



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING
3430 Courthouse Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2350

Marsha S. McLaughlin, Director

www.howardcountymd.gov

FAX 410-313-3467

TDD 410-313-2323

HOWARD COUNTY
AGRICULTURAL PRESERVATION ADVISORY BOARD
January 27, 2014

Staff Report

Owner: Elizabeth Mullinix

Farm Location: “Clevenger Farm”
South side of Carrs Mill Road
Tax Map 14, Parcel 329, Lot 1; 142 +/- acres

Easement Designation: MALPF Easement 13-80-05Aes

Request: Review and recommendation of denial by the Howard County Agricultural Preservation Advisory Board for termination of MALPF easement.

Recommendation: Recommendation to the Board to recommend denial to the County Executive of the request to terminate a MALPF easement.

Summary:

Elizabeth Mullinix is the current owner of the subject property, which was placed in the Maryland Agricultural Land Preservation Foundation (MALPF) program on August 14, 1981 by Cliff Clevenger. The farm has been under easement for over 32 years. The request for termination was considered complete and accepted by MALPF on December 9, 2013.

Statute and Regulations Governing MALPF Easement Termination:

The MALPF easements are governed by the Agriculture Article of the Annotated Code of Maryland (the “Code”) and the Code of Maryland Regulations (“COMAR”). Each MALPF easement is of “perpetual duration and may be terminated only under extraordinary circumstances” (COMAR Section 15.15.05.01A). Chapter 15.15.05 of COMAR and Section 2-514 of the Code set forth the circumstances under which a landowner may request termination of the MALPF easement and the criteria used by MALPF to reach a decision on the request for termination. As part of its evaluation, MALPF determines whether future profitable farming is feasible on the land. The County’s role in evaluating a request for easement termination is to consider factors relating to local land use policies. The County’s Agricultural Preservation Advisory Board is required to make a recommendation on the request for termination based on current land regulations, local comprehensive planning and any local priorities for the preservation of agricultural land to the County Executive, who shall prepare a resolution for consideration by the County Council of Howard County. The signed resolution shall be forwarded to MALPF for its consideration in making a decision on the termination request.

Staff Analysis:

Per the “County Review of MALPF 25-Year Termination Requests” policy (the “County Policy”) as approved by the Howard County Executive on April 4, 2007, the following five criteria are to be used in determining whether the easement should be terminated:

1) Effect of termination on County preservation policies and actions including public investment by the County and State

Howard County has a long, committed history of preserving agricultural land. The County was one of the earliest participants in the MALPF program, and the first in the state to initiate a locally funded program. Howard County was the first jurisdiction in the nation to establish the installment purchase agreement (IPA) method of payment for easement acquisition. Once the County established the IPA in 1989, participation in the MALPF dropped off dramatically, and almost all subsequent acquisitions were through the County’s Agricultural Land Preservation Program (ALPP). The IPA has enabled the ALPP over the years to leverage limited funding to protect thousands of acres of farmland. Of the over 250 properties encumbered by some type of agricultural easement, 99 are funded by IPAs, with final payment dates beginning in 2019 and continuing through 2031.

Although most of the land preserved through the ALPP occurred many years ago in the program’s early acquisition stage, the County still places a high priority on acquiring agricultural easements. As noted in Plan Howard 2030, the County should facilitate additional ALPP application cycles and recruit owners of uncommitted land to preserve their farms. The County Executive re-opened the ALPP in early spring of 2013. Approximately 30 property owners asked to have their farms scored, with 8 of those applying to the program. The previous application cycle, completed in August 2011, added over 1,220 acres of preserved ground. As of today, the County has preserved 21,696 acres under agricultural easement, 3,960 acres of which are protected by MALPF easements and the remaining 17,736 acres are under ALPP easements.

The County has spent or committed (through the IPAs) almost \$303 million over the last 30 years to keep land in agricultural use and free of development pressure. This includes approximately \$7 million in county matching funds for MALPF easements. A release of the subject property from the MALPF easement restrictions is contrary to the County’s stated goal of investing in the preservation of agricultural land.

2) Effect of the termination on County growth management policies and actions

The “Clevenger Farm” is located in the RC (Rural Conservation) zoning district. The stated purpose of the RC in the Howard County Zoning Regulations is to “conserve farmland and to encourage agricultural activities, thereby helping to ensure that commercial agriculture will continue as a long term land use and a viable economic activity within the County.” The Zoning Regulations also state that agriculture is the preferred land use in the RC, and that the district is intended to encourage the preservation of large blocks of farmland. Low density, clustered residential development is allowed in the district as well.

Growth projections for western Howard County are made with the assumption that preservation easements prohibit development. The County makes decisions about future public services and infrastructure that communities will need based on these projections. Compared to residential development, farms require fewer public services, such as schools, police and fire protection, and road maintenance. The almost 4,000 acres that are preserved through the MALPF program have always been considered encumbered land, and therefore not available for development. The projections for western Howard County’s public services are based on the continued lack of development potential of all land under easement.

The termination of the easement on the subject property would impact our growth management policies in two ways. First, the County's longstanding policy to preserve as much farmland in the RC as possible would be compromised. In addition, there are decade's worth of planning assumptions that would have to be reconsidered in light of such a significant amount of acreage becoming available for development. Up until the very recent passage of SB 236 (the "Septics Bill"), the subject property of 142 acres could have achieved 33 lots in a standard cluster subdivision. Under current state law, a maximum of 4 cluster lots is possible. There is no way to know what effect future state laws may have on subdivision potential, which is why maintaining the easement is critical.

3) Effect of termination on County policies and actions supporting agricultural economic development

Howard County has one of the most established and highly regarded Agricultural Business Development and Marketing (ABDM) programs in the State. The program, which is housed within the Economic Development Authority, assists farmers with business plan development, product marketing and farm management succession. The ABDM also serves as an information clearinghouse, providing a critical link between the farmer looking to begin a new enterprise (or expand a current one) and the resources necessary to do so. The ABDM program advocates for the industry as a whole, as well as for individual farmers.

Just as the County has invested significant staff and funding to preserve agricultural land, the commitment to preserving the farmer's livelihood is also a well-established policy goal. Plan Howard 2030 calls for the ABDM to further expand its programs to support and enhance agribusiness through farmer training, diversification of operations and assistance with funding. There have been many success stories over the years of County farmers diversifying or expanding their operations and realizing major increases in their profit margins. Particularly encouraging are several recent situations where the next generation has either taken over control of the day to day management of the farm, or has begun a new niche operation side by side with the traditional use. There are at least a handful of young farmers, mostly on land that is in preservation, that have succeeded in innovating the family farm business and making it more profitable in the last several years.

Proximity of non-farm residential neighbors is viewed by farmers as a mixed blessing. On the one hand, those not accustomed to the sights, sounds and smells associated with agriculture may complain when they live next door to a working farm. On the other hand, in Howard County, many of those residential neighbors are affluent and are interested in purchasing their food locally. Anecdotal evidence suggests that the demand for locally grown products has skyrocketed here and will continue to be a strong trend into the future. Representatives from the County and from MALPF have met several times over the years with the Mullinix family to discuss ideas for diversifying their operation while remaining consistent with the MALPF easement terms.

4) Extent of vicinal protected land and/or land in agricultural use and effect of termination on properties that are protected and/or in agricultural use

Just as the County relies on preserved farms remaining protected from development, so do adjacent property owners, especially other farmers of preserved land. While it is true, as noted above, that residential neighbors provide a ready market, it is still easier for farmers to conduct business if they are surrounded by other agricultural uses.

There is concern within the farm community about both the immediate impact of the potential termination and the larger implications as well. Adjacent and nearby farmers fear the consequences on their own operations, but are also apprehensive about the "domino effect". If the Mullinix termination request is granted on the subject farm, other farmers in the MALPF program may be encouraged to apply for termination.

5) *Desirability of the subject property if it were currently being considered for easement purchase*

When property owners apply to the ALPP program, the method used to determine the easement purchase price is a scoring system that evaluates ten different criteria that are intended to capture the value of the applicant properties as farmland. The case the Mullinix family needs to make in order to successfully petition for termination is that their property has no value for farming. A high score on the ALPP scoring system would indicate otherwise.

The County's scoring system has been in place for many years and has been amended over time by the County Council to adapt to changing priorities. The maximum possible number of points is 1,000. The three most significant criteria include parcel size, soils capability and productivity, and adjacency to other protected land. Collectively, these criteria encompass 600 of the 1,000 points. Other items include percentage of property actively being farmed, whether the farm is owner operated or rented, and the status of the Soil Conservation and Water Quality Plan.

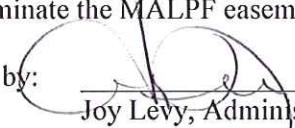
The Clevenger farm scored 893 out of 1000 points using the ALPP system (the completed score sheet is attached to the staff report). Below is a comparison of the Clevenger farm with the scores for the recently completed Batch 14 application cycle. The Clevenger farm scored higher than all of the Batch 14 properties. Given its size, soils capability and very high percentage of nearby and adjacent protected land, this property would be highly desirable if applying for easement acquisition.

PROPERTY	SCORE
<i>Clevenger</i>	<i>893</i>
Carroll, C & P	819
Stedding	782
Rea	735
Carroll, Ian	702
Ferguson	679
Zepp	661
Mannarelli	657

Staff Recommendation:

In accordance with the provisions of the County Policy, staff recommends that the APAB recommend denial of the request to terminate the MALPF easement on the "Clevenger Farm".

Prepared by:


Joy Levy, Administrator
Agricultural Land Preservation Program

Date:

1/22/14

Attachments:

Score Sheet
Aerial Photo
Preservation Map
Soils Map



Howard County Agricultural Land Preservation Program

2013 PRICE FORMULA WORKSHEET

Owner Elizabeth Mullinix Tax Map 14 Parcel(s) 329, Lot 1 Acres 142

Farm Address _____

		POINTS
1. Parcel Size - Maximum 200 points		<u>142</u>
1 point per acre	<u>142 points</u>	
2. Soil Capability - Maximum 100 points		<u>100</u>
Class I 0 acres x 3.0	<u>0 points</u>	
Class II 109 acres x 2.0	<u>218 points</u>	
Class III 21 acres x 1.0	<u>21 points</u>	
Total 130 acres	<u>239 points</u>	
3. Soil Productivity - Maximum 100 points		<u>89</u>
<u>89</u> Land Evaluation Score x 1.0	<u>89</u>	
4. Adjacency to Preserved Land - Maximum 100 points		<u>100</u>
75 to 100% perimeter adjacent to preserved land	<u>97%</u> 100 points	
50 to 74% perimeter adjacent to preserved land	<u> </u> 75 points	
25 to 49% perimeter adjacent to preserved land	<u> </u> 50 points	
Less than 25% perimeter adjacent to preserved land	<u> </u> 25 points	
5. Concentration of Preserved Lands - Maximum 100 points		<u>100</u>
More than 1000 acres of preserved land within 1 mile	<u>1,721</u> 100 points	
750-999 acres of preserved land within 1 mile	<u> </u> 75 points	
500-749 acres of preserved land within 1 mile	<u> </u> 50 points	
Less than 500 acres of preserved land within 1 mile	<u> </u> 25 points	
6. Zoning - RC Zoning District =100 points		<u>100</u>
RC District	<u> </u> x 100 points	
7. Current Land Use - Maximum 100 points		<u>75</u>
75% or more of property in agricultural use	<u> </u> 100 points	
50 to 74% of property in agricultural use	<u>70%</u> 75 points	
25 to 49% of property in agricultural use	<u> </u> 50 points	
Less than 25% of property in agricultural use	<u> </u> 25 points	
8. Implementation of Soil Conservation and Water Quality Plan - Maximum 100 points		<u>100</u>
Current plan fully implemented	<u> </u> x 100 points	
Current plan not fully implemented	<u> </u> 75 points	
Plan needs updating	<u> </u> 50 points	
Plan not implemented or no plan on record	<u> </u> 0 points	
9. Ownership and Operation - Maximum 50 points		<u>50</u>
Owner operated	<u> </u> x 50 points	
Non-owner operated	<u> </u> 25 points	
No current operation	<u> </u> 0 points	
10. Road Frontage - Maximum 50 points		<u>36.64</u>
<u>1832</u> Lin Ft / 100 = <u>18.32</u> x 2.0 on scenic road	<u>36.64</u> points	
<u> </u> Lin Ft / 100 = <u>0</u> x 1.0 on other road	<u>0</u> points	
SUBTOTAL POINTS - Maximum 1000 points		<u>892.64</u>
PRELIMINARY PRICE CALCULATION - Maximum \$40,000 per acre		<u>\$35,706</u>
<u>892.64</u> points x \$40/point =	<u>35705.6</u>	

ADDITIONAL POINTS - Maximum 200 points

- | | |
|----------------------------------------------------------------------------------------|----------|
| 1. Relinquishment of Parcel Division Rights, if applicable - Maximum 50 points | <u>0</u> |
| _____ Number of 50+ acre parcels allowed by right at 1 per 50 acres, if over 100 acres | |
| _____ Number of 50+ acre parcels relinquished x 10 points per parcel | |
| 2. Relinquishment of Tenant House Rights, if applicable - Maximum 50 points | <u>0</u> |
| _____ Number of tenant houses allowed by right at 1 per 25 acres | |
| _____ Tenant house rights relinquished x 10 points per house | |
| 3. Protection of Green Infrastructure Network- Maximum 100 points | <u>0</u> |
| See separate scoring sheet _____ 100 points | |

TOTAL PRICE POINTS - Maximum 1000 points 892.64

FINAL PRICE CALCULATION - Maximum \$40,000 per acre \$35,706
 _____ 893 points x \$40/point = _____ \$35,705.60

TOTAL PRICE OFFER \$5,070,195
 _____ 142 acres x _____ \$35,706 per acre

-77°2.17"



39°17'57"

39°17'57"

Disclaimer: Howard County, Maryland assumes no responsibility for the accuracy of this report or the information contained herein or derived therefrom. The user assumes all risks and liabilities whatsoever resulting from or arising out of the use of this information. There are no oral agreements or warranties relating to the use of this report.

-77°2.17"



Howard County
M A R Y L A N D

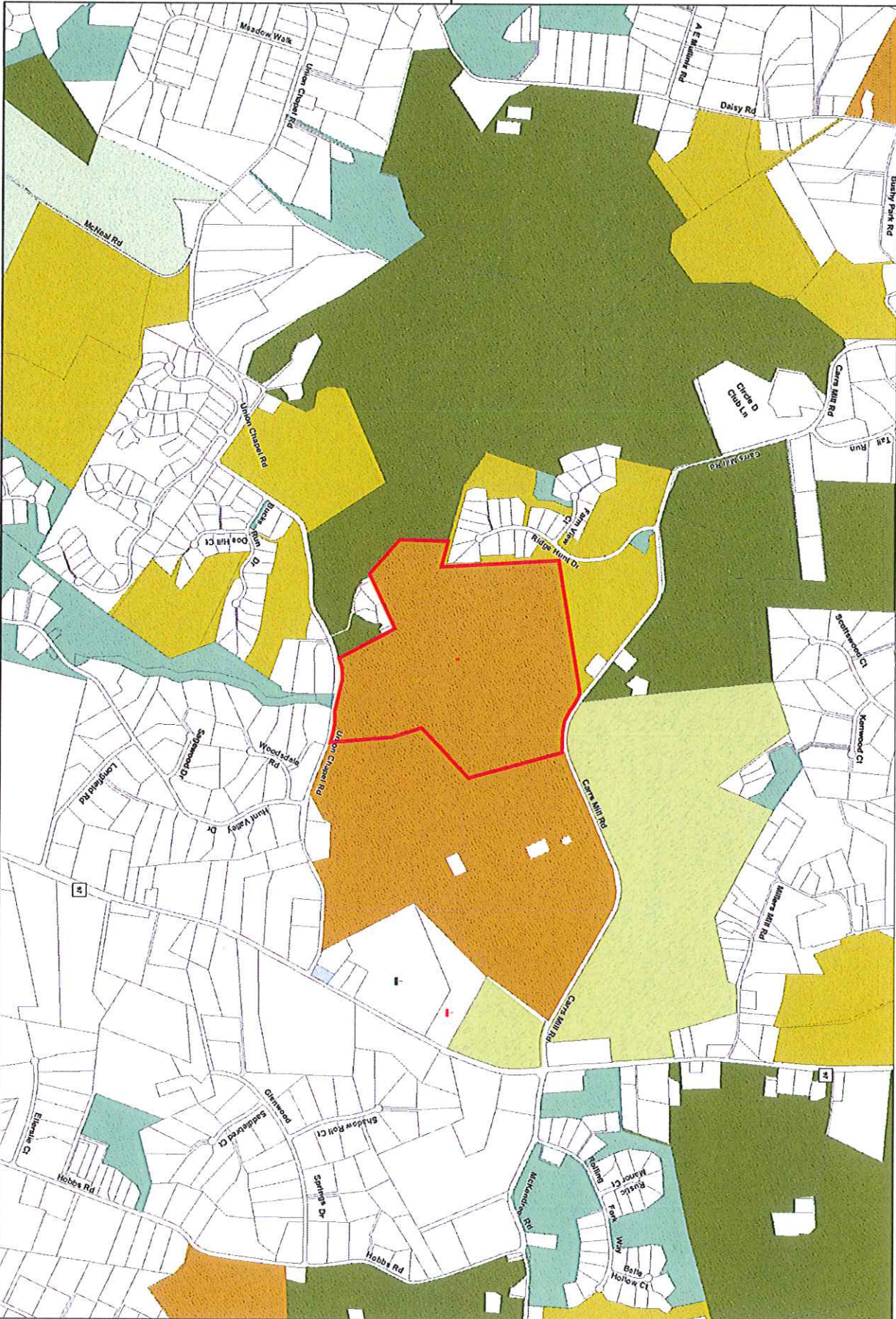
Clevenger Farm

Aerial

By: Joy Levy
Office: Resource Conservation Division
Map Width: 5,200.27 ft.
Print Date: 1/15/2014



-77°2.17"



39°17'56"

39°17'56"

Disclaimer: Howard County, Maryland assumes no responsibility for the accuracy of this report or the information contained herein or derived therefrom. The user assumes all risks and liabilities whatsoever resulting from or arising out of the use of this information. There are no oral agreements or warranties relating to the use of this report.

-77°2.17"



Howard County

M A R Y L A N D

Clevenger Farm

Land Preservation

By: Joy Levy

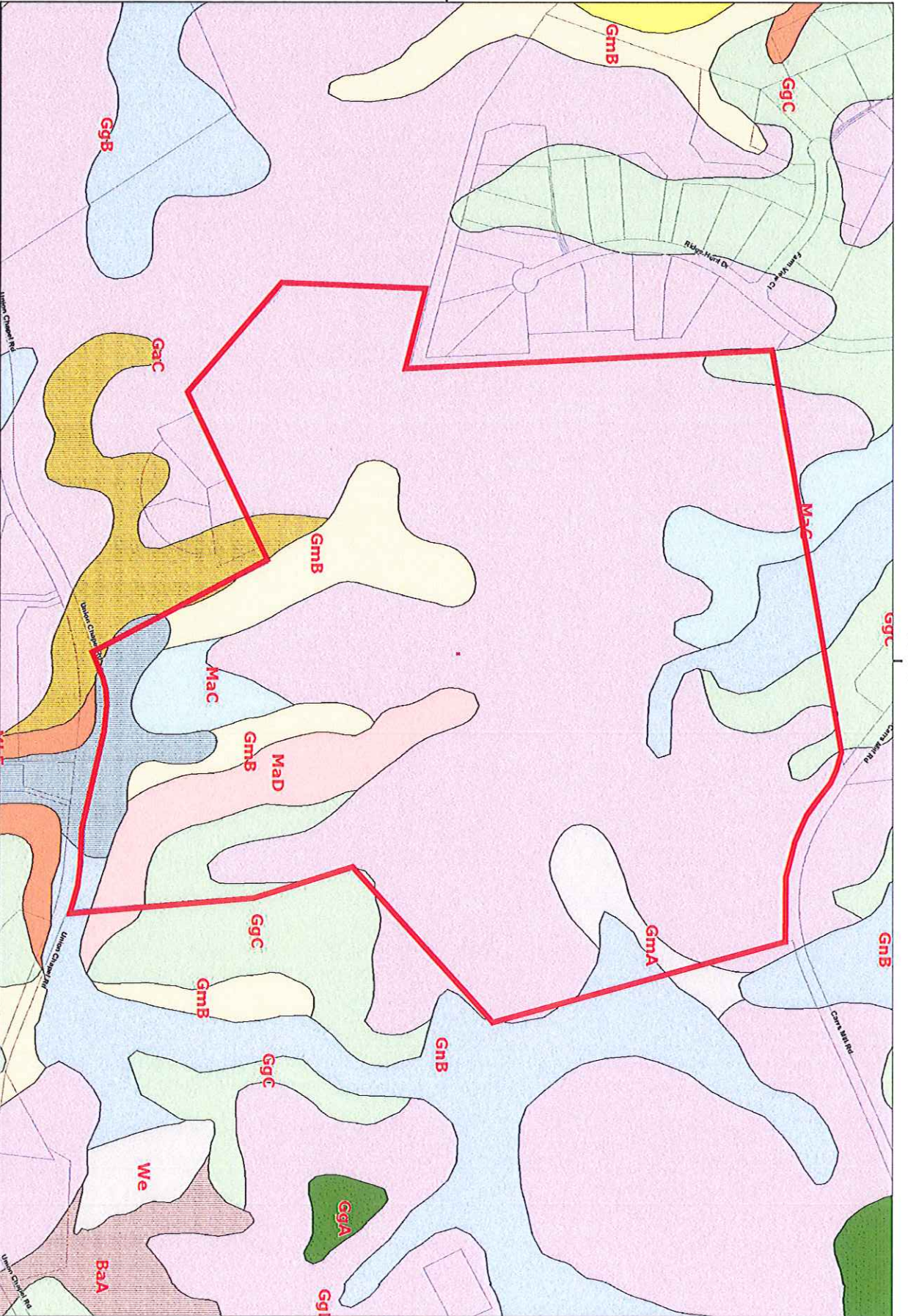
Office: Resource Conservation Division

Map Width: 3.05 mi.

Print Date: 1/15/2014



-77°2.17"



39°17'57"

39°17'57"



Disclaimer: Howard County, Maryland assumes no responsibility for the accuracy of this report or the information contained herein or derived therefrom. The user assumes all risks and liabilities whatsoever resulting from or arising out of the use of this information. There are no oral agreements or warranties relating to the use of this report.

-77°2.17"

Howard County

M A R Y L A N D

Clevenger Farm

Soils

By: Joy Levy
 Office: Resource Conservation Division
 Map Width: 5,200.27 ft.
 Print Date: 1/15/2014

