



County Commissioners' Hearing Room
400 High Street
Chestertown, Maryland

AGENDA

June 23, 2021
5:30 p.m.

Members of the public are welcome to attend meetings in person or via conference call. Please note that the County's live stream video is temporarily unavailable.

Public participation and audio-only call-in number:

1. Dial **1-872-239-8359**
2. Enter Conference ID: **127 350 78#**

Members of the public are asked to mute their phones/devices, until the Commission Chair opens the floor for comment.

Minutes – March 23, 2022

FY23 Easement Application Rankings – Recommendation to County Commissioners

Janet Bernardy – Accessory Farm Dwelling

General Discussion

Adjourn

Meetings are conducted in Open Session unless otherwise indicated. Meetings are subject to audio and video recordings. Other business without assigned times may be discussed during the course of this meeting as time allows.



To: Agricultural Preservation Advisory Board
From: Carla Gerber
Subject: FY 2023 Easement Applications - Rankings and Recommendation
Date: June 16, 2022

Memorandum

FY2023 Easement Applications and Rankings

We received 16 applications to sell an easement, and all applications may be submitted to MALPF for appraisal. We only received one Round 1 offer but anticipate the possibility of receiving several Round 2 offers. All applications have been scored and ranked using our new Easement Prioritization Formula.

I have included a blank copy of the Easement Prioritization Formula and a spreadsheet with the calculated rankings for your review. For your information, the Land Evaluation score is weighted so that it counts for 20% of the total points. There is also a map showing the 16 farms.

Please note that state law requires that these rankings remain **confidential** until the easement acquisition cycle is officially closed, probably about 12-18 months from now. I will send out a letter to let landowners know if their farm will be submitted to MALPF, but other than that you are not allowed to disclose any other information.

You will also need to make a recommendation on reusing last year's appraisals. I've included MALPF's policy on when appraisals may be reused. Eight of the 16 applications were appraised last year. We must include a recommendation letter with our applications. Last year, you recommended that all new appraisals be conducted because there was evidence of a strong market and higher asking prices.

Janet Bernardy – Accessory Farm Dwelling

I don't have a better site plan for the house that Mrs. Bernardy wants to build for her daughter; however, I have marked up an aerial with the location. Based on MALPF's Lot Location Policy, the proposed lot would be acceptable. It is located near the other dwellings and it is pushed towards edge of tillable land.

FY 2023 Easement Prioritization Formula Scores/Rankings

Code	Rank	LE	20%	F1	F2	F3	F4	F5	F6	40%	P1	P2	P3	P4	P5	P6	30%	TOTAL
		100	20.00	25	25	15	20	10	5	40.00	25	25	20	15	5	10	40.00	100.00
A	1	90.21935	18.04	7	25	15	20	5	3	30.0	25	20	0.00	5	0	0	20.0	68.04
B	2	57.02515	11.41	15	15	15	20	0	3	27.2	25	25	0.00	5	5	10	28.0	66.61
C	3	67.96779	13.59	16	25	15	20	0	0	30.4	2.7	20	9.08	0	5	10	18.7	62.71
D	4	58.1553	11.63	18	23	15	20	0	3	31.6	21.9	10	0.00	7	5	4	19.2	62.39
E	5	66.11077	13.22	24	15	15	10	0	0	25.6	25	5	0.00	10	5	10	22.0	60.82
F	6	51.21539	10.24	19	9	15	20	0	3	26.4	25	15	0.00	5	5	10	24.0	60.64
G	7	57.80965	11.56	9	23	15	20	0	1	27.2	25	20	0.00	0	5	4	21.6	60.36
H	8	76.91796	15.38	6	23	15	20	0	0	25.6	21.6	10	0.00	5	5	6	19.0	60.02
I	9	50.13178	10.03	24	7	15	5	0	0	20.4	25	25	0.00	10	5	6	28.4	58.83
J	10	75.13885	15.03	5	23	15	20	0	0	25.2	21.6	10	0.00	0	5	4	16.2	56.47
K	11	50.33163	10.07	6	17	15	20	0	3	24.4	25	5	0.00	10	5	10	22.0	56.47
L	12	37.13015	7.43	10	3	15	20	0	1	19.6	25	25	0.00	7	5	10	28.8	55.83
M	13	64.36677	12.87	14	23	15	20	0	0	28.8	2.2	20	7.67	5	0	0	13.9	55.62
N	14	60.63229	12.13	7	15	15	15	0	3	22.0	0.6	25	2.23	10	5	6	19.5	53.66
O	15	51.75565	10.35	5	9	15	15	0	1	18.0	19.6	25	0.00	5	5	8	25.0	53.39
P	16	38.73493	7.75	25	7	15	5	0	0	20.8	1.9	5	7.60	5	0	0	7.8	36.35

MALPF EASEMENT PRIORITIZATION FORMULA

OWNER NAME(S) _____ NUMBER OF ACRES _____ Kent ALP FILE# _____
 LAND EVALUATION SCORE _____ SITE ASSESSMENT SCORE _____ TOTAL POINTS THIS CYCLE _____
 RANK _____ DATE _____

Land Evaluation Site Assessment (LESA) Ranking Guidelines for the Maryland Agricultural Land Preservation Foundation

LAND EVALUATION (LE)	SITE ASSESSMENT (SA)			
Soil Productivity & Capability Index 100 pts (20%)	Farm Quality & Potential 100 points (40%)		Priority Preservation Area Status 100 points (40%)	
Capability Class Score (100 points) = Land Evaluation Score	F1	Farm Size (compared to median size farm) 25 points, 10%	P1	Protection of Surrounding Area 25 points, 10%
	F2	On-Site Production 25 points, 10%	P2	Priority Preservation Area (PPA) and Distance from a Priority Funding Area (PFA) 25 points, 10%
	F3	Stewardship/Conservation of Land 15 points, 6%	P3	New block of Protected Lands 20 points, 8%
	F4	Farm Ownership and Operation 20 points, 8%	P4	Historic, Scenic, or Habitat Value of Site 15 points, 6%
	F5	Value-added Production 10 points, 4%	P5	Re-application 5 points, 2%
	F6	Length of Ownership 5 points, 2%	P6	Date of Application 10 points, 4%
	↓	↓		↓
20%	40%		40%	

AGRICULTURAL SITE ASSESSMENT

No.	Farm Quality and Potential of Property										Points: _____ (100 pts. max.)				
F1	<p>Farm Size (compared to the median size farm) <i>How large is the proposed easement site compared to the average sized farming unit in the County? (Median size is based on the latest available Census of Agriculture). Median farm size in Kent County is 123 acres. (Source: 2017 Census of Agriculture).</i></p>										Points: _____ (25 pts. max.)				
	> 270%	25		220.01-230	20		170.01-180	15		120.01-130		10		70.01-80	5
	260.01-270	24		210.01-220	19		160.01-170	14		110.01-120		9		60.01-70	4
	250.01-260	23		200.01-210	18		150.01-160	13		100.01-110		8		50.01-60	3
	240.01-250	22		190.01-200	17		140.01-150	12		90.01-100		7		40.01-50	2
	230.01-240	21		180.01-190	16		130.01-140	11		80.01-90		6		< 40%	1
F2	<p>On-Site Production <i>What percentage of the site is being farmed for income (managed for a scheduled commercial harvest) or managed as woodland with a forest management plan that emphasizes wood product production? This land includes crop fields, pastureland, livestock operations, forest, agricultural buildings, etc.) <u>This does not</u> include lawns, home areas, or wetlands.</i></p>										Points: _____ (25 pts. max.)				
	> 95%	25		75.01-80	17		55.01-60	9							
	90.01-95	23		70.01-75	15		50.01-55	7							
	85.01-90	21		65.01-70	13		45.01-50	5							
	80.01-85	19		60.01-65	11		<45%	3							
F3	<p>Stewardship/Conservation of Land, Water, and Natural Resources <i>To promote the protection of the Chesapeake Bay and its tributaries, MALPF requires that all easement properties have an implemented soil and water conservation plan. Does the landowner have an up to date Soil and Water Conservation Plan? Or, has the NRCS or local SWCD determined that the farm does not need any conservation plan? Does the landowner have an up to date Nutrient Management Plan?</i></p>										Points: _____ (15 pts. max.)				
	<ul style="list-style-type: none"> • SWCP and Nutrient Management Plan are up to date. 15 points • SWCP is up to date. 7.5 points • Nutrient Management Plan is up to date. 7.5 points 														

F4	<p>Farm Ownership and Operation</p> <p>Is the landowner a resident, full-time farmer, retired with the farm operated by family members, or <i>does the landowner live on the farm and lease to a full-time farmer or does a part-time resident farmer operate the farm?</i></p> <ul style="list-style-type: none"> • Applicant lives in the County and the applicant or a family member is actively farming the subject property 20 points • Applicant lives in the County and the farm is leased to a non-family member 15 points • Applicant does not live in the County and the applicant or a family member is actively farming the subject property 10 points • Applicant does not live in the County and the farm is leased to a non-family member 5 points 	<p>Points: _____ (20 pts. max.)</p>
F5	<p>Value-added Production</p> <ul style="list-style-type: none"> • Farming operation includes animal production such as a dairy, poultry, beef cattle, or hogs with direct sales to consumers 5 points • Farming operation does direct sales to consumers from the farm or from local markets of non-animal products 5 points • Farm offers agritourism opportunities 5 points 	<p>Points: _____ (10 pts. max.)</p>
F6	<p>Length of Ownership</p> <p><i>How long has the landowner, or his family, owned the farm?</i></p> <ul style="list-style-type: none"> • Applicant, or his family, has owned the farm for at least 25 years 1 points • Applicant, or his family, has owned the farm for at least 40 years 3 points • The farm has been designated as a Century Farm 5 points 	<p>Points: _____ (5 pts. max.)</p>

No.	Priority Preservation Area Status	Points: _____ (100 pts. max.)
P1	<p>Priority Preservation Area (PPA) and Protection of Surrounding Area State and county policies have always emphasized the need to preserve large blocks of farmland for the continuance of agricultural operations. <i>How well is the subject property protected by surrounding lands that are permanently protected by easements or protective zoning, or temporarily protected as agricultural districts?</i></p> <p>The points credited for proximity to permanent easements will carry three times the weight of points credited for Districts. The size of the applicant farm is given credit by including it in the easement acreage. No points will be awarded if the property is not within the County's PPA.</p> <ul style="list-style-type: none"> • Easements - The combined total acreage of the applicant property and all properties subject to an easement to the Maryland Agricultural Land Preservation Foundation, the Maryland Environmental Trust, or other easement(s) with similar restrictions, which are located within an adjacent block will be calculated. State or Federal Resource Lands will be considered as equivalent to easements. The applicant will receive one (1) point for each 200 acres, or portion thereof, of the total acres calculated in this subsection. • Districts - The total acreage of all non-easement properties subject to a District Agreement with the County which are located within an adjacent block of the applicant's property will be calculated. The applicant will receive one (1) point for each 300 acres, or portion thereof, of the total acres calculated in this subsection. 	Points: _____ (25 pts. max.)
P2	<p>Distance from a Priority Funding Area (PFA) <i>Is the property near a PFA such that it serves as a buffer between a PFA and a conservation zone; or is it sufficiently distant from a PFA or designated growth area to form part of a larger contiguous block of farmland?</i></p> <p>Identify the correct distance and assign the indicated points. The application can receive points for only one distance range.</p> <ul style="list-style-type: none"> • The applicant property is adjacent to a community with sewer and/or water. 5 points • The applicant property is less than ½ mile, but is not adjacent to a community with sewer and/or water 10 points • The applicant property is more than ½ mile, but less than 1 mile from a community with sewer and/or water 15 points • The applicant property is more than 1 mile, but less than 2 miles from a community with sewer and/or water 20 points • The applicant property is more than 2 miles from a community with sewer and/or water 25 points 	Points: _____ (25 pts. max.)

P3	<p>Starting New Block of Protected Lands <i>In order to encourage landowners in areas of the County that are less protected, points will be given for smaller/newer blocks of protected lands. Farms can only qualify for these points if they received 5 or fewer points in P1 above.</i> No points will be awarded if the applicant property is not within the County’s PPA.</p> <ul style="list-style-type: none"> • Easements - The combined total acreage of the applicant property and all properties subject to an easement to the Maryland Agricultural Land Preservation Foundation, the Maryland Environmental Trust, or other easement(s) with similar restrictions, which are located within an adjacent block will be calculated. State or Federal resources lands will be considered as equivalent to easements. The applicant will receive one (1) point for each 50 acres, or portion thereof, of the total acres calculated in this subsection. • Districts - The total acreage of all non-easement properties subject to a District Agreement with the County which are located within an adjacent block of the applicant's property will be calculated. The applicant will receive one (1) point for each 100 acres, or portion thereof, of the total acres calculated in this subsection. 	Points: _____ (20 pts. max.)
P4	<p>Historic, Scenic, or Habitat Value of Site <i>Does the subject property have non-agricultural site-specific attributes highly valued by the County?</i></p> <p>A property shall receive the points indicated for each of the qualifying designations below. If a property contains several of the designations, the points for each shall be added together for a total score which shall not be greater than 15 points. Do <u>not</u> count historic designations more than once. To verify if a site contains these attributes, an evaluator may need to consult with the appropriate State or County representative or agency, such as the designated local Historic Preservation Planner, the Maryland Historical Trust, or the Department of Natural Resources.</p> <ul style="list-style-type: none"> • Contains structure/s listed in the National Register of Historic Places or the County Historic Sites Listing 2 points • Contains Rare, Threatened or Endangered Species Habitat or is in an Area of Critical State Concern 2 points • Is part of a contiguous forested area (25 acres or greater) 5 points • Located along a National or State Scenic Byway 5 points • Borders tidal waters 5 points <p>TOTAL POINTS (add the point totals above together – not to exceed 15 points) = _____points</p>	Points: _____ (15 pts. max.)
P5	<p>Re-application Has an application for this specific property been submitted to the County previously that has not resulted in an easement offer.</p>	Points: _____ (5 pts. max.)

P6	Date of Application from District Establishment Current calendar year minus 5 Current calendar year minus 4 Current calendar year minus 3 Current calendar year minus 2 Current calendar year minus 1 Current calendar year	10 points 8 points 6 points 4 points 2 points 0 points	Points: _____ (10 pts. max.)
----	--	---	---------------------------------

Appraisal Law Policy (Board approved 5/26/2020)

The language in the “appraisal bill” (HB 17/SB 244), which passed in the 2020 session, is as follows:

THE FOUNDATION MAY USE A FAIR MARKET VALUE DETERMINED IN ACCORDANCE WITH THIS SECTION FOR UP TO 2 YEARS AFTER THE DATE ON WHICH THE FOUNDATION WAS FIRST REQUESTED IN WRITING TO PURCHASE THE EASEMENT.

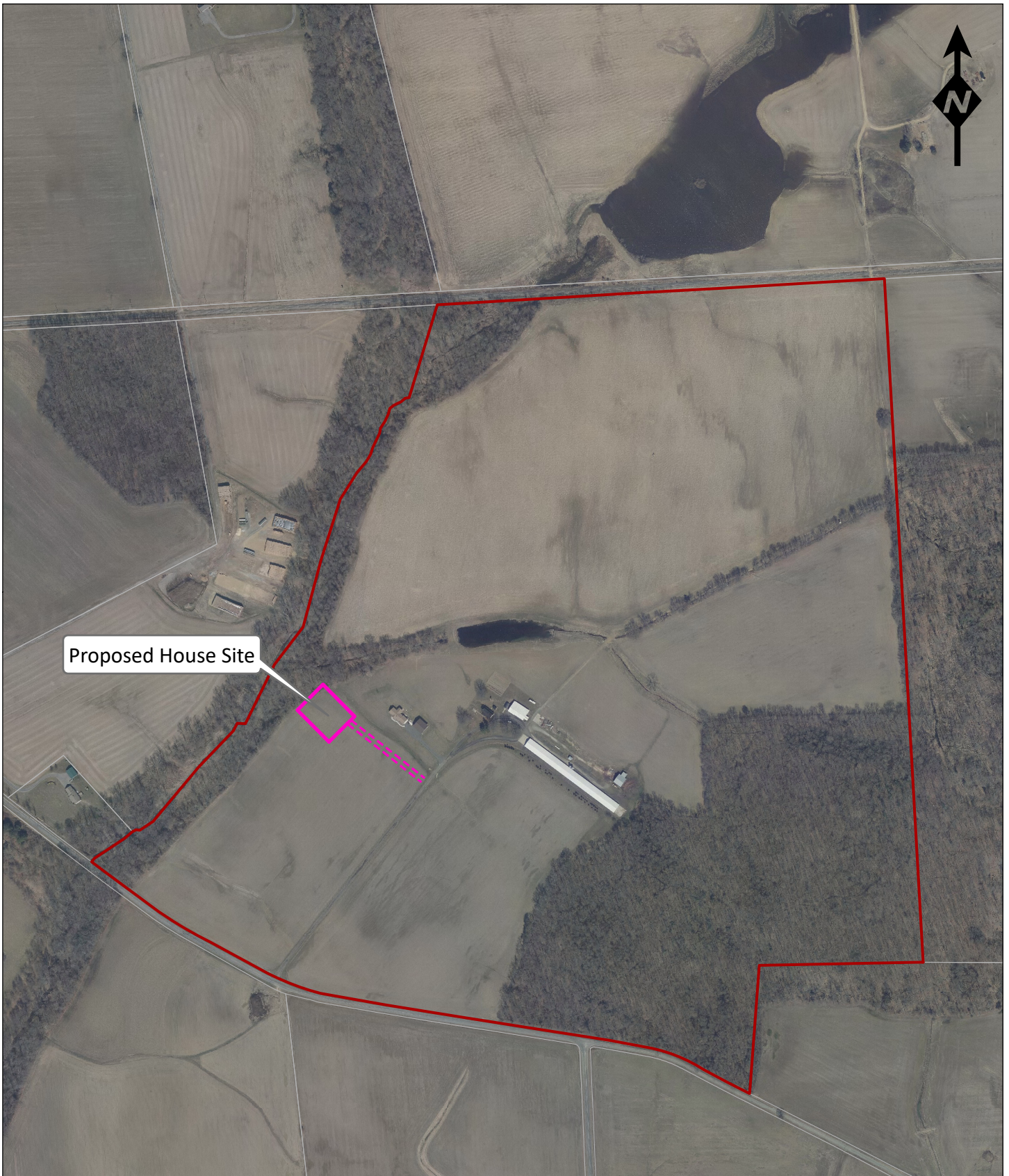
For applications that were submitted in one cycle, where the properties did not go under easement, the existing appraisals may be used in the next consecutive easement cycle.

However, in lieu of using an existing appraisal, the Foundation *may* wish to order a new appraisal in certain cases, including the following:

1. If the applicant rejected a 75% FMV offer or an Easement Value offer in the previous cycle. If an asking price offer is rejected, the appraisal can be re-used.
2. If the property has new owners and that transfer was an arms-length transaction, then DGS should evaluate whether the new comp/new sale price has an impact on the existing appraisal.
3. There is a change in the application that affects the appraisal, such as a change to the lot selection or configuration of withheld acres.
4. There is a significant change in the real estate market in either a downward or upward trend. Some examples may be local in nature such as a County expanding its development envelope, a County change in zoning or a Comprehensive Plan change that may affect value.
5. Appraised values that were determined by a DGS-generated “composite” since the original appraisals are more than 30% different.
6. Appraisals that a landowner or County Administrator had an objection to for a material reason.
7. Appraisals for which there is new information regarding comps or an appraisal provided by the landowner or county administrator.

When the County submits its applications to the Foundation on July 1st of each year, the County will provide a letter to indicate whether it wishes to re-use any appraisals from a previous cycle and the justification for the re-use. Foundation staff will consult with the Department of Planning and the Department of General Services’ Appraisal Unit to determine if the re-use of the appraisal(s) is(are) appropriate.

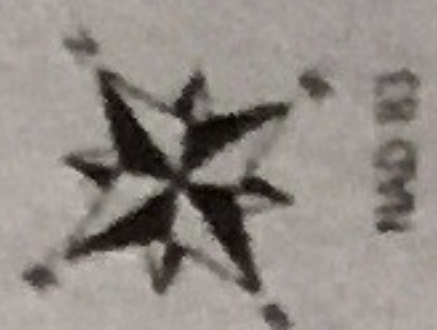
Janet Bernardy - Accessory Farm Dwelling for Daughter



Source: Kent County Department of Planning, Housing, and Zoning.
Aerial taken Spring 2019. Map prepared June 2022.

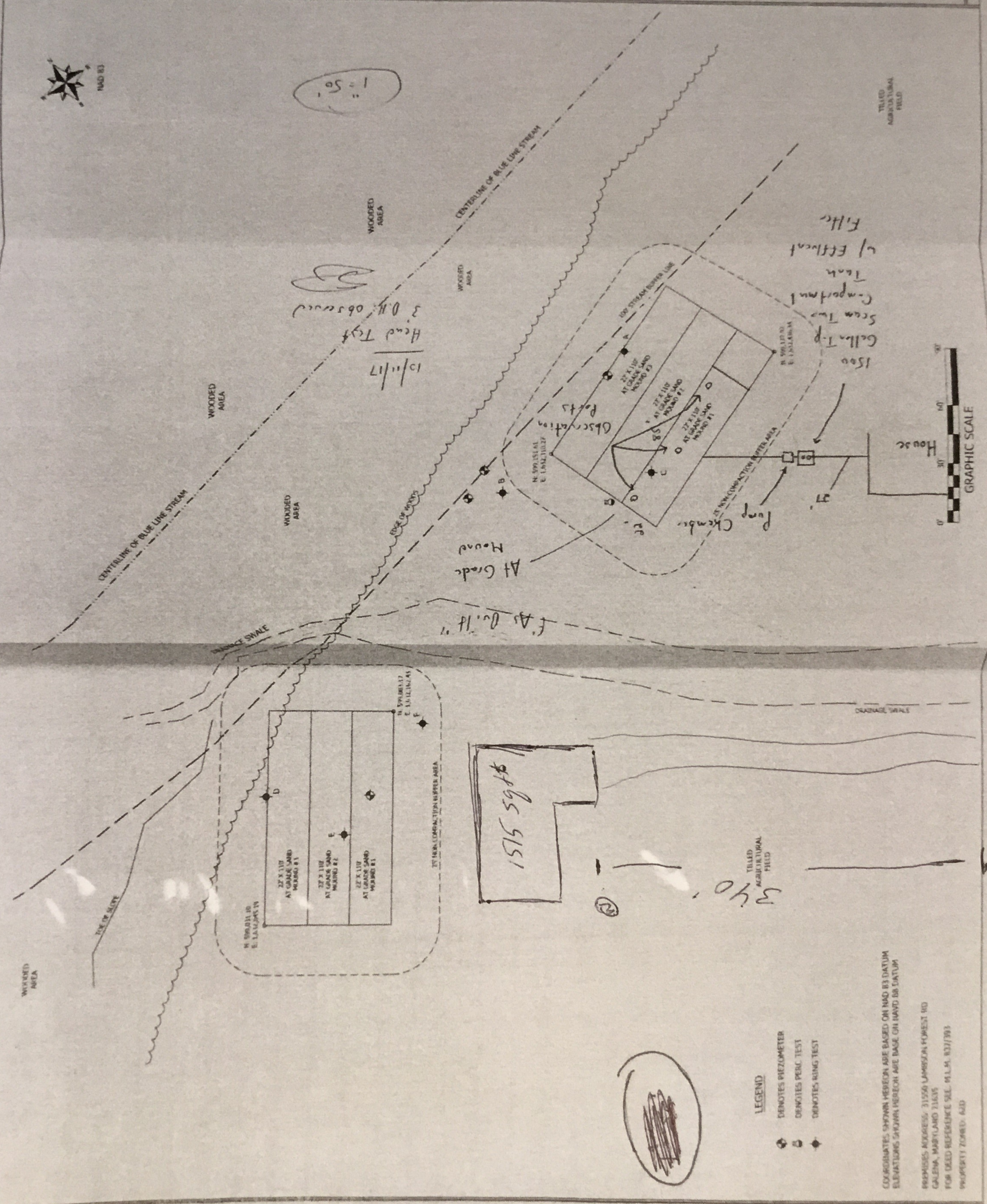
1 inch = 600 feet

SCALE	1" = 20'
DRAWN BY	M
DATE	7-11-14
JOB NO.	17
PROJECT	



1" = 50'

TILLED AGRICULTURAL FIELD



LEGEND

- ◆ DEMOTES PIEZOMETER
- DEMOTES PERC TEST
- DEMOTES RING TEST

COORDINATES SHOWN HEREON ARE BASED ON NAD 83 DATUM
ELEVATIONS SHOWN HEREON ARE BASED ON NAVD 88 DATUM

PREPARED BY: 31556 LAMBSON FOREST RD
GALENA, MARYLAND 21635
FOR DEED REFERENCE SEE: M.L.A. 83/7793
PROPERTY ZONE: A20

Lambson Forest Rd.

Farm lane

GUIDELINES FOR LOT LOCATIONS ON MALPF DISTRICT/EASEMENT PROPERTIES

The Maryland Agricultural Land Preservation Foundation (MALPF) allows landowners to apply for the release of an owner's lot, child's lot, or an unrestricted lot under certain conditions. Lot locations on properties with MALPF districts and easements should be selected so that there is minimal impact on the current and future agriculture and forestry operations on the property.

An application for the release of a lot is first made to the local agricultural advisory board. If approved, the application is submitted to the MALPF staff for review and recommendation to the MALPF Board of Trustees.

When applying for the release of a lot from a district or easement property, the landowner should consider the following location criteria:

- A. Impact on agriculture and forestry operations:
 - 1. Current –operations and designation (both MALPF & County) of existing residential units;
 - 2. Future –operations and residential units

- B. Options for geographical location (in priority order from most to least desirable):
 - 1. Along public roadway and (if they exist) clustered with other dwellings;
 - 2. Along boundary lines, natural boundaries, or the edge of tillable land, and clustered with other dwellings (if they exist);
 - 3. Clustered with farmstead dwellings and buildings
 - 4. Other

- C. Options for Access (in priority order from most to least desirable):
 - 1. Direct road frontage access from public roadway;
 - 2. Use of an existing access, e.g., farm lane or right-of-way. If other dwellings exist, access should be on a shared drive if feasible;
 - 3. Along property boundary lines, natural boundaries, or the edge of tillable land. If other dwellings exist, access should be on a shared drive if feasible.

If the proposed location or access is not the most desirable option listed above (see B and C), the landowner should explain how more desirable alternatives were considered, and why they were not feasible:

When reviewing a request to release a lot from a district/easement property, the local Agricultural Advisory Board, MALPF staff, and the MALPF Board of Trustees shall consider the following guidelines:

- A. Lots allowed under MALPF statute and regulations must be a maximum of 1.0 acre unless county regulations or the Health Department requires additional acreage. When this happens, MALPF statute and regulations allow for the lot to be increased by such acreage as is necessary, up to a maximum lot size of 2.0 acres, with appropriate documentation. Therefore, all requests for lot exclusions should be for 'up to 2.0 acres' to minimize the possibility of the lot request coming back to the Board at a later date to receive approval for an increase in size. After MALPF

Board approval, the specific lot size will be reflected in the legal description (if an easement property) that is provided by the landowner to MALPF staff. The legal description will be recorded with the preliminary release document.

- B. Program Administrators are required to provide property outlines, e.g. tax maps which show the location of the proposed lot and its access, and are encouraged to provide documents that will identify the requested lot location clearly (color aerial maps that show the proposed lot location, its access, the dimensions from property lines, and the location of failed perc tests, if any). Photographs and site plans (may be hand drawn) also help identify the lot location and should be provided when available.
- C. When a lot is proposed to be located in an area that is not optimal but is the only place an acceptable perc can be located, the application must be accompanied by a site plan (showing failed locations) from the Health Department, a licensed sanitarian, or an engineer who is authorized to conduct perc tests or site preparation for perc tests.
- D. If direct road frontage access to a public road is not possible, the county should encourage right-of-way access unless the county has regulations that require lots to have fee-simple access. [NOTE: If fee simple access is required by County regulation, it must be included in the allowable acreage of the lot.] If access is to be in fee, and not along a property line, MALPF will 1) approve the lot only with the condition that “the owner grants a right-of-way back to the farm over top of the access to the lot” and 2) list a requirement on the approval letter to the landowner that the plat (survey or legal description) must include this right-of-way before it can be recorded.
- E. If an approved lot area does not perc after MALPF Board approval, as long as the new location overlaps the approved lot area, and the new location will not significantly interfere with farming or forestry more than the approved lot location, the new location can be reviewed and approved administratively by MALPF staff after it receives local agricultural advisory board approval. MALPF staff reserves the right to refer any request to the Board of Trustees for their review.
- F. If, just prior to a MALPF Board of Trustees meeting it is determined that a lot location must be changed, the request will be withdrawn from the agenda until such time as the local ag advisory board and MALPF staff have had an opportunity to review the new location.
- G. The MALPF Board of Trustees will not attempt to change the location or review any request that changes the location of a lot during the meeting. The application will be withdrawn to allow the local agricultural advisory board and MALPF staff to first review the new location. However, the Board can make suggestions on where the lot should be located and the new location must be resubmitted at a subsequent meeting. To avoid a resubmission, when initially applying for a lot, a property owner may submit two locations for approval by the local agricultural advisory board, MALPF staff, and the MALPF Board of Trustees, designating one as the primary preference. Upon receiving a successful perc, the landowner will notify MALPF staff of which location will be used.
- H. The landowner and Program Administrator are **strongly encouraged** to be present at the MALPF Board meeting when the lot application is presented to answer any questions that may arise. Both landowners and Program Administrators must recognize that if they are not present, circumstances might arise that will require the request be tabled until they can be present.