

IN RE: **PETITIONS FOR SPECIAL HEARING** *

E/Side of Old York Road, (MD Route 562)

2,020' & 3,000' S of Intersection with *

Old York Road & Markoe Road

(Old York Road) *

10th Election District

3rd Council District *

Estate of Elizabeth W. Constable by *

James W. Constable, Esquire, Personal

Representative, *Legal Owner* *

Eleanor W. Reade, *Contract Purchaser* *

and *Petitioner*

BEFORE THE

ZONING COMMISSIONER

OF

BALTIMORE COUNTY

Case Nos. 2009-0124-SPH

and

2009-0125-SPH

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Hearing filed by Eleanor W. Reade, the contract purchaser of properties owned by the Estate of Elizabeth W. Constable (Constable) located on Old York Road, south of Markoe Road, in Monkton. Since the properties abut one another, the two (2) cases were heard contemporaneously. In both instances, relief is requested, pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) for the approval of three (3) non-density transfers from two (2) separate parcels owned by Constable. The subject property and requested relief are more particularly described on the site plan submitted in each case, which were accepted into evidence and respectively marked as Petitioner's Exhibit 1. In Case No. 2009-0124-SPH, the Petitioner requests (1) a non-density transfer of a 1.432 acre parcel of land bearing tax identification number 10-03-047951 (Parcel 146) from Constable to the Petitioner and (2) a non-density transfer of a 18.398 acre parcel bearing the tax identification number 10-03-047952 (Parcel 181) from Constable to the Petitioner. The third transfer, under Case No. 2009-0125-SPH, requests approval of the non-density transfer of the remaining 10.623 acres of

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Date 2-23-09

By [Signature]

Parcel 181 from Constable to Ronald L. Maher, Jr. and Margaret Howard Maher, owners of an adjacent tract.

Appearing at the requisite public hearing in support of the requests were Eleanor Weller Reade; Ronald Maher, Jr., adjacent property owner, and Bruce E. Doak, surveyor with Gerhold, Cross & Etzel, Ltd., who prepared the site plan. John B. Gontrum, Esquire, of Whiteford, Taylor & Preston, L.L.P., represented the Petitioner. Appearing and offering testimony on behalf of the County's Department of Environmental Protection and Resource Management (DEPRM) was Wallace S. Lippincott, Jr. There were no Protestants or other interested persons present.

Testimony and evidence offered revealed that the subject properties are roughly rectangular shaped parcels located approximately one-half mile north of the intersection of Old York Road and Monkton Road and south of Markoe Road in northern Baltimore County. The properties are zoned R.C.2 and are subject to a Maryland Agricultural Land Preservation Foundation (MALPF) easement. The properties are unimproved and primarily contain crops. Testimony indicated that the Petitioner intends to use the properties for agricultural uses pursuant to the requirements of the agricultural preservation easements to which the properties are subject.

Mrs. Reade is the oldest daughter of the Constable family and owns property at 16131 Old York Road directly adjacent to the subject tracts. She currently uses Parcel 181 to access Old York Road from her residence. Parcel 146, which lies north of her residence is mostly wooded with significant wetland areas as shown on Petitioner's Exhibit 1. She wishes to sell a portion of Parcel 181 to her neighbor to the north Mr. Maher, whose family also owns several tracts of land, which have been placed in agricultural land preservation. By sale of this parcel she would generate enough funds to purchase the properties from her deceased parents' Estate. On behalf of the Petitioner, Mr. Gontrum proffered that both Parcel 146 and Parcel 181 are

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Date 2-23-09
By [Signature]

subject to Maryland Agricultural Land Preservation easements, which restrict the nature of the use of the properties. *See* Petitioner's Exhibit 4.

Wallace S. Lippincott, Jr., Land Preservation Manager, DEPRM, appeared at the hearing and offered testimony regarding the proposed transfers. According to Mr. Lippincott, DEPRM has concerns with the proposed transfers of Parcel 181 because they do not meet the criteria for approval under the MALPF regulations and because they seemingly conflict with the DEPRM policies as set forth in Section 32-4-415 of the Baltimore County Code (B.C.C.). In this regard, Parcel 181 contains less than 50 acres and under current State regulations transfers of less than 50 acres from an agricultural easement are prohibited. One issue raised is whether these regulations would be applicable to easements that have been created prior to their adoption. Mr. Lippincott believes, as does Petitioner's counsel, that this issue involving Parcel 181 should be referred first to the MALPF Board for its determination. This Commission lacks statutory authority to resolve disputed real estate controversies.

However, with respect to the transfer of Parcel 146, Mr. Lippincott testified that DEPRM supports the transfer provided that the deed conveying the property contains a restriction that the parcel is non-buildable and that the density unit on the property may not be transferred to another property.

After due consideration of the evidence presented, I am persuaded to grant approval of the transfer of Parcel 146. All parties were in agreement that the transfer is proper, and there were no adverse comments submitted by any neighbors or by any of the County reviewing agencies to this transfer. This parcel is otherwise landlocked, and its use is distinguished from that of Parcel 181. In light of the testimony and evidence presented, it appears that the relief can be granted without violating the regulations imposed by the Maryland Agricultural Land Preservation Foundation as well as those imposed by the B.C.C.

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Date 2-23-09
103

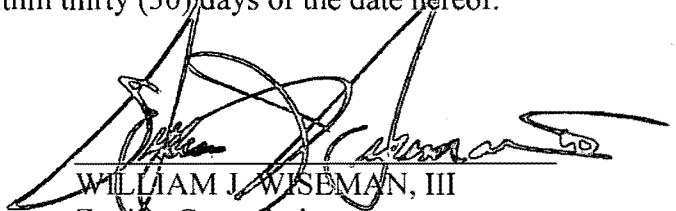
With regard to the proposed transfers pertaining to Parcel 181, I will refrain from ruling on the matter at this time until the Maryland Agricultural Land Preservation Foundation has had an opportunity to review the request and issue a decision thereon. The records in both Case Nos. 2009-0124-SPH and 2009-0125-SPH will remain open pending a resolution by MALPF and DEPRM.

Pursuant to the advertisement, posting of the property and public hearing on these Petitions held, and for the reasons set forth above, the requested special hearing relief shall be granted in part and jurisdiction shall be retained to rule on the transfers involving Parcel 181 until such time as the MALPF Board has had the opportunity to determine whether the proposed transfers conform to regulations and the goals of agricultural preservation.

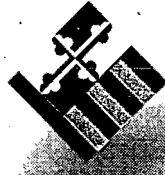
THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 23rd day of February 2009 that the Petition for Special Hearing in Case No. 2009-0124-SPH, seeking approval to allow a non-density transfer of a 1.432 acres of Parcel 146 from the Estate of George and Elizabeth Constable to Eleanor W. Reade, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following conditions:

- 1) The 1.432 acres of Parcel 146 shall remain subject to the Maryland Agricultural Land Preservation Foundation easement and shall be used in a manner that is consistent therewith.
- 2) The deed conveying the 1.432 acres of Parcel 146 shall contain a restriction that the parcel is non-buildable and that the density unit on the property may not be transferred to another property.

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


WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

RECEIVED FOR HEARING
Date 2-23-09
By [Signature]



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

February 23, 2009

John B. Gontrum, Esquire
Whiteford, Taylor & Preston, L.L.P.
Towson Commons, Suite 300
One West Pennsylvania Avenue
Towson, MD 21204

IN RE: PETITIONS FOR SPECIAL HEARING

E/ Side of Old York Road, (MD Route 562), 2,020' & 3,000' S of Intersection with
Old York Road & Markoe Road

(Old York Road)

10th Election District - 3rd Council District

Estate of Elizabeth W. Constable by James W. Constable, Esquire, Personal Representative,
Legal Owner and Eleanor W. Reade, *Contract Purchaser and Petitioner*

Case Nos. 2009-0124-SPH and 2009-0125-SPH

Dear Mr. Gontrum:

Enclosed please find a copy of the decision rendered in the above-captioned matters.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Department of Permits and Development Management office at 887-3391.

Very truly yours,

A handwritten signature in black ink, appearing to read "W. J. Wiseman III", written over a horizontal line.

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:dlw
Enclosure

c: Eleanor Weller Reade, 16135 Old York Road, Monkton, MD 21111
Ronald Maher, Jr., 16339 Old York Road, Monkton, MD 21111
Bruce E. Doak, Gerhold, Cross & Etzel, Ltd., Suite 100, 320 East Towsontown Boulevard,
Towson, MD 21286
People's Counsel; Wallace S. Lippincott, Jr., DEPRM; Office of Planning; DPR; File



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at OLD YORK ROAD
which is presently zoned RC-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

SEE 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.

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.

Contract Purchaser/Lessee:

ELANOR W. READE
Name - Type or Print
Elanor W. Reade
Signature
16135 OLD YORK RD
Address Telephone No.
MONKTON, MD 21111
City State Zip Code

Attorney For Petitioner:

Name - Type or Print

Signature

Company

Address Telephone No.

City State Zip Code

Legal Owner(s):

GEORGE W. CONSTABLE
Name - Type or Print
[Signature]
Signature
ELIZABETH W. CONSTABLE
Name - Type or Print
[Signature]
Signature
16131 OLD YORK Rd.
Address Telephone No.
MONKTON MD 21111-2107
City State Zip Code

Representative to be Contacted:

GERHOLD, CROSS & ETZEL LTD
Name
320 E. TOWSON TOWN BLVD.
Address Telephone No.
TOWSON MD 21286
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____
Reviewed By A. TSUI Date 10/28/08

Case No. 2009-0124-GPH

REV 9/15/98

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Date 2-23-09
By [Signature]

OLD YORK ROAD

SPECIAL HEARING REQUESTED

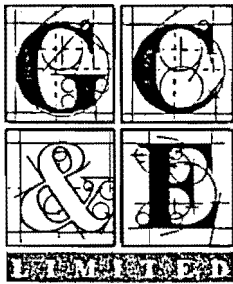
Tax Account No.: 10-03-047951

*TO ALLOW A NON-DENSITY TRANSFER OF A 1.432 Ac.±,
PARCEL OF LAND FROM GEORGE W CONSTABLE AND
ELIZABETH W CONSTABLE TO ELEANOR W. READE
(OWNER OF AN ADJACENT TRACT)*

Tax Account No.: 10-03-047952

*TO ALLOW A NON-DENSITY TRANSFER OF A 18.398 Ac.±,
PARCEL OF LAND FROM GEORGE W CONSTABLE AND
ELIZABETH W CONSTABLE TO ELEANOR W. READE
(OWNER OF AN ADJACENT TRACT)*

2009-0124-SP



Gerhold, Cross & Etzel, Ltd.

Registered Professional Land Surveyors • Established 1906

Suite 100 • 320 East Towsontown Boulevard • Towson, Maryland 21286
Phone: (410) 823-4470 • Fax: (410) 823-4473 • www.gcelimited.com

October 20, 2008

ZONING DESCRIPTION

George W. and Elizabeth W. Constable property
Tax ID: 10-03-047952
Old York Road
Baltimore County, Maryland

All that piece or parcel of land situate, lying and being in the Tenth Election District, Third Councilmanic District of Baltimore County, Maryland and described as follows to wit:

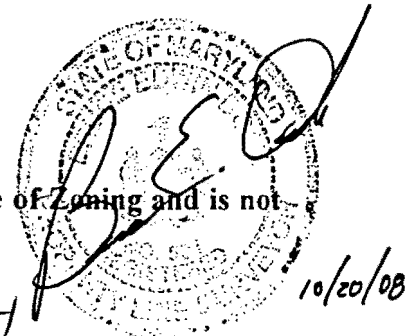
Beginning for the same at a point in the center of the Old York Road being southerly 3000 feet $\pm$ from the intersection of Old York Road with Markoe Road along the centerline of Old York Road and running thence,

- 1) North 17 degrees 45 minutes 46 seconds East 818.53 feet,
- 2) North 14 degrees 07 minutes 06 seconds East 156.29 feet,
- 3) South 70 degrees 45 minutes 14 seconds East 776.44 feet,
- 4) South 66 degrees 32 minutes 54 seconds East 384.54 feet,
- 5) South 68 degrees 41 minutes 03 seconds East 374.73 feet,
- 6) South 18 degrees 27 minutes 42 seconds West 335.46 feet,
- 7) North 67 degrees 45 minutes 18 seconds West 25.50 feet,
- 8) South 20 degrees 14 minutes 23 seconds West 163.91 feet,
- 9) South 74 degrees 47 minutes 38 seconds East 2.21 feet,
- 10) South 19 degrees 56 minutes 14 seconds West 209.26 feet,
- 11) South 51 degrees 56 minutes 14 seconds West 39.50 feet,
- 12) South 21 degrees 09 minutes 14 seconds West 90.91 feet,
- 13) North 72 degrees 54 minutes 41 seconds West 1114.74 feet,
- 14) North 77 degrees 02 minutes 21 seconds West 55.71 feet
- 15) North 81 degrees 30 minutes 21 seconds West 282.11 feet to the point of beginning.

Containing 30.75 Acres of land, more or less.

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

2009-0124-SPH



BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS CASH RECEIPT

No. 2009

Date: 10/28/08

Fund	Dept	Unit	Sub Unit	Rev	Sub	Dept	Obj	BS Acct	Amount
				Source/	Rev/				
001	206	0000		6150					65

Total: 65

Rec From: GEORGE CONSTABLE (CONTRACT PURCHASER - ELEANOR READE)

For:

OLD YORK RD

2009-0124-SPH

DISTRIBUTION

WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

**CASHIER'S
 VALIDATION**

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: # 2009-0124-SPH

Old York Road

E/side of Old York Rd., 3000 feet south of the intersection of Old York Rd. & Markoe Rd.

10th Election District → 3rd Councilmanic District

Legal Owner(s): George & Elizabeth Constable

Contract Purchaser: Eleanor Reade

Special Hearing: to allow a non-density transfer of a 1.432 acre +/- parcel of land from George & Elizabeth Constable to Eleanor Reade (owner of adjacent tract). To allow a non-density transfer of 18.398 acres +/- parcel of land from George & Elizabeth Constable to Eleanor Reade (owner of adjacent tract).

Hearing: Wednesday, January 21, 2009 at 9:00 a.m. in Room 104, Jefferson Building, 105 West 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 1/6/25 Jan. 6

191720

CERTIFICATE OF PUBLICATION

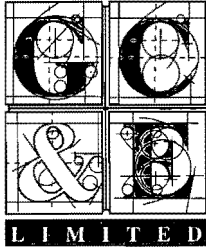
1/8/, 2009

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 1/6/, 2009.

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

S. Wilkinson

LEGAL ADVERTISING



Gerhold, Cross & Etzel, Ltd.

Registered Professional Land Surveyors • Established 1906

Suite 100 • 320 East Towsontown Boulevard • Towson, Maryland 21286
Phone: (410) 823-4470 • Fax: (410) 823-4473 • www.gcelimited.com

CERTIFICATE OF POSTING

RE: CASE #2009-124-SPH

OWNER/DEVELOPER:
George & Elizabeth Constable

CONTRACT PURCHASER:
Eleanor Reade

DATE OF HEARING:
January 21, 2009

BALTIMORE COUNTY DEPARTMENT OF
PERMITS AND DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING, ROOM 111
111 WEST CHESAPEAKE AVE.
TOWSON, MARYLAND 21204

ATTENTION: KRISTEN MATTHEWS

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 LOCATED AT

LOCATION:
Old York Road

(see page 2 for full size photo)

SIGNATURE OF SIGN POSTER

Bruce E. Doak

GERHOLD, CROSS & ETZEL, LTD
SUITE 100
320 EAST TOWSONTOWN BLVD
TOWSON, MARYLAND 21286
410-823-4470 PHONE
410-823-4473 FAX

POSTED ON: 01/05/09

ZONING NOTICE

CASE #: 2009-0125-SPH

A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD.

PLACE: Room 104, Jefferson Building, 105 West
Chesapeake Avenue, Towson 21204
TIME & DATE: Wednesday, January 21, 2009 at 10:00 a.m.

Special Hearing to allow a non-density transfer of a
10.623 acres +/- parcel of land from Mr. & Mrs.
Constable to Ronald & Margaret Maher (owners of
adjacent tract).

POSTPONEMENTS DUE TO WEATHER
NECESSARY TO CONDUCT HEARING
CALL 410-321-2311 FOR MORE INFORMATION
HEARINGS ARE HANDICAPPED ACCESSIBLE

ZONING NOTICE

CASE #: 2009-0124-SPH

A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD.

PLACE: Room 104, Jefferson Building, 105 West
Chesapeake Avenue, Towson 21204
TIME & DATE: Wednesday, January 21, 2009 at 9:30 a.m.

Special Hearing to allow a non-density transfer of a
1.432 acre +/- parcel of land from George &
Elizabeth Constable to Eleanor Reade (owner of
adjacent tract). To allow a non-density transfer of
18.398 acres +/- parcel of land from George &
Elizabeth Constable to Eleanor Reade (owner of
adjacent tract).

POSTPONEMENTS DUE TO WEATHER
NECESSARY TO CONDUCT HEARING
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HEARINGS ARE HANDICAPPED ACCESSIBLE

ZONING NOTICE

CASE # :2009-0125-SPH

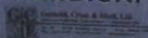
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THE ZONING COMMISSIONER
IN TOWSON, MD.**

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Chesapeake Avenue, Towson 21204
**TIME &
DATE :** Wednesday, January 21, 2009 at 10:00 a.m.

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10.623 acres +/- parcel of land from Mr. & Mrs.
Constable to Ronald & Margaret Maher (owners of
adjacent tract).

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES
NECESSARY TO CONFIRM HEARING.
CALL 410-887-3391 THE DAY BEFORE THE SCHEDULED HEARING DATE.

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING. UNDER PENALTY OF LAW
HEARINGS ARE HANDICAPPED ACCESSIBLE



ZONING NOTICE

CASE # :2009-0124-SPH

**A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD.**

PLACE: Room 104, Jefferson Building, 105 West
Chesapeake Avenue, Towson 21204
**TIME &
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NECESSARY TO CONFIRM HEARING
CALL 410-887-3391 THE DAY BEFORE THE SCHEDULED HEARING DATE

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING. UNDER PENALTY OF LAW
HEARINGS ARE HANDICAPPED ACCESSIBLE



TO: PATUXENT PUBLISHING COMPANY
Tuesday, January 6, 2009 Issue - Jeffersonian

Please forward billing to:
Eleanor Reade
16135 Old York Road
Monkton, MD 21111

410-472-4061

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: 2009-0124-SPH

Old York Road

E/side of Old York Rd., 3000 feet south of the intersection of Old York Rd. & Markoe Rd.

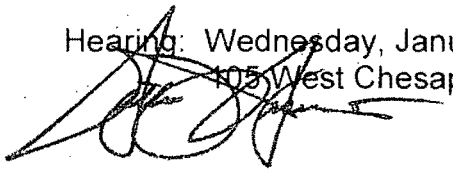
10th Election District – 3rd Councilmanic District

Legal Owners: George & Elizabeth Constable

Contract Purchaser: Eleanor Reade

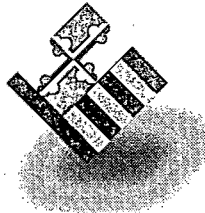
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Hearing: Wednesday, January 21, 2009 at 9:00 a.m. in Room 104, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204



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
MARYLAND

JAMES T. SMITH, JR.
County Executive

December 5, 2008
TIMOTHY M. KOTROCO, Director
Department of Permits and
Development Management

NOTICE OF ZONING HEARING

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Hearing: Wednesday, January 21, 2009 at 9:00 a.m. in Room 104, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

A handwritten signature in black ink that reads "Timothy Kotroco".

Timothy Kotroco
Director

TK:klm

C: Mr. & Mrs. Constable, 16131 Old York Road, Monkton 21111-2107
Eleanor Reade, 16135 Old York Road, Monkton 21111
Gerhold, Cross & Etzel, 320 E. Towsontown Blvd, Towson 21286

- NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, JANUARY 6, 2009.**
- (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.

**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: 2009-0124 - SPH

Petitioner: GERHOLD, CROSS & ELLER LTD

Address or Location: 320 E TOWSON TOWN BLVD. Towson, MD, 21286

PLEASE FORWARD ADVERTISING BILL TO:

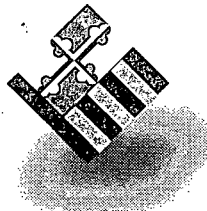
Name: ELEANOR W. READE

Address: 16135 OLD YORK RD.

MONKTON, MD 21111

Telephone Number: (410) 472-4061

Revised 7/11/05 - SCJ



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
January 15, 2009

George W. & Elizabeth W Constable
16131 Old York Rd.
Monkton, MD 21111-2107

Dear: George W. & Elizabeth W Constable

RE: Case Number 2009-0124-SPH, Old York Rd.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on October 28, 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,

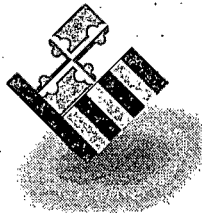
A handwritten signature in black ink, reading "W. Carl Richards, Jr.".

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:lnw

Enclosures

c: People's Counsel
Gerhold; Cross & Etzel LTD; 320 E. Towsontown Blvd.; Towson, MD 21286
Eleanor W. Reade; 16135 Old York Rd.; Monkton, MD 21111-2107



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

JOHN J. HOHMAN, *Chief*
Fire Department

County Office Building, Room 111
Mail Stop #1105
111 West Chesapeake Avenue
Towson, Maryland 21204

November 10, 2008

ATTENTION: Zoning Review Planners

Distribution Meeting Of: November 03, 2008

Item Numbers: Item Number 0109 through 0125¹²⁴

Pursuant to your request, the referenced plan(s) have been reviewed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

1. The Fire Marshal's Office has no comments at this time.

Lieutenant Roland P Bosley Jr.
Fire Marshal's Office
410-887-4881 (C) 443-829-2946
MS-1102F

cc: File

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

DATE: November 7, 2008

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

SUBJECT: Zoning Advisory Committee Meeting
For November 10, 2008
Item No. 2009-124

The Bureau of Development Plans Review has reviewed the subject zoning item and we have the following comment(s).

We have no objection to the proposed non-density transfer provided that the subdivision is approved in accordance with all development regulations.

DAK:CEN:cab

cc: File

ZAC-ITEM NO 2009-124-11072008.doc



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

State Highway
Administration

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

Maryland Department of Transportation

November 6, 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. 2009-0124-SPH
MD 562 (Old York Road)
South of Markoe Road
Constable Property
Plan to Accompany a
Petition for Special Hearing

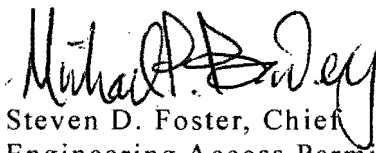
Dear Ms. Matthews:

We have reviewed the site plan for the Constable property located on MD 562 (Old York Road), which was received on November 3rd. We understand that this plan illustrates a request to allow a non density transfer of two parcels (+/- 1.432 acres and +/- 18.398 acres) as shown on the Plan to Accompany a Petition for Special Hearing.

A field inspection and review reveals that the existing entrance onto MD 562 (Old York Road) is consistent with current State Highway Administration requirements. Therefore, this office has no objection to approval for the Constable Property at 16131 Old York Road, Case Number 2009-0124-SPH. However, the State Highway Administration request that the County consider requiring dedication of the property frontage along MD 562 (Old York Road). The standard setback for in this area for turn pike right-of-way is 33' from the roadway center line.

Please include our comments in your staff report to the Zoning Hearing Officer. Should you have any questions regarding this matter feel free to contact Michael Bailey at 410-545-5593 or 1-800-876-4742 extension 5593. Also, you may E-mail him at (mbailey@sha.state.md.us). Thank you for your attention.

Very truly yours,


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



Ms. Kristen Matthews
Constable Property
Page Two

Cc: Mr. & Mrs. George W. Constable, Owner
Mr. Keith Kucharek, Regional Intermodal Planning Division, SHA
Mr. David Malkowski, District Engineer, SHA
Mr. Walter Rullman, Real Property Manager, SHA
Mr. Walter T. Smith, Jr., Development Plans Review, Baltimore County

BW 1/21 9am

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: November 24, 2008

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

RECEIVED
NOV 26 2008

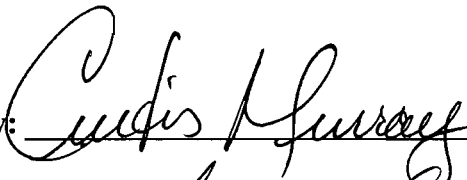
BY:.....

SUBJECT: Zoning Advisory Petition(s): **Case(s) 09-124- Special Hearing**
(See also case# 09-125)

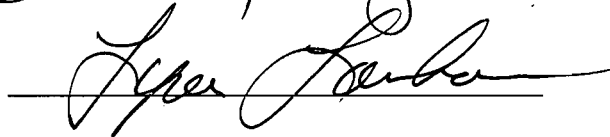
The Development Review Committee (DRC) on September 15, 2008 (DRC Item# 091508D) recommended that the project be tabled to the Agricultural Board and the Department of Environmental Protection and Resource Management. The Zoning Commissioner should defer consideration of the project until the Agricultural Board provides comments.

For further questions or additional information concerning the matters stated herein, please contact Jessie Bialek in the Office of Planning at 410-887-3480.

Prepared By:

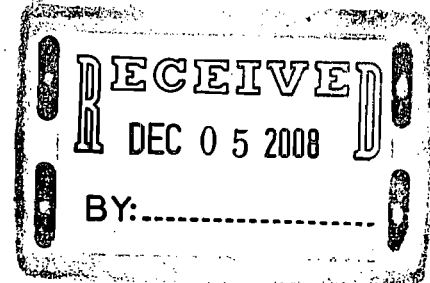


Division Chief:
CM/LL



BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: Timothy M. Kotroco
FROM: Dave Lykens, DEPRM - Development Coordination
DATE: December 3, 2008
SUBJECT: Zoning Item # 09-124-SPH
Address Old York Road south of Markoe Road
(Constable Property)

Zoning Advisory Committee Meeting of November 3, 2008

_____ The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.

X The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:

X Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).

X Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

_____ Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 33-2-101 through 33-2-1004, and other Sections, of the Baltimore County Code).

Additional Comments:

The proposed lot line that creates the 1.675 acre parcel constitutes a subdivision of land.

Reviewer: Thomas Panzarella

Date: November 17, 2008

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: Timothy M. Kotroco
FROM: Dave Lykens, DEPRM - Development Coordination
DATE: December 2, 2008
SUBJECT: Zoning Item # 0124-SpH
Address 16135 Old York Road

Zoning Advisory Committee Meeting of

_____ The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:

Additional Comments:

The Land Preservation Section of the Department has reviewed the request and the following comments are provided.

1. Request for Non-density transfer of 1.432 acres (p/o Parcel 146) is supported so long as there is no conservation easement or other restriction on this parcel that would prohibit this combination and so long as a restriction is entered in the deed that this parcel is nonbuildable and that the density unit on the property is not to be transferred to any other property.
2. Request for Non-density transfer of 18.398 acres from Parcel 181 is opposed because it does not meet the criteria for approval under the Maryland Agricultural Land Preservation Foundation. It is also opposed because it conflicts with the DEPRM policies for County Code 32-4-415.
 - a. This parcel is under a Maryland Agricultural Land Preservation Foundation (MALPF) Easement and the easement was purchased with public funds for the protection of agricultural land and to maintain the agricultural capability of the land. The County participates in the administration and the funding of this program as provided for in the County Code Article 24. The State informed the County on December 2, 2008 that the request cannot be approved because it does not meet the State regulations for an agricultural subdivision. While the regulations

permit an area of smaller than 50 acres to be added to an adjacent property under easement, the remainder must be at least 50 acres. This request does not meet that standard.

- b. Furthermore, the appropriate procedure to obtain approval of such a request is to submit a request for approval by MALPF through the Baltimore County Agricultural Land Preservation Advisory Board (Advisory Board). If the applicant wishes to proceed with this request they should also proceed with a request for a General Exemption for Agricultural Purposes under the County Code. This process involves a request to the DRC and to the Advisory Board.
- c. Lastly, the request conflicts with DEPRM policies authorized in Baltimore County Code 32-4-415 governing the review of subdivisions of RC 2 property. The policies guide subdivisions to create a large lot and a small lot. The ultimate subdivision of the 1.65-acre area on Old York Road leaving behind approximately 28 acres in one piece under easement would meet those purposes. This request for a non-density transfer to split the 28-acre farm into two smaller pieces reduces the agricultural capability of the land.

Reviewer: W. Lippincott, Jr.

Date: November 25, 2008

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: Kristen Matthews, DPDM
File

DATE: March 24, 2010

FROM: William J. Wiseman, III
Zoning Commissioner



SUBJECT: PETITIONS FOR SPECIAL HEARING
E/Side of Old York Road, (MD Route 562), 2,020' & 3,000' S of Intersection with
Old York Road & Markoe Road
(Old York Road)
10th Election District - 3rd Council District
Estate of Elizabeth W. Constable by James W. Constable, Esquire,
Personal Representative, *Legal Owner* and
Eleanor W. Reade, *Contract Purchaser and Petitioner*
Case Nos. 2009-0124-SPH and 2009-0125-SPH

I am returning the above-referenced files to your office for safekeeping as it appears permission was not obtained from the Maryland Agricultural Land Preservation Foundation (MALPF) for the transfer.

Thank you.

WJW:dlw
Attachment

RE: PETITION FOR SPECIAL HEARING * BEFORE THE
Old York Road; E/S Old York Road, 3,000' S
of intersection Old York Road & Markoe Rd* ZONING COMMISSIONER
10th Election & 3rd Councilmanic Districts
Legal Owners: George & Elizabeth Constable* FOR
Contract Purchaser(s): Eleanor W. Reade
Petitioner(s) * BALTIMORE COUNTY
* 09-124-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.

RECEIVED

NOV 12 2008

.....

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

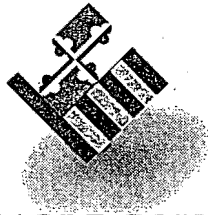
CAROLE S. DEMILIO
Deputy People's Counsel
Jefferson Building, Room 204
105 West Chesapeake Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of November, 2008, a copy of the foregoing Entry of Appearance was mailed to Gerhold, Cross & Etzel, Ltd, 320 E Towsontown Blvd, Towson, MD 21286, Representative for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

January 19, 2010

John B. Gontrum, Esquire
Whiteford, Taylor & Preston, L.L.P.
Towson Commons, Suite 300
One West Pennsylvania Avenue
Towson, MD 21204

IN RE: PETITIONS FOR SPECIAL HEARING

E/Side of Old York Road, (MD Route 562), 2,020' & 3,000' S of Intersection with
Old York Road & Markoe Road

(Old York Road)

10th Election District - 3rd Council District

Estate of Elizabeth W. Constable by James W. Constable, Esquire, Personal

Representative, *Legal Owner* and Eleanor W. Reade, *Contract Purchaser* and *Petitioner*

Case Nos. 2009-0124-SPH and 2009-0125-SPH

Dear Mr. Gontrum:

The case files, as you know, have been retained in my office pending the decision of the Maryland Agricultural Land Preservation Foundation. Has Eleanor Reade received any word that would allow her to proceed with the purchase/transfer of Parcel No. 181 from the Estate of her parents? Should the remaining non-density transfers be dismissed at this time without prejudice? Can the files be returned to the Zoning Review Office for safekeeping? I would appreciate a short response in this regard updating the status of this matter.

I shall await your advice.

Very truly yours,

A handwritten signature in black ink, appearing to read "Bill Wiseman", written over a large, stylized, and somewhat abstract signature graphic.

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:dlw

c: Eleanor Weller Reade, 16135 Old York Road, Monkton, MD 21111
Ronald Maher, Jr., 16339 Old York Road, Monkton, MD 21111
Bruce E. Doak, Gerhold, Cross & Etzel, Ltd., Suite 100, 320 East Towsontown Boulevard,
Towson, MD 21286
People's Counsel; Wallace S. Lippincott, Jr., DEPRM; Office of Planning; DPR; File

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: File **DATE:** March 6, 2009

FROM: William J. Wiseman, III
Zoning Commissioner

SUBJECT: PETITIONS FOR SPECIAL HEARING
E/Side of Old York Road, (MD Route 562), 2,020' & 3,000' S of Intersection with
Old York Road & Markoe Road
(Old York Road)
10th Election District - 3rd Council District
Estate of Elizabeth W. Constable by James W. Constable, Esquire, Personal
Representative, *Legal Owner* and Eleanor W. Reade, *Contract Purchaser* and
Petitioner
Case Nos. 2009-0124-SPH and 2009-0125-SPH

The case files are being retained in the Zoning Commissioner's Office pending a decision from the Maryland Agricultural Land Preservation Foundation with regard to the transfer of Parcel 181, which has not been resolved in the interim Order.

WJW:dlw

c: Kristen Matthews, Zoning Review, DPDM

From: Debra Wiley
To: JGontrum@wtplaw.com
Date: 7/20/2009 12:40 PM
Subject: Case Nos. 2009-0124-SPH & 2009-0125-SPH - Constable/Reade

Good Morning John,

As you may recall back in February, 2009, Bill issued the attached pending a decision from the Maryland Agricultural Land Preservation Foundation with regard to the transfer of Parcel 181, which had not been resolved in the interim Order.

Would you have any update regarding the above?

Thanks and have a great day !

Debbie Wiley
Legal Administrative Secretary
Office of the Zoning Commissioner
105 West Chesapeake Avenue, Suite 103
Towson, Md. 21204
410-887-3868
410-887-3468 (fax)
dwiley@baltimorecountymd.gov

From: "Bruce Doak" <BDoak@gcelimited.com>
To: dwiley@baltimorecountymd.gov
Date: 7/20/2009 12:02 PM
Subject: RE: Case Nos. 2009-0124-SPH & 2009-0125-SPH - Constable/Reade

The approval from the foundation has still not been given. They have had John Gontrum working on it for them. I would email John for the latest news. In the mean time, please keep the case open?

-----Original Message-----

From: Debra Wiley [mailto:dwiley@baltimorecountymd.gov]
Sent: Monday, July 20, 2009 11:09 AM
To: Bruce Doak
Subject: Case Nos. 2009-0124-SPH & 2009-0125-SPH - Constable/Reade

Hi Bruce,

As you may recall back in February, 2009, Bill issued the attached pending a decision from the Maryland Agricultural Land Preservation Foundation with regard to the transfer of Parcel 181, which had not been resolved in the interim Order.

Would you have any update regarding the above?

Thanks and have a great day !

Debbie Wiley
Legal Administrative Secretary
Office of the Zoning Commissioner
105 West Chesapeake Avenue, Suite 103
Towson, Md. 21204
410-887-3868
410-887-3468 (fax)
dwiley@baltimorecountymd.gov

Internal Virus Database is out of date.
Checked by AVG - www.avg.com
Version: 8.5.339 / Virus Database: 270.12.45/2141 - Release Date:
05/29/09 06:28:00

Bill Wiseman - lot line adjustments

From: Walter Smith
To: Wiseman, Bill
Date: 11/21/07 2:35 PM
Subject: lot line adjustments

*DEBBIE
Keep with
these two files*

Bill,

As a follow up to our conversation this morning about lot line adjustments, I'd like to propose a standard paragraph as a condition to any orders that you and Tom write on zoning cases that involve lot line adjustments.

As we discussed, the DRC determines that various requests qualify as limited exemptions as provided for in 32-4-106. Lot line adjustments are one of the limited exemptions.

When the DRC gets a request for a lot line adjustment, we look at the two lots or parcels affected by the change. Basically, one lot gets bigger and the other gets smaller.

The first thing we look at is does the density of either lot change? Next we look at the setbacks to any existing structures and to any proposed buildings. If the lot line change would result in an increase or decrease in the density on either of the lots, or if the change creates a setback deficiency, the DRC request is TABLED until the applicant can obtain zoning relief.

We also look at setbacks to wells and septic areas. Often we cannot approve a lot line adjustment until DEPRM does a field investigation to confirm the location of wells and setbacks relative to the new line.

I'd like to request that when you grant a non-density transfer of property, that you include a condition in the order where you direct the petitioner to apply to the DRC for the required limited exemption.

Your recent order from case 07-305-SPH is a good example. In that order you included a restriction stating "The Petitioner shall be required to comply with the requirements of the Development Review Committee concerning the lot line adjustments under BCC Section 32-4-106(a)(1)(viii)."

However, Bruce Doak is arguing with us that there was no DRC application made by him and therefore there is no DRC requirement to comply with. I will handle this interpretation with him.

It might be better if you change the wording in your condition to: "The Petitioner shall be required to apply to the Development Review Committee for a limited exemption under BCC Section 32-4-106(a)(1)(viii) concerning the lot line adjustment."

I'd be glad to discuss this further with you and Tom at your convenience.

Thanks,

Walt

IN RE: **PETITION FOR SPECIAL HEARING** *

W/S Chilcoat Road, 1737' N of c/l

Belfast Road

(15600 Chilcoat Road)

8th Election District

3rd Council District

Carson Enterprises, LLC

Legal Owner

Bazan Enterprises, LLC

Contract Purchaser

Petitioners

BEFORE THE

* ZONING COMMISSIONER

* OF BALTIMORE COUNTY

* Case No. 07-157-SPH

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by the owner of the subject property, Carson Enterprises, LLC. The Petitioners request a special hearing to approve the non-density transfer of 2.5 acres from Carson Enterprises to Bazan Enterprises, LLC and 3.454 acres from Carson Enterprises to Caron Enterprises. Bazan Enterprises is the owner of an adjacent parcel to that owned by Carson Enterprises. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing on behalf of the Petitioners was Edward A. Halle, Jr., Esquire, legal counsel and representative of Carson Enterprises, LLC, the property owner, and Bazan Enterprises, LLC, the contract purchaser. Also appearing were Bruce E. Doak, the Surveyor with Gerhold, Cross & Etzel, Ltd., the consultants who prepared the site plan for this property, and Stephen Edelen, realtor with Coldwell Banker. There were no Protestants or other interested persons present.

Testimony and evidence offered revealed that the subject property is a rectangular shaped tract of land located on the west side of Chilcoat Road, 1737 feet north of the centerline of

IN RE: **PETITION FOR SPECIAL HEARING** * BEFORE THE
E/S Hereford Road, 280' N c/line
York Road * ZONING COMMISSIONER
(824 East Piney Hill Road) * OF BALTIMORE COUNTY
7th Election District * BALTIMORE COUNTY
3rd Council District *
Premelia Decorse, et al * **Case No. 07-305-SPH**
Petitioners

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by the owners of the subject property, Premelia E. Decorse, her son, Robert E. Decorse, Sr., and granddaughter, Christine Ann Lando. The Petitioners request a special hearing, pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow an amendment (lot line adjustment, non-density transfer) of a previous subdivision and to approve the reconfiguration of two existing contiguous parcels by first transferring 8.14 acres from Parcel 306 to Parcel 278, and then transferring 28.99 acres from Parcel 278 to Parcel 306. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the public hearing in support of the request were Robert E. Decorse, Sr. and his daughter, Christine Lando, property owners. Also appearing in support of the requests were Bruce E. Doak, the surveyor who prepared the site plan for this property, and Wallace Lippincott, Land Preservation Manager, with the Department of Environmental Protection and Resource Management (DEPRM). There were no Protestants or other interested parties present.

Testimony and evidence presented revealed that the subject property consists of two

IN RE: PETITIONS FOR SPECIAL HEARING *

AND VARIANCE – N/west side of Belfast *

Road, 70' N of c/line of Old Belfast Road *

(Belfast Road)

8th Election District *

3rd Council District *

William G. Cumberland, et ux *

Petitioners *

BEFORE THE

ZONING COMMISSIONER

OF

BALTIORE COUNTY

Case No. 08-211-SPHA

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Hearing and for Variance filed by Holly Cumberland, and her husband, William G. Cumberland, through their attorneys, David H. Karceski and Christopher D. Mudd with Venable LLP. Special hearing relief was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve (i) a non-density transfer of 8.07 acres, more or less, of R.C.2 zoned land from Cumberland (Parcel 38, Lot 3) to Cumberland (Parcel 38, Lot 7); pursuant to Sections 1A00.4.B(2) and (3) of the Zoning Commissioner's Policy Manual (Z.C.P.M.), and to reconfigure Lots 3 and 7 in accordance with the transfer; and (ii) a non-density transfer of 0.45 acres, more or less, of R.C.2 zoned land from Cumberland (Parcel 38, Lot 7) to Cumberland (Parcel 38, Lot 3), pursuant to Sections 1A00.4.B(2) and (3) of the Zoning Commissioner's Policy Manual (Z.C.P.M.), and to reconfigure Lots 3 and 7 in accordance with the transfer. The two lots involved in this request are owned by the Petitioners. In addition, Petitioners request a variance from Section 32-4-409(e)(2) of the Baltimore County Code (B.C.C.) to allow in-fee panhandle strips of 1,223 feet (Lot 3A) and 2,274 feet (Lot 3B), in lieu of the maximum permitted 1,000 feet. The subject property and requested relief are more particularly described

IN RE: **PETITION FOR SPECIAL HEARING**

W/S Green Road, 1500' N of c/l

Mantua Mill Road

(14301 Green Road)

8th Election District

3rd Council District

Windy Meadows Farm, LLC

Legal Owner/Petitioner

*

BEFORE THE

*

ZONING COMMISSIONER

*

OF

*

BALTIMORE COUNTY

*

Case No. 07-228-SPH

*

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FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by Daniel B. Brewster, managing member of the legal owner of the subject property, Windy Meadows Farm, LLC. The Petitioner requests a special hearing to approve a non-density transfer of 103.18 acres of agricultural land from Windy Meadows Farm, LLC to Windy Meadows Farm, LLC. The subject property and requested relief are more particularly described on the amended redlined site plan submitted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing on behalf of Petitioner was Gerry Brewster, son of Daniel B. Brewster, who signed the petition filed in the instant case and medically unable to attend the hearing this day (January 22, 2007). Also appearing were Bruce E. Doak, registered property line surveyor with Gerhold, Cross & Etzel, Ltd., the consultants who prepared the site plan for the property, Robert A. Hoffman, Esquire and David H. Karceski, Esquire, counsel for Petitioner. There were no Protestants or other interested citizens present.

Testimony and evidence offered revealed that the instant Petition involves the transfer of a total of 103.18 acres of R.C.2 zoned land from two lots of Petitioner's "Windy Meadows Farm" to an adjacent lot of the farm also zoned R.C.2. This adjacent or receiving lot is labeled

WHITEFORD, TAYLOR & PRESTON L.L.P.

Legal EWP
Suri c to Judge
Nischa

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

February 10, 2009

RECEIVED

MAR 19 2010

ZONING COMMISSIONER

Craig A. Nielsen, Esquire
Assistant Attorney General
Department of Agriculture
50 Harry S. Truman Parkway
Annapolis, Maryland 21401-8960

Re: Reade Property Subdivision - Baltimore County

Dear Mr. Nielsen:

Thank you for taking the time to meet with us last Friday. As you suggested, I would like to take the opportunity fill in the blanks with respect to the proposal to transfer a portion of a 30.696 acre parcel which is subject to a Maryland Agricultural Land Preservation easement.

HISTORY AND BACKGROUND:

In January, 1997, George and Elizabeth Constable sold easements totaling 34 acres on two parcels of land to the Department of Agriculture on behalf of the Maryland Agricultural Land Preservation Foundation (MALPF). A copy of the recorded deed is attached (**Attachment 1**). One of the two parcels on which an easement was placed is a 5.07 acre parcel, which is otherwise landlocked and shown on the attached Maher Properties Plan (**Attachment 2**) as mostly pasture area. On the plan is a note indicating that this parcel is to be sold to Ronald and Margaret Maher. In fact, the Maher family already is using the property for pasture for their horses, and indeed, a portion of their septic system encroaches on the property.

Approximately 29 acres of an adjacent 30.696 acre tract were also placed in easement as shown on **Attachment 2**. 1.675 acres of the tract were excluded from the easement so that either the entire 30.696 acre parcel or the small 1.675 acre portion could be conveyed as a dwelling lot. The entire parcel currently is farmed in row crops. The 29 acres are sought to be split such that 10.63 acres would be conveyed to the Maher

family and the balance of 18.4 acres of easement area plus the 1.675 acre building site would be conveyed to the Reade family.

Currently, both parcels subject to the agricultural easement are in the estate of the late George Constable. Mrs. Eleanor Reade, my client, who owns an adjacent tract to the rear of the 30.696 acre parcel, is the daughter of George and Elizabeth Constable, and she wants to add the 18.4 acre easement area and the 1.675 building site to her existing parcel. The transfer provides her with direct road frontage on Old York Road. There is no intent to disturb the on-going agricultural use of the parcels.

The Maher properties also are all in agricultural preservation easements. In 1989 the Maher family placed 5 separate parcels of land into the agricultural easement program. A copy of the deed is attached (**Attachment 3**). These 5 parcels range in size from 34.82 acres to 1.72 acres. Various members of the Maher family own the parcels. Mr. and Mrs. Ronald Maher, Jr., who hope to purchase the 5.07 acre parcel and the 10.63 acre parcel from the Constable estate, currently own what is described in **Attachment 3** as Parcel No. 5, an 18.31 acre tract and Parcel No. 3, a 1.722 acre tract. As you can see from **Attachment 2**, Parcel 3 is occupied by a dwelling, and Parcel 5 has a barn on it. These two parcels are directly adjacent to the tracts sought to be acquired from the Constable estate.

As one might imagine, the agricultural uses of the properties have changed over the years. Sixty years ago both the Maher properties and the Constable properties were all owned by Mr. Maher's grandfather, William Sehlhorst, and his wife. It is understandable, therefore, that both Mr. Maher and Mrs. Reade would like for these parcels to remain in the families which have owned them for several generations.

As we also discussed at our meeting, the Constable properties also have been made the subject of conservancy easements to The Manor Conservancy, Inc. A copy of the deed of easement to the Manor Conservancy is attached as **Attachment 4**. That deed of easement was explicitly made subject to the MALPF easement. Unlike the current MALPF easement on the properties the conservancy easement is an easement in perpetuity unless waived by the Manor Conservancy, Inc. Also, not part of the agricultural easement, but part of another conservancy easement is a 28.861 acre parcel also in the Constable family.

PRACTICAL ISSUES AND IMPLICATIONS:

To the Maher and Constable-Reade families what is being requested seems very simple. Today, there are 2 parcels in the Constable estate totaling 15.7 acres which

would be transferred to the Maher family to be added to its parcels currently totaling 20 acres so that ultimately the Maher family would own 35.7 acres all subjected to an agricultural easement. The Constable-Reade family would receive 20 acres to be added to a parcel they already own consisting of 4.45 acres. Another small landlocked parcel consisting of 1.43 acres is being transferred out of the estate between the existing Reade parcel and the 5.07 acre parcel sought to be transferred to the Maher family. After the transfers from the estate the Constable-Reade family would own 26 acres total. None of the property owners would then be landlocked, and it is anticipated that farming and use of the properties would continue much the way it has for the past several generations. Another way of looking at it is that the Maher properties would go from 20 acres in size, all subject to agricultural easements, to 35.7 acres in size. The Constable-Reade properties would go from 40 acres in size to 26 acres in size. If viable agricultural entities existed prior to the transfer, they would continue after the transfer.

Mr. Lippincott raised the issue based on the aerial photo, a copy of which is attached as **Attachment 5**, that the 30.696 acre tract can be viewed as a single entity and that subdividing it could jeopardize its continued agricultural viability. Mr. Lippincott sees the property in row crops and understandably thinks of the use as continuing. That premise, however, is false. **Attachment 5** does show a beguiling image of the tract, but it is ephemeral. If Mrs. Reade can not afford to purchase the 30.7 acre tract from the estate, and the MALPF does not permit it to be split, it will have to be sold to a third party, not related to the Constable or Maher families. Instead of having a property that has been jointly farmed for generations by the same families, the parcel will end up in the hands of the owner of whoever buys the site for the 1.6 acre dwelling site to be used as that owner sees fit. Possibly, it will be used for row crops, but it could just as easily be used for some other purpose albeit subject to the conservancy and agricultural easement restrictions.

The Maher properties, which are independent of each other and consist of a total of 20 acres, need to be self-sustaining. Their MALPF easements were created almost 20 years ago. If these properties are not self-sustaining, in 5 years MALPF may well be asked to release the properties. It is a benefit to the agricultural program to have all of the Constable-Reade properties and the Maher properties preserved in agriculture, and the proposed reshuffling of the property lines achieves that benefit.

Mr. Maher has stated that it is his intent to have the same contract farmer who has farmed the 29 acres for many years continue to farm the 29 acre tract for row crops, but even if Mr. Maher fences in his 10.63 acres and adds it to his pasture for his horses, it increases the viability of his properties for continued agricultural use. Absent the

MALPF easement Mr. Maher would have the right to subdivide his 18 acre parcel. At some future point the 5.07 acre parcel could also be removed from the program.

Mr. Lippincott has argued that the Constable-Reade property at 18.4 acres loses its viability and could well seek to be released from the easement in another 13 years. As part of the transaction Mrs. Reade and Mr. Maher have offered to release the entitlements they have to seek removal from the program. Mrs. Reade is willing to place the parcel covered by the MALPF easement in the same deed description as her other two parcels. Mr. Maher has offered to place his properties in single deed description so that they can not be separately sold. Under these proposals MALPF receives something it otherwise could not have had without the co-operation of the property owners and assures itself of the continued viable use of the sites. If the Constable estate is forced to convey the 30.6 acre site outside of the family, there is no benefit to the MALPF program; no insurance that the other sites will remain viable or in the program. A deed mosaic now in the hands of families devoted to land preservation will be broken into a checkerboard of unrelated parcels, and that result is absolutely contrary to the intent of the agricultural preservation program.

LEGAL ISSUES:

The conveyance of the Constable easement has to be viewed in light of the conditions which existed when it was granted. The Court of Appeals in Garfink v. Cloisters at Charles, Inc., 392 MD. 374 at 392, 897 A. 2d 206 (2006) reviewed numerous cases and determined that a deed of easement was essentially a contract. "The grant of an easement by deed is strictly construed." *Id.* at 392 *quoting* Buckler v. Davis Sand and Gravel Corp., 221 Md. 532, 538, 158 A.2d 319, 323 (1960). The Garfink court also stated: **"A court construing an agreement under this test must first determine from the language of the agreement itself what a reasonable person in the position of the parties would have meant at the time it was effectuated."** [Emphasis added] *Id.* at 392 *quoting* General Motors Acceptance Corp. v. Daniels, 303 Md. 254, 261, 492 A.2d 1306, 1310 (1985).

The State clearly has the authority to approve or disapprove of the subdivision of property subjected to an easement. The authority given, however, is subject to certain constraints. The authority can not be exercised with the imposition of restrictions that did not exist at the time of the initial grant of the easement. The grantee may not unilaterally increase the burden on the servient property. See Miller v. Kirkpatrick, 377 Md. 335, 833 A. 2d 536 (2003). In addition, when authority is given to the grantee of the easement to approve or disapprove of certain plans or actions impacting the underlying fee that authority not only has to be reasonably exercised but also the

reasons for a disapproval of the action have to be much more closely scrutinized than the reasons for an approval. Disapproval of a subdivision is a direct interference with the free use and alienability of the land. See Markey v. Wolf, 92 Md. App. 137 at 163, 607 A.2d 82 (1992).

What is being sought in this case is not a technical "subdivision" in terms of the law as it existed in 1997. In 1997, neither the Agriculture Article of the Annotated Code nor the Code of Maryland Regulations (COMAR) defined "subdivision". The Baltimore County Zoning Regulations, Section 101, did, however, define the term, and it stated:

"SUBDIVISION - The division of any tract or parcel of land, including frontage along an existing street or highway, into two or more lots, plots or other divisions of land for the purpose, whether immediate or future, of building development for rental or sale, and including all changes in street or lot lines; provided, however, that this definition of a subdivision shall not include divisions of land for agricultural purposes." [Emphasis added]

In 1997, Section 26-168 (bbb) of the Baltimore County Code stated that a subdivision was "the division of property into 2 or more lots," and Section 26-170 of the Baltimore County Code provided in the development regulations that "The subdivision of land for agricultural purposes is exempt from these regulations if no new streets are involved, subject to compliance with all applicable zoning regulations."

In 1997, it would not have occurred to reasonable property owners in Baltimore County that transferring a portion of their property under an agricultural easement to another farmer whose property was under an agricultural easement in any way constituted a "subdivision" as that term was used by the regulatory authorities of the time. No building lot was being sought or development right transferred. No building lot is now contemplated to result from the transfer, and no impingement on the easement occurs as a result.

It was not until 2001 that Title 15.01-2B (7) was added to put a definition of "subdivision" in the Code of Maryland Regulations (COMAR). Consequently, the prohibition of "subdivision" can only be assumed to mean a subdivision to create a building lot or at the very least to enhance a non-agricultural parcel.

Furthermore, until COMAR 15.15.01.17H was adopted on October 30, 2000, there was no limitation on the size of lots created or remaining in the event a subdivision occurred. In 2000, the Department of Agriculture amended its "Guidelines for the

Maryland Agricultural Land Preservation Program." COMAR 15.15.01.17H, as adopted in 2000, permitted properties of 20 acres to be subdivided provided that the subdivided portions and all remaining portions were at least 20 acres in size. The Foundation also had the ability to permit a subdivision of less than 20 acres if in the opinion of the Foundation the subdivision was consistent with the general purpose of the regulation. COMAR 15.15.01.17(J).

In this case the subdivision of the 10.6 acre tract is coupled with a 5 acre parcel and is being added to parcels of 1.722 acres (used principally for a residence) and 18.31 acres. The resulting parcel will be made more than 20 acres under agriculture. The remaining 19.4 acre parcel is being added to parcels of 1.4 acres and 4.88 acres for a combined 26 acre parcel in commercial agriculture. Consequently, what is proposed would not only have been acceptable in 1997 in terms of the regulations as they existed at the time of the easement was granted but also would have been accepted under the 2000 Guidelines meeting minimum requirements.

Mr. Lippincott has expressed concern over whether the proposal meets the current COMAR regulations, and of course, the current Guidelines are not met. COMAR 15.15.01.17H was amended in 2001 to raise the minimum acreage transferred or remaining in a subdivided parcel to 50 acres. The individual parcels as they exist do not meet the current minimums. If MALPF now believes that 50 acres is the minimum necessary to conduct viable agricultural operations, then clearly 30 acre tracts do not qualify. Furthermore, it would be antithetical to MALPF's current Guidelines to accept individual parcels of 5 acres, 1.77 acres and 18 acres without requiring them to be combined into one tax parcel; otherwise, they stand as separate tax parcels for estate purposes if not for resale. MALPF's current regulations also place tracts under conservation in perpetuity.

Clearly, the current regulations were not contemplated by the parties in 1997. There was no minimum lot size placed on the properties at that point, and certainly to place minimum lot sizes on the properties after the conveyance to MALPF would put an additional burden on the conveyance of underlying property. As stated above, under the terms of the laws then in effect what is now being proposed is not even a technical "subdivision". No reasonable person would have contemplated in 1997 that the placement of the properties into the easement program would preclude their adjustment with neighboring properties already in the easement program.

PETITIONER'S PROPOSED CONDITIONS:

Neither Mrs. Reade nor Mr. Maher wishes to destroy the continued agricultural use of their properties. Mrs. Reade is willing to place the parcel covered by the MALPF easement in the same deed description as her other two parcels and is further willing to accept as a condition the release of her ability to seek withdrawal from the program after 25 years. Mr. Maher is similarly willing to release his ability to withdraw from the MALPF easement program and to place the property he is acquiring in the same deed description as his other properties. As stated above, MALPF will then be assured of not losing these properties at the end of the 25 year period of their placement in the easement. All of the properties covered by MALPF and not just the 29 acre property would be protected and continued as viable commercial agricultural sites.

We recognize that the MALPF board upon recommendation of the County Advisory Board is the arbiter of this issue. Because of Mr. Lippincott's concerns about the ability of the Board to allow the subdivision of a parcel of less than 50 acres and about whether there is justification under the regulations to permit the subdivision, your input in this matter is greatly appreciated.

Sincerely,

John B. Gontrum

JBG:jbg
Attachments

WHITEFORD, TAYLOR & PRESTON
L.L.P.

SEVEN SAINT PAUL STREET
BALTIMORE, MARYLAND 21202-1626
TELEPHONE 410 347-8700
FAX 410 752-7092

20 COLUMBIA CORPORATE CENTER
10420 LITTLE PATUXENT PARKWAY
COLUMBIA, MARYLAND 21044-3528
TELEPHONE 410 884-0700
FAX 410 884-0719

JOHN B. GONTRUM
DIRECT NUMBER
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jgontrum@wtplaw.com

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TELEPHONE 202 659-6800
FAX 202 331-0573

1317 KING STREET
ALEXANDRIA, VIRGINIA 22314-2928
TELEPHONE 703 836-5742
FAX 703 836-0265

March 23, 2009

Mr. and Mrs. Arthur Reade
16135 Old York Road
Monkton, Maryland 21111

RECEIVED

MAR 19 2010

Re: 16135 Old York Road

ZONING COMMISSIONER

Dear Mr. and Mrs. Reade:

Enclosed please find a letter from the Maryland Agricultural Land Preservation Foundation (MALPF) with regard to your request to subdivide your property. MALPF staff has recommending against the subdivision of the property. Their basis for prohibiting the subdivision is founded on the size of the property, but they are not saying that they are in a position where they must deny the subdivision. In this case, they simply choose not to permit the subdivision. Obviously, this matter has not gone to the MALPF Board, but I would be surprised if the MALPF Board took a different position then the staff.

I also have an issue with their definition of "subdivision" with respect to the 5.07 acre parcel. Selling the 5.07 acre parcel is not a subdivision. It is a portion of the overall property on which the easement is placed, but it would not require a "subdivision" in order to sell off that parcel. It strikes me as odd that MALPF does not require properties in separate parcels to be put together into one parcel in order to have an easement it does not want the properties to be conveyed separately. The Maher property is a perfect example of where the individual properties may all be sold because they belong to different individuals. An easement is not a possessory interest in land but rather a right to use land; consequently, "subdivision" is not a term to be applied to an easement; only the land can be subdivided, and if the land is in separate parcels at the time of the easement, conveyance of a single parcel is not a subdivision. The easement needs to say that conveyance of any of the parcels apart from the others is forbidden in order to accomplish what MALPF staff has in mind.

Mr. and Mrs. Arthur Reade

March 23, 2009

Page Two

Please contact me at your earliest opportunity so that we can discuss how best to proceed. I do not know whether we can offer them anything with respect to the Maher properties or not in order to get them to reconsider.

Very truly yours,



John B. Gontrum

JBG:lsp
Enclosure

cc: James Constable

408799



**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

1111 Field

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/Washington
301.261.8106 Washington, D.C.
410.841.5914 Fax
800.492.5590 Toll Free

MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION

March 20, 2009

Mr. John Gontrum, Esquire
Whiteford, Taylor & Preston, L.L.P.
Towson Commons, Suite 300
One West Pennsylvania Avenue
Towson, Maryland 21204-5025

RECEIVED

MAR 19 2010

Re: MALPF file # 03-94-12A; Constable/Reade

ZONING COMMISSIONER

Dear Mr. Gontrum:

Thank you for your letter addressed to the Maryland Agricultural Land Preservation Foundation's counsel, Craig Nielsen, dated February 17, 2009 on behalf of your client Eleanor Reade. It was helpful for us to read about the specifics of Ms. Reade's proposal, the practical considerations and your legal analysis. However, we regret that Foundation staff cannot recommend approval of Ms. Reade's plan for the agricultural subdivision of the Constable's 35.766-acre farm that is subject to a Foundation easement.

In brief, the plan outlined in your letter proposes to sell 15.7 acres of the 35.766-acre farm to the adjoining neighbors, the Mahers, whose property is also in a MALPF easement. The remaining parcel would be 20 acres. These 20 acres would be combined with Mrs. Reade's 4.45 acres for a total of 24.45 acres. This plan does not meet the Foundation's subdivision regulations which require that if portions less than 50 acres are to be sold to an adjoining easement property, then the remaining parcel must be at least 50 acres in size. Also, the subdivision regulations have requirements that the proposed agricultural subdivision has an agricultural purpose and that soils criteria are met. These qualifications were not addressed in your letter.

The Foundation preserves agricultural land in perpetuity in part by prohibiting subdivision into small pieces to be owned separately by other persons. The restrictions on subdivision are especially important in the case of the Constable Farm due to its small size of 35.766 acres.

We believe that it is reasonable for the Foundation to refuse a request to subdivide the farm into smaller acreage because of the express intent of the statute to preserve agricultural land and woodland. MD CODE ANN., AGRIC. § 2-501(2007 Repl. Vol). Also, COMAR 15.15.01.17H(1) provides that "[a] landowner may not subdivide land subject to restrictions of an agricultural land preservation district or easement without written approval from [MALPF]." Moreover, Section I of that Regulation provides that both the subdivided portion and all remaining parcels shall be at least 50 acres. This regulation is consistent with the enabling statute. See MD. CODE ANN., AGRIC. § 2-509(d)(2) (2007 Rep. Vol.)

The landowner had no right to subdivide at the time of the granting of the easement, unless approved by MALPF and the easement does not limit MALPF's approval authority to any given acreage amount.

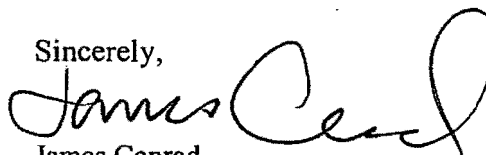
On the issue of the definition of subdivision, the Foundation contends that the proper definition is that found in COMAR 15.15.01.01-2(B)(7), which is "the division of land into two or more parts or parcels." The definition of "subdivision" found in the regulation adopted by MALPF simply contemplates the subtraction of a portion of land within an agricultural district or encumbered by an easement.

There appears to be some misunderstanding as to separately described parcels being encumbered by an agricultural easement. MD. CODE ANN., AGRIC. § 2-509(a) provides that, after the establishment of an agricultural district, the landowner may sell an easement "on the entire contiguous acreage of such agricultural land" to the Foundation. After a landowner sells an agricultural easement to the State pursuant thereto, all parcels over which the easement extends are considered as one parcel, whose portions may not be conveyed out, notwithstanding that the legal description may describe separate portions of the parcel. In the case of the Constable Farm, the 5.07 acre described portion is only a part of the total "parcel" of 34 acres encumbered by one agricultural easement. It may not be conveyed apart from the 34 acres without Foundation approval. [See Constable Deed of Easement Section A.1. (d): *"The land subject to this Deed of Easement may not be subdivided for any purpose unless written approval first has been obtained from the Grantee."*]

As to the issues you have raised with respect to "rights to request termination" on both the Constable and Maher properties, we point out that a request to terminate is not granted automatically; in fact, no MALPF Easement has ever been terminated. In addition, the Constable property is also subject to a perpetual conservation easement held by the Manor Conservancy, Inc. which encumbers both the 29 acre portion and the 5.07 acre portion. Therefore, the offer by your client to waive the right to request termination is not currently of value to the Foundation.

We hope that this response addresses the issues that you have raised. Please let us know if we can offer any further clarification. You may call me at 410-841-5860 or you may also contact Diane Chasse, MALPF Administrator, at 410-841-5715.

Sincerely,



James Conrad
Executive Director

CC: Craig Nielsen
Assistant Attorney General

Mrs. Eleanor Weller Reade

"Fox Gloves"

16135 Old York Road

Monkton, Maryland 21111

410-771-4239

RECEIVED
3/24/10

MAR 19 2010

To The Hon. WM Wiseman #
Zoning Commissioner for Balt Co ZONING COMMISSIONER

Dear Mr Wiseman,

Thank you very much for not forgetting
my petition. I have enclosed MALPT's
negative ruling.

I owe my lawyer 12000,
it is taking me a while to pay it off, so
I am sure that he did not respond.

My brother, James Constable
& also Bruce feel strongly that MALPT
was wrong & I still hope to pursue
this so that I can buy this field as
my father wished me to do under his
will - I just need to get a little
lawyer's bill next eqg. Please keep
the file open. We will be back - and
Thank You!! Eleanor Weller Reade

DATE 11/21/09

PLEASE PRINT CLEARLY

PETITIONER'S SIGN-IN SHEET

[illegible]

CASE NAME CONSTABLE
CASE NUMBER 2009-124-SP4
DATE 2009-125-SP4
1/21/09

[illegible]

COMBINED HEARING

Case NoS: 2009-0124-SPH & 2009-0125-SPH

Exhibit Sheet

Petitioner/Developer

Protestant

No. 1	SITE PLAN FILED WITH ZONING PETITION	
No. 2	1942 DEED OF SUBJECT PROPERTY SCHAFER TO SEHLHURST	
No. 3	AERIAL VIEW OF SUBJECT TRACT(S)	
No. 4	AGRICULTURAL PRESERVATION AGREEMENT - 1997 - CONSTABLE TO MALPF (2 PARCELS)	
No. 5	ZONING MAP RC 2 DEPICTING PARCEL BOUNDARY	
No. 6	SITE PLAN SHOWING EXISTING EASEMENTS AND PROPOSED TRANSFERS	
No. 7	AGRICULTURAL PRESERVATION AGREEMENT 1989 - MATTER TO MALPF (5 PARCELS)	
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

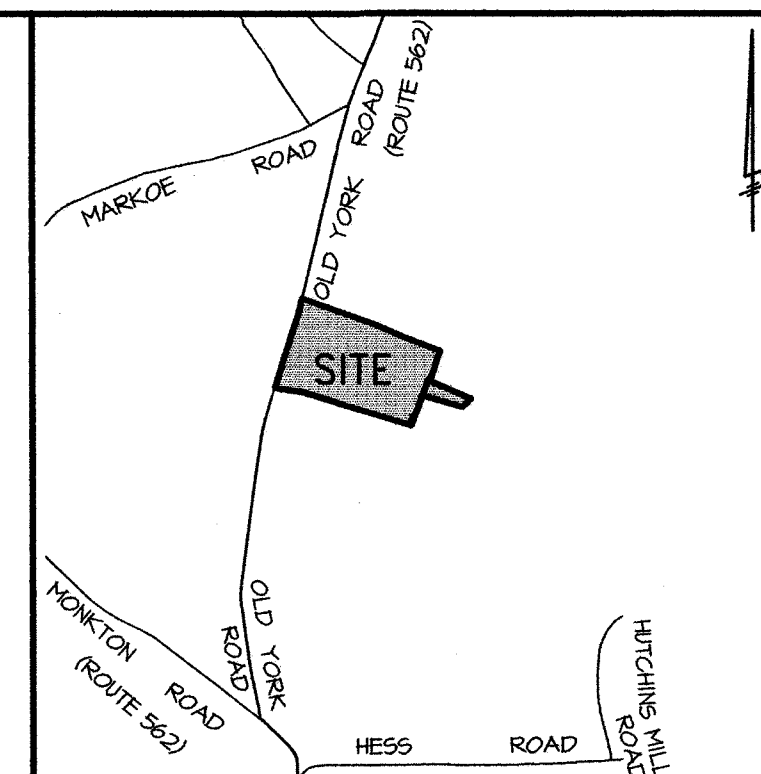
R.C. 2 PRINCIPAL STRUCTURE OR DWELLING SETBACKS

FROM ANY BUILDING FACE TO:
CENTERLINE OF ANY STREET 15'

FROM ANY BUILDING FACE TO:
LOT LINE OTHER THAN A STREET LINE 35'

MARYLAND STATE PLANE
COORDINATE SYSTEM
NAD 83/91

DETAIL
NOT AT SCALE



VICINITY MAP

1" = 2000'

GENERAL NOTES

1. THE BOUNDARY SHOWN HEREON IS FROM A SURVEY BY GERHOLD, CROSS AND ETZEL, LTD.
2. THE TOPOGRAPHY SHOWN HEREON WAS TAKEN FROM BALTIMORE COUNTY GIS TILES 29C1 AND 29C2
3. THE SOIL TYPES SHOWN HEREON WERE TAKEN FROM BALTIMORE COUNTY SOIL SURVEY MAP No. 14.
4. WATERSHED - LITTLE SUNFINDER FALLS SUBWATERSHED - NONE
5. SCHOOL DISTRICT: ELEMENTARY - JACKSONVILLE ES; MIDDLE - HEREFORD M.S.; HIGH - HEREFORD H.S.
6. A.D.C. MAP # GRID 13 JS
7. THERE ARE NO KNOWN PRIOR ZONING CASES ON THE SUBJECT PROPERTY.
8. THE SUBJECT PROPERTY (PARCEL 14, TAX ID 10-03-041950) IS HISTORIC.
9. THE SUBJECT PROPERTY IS NOT LOCATED IN THE CHESAPEAKE BAY CRITICAL AREA.
10. ALL LOTS SHOWN HEREON ARE TO BE SERVED BY PRIVATE WELLS AND SEPTIC SYSTEMS.
11. THE 10.623 ACRES PARCEL AND THE 18.398 ACRES PARCEL WILL REMAIN AGRICULTURALLY UTILIZED.

CONTRACT PURCHASER

ELEANOR W. READE
16135 OLD YORK ROAD
MONKTON, MARYLAND 21111
(410) 472-4061

OWNER

GEORGE W. CONSTABLE
ELIZABETH W. CONSTABLE
(JAMES W. CONSTABLE)
16131 OLD YORK ROAD
MONKTON, MARYLAND 21111-2107

PLAN TO ACCOMPANY A PETITION
FOR SPECIAL HEARING
CONSTABLE PROPERTY

OLD YORK ROAD
Zoned RC-2; GIS Tile 29C1, 29C2

Deed Ref: W.J.R. No. 3804 folio 377
Tax Account No.: 10-03-041951
Tax Map 29; Grid 12; Parcel 146

Deed Ref: R.R.G. No. 4494 folio 104
Tax Account No.: 10-03-041952
Tax Map 29; Grid 12; Parcel 181

10th ELECTION DISTRICT
3rd COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND

Scale: 1"=100'

Date: AUGUST 25, 2008

GERHOLD, CROSS & ETZEL, LTD.
REGISTERED PROFESSIONAL LAND SURVEYORS

Suite 100
320 East Townsontown Boulevard
Towson, Maryland 21286
(410) 823-4470

COMPUTED: DRAWN: C.L.M. CHECKED: PETITIONER'S

EXHIBIT NO. 1
2009-0124-SPH

LEGEND

EXISTING BUILDING
SOIL LINE
MOODS LINE
EXISTING PAVING
ZONING LINE
PROPERTY LINE
CONTOURS

SOIL TYPES & LIMITATIONS

TYPE	SEPTIC FILTER FIELDS	HOMESITES w/BASEMENT	STREETS & PARKING
CcB2, GcB2, MbB2, EHB2	Slight	Slight	Moderate: slope
CcC2, GcC2, GcC3, MbC2, McC3, EHC2	Moderate: slope	Moderate: slope	Severe: slope
Cu	Severe: moderately high water table; flooding hazard.	Severe: flooding hazard	Severe: flooding hazard
EnB	Severe: high water table; moderately slow permeability.	Severe: high water table	Severe: high water table
Hb	Severe: high water table; flooding hazard.	Severe: high water table; flooding hazard.	Severe: high water table; flooding hazard.
GcD2, McD3	Severe: slope	Severe: slope	Severe: slope
BaA, BaB	Severe: high water table; poor natural drainage; slow permeability.	Severe: high water table; poor natural drainage.	Severe: high water table; poor natural drainage.

WOOD GARAGE/SHED

2 STORY WOOD FRAME DWELLING

WOOD BARN

WOOD BARN

WOOD BARN

HARRY ROBERT NICHOLSON
PAULA MICHELLE NICHOLSON
S.M. No. 9220 folio 96
16018 HUTCHINS HILL ROAD
10-04-01022

14012) THIS DEED Made this 28th day of February in the year nine-
 Elizabeth M Schafer) teen hundred and forty-two by and between ELIZABETH M
 Deed to) SCHAFER unmarried of the first part and WILLIAM A SEHLHORST
 William A Sehlhorst & Wife.) and MARIE STOLPP SEHLHORST his wife parties of the second
 ----- part all of the State of Maryland

WITNESSETH that for and in consideration of the sum of Five Dollars (\$5.00) and other good and valuable considerations this day paid the receipt whereof is hereby acknowledged the said ELIZABETH M SCHAFER unmarried does grant and convey unto the said WILLIAM A SEHLHORST and MARIE STOLPP SEHLHORST his wife as tenants by the entireties their assigns the survivor of them and the heirs and assigns of the survivor in fee simple all those two parcels of land situate lying and being in the Tenth Election District of Baltimore County and described as follows that is to say

BEGINNING for the first at a stone heretofore planted as the beginning of lot number thirty-nine of My Lady's Manor said lot having been conveyed by Holliday and Duvall Commissioners to Mary Anne and Thomas Talbott December 12th 1785 and recorded among the Land Records of Baltimore County (now City) in Liber W G No Y folio 202 etc running thence reversely binding on the last or closing line of said lot South 40 degrees 44 minutes West 673-2/10 feet to the beginning of said line running thence South 89 degrees 52 minutes West 647-5/10 feet to the centre of the Old York Road and to intersect the Easternmost outline of that parcel of land which by deed dated June 30th 1911 and recorded among the Land Records of Baltimore County in Liber W P C No 383 folio 471 etc was conveyed by Laura Hutchins widow et al to J Hutchins Cockey running thence binding on said outline and in the centre of the Old York Road North 13 degrees 28 minutes East 692-3/10 feet running thence in the centre of the aforesaid road continuing to bind on the aforesaid land the two following course and distances viz North 16 degrees 13 minutes East 943 feet and North 22 degrees 43 minutes East 657 feet to the beginning of that parcel of land which by deed dated May 3rd 1922 and recorded among the Land Records of Baltimore County in Liber W P C No 555 folio 209 etc was conveyed by Lee B Bishop and wife to Ross T Sutton and wife running thence biding on said land and in the centre of the Old York Road for the four following courses and distances viz North 23 degrees 58 minutes East 615-5/10 feet North 22 degrees East 925-7/10 feet North 21 degrees East 913 feet and North 23 degrees East 434-9/10 feet thence continuing to bind in the centre of said road North 31 degrees 23 minutes East 702-2/10 feet thence leaving the centre of the Old York Road and running and binding in the centre of the hedgerow South 59 degrees 59 minutes East 489-8/10 feet to a stone heretofore planted as the beginning of the South 50 degrees East 136 perches line of lot number thirty-three running thence binding on said line South 44 degrees 3 minutes East 1545-1/10 feet to a stone marked V D B heretofore planted at the end of the North 43-1/2 degrees West 41-37/100 perches line of that parcel of land secondly described which by deed dated April 22nd 1920 and recorded among the Land Records of Baltimore County in Liber W P C No 525 folio 208 etc was conveyed by Nicholas H Cockey and Grace M Cockey his wife to Foxhall P Keene running thence reversely binding on said line South 44 degrees 26 minutes East 697 feet to a stone marked V D B heretofore planted at the beginning of the South 12 degrees 28 minutes West 1066 feet 8 inches line of that

SEL. REC. INDEX FEB 8 1943

1215 / 425

PETITIONER'S

EXHIBIT NO.

2



MALE F

Paul 181 + 167

0011981/332

DGS FILE No. 03-10-94-12A

THIS DEED OF EASEMENT made ¹⁹⁹⁷ ~~1994~~ this 2nd day of January,
 1997, by and between George W. Constable and Elizabeth W.
 Constable, his wife, 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
 tract(s) or parcel(s) 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 One
 Hundred Thirty-Six Thousand Two Hundred Eighty Dollars,
 (\$136,280.00) and other valuable consideration, the receipt
 of which is hereby acknowledged, the Grantor for the Grantor,
 the successors, personal representatives and assigns of the
 Grantor, does 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 tract(s) or parcel(s) of land, subject

AGRICULTURAL TRANSFER TAX
 NOT APPLICABLE

SIGNATURE HK DATE 1/9/97

RECEIVED FOR TRANSFER
 State Department of
 Assessments & Taxation
 for Baltimore County

By HK Date 1/9/97

MARYLAND COMMERCIAL TITLE COMPANY

151-12344-51

5 LIGHT STREET

SUITE 1000

BALTIMORE, MARYLAND 21202

PETITIONER'S

ON LIBRARY



MARYLAND COORDINATE SYSTEM
NAD83(1991)

ZONING MAP

GIS TILE: 029C1, 029C2

SCALE: 1" = 200'

PETITIONER'S

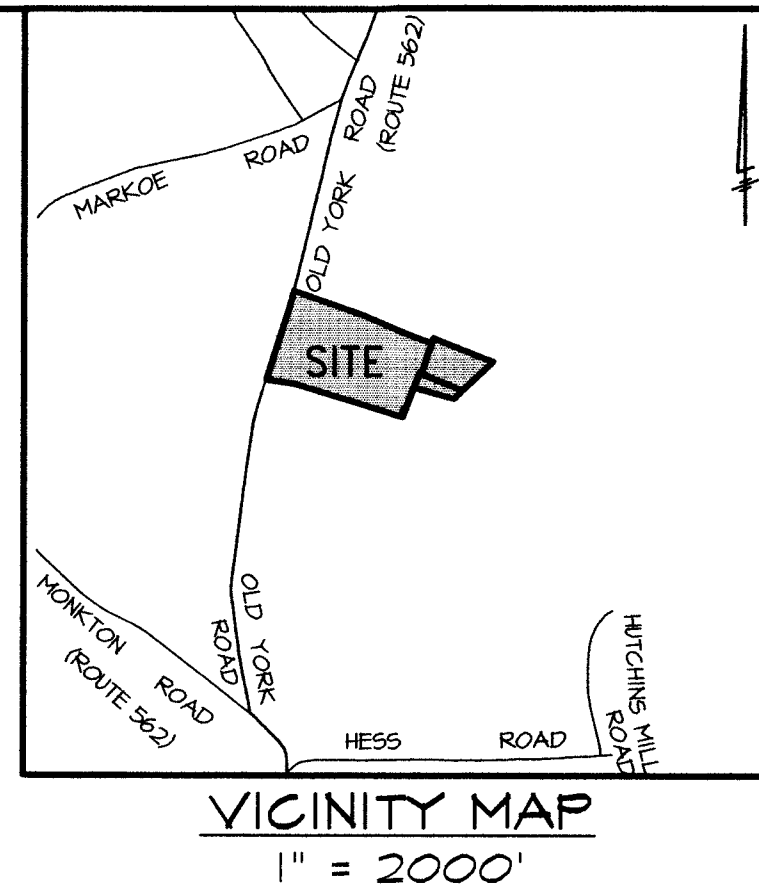
EXHIBIT NO. 5

R.C. 2 PRINCIPAL STRUCTURE OR DWELLING SETBACKS

FROM ANY BUILDING FACE TO:
CENTERLINE OF ANY STREET 15'

FROM ANY BUILDING FACE TO:
LOT LINE OTHER THAN A STREET LINE 35'

MARYLAND STATE PLANE
COORDINATE SYSTEM
NAD 83/91



GENERAL NOTES

1. THE BOUNDARY SHOWN HEREON IS FROM A SURVEY BY GERHOLD, CROSS AND ETZEL, LTD.
2. THE TOPOGRAPHY SHOWN HEREON WAS TAKEN FROM BALTIMORE COUNTY GIS TILES 29C1 AND 29C2
3. THE SOIL TYPES SHOWN HEREON WERE TAKEN FROM BALTIMORE COUNTY SOIL SURVEY MAP NO. 14.
4. WATERSHED - LITTLE GUNPOWDER FALLS SUBWATERSHED - NONE
5. SCHOOL DISTRICT: ELEMENTARY - JACKSONVILLE E.S.; MIDDLE - HEREFORD M.S.; HIGH - HEREFORD H.S.
6. THERE ARE NO KNOWN PRIOR ZONING CASES ON THE SUBJECT PROPERTY.
7. THE SUBJECT PROPERTY (PARCEL 14, TAX ID 10-03-047950) IS HISTORIC.
8. THE SUBJECT PROPERTY IS NOT LOCATED IN THE CHESAPEAKE BAY CRITICAL AREA.
9. ALL LOTS SHOWN HEREON ARE TO BE SERVED BY PRIVATE WELLS AND SEPTIC SYSTEMS.
10. THE 10.623 ACRES PARCEL AND THE 18.398 ACRES PARCEL WILL REMAIN AGRICULTURALLY UTILIZED.

CONTRACT PURCHASER

ELEANOR W. READE
16135 OLD YORK ROAD
MONKTON, MARYLAND 21111
(410) 472-4061

OWNER

GEORGE W. CONSTABLE
ELIZABETH W. CONSTABLE
(JAMES W. CONSTABLE)
16131 OLD YORK ROAD
MONKTON, MARYLAND 21111-2107

PLAN TO SHOW EXISTING EASEMENTS

PLAN TO ACCOMPANY A PETITION
FOR SPECIAL HEARING
CONSTABLE PROPERTY

OLD YORK ROAD
Zoned RC-2; GIS Tile 29C1, 29C2

Deed Ref: W.J.R. No. 3804 folio 377
Tax Account No.: 10-03-047951
Tax Map 29; Grid 12; Parcel 146

Deed Ref: R.R.G. No. 4494 folio 104
Tax Account No.: 10-03-047952
Tax Map 29; Grid 12; Parcel 181

Deed Ref: O.T.G. No. 4920 folio 608
Tax Account No.: 10-03-047953
Tax Map 29; Grid 12; Parcel 167
10th ELECTION DISTRICT
3rd COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND

Scale: 1"=100' Date: AUGUST 25, 2008

GERHOLD, CROSS & ETZEL, LTD.
REGISTERED PROFESSIONAL LAND SURVEYORS
Suite 100
320 East Townsontown Boulevard
Towson, Maryland 21286
(410) 823-4470

SPECIAL HEARING REQUESTED

TO ALLOW A NON-DENSITY TRANSFER OF A 1.432 AC.±
PARCEL OF LAND FROM GEORGE W. CONSTABLE AND
ELIZABETH W. CONSTABLE TO ELEANOR W. READE
(OWNER OF AN ADJACENT TRACT)

TO ALLOW A NON-DENSITY TRANSFER OF A 18.398 AC.±
PARCEL OF LAND FROM GEORGE W. CONSTABLE AND
ELIZABETH W. CONSTABLE TO ELEANOR W. READE
(OWNER OF AN ADJACENT TRACT)

TO ALLOW A NON-DENSITY TRANSFER OF A 10.623 AC.±
PARCEL OF LAND FROM GEORGE W. CONSTABLE AND
ELIZABETH W. CONSTABLE TO RONALD L. MAHER JR.
AND MARGARET HOWARD MAHER
(OWNERS OF AN ADJACENT TRACT)

REVISION DATE COMPUTED: DRAWN: G.L.M. CHECKED: FILE: X:\C\Constable\READE_ZONING.prn

SOIL TYPES & LIMITATIONS

TYPE	SEPTIC FILTER FIELDS	HOMESITES w/BASEMENT	STREETS & PARKING
CcB2, GcB2 McB2, EHC2	Slight	Slight	Moderate: slope
CcC2, GcC2 GcC3, McC2 McC3, EHC2	Moderate: slope	Moderate: slope	Severe: slope
Cu	Severe: moderately high water table; flooding hazard.	Severe: Flooding hazard	Severe: Flooding hazard
GnB	Severe: high water table; moderately slow permeability.	Severe: high water table	Severe: high water table
Hb	Severe: high water table; flooding hazard.	Severe: high water table; flooding hazard.	Severe: high water table; flooding hazard.
GcD2, McD3	Severe: slope	Severe: slope	Severe: slope
BaA, BaB	Severe: high water table; poor natural drainage; slow permeability.	Severe: high water table; poor natural drainage.	Severe: high water table; poor natural drainage.

LEGEND

EXISTING BUILDING
SOIL LINE
WOODS LINE
EXISTING PAVING
ZONING LINE
PROPERTY LINE
CONTOURS

LIBER 8340 PAGE 565

DGS FILE No. 03-10-38-09A

8340 / 565

THIS DEED OF EASEMENT made this 1st day of December 1989, by and between Ronald L. Maher and Anne Marie Sehlhorst Maher, his wife, and Ronald L. Maher individually and Anne Marie Sehlhorst Maher, individually, "GRANTORS", and: The Farm Credit Bank of Baltimore, successor by merger of the Federal Land Bank of Baltimore, (FIRST MORTGAGEE); and the STATE OF MARYLAND, to the use of the Maryland Agricultural Land Preservation Foundation of the Department of Agriculture, "GRANTEE", and containing covenants intended to be real covenants running with the land.

WITNESSETH:

WHEREAS, Title 2 of Subtitle 5 of the Agriculture Article, Maryland Annotated Code, created the Maryland Agricultural Land Preservation Foundation for the purpose of preserving agricultural land and woodland; and

WHEREAS, by authority of Agricultural Article, Section 2-504(3), Maryland Annotated Code, the Grantee may purchase agricultural preservation easements to restrict land to agricultural use; and

WHEREAS, the Grantors own the hereinafter described tract or parcel of land located in an agricultural preservation district established pursuant to Agricultural Article Section 2-509, Maryland Annotated Code, and desire to sell an agricultural preservation easement to the Grantee to restrict the land to agricultural use.

NOW, THEREFORE, in consideration of the sum of three hundred seventy-nine thousand five hundred dollars (\$379,500.00) and other valuable consideration, the receipt of which is hereby acknowledged, the Grantors for themselves, their heirs, personal representatives and assigns, 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 tract or parcel 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:

DEED 43.00
SALES TAX 43.00
#45235 DMD 302 11166
12/04/89

PARCEL NO. 1

BEGINNING for the same at a point in the center of the Old York Road and at the beginning of the second line of a parcel of land which by a deed dated August 18, 1958, and recorded among the Land Records of Baltimore County in Liber G.L.B. No. 3406, folio 168 was conveyed by William A. Sehlhorst, widower, to Anne Marie Sehlhorst Maher and husband

-1-

TRANSMITTAL TO THE STATE OF MARYLAND

NOTED FOR RECORD

AGRICULTURAL TRANSFER TAX
NOT APPLICABLE

SIGNATURE

DATE

12-4-89

Caseant

PETITIONER'S

EXHIBIT NO.

7