

Howard County

Internal Memorandum

Subject: Testimony on Council Bill No. ___ -2014, Termination of MALPF easement

To: Lonnie Robbins, County Administrative Officer

Through: Marsha McLaughlin, Director, Department of Planning and Zoning *mm*

From: Joy Levy, Administrator, Agricultural Land Preservation Program *JL*

Date: January 30, 2014

The Department of Planning and Zoning, of which the Agricultural Land Preservation Program (ALPP) is a part, supports Council Bill No. ___ - 2014, to recommend to the Maryland Agricultural Land Preservation Foundation (MALPF) denial of Elizabeth Mullinix's request to terminate the easement on her 142-acre property, located on Union Chapel Road in Woodbine.

There are almost 4,000 acres of land in Howard County that are encumbered by agricultural preservation easements held by MALPF. 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 (APAB) 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 and the County Council. The signed resolution shall be forwarded to MALPF for its consideration in making a decision on the termination request.

In anticipation of potential requests for termination, the County Executive approved a policy in 2007 that established the criteria the County would use to evaluate the effect a proposed termination would have on our local land use policies. The five criteria are:

- Effect of termination on County preservation policies and actions, including public investment by the County and State
- Effect of termination on County growth management policies and actions
- Effect of termination on County policies and actions supporting agricultural economic development
- Extent of vicinal protected land and effect of termination on properties that are protected and/or in agricultural land use
- Evaluation of the subject property to determine its desirability for acquisition as if it were currently being considered for easement purchase

The APAB met on January 27, 2014 and reviewed the termination request based on the five criteria above. Their recommendation is for denial, based on their determination that granting the request would be inconsistent with the County's policy.

There is no direct fiscal impact associated with this recommendation.

cc: Jennifer Sager, Legislative Coordinator, Department of County Administration
Beth Burgess, Chief, Resource Conservation Division