

County Council Of Howard County, Maryland

2014 Legislative Session

Legislative Day No. 3

Resolution No. 28 -2014

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

A RESOLUTION recommending the denial of Elizabeth Mullinix's request to terminate a Maryland Agricultural Land Preservation Foundation easement on property located on the south side of Carrs Mill Road, containing approximately 142 acres, more commonly known as the "Clevenger Farm".

Introduced and read first time _____, 2014.

By order _____
Sheila Tolliver, Administrator

Read for a second time at a public hearing on _____, 2014.

By order _____
Sheila Tolliver, Administrator

This Resolution was read the third time and was Adopted____, Adopted with amendments____, Failed____, Withdrawn____, by the County Council on _____, 2014.

Certified By _____
Sheila Tolliver, Administrator

Approved by the County Executive _____, 2014

Ken Ulman, 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 **WHEREAS,** the Maryland Agricultural Land Preservation Foundation
2 (“MALPF”) acquired an agricultural land preservation easement on 332 acres of land
3 from Clifton L. Clevenger, III by the Deed of Easement dated August 12, 1981 and
4 recorded among the Land Records of Howard County, Maryland (the “Land Records”) at
5 Liber 1066, Folio 43 which was later subdivided pursuant to the subdivision plat entitled
6 “Clevenger Property, Lot 1” recorded among the Land Records as Plat 5860; and

7
8 **WHEREAS,** Elizabeth C. Mullinix and J. David Mullinix acquired Lot 1,
9 comprising approximately 142 acres known as the “Clevenger Farm”, from Clifton L.
10 Clevenger, III on May 23, 1985, subject to the Deed of Easement, by deed recorded
11 among the Land Records at Liber 1354, Folio 498; and

12
13 **WHEREAS,** Elizabeth C. Mullinix is the surviving tenant by the entirety of the
14 Clevenger Farm which is located on the south side of Carrs Mill Road as shown in Tax
15 Map 14, Parcel 329, Lot 1, and as shown in the attached maps; and

16
17 **WHEREAS,** the deed of easement (the “MALPF easement”) is an agricultural
18 preservation easement and prohibits the landowner from using the property for any
19 commercial, industrial, or residential purpose, with limited exceptions; and

20
21 **WHEREAS,** the MALPF easement states “the easement shall be in perpetuity”
22 and may only be released by MALPF as provided in Section 2-514 of the Agriculture
23 Article of the Annotated Code of Maryland, which law requires that a MALPF easement
24 shall be held “for as long as farming is feasible on the land”; and

25
26 **WHEREAS,** the MALPF easement may only be terminated under extraordinary
27 circumstances and with the approval of the County’s governing body; and

28
29 **WHEREAS,** the County has issued a policy statement entitled “County Review
30 of MALPF 25-Year Easement Termination Requests” (the “County policy”) wherein
31 certain criteria are established for the County’s evaluation of a request to terminate a
32 MALPF easement; and

1
2 **WHEREAS**, on or about December 9, 2013 MALPF received and forwarded to
3 the County, Elizabeth Mullinix’s Application for Review for Termination of an
4 Agricultural Land Preservation Easement (the “Application”) requesting the termination
5 of the MALPF easement on the Clevenger Farm; and
6

7 **WHEREAS**, in accordance with State law, the Howard County State Agricultural
8 Preservation Advisory Board conducted a review of the Application and held a meeting
9 on January 27, 2014 and recommended denial of the Application; and
10

11 **WHEREAS**, the County Executive received the recommendation of the Howard
12 County State Agricultural Preservation Advisory Board and the County Council held a
13 public hearing on this matter on March 17, 2014; and
14

15 **WHEREAS**, the County has considered the criteria included in the County
16 policy; and
17

18 **WHEREAS**, the County has determined that terminating the MALPF easement
19 would have a negative effect on the County’s land preservation policies and actions,
20 including the public investment by the County and State in the preservation of
21 agricultural land; and
22

23 **WHEREAS**, the County has determined that termination of the MALPF
24 easement would negatively impact the County’s growth management policies and
25 actions; and
26

27 **WHEREAS**, the County has determined that termination of the MALPF
28 easement would have a negative effect on County policies and actions supporting
29 agricultural economic development; and
30

1 **WHEREAS**, the County has determined that termination of the MALPF
2 easement would have a negative effect on vicinal protected land and properties that are
3 already protected and/or in agricultural use; and
4

5 **WHEREAS**, the County has evaluated the Clevenger Farm and has determined
6 that the Clevenger Farm is highly desirable for agricultural land preservation as if it were
7 currently being considered for easement purchase; and
8

9 **WHEREAS**, for the foregoing reasons, in accordance with State law, the County
10 recommends denial of the Application.
11

12 **NOW, THEREFORE, BE IT RESOLVED** by the County Council of Howard
13 County, Maryland, this _____ day of _____, 2014 that the County hereby
14 recommends to MALPF that MALPF deny Elizabeth Mullinix's application to terminate
15 the MALPF easement on the Clevenger Farm.

-77°2.17'



39°17'57"

39°17'57"

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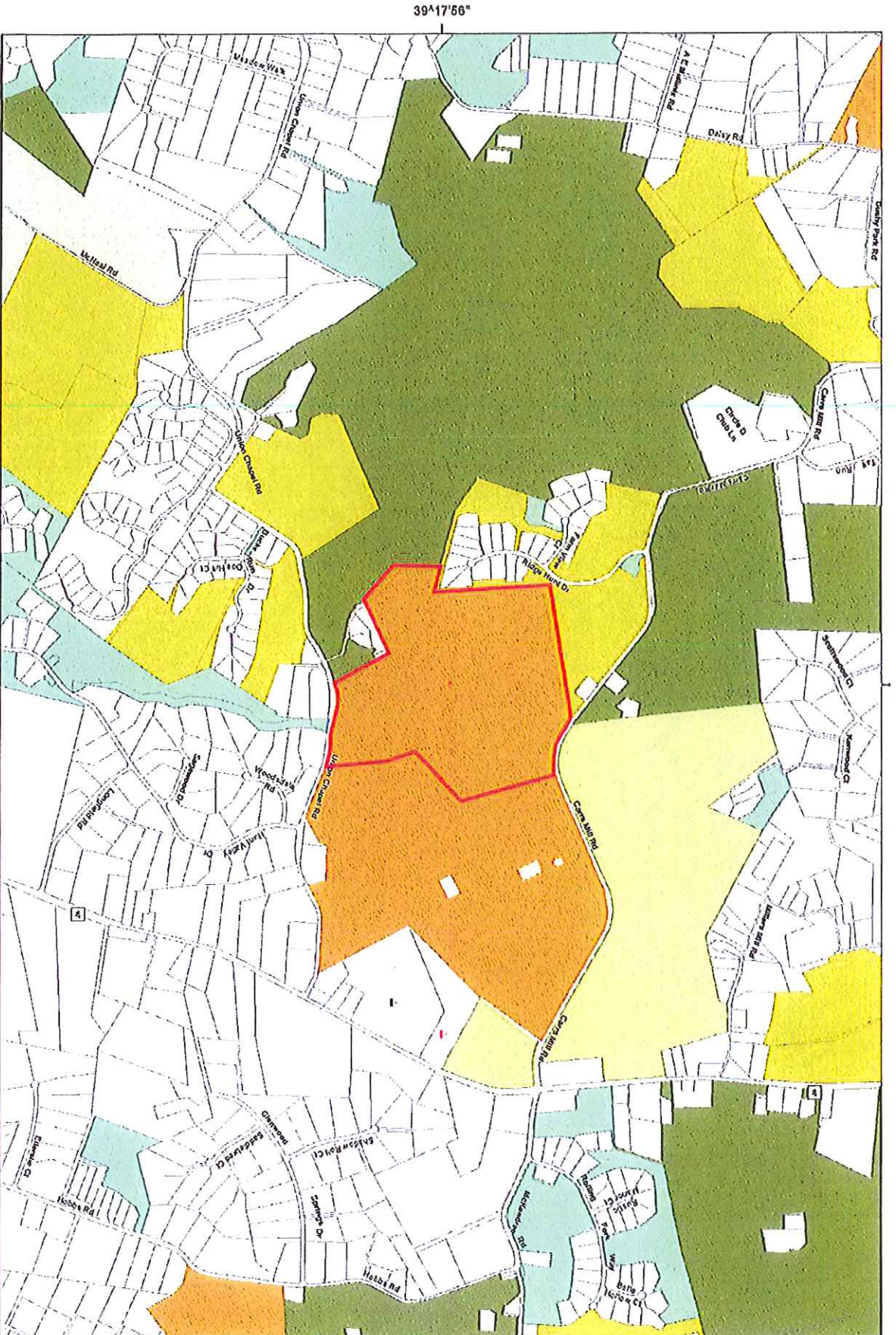
Howard County
M A R Y L A N D

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"



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By: Joy Levy
Office: Resource Conservation Division

Map Width: 3.05 mi.
Print Date: 1/15/2014

Howard County

M A R Y L A N D

Clevenger Farm

Land Preservation