

INTRODUCED 10-4-2021
PUBLIC HEARING 10-18-2021
COUNCIL ACTION 11-1-2021
EXECUTIVE ACTION 11-3-2021
EFFECTIVE DATE 11-3-2021

County Council of Howard County, Maryland

2021 Legislative Session

Legislative Day No. 14

Bill No. 69-2021

Introduced by: The Chairperson at the request of the County Executive

AN ACT approving and providing for a multi-year Installment Purchase Agreement by Howard County, Maryland to acquire development rights in approximately 23.974 acres of agricultural land located on west side of Jennings Chapel Road, Brookeville, Howard County, Maryland, from C. Alan Sharp or any other owner thereof for a maximum purchase price of \$842,000 or, if less, not more than \$35,120 per acre or portion thereof, rounded to the next highest \$100, plus interest on the deferred portion of such purchase price; providing that the County's obligation to pay such purchase price and interest on the deferred portion of such purchase price shall be a full faith and credit general obligation of the County; providing for the levying of taxes for such payments; authorizing the County Executive to modify such Agreement; and providing for and determining various matters in connection therewith.

Introduced and read first time October 4, 2021. Ordered posted and hearing scheduled.

By order

Michelle Harrod
Michelle Harrod, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on October 18, 2021.

By order

Michelle Harrod
Michelle Harrod, Administrator

This Bill was read the third time on Nov 1, 2021 and Passed Passed with amendments _____, Failed _____.

By order

Michelle Harrod
Michelle Harrod, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 2 day of Nov, 2021 at 4:00 pm a.m./p.m.

By order

Michelle Harrod
Michelle Harrod, Administrator

Approved by the County Executive November 3, 2021

Calvin Ball
Calvin Ball, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment.

1 **Recitals**

2 In accordance with the provisions of Article VI of the Charter of Howard County (the
3 “Charter”), Howard County, Maryland (the “County”) has included in its Capital Budget for
4 fiscal year 2021 a capital project (Project No. G-0163) permitting the County to enter into
5 installment purchase agreements to acquire development rights in agricultural lands located
6 within the County, which Capital Budget was adopted by the County Council of Howard
7 County (the “County Council”) in accordance with the Charter.

8 Section 612 of the Charter provides that “any contract, lease or other obligation
9 requiring the payment of funds from appropriations of a later fiscal year shall be made or
10 approved by ordinance”, and Section 616 of the Charter provides that evidences of
11 indebtedness may be sold by private negotiated sale if the County Council shall find and
12 determine that it is not practical to sell such evidences of indebtedness at public sale; and
13 pursuant to (a) Article VI of the Charter, (b) Sections 15.500 to 15.520, inclusive, of the
14 Howard County Code (the “Agricultural Land Preservation Act”) and (c) Council Bill No.
15 31-2013, enacted on May 31, 2013 and effective on July 31, 2013 or Council Bill No. 47-
16 2017, enacted on June 1, 2017 and effective on August 1, 2017 (whichever is then in effect,
17 the “Authorizing Act”), the County has been authorized and empowered to enter into such
18 installment purchase agreements for a remaining purchase price of not more than
19 \$861,292.35, plus interest thereon.

20 The Authorizing Act provides that the County Council, by an ordinance or ordinances
21 adopted from time to time in accordance with Section 612 of the Charter and other applicable
22 provisions of law, shall approve and provide for (a) the acquisition of the development rights
23 in each particular parcel of agricultural property which is to be the subject of an installment
24 purchase agreement, and (b) the form and content of each installment purchase agreement,
25 including, without limitation, (i) the aggregate purchase price thereunder (or the maximum
26 aggregate purchase price and the method of determining the final purchase price subject to
27 such limitation) and the date of payments of installments of the purchase price (not exceeding

1 twenty years from the date of execution and delivery of such installment purchase agreement),
2 (ii) the interest rate or rates per annum (or the method of determining such rate or rates)
3 payable on any such installment purchase agreement from time to time, and (iii) the required
4 signatures on such documents.

5 The County has now determined to enter into an Installment Purchase Agreement with
6 C. Alan Sharp, or any other person who is or becomes the owner of all or any portion of the
7 Land (hereinafter defined) prior to execution and delivery of such Installment Purchase
8 Agreement, in order to acquire the development rights in approximately 23.974 acres, more
9 or less, of agricultural land located on the west side of Jennings Chapel Road, Brookeville,
10 Howard County, Maryland (the "Land") for an aggregate purchase price not in excess of
11 \$842,000 plus interest on the unpaid balance of such purchase price, as hereinafter provided.
12 The actual amount of the purchase price shall be equal to the lesser of such maximum amount
13 or not more than \$35,120 times the number of acres in such land, rounded to the next highest
14 \$100.00, all upon the terms and conditions hereinafter set forth.

15 **Now, therefore:**

16 **Section 1. Be it enacted by the County Council of Howard County, Maryland,**

17 (a) That Howard County, Maryland is authorized to enter into an Installment
18 Purchase Agreement (the "Installment Purchase Agreement") with C. Alan Sharp or any
19 other person who is or becomes the owner of all or any portion of the Land prior to the
20 execution and delivery of the Installment Purchase Agreement (the "Seller"), in order to
21 acquire the development rights in the Land (the "Development Rights") as part of Capital
22 Project No. G-0163, for an aggregate purchase price not in excess of \$842,000 (the "Purchase
23 Price"), plus interest on the Deferred Purchase Price (hereinafter defined) as hereinafter
24 provided; provided that the actual amount of the Purchase Price shall be equal to the lesser of
25 such maximum amount not more than \$35,120 multiplied by the number of acres in the Land,
26 rounded to the next highest \$100.00.

1 (b) The Installment Purchase Agreement shall be in substantially the form
2 attached as Exhibit I hereto. Such form of Installment Purchase Agreement is incorporated
3 herein by reference and in such form the Installment Purchase Agreement is hereby approved
4 as to form and content. The Installment Purchase Agreement shall be dated as of the date of
5 execution and delivery thereof by the County and the Seller (the "Closing Date").

6 (c) A portion of the Purchase Price equal to 5% of the total Purchase Price
7 shall be paid to the Seller on the Closing Date. The balance of the Purchase Price (the
8 "Deferred Purchase Price") shall be paid to the Seller or its assignee in twenty (20) equal
9 annual installments beginning on the first principal payment date, February 15 or August 15,
10 after the Closing Date, and continuing on February 15 or August 15 of each year thereafter.

11 (d) Interest on the unpaid balance of the Deferred Purchase Price shall accrue
12 from the Closing Date and shall be payable semiannually on February 15 and August 15 in
13 each year, commencing on the first of such dates to follow the Closing Date and continuing
14 to and including the date of payment of the final installment of the Deferred Purchase Price at
15 the interest rate of 1% per annum. Interest shall be calculated on the basis of a 360-day year
16 of twelve 30-day months.

17 (e) The County's obligation to pay the Deferred Purchase Price under the
18 Installment Purchase Agreement and to pay interest thereon is and shall be a general
19 obligation of the County and is and shall be made upon its full faith and credit.

20 **Section 2. Be it further enacted by the County Council of Howard County,**
21 **Maryland,** that it is hereby found and determined that:

22 (a) The acquisition of the Development Rights in the Land as set forth in
23 Section 1 of this Ordinance and in the form of the Installment Purchase Agreement attached
24 hereto is in the best interest of the County.

25 (b) The Installment Purchase Agreement is a contract providing for the
26 payment of funds at a time beyond the fiscal year in which it is made and requires the payment
27 of funds from appropriations of later fiscal years.

1 (c) Funds for the payment of the Purchase Price under the Installment
2 Purchase Agreement are included in the Capital Budget as part of Project No. G-0163.

3 (d) The Development Rights in the Land shall be acquired by the County and
4 extinguished and the covenants in the Deed of Agricultural Land Preservation Easement shall
5 remain on the Land in perpetuity.

6 (e) The Purchase Price is within the legal limitation on the indebtedness of
7 the County as set forth in Article VI of the Charter.

8 (f) The cost of acquiring the Development Rights in the Land is equal to the
9 Purchase Price.

10 (g) The Purchase Price was established by the Agricultural Land Preservation
11 Board in accordance with the provisions of the Agricultural Land Preservation Act and agreed
12 to by the Seller.

13 **Section 3. Be it further enacted by the County Council of Howard County,**
14 **Maryland,** That upon agreement with the Seller, the Installment Purchase Agreement shall
15 be signed by the County Executive of the County (the "County Executive") by his manual
16 signature, and the Installment Purchase Agreement shall bear the corporate seal of the County,
17 attested by the manual signature of the Chief Administrative Officer of the County (the "Chief
18 Administrative Officer"). In the event that any officer whose signature shall appear on the
19 Installment Purchase Agreement shall cease to be such officer before the delivery of the
20 Installment Purchase Agreement, such signature shall nevertheless be valid and sufficient for
21 all purposes, the same as if such officer had remained in office until delivery.

22 **Section 4. Be it further enacted by the County Council of Howard County,**
23 **Maryland,** That the County Executive is hereby authorized, prior to execution and delivery
24 of the Installment Purchase Agreement, to make such changes or modifications in the form of
25 the Installment Purchase Agreement attached hereto and incorporated herein by reference as
26 may be required or deemed appropriate by him in order to accomplish the purpose of the
27 transactions authorized by this Ordinance; provided that such changes shall be within the

1 scope of the transactions authorized by this Ordinance; and the execution of the Installment
2 Purchase Agreement by the County Executive shall be conclusive evidence of the approval
3 by the County Executive of all changes or modifications in the form of the Installment
4 Purchase Agreement and the due execution of the Installment Purchase Agreement on behalf
5 of the County, and the Installment Purchase Agreement shall thereupon become binding upon
6 the County in accordance with its terms, as authorized by Article VI of the Charter, Sections
7 15.500 to 15.520, inclusive, of the Howard County Code and the Authorizing Act
8 (collectively, the “Enabling Legislation”), and as provided for in this Ordinance.

9 **Section 5. Be it further enacted by the County Council of Howard County,**
10 **Maryland,** That the County Executive, the Chief Administrative Officer, the Director of
11 Finance and other officials of the County are hereby authorized and empowered to do all such
12 acts and things and to execute, acknowledge, seal and deliver such documents and certificates,
13 as the County Executive may determine to be necessary to carry out and comply with the
14 provisions of this Ordinance subject to the limitations set forth in the Enabling Legislation
15 and any limitations set forth in this Ordinance.

16 **Section 6. Be it further enacted by the County Council of Howard County,**
17 **Maryland,** That Manufacturers and Traders Trust Company is hereby designated and
18 appointed as registrar and paying agent for the Installment Purchase Agreement (the
19 “Registrar”). The Registrar shall maintain or cause to be maintained books of the County for
20 the registration and transfer of ownership of the Installment Purchase Agreement. In addition,
21 the County may from time to time, designate and appoint the Department of Finance of the
22 County, any officer or employee of the County or one or more banks, trust companies,
23 corporations or other financial institutions to act as a substitute or alternate registrar or paying
24 agent for the Installment Purchase Agreement, and any such substitute or alternate shall be
25 deemed to be the Registrar or an alternate Registrar for all purposes specified in the resolution
26 appointing such substitute or alternate. Any such appointment shall be made by the County

1 Council by resolution; and the exercise of such power of appointment, no matter how often,
2 shall not be an exhaustion thereof.

3 **Section 7. Be it further enacted by the County Council of Howard County,**
4 **Maryland,** That for the purpose of paying the installments of the Purchase Price when due
5 and payable and the interest on the unpaid portion of the Deferred Purchase Price when due
6 and payable, there is hereby levied and there shall hereafter be levied in each fiscal year that
7 any portion of the Purchase Price payable under the Installment Purchase Agreement remains
8 outstanding, ad valorem taxes on real and tangible personal property and intangible property
9 subject to taxation by the County without limitation of rate or amount and, in addition, upon
10 such other intangible property as may be subject to taxation by the County within limitations
11 prescribed by law, in an amount sufficient, together with the portion of the transfer tax
12 imposed on transfers of real property in Howard County which is dedicated to agricultural
13 land preservation and other available funds, to pay any installment of the Purchase Price under
14 the Installment Purchase Agreement maturing during the succeeding year and to pay the
15 annual interest on the outstanding balance of the Deferred Purchase Price until the total
16 Purchase Price under the Installment Purchase Agreement and such interest have been paid in
17 full; and the full faith and credit and the unlimited taxing power of the County are hereby
18 irrevocably pledged to the punctual payment of the Purchase Price under the Installment
19 Purchase Agreement and the interest on the unpaid balance of the Deferred Purchase Price as
20 and when the same respectively become due and payable.

21 **Section 8. And Be it further enacted by the County Council of Howard County,**
22 **Maryland,** that this Ordinance shall take effect on the date of its enactment.

EXHIBIT I

FORM OF INSTALLMENT PURCHASE AGREEMENT

_____ and

the Seller

and

HOWARD COUNTY, MARYLAND,
the County

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INSTALLMENT PURCHASE AGREEMENT
(Agreement No. 202_ - _)

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INSTALLMENT PURCHASE AGREEMENT
(Agreement No. 202_ -_)

THIS INSTALLMENT PURCHASE AGREEMENT (this "Agreement") is made as of the _____ day of _____, 202_ between _____ and _____ ([collectively], the "Seller"), and HOWARD COUNTY, MARYLAND, a body corporate and politic of the State of Maryland (the "County").

RECITALS

A. Pursuant to and in accordance with the Enabling Legislation, as amended, the County is authorized to protect and enhance agricultural land in Howard County, Maryland by purchasing the Development Rights (as defined therein) in agricultural lands located within the County.

B. The Seller is the owner in fee simple of certain agricultural real property located in Howard County, Maryland and more particularly described in Exhibit B hereto (the "Land"). The Seller has offered to sell to the County the Seller's Development Rights in the Land and the County has accepted such offer, all upon and subject to the conditions set forth in this Agreement.

C. The total purchase price payable for the Seller's Development Rights shall be \$ _____ (the "Total Purchase Price"). A portion of the Total Purchase Price in the amount of \$ _____ shall be paid to the Seller on the date hereof, and the balance of the Total Purchase Price in the amount of \$ _____ (the "Deferred Purchase Price") shall be payable to the Seller in 20 annual installments as provided herein.

D. The County will receive the Seller's Development Rights in the Land for conservation purposes, which includes the preservation of farm land, forest land and open space, pursuant to the County's conservation policy and to enhance agriculture in Howard County and protect natural and ecological resources.

E. Except for the limited transferability described in the Deed of Easement referred to herein, the transfer by the Seller of [his/her/their] Development Rights in the Land shall be in perpetuity.

AGREEMENTS

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, the Seller and the County hereby agree as follows:

ARTICLE I
DEFINITIONS

SECTION 1.1. Definitions. As used in this Agreement, the following terms have the following meanings, unless the context clearly indicates a different meaning:

“Agricultural Use” means farming and includes:

- (1) Dairying, pasturage, growing crops, bee keeping, horticulture, floriculture, orchards, plant nurseries, viticulture, silviculture, aquaculture, and animal and poultry husbandry;
- (2) The breeding, raising, training and general care of livestock for uses other than food, such as sport or show purposes;
- (3) Construction and maintenance of barns, silos and other similar structures, the use of farm machinery, the primary processing or agricultural products and the sale of agricultural products produced on the Land; and
- (4) Other uses directly related to or as an accessory use of the Land for farming and agricultural purposes.

“Approval Ordinance” means Council Bill No. ___-2021, passed by the County Council at a regular meeting duly called and held on _____, 2021 and approved by the County Executive and effective on _____, 2021

“Business Day” or “business day” means a day on which (a) banks located in each of the cities in which the principal office of the County or the Registrar is located are not required or authorized by law or executive order to close for business, and (b) The New York Stock Exchange is not closed.

“Closing Date” means the date of this Agreement, which is the date of execution and delivery of this Agreement by the parties hereto.

“Code” means the Internal Revenue Code of 1986, as amended. Each reference to the Code herein shall be deemed to include the United States Treasury Regulations in effect or proposed from time to time with respect thereto.

“County” means Howard County, Maryland, a body corporate and politic and a political subdivision created and existing under and by virtue of the Constitution and laws of the State, its successors and assigns.

“County Council” means the County Council of Howard County, Maryland.

“County Executive” means the County Executive of Howard County, Maryland.

“Deed of Easement” means the Deed of Agricultural Land Preservation Easement dated the Closing Date from the Seller to the County, which shall convey the Development Rights to the County in perpetuity. The Deed of Easement shall be substantially in the form attached hereto as Exhibit A and made a part hereof.

“Deferred Purchase Price” means \$ _____, the deferred portion of the Total Purchase Price to be paid by the County to the Registered Owner in accordance with this Agreement.

“Development Rights” means the rights to develop the Land for any purpose other than Agricultural Uses. “Development Rights” shall include, but not be limited to, the right to use the Land for industrial or commercial uses, for residential purposes (except as set forth in Sections 15.500 to 15.520, inclusive, of the Howard County Code, as amended), or the storage or depositing of trash, junk, rubbish or debris.

“Enabling Legislation” means, collectively, (1) Article VI of the Howard County Charter, (2) Sections 15.500 to 15.520, inclusive, of the Howard County Code, as amended, and (3) Council Bill No. ____, passed by the County Council on _____, approved by the County Executive and enacted on _____ and effective on _____.

“Interest Payment Date” means February 15 and August 15 in each year, commencing _____, 202__.

“Land” means the tract of land located in Howard County, Maryland, containing approximately _____ acres, and more particularly described in Exhibit B attached hereto and made a part thereof; provided, however, that if any lot is released from the encumbrance of the Deed of Easement in accordance with the terms hereof, such lot so released shall not thereafter be considered to be part of the Land.

“Permitted Encumbrances” means the encumbrances listed on Exhibit C attached hereto and made a part hereof and any encumbrances on or with respect to the Land or any portion thereof hereafter approved by the County.

“Person” or “person” means any natural person, firm, association, corporation, company, trust, partnership, public body or other entity.

“Registered Owner” means the registered owner of this Agreement as shown on the registration books maintained by the Registrar.

“Registrar” means Manufacturers and Traders Trust Company, a New York banking corporation, or any other person hereafter appointed by the County to act as Registrar and paying agent for this Agreement.

“Seller” means _____ and _____, [his] [her] [its] [their] [heirs, personal representatives,] successors and assigns.

“State” means the State of Maryland.

“Total Purchase Price” means \$ _____, the total purchase price to be paid by the County to the Registered Owner in accordance with this Agreement.

SECTION 1.2. Rules of Construction. The words “hereof”, “herein”, “hereunder”, “hereto”, and other words of similar import refer to this Agreement in its entirety.

The terms "agree" and "agreements" contained herein are intended to include and mean "covenant" and "covenants".

References to Articles, Sections, and other subdivisions of this Agreement are to the designated Articles, Sections, and other subdivisions of this Agreement.

The headings of this Agreement are for convenience only and shall not define or limit the provisions hereof.

All references made (a) in the neuter, masculine or feminine gender shall be deemed to have been made in all such genders, and (b) in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well.

ARTICLE II SALE AND PURCHASE OF DEVELOPMENT RIGHTS

SECTION 2.1. Agreement to Sell and Purchase Development Rights. The Seller agrees to sell the Development Rights to the County and the County agrees to purchase the Development Rights from the Seller on the date hereof for a purchase price of \$ _____ (the "Total Purchase Price").

SECTION 2.2. Delivery of Deed of Easement. In order to evidence the sale of the Development Rights to the County, the Seller shall execute and deliver to the County on the Closing Date the Deed of Easement in the form attached hereto as Exhibit A and made a part hereof. The Deed of Easement shall be recorded among the Land Records of Howard County, Maryland.

ARTICLE III PAYMENT OF TOTAL PURCHASE PRICE

SECTION 3.1. Payment of Total Purchase Price.

(a) The County shall pay a portion of the Total Purchase Price in the amount of \$ _____ to the Seller on the Closing Date and shall pay the Deferred Purchase Price to the Registered Owner in twenty (20) equal installments of \$ _____ on [February 15] [August 15], _____ and on the same day of each year thereafter to and including [February 15] [August 15], _____.

(b) Interest on the unpaid balance of the Deferred Purchase Price shall accrue from the date hereof and shall be payable to the Registered Owner on [February 15] [August 15], 202_ and semiannually thereafter on February 15 and August 15 in each year to and including [February 15] [August 15], _____ at the rate of ____% per annum. Interest shall be calculated on the basis of a 360-day year of twelve 30-day months. No interest shall be payable on the portion of the Total Purchase Price payable on the Closing Date.

(c) The Total Purchase Price and the interest on the unpaid balance of the Deferred Purchase Price are payable in lawful money of the United States of America, at the time of payment.

(d) Payment of interest on the unpaid balance of the Deferred Purchase Price shall be made by the County on each Interest Payment Date to the Registrar, and payments of the annual installments of the Deferred Purchase Price shall be made on the dates set forth in Section 3.1.(a) above. The Registrar shall forward all such payments (other than the final installment of the Deferred Purchase Price) to the person appearing on the books of the County maintained by the Registrar as the Registered Owner, by check or draft mailed to the Registered Owner at the address of the Registered Owner as it appears on such registration books or, if the Registered Owner is a trustee who has issued certificates of participation in this Agreement, by wire transfer to such Registered Owner to the bank account number on file with the Registrar on the tenth day before the applicable Interest Payment Date, or if such tenth day is not a Business Day, the Business Day next preceding such day. The final installment of the Deferred Purchase Price shall be paid by the Registrar to the Registered Owner upon presentation and surrender of this Agreement at the office of the Registrar.

(e) The County's obligation to make payments of the Total Purchase Price hereunder and to pay interest on the unpaid balance of the Deferred Purchase Price is a general obligation of the County, and the full faith and credit and the unlimited taxing power of the County are irrevocably pledged to the punctual payment of the Deferred Purchase Price and the interest on the unpaid balance of the Deferred Purchase Price as and when the same respectively become due and payable.

(f) Notwithstanding any other provision of this Agreement, if the Registered Owner assigns [his] [her] [its] [their] right, title and interest in and to this Agreement to a trustee in connection with the creation of a trust by such Registered Owner and the issuance of certificates of participation in this Agreement by such trustee, such trustee shall be, and shall be listed on the registration books maintained by the Registrar as, the Registered Owner of this Agreement, and all payments to be made under this Agreement after the creation of such trust shall be made directly to such trustee.

SECTION 3.2. Registration and Transfer of this Agreement.

(a) Until the Deferred Purchase Price and all interest thereon have been paid in full, the County shall maintain and keep at the offices of the Registrar, registration books for the registration and transfer of this Agreement; and upon presentation of this Agreement for such purpose at the offices of the Registrar, the Registrar shall register or cause to be registered on such registration books, and permit to be transferred thereon, under such reasonable regulations as the County or the Registrar may prescribe, the ownership of this Agreement.

(b) The original Seller is the original Registered Owner. This Agreement shall be transferable only upon the books of the County maintained for such purpose by the Registrar, at the written request of the Registered Owner as then shown on such registration books or [his] [her] [its] [their] attorney duly authorized in writing, upon presentation and surrender thereof, together with a written instrument of transfer substantially in the form attached hereto as Exhibit D, or as may otherwise be satisfactory to and approved by the Registrar in writing, duly executed by the Registered Owner or [his] [her] [its] [their] attorney duly authorized in writing. Upon the surrender for transfer of this Agreement, the Registrar shall complete the Schedule of Transferees attached hereto as Exhibit E with the name, address and tax identification number of the transferee Registered Owner, the date

of the transfer and the outstanding principal balance of the Deferred Purchase Price as of the date of transfer; provided, however, that if there is any conflict between the information set forth in Exhibit E hereto and the registration books maintained by the Registrar, the information shown on such registration books shall control.

The County and the Registrar may deem and treat the person in whose name this Agreement is registered upon the books of the County maintained by the Registrar as the absolute owner of this Agreement, whether any payments hereunder shall be overdue or not, for the purpose of receiving payment of, or on account of, the Deferred Purchase Price and interest thereon and for all other purposes, and all such payments so made to any such Registered Owner or upon [his] [her] [its] [their] order shall be valid and effectual to satisfy and discharge the liability upon this Agreement to the extent of the sum or sums so paid, and neither the County nor the Registrar shall be affected by any notice to the contrary.

For every registration of transfer of this Agreement, the County or the Registrar may make a charge sufficient to reimburse themselves for any tax or other governmental charge required to be paid with respect to such exchange or transfer, which sum or sums shall be paid by the person requesting such transfer as a condition precedent to the exercise of the privilege of registering such transfer.

SECTION 3.3. Mutilated, Lost, Stolen or Destroyed Agreement. In the event that this Agreement is mutilated, lost, stolen or destroyed, the County and the Registered Owner (as then shown on the registration books maintained by the Registrar) shall execute a substitute for this Agreement having the same terms as that of this Agreement mutilated, lost, stolen or destroyed; provided that, in the case of any mutilated Agreement, such mutilated Agreement shall first be surrendered to the Registrar, and, in the case of any lost, stolen or destroyed Agreement there shall be first furnished to the County and the Registrar evidence of such loss, theft or destruction satisfactory to the County and the Registrar, together with indemnity satisfactory to each of them in their sole discretion. The County and the Registrar may charge the Registered Owner requesting such new Agreement their expenses and reasonable fees, including attorney's fees, in this connection. The Registered Owner shall be responsible for the payment of all such expenses and fees whether or not the Registered Owner subsequently recovers, presents, and surrenders this Agreement at the office of the Registrar. The Registrar shall deduct such expenses from the final installment of the Deferred Purchase Price before paying the balance to the Registered Owner. If after the delivery of such substitute Agreement, a bona fide purchaser of the original Agreement (in lieu of which such substitute Agreement was issued) presents for payment such original Agreement, the County and the Registrar shall be entitled to recover such substitute Agreement from the person to whom it was delivered or any other person who receives delivery thereof, except a bona fide purchaser, and shall be entitled to recover upon the security or indemnity provided therefor or otherwise to the extent of any loss, damage, cost, fees, or expense incurred by the County and the Registrar in connection therewith.

ARTICLE IV
REPRESENTATIONS AND WARRANTIES

SECTION 4.1. Representations and Warranties of the County. The County makes the following representations and warranties:

(a) The County is a body corporate and politic and a political subdivision of the State of Maryland.

(b) The County has the necessary power and authority to acquire the Development Rights, to enter into this Agreement, to perform and observe the covenants and agreements on its part contained in this Agreement and to carry out and consummate all transactions contemplated hereby. By proper action, the County has duly authorized the execution and delivery of this Agreement.

(c) The Enabling Legislation and the Approval Ordinance authorize the County to enter into this Agreement, and this Agreement has been duly and properly authorized, executed, sealed and delivered by the County, constitutes the valid and legally binding obligation of the County, and is enforceable against the County in accordance with its terms.

(d) There are no proceedings pending before any court or administrative agency which may affect the authority of the County to enter into this Agreement.

SECTION 4.2. Representations and Warranties of the Original Seller. The original Seller makes the following representations and warranties with respect to [himself] [herself] [itself] [themselves], but not with respect to any transferee Registered Owner:

(a) The Seller has full power and authority [and is legally competent] to execute and deliver this Agreement and the Deed of Easement, and to incur and perform the obligations provided for herein and therein. No consent or approval of any person or public authority or regulatory body is required as a condition to the validity or enforceability of this Agreement or the Deed of Easement, or, if required, the same has been duly obtained.

(b) This Agreement and the Deed of Easement have been duly and properly executed by the Seller, constitute valid and legally binding obligations of the Seller, and are fully enforceable against the Seller in accordance with their respective terms.

(c) There is no litigation or proceeding pending or, so far as the Seller knows, threatened before any court or administrative agency which, in the opinion of the Seller, will materially adversely affect the authority of the Seller to enter into, or the validity or enforceability of, this Agreement or the Deed of Easement.

(d) There is (i) no provision of any existing mortgage, indenture, contract or agreement binding on the Seller or affecting the Land, and (ii) to the knowledge of the Seller, no provision of law or order of court binding upon the Seller or affecting the Land, which would conflict with or in any way prevent the execution, delivery, or performance of the terms of this Agreement or the Deed of Easement, or which would be in default or violated as a result of such execution, delivery

or performance, or for which adequate consents, waivers or, if necessary, subordinations, have not been obtained.

(e) The Seller is the sole owner and lawfully seized of a fee simple estate in the Land and has the right to grant and convey the easement conveyed pursuant to the Deed of Easement. Further, there exist no liens, security interests or other encumbrances on or with respect to the Land (other than Permitted Encumbrances), and the Seller specially warrants and will defend the County's right, title and interest in and to the easement granted under the Deed of Easement.

(f) The Seller is not a nonresident alien of the United States of America for purposes of federal income taxation.

The representations in subsection (f) above are made under penalties of perjury and the information contained therein may be disclosed by the County to the Internal Revenue Service. The Seller acknowledges that any false statement in such subsection could be punished by fine, imprisonment or both.

ARTICLE V
PROVISIONS RELATING TO EXCLUSION
OF INTEREST FROM INCOME FOR FEDERAL INCOME TAXATION

SECTION 5.1. Intent of County and Tax Covenant of County. The County intends that the interest payable under this Agreement shall not be includible in the gross income of the Registered Owner for purposes of federal income taxation pursuant to Section 148 of the Code. Accordingly, the County shall not knowingly take or permit to be taken any other action or actions or omit or fail to take any action, which would cause this Agreement to be an "arbitrage bond" within the meaning of Section 148 of the Code, or which would otherwise cause interest payable under this Agreement to become includible in the gross income of any Registered Owner for purposes of federal income taxation pursuant to Section 148 of the Code.

SECTION 5.2. Acknowledgment of Seller with Regard to Tax Consequences of Transaction. The Seller has received an opinion from Miles & Stockbridge P.C., Bond Counsel, dated the Closing Date, to the effect that under existing laws, regulations, rulings and decisions, interest payable under this Agreement is not includible in the gross income of the Seller for federal income tax purposes, which opinion assumes continuous compliance with certain covenants in the Tax Certificate and Compliance Agreement to be executed and delivered by the County on the Closing Date and is otherwise limited in accordance with its terms. The Seller acknowledges that [he] [she] [it] [they] [has] [have] made their own independent investigation and [has] [have] consulted with attorneys, accountants and others selected by the Seller in the Seller's sole discretion with respect to all other tax considerations related to the transaction contemplated hereby (including, but not limited to, installment sales treatment under Section 453 of the Code, charitable contribution deductions under Section 170 of the Code, and federal estate tax implications); and the Seller certifies that the Seller has not looked to or relied upon the County or any of its officials, agents or employees, or to Bond Counsel, with respect to any of such matters.

ARTICLE VI
THE REGISTRAR

SECTION 6.1. Appointment of Registrar. Manufacturers and Traders Trust Company, a New York banking corporation, is hereby designated and appointed to act as Registrar for this Agreement.

SECTION 6.2. Ownership of Agreement. The Registrar, in its individual capacity or as trustee for holders of participation interests in this Agreement, may in good faith buy, sell, own and hold this Agreement, and may join in any action which any Registered Owner may be entitled to take with like effect as if it did not act as Registrar hereunder. The Registrar, in its individual capacity, either as principal or agent, may also engage in or be interested in any financial or other transaction with the County and may act as depository, trustee or agent for other obligations of the County as freely as if it did not act in any capacity hereunder.

SECTION 6.3. Removal of Registrar and Appointment of Successor Registrar. The County shall have the right, subject to the terms of any agreement with the Registrar, to remove the Registrar at any time by filing with the registrar to be removed, and with the Registered Owner, an instrument in writing. Notwithstanding the foregoing, such removal shall not be effective until a successor Registrar has assumed the Registrar's duties hereunder.

SECTION 6.4. Qualifications of Successor Registrar. Any successor Registrar shall be either (a) the Department of Finance of the County, (b) an officer or employee of the County, or (c) a bank, trust company or other financial institution duly organized under the laws of the United States or any state or territory thereof which is authorized by law and permitted under the laws of the State to perform all the duties imposed upon it as Registrar by this Agreement.

SECTION 6.5. Successor by Merger or Consolidation. If the Registrar is a bank, trust company or other financial institution, any institution or corporation into which the Registrar hereunder may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger or consolidation to which the Registrar hereunder shall be a party or any institution or corporation succeeding to the corporate trust business (if any) of the Registrar, shall be the successor Registrar under this agreement, without the execution or filing of any paper or any further act on the part of the parties hereto, anything in this Agreement to the contrary notwithstanding.

ARTICLE VII
MISCELLANEOUS

SECTION 7.1. Successors of County. In the event of the dissolution of the County, all the covenants, stipulations, promises and agreements in this Agreement contained, by or on behalf of, or for the benefit of, the County, the Seller, any other Registered Owner and the Registrar, shall bind or inure to the benefit of the successors of the County from time to time and any entity, officer, board, commission, agency or instrumentality to whom or to which any power or duty of the County shall be transferred.

SECTION 7.2. Parties in Interest. Except as herein otherwise specifically provided, nothing in this Agreement expressed or implied is intended or shall be construed to confer upon any person, firm or corporation, other than the County, the Seller, any other Registered Owner and the Registrar, any right, remedy or claim under or by reason of this Agreement, this Agreement being intended to be for the sole and exclusive benefit of the County, the Seller, any other Registered Owner from time to time of this Agreement and the Registrar.

SECTION 7.3. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns, including, without limitation, all Registered Owners from time to time of this Agreement.

SECTION 7.4. Severability. In case any one or more of the provisions of this Agreement shall, for any reason, be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions of this Agreement and this Agreement shall be construed and enforced as if such illegal or invalid provisions had not been contained herein or therein.

SECTION 7.5. Prior Agreements Cancelled; No Merger. This Agreement and the Deed of Easement shall completely and fully supersede all other prior agreements, both written and oral, between the County and the Seller relating to the acquisition of the Development Rights. Neither the County nor the Seller shall hereafter have any rights under such prior agreements but shall look solely to this Agreement and the Deed of Easement for definitions and determination of all of their respective rights, liabilities and responsibilities relating to the Land, the Development Rights and the payment for the Development Rights. In addition, this Agreement shall survive the execution and recording of the Deed of Easement in all respects and shall not be merged therein.

SECTION 7.6. Amendments, Changes and Modifications. This Agreement may not be amended, changed, modified, altered or terminated except by an agreement in writing between the County and the then-Registered Owner. An executed counterpart of any such amendment shall be attached to this Agreement and shall be binding upon such Registered Owner and all successor Registered Owners.

SECTION 7.7. No Personal Liability of County Officials. No covenant or agreement contained in this Agreement shall be deemed to be the covenant or agreement of any official, officer, agent or employee of the County in his or her individual capacity, and neither the officers or employees of the County nor any official executing this Agreement shall be liable personally on this Agreement or be subject to any personal liability or accountability by reason of the issuance thereof.

SECTION 7.8. Governing Law. The laws of the State shall govern the construction and enforcement of this Agreement.

SECTION 7.9. Notices. Except as otherwise provided in this Agreement, all notices, demands, requests, consents, approvals, certificates or other communications required under this Agreement to be in writing shall be sufficiently given and shall be deemed to have been properly given three Business Days after the same is mailed by certified mail, postage prepaid, return receipt requested, addressed to the person to whom any such notice, demand, request, approval, certificate or other communication is to be given, at the address for such person designated below:

County: Howard County, Maryland
George Howard Building
3430 Court House Drive
Ellicott City, Maryland 21043
Attention: Director of Finance

with a copy to:

Gary W. Kuc
County Solicitor
Office of Law
3450 Court House Drive
Ellicott City, Maryland 21043

Seller: _____

Registrar: Manufacturers and Traders Trust Company
One Light Street – 14th Floor – MD2-L140
Baltimore, Maryland 21202
Attention: Cara Gregg

Any of the foregoing may, by notice given hereunder to each of the others, designate any further or different addresses to which subsequent notices, demands, requests, consents, approvals, certificates or other communications shall be sent hereunder.

SECTION 7.10. Holidays. If the date for making any payment or the last date for performance of any act or the exercising of any right, as provided in this Agreement, shall not be a Business Day, such payment may, unless otherwise provided in this Agreement, be made or act performed or right exercised on the next succeeding Business Day with the same force and effect as if done on the nominal date provided in this Agreement, and in the case of payment no interest shall accrue for the period after such nominal date.

SECTION 7.11. References to the Seller. All references herein to the Seller shall be deemed plural if more than one person has an interest in the Land. Any pronoun reference herein shall be deemed to apply to the appropriate gender or person, as the case may be.

[SIGNATURES APPEAR ON THE FOLLOWING PAGES.]

() ()

Signature Page 1 of 2 to
INSTALLMENT PURCHASE AGREEMENT
(202_ -)

WITNESS the signatures and seals of the parties hereto as of the date first above written.

WITNESS:

_____ (SEAL)
Name: _____

_____ (SEAL)
Name: _____

Signature Page 2 of 2 to

INSTALLMENT PURCHASE AGREEMENT
(202_ -)

WITNESS the signatures and seals of the parties hereto as of the date first above written.

[COUNTY'S SEAL]

HOWARD COUNTY, MARYLAND

ATTEST:

By: _____
Calvin Ball,
County Executive

Lonnie R. Robbins,
Chief Administrative Officer

APPROVED:

APPROVED for Form and Legal
Sufficiency this _____ day
of _____, 202_.

Amy Gowan, Director
Department of Planning and Zoning

Gary W. Kuc
County Solicitor

APPROVED for Sufficiency of
Funds:

Reviewed by:

Rafiu Ighile, Director
Department of Finance

Morenike Oyenusi,
Senior Assistant County Solicitor

EXHIBIT A

FORM OF DEED OF AGRICULTURAL LAND PRESERVATION EASEMENT

EXHIBIT B

DESCRIPTION OF LAND

EXHIBIT C

PERMITTED ENCUMBRANCES

ASSIGNMENT

FOR VALUE RECEIVED, _____ and
_____ ([collectively,] the "Seller") hereby sell[s], assign[s] and
transfer[s] unto _____, without recourse, all of
the Seller's right, title and interest in and to the Installment Purchase Agreement to which this
Assignment is attached; and the Seller hereby irrevocably directs the Registrar (as defined in such
Agreement) to transfer such Agreement on the books kept for registration thereof. The Seller hereby
represent[s], warrant[s] and [certify] [certifies] that there have been no amendments to such
Agreement [except _____].

Date: _____

WITNESS:

NOTICE: The signature on this Assignment
must correspond with of the name of the
Registered Owner as it appears on the
registration books for the Installment
Purchase Agreement referred to herein
in every particular, without alteration or
enlargement or any change whatever.

BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on November 3, 2021.

Michelle Harrod
Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, having been passed by the yeas and nays of two-thirds of the members of the Council notwithstanding the objections of the Executive, stands enacted on _____, 2021.

Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, having received neither the approval nor the disapproval of the Executive within ten days of its presentation, stands enacted on _____, 2021.

Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, not having been considered on final reading within the time required by Charter, stands failed for want of consideration on _____, 2021.

Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, having been disapproved by the Executive and having failed on passage upon consideration by the Council stands failed on _____, 2021.

Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, the withdrawal of which received a vote of two-thirds (2/3) of the members of the Council, is withdrawn from further consideration on _____, 2021.

Michelle Harrod, Administrator to the County Council

Office of the County Auditor
Auditor's Analysis

Council Bill No. 69-2021

Introduced: October 4, 2021

Auditor: Michael A. Martin

Fiscal Impact:

The fiscal impact of this legislation is approximately \$923,279 in expenditures from the Agricultural Preservation and Promotion Fund (APPF) over the next 20 years to acquire an agricultural preservation easement on private County property. Anticipated financing and payment terms of this acquisition include a 5 percent down payment of \$42,100, twenty annual principal payments of \$39,995, and semi-annual interest payments of 1 percent of the outstanding principal. Transfer tax proceeds from the APPF will be used to make the payments associated with this acquisition.

The General Fund would also be affected as a result of an estimated annual Agriculture Property Tax Credit of \$89, beginning in tax year July 1, 2023.

An appraised value or alternate use of a parcel is not considered when determining the cost per acre of a potential agricultural preservation easement.

NOTE: Our Office has reviewed the Administration's estimated amortization schedule for this IPA and believe it accurately depicts the terms of the agreement.

The Agricultural Land Preservation Program (ALPP) Capital Project G0163 will be utilized to fulfill this Installment Purchase Agreement. The Department of Finance indicated there will be approximately \$16.9 million of appropriation authority remaining in Capital Project G0163 following the latest two proposed IPAs (CB69-2021 and CB70-2021).

The Administration informed us that this acquisition was included in the latest APPF cash flow analysis and will not result in a decrease in the noted future projected fund balances. The APPF cash flow can be found in **Attachment A** and is current as of March 2021.

Purpose:

This legislation approves a multi-year IPA in which the County will acquire the development rights of approximately 23.97 acres of agriculture land owned by C. Alan Sharp located on Jennings Chapel Road in Brookeville for a maximum price of \$842,000 (or not more than \$35,120 per acre).

Other Comments:

The County's cost per acre is determined using a Price Formula Worksheet that awards points based on the applicant parcel meeting certain criteria. Each point is valued at \$40 per acre, and this parcel's Price Formula Worksheet was scored at 878 points (see **Attachment B**). Our Office verified this parcel's cost per acre of \$35,120 based on the 878 points awarded in the Price Formula Worksheet.

The Agricultural Preservation Board (APB) unanimously voted in favor of recommending the acquisition of this preservation easement on August 24, 2021.

The ALPP receives 20 percent of the County's transfer tax. The total transfer tax revenue for FY 2020 was \$40,140,976 versus a budgeted amount of \$30,000,000. The total transfer tax revenue for FY 2021 was \$55,649,810 versus a budgeted amount of \$31,292,000. As of October 6, 2021, FY 2022 transfer tax revenues according to SAP are \$14,255,515 versus a budgeted amount of \$44,875,000.

Attachment A - CB69-2021

Howard County Maryland Agricultural Land Preservation Program (Fund 202) Cash Flow Analysis as of March 2021

Fiscal Year	Beginning Fund Balance	Revenues				Total Revenues	Expenses						Total Expenses	Ending Balance				
		Acct 485200 Interest on Cash Balance Only + 0.05%	Acct 432490 & 489900 Miscellaneous	Acct 401550 State Ag Transfer	Acct 409930 Transfer Tax Receipts		Existing Debt Service			Settled Open Enrollment	Projected Enrollments ⁽²⁾	NET DEBT SERVICE			Cost of Zero Coupon Bonds or Cash or 5% Down ⁽¹⁾	Admin Costs 2.00%		
							Through Treasury Strip		Net									
							Batch 14	Income									Net	
1989*	6,354,294	706,268		481,283	3,025,054													
1990*	10,254,535	968,033		245,416	3,157,520													
1991*	13,319,350	973,479		120,383	2,182,444													
1992*	13,405,394	540,000		95,795	2,414,000													
1993*	12,219,849	425,833		307,068	2,867,643													
1994*	12,101,098	434,712		173,844	2,924,150													
1995*	12,294,701	632,862		309,360	2,638,781													
1996*	10,523,708	5,262	35,889	288,878	2,579,633													
1997*	9,051,869	505,856		648,547	2,807,126													
1998*	7,935,961	247,392	33,169	648,524	3,460,501													
1999*	7,788,928	427,116	12,500	936,770	4,137,528													
2000*	8,807,426	273,536	85,812	557,200	4,268,890													
2001*	9,486,691	200,000	6,200	588,231	4,352,006													
2002*	10,140,112	100,000	1,000	457,510	4,883,685													
2003*	10,474,844	100,000		986,115	5,415,733													
2004*	12,363,837	113,000		1,832,033	6,925,516													
2005*	16,354,921	110,000		608,704	8,488,301													
2006*	20,818,098	745,655		1,326,231	9,253,090													
2007*	27,255,700	1,018,815		1,663,296	7,491,284													
2008*	32,685,651	1,288,612	42,828	446,135	8,021,535													
2009*	30,227,827	535,715		55,585	4,592,745													
2010*	29,539,672	121,154	8,297	96,306	5,319,203													
2011*	29,432,745	66,497	255	39,306	5,329,914													
2012*	27,896,358	34,342	11,946	164,703	6,450,253													
2013*	23,746,643	27,014	1,000	104,136	6,316,161													
2014*	21,692,410	18,281	12,800	153,431	6,726,946													
2015*	15,491,572	23,318	7,616	162,316	7,741,048													
2016*	13,811,854	53,274	745	105,168	7,892,622													
2017*	11,940,813	45,348	600	125,326	9,476,018													
2018*	11,365,408	107,517	24,785	291,059	9,456,530													
2019*	10,528,726	290,705	6,000	314,891	7,841,755													
2020*	9,376,042	132,640	214,800	928,559	10,035,244													
2021	11,644,190	70,000	5,000	150,000	9,575,000													
2022	13,544,633	6,772		100,000	8,975,000													
2023	13,860,004	6,930		100,000	8,925,000													
2024	15,241,080	7,521		100,000	9,200,000													
2025	16,956,692	8,478		100,000	9,300,000													
2026	19,639,037	9,820		100,000	9,575,000													
2027	22,680,707	11,340		100,000	9,675,000													
2028	26,114,909	13,057		100,000	9,900,000													
2029	30,019,115	15,010		100,000	10,125,000													
2030	34,360,505	17,180		100,000	10,375,000													
2031	39,431,815	19,716		100,000	10,625,000													
2032	44,812,143	22,406		100,000	10,800,000													
2033	52,332,443	26,166		100,000	11,175,000													
2034	60,499,390	30,250		100,000	11,325,000													
2035	68,817,686	34,409		100,000	11,500,000													
2036	77,420,155	38,710		100,000	11,650,000													
2037	86,410,330	43,205		100,000	11,725,000													
2038	95,467,883	47,734		100,000	11,925,000													
2039	104,939,874	52,470		100,000	12,175,000													
2040	114,801,449	57,401		100,000	12,400,000													
Total		11,810,911	511,241	17,314,107	387,392,959													

*Actual
#Includes encumbrances
Budgeted amount
Estimated figure per Budget
(1) FY 2014 Includes cash payment to Cissei and Taro.
(2) Projected settlements based on remaining capital appropriation of \$22,601,932.



Howard County Agricultural Land Preservation Program 2020 PRICE FORMULA WORKSHEET

Owner Sharp Tax Map 20 Parcel(s) 56
 Farm Address Jennings Chapel Rd Acres 23.97

POINTS

1. Parcel Size Relative to Average Acreage of Remaining Uncommitted Land (40 acres)	Maximum 150 points	50
40 acres or more _____ 150 points		
35 acres to 39.9 acres _____ 125 points		
30 acres to 34.9 acres _____ 100 points		
25 acres to 29.9 acres _____ 75 points		
20 acres to 24.9 acres <u>24.3</u> _____ 50 points		
2. Soil Capability – Percentage of Class I, II and III Soils Relative to Property Total	Maximum 150 points	150
90% or greater Class I, II and III Soils <u>100%</u> _____ 150 points		
80% to 89% Class I, II and III Soils _____ 125 points		
70% to 79% Class I, II and III Soils _____ 100 points		
60% to 69% Class I, II and III Soils _____ 75 points		
Less than 60% Class I, II and III Soils _____ 50 points		
3. Soil Productivity as Measured by Land Evaluation Score	Maximum 150 points	150
90 or greater Land Evaluation Score <u>96</u> _____ 150 points		
80-89 Land Evaluation Score _____ 125 points		
70-79 Land Evaluation Score _____ 100 points		
60-69 Land Evaluation Score _____ 75 points		
Less than 60 Land Evaluation Score _____ 50 points		
4. Adjacency to Preserved Land	Maximum 125 points	75
75 to 100% perimeter adjacent to preserved land _____ 125 points		
50 to 74% perimeter adjacent to preserved land _____ 100 points		
25 to 49% perimeter adjacent to preserved land <u>27%</u> _____ 75 points		
Less than 25% perimeter adjacent to preserved land _____ 50 points		
5. Concentration of Preserved Lands	Maximum 125 points	125
More than 600 acres of preserved land within 3/4 mile <u>979</u> _____ 125 points		
400-599 acres of preserved land within 3/4 mile _____ 100 points		
200-399 acres of preserved land within 3/4 mile _____ 75 points		
Less than 200 acres of preserved land within 3/4 mile _____ 50 points		
6. Current Land Use	Maximum 150 points	150
90% or greater of property in agricultural use <u>100%</u> _____ 150 points		
80% to 89% of property in agricultural use _____ 125 points		
70% to 79% of property in agricultural use _____ 100 points		
60% to 69% of property in agricultural use _____ 75 points		
Less than 60% of property in agricultural use _____ 50 points		
7. Soil Conservation and Water Quality Plan (SCWQP)/Best Management Practices (BMPs)	Maximum 100 points	100
Longstanding landowner relationship with SCD, and SCWQP on the property is predominantly implemented with no major resource concerns _____ <u>X</u> 100 points		
Landowner has relationship with SCD and has made considerable efforts to implement SCWQP on this property or another property, or landowner has implemented considerable BMPs on their own _____ 75 points		
New relationship with SCD and has made efforts to implement SCWQP on this property or another property, or landowner has implemented BMPs on their own _____ 50 points		
New SCWQP with no conservation or BMP activity _____ 0 points		

			POINTS
8. Ownership and Operation			Maximum 50 points
Owner operated	<u> X </u>	50 points	<u> 50 </u>
Non-owner operated	<u> </u>	25 points	
No current operation	<u> </u>	0 points	

SUBTOTAL POINTS **Maximum 1000 points** 850

PRELIMINARY PRICE CALCULATION - Maximum \$40,000 per acre

 850 points x \$40/point = \$34,000

Additional Points - Maximum 100 points

1. Relinquishment of Tenant House Rights, if applicable		Maximum 50 points	<u> 0 </u>
<u> 0 </u> Number of tenant houses allowed by right at 1 per 25 acres			
<u> </u> Tenant house rights relinquished x 10 points per house			

2. Optional APB Points		Maximum +/- 50 points	<u> 28 </u>
See separate scoring sheet - points may be added or subtracted			

TOTAL POINTS **Maximum 1000 points** 878

FINAL PRICE CALCULATION - Maximum \$40,000 per acre

 878 points x \$40/point = \$35,120

TOTAL PRICE OFFER

 23.97 acres x \$35,120 per acre = \$841,826



**HOWARD COUNTY COUNCIL
AFFIDAVIT OF AUTHORIZATION
TO TESTIFY ON BEHALF OF AN ORGANIZATION**

I, Paul Verchinski, have been duly authorized by
(name of individual)

Howard County Citizens Association to deliver testimony to the
(name of nonprofit organization or government board, commission, or task force)

County Council regarding CB69 and CB70 to express the organization's
(bill or resolution number)

support for / opposition to / request to amend this legislation.
(Please circle one.)

Printed Name: Paul Verchinski /s/

Signature: _____

Date: 10/14/2021

Organization: Howard County Citizens Association

Organization Address: PO Box 89, Ellicott City, MD

PO Box 89, Ellicott City, MD

Number of Members: 500

Name of Chair/President: Stu Kohn

This form can be submitted electronically via email to councilmail@howardcountymd.gov no later than 5pm the day of the Public Hearing or delivered in person the night of the Public Hearing before testifying.



HCCA

Howard County Citizens Association

Since 1961...

The Voice Of The People of Howard County

Date: October 18, 2021

Re; CB69 and 70-2021, Funding the purchase of Development Rights in Western HoCo
POSITION: STRONGLY AGAINST

I am Paul Verchinski and reside in Columbia. As a Member of the Howard County Citizens Association, HCCA I am authorized to speak on their behalf.

The HCCA opposes this bill and requests that it either be tabled, withdrawn or voted down.

The County currently has paid out or committed to approximately \$170 million to purchase development rights to maintain Agricultural Preservation. These two bills propose to pay about \$5.7 million in installment payments and levying of county taxes for such payments. Out year bond capital and interest obligations now comprise 12% of future county budgets.

I have been on the HoCobyDesign, Public Advisory Committee (PAC) as an appointee of this Council. Over the past year, I have learned that there is no draft of the Future Land Use Map (FLUM) that includes potential development in Western Howard County other than at "Rural Crossroads". The PAC suggested that affordable housing developments take place in western Howard County. We were told that there is no path forward to develop affordable housing developments in about two thirds of the County that represents the West because of dedicated Open Space and purchases of previous development rights that already encumber the land into permanent Agricultural Preservation. We were also told that it is not economical to extend the Public Service Area (PSA) to the West since there are no contiguous large parcels. Except for two areas, that are contiguous to the PSA, the FLUM indicates no PSA extensions into western parts of the county.

Inquiring minds, therefore, need to ask – why are we then buying additional Development Rights when no affordable housing subdivision development is tentatively forecast in Western Howard County in the draft FLUM? It is time to revisit this Agricultural Preservation ordinance that currently sets aside 20% of the transfer tax for this purpose. Ordinances need to be periodically reevaluated to see if they are in the best interests of county taxpayers. Just because we have done an ordinance in the past does not mean that it should continue.

Since the emphasis in HoCobyDesign draft FLUM is to provide "affordable housing", we suggest that tax dollars previously used to buy Development Rights instead support the purchase of permanent land trusts owned by the County that can make housing affordable instead of continuing to buy Development Rights that will never be used.

The HCCA has always advocated for County preservation as stated on our website. However in these cases before you one has to fully analyze the pros and cons to carefully decide what is best for your constituents, the taxpayers and voters of our County and the FLUM.

Please allow the draft FLUM to be provided to you for legislative approval prior to any action at this time on funding the purchase of any new Development Rights.

/s/
Paul Verchinski
HCCA Board Member

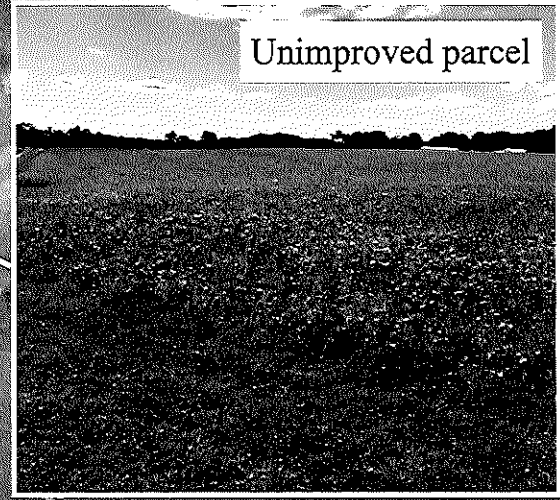
CB69-2021



Legend

Property Boundary

0 175 350 525 Feet



Howard County Government
Department of Planning & Zoning
Resource Conservation Division

Tax Map 20
Parcel 56

Sharp Property
Jennings Chapel Road
Brookeville, MD 20729

Howard County

Agricultural Land Preservation Program

MEMORANDUM

Subject: Testimony for the Sharp Property Installment Purchase Agreement

To: Lonnie Robbins, Chief Administrative Officer, Department of Administration

Through: Amy Gowan, Director, Department of Planning and Zoning DocuSigned by:
Amy Gowan
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Through: Beth Burgess, Chief, Resource Conservation Division, Department of Planning and Zoning DS
BB

From: Joy Levy, Agricultural Land Preservation Program Administrator, Department of Planning and Zoning *JL*

Date: September 3, 2021

The Department of Planning and Zoning supports Council Bill No. -2021. This bill approves an Installment Purchase Agreement to acquire an agricultural preservation easement on property owned by C. Alan Sharp. Section 15.507(e)(4) of the Howard County Code requires County Council approval of a multi-year Installment Purchase Agreement pursuant to Section 612 of the Howard County Charter.

The approval of an Installment Purchase Agreement for the Sharp property would preserve 23.97 acres of land that is entirely in row crops and 100% Class I, II and III soils. The farm is unimproved and therefore does not have a principal dwelling. Additionally there are no ag related structures. Although there is relatively little land in preservation immediately adjacent to the Sharp farm, there is a high concentration of preserved land nearby. Preserving this property would add to almost 22,900 acres of farmland that have been preserved to date.

Fiscal Impact Analysis:

The purchase price of the Sharp easement is \$842,000.00, however, when twice yearly interest payments over 20 years are factored in, the overall cost will be \$923,279.00. The funding comes from the 25% portion of the 1% local transfer tax that is dedicated to the Agricultural Land Preservation Program (ALPP).

Mr. Sharp will be paid 5% of the purchase price in cash at settlement. The balance will be paid through the Installment Purchase Agreement in 20 equal yearly installments. Mr. Sharp will also receive twice yearly interest payments on the remaining principal over the 20-year term. Please see the attached draft amortization schedule for detailed payments. There are no other expenditures associated with the Sharp acquisition. The current ALPP staff member manages all aspects of the acquisition process.

Having met all eligibility criteria for the acquisition of an agricultural preservation easement, staff supports Council Bill No. -2021.

cc: Jennifer Sager, Legislative Coordinator, Department of Administration
Rafiu Ighile, Director, Department of Finance
Morenike Oyenusi, Senior Assistant County Solicitor, Office of Law

Howard County, Maryland
 Agricultural Land Preservation Program
 Installment Purchase Amortization Schedule

Landowner:	Chuck, Denise and Alan Sharp	Acres:	23.97
	20 Year Amortization - 5% Down	Price per acre:	<u>\$35,120.00</u>
		Total price:	\$842,000.00
		Down Payment	\$42,100.00
Interest Rate:	1.0000%	Interest:	<u>81,278.83</u>
Settlement:	December 17, 2021	Total payments:	<u>\$923,278.83</u>
	Estimated - subject to change		

Date	Principal Amount	Interest	Semi-annual Debt Service	Annual Debt Service	Balance
					\$799,900.00
February 15, 2022		1,288.73	1,288.73		799,900.00
August 15, 2022	39,995.00	3,999.50	43,994.50	45,283.23	759,905.00
February 15, 2023		3,799.53	3,799.53		759,905.00
August 15, 2023	39,995.00	3,799.53	43,794.53	47,594.06	719,910.00
February 15, 2024		3,599.55	3,599.55		719,910.00
August 15, 2024	39,995.00	3,599.55	43,594.55	47,194.10	679,915.00
February 15, 2025		3,399.58	3,399.58		679,915.00
August 15, 2025	39,995.00	3,399.58	43,394.58	46,794.16	639,920.00
February 15, 2026		3,199.60	3,199.60		639,920.00
August 15, 2026	39,995.00	3,199.60	43,194.60	46,394.20	599,925.00
February 15, 2027		2,999.63	2,999.63		599,925.00
August 15, 2027	39,995.00	2,999.63	42,994.63	45,994.26	559,930.00
February 15, 2028		2,799.65	2,799.65		559,930.00
August 15, 2028	39,995.00	2,799.65	42,794.65	45,594.30	519,935.00
February 15, 2029		2,599.68	2,599.68		519,935.00
August 15, 2029	39,995.00	2,599.68	42,594.68	45,194.36	479,940.00
February 15, 2030		2,399.70	2,399.70		479,940.00
August 15, 2030	39,995.00	2,399.70	42,394.70	44,794.40	439,945.00
February 15, 2031		2,199.73	2,199.73		439,945.00
August 15, 2031	39,995.00	2,199.73	42,194.73	44,394.46	399,950.00
February 15, 2032		1,999.75	1,999.75		399,950.00
August 15, 2032	39,995.00	1,999.75	41,994.75	43,994.50	359,955.00
February 15, 2033		1,799.78	1,799.78		359,955.00
August 15, 2033	39,995.00	1,799.78	41,794.78	43,594.56	319,960.00
February 15, 2034		1,599.80	1,599.80		319,960.00
August 15, 2034	39,995.00	1,599.80	41,594.80	43,194.60	279,965.00
February 15, 2035		1,399.83	1,399.83		279,965.00
August 15, 2035	39,995.00	1,399.83	41,394.83	42,794.66	239,970.00
February 15, 2036		1,199.85	1,199.85		239,970.00
August 15, 2036	39,995.00	1,199.85	41,194.85	42,394.70	199,975.00
February 15, 2037		999.88	999.88		199,975.00
August 15, 2037	39,995.00	999.88	40,994.88	41,994.76	159,980.00
February 15, 2038		799.90	799.90		159,980.00
August 15, 2038	39,995.00	799.90	40,794.90	41,594.80	119,985.00
February 15, 2039		599.93	599.93		119,985.00
August 15, 2039	39,995.00	599.93	40,594.93	41,194.86	79,990.00
February 15, 2040		399.95	399.95		79,990.00
August 15, 2040	39,995.00	399.95	40,394.95	40,794.90	39,995.00
February 15, 2041		199.98	199.98		39,995.00
August 15, 2041	39,995.00	199.98	40,194.98	40,394.96	0.00
	\$ 799,900.00	\$ 81,278.83	\$ 881,178.83	\$ 881,178.83	



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

3430 Court House Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2350

Voice/Relay

Amy Gowan, Director

FAX 410-313-3467

HOWARD COUNTY AGRICULTURAL PRESERVATION BOARD August 24, 2020

Staff Report

Contract Purchaser: C. Alan Sharp
4003 Jennings Chapel Road
Brookeville, MD 20833

Contract Sellers: Charles and Denise Sharp
4003 Jennings Chapel Road
Brookeville, MD 20833

Farm Location: Property is located on Jennings Chapel Road in Woodbine
Tax Map 20, Parcel 56; 24.3 +/- acres

Easement Designation: Howard County Easement applicant

Request: Review by the Howard County Agricultural Preservation Board to purchase an agricultural easement.

Recommendation: Recommendation to the Board to approve the purchase of an agricultural easement on the property.

Summary:

This property is unimproved with 100% tillable ground that is planted in row crops. The entire acreage is comprised of Class I, II and III soils. The owner has a long-standing relationship with the Soil Conservation District, and the Soil Conservation and Water Quality Plan is predominantly implemented with no major resource concerns. There is a high concentration of preserved land within 3/4 mile of the farm.

According to the Sharps, who farm many properties, this parcel is part of their larger operation, which contributes to the overall farming economy in western Howard County. The Sharps buy and/or sell products with Larriland, TLV Tree Farm, Gorman Farm, J.D. Mullinix and sons, Clark's Hardware, Southern States, Spicknall's Market, the Roving Radish, Butler's Orchard, Baugher's Orchard and many local schools.

Staff Recommendation:

The application meets all eligibility criteria for acquisition of an agricultural preservation easement. Staff recommends approval.

Prepared by:

Joy Levy, Administrator
Agricultural Land Preservation Program

Date:

8/12/20

Attachments:

Score Sheet
Draft APB Points
Aerial Photo
Preservation Map
Soils Map



Howard County Agricultural Land Preservation Program 2020 PRICE FORMULA WORKSHEET

Owner Sharp Tax Map 20 Parcel(s) 56
 Farm Address Jennings Chapel Rd Acres 24.3

POINTS

1. Parcel Size Relative to Average Acreage of Remaining Uncommitted Land (40 acres)	Maximum 150 points		50
40 acres or more _____	150 points		
35 acres to 39.9 acres _____	125 points		
30 acres to 34.9 acres _____	100 points		
25 acres to 29.9 acres _____	75 points		
20 acres to 24.9 acres <u>24.3</u>	60 points		
2. Soil Capability – Percentage of Class I, II and III Soils Relative to Property Total	Maximum 150 points		150
90% or greater Class I, II and III Soils <u>100%</u>	150 points		
80% to 89% Class I, II and III Soils _____	125 points		
70% to 79% Class I, II and III Soils _____	100 points		
60% to 69% Class I, II and III Soils _____	75 points		
Less than 60% Class I, II and III Soils _____	50 points		
3. Soil Productivity as Measured by Land Evaluation Score	Maximum 150 points		150
90 or greater Land Evaluation Score <u>96</u>	150 points		
80-89 Land Evaluation Score _____	125 points		
70-79 Land Evaluation Score _____	100 points		
60-69 Land Evaluation Score _____	75 points		
Less than 60 Land Evaluation Score _____	50 points		
4. Adjacency to Preserved Land	Maximum 125 points		75
75 to 100% perimeter adjacent to preserved land _____	125 points		
50 to 74% perimeter adjacent to preserved land _____	100 points		
25 to 49% perimeter adjacent to preserved land <u>27%</u>	75 points		
Less than 25% perimeter adjacent to preserved land _____	50 points		
5. Concentration of Preserved Lands	Maximum 125 points		125
More than 600 acres of preserved land within 3/4 mile <u>979</u>	125 points		
400-599 acres of preserved land within 3/4 mile _____	100 points		
200-399 acres of preserved land within 3/4 mile _____	75 points		
Less than 200 acres of preserved land within 3/4 mile _____	50 points		
6. Current Land Use	Maximum 150 points		150
90% or greater of property in agricultural use <u>100%</u>	150 points		
80% to 89% of property in agricultural use _____	125 points		
70% to 79% of property in agricultural use _____	100 points		
60% to 69% of property in agricultural use _____	75 points		
Less than 60% of property in agricultural use _____	50 points		
7. Soil Conservation and Water Quality Plan (SCWQP)/Best Management Practices (BMPs)	Maximum 100 points		100
Longstanding landowner relationship with SCD, and SCWQP on the property is predominantly implemented with no major resource concerns _____	<u>X</u>	100 points	
Landowner has relationship with SCD and has made considerable efforts to implement SCWQP on this property or another property, or landowner has implemented considerable BMPs on their own _____		75 points	
New relationship with SCD and has made efforts to implement SCWQP on this property or another property, or landowner has implemented BMPs on their own _____		50 points	
New SCWQP with no conservation or BMP activity _____		0 points	

		POINTS
8. Ownership and Operation		Maximum 50 points
Owner operated	<u> X </u>	50 points
Non-owner operated	<u> </u>	25 points
No current operation	<u> </u>	0 points

SUBTOTAL POINTS **Maximum 1000 points** 850

PRELIMINARY PRICE CALCULATION - Maximum \$40,000 per acre

 850 points x \$40/point = \$34,000

Additional Points - Maximum 100 points

1. Relinquishment of Tenant House Rights, if applicable **Maximum 50 points** 0

 0 Number of tenant houses allowed by right at 1 per 25 acres
 Tenant house rights relinquished x 10 points per house

2. Optional APB Points **Maximum +/- 50 points**
 See separate scoring sheet - points may be added or subtracted

TOTAL POINTS **Maximum 1000 points** 850

FINAL PRICE CALCULATION - Maximum \$40,000 per acre

 850 points x \$40/point = \$34,000

TOTAL PRICE OFFER

 24.3 acres x \$34,000 per acre = **\$826,200**

SHARP DRAFT AGRICULTURAL PRESERVATION BOARD POINTS

Owner Sharp Tax Map 20 Parcel(s) 56 Acres 24.3
Farm Address Jennings Chapel Road

Total of 50 potential points can be added

1) Contribution to Agricultural Economy – Maximum 10 points 5 out of 10

1. 5 points – The farm has a specialized or unique operation
2. 5 points – The farm has significant agricultural infrastructure
3. 5 points – The farm business is active within the local community by:
 - a. Purchasing agricultural products from other area farms
 - b. Supplying agricultural products to farms, businesses or individuals

2) Contribution to Agricultural Sustainability – Maximum 10 points 10 out of 10

- 5 points – An easement acquisition on this farm would be a new addition to properties already under easement belonging to same owner
- 5 points – This is a Century Farm
- 10 points – If the farm is for sale at the time of application, purchase of an easement will assist in the transfer to a new and/or next generation farmer

3) Green Infrastructure Network (GIN)/Water Quality – Maximum 10 points 0 points

- 5 points – Farm includes portions of GIN hub(s)
- 3 points - Farm includes portions of GIN corridor(s)
- 5 points – 50' minimum forested riparian buffer width
- 3 points - 35' minimum forested riparian buffer width

4) Historic and Scenic Resources – Maximum 10 points 3 points

- 5 points – Farm includes an historic structure encumbered by a Maryland Historic Trust easement
- 3 points – Farm includes a structure listed on the National, Maryland or Howard County Registers of Historic Places
- 5 points – Farm is located on the Historic National Road (Rt. 144)
- 3 points – Farm is located on a Maryland or Howard County Scenic Road


5) Discretionary - Maximum 10 points

Reason for allocating points _____

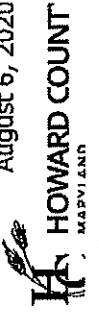


0 262.5 525 1,050 Feet
Howard County Department of Planning & Zoning
Resource Conservation Division
August 6, 2020

Aerial

 property

Charles & Denise Sharp
Jennings Chapel Road
Brookville, MD 20729
Tax Map: 20 Parcel(s):56



Protected Lands

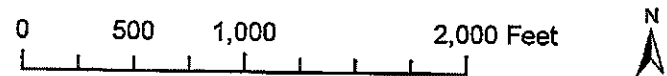
Preservation Easements

- Environmental Preservation Parcels
- Howard County Agricultural Preservation Parcels
- Howard County Purchased Easements
- Maryland Agricultural Land Preservation Easements



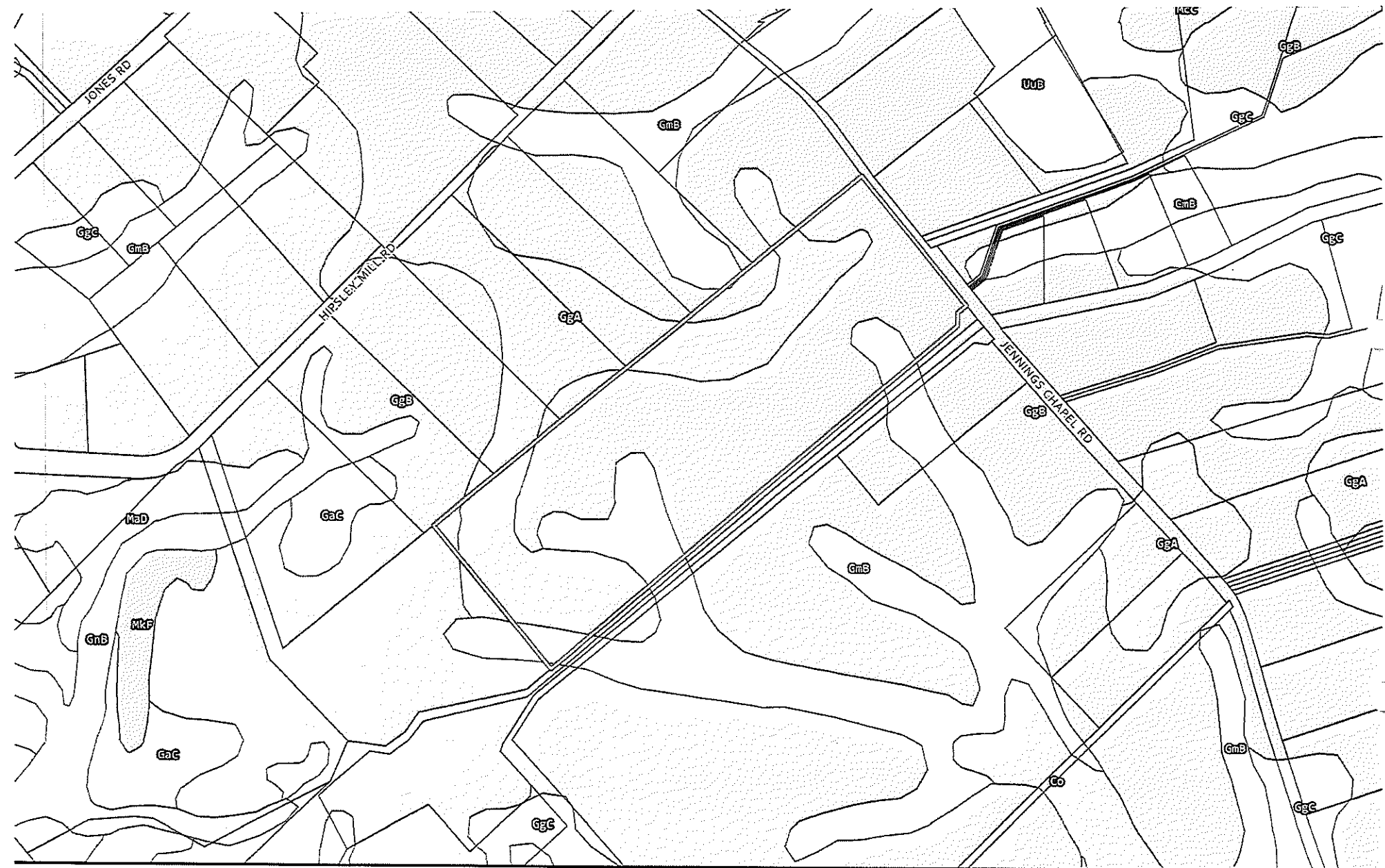
Charles & Denise Sharp
Jennings Chapel Road
Brookville, MD 20729
Tax Map: 20 Parcel(s):56

Protected Lands



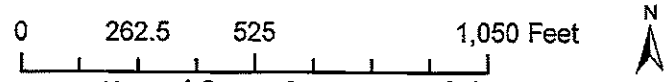
Howard County Department of Planning & Zoning
Resource Conservation Division
August 6, 2020





Charles & Denise Sharp
 Jennings Chapel Road
 Rockville, MD 20729
 Parcel Map: 20 Parcel(s):56

Soils
 [] property



Howard County Department of Planning & Zoning
 Resource Conservation Division
 August 6, 2020

