

IN THE MATTER OF	*	BEFORE THE CECIL COUNTY
THE APPLICATION OF	*	BOARD OF APPEALS
ALLAIRE DUPONT HUMMEL	*	CASE NO.: 3640
	*	
(Variance)	*	
	*	
* * * * *		

**OPINION**

The Cecil County Board of Zoning Appeals (the “Board”) is now asked to consider the application of Allaire duPont Hummel (the “Applicant”). Applicant seeks a variance from the road frontage requirement for a proposed building lot on property located at Mitton Road, Chesapeake City, Maryland 21915, designated as Parcel 144 & 150 on Tax Map 48, in the Second Election District of Cecil County (the “Property”). The Property is in an area zoned Southern Agricultural Residential (“SAR”) and is owned by Virginia duPont Suarez.

Under the provisions of Article XVII, Part I, Section 306, Paragraph 1, variances, as defined in Article II, may be granted by the Board of Appeals. Paragraph 2 of Section 306 requires the Board to examine all facts of the case and render a decision based upon the following criteria:

- A. The variance requested is based upon a situation where, because of special circumstances, a literal enforcement of the provisions of the Ordinance would deprive the applicant of a right commonly enjoyed by other parties in the same zone under the terms of this Ordinance.
- B. Special conditions and circumstances exist that are peculiar to the land, buildings, or structures involved, and that are not applicable to other lands, buildings, or structures in the same zone, such conditions and circumstances not being the result of actions by the applicant.

C. The granting of the variance will not confer upon the applicant any special privileges that are denied by this Ordinance to other properties in the same zone.

D. The variance request does not arise from any condition to land or building use, either permitted or non-conforming, on any neighborhood property.

Applicant appeared and requested the variance in order to activate Parcel 144 as a building lot and to transfer one MALPF approved building pad from Parcel 150 to Parcel 144. The Applicant testified that the proposed building lot will not have the required road frontage and is requesting a variance from the road frontage requirement. The Property is located in an Agricultural Preservation District; however, the application indicates that the proposed building will begin only after a transfer of a MALPF approved building pad from Parcel 150 to Parcel 144 has taken place.

No one appeared in opposition to or in favor of the application.

From the evidence presented the Board is satisfied that the criteria set forth in Section 306 has been met, and makes the following findings:

1. The variance request is based upon a situation where, because of special circumstances, a literal enforcement of the provisions of the Ordinance would deprive the applicant of a right commonly enjoyed by other parties in the same zone under the terms of this Ordinance. Although the Property is of sufficient size, the dimensions of the Property along with the location of the Property line render Applicant unable to build on the property without a variance from the road frontage requirement. Other properties of the size of the Parcel are able to build in the manner proposed by the Applicant and without a variance Applicant will not be able to move forward with the proposed use.

2. Special conditions and circumstances exist that are peculiar to the subject land, buildings or structures involved and that are not applicable to other lands, buildings, or structures in the same zone. Due to the position of property line and the location of the road with respect to the Property the proposed use cannot be undertaken without the requested variance.

3. The granting of the variance will not confer upon the applicant special privileges that are denied by this Ordinance to other properties in the same zone. Other owners of parcels of equal size to the Property are able to build on their property in the manner proposed by Applicant.

4. There is no evidence that the variance request arises from any condition to land or building use, either permitted or non-conforming, on any neighborhood property.

For the reasons stated, by unanimous vote, the Board is satisfied that the criteria set forth in Section 306 have been met, and the application is therefore **APPROVED**.

6/25/2013  
Date

David Willis, Jr.  
David Willis, Chairperson

**BOARD OF APPEALS APPLICATION**  
**CECIL COUNTY, MARYLAND**

MEET. MONTH: May 2013  
 FILE NO. 3640

**THIS REQUEST IS FOR:**

- SPECIAL EXCEPTION RENEWAL ( )
- SPECIAL EXCEPTION ( )
- VARIANCE (x)
- APPEAL ( )

DATE FILED: 4/18/13  
 AMOUNT PD: \$200.00 CV# 391  
 ACCEPTED BY: MB

*ck - Allaire D. Hummel*  
**Received**

**A. APPLICANT INFORMATION**

Allaire duPont Hummel  
 APPLICANT NAME - PLEASE PRINT CLEARLY

633 Budds Landing Road Warwick MD 21912  
 ADDRESS CITY STATE ZIP CODE

Allaire duPont Hummel 302-494-5594  
 APPLICANT SIGNATURE PHONE NUMBER

**APR 18 2013**

Cecil County Office  
 of Planning & Zoning

**B. PROPERTY OWNER INFORMATION**

Virginia Hemingway duPont Suarez  
 PROPERTY OWNER NAME - PLEASE PRINT CLEARLY

284 Great Farm House Lane Chesapeake City MD 21915  
 ADDRESS CITY STATE ZIP CODE

Virginia duPont Suarez \_\_\_\_\_  
 PROPERTY OWNER SIGNATURE PHONE NUMBER

**C. PROPERTY INFORMATION**

Milton Road, Chesapeake City, MD 21915 02 042770 & 043084  
 PROPERTY ADDRESS ELECTION DIST. ACCT. NUMBER

48 22 144 & 150 N/A 100.016 SAR  
 TAX MAP # BLOCK PARCEL LOT# #ACRES ZONE

**D. PURPOSE OF APPLICATION** - Indicate reasons why this application should be granted. (attach separate sheet if necessary)

The owners wish to activate parcel 144 as a building lot, and transfer 1 MALPF approved building pad from parcel 150 to parcel 144. The proposed building lot will not have the required road frontage so Mrs. Hummel is requesting a variance on the road frontage requirement.

**E. On an attached sheet, PLEASE submit a sketch of the property indicating the proposed project. Show distances from the front, side and rear property lines and the dimensions of the project.**

**F. LAND USE DESIGNATION**

- Is property in the Critical Area? \_\_\_\_\_ YES \_\_\_\_\_ x NO
- If yes, Pertinent provision of the Chesapeake Bay Critical Area Program: \_\_\_\_\_
- Is property in the 100 year Floodplain? \_\_\_\_\_ YES \_\_\_\_\_ x NO
- Is property an Agricultural Preservation District? \_\_\_\_\_ x YES \_\_\_\_\_ NO

**If property is located in the Critical Area, all provisions and requirements must be met as outlined in Article XVII, Part I, II & III of the Zoning Ordinance.**

**G. PROVISION OF ZONING ORDINANCE:** Section 306

**H. SPECIAL EXCEPTION RENEWAL** - PREVIOUS FILE NO. & CONDITIONS FOR APPROVAL: N/A

**I. SPECIAL EXCEPTION FOR A MANUFACTURED HOME** - Please fill out the following information:

- Will unit be visible from the road? \_\_\_\_\_ If yes, distance: \_\_\_\_\_
- Will unit be visible from adjoining properties? \_\_\_\_\_ If yes, distance: \_\_\_\_\_
- Distance to nearest manufactured home: \_\_\_\_\_ Size/Model/Year of Unit: \_\_\_\_\_
- Number of units on property at present time: \_\_\_\_\_

**OWNER'S CERTIFICATE**

CERTIFICATION IS HEREBY MADE THAT TO THE BEST OF MY KNOWLEDGE THE REQUIREMENTS OF THE SECTION 3-10B, REAL PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND, CONCERNING THE PREPARATION OF THIS PLAT AND THE SETTING OF MARKERS, HAVE BEEN COMPLIED WITH

WE \_\_\_\_\_ HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE PROPERTY SHOWN ON THIS PLAN, AND THIS SUBDIVISION PLAT (THEREOF) WAS MADE AT MY DISCRETION.

LAND OWNER \_\_\_\_\_ DATE \_\_\_\_\_

LAND OWNER \_\_\_\_\_ DATE \_\_\_\_\_

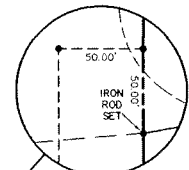
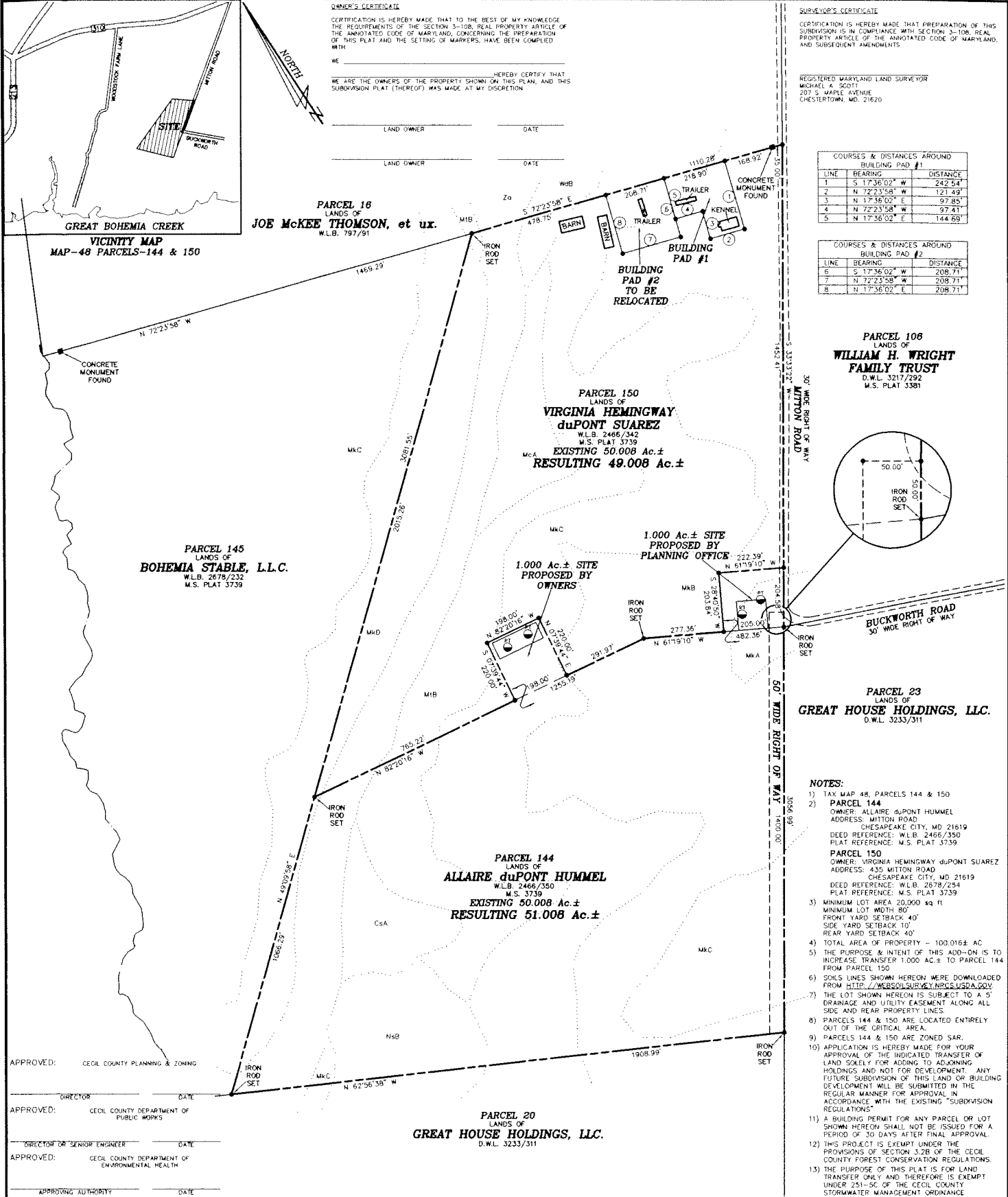
**SURVEYOR'S CERTIFICATE**

CERTIFICATION IS HEREBY MADE THAT PREPARATION OF THIS SUBDIVISION IS IN COMPLIANCE WITH SECTION 3-10B, REAL PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND, AND SUBSEQUENT AMENDMENTS.

REGISTERED MARYLAND LAND SURVEYOR  
MICHAEL A. SCOTT  
207 S. MAPLE AVENUE  
CHESTERTOWN, MD. 21620

COURSES & DISTANCES AROUND BUILDING PAD #1		
LINE	BEARING	DISTANCE
1	S 17°36'02" W	242.54'
2	N 72°23'58" W	121.43'
3	N 17°56'02" E	97.85'
4	N 72°23'58" W	97.41'
5	N 17°36'02" E	144.69'

COURSES & DISTANCES AROUND BUILDING PAD #2		
LINE	BEARING	DISTANCE
6	S 17°36'02" W	208.71'
7	N 72°23'58" W	208.71'
8	N 17°36'02" E	208.71'



- NOTES:**
- 1) TAX MAP 48, PARCELS 144 & 150
  - 2) **PARCEL 144**  
OWNER: ALLAIRE duPONT HUMMEL  
ADDRESS: MITTON ROAD, CHEESAPEAKE CITY, MD 21619  
DEED REFERENCE: W.L.B. 2466/350  
PLAT REFERENCE: M.S. PLAT 3739
  - 3) **PARCEL 150**  
OWNER: VIRGINIA HEMINGWAY duPONT SUAREZ  
ADDRESS: 435 MITTON ROAD, CHEESAPEAKE CITY, MD 21619  
DEED REFERENCE: W.L.B. 2678/254  
PLAT REFERENCE: M.S. PLAT 3739
  - 4) MINIMUM LOT AREA 20,000 sq ft  
MINIMUM LOT WIDTH 80'  
FRONT YARD SETBACK 40'  
SIDE YARD SETBACK 10'  
REAR YARD SETBACK 40'
  - 5) TOTAL AREA OF PROPERTY - 100.016± AC  
THE PURPOSE & INTENT OF THIS ADD-ON IS TO INCREASE TRANSFER 1,000 AC± TO PARCEL 144 FROM PARCEL 150
  - 6) SOILS LINES SHOWN HEREON WERE DOWNLOADED FROM [HTTP://WWW.SOILSURVEY.NRC.USDA.GOV](http://www.soilsurvey.nrc.usda.gov)
  - 7) THE LOT SHOWN HEREON IS SUBJECT TO A 5' DRAINAGE AND UTILITY EASEMENT ALONG ALL SIDE AND REAR PROPERTY LINES
  - 8) PARCELS 144 & 150 ARE LOCATED ENTIRELY OUT OF THE CRITICAL AREA.
  - 9) PARCELS 144 & 150 ARE ZONED SAR.
  - 10) APPLICATION IS HEREBY MADE FOR YOUR APPROVAL OF THE INDICATED TRANSFER OF LAND SOLELY FOR ADDING TO ADJOINING HOLDINGS AND NOT FOR DEVELOPMENT. ANY FUTURE SUBDIVISION OF THIS LAND OR BUILDING DEVELOPMENT WILL BE SUBMITTED IN THE REGULAR MANNER FOR APPROVAL IN ACCORDANCE WITH THE EXISTING "SUBDIVISION REGULATIONS"
  - 11) A BUILDING PERMIT FOR ANY PARCEL OR LOT SHOWN HEREON SHALL NOT BE ISSUED FOR A PERIOD OF 30 DAYS AFTER FINAL APPROVAL.
  - 12) THIS PROJECT IS EXEMPT UNDER THE PROVISIONS OF SECTION 3.2B OF THE CECL COUNTY FOREST CONSERVATION REGULATIONS.
  - 13) THE PURPOSE OF THIS PLAT IS FOR LAND TRANSFER ONLY AND THEREFORE IS EXEMPT UNDER 251-5C OF THE CECL COUNTY STORMWATER MANAGEMENT ORDINANCE.

APPROVED: \_\_\_\_\_  
CECL COUNTY PLANNING & ZONING

APPROVED: \_\_\_\_\_  
CECL COUNTY DEPARTMENT OF PUBLIC WORKS

APPROVED: \_\_\_\_\_  
CECL COUNTY DEPARTMENT OF ENVIRONMENTAL HEALTH

APPROVING AUTHORITY \_\_\_\_\_

SURVEY OF THE LANDS OF

**ALLAIRE duPONT HUMMEL & VIRGINIA HEMINGWAY duPONT SUAREZ**

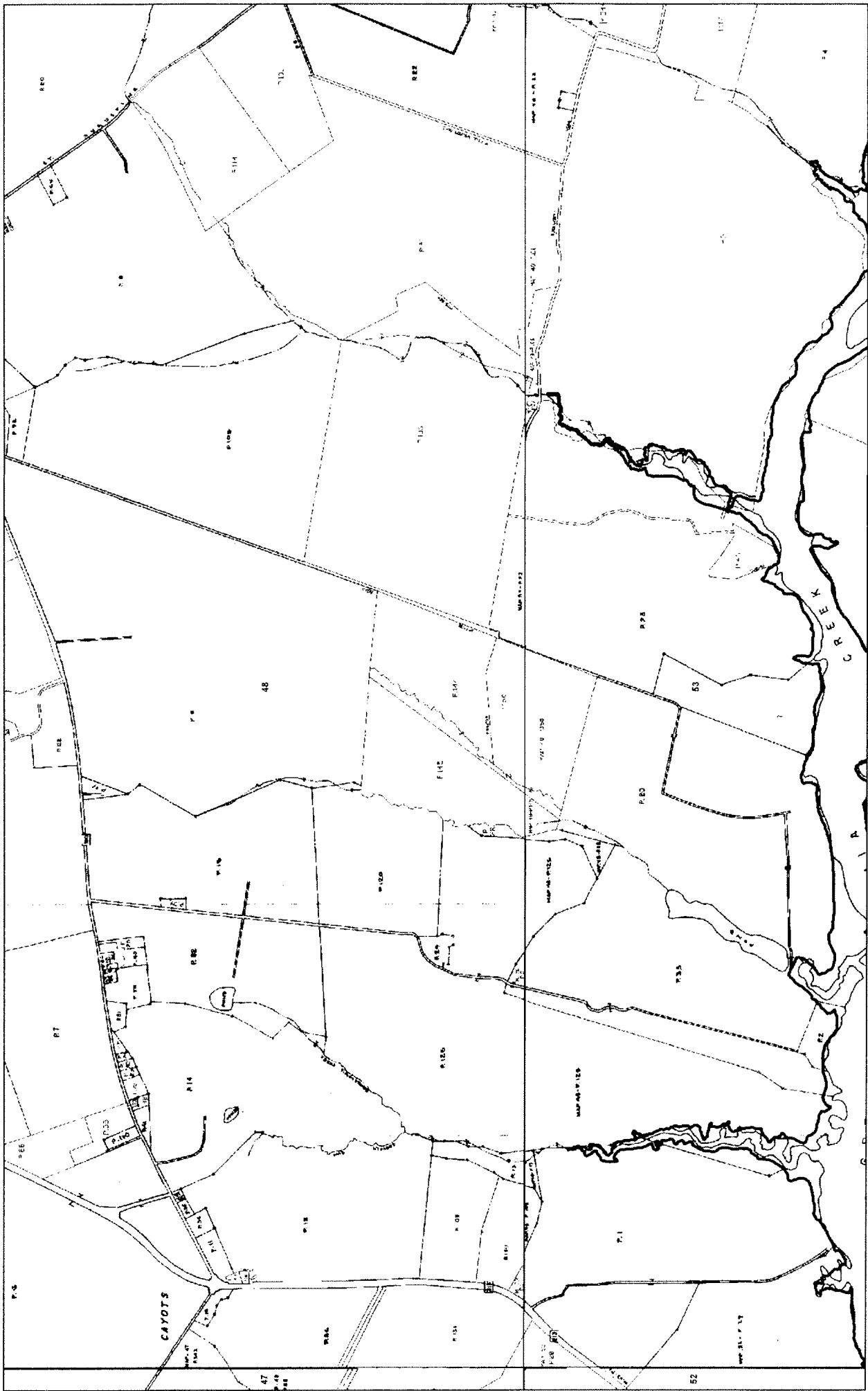
SECOND ELECTION DISTRICT, CECL COUNTY, MARYLAND

TAX MAP-48 PARCEL-150

DATE	5/26/13	SCALE	1"=200'
JOB NO.	5983 P150	DRAWN BY	DFS
FOLDER REF	CE-1338		
DATE		REVISION	

**MICHAEL A. SCOTT INC.**  
207 MAPLE AVENUE CHESTERTOWN, MD 21620 (410)778-2310

DATE \_\_\_\_\_ SEAL \_\_\_\_\_



**CECIL COUNTY**  
**AGRICULTURAL PRESERVATION ADVISORY BOARD**

Minutes  
Friday, March 15, 2013 at 9:00 AM  
In the Bainbridge Room, County Administration Building

BOARD MEMBERS PRESENT: Miller, Halsey, Hastings

BOARD MEMBERS ABSENT: Balderston, Davis

OTHERS PRESENT: Eric Shertz, OPZ, Michelle Cable, MALPF, Caroline duPont-Prickett, landowner

Meeting called to order at 9:03 am.

Motion was made by Ms. Hastings, and seconded by Mr. Miller for approval of Minutes for February 2013 meeting as drafted; vote was unanimous.

**Informational Items:**

1. Update of County Preservation District proposal: Proposal to be presented by the County Council for public comment on March 19, 2013.

**Action Items**

**1. MALPF Request: duPont-Prickett, Caroline**

This item was presented to follow up with proposal that the Board had previously heard at their meeting on January 18, 2013 and February 15, 2013. The Board tabled discussion at the February meeting asking for additional information from Staff and MALPF.

Ms. Cable relayed that MALPF had discussed options with the Office of Attorney General and had determined that MALPF has the ability to cite that a mistake was made in accepting the two (2) seven acre "parcels" associated with File #07-91-16 and #07-91-17. As no changes had occurred to the easement documents since they were originally settled, the MALPF Board of Trustees would have the ability to recognize "parcels" as withheld from the original easements. If the Board of Trustees were to hear and approve the request for those two "parcels", Ms. Prickett would be required to pay back the amount received at the time of easement for the acreage. Additionally, deed restrictions would be placed so that each of the "parcels" would be restricted to one development right that ran with the land.

Ms. Halsey made the motion that the two (2) seven acre "parcels" we encumbered by MALPF with an easement as a mistake 2003. That MALPF should designate the two "parcels" as withheld acreage from the easements and require Ms. duPont-Prickett to repay any funds received from MALPF, as well as place a deed restriction on the "parcels" to restrict them to retaining only one development right that would run with the land. Motion was seconded by Ms. Hastings. Vote was unanimous, with Chairman Miller casting a vote.

Discussion continued pertaining to the two (2) seven acres "parcels" associated with File #07-91-18. Ms. Cable states the after discussion with the Office of Attorney General, the easement would not have the ability to be revised since an amendment to the easement document was recorded in 2011. Mr. Shertz asked why the change in the easement document would negate the MALPF Board of Trustees ability to state that mistake happened just as with the other two easements. He further stated that the request that revised the easement document would not have led to an in-depth review of the entire easement that would have started the current discussion. Ms. Cable stated that the discussion of terms between legal counsel of MALPF and the landowner would have discussed the impacts of the revised easement document; Ms. Prickett stated that she had no conversation with her lawyers to that effect.

The Board asked Ms. Cable to research further the options for the two (2) seven-acre parcels associate with File #07-91-18; Ms. Prickett stated that she would go through her records for any correspondence she may have retained from discussions with her lawyer. This item will be tabled until additional information is available.

## **2. MALPF Request: Hummel, Allaire & Suarez, Virginia**

Both Ms. Hummel (Map 48, Parcel 144) & Ms. Suarez (Map 48, Parcel 150) are each current owners of 50+ acres that were originally part of Bohemia Stable, LLC; both properties are currently encumbered under a MALPF easement.

Ms. Suarez's (Parcel 150) property contains two single-wide mobile homes which were considered to be pre-existing dwellings by MALPF, as they were on site at the time the easement was settled. Per MALPF regulations, pre-existing dwellings have the right to be released and subdivided from the property.

Since Ms. Hummel's (Parcel 148) property does not contain any dwellings, nor has the right to request one; she and Ms. Suarez (Parcel 150) would like to create the opportunity to create an approved building site associated with Ms. Hummel's parcel. As corrective deeds of easement will need to be created for these two parcels as part of the current reconfiguration of the Bohemia Stable, LLC parcels, this is the opportune time to create this change in the parcels.

It was discussed that this request could not be approve via the some factors that the other lot relocation requests from Bohemia Stable, LLC as the parcels were under different ownership. The landowners work with Ms. Cable to create a request that would meet the established MALPF requirements.

Mr. Shertz explained the reasons behind the OPZ Staff recommended lot location, and the additional variance request required for the landowners preferred location. Ms. Cable explained that it is not uncommon for a lot location request to have multiple sites shown to allow for any unforeseen issues.

Mr. Miller asked about right-of-way to access the lot and if one would need to be shown on the MALPF request. Mr. Shertz stated that once completed, the access to the lot would be on the same parcel, so a right-of-way would not be required. The County's subdivision regulations would take precedence for accessing the lot.

Motion was made by Ms. Hastings to recommend approval of the following items:



1. Relocate one pre-existing dwelling right to southern edge of Parcel 150.
2. Subdivide a one-acre lot around relocated pre-existing dwelling.
3. Via add-on plat and corrected deed, add one-acre building lot to Parcel 148.

Motion was seconded by Ms. Halsey. Vote was unanimous, with Chairman Miller casting a vote.

### **General Discussion**

Mr. Shertz mentioned that the Board should start to think about the County's current approved Ranking Formula for easement applications, as he hopes to propose a revised system. Chairman Miller raised the idea of allowing for a discounted asking price, as was once the case.

Meeting was adjourned at 10:24 am.