



DEPARTMENT OF PLANNING & ZONING
COMPREHENSIVE PLANNING | LAND PRESERVATION | FOREST CONSERVATION | GIS
AGENDA

WASHINGTON COUNTY PLANNING COMMISSION
REGULAR MEETING
June 6, 2016, 7:00 PM
WASHINGTON COUNTY ADMINISTRATION BUILDING
100 WEST WASHINGTON STREET
2ND FLOOR, ROOM 255

CALL TO ORDER AND ROLL CALL

MINUTES

1. May 2, 2016 Planning Commission regular meeting *

OTHER BUSINESS

1. AD-90-064 – Formerly Leon and Doris Bowers Agricultural Preservation District – Request for an Agricultural Preservation District Partial Termination for property formerly owned by Leon and Doris Bowers; Property located on Hoffmaster Road, Knoxville; Planner: Chris Boggs *
2. Update of Staff Approvals – Tim Lung
3. Election of Officers

ADJOURNMENT

UPCOMING MEETINGS

1. Monday, June 20, 2016, 3:00 p.m., Washington County Planning Commission workshop meeting, Washington County Administration Building, 100 W. Washington Street, Room 255, Hagerstown, Maryland
2. Monday, July 11, 2016, 7:00 p.m., Washington County Planning Commission regular meeting, Washington County Administration Building, 100 W. Washington Street, Room 255, Hagerstown, Maryland
3. Monday, July 18, 2016, 7:00 p.m., Washington County Planning Commission workshop meeting, Washington County Administration Building, 100 W. Washington Street, Room 255, Hagerstown, Maryland

****a t t a c h m e n t s***

The Planning Commission reserves the right to vary the order in which the cases are called.

Individuals requiring special accommodations are requested to contact the Washington County Planning Department at 240-313-2435 Voice/TDD, to make arrangements no later than ten (10) days prior to the meeting. Notice is given that the Planning Commission agenda may be amended at any time up to and including the Planning Commission meeting.

120 West Washington Street, 2nd Floor | Hagerstown, MD 21740 | P: 240.313.2430 | F: 240.313.2431 | TDD: 7-1-1

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**WASHINGTON COUNTY PLANNING COMMISSION
REGULAR MEETING
May 2, 2016**

The Washington County Planning Commission held a regular meeting on Monday, May 2, 2016 at 7:00 p.m. at the Washington County Administration Building, 100 West Washington Street, Room 255, 2nd Floor, Hagerstown, Maryland.

Commission members present were: Chairman Terry Reiber, Clint Wiley, Jeremiah Weddle, Dennis Reeder, Andrew Bowen, David Kline and Ex-Officio County Commissioner Leroy Myers, Jr. Staff members present were: Washington County Department of Planning & Zoning - Stephen Goodrich, Director and Debra Eckard, Administrative Assistant; Washington County Department of Plan Review – Tim Lung, Deputy Director and Lisa Kelly, Senior Planner.

CALL TO ORDER

The Chairman called the meeting to order at 7:00 p.m.

MINUTES

Motion and Vote: Mr. Reeder made a motion to approve the minutes of the March 21, 2016 workshop meeting as presented. The motion was seconded by Mr. Wiley and unanimously approved.

Motion and Vote: Commissioner Myers made a motion to approve the minutes of the April 4, 2016 regular meeting as presented. The motion was seconded by Mr. Wiley and unanimously approved.

Motion and Vote: Mr. Wiley made a motion to approve the minutes of the April 11, 2016 workshop meeting as presented. The motion was seconded by Mr. Weddle and unanimously approved.

Motion and Vote: Commissioner Myers made a motion to approve the minutes of the April 18, 2016 public rezoning meeting as presented. The motion was seconded by Mr. Weddle and unanimously approved.

OLD BUSINESS

WASHCO-Arnett Farms LLC (RZ-16-001)

Ms. Baker presented for review and recommendation a map amendment request for property located along the south side of Arnett Drive, west of Sharpsburg Pike. The 5.18 acre parcel is currently zoned RU (Residential Urban); the applicant is requesting the RM (Residential Multi-family) zoning designation. Ms. Baker reported that no citizen comments have been received following the rezoning public meeting; however, a letter of rebuttal was received from the applicant's attorney. During the public meeting discussions focused on the transportation network serving this area and questions were asked about proposed improvements for the project and when these improvements would come on-line. Ms. Baker stated that Mr. Rob Slocum, Director of Engineering & Construction Management has confirmed that all improvements required for the construction of Walmart, including the signalization of the intersection of Poffenberger Road and proposed Arnett Drive will be completed prior to the opening of Walmart. Other improvements will include the construction of Arnett Drive and widening along areas of Sharpsburg Pike.

Discussion and Comments: Mr. Kline expressed his opinion that if the previous HI-2 zoning, which was changed to RU during the comprehensive rezoning of the Urban Growth Area (UGA), permitted the use that is currently proposed for the property, the applicant should have requested the RM zoning during the UGA comprehensive rezoning approved in 2012. Mr. Reiber concurred with this statement.

Mr. Bowen asked what the zoning designation was when the current applicant purchased the property. Ms. Baker stated it was and currently is RU.

Commissioner Myers stated that he is not opposed to the additional density of the RM zoning; however, he expressed concern for residents accessing Sharpsburg Pike and the traffic issues in this area. He believes that Arnett Drive should be extended to Rench Road to help alleviate some of the traffic issues in this area.

Mr. Wiley stated his concerns are more with traffic issues than the proposed density on this property. The timing of solving these issues needs to be addressed prior to this development. He believes the proposed use would create a nice transition from the commercial uses to the single-family residential development in the area.

Mr. Weddle expressed his opinion that the higher density residential development next to the Walmart makes sense. He asked what would be required to connect Arnett Drive and Rench Road and who would assume the monetary responsibility for this connection. Ms. Baker stated that the connection would be developer driven; however, the current property owner to the west of the proposed development is not interested in selling or developing his property to make that connection. At this point in time, there are no plans for the County to initiate construction of this portion of the road. Mr. Weddle asked if a traffic signal is planned at Rench Road. A signal at the current Rench Road intersection is not planned. However, a signal at the new Arnett Drive intersection is planned and the cost of the signal will be borne by the Walmart developer.

Mr. Reeder also expressed concern with regard to traffic issues in this area.

Mr. Reiber stated in July 2013, a plat was presented to the Planning Commission showing several parcels. He asked which parcel delineated on that plat is the 5.18 acre parcel currently being discussed. Mr. Sassan Shaoal, the applicant, was present during the meeting and explained this is parcel 114 as previously shown on the plat in question.

Motion and Vote: Mr. Kline made a motion to recommend to the Board of County Commissioners approval of the map amendment request. The Planning Commission also recommends that the traffic issues as discussed need to be investigated further. The motion was seconded by Commissioner Myers and unanimously approved.

Carlin D. & Cheryl L. Martin (RZ-16-002)

Mr. Goodrich presented for review and recommendation a map amendment request for property located at 14204 Daley Road. The applicant is requesting that the RB (Rural Business) floating zone be applied to 1.73 acres of a 2.74 acre parcel. The applicant is proposing an auto sales and service facility on the site. There is currently a 3-bay residential garage that would be incorporated into the development of the site. No comments or supplemental materials have been received since the public rezoning meeting.

Discussion and Comments: Mr. Reiber expressed his opinion that this should be considered "spot zoning" and expressed his concern that it will cause problems in the future. Mr. Goodrich stated that the Rural Business floating district was designed to be applied in rural areas where services are needed.

Motion and Vote: Mr. Wiley made a motion to recommend to the Board of County Commissioners approval of the map amendment request. The motion was seconded by Mr. Kline and unanimously approved.

NEW BUSINESS

SITE PLANS

Rosewood Village Phase IIA, Lot 16 Revision (SP-16-002)

Mr. Lung presented for review and approval a site plan for a revision at Rosewood Village, Phase IIA, Lot 16. He stated that the development of Lot 16 was originally approved in 2004, which included 4 apartment buildings as well as a community center/club house, a swimming pool, and various recreational facilities. All of these improvements have been constructed with the exception of one apartment building, the tennis court, and the basketball court. Mr. Lung noted that several revisions are being requested as follows:

- The amenity plan has been revised to eliminate the proposed tennis court and to re-design the basketball court from a full court to two half courts, to add an additional “water feature” to the swimming pool area and to add a 20’ x 40’ pavilion. Mr. Lung stated that staff has no objection to these proposed changes.
- The original site plan included a detailed landscaping plan to include landscaping around the apartment buildings as well as within the open space areas. Over the past 10 years, three of the proposed apartment buildings, parking lots and community center have been constructed; however, landscaping shown within these areas has not been installed. A phasing schedule was not provided on the original site plan; however, there was a reasonable expectation that the landscaping associated with these improvements would be installed concurrently with the completion of each improvement. Staff recommends that all of the landscaping proposed as part of the existing buildings and improvements that are not located within the limits of disturbance be installed before the end of this year’s planting season.
- The Zoning Ordinance requires play areas to be constructed within Planned Unit Developments (PUD) and multi-family developments. The original site plan proposed a tot lot and a pre-teen lot directly adjacent to one of the 12-unit apartment buildings. The building was constructed; however, the play lots were not installed. The revised plan proposes consolidating all of the play areas in the center. If the Planning Commission approves this part of the revision, Staff recommends traffic calming measures to be put in place.

Discussion and Comments: Commissioner Myers asked why the landscaping has not been completed. Mr. Sassan Shaoool, the developer, stated that the landscaping was postponed so it would not be disturbed during construction. Mr. Lung noted that a temporary Use and Occupancy permit was issued for the last apartment building that was constructed with notations that there was landscaping yet to be installed. A final occupancy permit was issued with notations that outstanding items were to be addressed by the Plan Review Department. Mr. Shaoool stated that a meeting was held with County representatives and it was decided that the landscaping would not be completed until the final building was constructed. Mr. Ben Shaoool, the developer, stated that the landscaping around each building has been completed. The only landscaping that has not been completed is a row of trees in front of the parking area.

Mr. Bowen stated that he is not opposed to any of the revisions; however, he recommends that the developer be required to give the County a letter of credit for the amount of landscaping that is outstanding.

Mr. Wiley stated that he is not opposed to the relocation of the tot lots to a centralized location; however traffic calming measures need to be addressed. Other Commission members were also not opposed to the location change, but suggested that painted crosswalks be provided from each apartment building to the play lots.

Motion and Vote: Mr. Bowen made a motion to approve the revisions subject to the following conditions: crosswalks for each apartment complex to the centralized play areas must be provided and a letter of credit must be executed by the developer to Washington County to cover the remaining landscaping (specific details to be negotiated between the developer and staff). The motion was seconded by Mr. Kline and unanimously approved.

Fahrney-Keedy Home & Village (SP-16-004)

Ms. Kelly presented for review and approval a site plan for a community center and an adult day care facility at Fahrney-Keedy Home & Village. The property is located along the east side of Mapleville Road, north of Boonsboro and south of Route 40. The property is currently zoned RB-E (Rural Business Existing). The applicant is proposing to construct a 6,500 square foot day care/community center for the residents of Fahrney-Keedy. A proposed round-about will be constructed in front of the building and existing streets will be used to access the site. Sidewalks will surround the building and there will be parking for golf carts. Water and sewer will be provided using the well and treatment plant located on the property and owned by Fahrney-Keedy. The hours of operation will be 9:00 a.m. to 9:00 p.m., 7 days per week. The proposed building height is 30 feet. There will be five employees. Parking spaces required for this addition is 24 spaces and 24 spaces will be provided. There are 15 existing parking spaces and 9 new spaces will be constructed. An existing dumpster will handle solid waste. Building mounted and pole mounted lights will be provided on the site. Building mounted letters will be installed to identify the structure; no new signage is proposed. Landscaping will surround the building and include laurel, cherry trees and shrubs. Forest Conservation Ordinance requirements were previously addressed by retention of existing forest on lands of Fahrney-Keedy. All agency approvals have been received.

Motion and Vote: Mr. Reeder made a motion to approve the site plan as presented. The motion was seconded by Mr. Wiley and unanimously approved.

(Commissioner Myers left the meeting at 8:15 p.m.)

Pen-Mar Regional Association of Realtors – Lot 4 – Breezehill Drive (SP-14-049)

Ms. Kelly presented for review and approval a site plan for Pen-Mar Regional Association of Realtors. The property is located along the south side of Breezehill Drive, west of Pennsylvania Avenue near the Hagerstown Regional Airport. The property is currently zoned HI (Highway Interchange). The developer is proposing to construct a 6,000 square foot office building on a 2.3 acre parcel. There will be one access from Breezehill Drive. The property will be served by public water and public sewer. Storm water management will be handled by a bio-retention pond on the site. There will be 3 employees; the hours of operation will be 8:00 a.m. to 5:00 p.m., Monday through Friday. Total parking required is 37 spaces and 65 spaces will be provided. Projected daily use is 25 cars per day; freight and delivery will be 1 or 2 per day. An enclosed dumpster will serve the site. Lighting will be building mounted and pole mounted throughout the parking lot. There will be one sign at the proposed entrance. A subdivision plat for Lot 4 was approved in 2013. Forest Conservation Ordinance requirements have been addressed through the use of credits from an off-site retention area owned by and located within the Town of Hancock, which was previously approved by the Planning Commission. There will be landscaping surrounding the building and at various locations around the site and will include Pin Oak, Red Maple, Dogwood and Cherry trees, as well as ornamental grasses and shrubs. All agency approvals have been received.

Motion and Vote: Mr. Wiley made a motion to approve the site plan as presented. The motion was seconded by Mr. Bowen and unanimously approved.

FOREST CONSERVATION

Shifler Forest Bank (FBK-16-002)

Mr. Goodrich presented a request for approval of a proposed forest bank on 18.60 acres of property located along the south side of Swinging Bridge Road. He reminded members that in 2014 an

amendment was approved by the Board of County Commissioners to the Forest Conservation Ordinance to allow and create a procedure to establish forest mitigation banks. Mr. Goodrich stated that there is a residence on the property. The 18.60 acres includes most of the existing forest on the 36.8 acre parcel. The property will be put under a permanent easement with Washington County as the beneficiary. The easement area covers existing forest, areas of stream buffers and steep slopes.

Motion and Vote: Mr. Bowen made a motion to approve the request as presented. The motion was seconded by Mr. Weddle and unanimously approved.

OTHER BUSINESS

Update of Staff Approvals

Mr. Lung reported that the Department of Plan Review issued approvals for 2 Forest Stand Delineations, a subdivision re-plat, 6 subdivisions (1 and 2 lots), a subdivision plat for 17 lots at Emerald Pointe, Phase III, Section I and a final record plat for 18 lots for Phase I, Section IV of Emerald Pointe. The Department received 41 new submittals, 23 of which are permit related, such as grading permits, entrance permits, etc. There were 8 stand-alone grading plans, 2 subdivision plat submittals, 5 site plans, a preliminary plat/site plan and a Subdivision Ordinance modification request. Site plan submittals included: the Emerald Pointe Commercial Area and the Community Center, and an expansion at Xerxes.

Capital Improvements Plan Recommendation

Mr. Goodrich presented for review and recommendation the County's proposed Capital Improvements Plan (CIP). The Planning Commission traditionally reviews the CIP to evaluate consistency with the County's adopted Comprehensive Plan. Mr. Goodrich noted that one of the ways the Comp Plan gets implemented is through funding of projects that support the Plan's policies of focusing growth in areas where infrastructure exists or can economically be improved to support it. Staff has reviewed the list of projects and has determined that projects that will encourage growth are located in the designated Growth Areas. The projects proposed for the rural areas are for safety improvements, maintenance, or improvements to structures that are no longer functioning property.

Motion and Vote: Mr. Bowen made a motion to recommend to the Board of County Commissioners that the Capital Improvements Plan is consistent with the County's adopted Comprehensive Plan. The motion was seconded by Mr. Kline and unanimously approved.

Ag Advisory Board Recommendation

Mr. Goodrich reminded members that Mr. Weddle initiated a discussion during a previous Workshop meeting of a proposed method to increase local funds dedicated to the agricultural preservation program. This concept was presented to the Ag Advisory Board at its March 31st meeting. At that time, the Ag Advisory Board voted unanimously to recommend development of a program to dedicate the increased property tax revenue that results from an increased assessment on commercial land uses on Agriculture zoned land as additional contribution to the County's share of the 60/40 matching formula for agricultural preservation. Mr. Goodrich noted that he has drafted a description of the proposal to forward to the County Administrator's office to discuss with the County Commissioners.

Motion and Vote: Mr. Bowen made a motion to support the Ag Advisory Board's proposal. The motion was seconded by Mr. Wiley and unanimously approved.

UPCOMING MEETINGS

1. Monday, May 23, 2016, 7:00 p.m., Washington County Planning Commission workshop meeting, Washington County Administration Building, 100 W. Washington Street, Room 255, Hagerstown, Maryland

2. Monday, June 6, 2016, 7:00 p.m., Washington County Planning Commission regular meeting, Washington County Administration Building, 100 W. Washington Street, Room 255, Hagerstown, Maryland
3. Monday, June 20, 2016, 3:00 p.m., Washington County Planning Commission workshop meeting, Washington County Administration Building, 100 W. Washington Street, Room 255, Hagerstown, Maryland

ADJOURNMENT

Mr. Wiley made a motion to adjourn the meeting at 8:55 p.m. The motion was seconded by Mr. Reeder and so ordered by the Chairman.

Respectfully submitted,

Terry Reiber, Chairman



DEPARTMENT OF PLANNING & ZONING
COMPREHENSIVE PLANNING | LAND PRESERVATION | FOREST CONSERVATION | GIS

WASHINGTON COUNTY PLANNING COMMISSION
AGENDA ITEM FOR
JUNE 6, 2016 MEETING

**AD-90-064 – Formerly Leon and Doris Bowers, Hoffmaster Road, Knoxville
Agricultural Preservation District Partial Termination**

Background: A couple months ago, Mr. Jairo Arciniegas came into the Department of Planning & Zoning looking for information regarding the Leon and Doris Bowers property because he was strongly considering purchasing it with the intention of subdividing lots off of a portion of the property near the road frontage and living on and farming the remaining acreage. The property has an Agricultural Preservation District on it that was established in 1990, terminated in 2011, and renewed in 2012 for 10 years. Chris Boggs quickly researched the property and told him he should not have a problem with the subdivision based on the 1990 Ag District, since at this point the district would be more than 10 years old, and therefore could be terminated at the will of the landowner. In his research, Mr. Boggs neglected to take into account the new 2012 Ag District, which restricts development for 10 years. Mr. Arciniegas subsequently purchased that property and an adjacent property with the assumption that he would be able to subdivide the lots off as planned. He came back into the Department of Planning & Zoning on Tuesday, April 26 for further discussion, and that is when the regulations associated with the 2012 Ag District were properly brought to his attention.

Additional information: The original 1990 Bowers district was 118.9 acres. That district agreement was terminated in 2011 and renewed in 2012 over 115.9 acres (3 acres was subdivided off by the Bowers'). A new survey was done on the property this year showing that the property's true acreage is 110.315 acres and much of the road frontage on Hoffmaster Road was not actually a part of the parcel. With this in mind, Mr. Arciniegas purchased another small parcel with road access and wishes to subdivide approximately 15 and 20 acres from the property and thus extinguish that portion from the Ag District. This would leave roughly 94 +/- acres in the Ag District. Mr. Arciniegas would also have to pay back the tax credit dollars that were paid out by the County from 2012 to present, with interest, on the portion of the property that would be removed from the Ag District.

Ag Board Vote: The Washington County Agricultural Preservation Advisory Board voted to approve the partial termination of the Ag District via email vote on May 9th and 10th of 2016, based on Section 9.03 of the Ordinance To Establish Agricultural Preservation Districts ORD-09-01 that

states that landowners may terminate Ag Districts on the basis of “severe economic hardship”, arguing that an undue economic hardship was incurred by the landowners since they were leveraging their purchase of the property with the ability to sell lots off of it.

Process: Approval of any termination of the Ag District must first be approved by the Agricultural Preservation Advisory Board, which occurred May 9th and 10th of 2016. Then it will need approval from the Planning Commission before finally going to Public Hearing for approval from the Board of County Commissioners. At that point, a Termination Agreement can be recorded among the Land Records of Washington County, Maryland.

Possible Actions by the Board:

1. Approve partial termination of the district due to economic hardship, in concurrence with the Washington County Agricultural Preservation Advisory Board – for the following reasons:
 - Purchase of the property was based on incorrect guidance by Mr. Boggs, a representative of the governing body
 - Subdivision was an integral part of the decision to purchase the property and the inability to do so puts undue financial hardship on the landowner who intended to use funds from selling the lots to leverage the purchase (see Section 9.03 of Ag District Ordinance ORD-09-01)
 - Remaining acres will remain in farmland
 - Remaining acres still qualify for the Ag District Program
2. Deny the termination of the Ag District

Attachments: ORD-09-01; Aerial Map of the subject property; Updated survey of the subject property; 2012 Bowers District Agreement

CLERK OF CIRCUIT COURT
WASHINGTON COUNTYWASHINGTON COUNTY, MARYLAND
AGRICULTURAL PRESERVATION DISTRICT AGREEMENT

This Agricultural Preservation District Agreement (*Agreement*) is executed this 24th day of April, 2012, by and between the Board of County Commissioners of Washington County, Maryland (*County*) and Leon R. & Doris J. Bowers
Full Name(s) of Landowner(s)

RECITALS

1. The County, by its Ordinance for the Establishment of Agricultural Preservation Districts (*Ordinance*), as from time to time amended, permits the creation of Agricultural Preservations Districts.

2. The County, by its Regulations for the Establishment of Agricultural Preservation Districts in Washington County, Maryland (*Regulations*), as from time to time amended, governs the creation of Agricultural Preservations Districts.

3. The Landowner(s) has applied for designation of land described herein as an Agricultural Preservation District.

THEREFORE, in consideration of the covenants, conditions and agreements, hereinafter expressed, the parties agree as follows:

A. This Agreement memorializes the understanding between the County and the Landowner(s) that an Agricultural Preservation District shall be and is hereby established on the land described herein upon the execution of this Agreement and recordation of this Agreement among the Land Records for Washington County, Maryland.

B. By execution of this Agreement, Landowner(s) agrees that the following covenants, conditions, and restrictions shall run with the land within the Agricultural Preservation District created hereby for so long as this Agreement remains in effect:

1. Landowner(s) agrees to keep the land in agricultural use for a minimum period of ten (10) years, which period begins on the date that this Agreement is recorded in the Land Records for Washington County, Maryland;
2. Landowner(s) agrees not to use the land for any commercial, industrial or residential purposes except as permitted by the County's Regulations for the Establishment of Washington County Agricultural Preservation Districts;
3. Landowner(s) agrees not to divide the land for any purposes, including but not limited to subdivision, off-conveyance, or the movement of boundary lines, unless the County first has provided written approval of the proposed division; and
4. Landowner(s) agrees not to construct buildings or structures on the land that are not designed or intended to be used for agricultural purposes or any residential building unless the County has approved the proposed construction;

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APR 24 2012
CLERK OF CIRCUIT COURT
WASHINGTON COUNTY

CLERK OF CIRCUIT COURT
WASHINGTON COUNTY

C. The County, upon written application from the Landowner(s), shall release from this Agreement a lot of a size and character permitted to be released by and subject to the Ordinance and the Regulations. Any release from this Agreement shall be recorded among the Land Records for Washington County, Maryland.

D. On or after ten (10) years from the establishment of the district, provided that there has not been an easement purchased by the State of Maryland, the County, at written request of the Landowner(s), shall terminate this Agreement by recording a release and termination agreement among the Land Records for Washington County, Maryland.

E. In consideration for agreeing to the covenants, conditions, and restrictions set forth in Section B above, the Landowner(s), with respect to the land covered by this Agreement, may offer to sell an agricultural preservation easement to the State of Maryland. Any option contract extended to the Landowner(s) may be subject to the availability of funds from government resources. Therefore, there is no guarantee that an offer will be made or accepted for the purchase of an easement on the land described below.

F. The subject land contains 115.9 total acres, more or less as referenced and contains 1 existing dwellings, which for the purposes of this program are defined as structures intended for human inhabitation whether as guest houses, rental property, permanently affixed trailers, duplexes and apartments. The subject property is further described in the following Metes and Bounds Description or Reference to Recorded Deed(s):

835/300 3 Acres Excluded for 1 existing
house

G. In executing this Agreement, Landowner(s) hereby certifies that the information contained herein is true and accurate to the best of their knowledge and hereby gives permission to the Washington County Land Preservation Advisory Board or Agricultural Advisory Board to record this Agreement among the Land Records for Washington County, Maryland.

H. Landowner(s) understands that by electing to execute this Agreement, he/she/they is bound to the restrictions contained herein for a minimum period of ten (10) years from the date this Agreement is recorded.

I. All terms and conditions of the Ordinance and the Regulations are hereby incorporated into this Agreement by reference and Landowner(s) agrees to abide by the terms and conditions of the Ordinance and the Regulations during the term of this Agreement.

J. This Agreement was made and entered into in the State of Maryland and is to be governed by and construed under the laws of the State of Maryland. The Recitals are hereby incorporated into this Agreement as substantive provisions. This Agreement constitutes the entire agreement and

CLERK OF CIRCUIT COURT
WASHINGTON COUNTY

understanding of the parties. There are no other promises or other agreements, oral or written, express or implied between the parties other than as set forth in this Agreement. No change or modification of, or waiver under, this Agreement shall be valid unless it is in writing and signed by authorized representatives of the Company and the County. Neither party's waiver of the other's breach of any term, covenant or condition contained in this Agreement shall be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition in this Agreement.

K. If any provision of this Agreement shall be determined to be invalid or unenforceable, the remaining provisions of this Agreement shall not be affected thereby, and every provision of this Agreement shall remain in full force and effect and enforceable to the fullest extent permitted by law.

If this property is owned by a business entity, all signatures of authorized directors/officers/partners/members should be provided OR a resolution should be provided with notarized signatures of appropriate directors/officers/partners/ members indicating their concurrence in establishing an agricultural land preservation district on this property, and authorizing one (or more) person(s) to act on behalf of the business entity to sign all necessary documentation. Such a resolution should specify that the person(s) named have the right to establish a district.

<u>X <i>Jean B. Baker</i></u>	_____	_____	_____
Landowner	Date	Landowner	Date
<u>X <i>Doris J. Baker</i> 6-14-11</u>	_____	_____	_____
Landowner	Date	Landowner	Date
_____	_____	_____	_____
Landowner	Date	Landowner	Date

ATTEST:

BOARD OF COUNTY COMMISSIONERS OF
WASHINGTON COUNTY, MARYLAND

Vicki C. Lumm
Vicki C. Lumm, Clerk

BY: *Terry L. Baker* (SEAL)
Terry L. Baker, President

Approved as legal sufficiency:

Andrew F. Wilkinson
Andrew F. Wilkinson
Assistant County Attorney

CLERK OF CIRCUIT COURT
WASHINGTON COUNTY

STATE OF MARYLAND, COUNTY OF WASHINGTON, TO WIT;

I hereby certify that on this 14th day of June, 20 11,
before me the subscriber, a Notary Public in and for the State and County aforesaid, personally
appeared Leon R. & Doris J. Bowers known to me (or satisfactorily
proven) and acknowledged that he/she executed the same in that capacity and for purposes therein
contained and, in my presence, signed and sealed the same.

As witness my hand and Notarial seal.


Notary Public

My Commission Expires: 4/16/2015

ROBERT ALLEN GODDARD JR.
NOTARY PUBLIC
WASHINGTON COUNTY
MARYLAND
MY COMMISSION EXPIRES 04/16/2015

STATE OF MARYLAND, COUNTY OF WASHINGTON, TO WIT;

I hereby certify that on this 24th day of April, 20 12,
before me the subscriber, a Notary Public in and for the State and County aforesaid, personally
appeared Terry L. Bala known to me (or satisfactorily
proven) to be the President of the Board of County Commissioners of Washington County,
Maryland and acknowledged that he executed the same in that capacity and for purposes therein
contained and, in my presence, signed and sealed the same.

As witness my hand and Notarial seal.

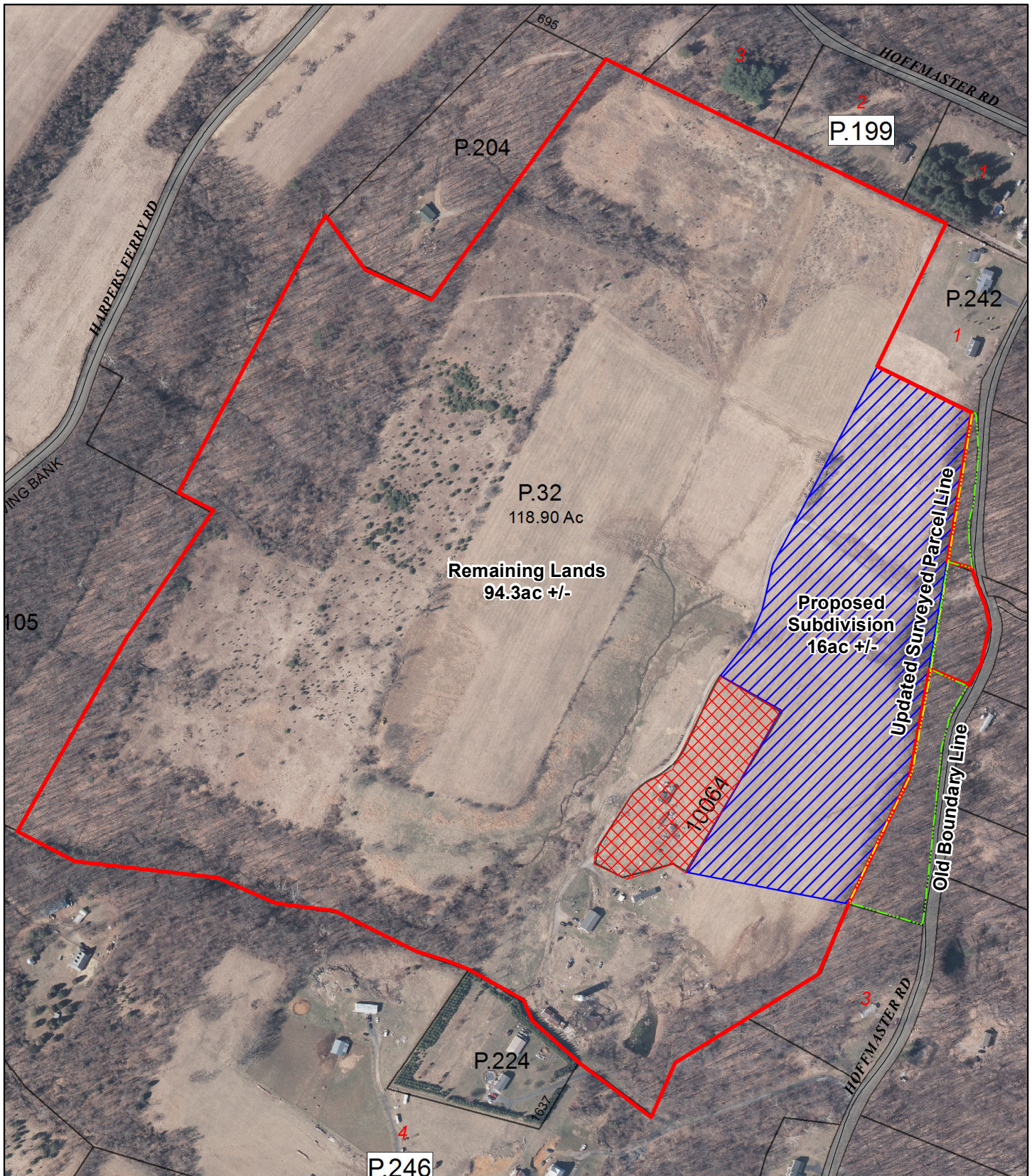

Notary Public

My Commission Expires: 4-23-2013



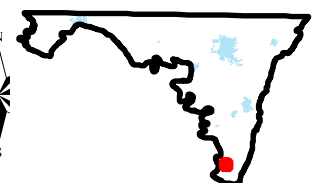
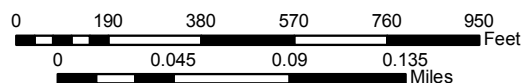
After Recording Return To
Eric Gelfarth
Washington County Department of
Planning and Zoning
80 W. Baltimore Street
Hagerstown MD 21740

AD-90-064



WARNING: This map is for internal use by the Washington County Planning Department. It is not for general distribution to the public, and should not be scaled or copied. Sources of the data contained hereon are from various public agencies which may have use restrictions and disclaimers

The parcel lines shown on this map are derived from a variety of sources which have their own accuracy standards. The parcel lines are approximate and for informational purposes ONLY. They are not guaranteed by Washington County Maryland or the Maryland Department of Assessments and Taxation to be free of errors including errors of omission, commission, positional accuracy or any attributes associated with real property. They shall not be copied, reproduced or scaled in any way without the express prior written approval of Washington County Maryland Planning and Zoning Department. This data DOES NOT replace an accurate survey by a licensed professional and information shall be verified using the relevant deeds, plats and other recorded legal documents by the user.

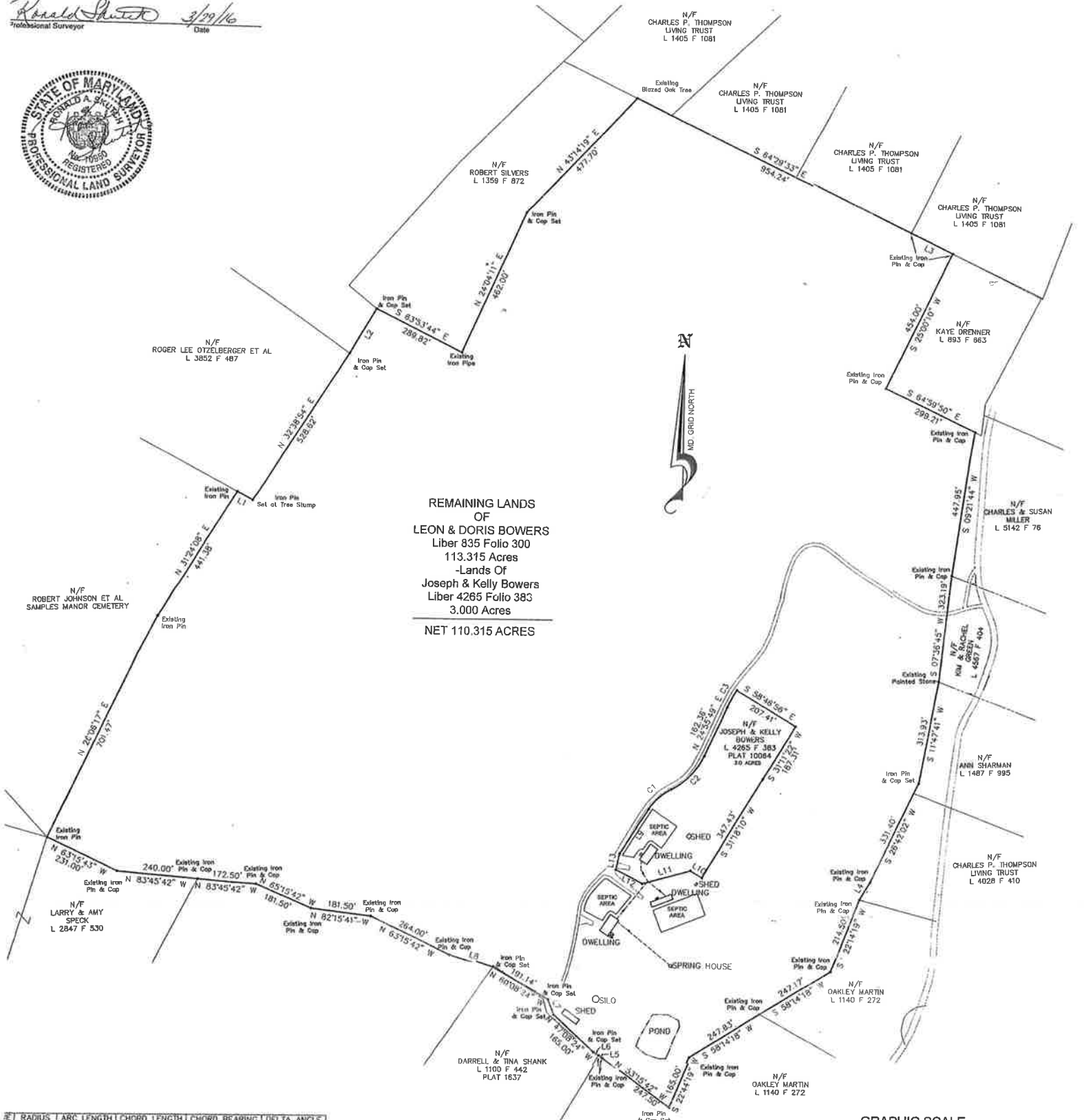


SURVEYOR'S CERTIFICATION

I hereby certify to the best of my professional knowledge and belief that the plan shown hereon is correct, that it is all of the remaining lands as conveyed by Leon Ray Bowers, Personal Representative of the Estate of Samuel Franklin Bowers, to Leon Ray Bowers and Doris Jean Bowers by Confirmatory Deed dated February 8, 1987 and recorded at Liber 835 Folio 300 among the Land Records of Washington County, Md.; that this document was prepared by myself and that the survey work reflected hereon is in compliance with the regulations set forth in COMAR 09.13.05.12 in effect at the time the survey was performed. I also certify that I am a duly licensed professional land surveyor under the Laws of the State of Maryland.

License No. 10950, Expires June 29, 2016.

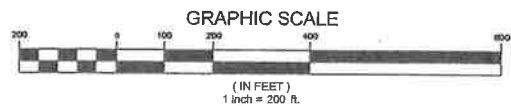
Ronald A. Skuse
Professional Surveyor Date 3/29/16



RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
158.06	91.61	20.48	N 48°23'21" E	31°13'53"
210.18	143.34	140.38	N 44°28'03" E	39°04'28"
413.03	59.01	58.86	N 29°01'23" E	4°11'08"

BEARING	DISTANCE
S 61°50'21" E	52.83
N 40°20'00" E	155.84
S 64°34'08" E	138.16
S 12°28'28" W	59.29
N 52°25'25" W	13.46
N 57°42'08" W	18.19
N 22°08'24" W	49.50
N 71°49'57" W	143.89
N 32°46'23" E	159.14
N 58°39'59" W	49.41
S 78°03'09" W	150.92
N 62°33'43" W	89.60
N 12°38'01" E	49.88

TAX MAP 85-11-32 DISTRICT 11		FREDERICK SEIBERT & ASSOCIATES, INC. © 2016	CIVIL ENGINEERS SURVEYORS LANDSCAPE ARCHITECTS LAND PLANNERS 128 SOUTH POTOMAC STREET, HAGERSTOWN, MARYLAND 21740 20 WEST BALTIMORE STREET, GREENCASTLE, PENNSYLVANIA 17225 101 NORTH HANOVER STREET, CARLISLE, PENNSYLVANIA 17013 (301) 781-8202 (717) 997-1007 (717) 791-8111 FAX (301) 739-4088
DRAWING NUMBER 1 OF 1			
DRAWN BY: RAS	DATE: 3-29-16	JOB NUMBER: 3463	
CHECKED BY: CHRD	DATE:		
SCALE: 1" = 200'			



Boundary Line Survey
Lands Of
Leon Ray Bowers & Doris Jean Bowers
situate at 1830 & 1834 Hoffmaster Road, Rohrsersville,
WASHINGTON COUNTY, MARYLAND

ORDINANCE NO.: ORD-09-01
AN ORDINANCE ENTITLED "ORDINANCE FOR THE ESTABLISHMENT OF
AGRICULTURAL PRESERVATION DISTRICTS"

RECITALS

The Board of County Commissioners of Washington County (the "Board") has the authority to adopt an ordinance for the establishment of agricultural preservation districts pursuant to Md. Code, Article 25, Section 9-I.


The Board believes it to be in the best interests of the citizens of the County for the Board to adopt the Ordinance entitled "Ordinance for the Establishment of Agricultural Preservation Districts."

A public hearing was held on the 6th day of January 2009, following due notice and advertisement. Public comment was received, reviewed, and considered concerning the aforesaid Ordinance.

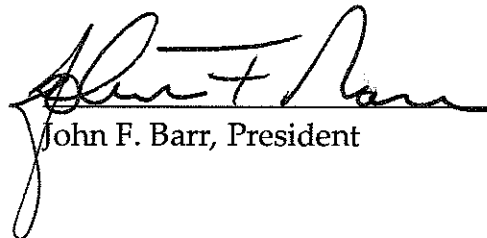
NOW, THEREFORE, BE IT ORDAINED, by the Board of County Commissioners of Washington County, Maryland, that other ordinances or parts of ordinances in conflict herewith are hereby repealed; and the attached ordinance entitled "Ordinance for the Establishment of Agricultural Preservation Districts" is hereby adopted this 13th day of January 2009 and effective this same date.

Attest:

BOARD OF COUNTY COMMISSIONERS
OF WASHINGTON COUNTY, MARYLAND

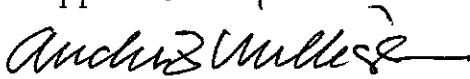


Joni L. Bittner, Clerk



John F. Barr, President

Approved:



Andrew F. Wilkinson
Assistant County Attorney

Mail to:

County Attorney's Office
100 W. Washington Street, Room 202
Hagerstown, MD 21740-4735

**ORDINANCE FOR THE ESTABLISHMENT OF
AGRICULTURAL PRESERVATION DISTRICTS**

Adopted January 13, 2009

Table of Contents

1.	Purpose.	3
2.	Definitions.	3
3.	Establishment of a District.	3
4.	Procedures.	4
5.	Qualifying Criteria.	5
6.	Addition to an Existing District.	5
7.	Exclusion of Property within a District.	5
8.	Continuation of a District.	6
9.	Termination and Alteration of a District.	6

1. Purpose.

1.01 The purpose of this Ordinance is to provide for the creation of agricultural preservation districts within Washington County, Maryland and to provide for the standards and guidelines under which real property in Washington County is eligible for inclusion within an agricultural preservation district.

2. Definitions.

For the purpose of this Ordinance, the following words shall have the following meanings:

2.01 "County" shall mean the Board of County Commissioners of Washington County, Maryland, its departments, divisions and assigns.

2.02 "Planning Commission" shall mean the Washington County Planning Commission.

3. Establishment of a District.

3.01 One or more owners of land located within Washington County which is used primarily (i) for the active production of food or fiber or (ii) is of such open space character and productive capability that continued agricultural production is feasible, may voluntarily file a petition with the Agricultural Preservation Advisory Board, in the form prescribed by the Commission, requesting the establishment of an agricultural preservation district composed of the land owned by the petitioners. All land to be located within an agricultural preservation district shall be titled the same.

3.02 If the petition is approved, the petitioners shall execute an Agricultural Preservation District Agreement in the form prescribed by the Board, agreeing, among other things, that the following covenants, conditions, and restrictions shall run with the land for so long as the Agreement remains in effect:

(a) The landowner agrees to keep the land in agricultural use in a district for, except as otherwise permitted by this Ordinance or other law, a minimum period of 10 years from the date the district agreement is recorded in the land records of the county;

(b) Except as otherwise permitted in this Ordinance, the landowner agrees not to use the land for any commercial, industrial, or residential purpose except as indicated in any County Regulations associated with this Ordinance;

(c) The landowner agrees not to subdivide the land encumbered by a district for any purpose unless the County first has approved the proposed subdivision; and

(d) The landowner agrees not to construct buildings or structures on the land that are not designed or intended to be used for agricultural purposes or any residential building unless the County first has approved the proposed construction.

3.03 The landowner may apply for Maryland Agricultural Land Preservation Foundation easements and other County approved easements on land in a district.

4. Procedures.

4.01 After receipt of a petition to establish an agricultural preservation district:

(a) The Agricultural Preservation Advisory Board shall inform the Planning Commissions whether the land in the proposed district meets the qualifications established in this Ordinance and associated Regulations and whether the Advisory Board recommends establishment of the district.

(b) The Planning Commission shall inform the County whether establishment of the district is compatible with existing and approved State and county plans, programs, and overall county policy, and whether the planning and zoning body recommends establishment of the district.

4.02 If either the Agricultural Preservation Advisory Board or the Planning Commission recommends approval, the County shall hold a public hearing on the petition. Adequate notice of the hearing shall be provided to landowners in the proposed district and to landowners adjacent to the proposed district.

4.03 If neither the Agricultural Preservation Advisory Board nor the Planning Commission recommends approval, the petition shall be deemed denied and the County shall notify the landowner or landowners stating the reasons for the denial.

4.04 The County may approve a petition for the establishment of an agricultural preservation district only if:

(a) The land within the proposed district meets the qualifying criteria established under this Ordinance and any Regulations associated herewith;

(b) Approval of the petition has been recommended by either the Advisory Board or the Planning Commission; and

(c) The County has held a public hearing as indicated in Section 4.02.

4.05 Establishment of a district shall not occur until:

- (a) The County approves the petition;
- (b) All parties have executed an Agricultural Preservation District Agreement; and
- (c) The Agricultural Preservation District Agreement is recorded, by the County, in the Land Records for Washington County.

5. Qualifying Criteria.

5.01 The criteria necessary to qualify land for consideration as an Agricultural Preservation District shall be determined by Regulations adopted by the County. The Regulations may include, but need not be limited to, criteria for district size, productive capability and location. The Regulations may be amended from time to time by the County.

5.02 Amendments to qualifying criteria in the Regulations occurring after the establishment of a district shall not cause disqualification of the district so long as the Agricultural Preservation District Agreement remains in effect.

6. Addition to an Existing District.

6.01 The procedures for adding land to existing districts shall be the same as for the initial establishment of districts.

6.02 There shall be no minimum size criteria for the addition of land parcels contiguous to an existing agricultural preservation district.

7. Exclusion of Property within a District.

7.01 Subject to the limitations of Section 7.02 and any Regulations associated with this Ordinance, a landowner may request to have excluded from a district certain portions of the owner's property, constituting lots of either 2 acres or less, if the purpose for excluding the property is to construct a dwelling house for the owner or the owner's children.

7.02 The number of lots allowed to be released under this Section 7 may not exceed:

- (a) 1 lot per district if the size of the district is 20 acres or more but fewer than 70 acres;
- (b) 2 lots per district if the size of the district is 70 acres or more but

fewer than 120 acres; or

(c) 3 lots per district if the size of the district is 120 acres or more.

7.03 Any request for exclusion under this Section 7 shall be made in accordance with the procedures described in Sections 3 and 4 of this Ordinance.

8. Continuation of a District.

8.01 Agricultural districts shall continue in effect indefinitely unless terminated as provided in this Ordinance or Regulations associated herewith.

8.02 Nothing in this Ordinance shall preclude a landowner from selling land within an agricultural preservation district. A landowner that sells land within an agricultural preservation district shall notify the County within thirty (30) days after the sale.

9. Termination and Alteration of a District.

9.01 The provisions of this Section 9 are applicable only to land in agricultural preservation districts on which an agricultural preservation easement has not been purchased.

9.02 After ten (10) years from the establishment of the district, a landowner may terminate the property's inclusion in an agricultural preservation district by giving written notice to the County. Notice of intention to terminate may be submitted to the County at the end of the tenth year of the district's establishment, or anytime thereafter.

9.03 If severe economic hardship occurs, the County may release the landowner's property from an agricultural preservation district at any time upon petition by the landowner. The petition shall be in a form prescribed by the County and the County may require such information necessary to determine whether severe economic hardship exists. If the County approves the petition to release the landowner's property from a district, the County shall prepare the release.

9.04 If a district is terminated prior to the completion of the initial ten (10) year period, the current landowner will be liable to reimburse the County the property taxes that would have been due if the property tax credit had not been granted as well as applicable interest on those taxes.

9.05 The County may approve alteration or abolishment of the district, if the following occur:

(a) The use of land within the district has so changed as to cause land within the district to fail to meet the qualifications under this Ordinance or the

Regulations associated herewith;

(b) The County has assessed the potential impacts of alteration on remaining lands in the district;

(c) The alteration or abolition of the district has been recommended by the Agricultural Preservation Advisory Board and the County Planning Commission, and a public hearing has been held; and

(d) The alteration or abolition is approved by the County Commissioners.

Adopted January 13, 2009