we believe, provide us with the necessary competitive edge in this geographic region.

The mid-Atlantic region is beginning to see an increased presence of organic product providers. Trickling Springs in Chambersburg, PA (approximately 90 miles from Glen Arm) is the only known organic creamery in the immediate area. At the present time, PFCI will be the only Maryland-based organic creamery.

Though not a creamery, there is a Whole Foods retail store located in Mt. Washington which is approximately 25 miles from Long Green. However, this location is only carrying national brands.

In addition, in 1995, Bellevue began to change its herd population from Holstein cows which are typically a higher volume cow to Jerseys which, although producing less volume, produce milk with a higher fat and protein content. These factors are the key to successful ice cream, yogurt and cheese production.



Short Term Risk

Market Outreach - The largest short term risk is clearly our ability to convince the wholesale distributors of the value of our products. This will be mitigated by maintaining consistent contacts with the wholesalers of choice and integrating their feedback so as to improve the products.

Food Safety - Food safety risks would include the introduction of human pathogens such as e coli. We will address this through the development and consistent execution of a HACCP (Hazard Analysis Critical Control Point) plan and required education of cleanliness standards for and demonstration of these skills by all employees.

Labor - We believe that finding and retaining the highest level of personnel in all facets of the business will be critical to our success. In addition, given that this is a family operation with the desire for a strong local presence, we will be employing family members as much as possible and practical.

The training and development of production personnel, in particular, will be accomplished through both formal education channels as well as hands-on training. In the initial phases of the business, we anticipate employing the services of an outside consultant who will assist us in the development and refinement of the development process.

Long Term Risk

Long term risk is predominantly found in the maturation of the organic market itself. In this situation, the possibility exists of losing the higher pricing opportunities currently afforded this product type and market. However, we also believe that by retaining a local presence and flavor, we can mitigate this risk.

In addition, any substantive economic downturn or event which minimizes disposable income to the market that we are trying to reach may adversely affect results if the perceived value of the product does not exceed the economic value.

Market Analysis

U.S retail sales of organic milk have been on a consistent growth trend since the mid -1990's with sales exceeding \$1 billion in 2005 which represented a 25% growth rate over 2004. By contrast, sales of overall milk products have remained fairly constant since the mid-1980's. By 2006, organic milk and ice cream products comprised approximately 6% of retail milk sales.

Increasing interest and demand for organic milk products has, in the past, generated significant shortages suggesting that consumer demand is unmet at certain price points. This

shortage has prompted a number of retail grocers and big box retailers to distribute organic milk. These retailers typically carry nationally known organic products such as Organic Valley or Horizon Organic so branding is becoming increasingly important in this marketplace.

According to the USDA study on "Retail and Consumer Aspects of the Organic Milk Market", the following household characteristics would typify the most likely organic milk consumer:

- Region: East or West Coast
- Education: College graduate or Post College
- Age: Under 55
- Household Income: Annual income of at least \$70,000

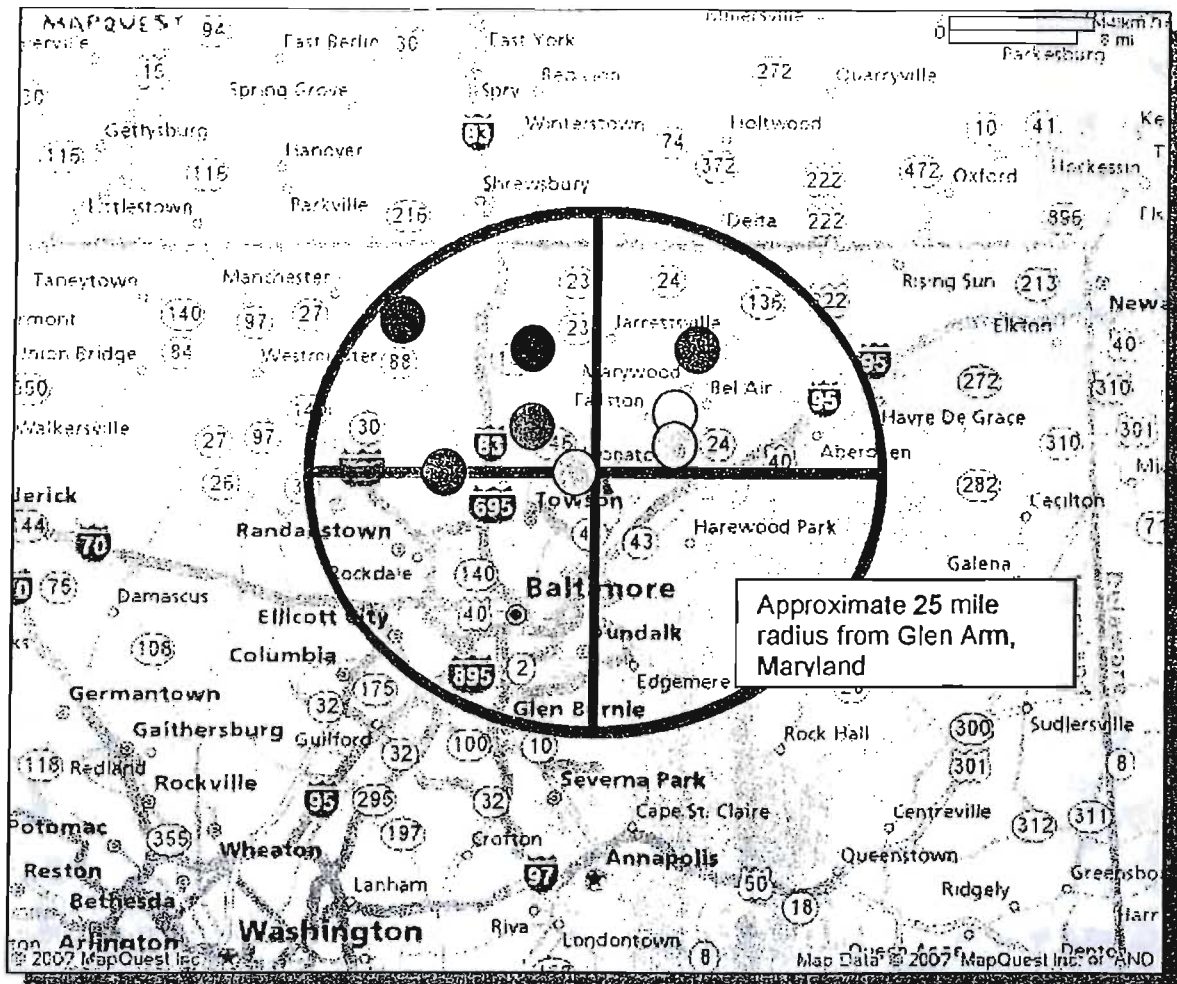
Given our location and timing of entrance into the marketplace, PFCI believes that we are strategically placed to address the needs of these groups.

According to the statistics derived from the U.S. Bureau of the Census (2002) as shown on the following page, there are over 100,000 households in the Baltimore area that meet the aforementioned household characteristics for organic milk consumers. This estimate only takes into account eight of the largest suburban communities within a 25 mile radius of Glen Arm, Maryland. The 2002 Census data did not consider or specifically identify communities in Northern Baltimore County the inclusion of which could easily increase the estimate of households.

In terms of pricing, the East coast market has been able to command the highest premium of organic milk over conventional milk compared to all other regions. In 2004, that premium averaged over \$2.50 per half gallon or 126%. The national average at that time was \$1.99 or 98%. Some of the aforementioned regional differences may be attributed to the fact that the East and West coasts have had access to organic products for a longer period of time.

- Market Analysis derived from U. S. Department of Agriculture report "Retail and Consumer Aspects of the Organic Milk Market", May, 2007

Prigel Family Creamery Business Plan



Demographics Summary

	A Kingsville	B Parkville	C Towson	D Lutherville	Bel Air	Cockeysville	Pikesville	Reisterstown
Distance	6.25	7	7	9	11	15	16	25
Median Age	42.4	37.6	37.6	45.5	34.9	33.1	45.4	34.6
Owner occupied	93.5	65.8	59.7	82.8	80.7	33	69.3	65
College	43.8	25.4	57.2	50.8	46.1	52.5	54.6	34.9
Household Income >\$75K	53.7	17	34.4	49.9	37.3	25.1	39	24.9
No of Households	79,100	2,219	7,263	3,252	5,610	2,304	4,960	2,167
Median Household Income	\$ 78,025	\$ 41,410	\$ 53,775	\$ 61,573	\$ 62,064	\$ 43,681	\$ 58,598	\$ 47,587

Source: U.S Bureau of the Census; 2002 Census, Profile of General Demographic Characteristics: 2000

Buying Locally Produced Goods

In addition to the move to organic products, PFCI also has the added benefit of being able to take advantage of the increasing trend toward buying locally-produced agricultural products.

"The trend toward smaller farming can be seen locally in farm Census data. While the number of farms in Maryland has fallen from 39,000 in 1950 to about 12,200 in 2002, the number of niche

Prigel Family Creamery Business Plan

farms of 10 to 49 acres grew from 3,979 in 1992 to 4,412 in 2002. In Virginia, such farms grew from 10,361 in 1992 to 14,082 in 2002."

"Whole Foods recently announced a heightened focus on buying local produce, including a \$10 million budget to promote local agriculture, following pressure from author Michael Pollan, who has called into question the wisdom of industrial organics. Of course, nothing is ever truly easy in farming territory, particularly when it comes to the increasing development of houses, each bigger than the last one. Grohsgal understands his land is worth more to developers than it is to him as a farm. He turns home builders away anyway. "I know it's worth a fortune," he said, "but if we always sell to developers, our nation will just stop growing food."

- A Growing Trend: Small, Local and Organic: Popularity of Farmers Markets, Natural Grocery Stores Helps Cultivate a Rise in Niche Farms, Michael S. Rosenwald, Washington Post Staff Writer, Monday, November 6, 2006; Page D01

According to an article in the December, 2007 edition of the Carroll County Times (a local periodical from Carroll County in Maryland), buying local is sometimes preferred over organic.

"What's more important than buying organic is buying local, Harbold said. Buying local cuts down on vehicle emissions from shipping, he said. Buying local produce also helps support local economies, he said, and allows consumers to build relationships with their food producers, ask for different products and learn more about how things are grown or raised."

Jackie Miller, owner of the organic farm De La Tierra Gardens in Harney, is also manager of the Downtown Westminster Farmers Market. The market is unique in that it requires producers to sell their own goods, not just items they may have picked up from other regional farms. And while it isn't required that producers be organic, there are multiple organic or all-natural farmers who have made this market one of their major sales outlets."

"I do feel local is more important than organic," Miller said. "Organic is sort of a personal preference for health and the health of the environment, but I think it's more important to keep the source of food local."

- Carroll County Times, December 21, 2007, by Carrie Ann Knauer,

We see this combination of both organic and locally-produced goods as being the right combination to bring a significant competitive advantage to PFCI.

Strategy and Implementation

Our strategy is based on serving the organic dairy product needs found with the higher income consumer.

We will focus on connecting and serving these customers' needs through the following strategic initiatives.

- We will direct our marketing and sales efforts utilizing only those mediums and methods that will connect us with our target customers.
- We will focus our selling towards meeting customer needs and at the same time remaining focused on products with which we have substantial experience.
- We will stay in contact with market opportunities in order to be able to be the first to bring new and innovative products to this marketplace.
- We will utilize technology effectively in the processing of our business so as to protect our investments and reduce our costs of operations.

Marketing Strategy

The primary marketing strategy of Prigel Family Creamery centers on creating a distinct experience for our customers both in terms of quality of product and the atmosphere in which that product is delivered.

Print ads – Keeping our name in front of the existing and potential customer is critical in generating both new and repeat business. This effort will initially be confined to local publications in order to strengthen name and brand recognition.

Branding – We will develop a customized logo that aids in brand awareness through both creative design and connection with both the name and the product focus.

Website – The website will be informational only with the intent of a) educating prospective customers and b) drawing interest to the retail facility. There is no foreseeable intention of selling products via the website.

Open House/Grand Opening – We will host a grand opening event which will most likely take place in June to optimize turnout. Our purpose in this event will be introduction and/or further strengthening of existing relationships.

Direct mail – The website will also be used as a method of compiling a mailing list for use in direct mailings.

Local Events – We will participate in local events in conjunction with other local establishments where our products will appeal to the event participants and would dovetail with other participating vendors.

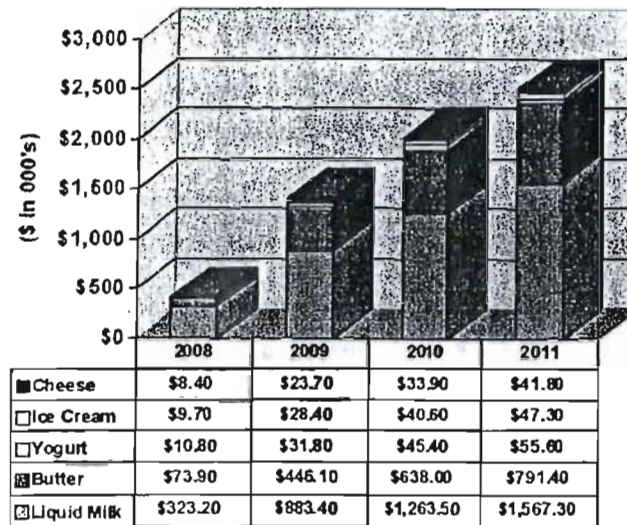
Apparel – All sales personnel will be attired in appropriate clothing displaying both the logo and company name.

Sales Strategy and Forecast

Due to the nature of product costs between the groupings, product mix is critical to our success.

The following demonstrates our projected sales forecasts by product group.

Sales Forecasts



Product Strategy

While we strongly believe that we will put forth only the best in product offerings, we also know that new and innovative products are being introduced continually. We will be proactive in searching out and investigating new technologies.

Financial Strategy

In addition to building cash and equity upon which to build and finance the continued growth of the business, there are several specific areas that we will pursue that should help to ensure the financial health of the organization.

Inventory – Due to the relatively short shelf-life of most of the products being offered along with the intention to utilize wholesale markets as the main delivery mechanism, we are anticipating that inventory will be minimal.

Technology Strategy

Technology will be utilized only in those areas where it a) provides a cost savings through process simplification or b) provides an enhanced product or service to the customer.

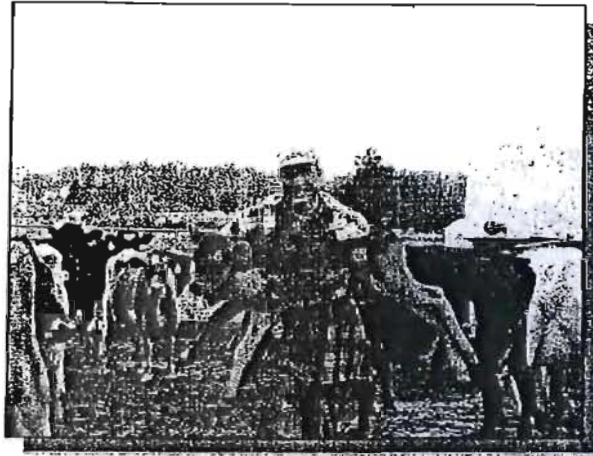
Management Team

Robert E. Prigel, Jr., President

Robert E. Prigel, Jr. (Bobby) is the fourth generation of Prigel farmers at Bellevalle. Bobby has been a part of the farm operations all of his life, but formally assumed management responsibility over the farm in 2004.

Bobby was responsible for introducing computerized feeding systems in 1985 and intensive grazing in 1990.

He has been called upon consistently to speak at regional conferences on the topic of Management Intensive Grazing. In addition, both he and his father are considered by the local media as substantial resources to draw upon for local farming perspectives and have been featured on various local news broadcasts as well as in print media. Some of the publications have had national exposure.



Bobby and his wife, Pam, live on the farm with their three children, Mandy, Bo and Matt.

Management Team Gaps - Additionally, the following positions/services will be filled utilizing part-time or contractual services until such time as use of full-time employees is deemed necessary:

- Payroll processing
- Bookkeeping
- Accounting and Tax
- Legal

Financial

Summary

- PFCI is anticipating sales of \$425,000 and \$1.4 million in 2008 and 2009, respectively. Anticipated gross profit margins and operating expenses will yield net income of \$52,000 in 2008 and \$484,000 in 2009.
- The financial projections assume price increases of 6%, 5% and 4% for 2009, 2010 and 2010, respectively and cost of sales increases of 5% per year for all years.
- Our largest operating expense components are found in compensation and insurance.
- Operating expenses are projected to increase by an average of 5% per year for all years.
- Management of both the mix of business and operating expense ratio for the first five years will be critical to maintaining sufficient cash flow to fund any debt service.
- Any and all profits generated during the plan period will be used to finance the future growth of the company.

Prigel Family Creamery

Business Plan

Important Assumptions

Revenues

- The financial projections assume price increases of 6%, 5% and 4% for 2009, 2010 and 2011.
- The creamery is not anticipated to be fully operational (i.e., operating at 100% capacity) until the fourth quarter of 2010. Financial results for both 2011 and 2012 assume full capacity.

Cost of Goods Sold

- The financial projections include cost of sales increases of 5% per year for all years.

Accounts Receivable

- All retail sales will be cash sales.
- The only receivables initially will be related to sales of raw milk products to Cowgirl Creamery and wholesale accounts.
- All receivables are assumed to carry terms of Net 45 days.

Accounts Payable

- All payables are assumed to carry terms of Net 30 days.

Inventory

- Due to the nature of the product and related shelf-life, it is assumed that all products will be sold within 30 days. Consequently, there will be no material inventory accumulation to consider. However, the plan assumes that month end inventory will be comprised of butter and ice cream products only. Products with a relatively short shelf life are considered to be sold or consumed within the month.

Staffing

- Initial staffing will consist of a full-time Processing Manager, two (2) part-time processing staff and one part-time sales person to handle the retail operation.
- In 2009, we will add a full-time Store Manager to oversee all aspects of the retail operation.
- Years 2009 through 2011 will see the addition of one full time processing staff person per year to address increasing production needs.
- Staff trends overall are anticipated as noted below

Position	2008	2009	2010	2011
Processing Mgr (FT)	1	1	1	1
Processing Staff (FT)	0	1	2	3
Processing Staff (PT)	2	2	2	2
Retail Mgr (FT)	0	1	1	1
Retail Sales (PT)	1	1	1	1
Totals	4	6	7	8
FTE	2.5	4.5	5.5	6.5

Prigel Family Creamery Business Plan

Summary Financials

Projected Profit and Loss

The detailed monthly pro-forma income statements for the first two years are included in the appendix. The annual estimates for these years are included below.

Projected Income Statement Summary
For years ended December 31, 2008 through 2012

	2008	2009	2010	2011	2012
Revenues					
Milk	\$ 9,700	\$ 28,400	\$ 40,800	\$ 47,300	
Butter	8,400	23,700	33,900	41,800	
Yogurt	323,200	883,400	1,263,500	1,567,300	
Ice Cream	73,900	446,100	638,000	791,400	
Cheeses	10,800	31,800	45,400	55,600	
Total Revenues	\$ 426,000	\$ 1,413,400	\$ 2,021,400	\$ 2,503,400	\$ 2,628,600
Cost of Sales					
Milk	\$ 4,500	\$ 12,900	\$ 18,000	\$ 21,800	
Butter	1,000	3,200	4,500	5,400	
Yogurt	120,100	313,900	433,300	523,500	
Ice Cream	51,900	220,300	300,300	358,500	
Cheeses	5,400	15,000	20,400	24,000	
Spoilage	16,600	45,600	85,200	80,700	
Total Cost of Sales	\$ 198,500	\$ 610,900	\$ 841,700	\$ 1,013,700	\$ 1,064,400
Gross Profit	\$ 226,500	\$ 802,500	\$ 1,179,700	\$ 1,489,700	\$ 1,564,200
	53.2%	56.8%	58.4%	59.5%	59.5%
Operating Expenses					
Salaries	\$ 58,300	\$ 212,200	\$ 317,300	\$ 432,400	
Taxes	6,200	21,200	31,700	43,200	
Benefits	15,500	50,900	101,300	156,000	
Education	1,400	2,500	2,800	2,800	
Rent	30,300	52,000	52,000	52,000	
Office Expenses	7,000	12,600	13,200	13,900	
Utilities	5,300	9,500	9,900	10,400	
Telephone	1,800	3,200	3,300	3,500	
Legal & Accounting	14,000	25,200	26,500	27,800	
Advertising	11,200	20,200	21,100	22,200	
Insurance	9,300	16,800	17,800	18,500	
Gas & Oil	2,800	5,000	5,300	5,600	
Truck Lease	7,800	13,100	13,100	13,100	
Cleaning Chemicals	1,400	2,500	2,600	2,800	
Travel	1,400	2,500	2,600	2,800	
Depreciation	31,700	54,300	54,300	54,300	
Interest Expense	35,500	55,400	48,200	40,100	
Total Operating Expenses	\$ 240,700	\$ 568,100	\$ 722,600	\$ 901,400	\$ 937,600
Net Income	\$ (14,200)	\$ 234,400	\$ 457,100	\$ 588,300	\$ 626,700
	-3.3%	16.6%	22.8%	23.5%	23.8%
Net Income Summary					
Net Income from Cowgirl Creamery	\$ 51,800	\$ 96,700	\$ 96,700	\$ 96,700	\$ 96,700
Net Income from Prigel Creamery	\$ (14,200)	\$ 234,400	\$ 457,100	\$ 588,300	\$ 626,700
Total Net Income from Operations	\$ 37,600	\$ 331,100	\$ 553,800	\$ 685,000	\$ 723,400

Prigel Family Creamery Business Plan

Projected Cash flow

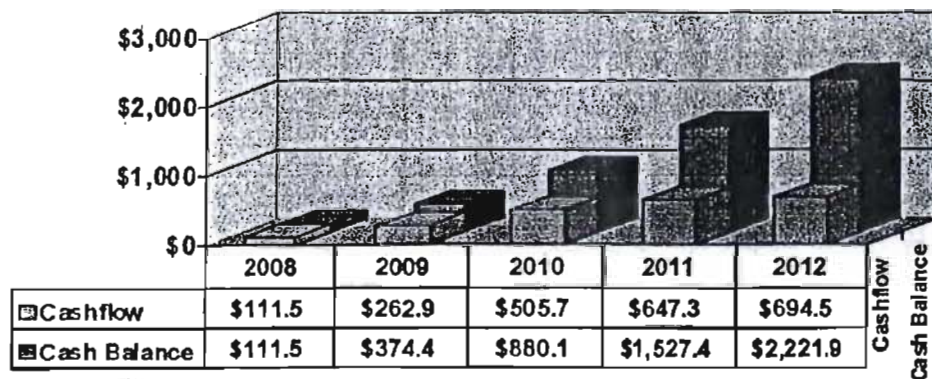
Positive cash flow is critical to our success and opportunity for continued growth.

Cash Flow Analysis
For years ended December 31, 2008 through 2012

		2008	2009	2010	2011	2012
	Net Income	\$ 37,600	\$ 331,100	\$ 553,800	\$ 685,000	\$ 723,400
Sources	External Funding					
	Depreciation	31,700	54,300	54,300	54,300	54,300
	Accounts Receivable	(115,400)	(64,400)	(88,900)	(10,500)	(10,500)
	Change in Inventory	9,800	10,300	9,900	1,200	10,000
Uses	Accounts Payable	46,500	14,000	67,400	15,000	15,000
	Debt Repayment	101,500	(82,400)	(89,800)	(97,700)	(97,700)
Net Cashflow		\$ 111,500	\$ 262,900	\$ 505,700	\$ 647,300	\$ 694,500
Accumulated Cashflow		\$ 111,500	\$ 374,400	\$ 880,100	\$ 1,527,400	\$ 2,221,900

Cashflow from Operations and Cash Balances

(\$ in 000's)



Prigel Family Creamery
Business Plan

Projected Balance Sheet

Projected Balance Sheet Summary
For years ended December 31, 2008 through 2012

	2008	2009	2010	2011	2012
Assets					
Current Assets					
Cash	\$ 111,500	\$ 374,400	\$ 880,100	\$ 1,527,400	\$ 2,221,900
Accounts Receivable	115,400	179,800	269,700	280,200	291,100
Inventory	9,600	19,900	29,800	31,000	41,000
Total Current Assets	236,500	574,100	1,179,600	1,838,600	2,554,000
Fixed Assets					
Leasehold Improvements	387,200	387,200	387,200	387,200	387,200
Furniture & Equip	380,200	380,200	380,200	380,200	380,200
Accumulated Depr & Amort.	(31,700)	(86,000)	(140,300)	(194,600)	(248,900)
Total Fixed Assets	735,700	681,400	627,100	572,800	518,500
Total Assets	\$ 972,200	\$ 1,255,500	\$ 1,806,700	\$ 2,411,400	\$ 3,072,500
Liabilities					
Current Liabilities					
Accounts Payable	\$ 46,500	\$ 60,500	\$ 127,900	\$ 142,900	\$ 159,700
Current Portion of N/P	61,000	66,600	72,600	79,300	40,700
Total Current Liabilities	\$ 107,500	\$ 127,100	\$ 200,500	\$ 222,200	\$ 200,400
Long Term Liabilities					
Notes Payable	519,600	453,000	380,400	301,100	260,400
Total Long Term Liabilities	519,600	453,000	380,400	301,100	260,400
Owner's Equity	\$ 345,100	\$ 675,400	\$ 1,225,800	\$ 1,888,100	\$ 2,611,700
Total Liabilities and Owner's Equity	\$ 972,200	\$ 1,255,500	\$ 1,806,700	\$ 2,411,400	\$ 3,072,500

Prigel Family Creamery

Business Plan

Sources and Uses Statement

Sources

N/P – Build-out	\$	309,700
N/P – Equipment	\$	380,200
External Funding	\$	<u>300,000</u>
Total Sources	\$	<u>989,900</u>

Uses

Construction	\$	387,200
Start up costs		
Processing Equipment	\$	360,700
Retail Equipment	\$	8,200
Office & Other Equip.	\$	13,700
Start up expenses	\$	17,500
Additional working capital	\$	<u>202,600</u>
Total Uses	\$	<u>989,900</u>

The officers of Prigel Family Creamery, Inc. are requesting financing to fund the start up of this venture and provide sufficient working capital using the following financing mechanisms.

- Agriculture grants* and other non-equity based sources of \$300,000
- Long-term note payable (construction) - \$309,700 for a term not to exceed 30 years.
- Long-term note payable (equipment) - \$248,400 for a term not to exceed 5 years.

The primary source of repayment will be from the cash flow generated by the ongoing operations of the company.

*Grant options are currently being investigated and evaluated to determine the best opportunities available. Overall, we would like to minimize debt exposure as much as possible.

Cost of Sales Assumptions

Overall production levels were first developed assuming full capacity by product line. Products were then introduced into the plan periods at increasing levels in an attempt to mimic production growth.

For each product, the individual components going into the production of each item were identified, quantities required and estimated costs were included. For each product, the quantity and cost of the milk, materials and packaging are all considered. Product mixes by volume/size are also considered by product line.

Any and all related payroll costs are included in the operating expenses.

As the plan periods progress and the production increases, the increasing quantities become the basis for developing the costs. In addition, all product costs increase by 5% each year.

Family Creamery s Plan

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through 2011

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		2008			2009			2010			2011		
Units of Measure		% of Capacity	Units	Sales	% of Capacity	Units	Sales	% of Capacity	Units	Sales	% of Capacity	Units	Sales
Skim	Gallon	39%	39	\$ 1,620	83%	48	\$ 4,770	85%	85	\$ 6,812	100%	100	\$ 7,837
1%	Gallon	39%	19	\$ 878	83%	52	\$ 2,584	85%	43	\$ 3,890	100%	50	\$ 4,299
2%	Gallon	39%	116	\$ 6,075	83%	60	\$ 17,888	85%	255	\$ 25,543	100%	300	\$ 29,785
Whole	Gallon	39%	19	\$ 1,080	83%	64	\$ 3,180	85%	43	\$ 4,541	100%	50	\$ 5,292
				<u>\$ 8,653</u>			<u>\$ 28,421</u>			<u>\$ 40,588</u>			<u>\$ 47,293</u>
1 lb	Pounds	39%	1,874	\$ 8,434	83%	4,968	\$ 23,699	85%	6,783	\$ 33,874	100%	8,025	\$ 41,801
8 oz.	Units	39%	430,983	\$ 323,222	83%	1,111,258	\$ 883,450	85%	1,513,800	\$ 1,283,478	100%	1,805,312	\$ 1,587,284
Pint	Ea	33%	2,711	\$ 8,132	83%	15,445	\$ 49,118	85%	21,038	\$ 70,244	100%	25,092	\$ 87,133
Quart	Ea	33%	7,454	\$ 44,726	83%	42,475	\$ 270,139	85%	57,853	\$ 380,343	100%	69,003	\$ 479,234
1/2 Gallon	Ea	33%	2,033	\$ 19,313	83%	11,584	\$ 116,651	85%	15,778	\$ 188,830	100%	18,819	\$ 206,942
3 Gallon	Ea	33%	56	\$ 1,682	83%	321	\$ 10,222	85%	438	\$ 14,820	100%	522	\$ 18,135
				<u>\$ 73,864</u>			<u>\$ 448,129</u>			<u>\$ 638,037</u>			<u>\$ 781,444</u>
		39%		\$ 10,800	83%		\$ 31,800	85%		\$ 45,410	100%		\$ 55,581
Total Revenues				\$ 425,973			\$ 1,413,498			\$ 2,021,388			\$ 2,503,363

sis

		Margin %	Cost	Margin %	Cost	Margin %	Cost	Margin %	Cost
Packaging			\$ 848		\$ 1,800		\$ 2,448		\$ 2,880
Labeling			\$ 506		\$ 1,406		\$ 1,913		\$ 2,250
Raw Milk			\$ 3,387		\$ 9,675		\$ 13,597		\$ 18,512
		53%	\$ 4,521	55%	\$ 12,881	56%	\$ 17,957	54%	\$ 21,642
Packaging			\$ 656		\$ 1,738		\$ 2,387		\$ 2,809
Raw Milk			\$ 329		\$ 1,481		\$ 2,097		\$ 2,588
		88%	\$ 985	100%		100%		100%	
Fruit Mix			\$ 43,098		\$ 111,128		\$ 151,380		\$ 180,531
Packaging			\$ 30,187		\$ 77,788		\$ -		\$ -
Raw Milk			\$ 48,687		\$ 125,018		\$ 175,958		\$ 218,837
		63%	\$ 120,131	100%		100%		100%	
Mixes			\$ 41,404		\$ 175,882		\$ 239,290		\$ 285,407
Packaging			\$ 9,148		\$ 38,809		\$ 52,880		\$ 63,047
Raw Milk			\$ 1,320		\$ 5,782		\$ 8,162		\$ 10,037
		30%	\$ 51,870	100%		100%		100%	
		50%	\$ 5,400	53%	\$ 15,000	55%	\$ 20,400	57%	\$ 24,000
soilage			\$ 16,844		\$ 45,584		\$ 66,203		\$ 80,728
Total Cost of Sales				53%	\$ 189,562	57%	\$ 610,917	64%	\$ 735,641
								68%	\$ 887,407

Letter of Support from Long Green Valley Association

LONG GREEN VALLEY ASSOCIATION
P.O. Box 91
Baldwin, Maryland 21013

*Mr. and Mrs. Robert Prigel, III.
Mr. Matt and Bobby Prigel
Mr. and Mrs. Robert Prigel, Sr.
4851 Long Green Road
Glen Arm, Maryland 21057
September 27, 2007*

Dear Prigel family,

The Board of Directors of the LGVA would like to thank you for attending the monthly meeting on September 18, 2007 to outline the future plans and changes you will be making to your dairy farm. The board members are aware of your family's long history in the valley and your dedication to preserving the rural character of the area through good farming practices.

Your farm not only has the distinction of being the first property placed in the Long Green Valley Conservancy, but is known throughout the area for receiving awards for best farming practices and for being environmentally sensitive to the rural nature of the valley.

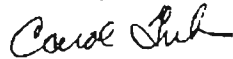
The board voted unanimously to support your family in its future plans for the dairy farm including: the building of a creamery to process milk, cheese, yogurt, and ice cream; the construction of a road side store from which these items will be sold directly to the public; the construction of a parking area that will be environmentally friendly; landscaping that will use natural screening; and the conversion of the farm to all organic.

If the association can be of any help to you now or in the future please feel free to contact us. Your goals with future changes to the

Prigel Family Creamery
Business Plan

dairy farm are consistent with LGVA's mission which is to preserve the valley's agriculture and rural character for the benefit of future generations.

Sincerely,



Carol Trela, Secretary

Letter of Intent from Cowgirl Creamery



PROJECT DESCRIPTION
COWGIRL CREAMERY
BELLE VALE DAIRY
GLEN ARM, MARYLAND
11/1/07

Description of Operation

COWGIRL CREAMERY

80 Fourth Street

PO Box 594

Point Reyes Station, CA 94956

415.643.7335

WHOLESALE & MAIL ORDER

105 W Street

Petaluma, CA 94952

Toll free: 844.433.7834

COWGIRL CREAMERY

CHEESE SHOPS

The Ferry Building

1 Embarcadero, #17

San Francisco, CA 94115

415.342.9354

Penn Quarter

919 F Street NW

Washington, D.C. 20004

202.373.6880

Production

Founded in 1997, Cowgirl Creamery operates a cheese production facility in West Marin County, in Point Reyes Station, California. All of the cheese produced at the creamery is made by hand in small batches, with certified organic milk from the Straus dairy, just ten miles north of the creamery. Because of increased production demands on the small creamery in Point Reyes Station, a larger facility is in the construction phase right now and will be complete in January, 2008. The plan is to continue to produce cheese in Point Reyes Station, but to move the bulk of the west coast cheese production to the new facility.

Distribution, Marketing and Retail

In 2001, the wholesale division and business offices of Cowgirl Creamery moved to Foundry Wharf in Petaluma, California. The warehouse provides storage for cheese and houses the company offices and distribution division. On the west coast, Cowgirl Creamery is known as an important producer and distributor of artisan cheese.

In addition, Cowgirl Creamery operates a mail order cheese business and three retail stores in San Francisco, Point Reyes Station and Washington, D.C. The stores act as a marketing tool for the promotion of hand made artisan cheese.

An East Coast Presence

In June of 2006, the company expanded to the east coast with the intention of creating a wholesale, production and retail cheese company that mirrors the operation in California. The first phase of the expansion began in June, 2006 with the opening of a retail shop in downtown Washington D.C. The new Cowgirl Creamery Cheese Shop is slowly becoming known as a purveyor of quality hand made cheese and sales are growing at an average of 12% per month.

Prigel Family Creamery Business Plan



COWGIRL CREAMERY

80 Fourth Street

PO Box 594

Point Reyes Station, CA 94956

415.662.9335

WHOLESALE & MAIL ORDER

105 H Street

Point Reyes, CA 94952

Toll free: 866.433.7334

COWGIRL CREAMERY

CHEESE SHOPS

The Ferry Building

1 Embarcadero, #17

San Francisco, CA 94115

415.362.9334

Penn Quarter

919 F Street NW

Washington, D.C. 20004

202.393.6888

COWGIRLCREAMERY.COM

Cowgirl Creamery at Belle Vale Dairy

Phase two will be to begin producing cheese near the shop. On a search for great milk in the Washington Metropolitan area, we were introduced to the Prigel family in the Long Green Valley, just north of Baltimore. The land and the animals at the Prigel's dairy are loved and cared for and the result is some of the best milk we have tasted. The opportunity to use this milk in the production of Cowgirl Creamery cheeses will give us the most important element needed in the creation of quality cheese on the east coast.

Bobby Prigel has agreed to lease Cowgirl Creamery 1,500 square feet of production space in his new creamery. We plan on purchasing a 200 gallon cheese making vat and will install a 400 square foot aging room inside the production space. All of the milk used in the cheese making operation will be purchased from the Prigel's dairy.

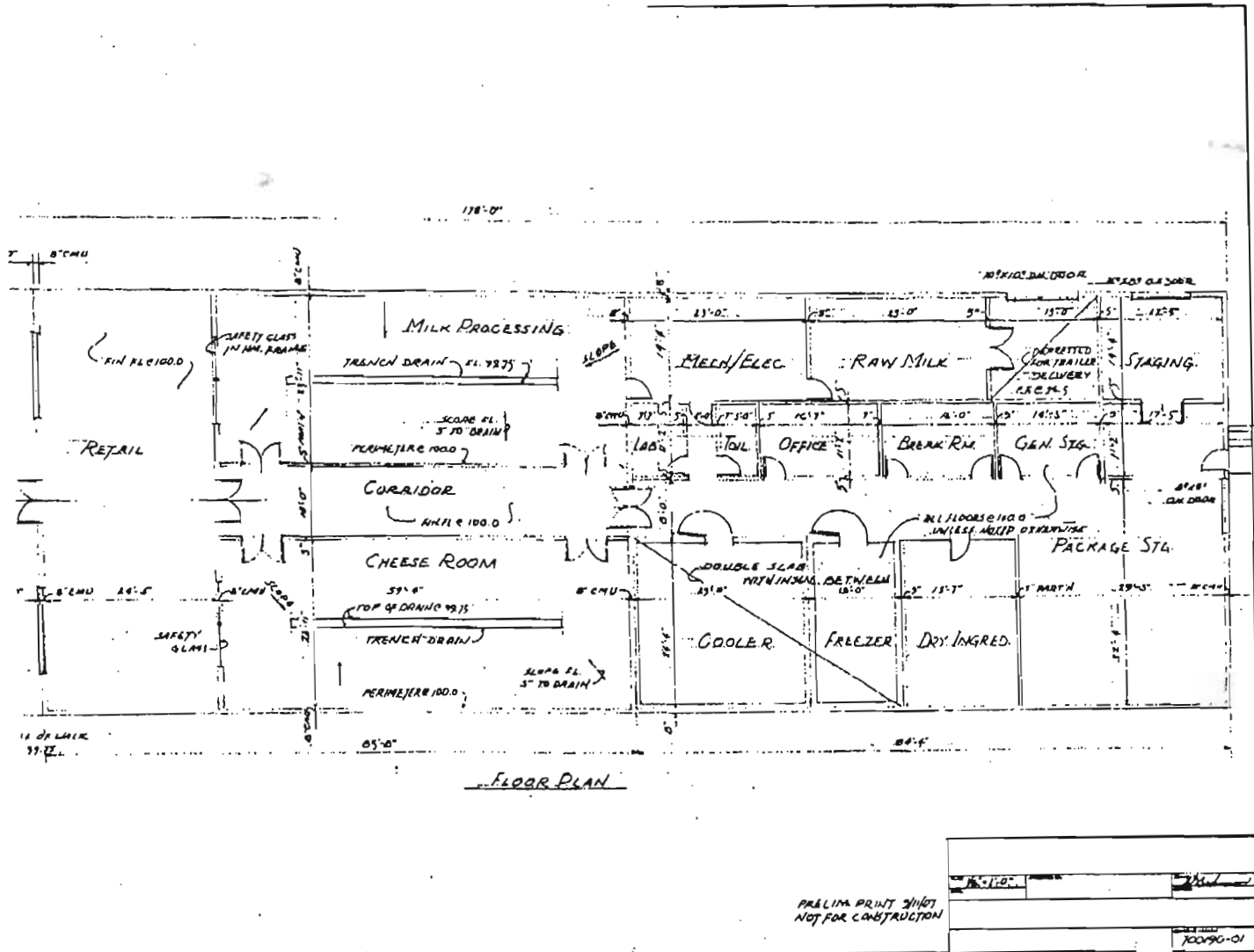
Cowgirl Creamery will pay market prices for organic milk and cream.

Rent for the 1,500 square foot calculated to include tenant improvements that are installed by the landlord.

*Sincerely,
Eric Conley
Cowgirl Creamery
founder/owner*

Prigel Family Creamery
Business Plan

Proposed Floorplan of Processing and Retail Facility



Prigel Family Creamery
Business Plan



West Elevation



South Elevation



Front Elevation



East Elevation

 CONSTOGA Buildings We Build It - You Move In It 1-800-344-9464	Building 1200 LBS. JOB NO. 1000 J. WILLIAMS, OWNER 1000 LBS. 1200 LBS.		JOB SITE J. WILLIAMS
	SCALE: 1/8" = 1'-0" SHEET: A. OF A.		DRAWN BY: J. WILLIAMS CHECKED BY: J. WILLIAMS
	DATE: 10/1/00		TYPED BY: J. WILLIAMS
	10/1/00		

From: Karen Merrey
To: repringel@aol.com
Date: 4/22/2008 10:31 AM
Subject: Fwd: Your inquiry about milk processing
Attachments: Your inquiry about milk processing

CC: Laurie Bucher; Ted Elkin

Bobby- I received your telephone call yesterday about your desire to start a milk processing operation at your dairy farm in Baltimore County. Since, only a portion of your the phone number came through in the message, I am hoping that this email will reach you.

Since we talked, I have taken a position in the Food Control office so, from here on out, you will be working with Laurie Bucher (and, of course your regular inspector, Cindy Colston). You can reach Laurie at our Hagerstown office (phone: 301-791-4779) or via email at lbucher@dhmh.state.md.us.

Best wishes to you and your family and good luck on your new endeavor!
Karen

Karen M. Merrey
Retail Food Rating Officer
Office of Food Protection and Consumer Health Services
Maryland DHMH
6 St. Paul St., Suite 1301
Baltimore, MD 21202
410-767-8431
410-333-8931 FAX
kmerrey@dhmh.state.md.us

Bobby Prigel - Cell - 443-625-4255

410-592-6014 (H) President
410-592-7276 Bellwale Farms, Inc.
4851 Long Green Rd.
Glen Arm, md 21052

Meeting 5-14-08

Agri-Jenise-Larry Warner

New well - new b
30-29mm test
new septic

chase
Yogurt & plastic
fluid milk - plastic
butter & plastic
ice cream

PETITIONER'S

EXHIBIT NO.

4A

Chaska Buildings 60' wide
166' long

From: Karen Merrey
To: repringel@aol.com
Date: 2/14/2007 3:20 PM
Subject: Your inquiry about milk processing

CC: Cynthia Colston

Hi Robert,

It was a pleasure to speak with you on the telephone today about your interest in on-farm processing of milk and/or milk products and frozen desserts.

In Maryland, the Division of Milk Control regulates the manufacture of fluid milk products, cheese, and frozen desserts. Here are some helpful websites you can visit to obtain specific information:

<http://www.dmd.state.md.us> (Code of Maryland Regulations)

The three chapters that apply would be:

COMAR 10.15.05, manufacture of frozen desserts;

COMAR 10.15.06, grade A milk processing (mostly fluid milk products);

COMAR 10.15.09, manufactured-grade milk (includes cheese)

Go to the 3rd or bottom red circle on the main search page of the COMAR website and search by "Access through table of contents structure", then go to Title 10, then, on the next screen, Subtitle 15, and then, on the next screen, click on, for example, 10.15.09 for manufactured-grade milk. This will give you the chapters and you click on each one separately.

Note that Maryland regulations require a pasteurization step in the cheese- making process.

<http://www.ams.usda.gov> ("Milk for Manufacturing Purposes and its Production and Processing", the USDA document referenced in both Maryland Law and the Maryland Manufactured Grade Milk Regulations).

Since a milk production facility (ie. a dairy farm) and a milk processing facility (cheese manufacturing), are different operations, two separate permits are required. In addition, any onsite retail sales facility would be licensed and inspected by the local health department.

We currently have an on-farm cheese manufacturing operation (located in Western Maryland), FireFly Farms, which uses a vat pasteurization system. You may also wish to contact them or visit their website: www.fireflyfarms.com

As we discussed, if you are considering a vat, rather than a more complex high-temperature-short-time (HTST) system, please make sure it complies with 3-A standards, and that it has an airspace heater.

Some other points to consider:

1. You will need to obtain a MD milk processor license (\$100/year) and/or a frozen dessert manufacturing license from our office (cost depends on the amount produced, minimum fee is \$10 per year).
2. You need to decide if you will be using all of your milk for processing, or continue to ship some of it via a cooperative. This determines how your milk quality samples will be taken- by you, or by the coop.
3. What will you be producing- bottled milk, cheese, ice cream?

4. The processing room must be completely separate from milking facilities and constructed of smooth, cleanable walls, floors and ceilings.
5. In the processing room, you will need a pasteurizer, wash sink or sinks, hand sink, storage shelves, commercial refrigeration, CIP system, etc. All to meet 3-A construction standards, all stainless steel with smooth welds.
6. How will the pasteurization system or vat be heated?
7. Well water to be tested by us every 6 months.
8. Inspection of processing facility and testing of equipment to be conducted by us every 90 days.
9. Record keeping is required: milk tank cleaning log, antibiotics testing results, pasteurizing charts, manifests, vitamin additives, and if using a boiler, boiler additives used.
10. Restroom(s) will be needed.

After you have an idea of how you wish to proceed, you will need to send us detailed plans showing equipment placement and layout, plumbing, milk lines, CIP lines, sampling protocol, processing protocol, etc.

Feel free to call Cindy Colston or me with any questions you have. Let me know when you are ready to get together to review and discuss your proposal with us. We will be happy to work with you in this endeavor.

Karen

Karen M. Merrey
Section Head
Division of Milk Control
DHMH/ CHA/ OFPCHS
6 St. Paul St., Suite 1301
Baltimore, MD 21202
410-767-8431
410-333-8931 FAX
kmerrey@dhmh.state.md.us



STATE OF MARYLAND

DHMH

Maryland Department of Health and Mental Hygiene

6 Saint Paul Street, Suite 1301 • Baltimore, Maryland 21202

Martin O'Malley, Governor – Anthony G. Brown, Lt. Governor – John M. Colmers, Secretary

Office of Food Protection and Consumer Health Services

Alan L. Taylor, R.S., Director

July 2, 2008

Bellevalle Farms, Inc.
Robert Prigel, President
4851 Long Green Road
Glen Arm, MD 21057

Dear Mr. Prigel,

The State of Maryland, Division of Milk Control has received your preliminary floor plan for your creamery, as a result of our meeting on May 14, 2008. Additional information is still needed to complete your plan review. No further review will be done until the additional information is received. Attached are the plan review requirements and comments that have been discussed.

Please note that final approval for construction and operation of a creamery in Maryland can not be granted until all local planning and zoning requirements are met.

Thank you for your cooperation and I am looking forward to working with you on this project. If you have any questions, please feel free to contact me at 301.791.4779.

Sincerely,

Laurie Bucher, Section Head
Division of Milk Control

PETITIONER' S

EXHIBIT NO.

4B

Attachments

Cc: Ted Elkin, Deputy Director, Office of Food Protection and Consumer Health Services
Cindy Colston, Regional Inspector, Division of Milk Control
Larry Wampler, Agri-Services, Inc.

410-767-8400 • Fax 410-333-8931

Toll Free 1-877-4MD-DHMH • TTY for Disabled - Maryland Relay Service 1-800-735-2258

Web Site: www.dhmh.state.md.us

DOUGLAS F. GANSLER
Attorney General



KATHERINE WINFREE
Chief Deputy Attorney General

JOHN B. HOWARD, JR.
Deputy Attorney General

CRAIG A. NIELSEN
*Assistant Attorney General
Counsel to the
Department of Agriculture*

THOMAS F. FILBERT
Assistant Attorney General

CLAUDIA A. DIAMOND
Assistant Attorney General

THE ATTORNEY GENERAL

DEPARTMENT OF AGRICULTURE
50 HARRY S. TRUMAN PARKWAY
ANNAPOLIS, MARYLAND 21401
(410) 841-5883
Facsimile (410) 841-5914

July 23, 2008

Thomas H. Bostwick
Deputy Zoning Commissioner
for Baltimore County
Office of the Zoning Commissioner
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204



Dear Mr. Bostwick,

Enclosed please find the following papers:

- (1) Motion to Quash the Subpoena Issued to Steve McHenry, Executive Director, MARBIDCO;
- (2) Motion to Quash the Subpoena Issued to Jim Conrad, Executive Director, Maryland Agricultural Land Preservation Foundation "MALPF"; and
- (3) True and correct copies of official records maintained by the MALPF pertaining to the preservation easement that MALPF acquired in Bellevale Farm (the Prigel Farm)

Since filing the Motion's to Quash, Assistant Attorney General David Rawle has spoken to an individual in Mr. Holzer's office who advised that neither Mr. Conrad nor Mr. McHenry have to appear for tomorrow's hearing before the Zoning Commissioner for the following reasons:

- (1) By copy of this letter (with accompanying documents), MALPF is providing true copies of the records that Mr. Holzer has requested in this matter; and
- (2) MARBIDCO has already furnished copies of its records to Mr. Holzer

PETITIONER'S

EXHIBIT NO.

5

Thomas H. Bostwick
July 23, 2008
Page 2

Please call if you have any questions.

Sincerely,

A handwritten signature in dark ink, appearing to read "Thomas F. Filbert". To the right of the signature, the initials "TFM" are written and underlined.

Thomas F. Filbert
Assistant Attorney General

TFF/tcm
Enclosures
John Gontrum, Esquire
J. Carroll Holzer, Esquire

IN THE MATTER OF:
PETITION FOR SPECIAL HEARING
4851 Long Green Road N/S sides of Long Green Rd.
w/side of Long Green Road and Long Green Drive
Charlotte Pine, Catherine Ebert, John &
Susan Yoder, Long Green Valley
Association, Inc. – Petitioners
11th Election District
3rd Council District

* BEFORE THE
* ZONING COMMISSIONER
* OF
* BALTIMORE COUNTY
* Case No. 2008-0506-SPH

* * * * *

MOTION TO QUASH SUBPOENA

The Maryland Agricultural and Resource-Based Industry Development Corporation (“MARBIDCO”), by and through its undersigned attorneys, hereby moves to quash the Special Hearing Subpoena Duces Tecum served by the Petitioners on Stephen McHenry, Executive Director, Maryland Agricultural and Resource-Based Industry Development Corporation (hereinafter referred to as the “Subpoena”).

In support of its Motion to Quash, the MARBIDCO states the following:

1. Petitioners have requested the Zoning Commissioner to determine the following:
 - (a) Whether a dairy processing facility, a creamery, a milk pasteurization facility, or a dairy products store are permitted in an R.C. 2 zone. Said processing facility contains the characteristics defined in Exhibits A, B, and C previously submitted on April 4, 2008; and
 - (b) May the property owner lease the dairy processing facility to a third party?”
2. Petitioners have caused to be issued a Subpoena Duces Tecum to Stephen McHenry, Executive Director, Maryland Agricultural and Resource-Based Industry Development Corporation, to appear in person and to produce the following documents or objects:

“Provide documentation, notes, letters related to Prigel’s preparation of USDA Rural Development Request.”

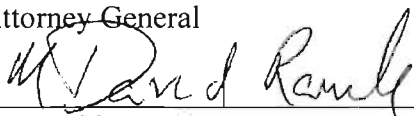
3. This subpoena should be quashed in that MARBIDCO, in response to an earlier subpoena that was issued at Mr. Hozler's request by the Zoning Commissioner of Baltimore County, already has delivered to the Petitioners, through their attorney J. Carroll Holzer, Esquire, all of the information in MARBIDCO's files concerning the Prigels.

4. Additionally, Mr. McHenry has a prior commitment on the day of the hearing that will prevent him from attending. Given the lateness that the subpoena was issued, Mr. McHenry is unable to alter his calendar. Several telephone calls were placed to discuss this matter with Mr. Holzer, but he has not returned this call.

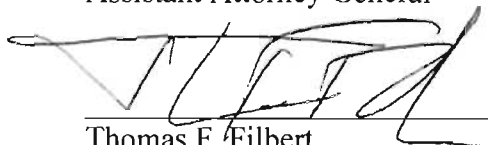
WHEREFORE, the Maryland Agricultural and Resource-Based Industry Development Corporation respectfully requests that the Zoning Commissioner quash the subpoena referenced and, provide such other relief as the nature of its cause may require.

Respectfully submitted,

DOUGLAS F. GANSLER
Attorney General



W. David Rawle
Assistant Attorney General



Thomas F. Filbert
Assistant Attorney General
Office of the Attorney General
Maryland Dept. of Agriculture
50 Harry S. Truman Parkway
Annapolis, MD 21401
410-841-5883

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of July, 2008, a copy of the foregoing Motion to Quash Subpoena was mailed, first class, postage prepaid to: John Gontrom, Esquire, **White**ford Taylor & Preston, LLP, 210 W. Pennsylvania Avenue, Suite 400, Towson, Maryland 21204-4515, Attorney for the Prigel Family Creamery, Inc.; J. Carroll Holzer, P.A., 508 Fairmount Avenue, Towson, Maryland 21286, Attorney for the Long Green Valley Association.

IN THE MATTER OF:
PETITION FOR SPECIAL HEARING
4851 Long Green Road N/S sides of Long Green Rd.
w/side of Long Green Road and Long Green Drive
Charlotte Pine, Catherine Ebert, John &
Susan Yoder, Long Green Valley
Association, Inc. – Petitioners
11th Election District
3rd Council District

* BEFORE THE
* ZONING COMMISSIONER
* OF
* BALTIMORE COUNTY
* Case No. 2008-0506-SPH

* * * * *

MOTION TO QUASH SUBPOENA

The State of Maryland, by and through its undersigned attorneys, hereby moves to quash the Special Hearing Subpoena Duces Tecum served by the Petitioners on Jim Conrad, Executive Director, Maryland Agricultural Land Preservation Foundation, a unit of the Maryland Department of Agriculture (hereinafter referred to as the “Subpoena”).

In support of its Motion to Quash, the State of Maryland states the following:

1. Petitioners have requested the Zoning Commissioner to determine the following:

(a) Whether a dairy processing facility, a creamery, a milk pasteurization facility, or a dairy products store are permitted in an R.C. 2 zone. Said processing facility contains the characteristics defined in Exhibits A, B, and C previously submitted on April 4, 2008; and

(b) May the property owner lease the dairy processing facility to a third party?”

2. Petitioners have caused to be issued a Subpoena Duces Tecum to Jim Conrad,

Director, Executive Director, Maryland Agricultural Land Preservation Foundation, to appear in person and to produce the following documents or objects:

“Provide any and all information related to easement or easements on Prigels’/Bellevale Farm property and Prigel’s request for processing facility, creamery, farm store, etc. All [sic] MALPF comments and documents regarding AG. Easements [sic] on Prigels’ property and MALPF regulations and policies on milk processing facilities.”

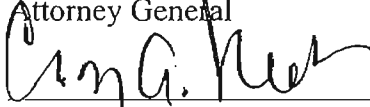
3. This subpoena should be quashed in that none of the requested information relates to any relevant evidence pertinent to any issue in the Baltimore County Zoning Regulations. Specifically, MALPF's approval of the proposed creamery was based upon its discretionary authority under Agriculture Article, §2-513(b)(i), Annotated Code of Maryland, to permit a landowner, whose land is subject to a State-held preservation easement, to use the land "for farm and forestry related uses and home occupations" that are compatible with agriculture. MALPF determined that the proposed creamery was a permissible use under this statute.

4. Additionally, Mr. Conrad has a prior commitment on the day of the hearing that will prevent him from attending. Given the lateness that the subpoena was issued, Mr. Conrad is unable to alter his calendar. A telephone call was placed to discuss this matter with Mr. Holzer, but he has not returned this call.

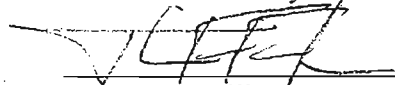
WHEREFORE, the State of Maryland respectfully requests that the Zoning Commissioner quash the subpoena referenced and, provide such other relief as the nature of its cause may require.

Respectfully submitted,

DOUGLAS F. GANSLER
Attorney General



Craig A. Nielsen
Assistant Attorney General



Thomas F. Filbert
Assistant Attorney General
Office of the Attorney General
Maryland Dept. of Agriculture
50 Harry S. Truman Parkway
Annapolis, MD 21401
410-841-5883

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of July, 2008, a copy of the foregoing Motion to Quash Subpoena was mailed, first class, postage prepaid to: John Gontrom, Esquire, Whiteford Taylor & Preston, LLP, 210 W. Pennsylvania Avenue, Suite 400, Towson, Maryland 21204-4515, Attorney for the Prigel Family Creamery, Inc.; J. Carroll Holzer, P.A., 508 Fairmount Avenue, Towson, Maryland 21286, Attorney for the Long Green Valley Association.



Maryland Department of Agriculture

Office of the Secretary

Martin O'Malley, Governor

Anthony G. Brown, Lt. Governor

Roger L. Richardson, Secretary

Earl F. Hance, Deputy Secretary

The Wayne A. Cawley, Jr. Building
50 Harry S. Truman Parkway
Annapolis, Maryland 21401
TTY Users: Call via Maryland Relay
Internet: www.mda.state.md.us

Agriculture | Maryland's Leading Industry

410.841.5700 Baltimore/Annapolis

301.261.8106 Washington, D.C.

410.841.5914 Fax

800.492.5590 Toll Free

MARYLAND AGRICULTURAL LAND PRESEVERATION FOUNDATION

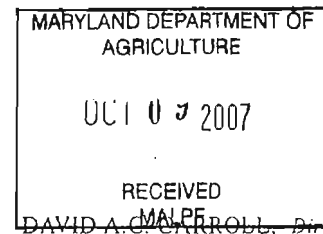
I, DIANE CHASSE, Administrator, Maryland Agricultural Land Preservation Foundation ("MALPF"), Maryland Department of Agriculture ("MDA"), am the custodian of the records for Maryland Department of Agriculture's MALPF, and I certify that the attached papers are true and correct copies of official records of MDA's Maryland Agricultural Land Preservation Foundation, and are authorized by law to be filed, and actually have been filed, in MDA's Maryland Agricultural Land Preservation Foundation's office.

Diane Chasse, Administrator



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive



Department of Environmental Protection
and Resource Management

Mr. Jim Conrad
Maryland Agricultural Land Preservation Foundation
50 Harry S. Truman Parkway
Annapolis, MD 21401

September 26, 2007

RE: Baltimore County - Mr. Robert Prigel. Bellevale Farms, Inc. MALPF #03-83-14C. 180 acres.

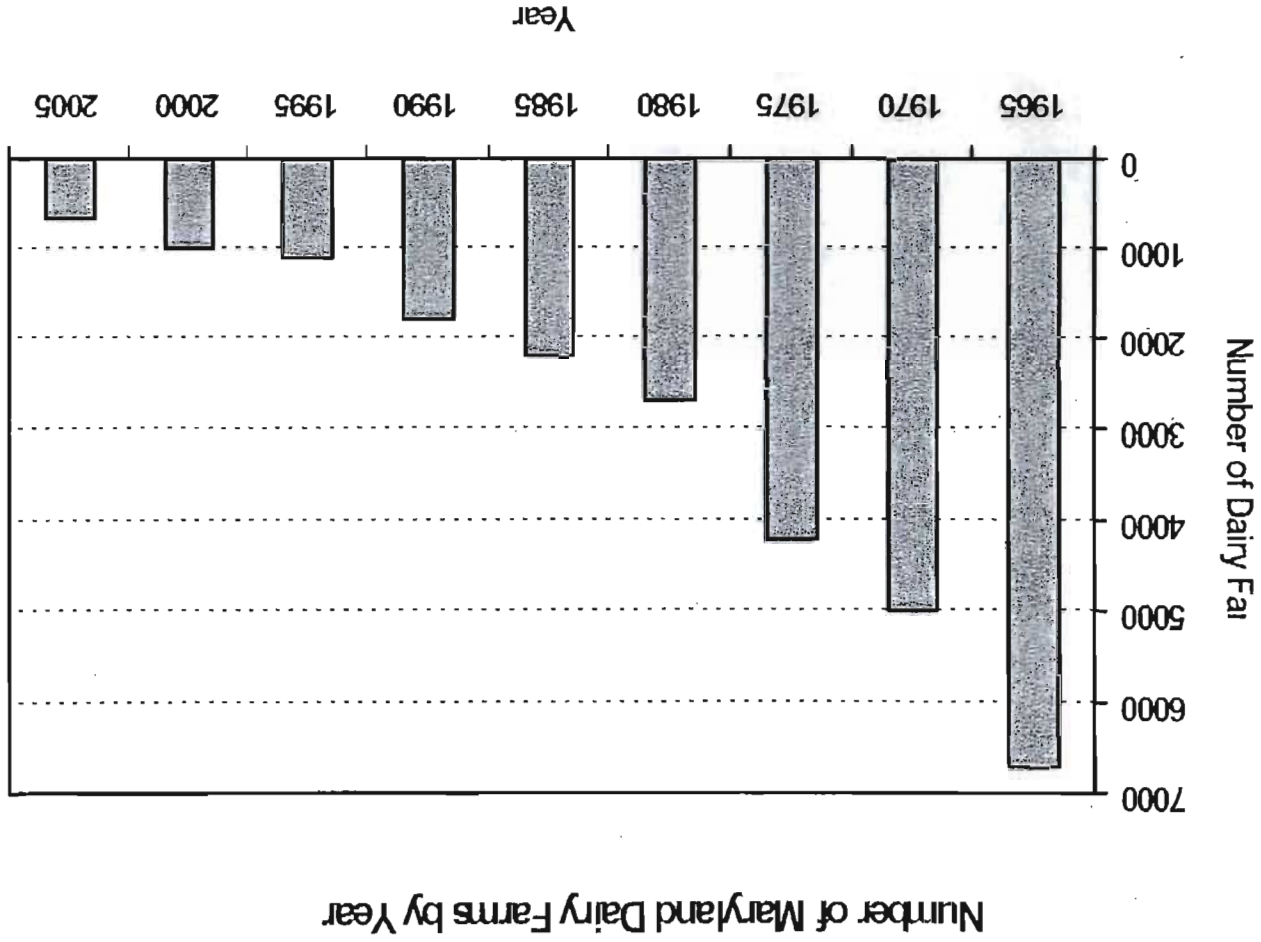
Dear Mr. Conrad,

Mr. Robert Prigel of 4851 Long Green Road, Baltimore County is requesting approval to construct a creamery operation, processing facility, and farm store for the dairy farm. The property is currently under a MALPF easement. We would like to place this on the agenda for the October 23, 2007 MALPF Board meeting.

The facility that is planned will be a 7,000 to 10,000 square foot building which will be located off of Long Green Road. It will contain ~ 1500 sq. ft. of retail space selling farm produced milk, cheese, yogurt, butter, and ice cream. The rest of the facility will be used for processing and warehouse space. Mr. Prigel is aware that under MALPF regulations that 75% of the products sold at his stand must be produced on his farm. The approximate location of the new facility is shown on the accompanying aerial maps. The access road will be a Right of Way and the facility will have fewer than 10 parking spaces.

The Baltimore County Agricultural Land Preservation Advisory Board reviewed and voted favorably on the request at their August 28, 2007 meeting. The facility will be located in an area that contains class II soils (HaB2). Although this location contains highly productive soil, the entire farm is comprised mostly of classes I, II, and III soils with very little class IV and the area along Long Green Road where the facility will be located is mainly Class II with some Class I soil.

This proposal is considered an "agricultural-support" use and is permitted under Baltimore County Zoning Regulations Bill No. 178-1979. It is permitted by special exception will be subject to a Special Hearing and review by our local Zoning Board. Baltimore County Staff would like the State to review and, if acceptable, to give preliminary approval of this proposed use before submitting Mr. Prigel's proposal to Zoning for a Special Hearing.





Maryland Department of Agriculture

Agriculture | Maryland's Leading Industry

Office of the Secretary

Martin O'Malley, Governor
Anthony G. Brown, Lt. Governor
Roger L. Richardson, Secretary
Earl F. Hance, Deputy Secretary

The Wayne A. Cawley, Jr. Building
50 Harry S. Truman Parkway
Annapolis, Maryland 21401
TTY Users: Call via Maryland Relay
Internet: www.mda.state.md.us

410.841.5700 Baltimore/Washington
301.261.8106 Washington, D.C.
410.841.5914 Fax
800.492.5590 Toll Free

MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION

Agenda Item: II.F.2
Meeting Date: 10-23-07

MEMORANDUM

TO: Board of Trustees

FROM: Diane Chasse, Administrator

RE: 03-83-14C Bellevale Farm, Inc. (Prigel) 180 acres

Request to allow a creamery operation, processing facility and farm store on an easement property

Mr. Robert Prigel, of Bellevale Farm, Inc., is the original owner of the easement property. The current request is to allow a creamery operation, processing facility and farm store on an easement property. There is one pre-existing dwelling on the farm.

According to Baltimore County, Mr. Prigel would like to construct a 7,000 to 10,000 square foot building to house the creamery operation, processing facility and farm store. As well, he is requesting a parking area that would accommodate fewer than 10 vehicles. The parking area is proposed to be located on Long Green Road with the creamery directly behind it. A short distance on an existing farm lane may be needed. The landowner will clarify this at the meeting.

The request was approved by the local advisory board. Mr. Prigel would be required to obtain a special exception because county regulations do not allow the proposed activity in the area where the farm is located.

According to the Uses Table which was approved by the Board. The following are the considerations for review:

- Must not interfere with other agricultural or silvicultural operations.
- Must not limit future agricultural or silvicultural production.
- Easement or district owner must have an ownership interest in the operation.
- Some of the products must come from animals raised or crops grown on site; the remainder from animals or crops indigenous to Maryland.
- Facility and parking area must cover no more than 2% (two percent) of the easement/district, or two acres, whichever is smaller. *→ 3% of easement*
- Parking area must be pervious.
- Accessory sales area must not exceed 600 sq. ft.

Foundation staff recommend approval of the request subject to the parking lot being pervious.

Robert E. Prigel Jr.
Bellevale Farms Inc.
4851 Long Green Rd.
Glen Arm, Md. 21057

August 1, 2007

To the State Ag Preservation Board,

Hi, my name is Bobby Prigel. I am a fourth generation dairy farmer in Baltimore County just north of the beltway. As you are aware, it is very difficult for small family dairy farms in Maryland to compete with large corporate dairies. I have attached a graph showing the decline of dairy farms in Maryland over the past twenty five years. I do not want to become one of these casualties.

In consideration of our proximity to the Baltimore metropolitan area, we would like to construct a processing facility to process our milk. We would like to build a pole building about seven thousand square feet. Fifteen hundred square feet would be set aside for a farmer roadside stand with less then ten parking spaces.

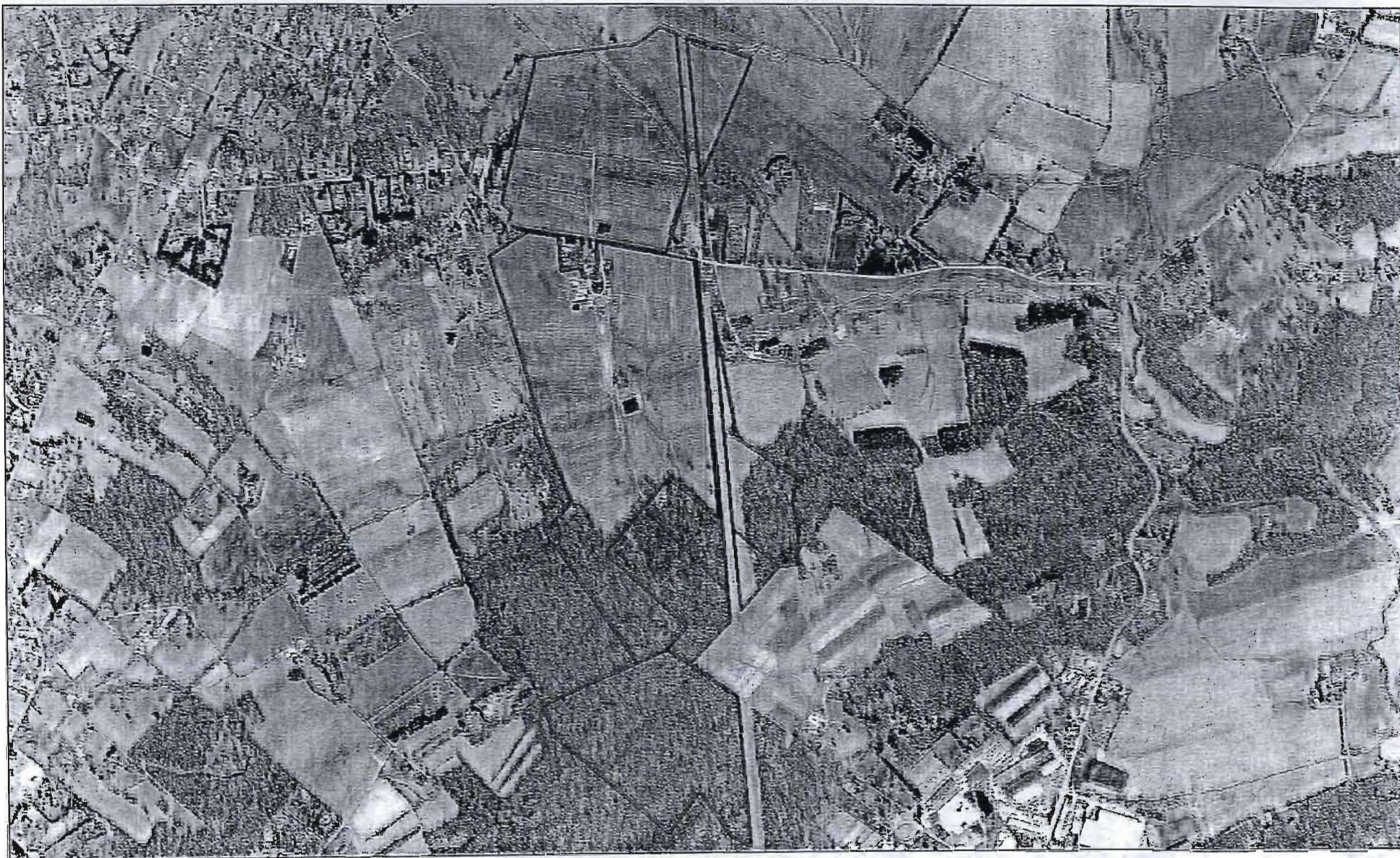
We would be selling milk, cheese, yogurt, butter and ice-cream. We also plan to raise and sell grass fed meats. Along with the retail we will also be wholesaling these products to other outlets. We are aware that under State Preservation regulations that we have to raise seventy-five percent of what we sell.

Three thousand square feet would be set aside for processing and the remaining twenty-five for the warehouse.

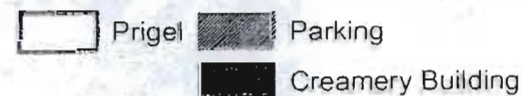
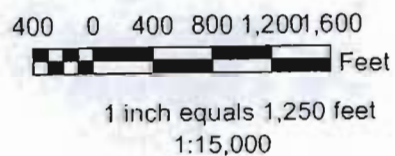
I would ask that you support us by approving this endeavor. Thank you for your consideration.

A handwritten signature in cursive script that reads "Robert E. Prigel Jr.".

Robert E. Prigel Jr.



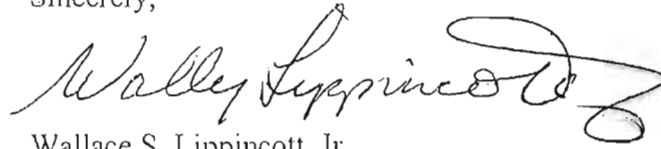
Bellevale Farm Property
 Tax Map 53, parcel 22
 4851 Long Green Road
 180.469 acres



Prepared by Land Preservation Program, Baltimore County
 Department of Environmental Protection and Resource Management
 3_15_07
 c:\gis_maps\Prigel_AerialMap.pdf
 c:\gis_projects\Prigel_AerialMap.mxd

Thank you very much. If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script, reading "Wallace S. Lippincott, Jr.", written in dark ink.

Wallace S. Lippincott, Jr.
Program Administrator

- c. Mr. David Greene, Chairman BCALPAB
Mr. Robert Prigel, Landowner



Bellevale Farm Property
Tax Map 53, parcel 22
4851 Long Green Road
180.469 acres

1 inch equals 100 feet

1:1,200

400



Prigel



Parking appr. location



Creamery Building appr. location

Prepared by Land Preservation Program, Baltimore County
Department of Environmental Protection and Resource Management
3_15_07
c:\gis_maps\Prigel_AerialMap.pdf
c:\gis_projects\Prigel_AerialMap.mxd

Agenda Item: II.F.2
Meeting Date: 10-23-07

MALPF FILE # 03-83-14C
Bellevalle

SUBSEQUENT ACTIVITY ON

EASEMENT PROPERTY

Oct 23, 2007 meeting
Facility for Creamery,
processing & farm store.

RURAL ACCESSORY USES

Reference S. 400, 101, 404.2

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

To: Wallace S. Lippincott, Jr.
Program Administrator
DEPRM

Date: 6/28/07

From: Director, Permit & Development Mgmt.
111 W. Chesapeake Ave., Towson, Maryland

RE: Legitimacy of Farm Use

To be supplied by applicant

Election District 11Owner: Bellerale Farms LTDAddress: 4851 Long Green RdGlen Arm Md21057Phone # 410-592-6014

Tax Account Number

11 16 075722

Pursuant to the Zoning Commissioner's Policy A-17 _____ this office is officially requesting verification of the legitimacy of a farm use on the _____ referenced property. In the judgement of the Zoning Supervisor and/or the Zoning Commissioner, in consideration of your findings, a special hearing may be required before the Zoning Commissioner prior to any zoning approvals. We are submitting a copy of:

To be supplied by applicant

- | | MAP | BLOCK | PARCEL |
|--|-----------|-----------|-----------|
| 1. The deed to the property | | | |
| 2. The state tax map for that area | <u>53</u> | <u>11</u> | <u>22</u> |
| 3. Letter describing farm operation | | | |
| 4. Photographs of agricultural operation | | | |

We appreciate your verification and/or recommendations concerning this property.

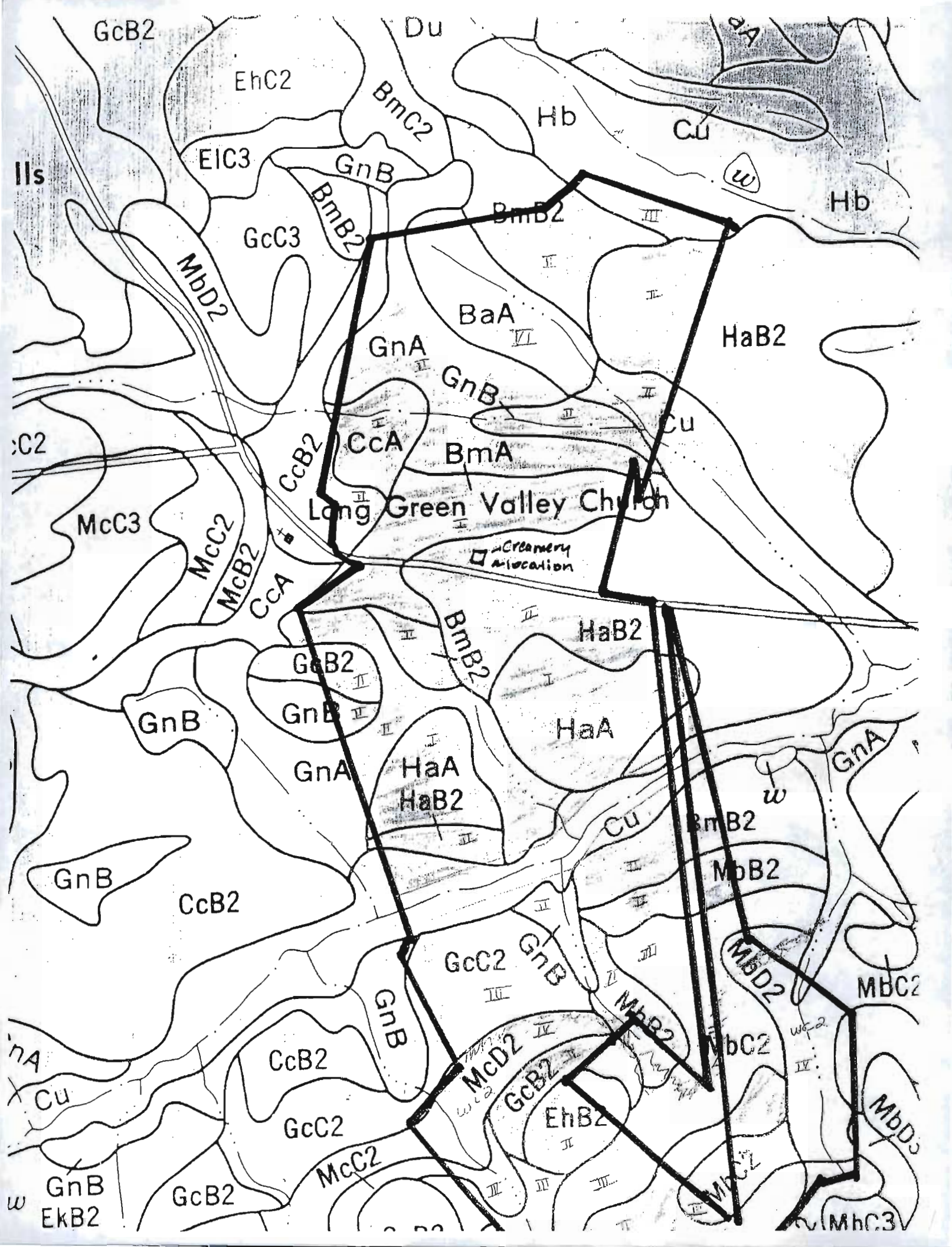
LEGITIMACY OF A FARM USE ON THE REFERENCED PROPERTY

☒ Yes ☐ No ☐ Comment _____

active dairy operation

Signed: Wallace S. Lippincott, Jr.
Representative of the Agricultural Land
Preservation Board for Baltimore County

Date: 9.27.07



LONG GREEN VALLEY ASSOCIATION
P.O. Box 91
Baldwin, Maryland 21013

Mr. and Mrs. Robert Prigel, III.
Mr. Matt and Bobby Prigel
Mr. and Mrs. Robert Prigel, Sr.
4851 Long Green Road
Glen Arm, Maryland 21057
September 27, 2007

Dear Prigel family,

The Board of Directors of the LGVA would like to thank you for attending the monthly meeting on September 18, 2007 to outline the future plans and changes you will be making to your dairy farm. The board members are aware of your family's long history in the valley and your dedication to preserving the rural character of the area through good farming practices.

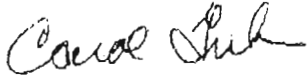
Your farm not only has the distinction of being the first property placed in the Long Green Valley Conservancy, but is known throughout the area for receiving awards for best farming practices and for being environmentally sensitive to the rural nature of the valley. *→ separate 50 acres*

The board voted unanimously to support your family in its future plans for the dairy farm including: the building of a creamery to process milk, cheese, yogurt, and ice cream; the construction of a road side store from which these items will be sold directly to the public; the construction of a parking area that will be environmentally friendly; landscaping that will use natural screening; and the conversion of the farm to all organic.

If the association can be of any help to you now or in the future please feel free to contact us. Your goals with future changes to the

dairy farm are consistent with LGVA's mission which is to preserve the valley's agriculture and rural character for the benefit of future generations.

Sincerely,



Carol Trela, Secretary



Maryland Department of Agriculture

Agriculture | Maryland's Leading Industry

Office of the Secretary

Martin O'Malley, Governor
Anthony G. Brown, Lt. Governor
Roger L. Richardson, Secretary
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MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION

Agenda Item: II.F.2
Meeting Date: 10-23-07

MEMORANDUM

TO: Board of Trustees

FROM: Diane Chasse, Administrator

RE: 03-83-14C Bellevale Farm, Inc. (Prigel) 180 acres

Request to allow a creamery operation, processing facility and farm store on an easement property

Mr. Robert Prigel, of Bellevale Farm, Inc., is the original owner of the easement property. The current request is to allow a creamery operation, processing facility and farm store on an easement property. There is one pre-existing dwelling on the farm.

According to Baltimore County, Mr. Prigel would like to construct a 7,000 to 10,000 square foot building to house the creamery operation, processing facility and farm store. As well, he is requesting a parking area that would accommodate fewer than 10 vehicles. The parking area is proposed to be located on Long Green Road with the creamery directly behind it. A short distance on an existing farm lane may be needed. The landowner will clarify this at the meeting.

The request was approved by the local advisory board. Mr. Prigel would be required to obtain a special exception because county regulations do not allow the proposed activity in the area where the farm is located.

According to the Uses Table which was approved by the Board. The following are the considerations for review:

- Must not interfere with other agricultural or silvicultural operations.
- Must not limit future agricultural or silvicultural production.
- Easement or district owner must have an ownership interest in the operation.
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- Parking area must be pervious.
- Accessory sales area must not exceed 600 sq. ft.

Foundation staff recommend approval of the request subject to the parking lot being pervious.

Robert E. Prigel Jr.
Bellevale Farms Inc.
4851 Long Green Rd.
Glen Arm, Md. 21057

August 1, 2007

To the State Ag Preservation Board,

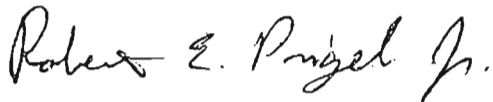
Hi, my name is Bobby Prigel. I am a fourth generation dairy farmer in Baltimore County just north of the beltway. As you are aware, it is very difficult for small family dairy farms in Maryland to compete with large corporate dairies. I have attached a graph showing the decline of dairy farms in Maryland over the past twenty five years. I do not want to become one of these casualties.

In consideration of our proximity to the Baltimore metropolitan area, we would like to construct a processing facility to process our milk. We would like to build a pole building about seven thousand square feet. Fifteen hundred square feet would be set aside for a farmer roadside stand with less then ten parking spaces.

We would be selling milk, cheese, yogurt, butter and ice-cream. We also plan to raise and sell grass fed meats. Along with the retail we will also be wholesaling these products to other outlets. We are aware that under State Preservation regulations that we have to raise seventy-five percent of what we sell.

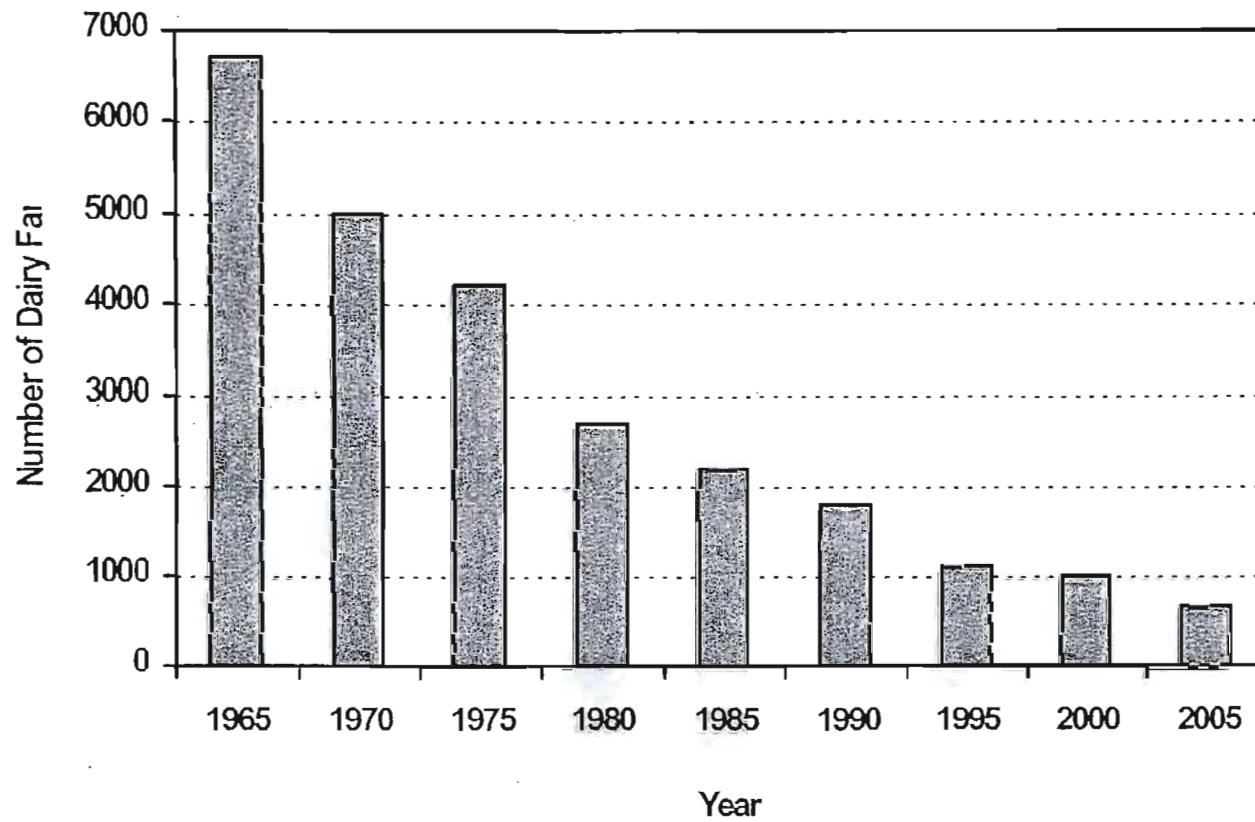
Three thousand square feet would be set aside for processing and the remaining twenty-five for the warehouse.

I would ask that you support us by approving this endeavor. Thank you for your consideration.

A handwritten signature in cursive script that reads "Robert E. Prigel Jr.".

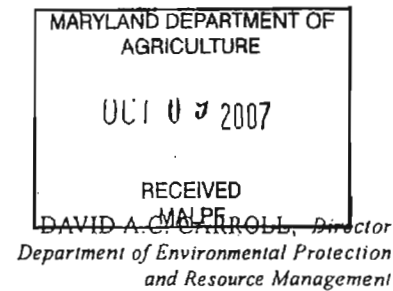
Robert E. Prigel Jr.

Number of Maryland Dairy Farms by Year





JAMES T. SMITH, JR.
County Executive



Mr. Jim Conrad
Maryland Agricultural Land Preservation Foundation
50 Harry S. Truman Parkway
Annapolis, MD 21401

September 26, 2007

RE: Baltimore County - Mr. Robert Prigel. Bellevale Farms, Inc. MALPF #03-83-14C. 180 acres.

Dear Mr. Conrad,

Mr. Robert Prigel of 4851 Long Green Road, Baltimore County is requesting approval to construct a creamery operation, processing facility, and farm store for the dairy farm. The property is currently under a MALPF easement. We would like to place this on the agenda for the October 23, 2007 MALPF Board meeting.

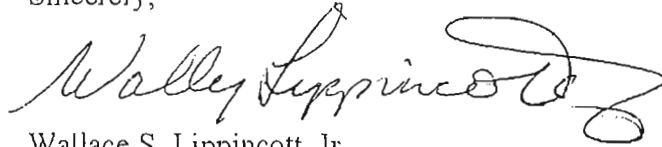
The facility that is planned will be a 7,000 to 10,000 square foot building which will be located off of Long Green Road. It will contain ~ 1500 sq. ft. of retail space selling farm produced milk, cheese, yogurt, butter, and ice cream. The rest of the facility will be used for processing and warehouse space. Mr. Prigel is aware that under MALPF regulations that 75% of the products sold at his stand must be produced on his farm. The approximate location of the new facility is shown on the accompanying aerial maps. The access road will be a Right of Way and the facility will have fewer than 10 parking spaces.

The Baltimore County Agricultural Land Preservation Advisory Board reviewed and voted favorably on the request at their August 28, 2007 meeting. The facility will be located in an area that contains class II soils (HaB2). Although this location contains highly productive soil, the entire farm is comprised mostly of classes I, II, and III soils with very little class IV and the area along Long Green Road where the facility will be located is mainly Class II with some Class I soil.

This proposal is considered an "agricultural-support" use and is permitted under Baltimore County Zoning Regulations Bill No. 178-1979. It is permitted by special exception will be subject to a Special Hearing and review by our local Zoning Board. Baltimore County Staff would like the State to review and, if acceptable, to give preliminary approval of this proposed use before submitting Mr. Prigel's proposal to Zoning for a Special Hearing.

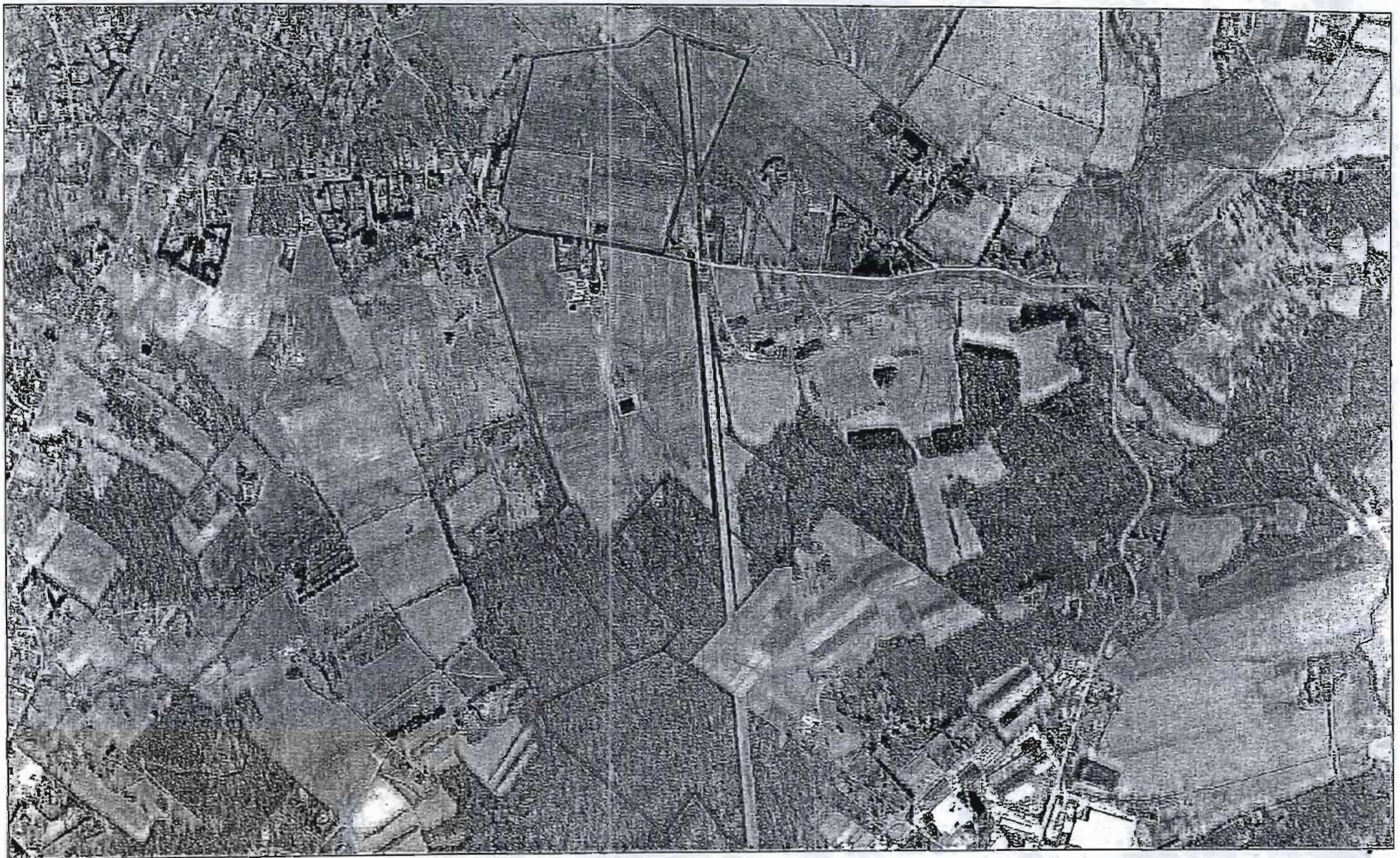
Thank you very much. If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script, reading "Wallace S. Lippincott, Jr.", with a large, stylized flourish at the end.

Wallace S. Lippincott, Jr.
Program Administrator

- c. Mr. David Greene, Chairman BCALPAB
Mr. Robert Prigel, Landowner



Bellevale Farm Property
Tax Map 53, parcel 22
4851 Long Green Road
180.469 acres

400 0 400 800 1,200 1,600
Feet
1 inch equals 1,250 feet
1:15,000



 Prigel	 Parking
	 Creamery Building

Prepared by Land Preservation Program, Baltimore County
Department of Environmental Protection and Resource Management
3_15_07
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c:\gis_projects\Prigel_AerialMap.mxd



Bellevale Farm Property
 Tax Map 53, parcel 22
 4851 Long Green Road
 180.469 acres

1 inch equals 100 feet

1:1,200

400



Prigel



Parking appr. location



Creamery Building appr. location

Prepared by Land Preservation Program, Baltimore County
 Department of Environmental Protection and Resource Management

3.15.07
 c:\gis_maps\Prigel_AerialMap.pdf
 c:\gis_projects\Prigel_AerialMap.mxd

Agenda Item: 11.F.2
 Meeting Date: 10-23-07

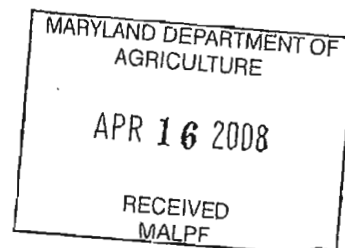
BALTIMORE COUNTY, MARYLAND
ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT
MEMORANDUM

TO: Diane Chasse, Administrator, MALPF DATE: April 10, 2008
FROM: Wallace S. Lippincott, Manager
Agricultural Land Preservation *WSE*
SUBJECT: Robert Prigel, Jr., Bellevale Farms, Inc. MALPF # 03-83-14C

We have received correspondence from several community groups and citizens regarding the proposed creamery on the MALPF easement property owned by Robert Prigel, Jr. (file #03-83-14C). We are enclosing the correspondence and other information regarding this request for your reference.

Because of citizen concerns raised, the landowner is required to go through a Zoning Hearing for approval of this use. We will advise you of the outcome.

c. Robert Prigel, Bellevale Farms
John Markely, DEPRM
David Greene, Chairman, BCALPAB
Susan M. Yoder
Carol Trela, LGVA



received @ 10:30 am

March 25, 2008

Wally Lippincott
Baltimore County
Department of Environmental Protection & Resource Management
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

RE: Land Preservation Easement - Prigel Property - Commercial Facility

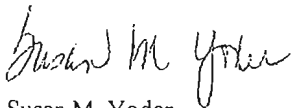
Dear Mr. Lippincott,

I have been fretting about the proposed commercial building on preserved farm land belonging to the Prigels. The site that has been chosen is disturbing the rural farm land that we as a community have so diligently worked so hard to preserve. As I understand, buildings on preserved farm land should be clustered together. This is an open pasture field across the road from the farm buildings and homes.

A farmstead operation belongs with the farm setting, but I have learned that this operation is more of a commercial operation than a farmstead operation. Part of the building will be leased to two women from California to make cheese. They will be buying milk from the Prigel's to make their product. This to me is not a family operation and this **does make it commercial**. These women need to rent a warehouse somewhere near D.C. where they already have an established market for their product. Also I was told that a small convenient store will be part of this facility, which will also sell other products not produced on the farm. This takes away from our valley and will open the door to others to ignore the preservation practices that have been set forth.

I truly believe that Land Preservation and the County Ag Board should reevaluate this project and make the Prigels put this facility on the farmstead side of the road. When I first spoke with you by phone you informed me that they didn't want the public on their farm. So they either want the support of the public or they don't want it. Please inform me about your views in this important matter. Thank you.

Sincerely,



Susan M. Yoder

cc: Baltimore County Ag Board
Long Green Valley Association
Long Green Valley Conservancy

LONG GREEN VALLEY ASSOCIATION

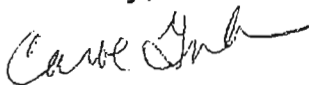
P.O. Box 91

Baldwin, Maryland 21013

March 27, 2008

The Board of Directors of the Long Green Valley Association held an emergency meeting on March 26, 2008 and voted to withdraw their letter of support written on September 27, 2007 to Mr. Robert Prigel regarding his farmer's roadside stand/creamery on 4851 Long Green Road in Glen Arm Maryland.

Sincerely,



Carol Trela, Secretary

cc.

*Mr. Robert Prigel, III
Mr. Robert Prigel, Sr,
Baltimore County Zoning Office
Long Green Valley Conservancy, Mr. John Wilkerson, President
Mr. Edward L. Blanton, Jr.
Mrs. Susan Yoder
Mr. Wally Lippencott
Mr. Bruno Rudaitis, Zoning Review
Mr. Bryan McIntire
Department of Agriculture
Maryland Historic Trust
Mr. Carroll Holzer*

Robert E. Prigel Jr.
Bellevale Farms Inc.
4851 Long Green Rd.
Glen Arm, Md. 21057

August 1, 2007

To the County Ag Board,

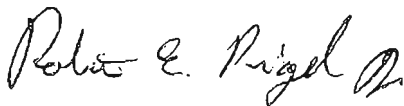
Hi, my name is Bobby Prigel. A few months ago I came to one of your meetings and introduced an idea of putting in a processing facility to process our milk. We want to proceed with this idea and would like to have your official approval.

We plan to put up a pole building around seven thousand square feet. Fifteen hundred square feet would be set aside for a farmer roadside stand with less then ten parking spaces. We would be selling milk, cheese, yogurt, butter and ice-cream. We also plan to raise and sell grass fed meats.

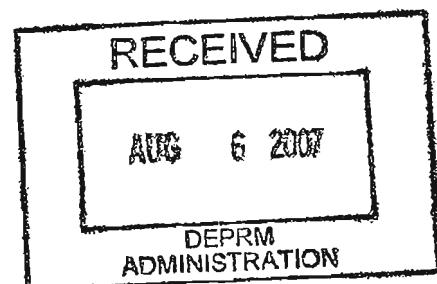
We are aware that under the State Preservation regulations that we have to raise seventy-five percent of what we sell.

Three thousand square feet will be set aside for the processing and the remaining twenty-five hundred for the warehouse.

Thank you for your consideration,



Robert E Prigel Jr.



August 28, 2007.

proposal will go to the DRC with a letter of recommendation from the Ag Board.

Motion: The Board recommends approval of the Agricultural Subdivision proposal made by Mr. and Mrs. Morris.

Motion made by: Harriet McGinnis **Second:** David Hayden
Decision: Unanimous

2) MALPF Easement Requests

a. **Mr. Robert Prigel. Bellevalle Farms, Inc. MALPF #03-11-83-14C. 180 acres. 4851 Long Green Road.** Mr. Prigel is requesting the Board's recommendation for a proposal to construct a creamery operation and processing facility for his dairy farm. The facility that is planned will be a 7,000 square foot pole building which will be located off of Long Green Road and the cow lane. It will contain ~ 1500 sq. ft. of retail space (a Farmer's Roadside Stand) selling milk, cheese, yogurt, butter, and ice cream. Grass fed meats will also be sold at the stand. The rest of the facility will be used for processing and warehouse space. Mr. Prigel is aware that under MALPF regulations that 75% of the products sold at his stand must be produced on his farm.

Discussion: Mr. Prigel outlined his formal request for adding a creamery operation and processing facility to his dairy operation. He is proposing a building that is approximately 10,000 square feet (70' x 120'). Parking for the retail facility will be on approximately ½ acre and the operation will employ 6 people, hopefully family members. This issue will be further discussed at the September 18, 2007 Long Green Valley Association Meeting. Mr. Prigel was informed that he will need to define the processing operation for the State MALPF Board, especially any issues that may come up with the Baltimore County Health department. He will also need a perc test on the site before moving forward with the proposal. This will go forward to the October 2007 MALPF Board for their meeting and recommendation/approval.

Motion: The Board recommends approval of the creamery/processing facility as proposed.

Motion made by: David Hayden **Second:** Pat Patterson
Decision: Unanimous

V. POLICY ISSUES/ MISCELLANEOUS/ CORRESPONDENCE

BALTIMORE COUNTY PERMITS AND DEVELOPMENT MANAGEMENT
111 West Chesapeake Avenue
Towson, MD 21204

**SCHEDULED DATES AND CERTIFICATE OF FILING AND POSTING
FOR A USE PERMIT FOR A FARMER'S ROADSIDE STAND**

The application for your proposed use permit has been reviewed and is accepted for filing by

Bruno Ruckert on 1/25/08
Planner's Name (printed) Date ("A")

A sign indicating the proposed use permit must be posted on the property for thirty (30) days before a decision can be rendered. The processing fee for the use permit is \$40.00. You must use one of the sign posters on the approved list (on the reverse side of this form) and you are responsible for all printing/posting costs. The zoning notice must be visible on the property on or before the posting date noted. It should remain there through the closing date.

In the absence of a formal demand for a public hearing during the 30-day posting period, a decision can be expected within approximately six weeks. However, if a valid demand is received by the closing date, then the decision shall only be rendered after the required public special hearing (for which additional fees are required).

* SUGGESTED POSTING DATE 2/6/08 "D" (30 days before "C")

DATE POSTED _____

HEARING REQUESTED - YES ___ NO ___ (date)

CLOSING DATE (Last day for hearing demand) 3/7/08 "C" ("B" - 3 work days)

TENTATIVE DECISION DATE 3/10/08 "B" ("A" + 45 days)

* Usually Within 15 Days of Filing

CERTIFICATE OF POSTING

Location of Property: 4851 Long Green Road

District: 11th Election Dist.

Posted By: _____ Date: _____

Revised 3/5/98 - SCJ

ZONING REVIEW

APPROVED SIGN POSTERS

Stacy Gardner
Shannon-Baum Signs, Inc.
105 Competitive Goals Drive
Baltimore, MD 21784

Telephone: (410) 781-4000
Toll Free: (800) 368-2295
Fax: (410) 781-4673

Richard Hoffman
904 Dellwood Avenue
Fallston, MD 21047

Telephone: (410) 879-3122

Garland E. Moore
3225 Ryerson Circle
Baltimore, MD 21227

Telephone: (410) 242-4263
Mobile: (410) 382-4470

Tom Ogle.
325 Nicholson Road
Baltimore, MD 21221

Telephone: (410) 687-8405
Mobile: (410) 262-8163
Fax: (410) 687-4381

Patrick M. O'Keefe, Sr.
523 Penny Lane
Hunt Valley, MD 21030

Telephone: (410) 666-5366
Cell: (410) 905-8571
Fax: (410) 628-2574
(410) 882-2469

THE PETITIONER MUST USE ONE OF THE SIGN POSTERS ON THIS APPROVAL LIST. ANY REPOSTING MUST BE ALSO BE DONE BY ONE OF THESE APPROVED POSTERS. IF YOU WISH TO SELECT A POSTER NOT SHOWN ON THE LIST ABOVE, PRIOR APPROVAL BY THE DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT/ZONING REVIEW IS REQUIRED.

THIS DEPARTMENT IS NOT ASSOCIATED WITH ANY OF THE ABOVE POSTERS, NOR DO WE RECOMMEND ANY SPECIFIC ONE. WE DO SUGGEST THAT YOU CONTACT A NUMBER OF THEM TO COMPARE PRICES SINCE THEIR CHARGES MAY VARY.

WCR - Revised 12/11/97

INTER-OFFICE CORRESPONDENCE

TO: Representative of the Agricultural Land Preservation Board for Baltimore County
Department of Environmental Protection and Resource Management

FROM: Timothy M. Kolroco, Director, Department of Permits and Development Management
By: Bruno Rudek
(Print Name of Accepting Planner)

RE: Farmer's Roadside Stand Use Permit (FRS # 04759)

Pursuant to Section 404.4.C (Baltimore County Zoning Regulations), this office is requesting recommendations and verification of a farm location, agricultural producer and legitimacy of the production of a minimum 50% of produce sales at the Farmer's Roadside Stand and any recommended reduction in the minimum 50% due to crop failure, etc. This office would appreciate any additional information that you could provide regarding this application and all of your findings will be taken into consideration prior to any zoning decisions.

APPLICANT-SUPPLIED INFORMATION:

Bellevale Farm, c/o Robert Prigel, 4851 Long Green Road, 21057 410.592.6014
Print Name of Stand Operator/Owner Address Telephone Number
ROADSIDE FARM LOCATION: Election District 11 Councilmanic District 3rd Acres 180.469+/-
Land Owner Bellevale Farm, c/o Robert Prigel Telephone Number 410.592.6014
Address 4851 Long Green Road Tax Account Number 11-16075722 and 11-16075721
21057

- A. a signed and notarized affidavit and letter of permission
B. the roadside stand location site plan
C. a copy of the State Tax Map for that area (labeled)

53		22
Map	Block	Parcel

PRODUCING FARM LOCATION(S). (use additional sheets if necessary)

Bellevale Farm, c/o Robert Prigel, 4851 Long Green Road, 21057 11-16075722 and 11-16075721
Print Name of Owner Address and Location Tax Account Number

a copy of the State Tax Map (labeled) for each location

53		22
Map	Block	Parcel

(for additional locations, use the back of this form)

TO BE FILLED IN BY AGRICULTURAL LAND PRESERVATION BOARD ONLY

Verification/Recommendations:

Roadside Stand Location ✓
Agricultural Producer ✓
Recommended % 50

Production Locations on farm
Production of 50% of Produce Sales on farm
Recommend Zoning Special Hearing no

Comments: _____

Recommendation of Baltimore County Agricultural
Advisory Board on August 28, 2007

Signed: [Signature]
Representative of the Agricultural Land Preservation Board for Baltimore County

Date: 1/29/08

FARMER'S ROADSIDE STAND OWNER'S AFFIDAVIT

That Robert E. Prigel, owner(s) of the roadside stand, (is/are) a local agricultural
 (name)
 producer or spouse, sibling, or parents of the local agricultural producer on 180+/- acres at
4851 Long Green Road
 location(s) (Use an additional sheet, if necessary.)

That the proposed farmer's roadside stand will be located on a producing farm located at
4851 Long Green Road

A minimum of 50% of the produce sold will be produced on the properties indicated in Item #1 above or on farms adjacent to where the stand is located. The remainder of crops sold will be indigenous (e.g., produce which can be grown in the Maryland area under natural conditions, without the help of environmental-controlled structures).

That up-to-date receipts for seed, transplants, fertilizer, lease agreements, and other dated production related records will be maintained the submitted upon request to Baltimore County to validate the production of 50% of the crops sold.

That, upon request, Baltimore County will be permitted to inspect the production and sales facilities and review production-related records associated with this property.

With regard to the approval of this use, it is understood that this use cannot be transferred to another party who does not qualify according to the rules and regulations governing this use.

That if the owner of the farmer's roadside stand is not the owner of the producing farm property where the stand is located, permission from the land owner to operate the stand will be secured and maintained. A copy of this permission shall be attached hereto.

Robert E. Prigel Jr.
 Agricultural Producer (Signature)

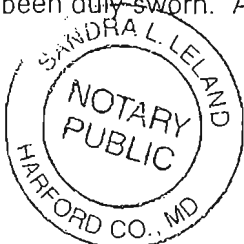
Robert E. Prigel, Jr.
 Agricultural Producer (Print Name)

4851 Long Green Road
 Address

410.529.6014
 Telephone Number

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY that on this 18 day of JANUARY, 2006, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared Robert E. Prigel, having been duly sworn. AS WITNESS my hand and Notary Seal the day and year first above written.



[Signature]
 Notary Public

12/11/11
 Commission Expires

APPLICATION FOR A USE PERMIT, PUBLIC HEARING REQUEST
AND USE PERMIT IF NO PUBLIC HEARING IS REQUESTED
FOR A FARMER'S ROADSIDE STAND

APPLICATION TO THE DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT:

I, or we, Robert Prigel owner(s) of the farmer's roadside stand proposed in Baltimore County and which is described in the description and plat attached hereto and made part hereof, hereby petition for a use permit under Subsection 404.4.C of the Baltimore County Zoning Regulations (BCZR), to determine whether or not the Director of Permits and Development Management should issue a use permit. Said use permit is necessitated to permit the use of land on a producing farm for a farmer's roadside stand to meet the regulations of Subsection 404.4.C. (BCZR) and the attached affidavit.

Property is to be posted and I, or we, agree to pay expenses of processing and posting upon filing of this request, additional public hearing and reposting fees if I decide to proceed after a Protestant's public hearing request and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

Robert Prigel
Farmer's Roadside Stand Owner (type or print name)

Date

1/22/08

Robert Prigel
Farmer's Roadside Stand Owner(s) Signature(s)

4851 Long Green Road 21057
Address (print or type) Zip
Phone # Work - 410.592.6014
Home 443.695.4255

Legal Property Owner of Producing Farm Information:

Robert Prigel
Name (type or print)

4851 Long Green Road 21057
Address (type or print) Zip
Phone # Work - 410.592.6014
Home 443.695.4255

PUBLIC HEARING REQUEST

I, or we, _____ request that the proposed use permit be the subject of a public hearing as provided for in Section 404.4.C of the zoning regulations. I also agree to pay the current established processing fee for this public hearing request.

Date

Protestant's Signature

Address (type or print) Zip
Phone # Work - _____
Home _____

USE PERMIT

Pursuant to the posting of the property, in accordance with Section 404.4.C. (BCZR), and in the absence of a formal public hearing request, this ____ day of _____, 19__, that the herein described USE PERMIT FOR A FARMER'S ROADSIDE STAND is in keeping with the spirit and intent of the Baltimore County Zoning Regulations and the use WILL NOT be detrimental to the health, safety, and general welfare of the surrounding community, subject to the following conditions precedent, if any, as determined appropriate by the Department of Permits and Development Management, and in accordance with the site plan dated _____, application, affidavit, and description filed by the petitioner, is hereby _____ (subject to strict compliance with all of the provisions of the BCZR and any of the following site specific restrictions, which are conditions precedent to the granting of the use permit).

Director, Department of Permits and Development Management
By: _____



Maryland Department of Agriculture

Agriculture | Maryland's Leading Industry

Office of the Secretary

Martin O'Malley, Governor
Anthony G. Brown, Lt. Governor
Roger L. Richardson, Secretary
Earl F. Hance, Deputy Secretary

The Wayne A. Cawley, Jr. Building
50 Harry S. Truman Parkway
Annapolis, Maryland 21401
TTY Users: Call via Maryland Relay
Internet: www.mda.state.md.us

410.841.5700 Baltimore/Washington
301.261.8106 Washington, D.C.
410.841.5914 Fax
800.492.5590 Toll Free

MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION

October 29, 2007

Mr. Robert Prigel, Jr.
Bellevue Farm, Inc.
4851 Long Green Road
Glen Arm, Maryland 21057

Re: MALPF File #03-83-14C

Dear Mr. Prigel:

We appreciate your attendance at the October 23, 2007 Foundation Board meeting. The purpose of this letter is to confirm that the Board approved the construction of a 7,000 to 10,000 square foot building to house the creamery operation, processing facility and farm store. The Board also approved a pervious parking area that would accommodate fewer than 10 vehicles. The parking area is to be located on Long Green Road with the creamery directly behind it.

The approval requires that the structure and the parking lot be in compliance with the following (once built and in the future):

- Must not interfere with other agricultural or silvicultural operations.
- Must not limit future agricultural or silvicultural production.
- Easement owner must have an ownership interest in the operation.
- Some of the products must come from animals raised or crops grown on site; the remainder from animals or crops indigenous to Maryland.
- Facility and parking area must cover no more than 2% (two percent) of the easement/district, or two acres, whichever is smaller.
- Parking area must be pervious.
- Accessory sales area must not exceed 600 sq. ft.

If you have any questions, please feel free to call me at 410-841-5715.

Sincerely,

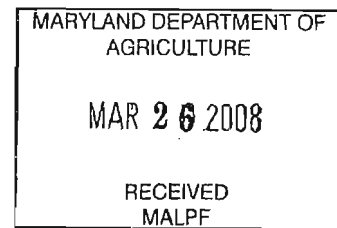
Diane Chasse
Administrator

CC: Wally Lippincott, County Program Administrator

Long Green Valley Conservancy, Inc.
PO Box 37
Hydes, MD. 21082

Diane Chase, Administrator
Maryland Agricultural Land Preservation Foundation
Department Of Agriculture
50 Harry S. Truman Parkway
Annapolis, MD. 21401

RE: 4851 Long Green Road
Farmer's Roadside Stand



Dear Ms. Chase

This letter is to advise you that the Long Green Valley Conservancy is adamantly opposed to the Prigel's (a.k.a. Bellevale Farm, LLC) plan to build a creamery on the *NORTH* side of Long Green Road. The Conservancy has just learned that the proposed "roadside stand" will actually be a 10,000 Sq. foot building with heating, air conditioning, seating, bathrooms and public parking. It is difficult to comprehend how a building of this magnitude could ever qualify as a "roadside stand". Obviously calling it a "roadside stand" is an attempt to circumvent the special exception and public hearing requirements that our community should be entitled to.

Further, the proposed site on the *NORTH* side of Long Green Pike is in the middle of open space, on pastureland, along a beautiful scenic drive. This view shed deserves to be preserved. It is open space that has existed for hundreds of years and in fact was a major contributing factor to the Long Green Valley's designation as a National Historic District by the National Register of Historic Places. Long Green Road is in the heart of the National Historic District and in the middle of lands that the community and the Conservancy have worked very hard to preserve. We now have over half of the Historic District permanently preserved with more acres to follow.

There are other options for the Prigels' creamery location that would not result in the elimination of open space. The Conservancy applauds the Prigel's farm designation as "certified organic" and support their farming operation, including the proposed creamery, however not in this location and not involving the destruction of scenic open space. Thank you for your time and consideration.

Very Truly Yours,

A handwritten signature in dark ink, appearing to read "John K. Wilkerson".

John K. Wilkerson, President
Long Green Valley Conservancy, Inc.



Maryland
Department of Agriculture

Office of the Secretary

Martin O'Malley, Governor
Anthony G. Brown, Lt. Governor
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MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION

March 26, 2008

Mr. John Wilkerson, President
Long Green Valley Conservancy, Inc.
Post Office Box 37
Hydes, Maryland 21082

Dear Mr. Wilkerson:

Thank you for your letter. The Maryland Agricultural Land Preservation Foundation reviewed and approved Mr. Prigel's request for a 10,000 square foot building at its October 2007 meeting. The minutes of the meeting are on www.malpf.info. The Board considered the following factors:

- Must not interfere with other agricultural or silvicultural operations.
- Must not limit future agricultural or silvicultural production.
- Easement or district owner must have an ownership interest in the operation.
- Some of the products must come from animals raised or crops grown on site; -the remainder from animals or crops indigenous to Maryland.
- Facility and parking area must cover no more than 2% (two percent) of the easement/district, or two acres, whichever is smaller.
- Parking area must be pervious.
- Accessory sales area must not exceed 600 sq. ft.

As a former staff member of the Maryland Environmental Trust, I understand that if Mr. Prigel's property were under a *conservation* easement instead of an *agricultural preservation* easement, then the scenic viewshed of an area would be a primary consideration. However, the Foundation Board's focus is strictly the agricultural viability of a property. The Foundation prefers structures to be close to a road or a boundary of a property so that the fields are not broken up with obstacles to farming equipment. As to the designation of "roadside stand" – that is a County designation and the special exception process is a County process, both of which we have no control.

Please feel free to call me at 410-841-5715, if you have any questions.

Sincerely,

Diane Chasse

Diane Chasse
Administrator

CC: Wally Lippincott, Program Administrator

Prigel's "Roadside Stand"

Summary: The Prigels have approached LGVC asking for our support in the building of a 12,000-foot commercial building on the NORTH side of Long Green Road. The building will have heating, air conditioning, bathrooms, seating and public parking. They will sell cheeses and ice cream made from their cows' milk. The location, on the North side of Long Green Road, is presently pastureland. In fact, its proposed location is in the middle of open space, along a beautiful scenic drive. The Prigels first preserved 180 acres through the Baltimore County Agricultural Land Preservation Program prior to LGVC receiving its 501(c)(3) status so we do not hold an easement on the land in question. We do, however, co-hold an easement on the additional 80+ acres that were preserved at a later date.

All of the Prigels' farm operations and buildings are clustered on the SOUTH side of Long Green Road and the majority of the 260+ acres they own is also on the South side. They ALSO own 50 acres in Glen Arm (a commercial area), which is NOT preserved. The Prigels have taken the position that the proposed building qualifies as a "roadside stand" and thus does not require a special exception (with a required public hearing).

The Prigels also said that they contacted neighbors and gained their support. However, Ed Blanton (a neighbor) contacted LGVC and LGVA seeking our support in opposition. He said other neighbors are opposed to it as well. Cathy Ebert, whose home Prospect Hill is in close proximity was NEVER contacted by the Prigels and she is adamantly opposed to the location as well.

According to Mr. Blanton at the Long Green Valley Association meeting last evening, the zoning office has advised the Prigels to build the building and then ask for a special exception. Because of the time sensitive nature of this issue I would like to call an emergency Board meeting for the next day or so but failing that, I would call each member to discuss this and get a vote by phone. This is an important issue and it cannot wait.

At first it may appear that this is a "zoning" issue, i.e. whether a 12,000 foot heated and air conditioned commercial building with bathrooms and public parking is a roadside stand, however I believe the points below indicate that LGVC should consider taking a stand:

- While we applaud the Prigels for being Certified Organic and support their efforts to open a creamery to sell cheese and ice cream and
- feel a creamery would be economically good for the valley

Post-it® Fax Note	7671	Date	# of pages 3
To DIANE C		From DAN C	
Co./Dept.		Co.	
Phone #		Phone #	
Fax #		Fax #	

- a 12,000-foot commercial building with heating, air conditioning, seating, bathrooms and public parking is NOT a roadside stand and therefore REQUIRES a Special Exception and Public Hearing!
- A commercial building on the NORTH side of Long Green Road would be a travesty. It would be in the open space of the wide vista along a beautiful scenic drive. That beauty deserves to be preserved.
- The Prigels own 50 acres in Glen Arm, a commercial center; this location would be better suited for a commercial building/ enterprise than in the HEART OF THE HISTORIC LONG GREEN VALLEY.
- Long Green Valley is a National Historic District. It was placed on the National Register because of its historical significance and the valley's UNIQUE state of preservation. Long Green Road is truly the heart of the Long Green Valley and very well preserved – let's take action to keep it that way.
- The commercial building would negatively impact three historically significant homes that are situated on Long Green Road and Kanes Road (and were impt. homes for the National District recognition). Two owners, Blanton and Ebert (not to mention other neighbors) are adamantly opposed to this location (and the third owner has yet to be contacted).
- Prospect Hill would be most negatively impacted because it would look directly down upon the 12,000 foot building and parking lot. This is important because Prospect Hill's setting including the view shed is valued according to County codes and preservation organizations. Historical organizations will most likely be opposed to this location because of this fact.
- Councilman McIntire did not think the proposed building qualified as a roadside stand
- The proposed location is in a low-lying area that is close to or possibly wetland and it is questionable whether this magnitude of use (size of building with parking, cheese processing etc.) would be advisable from an environmental standpoint.
- This is really a COMMERCIAL / RETAIL operation more than a farming/ agricultural operation. Long Green is a small country road not suitable for a large commercial operation.
- This would set a dangerous precedent of what could be done on preserved properties... other major COMMERCIAL operations under the guise of agricultural business in wrong locations, also trying to undermine public hearings by calling this a roadside stand when it clearly is not.

- Support the Commercial building and retail operation on their 50 acres in Glen Arm, where commercial business is appropriate (but not as scenic as Long Green Road!).
- Or at the very least, the commercial building location should be moved to the SOUTH side of Long Green Road and CLUSTERED with their other buildings to preserve the open space and views. Preserve the heart of the historical valley that all have worked so hard to preserve. Further, we, the taxpayers of Maryland, have paid the Prigels so much money to preserve the farm and views. Clustering is encouraged by Baltimore County and it makes the most sense to at the VERY LEAST cluster this creamery building with the other buildings.
- Ask the Baltimore County Agricultural Preservation Program to reconsider the location since the operation is really commercial and not in an appropriate location considering the historic and scenic attributes listed above. Originally LGVA wrote a letter in support, as did the Ag Program. LGVA has decided to withdraw their letter now that they understand the magnitude of the operation and building, hopefully with our support the Ag Program might do the same.

ELB

Avondell, Glen Arm,

Maryland 21057, USA,

April 28, 2008

Mr. Daniel Colhoun, Chairman
Maryland Agricultural Land Preservation Foundation
The Wayne A. Cawley, Jr. Building
50 Harry S. Truman Parkway
Annapolis, Maryland 21401



Re: MALPF File 303-93-14
The Prigel Farm Store

Dear Mr. Colhoun:

I have reviewed the letter you wrote to Mr. Robert Prigel, Jr on October 29, 2007 in which the Board you chair, in disregard of the millions of dollars spent and tax deductions granted by the State and Federal government acquiring easements in Long Green Valley, allowed the Prigels to erect a farm store in the middle of a federally recognized national historic district, in front of a nationally recognized national historic landmark house.

I urge you to insist that the Prigels abide by the conditions in your letter, which they have thus far totally ignored. I have met with them and reviewed their plans, and the building, already under construction, violates your letter in the following respects:

- (1) The building exceeds the 7000 to 10,000 square foot limit you imposed;
- (2) the accessory sales area is more than twice as large as the 600 square feet you approved; and
- (3) the parking area will not be pervious.

Moreover, the Prigels have not applied for a special exception for the store they intend to have, as the minutes of your meeting told them they would have to do. Instead, they sought a permit for a roadside stand, which they have abandoned, seeking to confront Baltimore County and their neighbors with a *fait accompli* **AFTER** this monstrous construction is finished. Their every action thus far has been calculated to deceive you and their neighbors as to their intentions, beginning with their posting of the zoning permit sign on the wrong side of the road.

The approval was also based on misinformation. There are four(4) single family

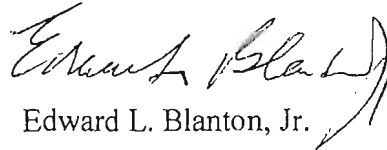
Letter to Mr. Colhoun, April 28, 2008
Page Two

homes on the Prigel Farm, not one, as your minutes show. Two of the houses are recently constructed, one for Mr. Prigel's parents and another for a married sibling. They have been operating a contractor's storage facility, which has non-pervious parking space for heavy trucks, on a sight less than a hundred yards from the building now under construction. They purchased this property from the Baltimore Gas and Electric Company some years ago after I filed suit to prevent its expansion.

By copy of this letter to the Attorney General, I urge you to be diligent in carrying out your oversight duty. He also has a duty to protect the taxpayer's investment in open space and to safeguard the Chesapeake Bay. The Prigel farm is overly populated with cattle and Rattlesnake Run is contaminated with fecal matter. The stream runs into Long Green Creek, and directly from there to the Big Gunpowder and into the Bay. The runoff from two acres of non-pervious parking you approved in the floor of Long Green Valley will ensure that the native brown trout that populated those streams until three years ago will never return, the flooding which has twice damaged county bridges at the intersection of Long Green Road and Long Green Pike will recur more often.

I hope you will respond promptly to this request. If you do not, I will have no choice other than to seek a writ of mandamus requiring you to perform the duty you undertook when you accepted your position as a guardian of the public trust.

Very truly yours,


Edward L. Blanton, Jr.

cc: Honorable Douglas Gansler

APPLICATION FOR BUILDING PERMIT

Issued 4/4/08

PERMIT #: B683063 CONTROL #: MR DIST: 11 PREC: 01

LOCATION: 4851 LONG GREEN RD
SUBDIVISION: 1320 S KANE RD
TAX ASSESSMENT #: 1116075722

OWNERS INFORMATION

NAME: BELLEVALE FARM LTD
ADDR: 4851 LONG GREEN ROAD GLEN ARM MD 21057

APPLICANT INFORMATION

NAME: ROBERT PRIGEL
COMPANY: BELLEVALE FARM LTD
ADDR1: 4851 LONG GREEN ROAD
ADDR2: GLEN ARM MD 21057
PHONE #: 410-592-6014 LICENSE #:

NOTES

TLM

DRC#

PLANS: CONST 00 PLOT 3 R PLAT 0 DATA 0 ELEC YES PLUM YES

TENANT:

CONTR: OWNER

ENGR:

SELLR:

WORK: "HISTORIC PROPERTY". CONSTRUCT POLE BUILDING ON
REAR PROP OF DAIRY FARM (FOR MILK PROCESSING)
ACCESSORY LETTER ATTACHED. 154X60X26=9,240SF
ENG SEALED DWGS ON SITE FOR INSPECTOR, WAIVE
PLANS PER MS

PROPOSED USE: DAIRY FARM, SFD, 2 TENANT HSE, 2 SHEDS & POLE BLDG

EXISTING USE: DAIRY FARM, SFD, 2 TENANT HSES, 2 SHEDS

BLDG. CODE:

RESIDENTIAL CATEGORY:

OWNERSHIP: PRIVATELY OWNED

ESTIMATED COST OF MATERIAL AND LABOR: 214K

TYPE OF IMPRV: NEW BUILDING CONSTRUCTION

USE: OTHER - RESIDENTIAL

FOUNDATION:

BASEMENT:

SEWAGE: PRIV. EXISTS

WATER: PRIV. EXISTS

CONSTRUCTION:

FUEL:

CENTRAL AIR:

SINGLE FAMILY UNITS

TOTAL 1 FAMILY BEDROOMS

MULTI FAMILY UNITS

EFFICIENCY (NO SEPARATE BEDROOMS): NO. OF 1 BEDROOM:

NO. OF 2 BEDROOMS: NO. OF 3 BEDROOMS OR MORE:

TOTAL NO. OF BEDROOMS: TOTAL NO. OF APARTMENTS:

PERMIT #: B683063

DIMENSIONS - INSTALL FIXTURES

	BUILDING SIZE
GARBAGE DISP:	FLOOR: 9240SF
POWDER ROOMS:	WIDTH: 154'
BATHROOMS:	DEPTH: 60'
KITCHENS:	HEIGHT: 26'
	STORIES:

LOT NOS:
CORNER LOT:

LOT SIZE AND SETBACKS
SIZE: 180.460AC
FRONT STREET:
SIDE STREET:
FRONT SETB: NC
SIDE SETB: 800'/800'
SIDE STR SETB:
REAR SETB: 1200

ZONING INFORMATION

DISTRICT:	BLOCK:
PETITION:	SECTION:
DATE:	LIBER: 000
MAP:	FOLIO: 000
	CLASS: 05

ASSESSMENTS

LAND:	0289910.00
IMPROVEMENTS:	0400470.00
TOTAL ASS.:	

PLANNING INFORMATION

MASTER PLAN AREA: SUBSEWERSHED: CRITICAL AREA:

DATE APPLIED: 11/29/2007 INSPECTOR INITIALS: 11R

FEE: \$65.00 PAID: \$65.00 RECEIPT #: A580941

PAID BY: APPL

(I HAVE CAREFULLY READ THIS APPLICATION AND KNOW THE SAME IS CORRECT AND TRUE. AND THAT IN DOING THIS WORK ALL PROVISIONS OF THE BALTIMORE COUNTY CODE AND APPROPRIATE STATE REGULATIONS WILL BE COMPLIED WITH WHETHER HEREIN SPECIFIED OR NOT AND WILL REQUEST ALL REQUIRED INSPECTIONS)

COMPANY OR OWNER

DATE

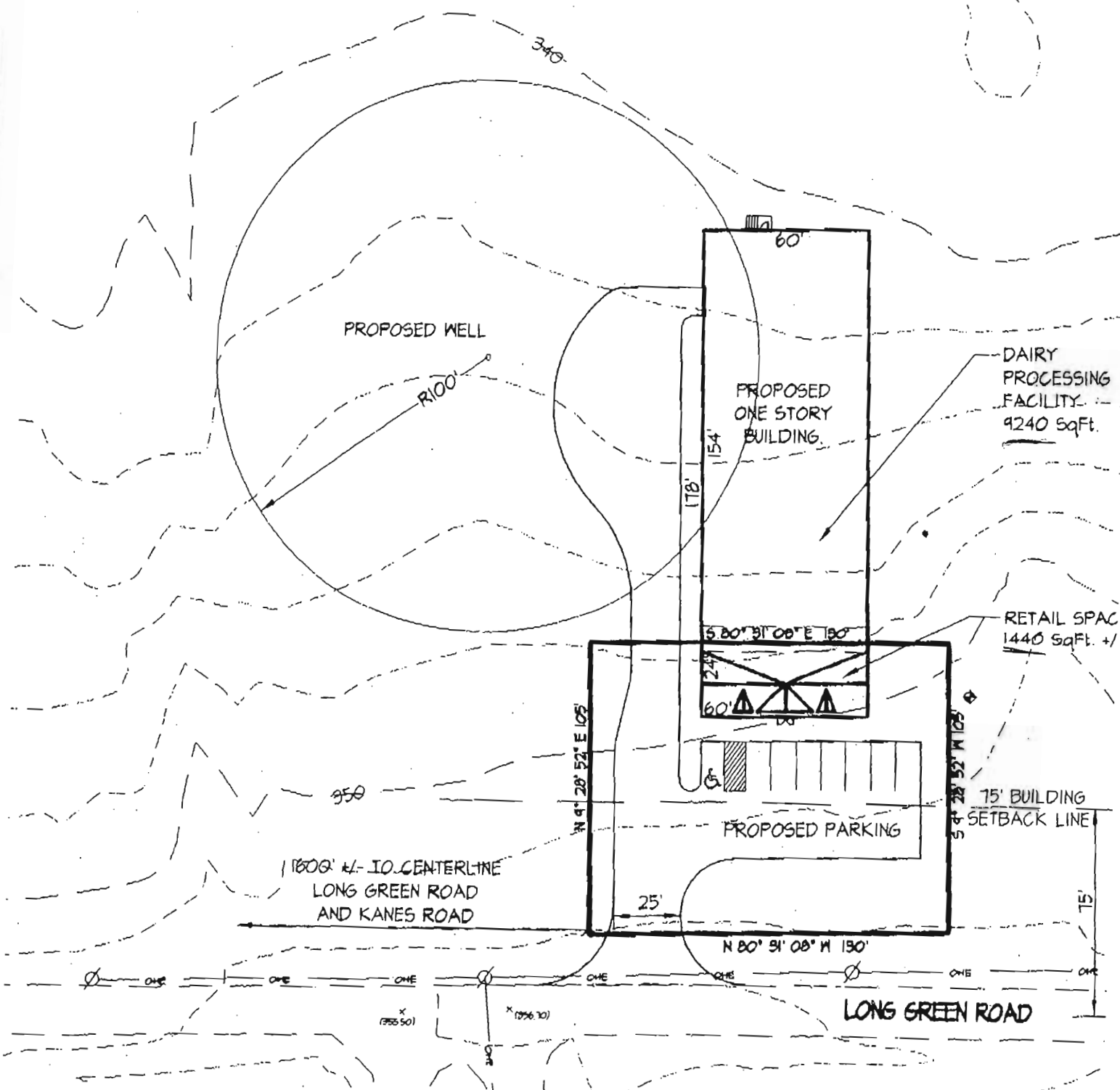
ADDRESS

AGENT
OWNER

SIGNATURE OF APPLICANT

PHONE

BELLEVALE FARM
4851 LONG GREEN ROAD
MAP 53, PARCEL 22
DEED REF. 5842 / 117
ACC. No. 16075722, 116075721





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MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION

May 9, 2008

Mr. Edward Blanton, Jr.
Post Office Box 4007
Glen Arm, Maryland 21057-1007

Re: MALPF File #03-83-14c

Dear Mr. Blanton:

Thank you for your letter of April 28th, 2008 regarding the Prigel farm. The Foundation regrets that it does not have the authority to consider historic district status or adjacency to historic residences in its decisions. In response to your letter, Foundation staff visited the Prigel farm on Monday, May 5th, 2008. Diane Chasse and Kim Hoxter viewed the site and spoke with the landowner. They found no actual violation, or intent of violation, of the approval granted by the Foundation.

On the first point raised, the size of the structure - the landowner intends, and only has a building permit for, a structure of less than 10,000 square feet. On the second point raised, accessory sales - the accessory sales area is defined by the Foundation as the area within the retail area in which accessory products are sold. Accessory products are items which are not produced on the farm. The landowner does not intend to exceed the 600 square foot limitation. On the third point raised, pervious parking area- The landowner has not yet installed the finished parking area, but intends to use a pervious substrate, as required.

MALPF considers the proposed structure to be a farm building for processing farm products, which is permitted under MALPF policy guidelines. The fact that MALPF minutes mention a "special exception" is not because MALPF requires landowners to get special exceptions, but to acknowledge that Baltimore County may require one. It is not within MALPF authority to require the special exception process.

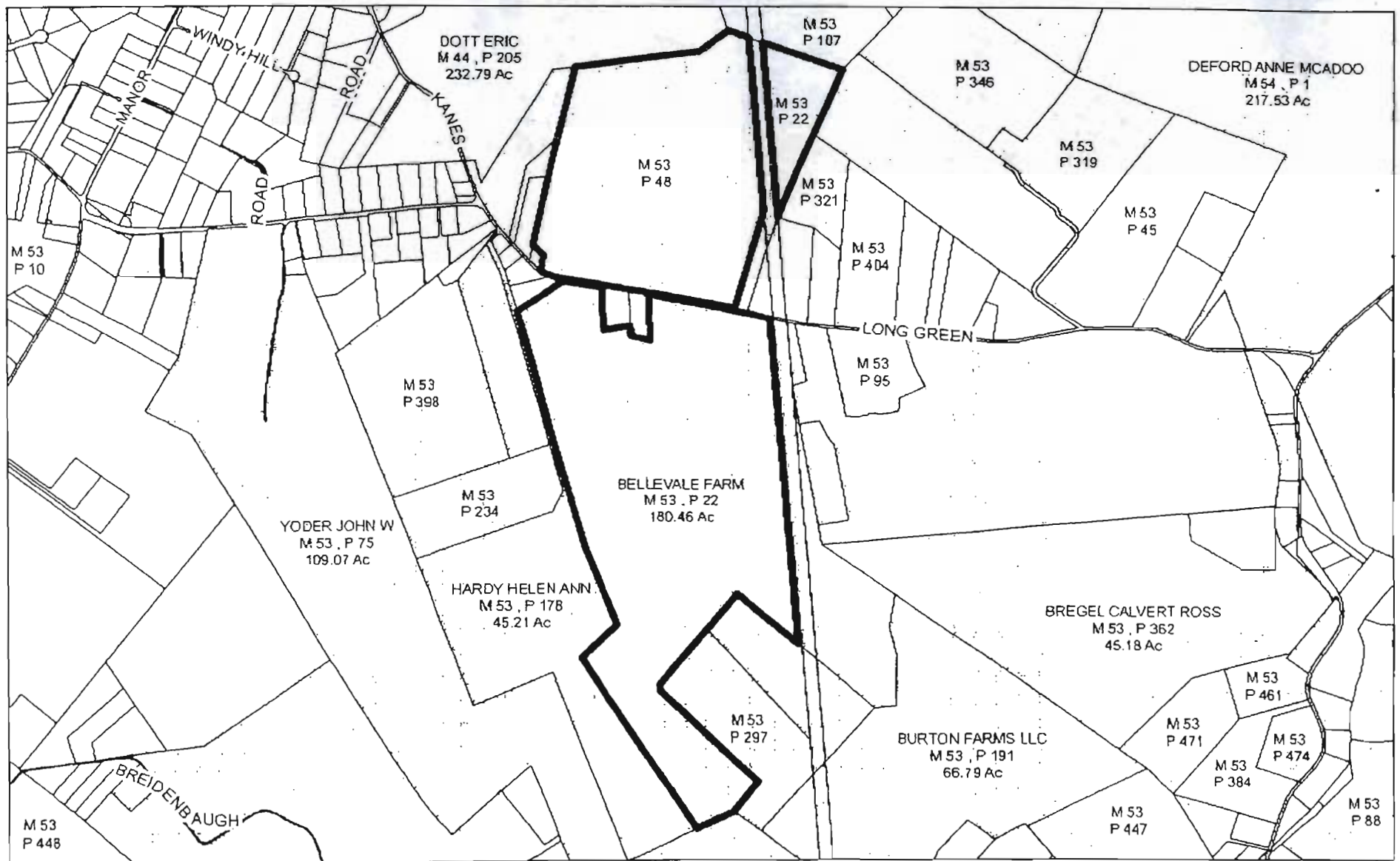
In response to the question raised about the number of dwellings on the property, we believe that a misunderstanding is due to the fact that the MALPF easement does not cover the entire farm. On the MALPF easement, there is one existing dwelling which is an historic house. There is also one tenant house, which was approved for the use of Mr. Prigel's parents who are active in the farm operation. In regards to a contractor's storage facility, it is not under the MALPF's easement. Please see attached maps which show the MALPF easement boundaries. Questions about nutrient management should be directed to Fred Samadani, Director of the Nutrient Management Program, at 410-841-5952. Please let me know if I can be of further assistance.

Sincerely,

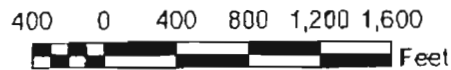
Dan Colhoun

Dan Colhoun
Chair, Board of Trustees

CC: Wally Lippincott, County Program Administrator
James Conrad, Executive Director, MD Agricultural Land Preservation Foundation
Craig Nielsen, Assistant Attorney General



Prigel, Bellevale Farm
 Tax Map 53, parcels 22, 48
 4851 Long Green Road
 180.469 acres



Prepared by Land Preservation Program, Baltimore County
 Department of Environmental Protection and Resource Management
 9.13.07
 c:\gis_map\DrannanTaxMap.pdf
 c:\gis_projects\DrannanTaxMap.mxd



development rights. Further, Ms. Forrester pointed out that the Foundation cannot change its policy in the middle of the easement cycle.

Ms. Forrester commented that as of July 1, 2007, the date of the appraisal under statute, there were no development rights on the property. The appraisers have to be informed about the development rights.

Ms. Buckle stated that she believed the MALPF Board would face lot of issues like the current one. Earlier the MALPF Board reviewed all such issues when the property entered the program as a district. These things now have to be worked out before the deadline.

Mr. Doug Wilson agreed and stated the Foundation has to think about the process without the requirement of a district. 90% of the issues would have been resolved when the Foundation evaluated the district application. There has to be some modifications or changes in the way the easement applications are evaluated for the program.

Ms. Forrester pointed out that the district agreement on the property was recorded improperly. The district agreement was never signed by the MALPF Board and was not completed. It was incorrectly recorded by the Baltimore County. Ms. Forrester was concerned about the State tax benefit or the County tax benefit associated with this agreement.

Ms. Chasse agreed and stated that the district agreement should not have been recorded because the Equine Committee's report was not yet ready. Mr. Lippincott stated that one has to apply for the County tax credit to receive the tax benefit and Land Preservation Trust has not applied.

Motion #10: To rescind the previous exclusion of 50 acres around the racetrack.

Motion:	Doug Wilson	Second:	Joe Tassone
Opposed:	Vera Mae Schultz		
Status:	Approved		

2. 03-83-14c Bellevale Farm, Inc. (Prigel) 180 acres
Request to allow a creamery operation, processing facility and farm store on an easement property

Mr. Robert Prigel, of Bellevale Farm, Inc., is the original owner of the easement property. The current request is to allow a creamery operation, processing facility and farm store on an easement property. There is one pre-existing dwelling on the farm.

According to Baltimore County, Mr. Prigel would like to construct a 7,000 to 10,000 square foot building to house the creamery operation, processing facility and a farm store. As well, he is requesting a parking area that would accommodate fewer than 10 vehicles. The parking area is proposed to be located on Long Green Road with the creamery directly behind it. A short distance of access on an existing farm lane may be needed.

The request was approved by the local advisory board. Mr. Prigel would be required to obtain a special exception because county regulations do not allow the proposed activity in the area where the farm is located.

According to the Uses Table which was approved by the Board the following are the considerations for review:

- Must not interfere with other agricultural or silvicultural operations.
- Must not limit future agricultural or silvicultural production.
- Easement or district owner must have an ownership interest in the operation.

- Some of the products must come from animals raised or crops grown on site; the remainder from animals or crops indigenous to Maryland.
- Facility and parking area must cover no more than 2% (two percent) of the easement/district, or two acres, whichever is smaller.
- Parking area must be pervious.
- Accessory sales area must not exceed 600 sq. ft.

Foundation staff recommends approval of the request subject to the parking lot being pervious.

Robert Prigel and Carmela Iacovelli, Natural Resource Specialist, were present at the meeting. Mr. Prigel handed out aerial maps of his property.

Mr. Colhoun stated that he had visited the farm and believed the aerial map being circulated by Mr. Prigel accurately depicts the building and how it is going to be located on the property. The building is rectangular and is going to be parallel to the farm configuration.

Ms. Iacovelli stated that there were some concerns about the nature of the parking lot. The County Zoning requires a dust-less and durable parking surface. Ms. Iacovelli spoke to the staff at the County Zoning and they said that the owners could put in hard surface. The only downside of the requirement is that it could be expensive because it is a block with grass in the center which is pervious.

Mr. Prigel stated that his family has been dairy farming in Maryland for generations, and he is the fourth generation dairy farmer in Baltimore County. His family's future generation is also interested in farming. Currently Baltimore County has around eight or nine dairy farms remaining; dairy farming in Maryland has declined over the past twenty five years. People have to compete with farms in Russia, India and worldwide. Mr. Prigel has a comparatively small farm and stated that it is very difficult for small family dairy farms to compete with large corporate dairies. The farm is undergoing transition to become organic, and their desire is to construct a processing facility to process milk.

Mrs. Schultz pointed out that one of the Uses Committee's recommendations is that the parking area must cover no more than 2% (two percent) of the easement/district, or two acres, whichever is smaller. Mrs. Schultz wanted to know if Mr. Prigel has considered this requirement.

Mr. Prigel stated that his facility is not more than 10,000 square foot and the parking lot is very small.

Motion #11: To approve the request of Bellevale Farm, Inc., to allow a creamery operation, processing facility and farm store on an easement property subject to the parking lot being pervious.

Motion: Joe Tassone
Status: **Approved**

Second: Jerry Klasmeier

Mr. Doug Wilson commented that there would be a problem if, during the easement inspections, it is discovered that the parking area is of impervious surface. The parking lot being pervious is the Foundation's requirement. Baltimore County would have to plan and have someone from the Health Department visit the property and help the client.

Mr. Amoss pointed out that the County may also have some provisions for impervious surfaces to meet the handicap requirements.

Mr. Lippincott stated that the County is trying to make the whole parking area totally

pervious, but it is little challenging. The State has developed many rules to utilize more and more pervious parking and sometimes it might put additional burdens on the farm users. Baltimore County will work it out.

Mr. Doug Wilson stated that he felt the other way. Mr. Doug Wilson believed the State and other institutions are putting the onus on local government, the people who design the parking lot, the handicap associations, etc, to be more respectful of the pervious surfaces. They would have to give more latitude on what will be allowed.

Mr. Lippincott stated that the problem is actually getting them to work. The County continues to work on the issue over time, but the issues continues to be an engineering challenge.

Mr. Colhoun commented that the discussions have been very useful and stated that Mr. Prigel's parking lot is very small compared to others.

F. SOMERSET COUNTY

- | | | | |
|----|----------|-----------------------------------|--------------|
| 1. | 19-08-09 | Gerard and Donna Dumsha | 257.22 acres |
| | | Re-review of easement application | |

At the August 28, 2007 Board meeting, this easement application was approved with the withholding of 9 acres of barrow pits. However, since then, it has been determined that a portion of the property lies within a water and sewer district, and, therefore, additional review is necessary.

According to Somerset County, approximately 24 acres or 9 % of the property lies within the planned water and sewer district. On October 2, 2007, the County Commissioners approved the easement application with the inclusion of these acres. The County administrator reports that sewer and water may still be extended past the proposed easement by keeping it within the right-of-way of the road.

Staff recommends approval based on meeting minimum size and soils criteria. Normally, land located in the planned water and sewer area is not eligible for the program. However, § 2-509 (d) (4) provides an exception if the land "is outstanding in productivity and is of significant size." Staff recommends that the Foundation approve the exception because: 1) the property is relatively large for the county; 2) the soils are excellent quality (100% prime); and 3) the majority of the property lies outside the water and sewer area. It would not serve the interests of the program to require the landowner to exclude the area of the property from the easement. A letter from the Soil Conservation District was attached with the agenda memo.

Tom Lawton, Program Administrator, was available at the meeting. The County's water and sewer plans are fairly general and do not have a specific measurement to give the landowner. The County Zoning is R2 and that is 600 feet from the road. It is the policy of the County that service will be extended in the right-of-way and not across the property.

Mr. Colhoun had stepped out of the meeting at 11:10 am and returned at 11:15 am. Mrs. Vera Mae Schultz, Vice Chair, chaired the meeting in his absence.

Motion #12: To approve the re-review of Gerard and Donna Dumsha's easement application.

Motion: Doug Wilson
Status: Approved

Second: James Pelura

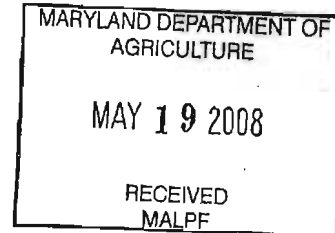
faxed DC
copy JAC, TF, KH

ELB

Avondell, Glen Arm, Maryland 21057 USA,

May 15, 2008

Mr. Daniel Colhoun, Chairman
Maryland Agricultural Land Preservation Foundation
The Wayne A. Cawley, Jr. Building
50 Harry S. Truman Parkway
Annapolis, Maryland 21401



Re: MALPF File 303-93-14 The Prigel Farm Store

Dear Mr. Colhoun:

If you believe you do not have, as you state in your letter of May 9, 2008, "authority to consider historic district status or adjacency to historic residences" in your decisions, I suggest you consult your legal advisor. Any intrusion into a historic district requires compliance with federal law. You have a duty to take historic districts into account before you act..

The purpose of the foundation you chair is preserving open space and stopping urban sprawl by compensating Maryland farmers for removing their land from the residential market. Permitting erection of a manufacturing plant on property the taxpayers paid \$1,200,000 to conserve flies in the face of the reason your foundation was created. It encourages urban sprawl, and provides adjacent landowners with property values adversely affected by your decision an incentive to subdivide.

If Ms. Chasse and Kim Hoxter found no "intent" of violation, they have not seen the plans Mr. Prigel showed me. His plans exceed the scope of the building permit he obtained for a "pole barn" and the total square footage of the building he has under construction exceeds the limit you imposed.

Many residents of Long Green Valley believe at least two members of your immediate family have financial interests in this project. If that is true, you should disqualify yourself from further participation.

Sincerely,

A handwritten signature in cursive script that reads "Ed Blanton".

Edward L. Blanton, Jr.

cc: Honorable Douglas Ganzler, Atty. General
Honorable Rod J. Rosenstein, U.S. Attorney

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Maryland dairy farmer fighting neighbors to open new creamery

5.20.2008

By STEPHANIE JORDAN
Associate Editor

GLEN ARM, Md. — Bellevale Farm in Baltimore County, an organic 260-acre farm milking 180 cows, has been in the Prigel family for more than 100 years.

Bob Prigel's great-grandfather began farming the land in 1895 as a sharecropper and was able to purchase the land in 1906. To try and remain a viable farm, the Prigels have decided to build a creamery on their farm to produce a full line of dairy products, including milk, yogurt, ice cream, butter and cheese so that their children have the option of keeping the land and staying in farming.

"This is about saving the family farm," Prigel said, adding that building the creamery and retail facility is necessary to keep the farm competitive with large farms out west that milk thousands of cows daily. But opposition from neighbors could cost the Prigels between \$50,000 and \$100,000 to defend the creamery they have the right, under law, to build.

"Agriculture has to be something where the farmer has access to consumers," Bob Prigel said. "We're not asking to do something we don't have the right to do."

Last year, Prigel met with community groups to let them know his family's intent to build a 9,960 square-foot facility to house the creamery, and 1,500 square feet in that building would be dedicated to retail (road-side stand). Prigel said he received support from both groups.

Prigel also went to the local county agricultural board, which also gave him its approval. And because Prigel's land is in a Maryland Agricultural Land Preservation Foundation (MALPF) easement, he also went before the state's agricultural board to get its approval.

Prigel then got a building permit, and began building his creamery. Zoning laws in Baltimore County require farmers who want road-side stands to have a use permit, so Prigel is in the process of obtaining

his use permit for the retail part of his facility.

Once someone requests a use permit, the community has the right to ask for a hearing to discuss what the farmer will be doing with that permit.

Prigel said one of his neighbors requested the hearing, and shortly afterward, the community groups who had previously given Prigel their support withdrew it, and are now vocally against the creamery and the roadside stand.

Those in opposition to the facility say that because Prigel's farm is under a MALPF easement, he does not have the right to take open space away from his farm.

"Most of my neighbors are supportive," he said. "But the minority (against us) is very vocal and have deep pockets. It's plain as day. We have the right to process and sell our product."

Prigel said after he met with the community groups last year and they gave him their support, they waited eight months later to let him know that they wanted the facility on the opposite side of the road from where the Prigel family was planning to build it. Work already had begun to prepare the land for the facility, and the Prigels did not want to put the building in another location.

"They say their pro-farm," Prigel said. "But they're not willing to allow what agriculture needs to stay in business. Open space is dependent upon profitable agriculture."



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800.492.5590 Toll Free

MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION

May 21, 2008

Edward L. Blanton, Jr.
Post Office 4007
Glen Arm, Maryland
21057

Re: Letter dated May 15, 2008, concerning the Prigel creamery

Dear Mr. Blanton,

I have reviewed the May 15, 2008 letter that you addressed to me, stating your belief that at least two members of my immediate family have a financial interest in the creamery that the Prigels are proposing to construct on their farm. You are incorrect. No member of my immediate family has any financial interest in this project. Likewise, I have no financial interest in this project. Indeed, no member of my immediate family nor I have any interest, financial or otherwise, in this project. Should any conflict of interest arise in the future, please be assured that I would immediately recuse myself from any involvement in this matter.

Sincerely,

Daniel Calhoun
(jae)

Daniel Calhoun
Chairman
Maryland Agricultural Land Preservation
Foundation



Maryland
Department of Agriculture

Office of the Secretary

Martin O'Malley, Governor
Anthony G. Brown, Lt. Governor
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MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION

May 21, 2008

Edward L. Blanton, Jr.
Post Office 4007
Glen Arm, Maryland
21057

Re: Letter dated May 15, 2008, concerning the Prigel creamery

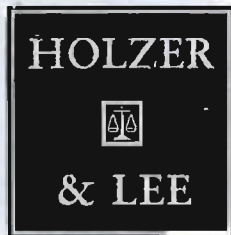
Dear Mr. Blanton,

I have reviewed the May 15, 2008 letter that you addressed to me, stating your belief that at least two members of my immediate family have a financial interest in the creamery that the Prigels are proposing to construct on their farm. You are incorrect. Neither I nor any member of my immediate family has any financial interest in this project. Should any conflict of interest arise in the future, please be assured that I would immediately recuse myself from any involvement in this matter.

Sincerely,

Daniel Calhoun
(jae)

Daniel Calhoun
Chairman
Maryland Agricultural Land Preservation
Foundation



LAW OFFICES

J. CARROLL HOLZER, PA

J. HOWARD HOLZER

1907-1989

THOMAS J. LEE

OF COUNSEL

THE 508 BUILDING

508 FAIRMOUNT AVE.

TOWSON, MD 21286

(410) 825-6961

FAX: (410) 825-4923

~~XXXXXXXXXXXXXXXXXXXX~~

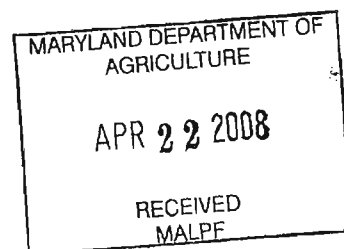
jcholzer@cavtel.net

April 18, 2008

#7778

HAND DELIVERED

Mr. Timothy Kotroco, Director
Permits & Development Management
111 Chesapeake Avenue
Towson, Maryland 21204



RE: *Building Permit # B683063*
Applicant: Robert Prigel and Bellevale Farm, Ltd
4851 Long Green Road

Dear Mr. Kotroco:

I represent The Long Green Valley Association and several named individuals in reference to the above named property owner. In November, 2007, Bellevale Farm, Ltd, through Bob Prigel submitted an application for a building permit to construct a pole building for "milk processing" which consists of 9,240 square feet. I have attached a copy of the three page site plan prepared by Conestoga Buildings and submitted to the County last November.

In late March or early April, the Prigel Family Creamery filed a Petition for Special Exception, through their attorney, Jennifer Busse, "to permit a Farm Market; or alternately for a Farmer's Roadside Stand. (See Petition for Special Exception attached hereto and incorporated herein) On behalf of my clients, I filed a Petition for Special Hearing on April 4, 2008, asking the Zoning Commissioner whether a dairy processing facility is permitted in an R.C. 2 Zone and whether the property owner may lease the dairy processing facility to a third party?

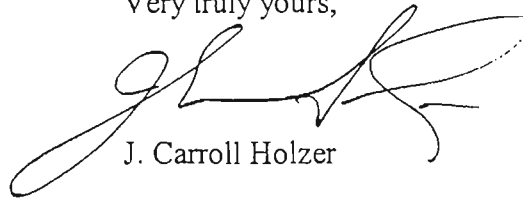
Coincidentally on April 4, 2008, your Department issued a building permit to construct a pole building at 4851 Long Green Road. From a review of the plans for the pole building, there is no detail about the use of the building, need for water and plumbing, etc. particularly since the Prigel Family Creamery seeks a Special Exception for a Farm Market or Farmer's Roadside Stand. The plans also do not show any equipment to be contained within the structure, but it is obvious from their Petition for Special Exception that equipment will be required for a creamery, as well as a retail area.

Finally, the plans that accompanied the building permit application does not reflect any parking areas, whereas the plat accompanying the Petition for Special Exception articulates the true purpose of the "pole building." It is clear that the plat submitted with the building permit application failed to reflect the true intent of the pole building.

It is my clients' position that in reviewing the permit application and the supporting construction drawings, as well as the Prigel's Petition for Special Exception that there is a significant issue surrounding the use of the pole building by the Prigels that is not clarified by the documents already presented to the County. My clients also believe that the zoning hearings, which to date have not be scheduled, will address the issue of the use and purpose of the facility and whether it is permitted in an R.C. 2 Zone.

For all the foregoing reasons, Petitioners/Protestants respectfully request that Baltimore County suspend or revoke permit number B683063 until the Zoning Commissioner addresses the questions raised in not only the Prigel's Petition for Special Exception, but the Petition for Special Hearing filed by The Long Green Valley Association and the named individuals.

Very truly yours,

A handwritten signature in dark ink, appearing to be "J. Carroll Holzer", written in a cursive style. The signature is positioned above the printed name "J. Carroll Holzer".

J. Carroll Holzer

JCH:mlg

cc: William Wiseman, Zoning Commissioner
David Carroll, Director DEPRM
Doug Swam, PDM
LGVA, Inc.
Jennifer Busse, Esq.



April '08

Neighbors Cool To Long Green Creamery

by Nancy Jones

Why did the proposed roadside stand in Long Green cross the road?

Long Green Valley residents aren't sure so they're asking the sponsor of what has become a 10,000-square-foot commercial structure to clarify his plan because it could negatively impact the historic vistas they've fought hard to protect.

Farmer Robert Prigel is seeking permission to erect what he calls a creamery which would produce ice cream and cheese on his Bellevale Farm, a dairy operation located on Long Green Road. The property is permanently preserved through an easement held by the Maryland Agricultural Land Preservation Foundation (MALPF).

Prior to submitting plans with Baltimore County development review officials, Prigel says he met with members of the Long Green Valley Association and MALPF and both groups offered letters of support. His plans call for building a 10,000-square-foot creamery, which would include a retail area to sell butter, yogurt, cheese and ice cream.

"I reached out to the community. There were no objections at all," said Prigel. "They knew the size and the location. There was nothing held back."

**"We're
OK with the
creamery;
we're opposed
to the
placement of
the building."**

— John Wilkerson

to the placement of the building."

Ed Blanton, the neighbor who has requested a public hearing, called the proposal a "fairly substantial intrusion" into the historic Long Green Valley area.

"We live out here because we like agriculture. It's where we want to be," said Blanton. "I don't think any of us thought they would use the money [from selling the conservation easement] to build a factory in the middle of a pasture."

New label

Prigel insists he has been up front with the community. Originally he applied for a use permit with Baltimore County zoning officials for a farmer's roadside stand. But after a public hearing was requested, those same zoning authorities are now requiring Prigel to apply for a farm market permit.

Also, because his property is low lying, there are only a few spots other than the one selected -- where he can locate the building which he says will look much like a horse barn.

"We want it to be pleasing to the eye," said Prigel.

Prigel, who currently sells his milk products through a co-op, said he would offer his creamery goods under a new label which would most likely use the Prigel name. The farm goes back to his great-grandfather who bought it in 1906.

**"This is the
survival of
the farm."**

— Robert Prigel

"I think there's an excellent demand for this," said Prigel. "We've gotten a lot of great feedback. The vast majority of people want this."

He says the creamery is a way to keep the farm competitive for future generations.

"This is the survival of the farm," said Prigel.

Both Prigel and those neighbors opposed to the location of the building say they will keep the lines of communication open and are willing to work out an agreement.

Prigel said he is ready to proceed through the county development process and expects to file for a public hearing soon.

D WELL

2100

PROPOSED
ONE STORY
BUILDING
(UNDER CONSTRUCTION)

DAIRY
PROCESSING
FACILITY
8520 SqFt.

MARYLAND DEPARTMENT OF
AGRICULTURE

JUN 09 2008

RECEIVED
MALPF

RETAIL SPACE
1440 SqFt. +/-

PROPOSED
SEPTIC SYSTEM

75' BUILDING
SETBACK LINE

620' +/- TO
ADJOINING DWELLING

PROPOSED PARKING

CENTERLINE
EN ROAD
S ROAD

LONG GREEN ROAD

BELLEVUE FARM
4851 LONG GREEN ROAD
MAP 53, PARCEL 22
DEED REF. 5842 / 117
ACC. NO. 16075722, 116075721

DELEGATE SUSAN L. M. AUMANN
42nd Legislative District
Baltimore County

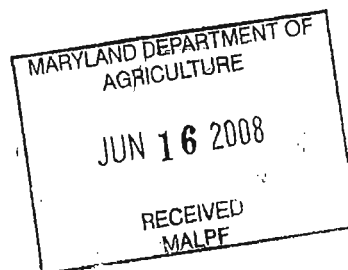
Appropriations Committee
Transportation and the
Environment Subcommittee
Oversight Committee on Personnel
Oversight Committee on Pensions
Joint Committee on Legislative Ethics



Annapolis Office
The Maryland House of Delegates
6 Bladen Street, Room 303
Annapolis, Maryland 21401
410-841-3258 • Fax 410-841-3163
Susan.Aumann@house.state.md.us

THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

June 10, 2008



Secretary Roger Richardson
Maryland Department of Agriculture
50 Harry S. Truman Parkway
Annapolis, MD 21401-7080

Dear Secretary Richardson,

Over the past many weeks I have been approached by farm families to inquire about the construction of a new non clustered building on the Prigel's Farm, known as Bellevale Farms Limited Partnership, located at 4851 Long Green Road in Glen Arm, Maryland 21057 and the possible violations with the Maryland Agricultural Land Preservation Foundation (MALPF) easement.

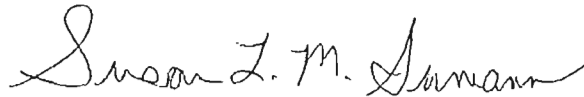
We understand that MALPF's primary purpose is to preserve productive farmland and woodland for the continued production of food and fiber for all Maryland's citizens in accordance with the Maryland Agriculture Land Preservation Foundation created in 1977.

An easement agreement was approved on or about January 12, 1997 with Bellevale Farm Limited Partnership between MALPF and the owners Mr. and Mrs. Prigel, Sr. which stipulated that the farm may be used for "any farm use and to carry on all normal farming practices including the operation at any type of any machinery used in farm production or the primary processing of any agricultural products. The easement agreement also sets forth certain limitations and restrictions governing the use of Bellevale Farm, one being that the farm "may not be used for any commercial, industrial, or residential purpose." These restrictions were imposed to preserve the land for agricultural use in accordance with the provisions of the Agricultural Article, Title 2, and Subtitle 5 in the Annotated Code of Maryland.

The main concerns are that the Prigels may be building this expanded non clustered pole barn for the purposes of a creamery operation, a processing facility and a farm store. It is believed that there may be a desire by the owners of Bellevale Farm to receive milk from other dairy farms and process that milk on site of the creamery operation. It is believed that this aspect of the creamery operation violates the easement agreement because the agreement does not indicate the processing, storage or sale of farm agriculture or woodland products produced on the farm. This receiving station and processing facility seems to raise questions about a commercial and industrial use rather than a farm use as noted in the Agriculture article.

This property is located in the Long Green Valley National Register Historic District and has been recognized by the Maryland Scenic Byways Horses and Hounds scenic byway. I know I share the feelings of many to act responsibly and allow flexibility to farmers in order for them to continue and be profitable, but this issue may set a precedent that would be harmful to the intention of MALPF. Please contact me as soon as possible with answers to the concerns I have raised on behalf of constituents who brought this issue to my attention.

Very truly yours,

A handwritten signature in cursive script that reads "Susan L.M. Aumann". The signature is fluid and elegant, with the first letters of the first and last names being capitalized and prominent.

Susan L.M. Aumann

Cc:

Mr. Jim Conrad, Executive Director, Agricultural Land Preservation

Ms. Elizabeth Weaver, Administrator MALPF

Mr. Wally Lippincott, Jr., Baltimore County Program Administrator

Ms. Carmella Iacovelli, Baltimore County Natural Resource Specialist

Treasurer Nancy Kopp

Comptroller Peter Franchot



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MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION

July 22, 2008

The Honorable Susan L. M. Aumann
42nd Legislative District, Baltimore County
The Maryland House of Delegates
6 Bladen Street, Room 303
Annapolis, Maryland 21797-8111

Dear Delegate Aumann,

I have been asked by Secretary Richardson to respond to your letter about the approval of the Prigels' request for a value-added processing and retail facility on their dairy farm in Baltimore County. Because this matter is now subject to litigation, I cannot respond to every issue that you raised, but I would like to state that the Foundation's approval is consistent with Maryland law.

First, *isn't the property restricted to "agricultural use," which would make this use a violation of the easement?* As explained below, the proposed creamery operation neither violates the terms of easement nor State law. As a condition to program participation, State law requires that the county adopt regulations permitting the following uses on MALPF-preserved properties: (a) any farm use; (b) the operation at any time of any machinery used in farm production or primary processing of agricultural products; and (c) all normal agricultural operations performed with good husbandry practices that do not cause bodily injury or directly endanger human health, including but not limited to, sale of farm products produced on the farm where such sales are made. (See §2-513(a) of the Agriculture Article of the Maryland Annotated Code.) Beyond these mandated permitted uses, MALPF was granted broad discretion by the General Assembly to permit the landowner to use the land for farm- and forest-related uses and home occupations that are compatible with agriculture. In this instance, MALPF determined that the proposed creamery operation was not only a compatible farm related use, but enhances and supports the primary farming operation.

Second, *shouldn't location be an issue in the review and approval of uses of preserved properties?* Location can be an element in the review of uses for both geographical location and access. The requested location for the Prigels' facility is along a public roadway, directly across the road from the farmstead, along a natural boundary, and on the edge of tillable land. The requested access is direct road frontage access from a public roadway, minimizing the traffic on the farm. The structure is located at the intersection of the public roadway and a farm lane. Based on these considerations, the Foundation determined that this was an appropriate location.

Third, *isn't the objective of the Maryland Agricultural Land Preservation Foundation the preservation of productive farmland and woodland for the continued production of food and fiber for all Maryland's citizens?* Yes, and the proposed creamery operation is entirely consistent with this objective. To ensure that this objective is met, the program must allow for changing conditions in the agricultural economy and permit the diversification of farming and forestry activities, including related uses such as retail sales and/or value-added processing that enhance or complement the primary farming and/or forestry use of the property while minimizing the impact of such uses or activities on the farm itself.

Fourth, *doesn't this approval set a precedent that harms MALPF's Program objectives?* No, MALPF's approval in this instance is consistent with past approvals for value-added processing and retail sales operations that complement and enhance the primary farming or forestry operation, helping better achieve Program objectives.

Fifth, *isn't there an intention of the owners to receive and process milk from other dairy farms such that the creamery operation would become an industrial receiving and processing facility?* The request by the Prigels was to process organic milk produced by the dairy herd on the Prigel property into organic dairy products, some of which would be sold on-site. The size of the structure and the related parking facilities are appropriately scaled to the size of the farming operation. The Prigels' request did not ask to process milk produced off-site. Please be aware, however, that the Prigels could, under current MALPF use policy, process such milk. MALPF staff visited the property to confirm the size and location of the structure and the parking facilities and had conversations with Mr. Prigel to confirm that his stated intentions are consistent with the request and MALPF's approval of his request.

In summary, the question of what uses are allowed and not allowed on MALPF-preserved farms is fundamental to achieving the long-term objectives of the Program. The Foundation's permitted use policy stems from the recommendations of a task force that the General Assembly established that were adopted into law in 2003. See Senate Bill 626, 2003.

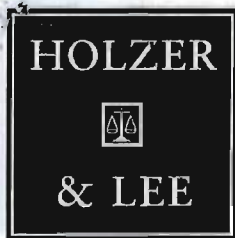
I hope this letter makes clear how seriously the Foundation's Board of Trustees takes its responsibilities in ensuring the public's trust in the Agricultural Land Preservation Program. I also hope this will help you respond to the concerns of your constituents who brought this issue to your attention. Additional details on the development of the use policy and related discussions can be found in the most recent MALPF Annual Report (pages 93-99). If you have any other questions, please contact me at: 410-841-5860.

Sincerely,



James Conrad
Executive Director

cc: Roger L. Richardson, Secretary, Maryland Dept. of Agriculture
Dan Colhoun, Chair, Board of Trustees, Maryland Agricultural Land Preservation Foundation
Vera Mae Schultz, Vice-Chair, Board of Trustees, Maryland Agricultural Land Preservation Foundation
Wally Lippincott, Jr., Baltimore County Farmland Preservation Program Administrator
Carmella Iacovelli, Baltimore County Natural Resource Specialist
Diane L. Chasse, Maryland Agricultural Land Preservation Foundation
Nancy Kopp, Treasurer, Maryland State Office of the Treasurer
Peter Franchot, Comptroller, Maryland State Office of the Comptroller
Thomas Filbert, Assistant Attorney General, Maryland Dept. of Agriculture



LAW OFFICES

J. CARROLL HOLZER, PA

J. HOWARD HOLZER

1907-1989

THOMAS J. LEE

OF COUNSEL

THE 508 BUILDING

508 FAIRMOUNT AVE.

TOWSON, MD 21286

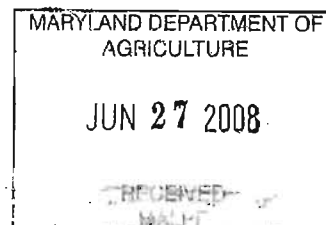
(410) 825-6961

FAX: (410) 825-4923

~~XXXXXXXXXXXXXXXXXXXX~~

jcholzer@cavtel.net

June 24, 2008
#7778



Secretary Roger Richardson
Maryland Department of Agriculture
50 Harry S. Truman Parkway
Annapolis, Maryland 21401-7080

RE: Creameries in Baltimore County - RC Zones

Dear Secretary Richardson:

I represent a number of landowners in the Long Green Valley who recently became aware of a proposed bill that is to be introduced to the Baltimore County Council relating to creameries in RC Zones (see attached). It appears that County Executive James Smith is sponsoring this legislation.

This new legislation is very concerning to my clients considering the intensely contested Prigel Family Creamery Inc./Bellevale Farm matter currently before the zoning authorities and the current Baltimore County Zoning regulations that permit a creamery operation ONLY in Manufacturing Light (ML) Zones. As you know, the Maryland Agricultural Land Preservation Foundation approved Robert Prigel Sr.'s request for a farm store, processing plant and creamery on preserved property in the Long Green Valley National Historic District. The MALPF Minutes even specify that a special exception is required because the activity (farm store, processing facility and creamery) is not permitted where the farm is located (see enclosed MALPF Minutes October 23, 2007). Wallace Lippincott and David Green from Baltimore County were present at this meeting.

cc: Mr. Nielsen
Mr. Filbert
Ms. Chase
Ms. Hoxter

Secretary Roger Richardson
June 24, 2008
Page two

In late March or early April 2008, the Prigels filed for a Special Exception to permit a farm market or alternatively a roadside stand. On behalf of my clients, I filed for a Special Hearing on April 4, 2008, asking the Zoning Commissioner whether a dairy processing facility is permitted in R.C. 2 Zone and whether the property owner may lease the processing facility to a third party. Coincidentally on April 4, 2008, as your attorney Craig Neilson knows, Baltimore County Department of Permits and Development Management issued a building permit to construct a pole building at 4851 Long Green Road on the rear of the property (the south side of Long Green Road where the other farm buildings and home are located).

My April 18, 2008, letter to Timothy Kotroco, Director of Baltimore County Permits and Development Management requested the permit be suspended or revoked until the Zoning Commissioner could address various issues, thus ensuring construction would not begin until the issues were resolved. Despite the fact there was no site plan, no plumbing and no equipment information and the County clearly knew the building was going to become the farm store, creamery and processing plant rather than just a pole building before construction started, the permit remained active. Complaints were made to the permit office that the building was not being built on the rear of the property as stated in the permit but rather on the other side of the road but these concerns were ignored.

Documents produced through Freedom of Information requests and through Subpoenas confirm the County's knowledge. An April 18, 2008, Memorandum from Stan Jacobs, Baltimore County Chief Financial Officer to the Baltimore County Loan Review Committee recommended approval of a Two Hundred Fifty Thousand Dollar (\$250,000.00) ten-year term loan with a twenty (20) year amortization from the County's Revolving Loan Fund at a fixed rate of two percent (2%) with the proceeds to be used for the CONSTRUCTION of the 10,000 SF building and for the purchase of equipment for Prigel Family Creamery, Inc. The State of Maryland through MD Agricultural Development Corp. will also provide a 10-year Two Hundred Fifty Thousand Dollar (\$250,000.00) term loan at two percent (2%) interest.

Additionally, the Prigels have applied for a Three Hundred Thousand Dollar (\$300,000.00) grant from USDA-Rural Development to be used for operations and a matching grant from MARBIDCO in the amount of One Hundred Thousand Dollars (\$100,000.00) for operations. The building shell has been constructed and despite requests to USDA-Rural Development, University of Maryland Board of Regents and MARBIDCO for documentation that the National Environmental Policy Act and the Maryland Environmental Policy Act have been complied with, no documents have been provided. Nor has any documentation been provided that 16 U.S.C. 470(f) has been complied with concerning impact in a National Historic District. Since State/County money has been provided and Federal funds may be awarded, these statutes appear to apply. Documentation supports NEPA and U.S.C. 470 would be complied with. (See attached Exhibits)

Secretary Roger Richardson
June 24, 2008
Page three

The Prigel's June 4, 2008, Petition for a Special Exception re: roadside stand/ farm market has not yet been decided. The Petition for a Special Hearing scheduled for July 24, 2008, has yet to be heard. The Prigel's business plan submitted in March 2008, (to USDA) discusses a contract with Cowgirl Creamery, a California Company with a west coast cheese processing plant and retail stores in CA and DC. It appears that the plan and attachments provide in part that Cowgirl Creamery will establish an east coast processing plant at Bellevale Farm. Cowgirl will lease part of the processing plant and purchase the equipment necessary for cheese processing. It appears that Cowgirl Creamery will be selling the cheese back to Prigel Family Creamery for sale in their farm store. My clients submit that the magnitude of Prigel Family Creamery is clearly commercial.

A creamery operation is a commercial, manufacturing use, not an agricultural use and this is borne out by the Baltimore County Zoning Regulations which permit creameries ONLY in Manufacturing Light (ML) Zones (Section 253.1) This new legislation that is to be proposed to the Baltimore County Council appears to be special legislation designed to permit the Prigel Family Creamery. It appears that a factor for this legislation is the County's loan described above for the construction of the building. The County clearly knew the activity was not permitted in the area where the farm is located as evidenced by MALPF Minutes. The County clearly knew the proposed building and operation was in dispute before grading began as evidenced not only by my letter to Mr. Kotroco but also by a lawsuit filed in the Circuit Court of Baltimore County on behalf of resident Susan Yoder and the Long Green Valley Association.

My clients believe that allowing this proposed legislation to introduce manufacturing and commercial activity will have a chilling effect to say the least on preservation. Residents are outraged and this proposed legislation is yet another step in an effort to undermine an easement purchased with taxpayer funds. My clients inform me that there are already Long Green Valley landowners with easements (MALPF, MET and County etc.) exploring their options of getting out of their agreements. The potential effect is damaging to the Long Green Valley, considering that more than half the National Historic District has been preserved (3,000 acres). The potential impact appears to stem from MALPF's decision of October 23, 2007.

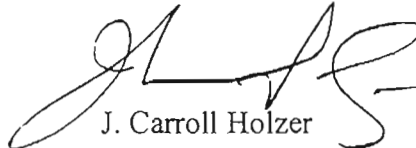
Secretary Roger Richardson

June 24, 2008

Page four

We would appreciate your review of these matters.

Very truly yours,



J. Carroll Holzer

JCH:mlg

Enclosure

cc: Mr. James Conrad, Director
MD Agricultural Preservation Foundation
Ms. Nancy K. Kopp, Treasurer
State of MD Treasurer's Office
Mr. Peter Franchot, Comptroller
Mr. Douglas Gansler, Attorney General
Delegate Susan L.M. Aumann
Councilman S.G. Moxley
Councilman T. Bryan McIntire
Councilman Kenneth N. Oliver
Councilman Vincent J. Gardina
Councilman Kevin Kamenetz
Councilman John Olszewski
Councilman Joseph Bartenfelder
Councilman Joseph Bartenfelder
Mr. John M. Fowler, Executive Director
Advisory Council on Historic Preservation
Mr. J. Rodney Little, Executive Director
Maryland Department of Planning
Ms. Elizabeth Hughes, Deputy Director
Maryland Department of Planning
Secretary Shari T. Wilson
Maryland Department of the Environment

USDA

RECEIVED
2/17/08

Developing New Markets for Local Organic Dairy Products

by the Prigel Family Creamery of Baltimore County,

Maryland

An Application for the 2008 Value-Added Producer Grant Program

Submitted by:

Prigel Family Creamery
4851 Long Green Road
Glen Arm, Maryland 21057

March 17, 2008

Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.

Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.

Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EQ 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and; (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance:
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL

Robert E. Prigel Jr.

TITLE

Owner/producer

APPLICANT ORGANIZATION

Prigel Family Creamery

DATE SUBMITTED

**MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION
MINUTES
October 23, 2007**

TRUSTEES PRESENT:

Daniel Colhoun, Chairman
Vera Mae Schultz, Vice Chairman
John W. Draper, Jr.
Jerry Klasmeier, representing Comptroller Peter Franchot
Dr. James Pelura
Joe Tassone, representing Secretary Richard E. Hall, Department of Planning
Doug Wilson, representing Secretary Roger L. Richardson, Department of Agriculture

TRUSTEES ABSENT:

Howard S. Freedlander, representing Treasurer Nancy Kopp
Robert F. Stahl, Jr.,
Christopher H. Wilson

OTHERS PRESENT:

Bill Amoss, Harford County, Program Administrator
Anne Bradley, Frederick County, Ag. Preservation Planner
Rob Burk, Executive Director, Horse Industry Board, Maryland Department of Agriculture
Pam Bush, Department of Natural Resources, Senior Policy Analyst
Vince Berg, Citizen, Montgomery County
Elizabeth Brown, Landowner, Frederick County
Tammy Buckle, Caroline County, Program Administrator
Diane Chasse, MALPF Administrator
James Conrad, MALPF Executive Director
Carol Council, MALPF Administrator
Veronica Cristo, Calvert County, Rural Planner
Rama Dilip, MALPF Secretary
James Evans, Landowner, Inverness Farm, Montgomery County
Charles Fenwick, Jr., Representative for Land Preservation Trust/Shawan Downs, Baltimore County
Nancy Forrester, Assistant Attorney General, Department of General Services
Billy Gorski, Ag. Program Planner, Anne Arundel County
→ David Greene, Chair, Baltimore County Advisory Board, Baltimore County
Buddy Hance, Deputy Secretary, Maryland Department of Agriculture
Sibbald Hereth, Landowner, Howard County
Edward Hereth, Landowner, Howard County
Rob Hoffman, Representative for Land Preservation Trust/Shawan Downs, Baltimore County
Kimberly Hoxter, MALPF Monitoring, Enforcement, and Database Coordinator
Dale Hutchins, Landowner, Calvert County
→ Carmela Iacovelli, Baltimore County, Natural Resource Specialist
Joy Levy, Howard County, Program Administrator
Wally Lippincott, Jr., Baltimore County, Program Administrator
Carla Martin, Kent County, Program Administrator
Elta Martin, Landowner, Frederick County
Daniel Rosen, Planner, Maryland Department of Planning
Charles Rice, Charles County, Program Administrator
Caythee and Charles Ruby, Landowners, Frederick County
Donna Sasscer, St. Mary's County, Program Administrator
Ned Sayre, Harford County, Program Assistant
Steward B. Smith, Prince George's County, Soil Conservation District
Donna K. Landis-Smith, Queen Anne's County, Program Administrator
Samantha Stoney, Howard County, Planner
Elizabeth Weaver, MALPF Administrator

development rights. Further, Ms. Forrester pointed out that the Foundation cannot change its policy in the middle of the easement cycle.

Ms. Forrester commented that as of July 1, 2007, the date of the appraisal under statute, there were no development rights on the property. The appraisers have to be informed about the development rights.

Ms. Buckle stated that she believed the MALPF Board would face lot of issues like the current one. Earlier the MALPF Board reviewed all such issues when the property entered the program as a district. These things now have to be worked out before the deadline.

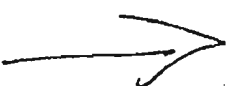
Mr. Doug Wilson agreed and stated the Foundation has to think about the process without the requirement of a district. 90% of the issues would have been resolved when the Foundation evaluated the district application. There has to be some modifications or changes in the way the easement applications are evaluated for the program.

Ms. Forrester pointed out that the district agreement on the property was recorded improperly. The district agreement was never signed by the MALPF Board and was not completed. It was incorrectly recorded by the Baltimore County. Ms. Forrester was concerned about the State tax benefit or the County tax benefit associated with this agreement.

Ms. Chasse agreed and stated that the district agreement should not have been recorded because the Equine Committee's report was not yet ready. Mr. Lippincott stated that one has to apply for the County tax credit to receive the tax benefit and Land Preservation Trust has not applied.

Motion #10: To rescind the previous exclusion of 50 acres around the racetrack.

Motion: Doug Wilson Second: Joe Tassone
Opposed: Vera Mae Schultz
Status: **Approved**

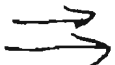
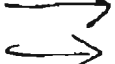
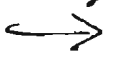
- 
2. 03-83-14c Bellevale Farm, Inc. (Prigel) 180 acres
Request to allow a creamery operation, processing facility and farm store on an easement property

Mr. Robert Prigel, of Bellevale Farm, Inc., is the original owner of the easement property. The current request is to allow a creamery operation, processing facility and farm store on an easement property. There is one pre-existing dwelling on the farm.

According to Baltimore County, Mr. Prigel would like to construct a 7,000 to 10,000 square foot building to house the creamery operation, processing facility and a farm store. As well, he is requesting a parking area that would accommodate fewer than 10 vehicles. The parking area is proposed to be located on Long Green Road with the creamery directly behind it. A short distance of access on an existing farm lane may be needed.

The request was approved by the local advisory board. Mr. Prigel would be required to obtain a special exception because county regulations do not allow the proposed activity in the area where the farm is located.

According to the Uses Table which was approved by the Board the following are the considerations for review:

- 
- 
- 
- Must not interfere with other agricultural or silvicultural operations.
 - Must not limit future agricultural or silvicultural production.
 - Easement or district owner must have an ownership interest in the operation.

- Some of the products must come from animals raised or crops grown on site; the remainder from animals or crops indigenous to Maryland.
Facility and parking area must cover no more than 2% (two percent) of the easement/district, or two acres, whichever is smaller.
Parking area must be pervious.
Accessory sales area must not exceed 600 sq. ft.

Foundation staff recommends approval of the request subject to the parking lot being pervious.

Robert Prigel and Carmela Iacovelli, Natural Resource Specialist, were present at the meeting. Mr. Prigel handed out aerial maps of his property.

- Mr. Colhoun stated that he had visited the farm and believed the aerial map being circulated by Mr. Prigel accurately depicts the building and how it is going to be located on the property. The building is rectangular and is going to be parallel to the farm configuration.

Ms. Iacovelli stated that there were some concerns about the nature of the parking lot. The County Zoning requires a dust-less and durable parking surface. Ms. Iacovelli spoke to the staff at the County Zoning and they said that the owners could put in hard surface. The only downside of the requirement is that it could be expensive because it is a block with grass in the center which is pervious.

Mr. Prigel stated that his family has been dairy farming in Maryland for generations, and he is the fourth generation dairy farmer in Baltimore County. His family's future generation is also interested in farming. Currently Baltimore County has around eight or nine dairy farms remaining; dairy farming in Maryland has declined over the past twenty five years. People have to compete with farms in Russia, India and worldwide. Mr. Prigel has a comparatively small farm and stated that it is very difficult for small family dairy farms to compete with large corporate dairies. The farm is undergoing transition to become organic, and their desire is to construct a processing facility to process milk.

Mrs. Schultz pointed out that one of the Uses Committee's recommendations is that the parking area must cover no more than 2% (two percent) of the easement/district, or two acres, whichever is smaller. Mrs. Schultz wanted to know if Mr. Prigel has considered this requirement.

Mr. Prigel stated that his facility is not more than 10,000 square foot and the parking lot is very small.

Motion #11: To approve the request of Bellevale Farm, Inc., to allow a creamery operation, processing facility and farm store on an easement property subject to the parking lot being pervious.

Motion: Joe Tassone
Status: **Approved**

Second: Jerry Klasmeier

Mr. Doug Wilson commented that there would be a problem if, during the easement inspections, it is discovered that the parking area is of impervious surface. The parking lot being pervious is the Foundation's requirement. Baltimore County would have to plan and have someone from the Health Department visit the property and help the client.

Mr. Amoss pointed out that the County may also have some provisions for impervious surfaces to meet the handicap requirements.

Mr. Lippincott stated that the County is trying to make the whole parking area totally

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2007, Legislative Day No. ____

Bill No. ____

The Honorable James T. Smith, Jr., Baltimore County Executive

By the County Council, _____, 2008

A BILL
ENTITLED

AN ACT concerning

Creameries in the R.C. Zones

FOR the purpose of clarifying the zoning regulations to permit in the R.C. Zones; and generally relating to the requirements for creameries, dairy processing facilities and farm markets in the R.C. Zones.

BY adding

Section 101, the definition for Dairying
Baltimore County Zoning Regulations, as amended

BY repealing, and re-enacting, with amendments

Section 101, the definition for Farmer's Roadside Stand
Baltimore County Zoning Regulations, as amended

SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that the definition of Dairying has been added within Section 101 of the Baltimore County Zoning Regulations, as amended, to read as follows:

DAIRYING - THE BUSINESS OF CONDUCTING A DAIRY, INCLUDING PROCESSING AND MARKETING OF DAIRY PRODUCTS SUCH AS MILK, BUTTER, CHEESE, ICE CREAM AND YOGURT. PROCESSING, PACKAGING AND MARKETING ACTIVITIES ON ANY FARM SHALL OCCUPY NO MORE THAN 10% .

EXPLANATION:

CAPITALS INDICATE MATTER ADDED TO EXISTING LAW
[Brackets] indicate matter stricken from existing law.
~~Strike-out~~ indicates matter stricken from bill.
Underlining indicates amendments to bill.

OF THE FARM PROPERTY ON WHICH THE OVERALL DAIRYING OCCURS OR 2 ACRES IN AREA, WHICHEVER IS LESS.

SECTION 2. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that the definition of Farmer's Roadside Stand within Section 101 of the Baltimore County Zoning Regulations, as amended, be and is hereby repealed and re-enacted, with amendments to read as follows:

An accessory structure owned and operated by an agricultural producer, used for the sale of indigenous farm products, INCLUDING DAIRY PRODUCTS, the majority of which have been grown OR PRODUCED on the premises, on adjacent land or on properties farmed by the same agricultural producer.

SECTION 3. AND BE IT FURTHER ENACTED, that this Act having been passed by the affirmative vote of ____ members of the County Council, shall take effect on _____, 2008.



Maryland Department of Agriculture

Agriculture | Maryland's Leading Industry

Office of the Secretary

Martin O'Malley, Governor
Anthony G. Brown, Lt. Governor
Roger L. Richardson, Secretary
Earl F. Hance, Deputy Secretary

The Wayne A. Cawley, Jr. Building
50 Harry S. Truman Parkway
Annapolis, Maryland 21401
TTY Users: Call via Maryland Relay
Internet: www.mda.state.md.us

410.841.5700 Baltimore/Washington
301.261.8106 Washington, D.C.
410.841.5914 Fax
800.492.5590 Toll Free

MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION

July 22, 2008

J. Carroll Holzer, Esq.
508 Fairmount Avenue
Towson, Maryland 21286

Dear Mr. Holzer,

I have been asked by Secretary Richardson to respond to your letter about a proposed bill introduced to the Baltimore County Council related to creamery operations as regulated by county zoning regulations. You have also requested that the Foundation's approval of the request by the Prigels for a value-added processing and retail facility for their dairy operation be reviewed.

Because the Prigel creamery is currently under litigation in Baltimore County Circuit Court, we believe it would be inappropriate to respond to the issues you pose in your letter. I am sure you will understand the position the Department of Agriculture must take in this matter.

The Foundation's Board of Trustees takes its responsibilities in ensuring the public's trust in the Agricultural Land Preservation Program very seriously, even though you and your clients may not agree with every decision that it makes.

Sincerely,

James Conrad
Executive Director

cc: Roger L. Richardson, Secretary, Maryland Dept. of Agriculture
Dan Colhoun, Chair, Board of Trustees, Maryland Agricultural Land Preservation Foundation
Vera Mae Schultz, Vice-Chair, Board of Trustees, Maryland Agricultural Land Preservation Foundation
Wally Lippincott, Jr., Baltimore County Farmland Preservation Program Administrator
Carmella Iacovelli, Baltimore County Natural Resource Specialist
Diane L. Chasse, Maryland Agricultural Land Preservation Foundation
Thomas Filbert, Assistant Attorney General, Maryland Dept. of Agriculture



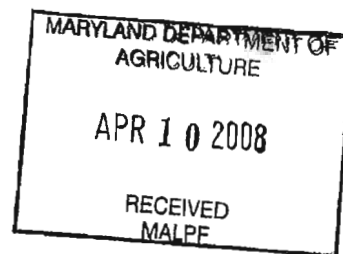
BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

DAVID A.C. CARROLL, *Director*
Department of Environmental Protection
and Resource Management

April 3, 2008

Carol Trela, Secretary
Long Green Valley Association
P.O. Box 91
Baldwin, MD 21013



RE: Prigel Dairy Roadside Stand/Creamery

Dear Ms. Trela, *Carol*

I wanted to let you know that I received your letter and noted the concerns you raised on the phone. I have also heard from others in the Long Green Valley about similar concerns. We will be back in touch after we have had a chance to fully review the issues that you have raised.

Sincerely,

Wallace S. Lippincott, Jr.

c. David Greene, Chairman Baltimore County Agricultural Land Preservation
Advisory Board
Diane Chasse, MALPF



BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

DAVID A.C. CARROLL, *Director*
Department of Environmental Protection
and Resource Management

April 3, 2008

John K. Wilkerson, President
Long Green Valley Conservancy
P.O. Box 37
Hydes, MD 21082

RE: Prigel Dairy Roadside Stand/Creamery

Dear Mr. Wilkerson, *John*

I wanted to let you know that I received your letter on behalf of the Conservancy. I have also heard from others in the Long Green Valley about similar concerns. We will be back in touch after we have had a chance to fully review the issues that you have raised.

Sincerely,

A handwritten signature in cursive script, reading "Wallace S. Lippincott, Jr.".

Wallace S. Lippincott, Jr.

c. David Greene, Chairman Baltimore County Agricultural Land Preservation
Advisory Board
Diane Chasse, MALPF



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

DAVID A.C. CARROLL, *Director*
Department of Environmental Protection
and Resource Management

April 3, 2008

Susan M. Yoder
John Yoder
P. O. Box 399
Phoenix, MD 21131

RE: Prigel Dairy Roadside Stand/Creamery

Dear Mr. & Mrs. Yoder, *Susan & John*

I wanted to let you know that I received your letter and noted John's concerns from his phone call. I have also heard from others in the Long Green Valley about similar concerns. We will be back in touch after we have had a chance to fully review the issues that you have raised.

Sincerely,

A handwritten signature in cursive script, reading "Wallace S. Lippincott, Jr.".

Wallace S. Lippincott, Jr.

c. David Greene, Chairman Baltimore County Agricultural Land Preservation
Advisory Board
Diane Chasse, MALPF

15.15.01.17

.17 Use of Land on Which an Easement is Purchased.

A. Provisions to be Included in Easement and County Regulations. Agricultural land preservation easements may be purchased for land in agricultural use which meets the qualifying criteria established under Regulation .03D of this chapter if the easement and county regulations governing the use of the land include the following provisions:

- (1) Any agricultural use of land is permitted;
- (2) Operation of machinery used in farm production or the processing of agricultural products is permitted;
- (3) Normal agricultural operations performed in accordance with good husbandry practices, which do not cause bodily injury or directly endanger human health, are permitted, including sale of farm products produced on the farm where the sales are made, and may generally include up to 25 percent in gross sales of farm products produced locally on other farms.

B. Prohibitions. Except as permitted by Agriculture Article, Title 2, Subtitle 5, Annotated Code of Maryland, a landowner who has sold an agricultural preservation easement to the Foundation is prohibited from using that land for any commercial, industrial, or residential purpose.

C. Dwellings.

(1) Application. Before a lot may be released from an easement's restrictions for the construction of a dwelling house, the landowner shall submit an application to the Foundation that:

- (a) The landowner has signed;
- (b) Contains a declaration that the lot and dwelling house are only for the use of the landowner or the landowner's child, whichever is the case (if the use is for the landowner's child, identify the child);
- (c) Includes signed statements indicating approval of the release from both the local agricultural land preservation advisory board and the county planning and zoning department;
- (d) Includes a description of the land to be disturbed by both the dwelling and access to that dwelling, so as to gauge the impact that the dwelling and any access to that dwelling will have on the farm; and
- (e) Includes a survey plat or tax map on which the precise location of the proposed lot is noted.

(2) Corporation's or Similar Entity's Request for Children's Lot. The Foundation may not approve an application from a corporation, partnership, or other similar entity to have a child's lot released from an easement's restrictions unless the:

- (a) Entity's membership is comprised of family members who are actively engaged in the daily agricultural operations on the land; and
- (b) Entity is otherwise eligible to have a lot released.

(3) Owner's Lot. A landowner is entitled to have only one owner's lot released from the easement's restrictions regardless of how land is titled (that is, as tenants in common, in joint tenancy, or in a corporation's or partnership's name).

D. Tenant House. A landowner also may construct housing for tenants fully engaged in the operation of the farm. The procedure for the approval of a tenant house is provided by COMAR 15.15.03.

E. Public Not to be Granted Right of Access or of Use. Purchase of an easement by the Foundation does not grant the public any right of access or right of use of the subject property.

F. Granting Easements and Rights-of-Way.

(1) General Rule. After a landowner has sold an agricultural preservation easement to the Foundation, the landowner may not grant or permit another to establish an easement, right-of-way, or other servitude in that land without the Foundation's written permission.

(2) Exceptions to General Rule. The Foundation may permit an easement or right-of-way to be granted in land subjected to a preservation easement under the following circumstances:

(a) If it is to service a lot released from preservation easement restrictions under Agriculture Article, §2-513, Annotated Code of Maryland;

(b) If it is to service a neighboring farm, provided, however, that its use is restricted to the movement of farm equipment or other items associated with farming.

G. Permitted Uses.

(1) The Foundation may not purchase a preservation easement unless, as provided under Agriculture Article, §2-513, Annotated Code of Maryland, the easement instrument and the regulations in the county in which the easement is to be purchased permit the following uses on that land:

(a) Any farm use of land is permitted;

(b) Operation at any time of any machinery used in farm production or the primary processing of agricultural products is permitted; and

(c) All normal agricultural operations performed in accordance with good husbandry practices which do not cause bodily injury or directly endanger human health are permitted including, but not limited to, sale of farm products produced on the farm where these sales are made.

(2) A landowner may not use land subjected to a preservation easement for any purpose that is otherwise prohibited, inconsistent with, or contrary to State or local law, or the restrictions imposed by the preservation easement.

(3) In determining whether a particular use is inconsistent with or contrary to the preservation easement, the Foundation shall consider the following factors:

(a) Whether it is a commercial, industrial, or residential use;

(b) Whether it will likely have a negative impact on the agricultural operations of the farm on which it is to be implemented;

(c) Whether it has an historical relationship to farming (for example, goose hunting); and

(d) Whether it is temporal, seasonal, or permanent in nature.

H. Documentation Required For Agricultural Subdivision.

(1) A landowner may not subdivide land subject to restrictions of an agricultural land preservation district or easement without written approval from the Foundation.

(2) A landowner shall submit a written request for approval to the Foundation.

(3) All requests for agricultural subdivisions shall be decided on a case-by-case basis.

(4) A request shall be considered by the Foundation if:

(a) An application for agricultural subdivision has been fully and accurately completed and signed by all landowners;

(b) The landowner provides an unmarked copy of the tax map outlining the entire district or easement property;

(c) A second copy of the tax map is provided that clearly indicates the property boundaries of the district or easement and the area proposed to be agriculturally subdivided, including access to all pre-existing dwellings, lot exclusions, tenant houses, and farm buildings;

- (d) The county program administrator submits written verification to the Foundation describing the current overall farm operation, as well as the current and intended use of the proposed agricultural subdivision;
- (e) The local tax assessment office submits written documentation to the Foundation that the subdivided portion and the remaining portion of the original parcel continue to qualify for agricultural use assessment under Tax-Property Article, Annotated Code of Maryland;
- (f) The local agricultural land preservation advisory board submits a letter to the Foundation addressing the potential for continued agricultural use of the property and approving the request;
- (g) The proposed subdivision is intended for an agricultural purpose and both the parcel to be subdivided and the remaining parcel are able to sustain long-term agricultural production, independent from the other; and
- (h) The requested subdivision is consistent with county planning and zoning regulations, as evidenced by a letter of approval and recommendation or statement of conformity received from the local planning and zoning office or the county program administrator.

I. Property Requirements For Agricultural Subdivision.

- (1) The subdivided portion and all remaining parcels shall be at least 50 acres, and each parcel shall meet the minimum soils requirement, as provided by Regulation .03D of this chapter, for district establishment; and
- (2) A request for an agricultural subdivision may not be considered by the Foundation for land that is less than 100 acres, unless the property is subject to an agricultural preservation easement.

J. Exceptions to Property Size.

- (1) The Foundation may permit a subdivision of less than 50 acres of easement property if:
 - (a) One of the following exists:
 - (i) It is for the purpose of straightening a boundary; or
 - (ii) The parcel to be subdivided is conveyed to an adjoining easement property, the remaining parcel is at least 50 acres, and if the adjoining easement property is not a Foundation easement, it shall be restricted by a recorded instrument that permits agricultural activities and contains restrictions that are the same as or more stringent than those found in the Foundation's deed of easement; and
 - (b) The remaining portion of the original parcel meets the minimum soils criteria, as provided in Regulation .03D.
- (2) The Foundation may permit the subdivision of an easement property that is less than 100 acres if:
 - (a) The parcel to be subdivided is conveyed to an adjoining easement property; and
 - (b) The remaining portion of the original parcel consists of at least 50 acres.

K. Special Exceptions. If the request for an agricultural subdivision is being made as a special exception, the following documentation is required:

- (1) A recommendation to either endorse or deny the request for the subdivision from the local agricultural land preservation advisory board; and
- (2) When the request is not for a boundary line adjustment, letters of support from organizations such as the Soil Conservation Service and Forest Service that can attest to the long-term productive capabilities of both the proposed agricultural subdivision and the remaining parcel.

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Maryland dairy farmer fighting neighbors to open new creamery

5.20.2008

By STEPHANIE JORDAN
Associate Editor

GLEN ARM, Md. — Bellevale Farm in Baltimore County, an organic 260-acre farm milking 180 cows, has been in the Prigel family for more than 100 years.

Bob Prigel's great-grandfather began farming the land in 1895 as a sharecropper and was able to purchase the land in 1906. To try and remain a viable farm, the Prigels have decided to build a creamery on their farm to produce a full line of dairy products, including milk, yogurt, ice cream, butter and cheese so that their children have the option of keeping the land and staying in farming.

"This is about saving the family farm," Prigel said, adding that building the creamery and retail facility is necessary to keep the farm competitive with large farms out west that milk thousands of cows daily. But opposition from neighbors could cost the Prigels between \$50,000 and \$100,000 to defend the creamery they have the right, under law, to build.

"Agriculture has to be something where the farmer has access to consumers," Bob Prigel said. "We're not asking to do something we don't have the right to do."

Last year, Prigel met with community groups to let them know his family's intent to build a 9,960 square-foot facility to house the creamery, and 1,500 square feet in that building would be dedicated to retail (road-side stand). Prigel said he received support from both groups.

Prigel also went to the local county agricultural board, which also gave him its approval. And because Prigel's land is in a Maryland Agricultural Land Preservation Foundation (MALPF) easement, he also went before the state's agricultural board to get its approval.

Prigel then got a building permit, and began building his creamery. Zoning laws in Baltimore County require farmers who want road-side stands to have a use permit, so Prigel is in the process of obtaining

his use permit for the retail part of his facility.

Once someone requests a use permit, the community has the right to ask for a hearing to discuss what the farmer will be doing with that permit.

Prigel said one of his neighbors requested the hearing, and shortly afterward, the community groups who had previously given Prigel their support withdrew it, and are now vocally against the creamery and the roadside stand.

Those in opposition to the facility say that because Prigel's farm is under a MALPF easement, he does not have the right to take open space away from his farm.

"Most of my neighbors are supportive," he said. "But the minority (against us) is very vocal and have deep pockets. It's plain as day. We have the right to process and sell our product."

Prigel said after he met with the community groups last year and they gave him their support, they waited eight months later to let him know that they wanted the facility on the opposite side of the road from where the Prigel family was planning to build it. Work already had begun to prepare the land for the facility, and the Prigels did not want to put the building in another location.

"They say their pro-farm," Prigel said. "But they're not willing to allow what agriculture needs to stay in business. Open space is dependent upon profitable agriculture."

THIS DEED OF EASEMENT made this 15th day of January, 1997, by and between BELLEVALE FARM LIMITED PARTNERSHIP, a Maryland Limited Partnership, party of the first part, "Grantor", and the STATE OF MARYLAND, to the use of the Department of Agriculture on behalf of the Maryland Agricultural Land Preservation Foundation, party of the second part, "Grantee", and containing covenants intended to be real covenants running with the land,

WITNESSETH:

WHEREAS, Title 2 of Subtitle 5 of the Agriculture Article, Annotated Code of Maryland, created the Maryland Agricultural Land Preservation Foundation for the purpose of preserving agricultural land and woodland; and

WHEREAS, by authority of Agriculture Article, Section 2-504(3), Annotated Code of Maryland, the Grantee may purchase agricultural preservation easements to restrict land to agricultural use; and

WHEREAS, the Grantor owns the hereinafter described tracts or parcels of land located in an agricultural preservation district established pursuant to Agriculture Article, Section 2-509, Annotated Code of Maryland, and desires to sell an agricultural preservation easement to the Grantee to restrict the land to agricultural use.

NOW, THEREFORE, in consideration of the sum of Seven Hundred Ninety-Six Thousand Five Hundred Dollars and No Cents, (\$796,500.00) and other valuable consideration, the receipt of which is hereby acknowledged, the Grantor, the successors, personal representatives and assigns of the Grantor, do grant and convey, to the State of Maryland, for the use of the Grantee, its successors and assigns, an agricultural preservation easement in, on and over the hereinafter described tracts or parcels of land, subject to the covenants, conditions, limitations and restrictions hereinafter set forth, so as to constitute an equitable servitude thereon, that is to say:

All that certain tracts or parcels of land situate, lying and being in the Eleventh (11th) Election District of Baltimore County, Maryland, and being more particularly described as follows:

AGRICULTURAL TRANSFER TAX
NOT APPLICABLE

SIGNATURE

DATE

RECEIVED FOR TRANSFER
State Department of
Assessments & Taxation
for Baltimore County

By

Date

PARCEL NO. 1: BEGINNING for the same at a point in the center of Long Green Road said point being distant 814.72 feet South 74 degrees 39 minutes 47 seconds East from an iron pipe heretofore planted at the end of the fourth or North 87 degrees 10 minutes East 278 foot line of that tract of land which by deed dated May 2, 1908, and recorded among the Land Records of Baltimore County in Liber W.P.C. No. 328 folio 101 etc., was conveyed by Samuel M. Rankin and wife to The Home Mission Board of the Eastern District of Maryland, German Baptist Brethren Church, thence running and binding in the said center of Long Green Road, South 73 degrees 01 minute 55 seconds East 150.00 feet thence leaving said center of said road and running for lines of division the three following courses and distances South 1 degree 24 minutes 05 seconds West passing over an iron pipe now planted near the side of said road 20.76 feet from the beginning hereof, in all 320.76 feet to an iron pipe now planted, North 73 degrees 01 minutes 55 seconds West 150.00 feet to an iron pipe now planted and North 1 degree 24 minutes 05 seconds East passing over an iron pipe now planted near the side of said road 20.76 feet from the end hereof in all 320.76 feet to the place of beginning. Containing 1.064 acres of land more or less, as surveyed by Thompson and Grace, Engineers and Surveyors on June 8, 1959.

PARCEL NO. 2: BEGINNING for the same at a stone at the beginning of a tract of land called "Prospect Hill" and running thence South $88\frac{1}{2}$ degrees West $55\frac{1}{2}$ perches to the Northeast corner of the land sold and conveyed by S. M. Rankin and wife, to Joseph Schneider, thence bounding thereon reversely, South $19\frac{1}{2}$ degrees West the bearing affected by local attraction, reversing North 20 degrees East 93 perches to a post on the west side of the County Road, from Unionville to Long Green Station, thence in said Road North $31\frac{1}{2}$ degrees West 18 $\frac{36}{100}$ perches, thence South 62 degrees West 4 $\frac{64}{100}$ perches to the outline of Charles P. Powel's land, formerly Isaac Hertzler's, thence with Powel's land, South 13 degrees East 12 perches to place of chestnut stump, South $9\frac{3}{4}$ degrees East 137 perches to a stone, a corner of Caleb Wilson's land, and that of Charles P. Powel, thence bounding on Caleb Wilson's land, South $21\frac{1}{2}$ degrees East 70 perches to a stone, then bounding on land formerly belonging to Scharfe, North $47\frac{3}{4}$ degrees East 55 $\frac{6}{10}$ perches to a stone heretofore planted, and South $43\frac{3}{4}$ degrees East 80 perches, thence bounding on land of Streett North $81\frac{1}{2}$ degrees East 11 perches to a Poplar Tree, thence North $5\frac{1}{2}$ degrees East 26 perches, North $16\frac{1}{2}$ degrees West 11 perches, North $5\frac{1}{2}$ degrees East 15 perches to a stone heretofore planted in the outline of John V. Wilson's land, thence bounding on said John V. Wilson's land, seven courses, to wit: North 50 degrees West 36 perches, North $4\frac{1}{2}$ degrees West $75\frac{1}{2}$ perches to the corner of the fence by the house, North 84 degrees East $6\frac{1}{2}$ perches, North $5\frac{1}{2}$ degrees West 28 perches to the center of the said County road, then in said Road one course, North 68 degrees West 21 perches, thence North $22\frac{1}{2}$ degrees East $48\frac{1}{2}$ perches, North $28\frac{1}{2}$ degrees East 71 perches, thence North $65\frac{1}{2}$ degrees West $55\frac{1}{2}$ perches and South 57 degrees West $16\frac{1}{2}$ perches to the place of beginning. Containing one hundred and ninety-eight acres, no roods, and six square perches, more or less, of which seventy-six acres, two roods and sixteen square perches lie North of the County Road, and one hundred and twenty-one acres, one rood and thirty square perches South of the Road.

TOGETHER with all the interest which the said Samuel M. Rankin acquired in and by a Deed from John Schmidt and wife, dated May 13th, 1879, and recorded among the Land Records of Baltimore County in Liber W.M.I. No. 117, folio 25 etc., being a water-right.

BEING the firstly and secondly described parcels of land which by Confirmatory Deed dated December 29, 1977 and recorded among the Land Records of Baltimore County, Maryland in Liber E.H.K. Jr. No. 5842 folio 117 were granted and conveyed by Robert Earl Prigel and Carol Anne Prigel, his wife, unto Bellevale Farm Limited Partnership.

SAVING AND EXCEPTING, HOWEVER, THE FOLLOWING PARCELS OF LAND:

1. All that parcel of land which by a Deed dated May 2, 1908, and recorded among the Land Records of Baltimore County in Liber W.P.C. No. 328 folio 101, etc., was conveyed by Samuel M. Rankin and wife, to Home Mission of the Eastern District of Maryland German Baptist Brethren Church, containing one and fifty-two one hundredths of an acre of land, more or less.

2. All those four parcels of land which by a Deed dated September 15, 1910, and recorded among the Land Records of Baltimore County in Liber W.P.C. No. 365, folio 428, was conveyed by John M. Prigel and Wilhelmina E. Prigel, his wife, to Susquehanna Transmission Company of Maryland, containing 11.774 acres, more or less.

3. All that parcel of land which by a Deed dated February 4, 1913, and recorded among the Land Records of Baltimore County in Liber W.P.C. No. 406, folio 540, was conveyed by John Mathias Prigel and Wilhelmina Emily Prigel, his wife, to Joseph Smyser Southard and Anne Mary Teresha Southard, his wife, containing 41,555 square feet, more or less.

4. All that parcel of land which by a Deed dated December 21, 1948, and recorded among the Land records of Baltimore County in Liber T.B.S. No. 1720, folio 351, was conveyed by John M. Prigel and Emma E. Prigel, his wife, to Susquehanna Transmission Company of Maryland, containing 1.386 acres of land, more or less.

5. All that parcel of land which by a Deed dated June 15, 1959, and recorded among the Land Records of Baltimore County in Liber W.J.R. No. 3544, folio 266, was conveyed by John M. Prigel and Emma Elizabeth Prigel, his wife, to Robert Earl Prigel and Carol Anne Prigel, his wife, containing 1.064 acres of land, more or less.

6. All that parcel of land which by a Deed dated July 21, 1958, and recorded among the Land Records of Baltimore County in Liber G.L.B. No. 3385, folio 441, was conveyed by John M. Prigel and Emma E. Prigel, his wife, to the Trustees of the Long Green Valley Church of the Brethren, containing 0.918 acres of land, more or less.

7. All that parcel of land which by a Deed dated June 17, 1963, and recorded among the Land Records of Baltimore County in Liber 4157, folio 183, was conveyed by Robert Earl Prigel and Carol Anne Prigel, his wife to Wilbur S. Gosnell and Martha M. Gosnell, his wife, containing 1.12 acres of land, more or less.

AND the Grantor covenants for and on behalf of Grantor, the personal representatives, successors and assigns of the Grantor, with the Grantee, its successors and assigns, to do and refrain from doing upon the above described land all and any of the various acts set forth, it being the intention of the parties that the said land shall be preserved solely for agricultural use in accordance with the provisions of the Agriculture Article, Title 2, Subtitle 5, Annotated Code of Maryland, and that the covenants, conditions, limitations and restrictions hereinafter set forth, are intended to limit the use of the above described land and are to be deemed and construed as real covenants running with the land.

COVENANTS, CONDITIONS, LIMITATIONS AND RESTRICTIONS

A. Subject to the reservations hereinafter contained, the Grantor for the Grantor, the successors, personal representatives, successors and assigns of the Grantor, covenants and agrees as follows:

- (1) (a) Except as otherwise provided in this instrument, the above described land may not be used for any commercial, industrial, or residential purpose.

- (b) As a personal covenant only and one that is not intended to run with the land, the Grantee, on written application from the Grantor, shall release free of easement restrictions only for the Grantor who originally sold this easement, 1 acre or less for the purpose of constructing a dwelling house for the use only of that Grantor or the Grantor's child subject to the following conditions:
- (i) The total number of lots allowed to be released under this paragraph may not exceed 10 lots of 1 acre or less at a maximum of not more than 1 lot for each 20 acres or portion thereof;
 - (ii) The Grantor shall pay the Grantee for any acre or portion thereof released at the price per acre that the Grantee paid the Grantor for the easement;
 - (iii) Before any conveyance or release, the Grantor and the child, if there is a conveyance to a child, shall agree not to subdivide further any acreage allowed to be released; the agreement shall be recorded among the land records where the land is located and shall bind all future owners; and
 - (iv) If, while the above described land was in an agricultural preservation district, the Foundation released free of the district's restrictions for a person owning that land, 1 acre or less for the purpose of constructing a dwelling house for the use of that Grantor or the Grantor's child, the Grantee may not release free of easement restrictions for the Grantor, an additional lot for the same purpose; for each lot that the Grantor had excluded from the district's restrictions for this purpose, the number of lots that the Grantor otherwise would be entitled to have released under paragraph (1)(b) is reduced by one.
- (c) Application for Lot Exclusion. Before a lot may be released from an easement's restrictions for the construction of a dwelling house, the landowner shall submit an application to

the Foundation that;

- (i) The landowner has signed;
 - (ii) Contains a declaration that the lot and dwelling house are only for the use of the landowner or the landowner's child, whichever is the case (if the use is for the landowner's child, identify the child);
 - (iii) Includes signed statements indicating approval of the release from the local agricultural land preservation advisory board and confirmation from the county planning and zoning department that the proposed lot appears to meet local zoning regulations;
 - (iv) Includes a description of the land to be excluded and affected by both the dwelling and access to that dwelling, so as to gauge the impact that the dwelling and any access to that dwelling will have on the agricultural operations of the farm;
 - (v) Includes a survey plat or tax map on which the precise location of the proposed lot is noted.
- (d) After certifying that the landowner or child of the landowner has met the conditions provided in subsections (a) and (b) of this section, the Foundation shall issue a Preliminary Release which shall:
- (i) Become final when the Foundation receives and certifies a non-transferrable building permit in the name of the landowner (or child of the landowner if the proposed lot is intended for the landowner's child's use) for the construction of a dwelling house; or
 - (ii) Become void upon the death of the person for whose benefit the release was intended if the Foundation has not yet received a building permit as provided in this regulation.

- (e) Any preliminary or final release, building permit or other document issued or submitted in accordance with this section shall be recorded among the land records where the land is located at the landowner's expense and shall bind all future owners.

The limitations set forth under paragraph (1)(b) that the maximum lot size be 1 acre or less is increased to 2 acres or less if the circumstances described in Agriculture Article, Section 2-513, Annotated Code of Maryland, exist.

The right reserved to the Grantor under paragraph (1)(b) belongs only to the Grantor who originally sold this easement and may be exercised only by the Grantor named in the instrument.

- (f) The Grantor may construct housing for tenants fully engaged in operation of the farm, but this construction may not exceed 1 tenant house per 100 acres. The land on which a tenant house is constructed may not be subdivided or conveyed to any person, nor may the tenant house be conveyed separately from the original parcel.
- (g) The land subject to this Deed of Easement may not be subdivided for any purpose including subdivision, off conveyance and the movement of boundary lines unless written approval first has been obtained from the Grantee.
- (h) No development rights from the above described tract(s) or parcel(s) may be transferred to another area, or to another person, or to a political subdivision.
- (i) On written request to the Grantee, the Grantor may exclude from the easement restrictions one acre or less surrounding each single dwelling house, which existed as of the date of this Deed of Easement by a land survey and recordation provided at the expense of the Grantor or Grantor's personal representatives, successors or assigns. However, before any exclusion is granted, the Grantor shall agree with the Grantee not to subdivide further any acreage to be released and said agreement shall be recorded among the land records where the land is located and shall bind all future owners.

- (j) No rights-of-way, easements, oil, gas or mineral leases, or other similar servitude may be conveyed, or permitted to be established in the above described land without the Grantee's express permission.
 - (k) Unless written approval is first obtained from the Grantee, no easement or other restriction may be granted to any person or government agency in land subject to this deed of easement.
- (2) No signs, billboards, or outdoor advertising displays may be erected, displayed, placed or maintained on the land herein described; provided, however, the Grantor reserves the right to erect signs not exceeding 4 feet x 4 feet for each of the following purposes:
- (a) to state the name of the property and the name and address of the occupant;
 - (b) to advertise any home or ancillary occupations consistent with the purposes of this easement subject to the approval of the Grantee; and
 - (c) to advertise the property's sale or rental.
- (3) No ashes, sawdust, bark, trash, rubbish or any other material may be dumped on the above described land; provided, however, the Grantor reserves the right to dump any material which is for regular agricultural use.

The Grantor reserves the right to use the above described land for any farm use, and to carry on all normal farming practices, including the operation at any time of any machinery used in farm production or the primary processing of any agricultural products; the right to conduct upon the said land any agricultural operation which is in accordance with good husbandry practices and which does not cause bodily injury or directly endanger human health, including any operation directly relating to the processing, storage, or sale of farm, agricultural or woodland products produced on the said above described land; and all other rights and privileges not hereby relinquished, including the Grantor's right of privacy.

- B. And the parties, for themselves, their personal representatives, successors and assigns, further covenant and agree as follows:
- (1) The above described land shall be managed in accordance with sound agricultural soil and water conservation practices so as to promote the agricultural capability of the land; also woodland shall be managed in accordance with sound forestry practices; provided, however, the Grantor reserves the right to selectively cut or clear cut from time to time trees which will not alter the agricultural character of the land or diminish its productive capability.
 - (2) The Grantor shall implement all soil conservation and water quality practices that are contained within a soil conservation plan approved by the local soil conservation district, made or revised within the last ten years of the date of the application to sell an easement, which lists all soils conservation and water quality problem areas on the land. The plan shall be implemented according to the schedule of implementation contained within the plan which exists at the time of easement settlement. Revisions to the schedule of implementation may be made as approved by the Board of Supervisors of the local soil conservation district, however, the plan shall be fully implemented within ten years of the easement settlement date. Exceptions may be considered by the Grantee on a case by case basis.
 - (3) The Grantor shall implement a forest management plan demonstrating proper forest management techniques if 50% or more of the acreage contained in the property consists of woodland.
 - (4) The Grantee or its authorized representative shall have the right to enter on the above described land from time to time for the sole purpose of inspection and enforcement of the easement, covenants, conditions, limitations and restrictions herein contained; provided, however, that the Grantee shall have no right to inspect the interior of any structures on the above described land.
 - (5) If the easement or any covenant, condition, limitation or restriction herein contained is violated or breached, the Grantee may after due notice to the Grantor, the Grantor's personal

representatives, successors or assigns, institute an action in equity to enjoin, by ex parte, temporary or permanent injunction, such violation or breach; to require the restoration of the above described land to its condition prior to such violation or breach; to recover damages; and to take such other legal action as may be necessary to insure compliance with the easement and the covenants, conditions, limitations and restrictions herein contained.

- (6) If the Grantor has any doubts concerning the easement, covenants conditions, limitations or restrictions herein contained with respect to any particular use of the said land, the Grantor may submit a written request to the Grantee for consideration and approval of such use.
- (7) This easement does not grant the public any right to access or any right of use of the above described land.
- (8) Nothing herein contained shall relieve the Grantor, the Grantor's personal representatives, successors or assigns of the obligation to pay real estate taxes.
- (9) This easement shall be in perpetuity, or for so long as profitable farming is feasible on the Grantor's land and may be released only by the Grantee as provided by Agriculture Article, Section 2-514, Annotated Code of Maryland.

AND the Grantor further covenants that the Grantor has not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that the Grantor will warrant specially the property interest hereby conveyed; and that the Grantor will execute such further assurances of the same as may be required.

Miscellaneous Provisions

- A. As used herein the singular form of a word includes both the singular and plural, the plural form of a word includes both plural and singular, and reference to words of certain gender includes reference to all genders.
- B. The provisions of this Deed of Easement shall be governed by the laws of the State of Maryland and the parties hereby expressly agree that the courts of the State of Maryland shall have jurisdiction to decide any question arising

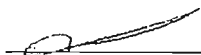
hereunder after all administrative remedies have been exhausted.

- C. No determination by any court, governmental body or otherwise that any provision of this Deed of Easement is invalid or unenforceable in any instance shall affect the validity or enforceability of (a) any other such provision, or (b) such provision in any circumstance not controlled by such determination. Each such provision shall be valid and enforceable to the fullest extent allowed by, and shall be construed wherever possible as being consistent with, applicable law.
- D. Notwithstanding any provision herein to the contrary, the three (3) dwellings existing as of the date of this Deed of Easement may be used for any lawful purpose (e.g. for residential purposes), unless otherwise prohibited by law.

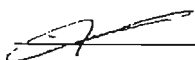
AS WITNESS the hand and seal of the Grantor.

WITNESS:

BELLEVALE FARM LIMITED PARTNERSHIP



BY: Robert Earl Prigel (SEAL)
Robert Earl Prigel, General Partner

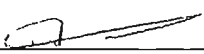


BY: Carol Anne Prigel (SEAL)
Carol Anne Prigel, General Partner

STATE OF MARYLAND, COUNTY OF Balt, To Wit:

I HEREBY CERTIFY that, on this 18th day of June, 1997, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared ROBERT EARL PRIGEL, who acknowledged himself to be a General Partner of Bellevale Farm Limited Partnership, a Maryland Limited Partnership, and as such General Partner, acknowledged that he executed the same for the purposes therein contained by signing the name of the Limited Partnership by himself as a General Partner.

AS WITNESS my hand and Notarial Seal.


Notary Public

HENRY I. LOUIS
NOTARY PUBLIC
BALTIMORE COUNTY, MD

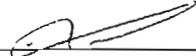
My Commission Expires: 11/1/97

0012239 536

STATE OF MARYLAND, COUNTY OF Baltimore, To Wit:

I HEREBY CERTIFY that, on this 18th day of June, 1997, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared CAROL ANNE PRIGEL, who acknowledged herself to be a General Partner of Bellevale Farm Limited Partnership, a Maryland Limited Partnership, and as such General Partner, acknowledged that she executed the same for the purposes therein contained by signing the name of the Limited Partnership by herself as a General Partner.

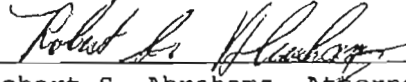
AS WITNESS my hand and Notarial Seal.


Notary Public

HENRY I. LOUIS
NOTARY PUBLIC
BALTIMORE COUNTY, MD

My Commission Expires: 10/1/97

THIS IS TO CERTIFY that the within instrument was prepared by or under the supervision of the undersigned Maryland attorney or by a party to this instrument.


Robert S. Abrahams, Attorney-at-Law

a:\bftdptsp.d

0012239 537

State of Maryland Land Instrument Intake Sheet

☐ Baltimore City ☒ County: Baltimore BC-12344-83

Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and County Finance Office only.

(Type or Print in Black Ink Only—All Copies Must Be Legible)

(☐ Check Box if Addendum Intake Form is Attached.)

1	Type(s) of Instruments	☒ Deed of Conveyance ☐ Deed of Trust	☐ Mortgage Lease ☐ Other	☐ Other
2	Conveyance Type Check Box	☒ Improved Sale Arms-Length [1] ☐ Unimproved Sale Arms-Length [2] ☐ Multiple Accounts Arms-Length [3] ☐ Not an Arms-Length Sale [9]		
3	Tax Exemptions (if Applicable) Cite or Explain Authority	Recordation State Transfer County Transfer	State of Maryland	

INSTRUMENT SURE # 5.00
RECORDING FEE 75.00
TOTAL 80.00
REST BAO2 RCT # 21757
SH BC RIK # 1956
JUL 20, 1997 10:30 AM

4	Consideration and Tax Calculations	Consideration Amount		Finance Office Use Only					
		Transfer and Recordation Tax Consideration							
		Purchase Price/Consideration	\$ 796,500.00	Transfer Tax Consideration	\$				
		Any New Mortgage	\$	X () % =	\$				
		Balance of Existing Mortgage	\$	Less Exemption Amount -	\$				
		Other:	\$	Total Transfer Tax =	\$				
		Other:	\$	Recordation Tax Consideration	\$				
		Full Cash Value	\$	X () per \$500 =	\$				
				TOTAL DUE	\$				
5	Fees	Amount of Fees		Doc. 1		Doc. 2		Agent:	
		Recording Charge		\$ 75.00	\$			Tax Bill:	
		Surcharge		\$ 5.00	\$			C.B. Credit:	
		State Recordation Tax		\$ 10.00	\$			Ag. Tax/Other:	
		State Transfer Tax		\$ 10.00	\$				
		County Transfer Tax		\$ 10.00	\$				
		Other		\$	\$				
		Other		\$	\$				

6	Description of Property SDAT requires submission of all applicable information. A maximum of 40 characters will be indexed in accordance with the priority cited in Real Property Article Section 3-104(g)(3)(i).	District	Property Tax ID No. (1)	Grantor Liber/Folio	Map	Parcel No.	Var. LOG	
		Subdivision Name		Lot (3a)	Block (3b)	Sect/AR(3c)	Plat Ref.	SqFt/Acreage (4)
		Location/Address of Property Being Conveyed (2) 4851 Long Green Rd Glen Arm, Md. 21057						
		Other Property Identifiers (if applicable)					Water Meter Account No.	
		Residential ☐ or Non-Residential ☒ Fee Simple ☒ or Ground Rent ☐ Amount:						
		Partial Conveyance? ☐ Yes ☒ No Description/Amt. of SqFt/Acreage Transferred:						
		If Partial Conveyance, List Improvements Conveyed:						

7	Transferred From	Doc. 1 - Grantor(s) Name(s)		Doc. 2 - Grantor(s) Name(s)	
		Bellevalle Farm Limited Partnership			
		Doc. 1 - Owner(s) of Record, if Different from Grantor(s)		Doc. 2 - Owner(s) of Record, if Different from Grantor(s)	

8	Transferred To	Doc. 1 - Grantee(s) Name(s)		Doc. 2 - Grantee(s) Name(s)	
		State of Maryland			
		New Owner's (Grantee) Mailing Address			
		4851 Long Green Rd Glen Arm, Md. 21057			

9	Other Names to Be Indexed	Doc. 1 - Additional Names to be Indexed (Optional)		Doc. 2 - Additional Names to be Indexed (Optional)	

10	Contact/Mail Information	Instrument Submitted By or Contact Person		☐ Return to Contact Person	
		Name: MARYLAND COMMERCIAL TITLE COMPANY Henry Firm: 5 LIGHT STREET Address: SUITE 1000 BALTIMORE, MARYLAND 21202 Phone: (410) 727-8050		☐ Hold for Pickup ☒ Return Address Provided	

11	Assessment Information	IMPORTANT: BOTH THE ORIGINAL DEED AND A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER							
		No Will the property being conveyed be the grantee's principal residence? No Does transfer include personal property? If yes, identify: No Was property surveyed? If yes, attach copy of survey (if recorded, no copy required).							
		Assessment Use Only - Do Not Write Below This Line							
		☐ Terminal Verification ☐ Agricultural Verification ☐ Whole ☐ Part ☐ Tran. Process Verification							
		Transfer Number:		Date Received:		Deed Reference:		Assigned Property No.:	
		Year	19	19	Geo.	Map	Sub	Block	
		Land			Zoning	Grid	Plat	Lot	
		Buildings			Use	Parcel	Section	Occ. Cd.	
		Total			Town Cd.	Ex. St.	Ex. Cd.		
		REMARKS:							

Distribution: White - Clerk's Office
Canary - SDAT
Pink - Office of Finance
Goldenrod - Preparer

TRANSFER TAX NOT REQUIRED
Director of Budget and Finance
BALTIMORE COUNTY MARYLAND
Per [Signature]
Authorized Signature
Date 6-20-97 Sec 33-139 H



DISTRICT COURT OF MARYLAND FOR BALTIMORE COUNTY
120 E. CHESAPEAKE AVENUE (V)
TOWSON, MD 21286-5307
TELEPHONE NUMBER: (410) 512-2000

0804



Civil Case No.: 0804 - 0023532 - 2008

Complaint No.: 001

To: ROSENBLATT, ADAM M 009320
BALTIMORE CO. OFC OF LAW
400 WASHINGTON AVE.
TOWSON, MD 21204

Regarding: PLAH DEVELOPMENT GROUP
VS.
BALTIMORE COUNTY, MARYLAND

Date: July 30, 2008

The Court has scheduled a proceeding in the case named above.

Type of Proceeding: MERIT TRIAL
Date: October 03, 2008
Session Time: 09:00 AM
Courtroom Number: 02
Court Location: 120 E. CHESAPEAKE AVENUE
TOWSON, MD 21286-5307

If the anticipated amount of time required for this trial/hearing is more than one hour,
please notify the court in writing of the estimated time required.

**Courtroom assignments are subject to change. Check docket board for verification
of case location upon arrival to Court.**

RECEIVED

AUG 1 2008

LAW OFFICE

Visit our website for directions and information about procedures.

Our web address is www.courts.state.md.us/district

To request a foreign language interpreter or a reasonable accommodation under
the Americans with Disabilities Act, please contact the court immediately.

TTY users call 1-800-925-9690 or use the Maryland Relay Service at 1-800-735-2258 or 711

Please contact the above Court location for restrictions regarding cameras and cell phones, for they may not be allowed in the courthouse.

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2007, Legislative Day No. ____

Bill No. ____

The Honorable James T. Smith, Jr., Baltimore County Executive

By the County Council, ____, 2008

A BILL
ENTITLED

AN ACT concerning

Creameries in the R.C. Zones

FOR the purpose of clarifying the zoning regulations to permit in the R.C. Zones; and generally relating to the requirements for creameries, dairy processing facilities and farm markets in the R.C. Zones.

BY adding

Section 101, the definition for Dairying
Baltimore County Zoning Regulations, as amended

BY repealing, and re-enacting, with amendments

Section 101, the definition for Farmer's Roadside Stand
Baltimore County Zoning Regulations, as amended

SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that the definition of Dairying has been added within Section 101 of the Baltimore County Zoning Regulations, as amended, to read as follows:

DAIRYING - THE BUSINESS OF CONDUCTING A DAIRY, INCLUDING PROCESSING AND MARKETING OF DAIRY PRODUCTS SUCH AS MILK, BUTTER, CHEESE, ICE CREAM AND YOGURT. PROCESSING, PACKAGING AND MARKETING ACTIVITIES ON ANY FARM SHALL OCCUPY NO MORE THAN 10%

EXPLANATION:

CAPITALS INDICATE MATTER ADDED TO EXISTING LAW
[Brackets] indicate matter stricken from existing law.
~~Strike-out~~ indicates matter stricken from bill.
Underlining indicates amendments to bill.

PETITIONER'S

EXHIBIT NO. 6


NOT ADMITTED

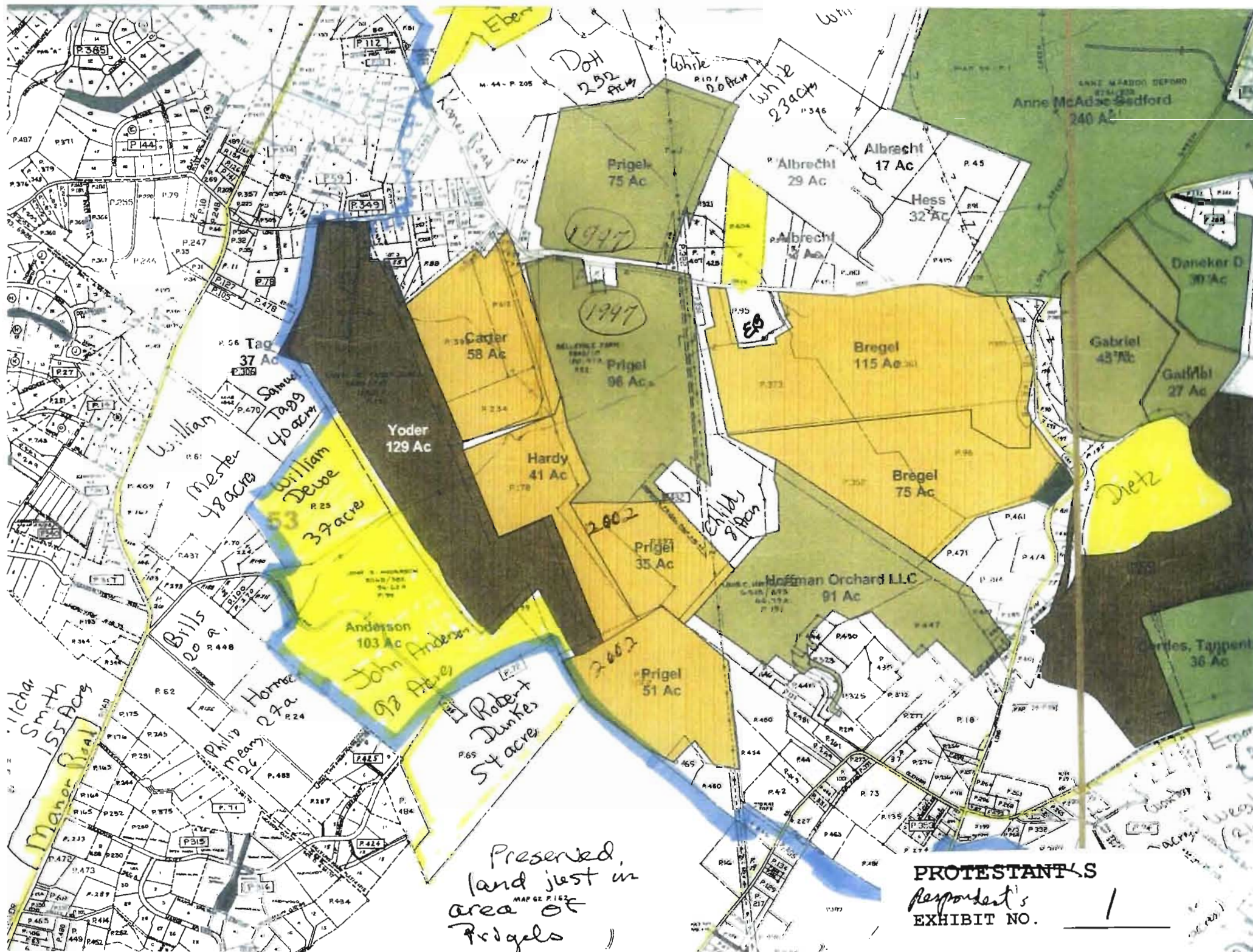
OF THE FARM PROPERTY ON WHICH THE OVERALL DAIRYING OCCURS OR 2 ACRES IN AREA, WHICHEVER IS LESS.

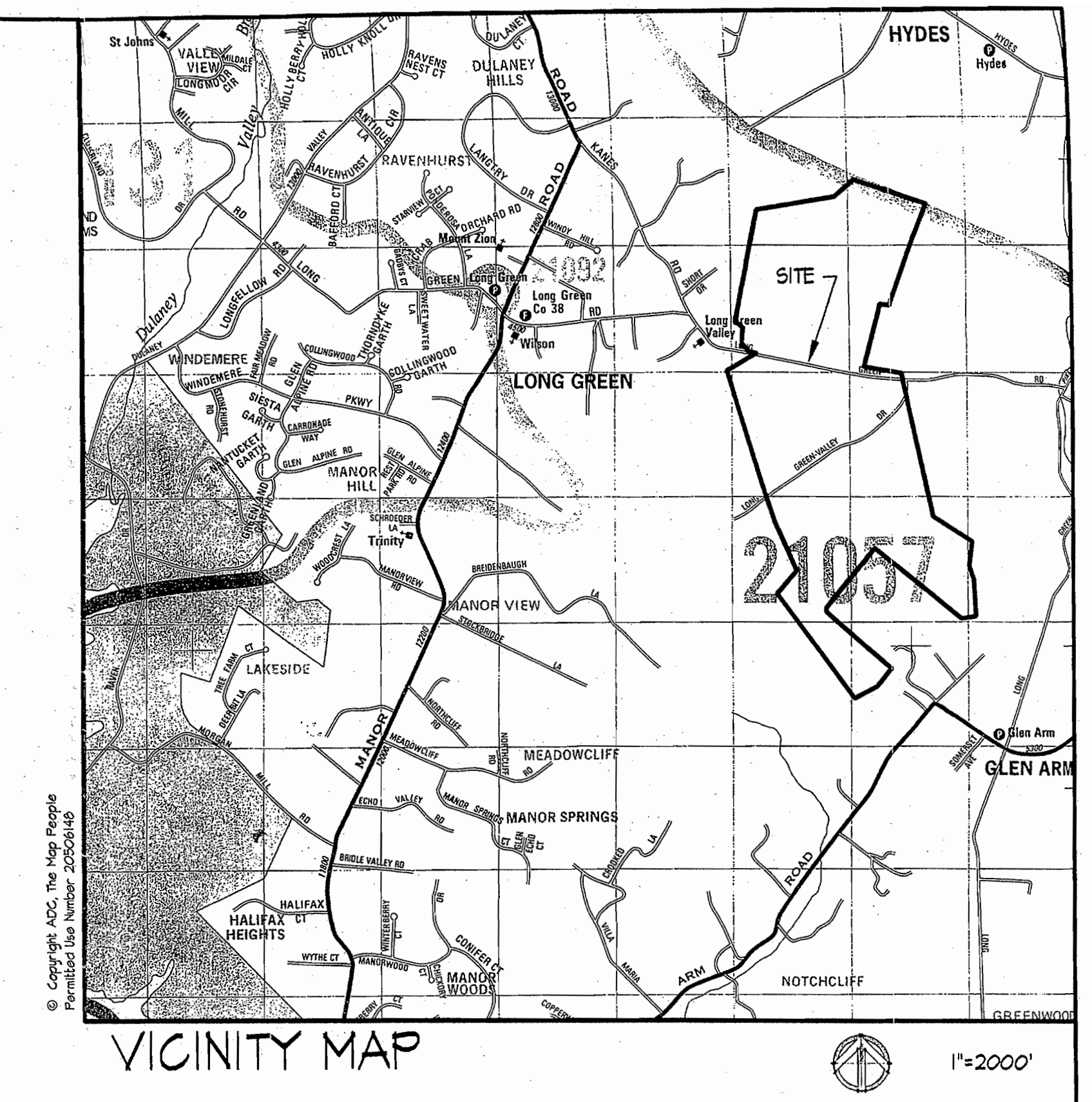
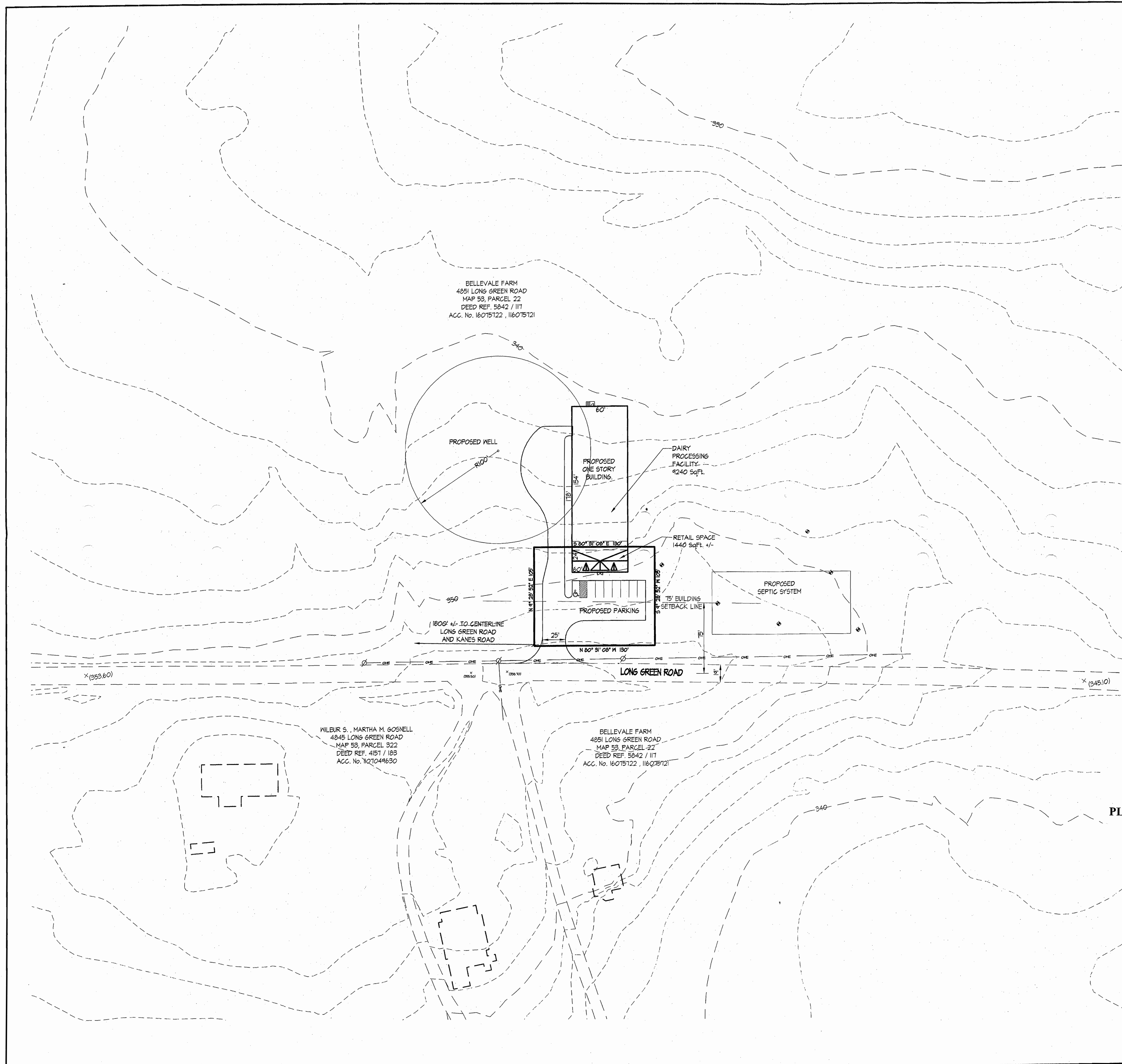
SECTION 2. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that the definition of Farmer's Roadside Stand within Section 101 of the Baltimore County Zoning Regulations, as amended, be and is hereby repealed and re-enacted, with amendments to read as follows:

An accessory structure owned and operated by an agricultural producer, used for the sale of indigenous farm products, INCLUDING DAIRY PRODUCTS, the majority of which have been grown OR PRODUCED on the premises, on adjacent land or on properties farmed by the same agricultural producer.

SECTION 3. AND BE IT FURTHER ENACTED, that this Act having been passed by the affirmative vote of ____ members of the County Council, shall take effect on _____, 2008.

401965



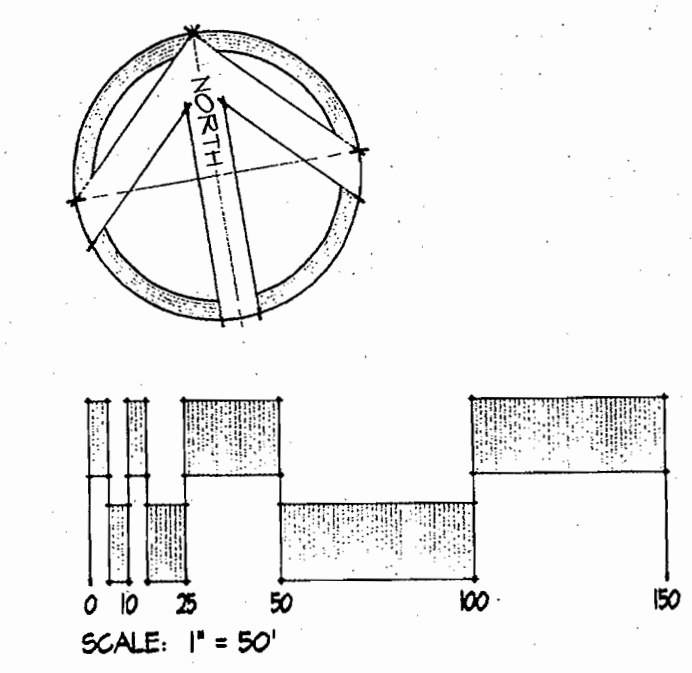


- NOTES**
- Property Owner: Bellevale Farm
C/O Robert Prigel
4851 Long Green Road
Glen Arm, Maryland 21057 - 4125
410-542-6014
 - Site Area : 195.609 +/- Acres Total
 - Existing Use: Agricultural
 - Proposed Use: *Farmer's Roadside Stand*
Farm Market, or alternatively
 - Site Data:
Tax Map 53, Grid II, Parcel 22
Tax Acct. No.: 1116075122, 1116075121
Deed Reference: 5842 / 117

Zoning : RC2
Election District: II
Councilmanic District: 3
 - Parking provided: 8 spaces (including 1 handicap sp.)
 - Any proposed sign to be in accordance with Baltimore County regulations.
 - Site is not within the 100 Yr. Flood Plain as shown on FIRM 240010 0260 B.
 - Previous Zoning Cases
5122
68-271X
XI-351 - Created Lot 1 and 1 Parcel

**PLAT TO ACCOMPANY PETITION
FOR SPECIAL HEARING
PLAT PREPARED BY SITE RESOURCES
FOR PROPERTY OWNER**

PETITIONERS ARE NOT PROPERTY OWNERS



Bellevale Farm

PROPERTY OF
Robert Prigel
11th ELECTION DIST, BALTIMORE COUNTY, MD

REVISIONS



SITE RESOURCES
INCORPORATED
Comprehensive Land Planning & Site Design Services
14515 Jarrellville Pike • Phoenix, Maryland 21131
(410) 683-3388 • Fax (410) 683-3389

DRAWN BY: C65	CONTRACT NO.:
DESIGNED BY: SRI	SCALE: 1" = 50'
CHECKED BY: SRI	SRI PROJECT NO: 07089
DATE: 3/31/08	SHEET 1 OF 1

210707089-Prigel PropertyZoning Petition.dwg, 3/31/2008 9:58:23 AM, Copyright, Site Resources, Inc.

Drawn off 2009-0500-SRI



Plan Sheet: 053C1

Note:
The zoning depicted in this application incorporates the actions associated with County Council Bills 82-04, 83-04, 84-04, 85-04, 86-04, 87-04, 88-04, and 89-04 adopted by the County Council on August 31, 2004. The action associated with County Council Bill 130-04 adopted on December 6, 2004 is also depicted. In addition, County Board of Appeals actions from MC 05-01, MC 05-02, MC 05-03, and MC 05-04 on February 9, 2005 are represented in this application.

Legend

- Zoning
- Streams
- Vegetation
- Buildings
- Roads
- Rail Lines

Baltimore County Office of Planning and Zoning Official Zoning Map

044A3	044B3	044C3	045A3	045B3
053A1	053B1	053C1	054A1	054B1
053A2	053B2	053C2	054A2	054B2

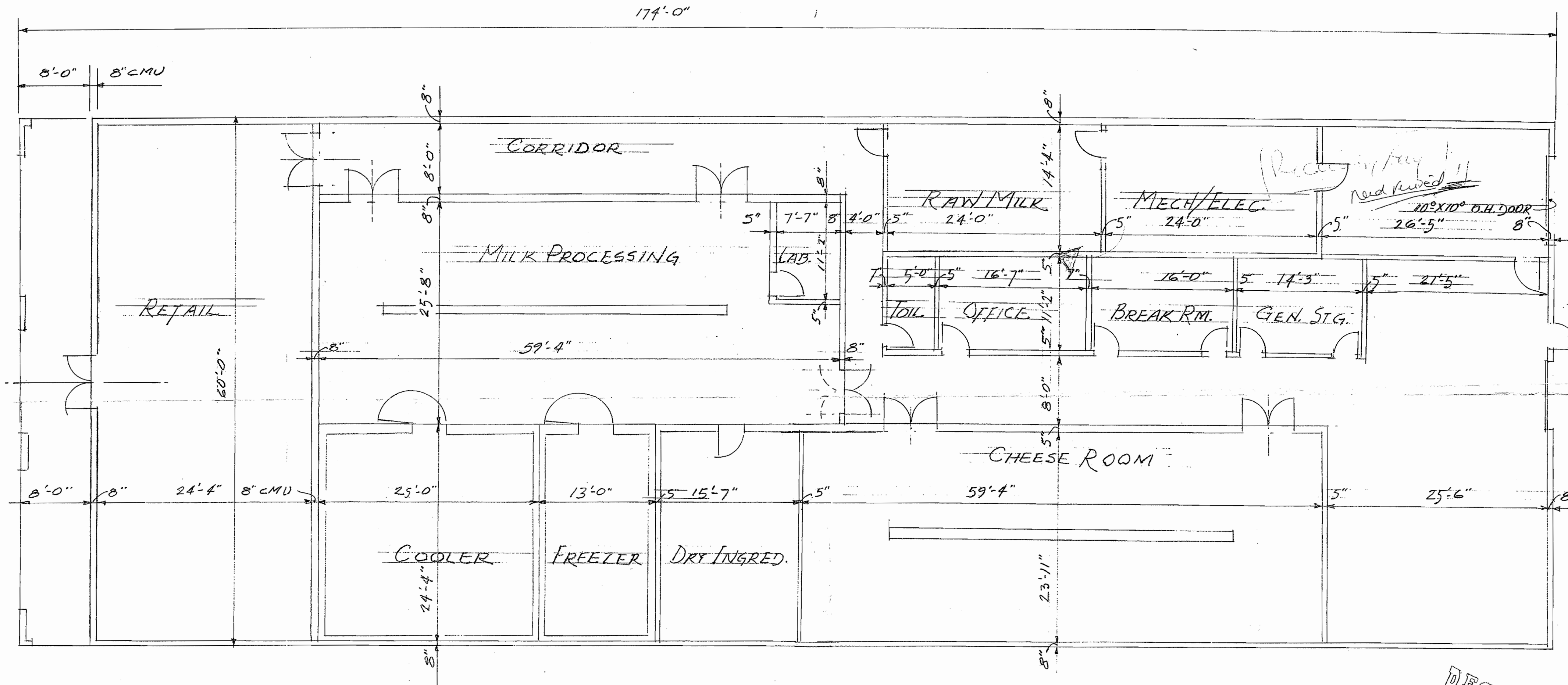
Scale
1" = 200'

0 100 200 400
Feet

1

Data Sources:
Planimetric Data - Baltimore County
OIT/GIS Services Unit
1:2400, from 1995/96 photography
Zoning - Baltimore County Office of Planning
1:2400, 2004

Bbb-1 Png-el
 410-592-6014
 611-443-695-4215



FLOOR PLAN

Speak with P. Fregal.
 10/11/08: How is milk being transferred from
 farm to plant?

- 1. Sample Hotel Milk truck
 - or
 - 2. Milk truck as a trailer
- } will be washed in receiving bay.

1. REFER TO DWG 700190-01, PRINTED 9/11/07, FOR DETAILS NOT REVISED BY THIS DWG.
2. THIS DWG. REFLECTS RECONFIGURING OF SOME ROOMS AND THEIR DIMENSIONS.

RECEIVED
 MAY 27 2008

PETITIONER'S
 EXHIBIT NO. 3

PRELIM. PRINT 5/26/08
 NOT FOR CONSTRUCTION

SCALE: 1/8" = 1'-0"	APPROVED BY:	DRAWN BY: <i>MSK</i>
DATE:		REVISED: 5/24/08
DRAWING NUMBER 700190-01-R		