

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 2020, Legislative Day No. 27

Resolution No. 37-20

Introduced by Ms. Pickard, Chair
(by request of the County Executive)

By the County Council, September 21, 2020

1 RESOLUTION approving the application of Eleanor R. King to sell an agricultural
2 land preservation easement to the Maryland Agricultural Land Preservation Foundation on
3 67.5 acres in Davidsonville, Maryland

4
5 WHEREAS, Eleanor R. King made application dated May 19, 2020 (the “King
6 Application”) to the Maryland Agricultural Land Preservation Foundation (the
7 “Foundation”) to sell an agricultural land preservation easement on part of the real
8 property described in deeds dated November 30, 1949 and June 11, 1974, and
9 recorded respectively in the land records of Anne Arundel County in Book 550,
10 Page 355 and Book 2682, Page 95, consisting of 67.5 acres, more or less, located
11 in Davidsonville, Anne Arundel County, Maryland, and shown generally on
12 Exhibit 1, attached to this Resolution and made a part hereof (the “King Property”);
13 and

14
15 WHEREAS, Eleanor R. King departed this life on June 15, 2020; and

16
17 WHEREAS, an estate was opened for Eleanor R. King on September 4, 2020,
18 Estate No. 101131, and Laura Andrews has been appointed as Personal
19 Representative; and

20
21 WHEREAS, the Foundation has indicated that the King Application can proceed
22 as submitted; and

23
24 WHEREAS, pursuant to Title 2, Subtitle 5 of the Agriculture Article of the State
25 Code and regulations adopted pursuant thereto, the County governing body is
26 required to advise the Foundation as to a local recommendation of approval or
27 disapproval of the King Application; and

28
29 WHEREAS, in deciding whether to approve the King Application, the County
30 governing body is to receive the recommendation of the Office of Planning and
31 Zoning and the County Agricultural Preservation Advisory Board (the “Board”)
32 based on criteria and standards identified in Title 2, Subtitle 5 of the Agriculture
33 Article of the State Code and regulations adopted pursuant thereto; and

34
35 WHEREAS, the Office of Planning and Zoning, the Board, and the County
36 Executive have recommended approval of the King Application; and

1 WHEREAS, the County Council finds that approval of the King Application is in
2 the best interest of the citizens of Anne Arundel County; now, therefore, be it
3

4 *Resolved by the County Council of Anne Arundel County, Maryland*, That it hereby
5 approves the recommendation of approval of the King Application to sell an agricultural
6 land preservation easement on the King Property to the Foundation; and be it further
7

8 *Resolved*, That a copy of this Resolution be sent to Steuart Pittman, County Executive;
9 Laura Andrews, Personal Representative of the Estate of Eleanor R. King; and the
10 Maryland Agricultural Land Preservation Foundation.

READ AND PASSED this 19th day of October, 2020.

By Order:



JoAnne Gray
Administrative Officer

I HEREBY CERTIFY THAT RESOLUTION NO. 37-20 IS TRUE AND CORRECT AND DULY
ADOPTED BY THE COUNTY COUNCIL OF ANNE ARUNDEL COUNTY.



Allison M. Pickard
Chair



DEPARTMENT OF AGRICULTURE
MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION

FISCAL YEAR 2021
APPLICATION TO SELL AN EASEMENT

MALPF File Number (Provided by MALPF)

PLEASE READ ATTACHED INSTRUCTIONS BEFORE COMPLETING APPLICATION
THIS APPLICATION CANNOT BE CHANGED AFTER SUBMITTAL TO THE FOUNDATION.
PLEASE TYPE RESPONSES

Did you apply to sell an easement in the previous application cycle? [] Yes [x] No

PART A

I/We Eleanor R. King, landowner(s) of the property referenced herein, located in Anne Arundel County, Maryland, apply to the Maryland Agricultural Land Preservation Foundation (MALPF) to sell an agricultural land preservation easement, pursuant to Agriculture Article, Section 2-510, Annotated Code of Maryland.

This application to sell an easement and any subsequent offer to buy an easement, including any Deed of Easement to be recorded on this property, will cover the entire contiguous acreage referenced in the application. Acreage is not permitted to be withheld, unless it is for the permitted lot exclusions specified under Agriculture Article, Section 2-513, Annotated Code of Maryland, or the acreage to be withheld is approved by the Foundation (see Instructions A.1.).

For purposes of valuation, I/we affirm that the acreage of the total property, also referred to as the parent tract*, was determined by one of the following (a copy of which is attached to this application) (see Instructions A.1.):

- [] property deed(s) [] survey
[x] tax assessment records [] other (identify):

- a. The total acreage of property ("parent tract") is: 69.5
b. The number of Pre-Existing Dwelling(s) is (are): 0
c. The Acreage to be Withheld from the easement is: 2.0
d. Designated permitted envelope acreage (unpaid): 0
e. Other unpaid areas: 0
f. The Easement Payment Acreage is (a. minus b minus c minus d minus e): 67.5
g. Total acres to be encumbered by easement is (a. minus c.): 67.5

I am/We are willing to sell an easement on my/our land for \$ per acre. I/We understand that the Foundation makes offers based on the lower of: (1) the asking price, (2) the calculated easement value, (3) a cap set by the County, or the statutory State cap of 75% of the recommended appraised value (see Instructions A.6.).

***Definition of Parent Tract:** The term Parent tract, as used by MALPF, is the total property described in this application. It refers to that entire contiguous acreage that is under common ownership. This may be a single tax map parcel or may include multiple tax map parcels, but should include the entire acreage on any parcel, even if only a portion of that parcel is being considered for easement sale.

- It includes any withheld acreage and unpaid acreage
- It does not include any tax map parcel which may be contiguous and under common ownership, but for which no portion is being considered for easement sale under this application.

PART B

(To be completed by the County Program Administrator or other County employee as necessary.)

Part B provides Instructions directly to the assigned appraisers. Completeness and accuracy is essential for the appraiser(s) to ascertain the farm's maximum market value as of the date of valuation. All data should be as precise as possible. Do not round figures and please cite sources when possible.

SECTION # 1: PLANNING AND ZONING INFORMATION

(A) **ZONING** (See Instructions B.1.)

Current Zoning of Property:

RA

Does the property lie within the boundaries of a planned 10-year water and sewer service district?

YES NO

If yes, please describe: _____

Is the encumbrance of this property by an agricultural land preservation easement consistent with county plans? (Master Plan, Comprehensive Land-Use Plan, Growth Management Plan, etc.)

YES NO

Does the county zoning permit any farm use of the land?

YES NO

If any limitations on farm use, describe (can attach if need more space):

(B) Is there withheld or permitted use envelope acreage?

YES NO

Reason for the withheld acreage?

2.0 acres to satisfy the owner's Will

Reason for permitted use envelope? _____

(C) Is the property adjacent to other protected lands (fee or easement)?

YES NO

If yes, what is the approximate size of protected block of land (without subject property acres included)? _____

(D) For Certified Counties, is the property located within a Priority Preservation Area?

YES NO

(E) Is/are there a county-designated tenant house located on the property?

YES NO

If yes, work with County to complete and submit a certification documentation for EACH proposed tenant house and included as part of the application submission. (See Instructions B.1.E.)

SECTION #2: DEVELOPMENT RIGHTS

NOTE: The development rights information provided in this application will be provided to the appraisers to determine the fair market value of the **property** and therefore the MALPF easement value. If this section is not completed, the application IS NOT complete and will be returned.

The term "development right(s)" as used by MALPF is the maximum number of residential structures legally allowed to be placed on the parent tract as of the date of the application.

"Legally allowed" takes into consideration such limiting factors such as: zoning, septic law, Chesapeake Bay Critical Areas regulations, existing easements, etc. It does not include any additional structures allowed by virtue of a specific owner (such as family lots), nor does it include any allotted transferrable development rights ("TDRs"). As used herein, "development rights" does not address TDRs. TDRs should be considered as an addition if a current market exists. See application **SECTION #3** below regarding TDRs.

Lot Selection (see Instructions B. Section 2.):

When considering lot selection, please take into account that retaining a dwelling right with the property can benefit the long term viability of future farming operations.

In the Deed of Easement, I/we hereby elect to (check one):

reserve family lots, subject to density restrictions,

reserve one (1) unrestricted lot that is either:

subdividable, or

a non-subdividable building envelope

waive all rights to lots

1. Has the County adopted a Tier Map under The Sustainable Growth & Agricultural Preservation Act of 2012 (Senate Bill 236), also known as the septic law?

Yes

No

2. If a Tier Map has been adopted, in which Tier is the subject property located?

Tier: 4

3. What is the maximum number of residential lots permitted in a minor subdivision?

5

Any discrepancies between this section and page one of this application should be reconciled or explained.

	Permitted On-Site Development Rights	Dev. Rights	Acres
(a)	Total development rights/acres associated with the parent tract [This takes into consideration lots previously subdivided from the property; underlying zoning; septic law restrictions; and any other known restrictions (for dev. rights, take into account Chesapeake Bay Critical Areas regulations, other easements or deed/plat restrictions, etc).]	4	69.5
(b)	Total development rights/acres associated with pre-existing dwelling (within easement area)	0	0
(c)	Total development rights/acres associated with withheld acres (includes any dwelling(s) in withheld acres)	1	2.0
(d)	Total development rights associated with designated permitted use envelope area/s AND other unpaid acres.	0	N/A
(e)	Unrestricted lot option chosen: <input checked="" type="checkbox"/> Yes (deduct 1 development right) <input type="checkbox"/> No (deduct 0 development rights)	1	N/A
	Total development rights to be extinguished / acres to be appraised by MALPF easement acquisition (a - b - c - d - e)	2	67.5

SECTION #3: TRANSFERABLE DEVELOPMENT RIGHTS PROGRAMS (See Instructions B.3.)

A. Does the County have a TDR program? Yes No

B. Is the subject property eligible to participate in the TDR program? Yes No

C. How many residual TDRs are associated with the subject property (including any withheld acres area) as of the date of the application submission? n/a

PART C

- 1. **LANDOWNER INFORMATION** - necessary for all landowners of record. Attach a separate sheet, if needed. Also, enter primary contact information. The primary contact person will receive all correspondence from and is the individual to be contacted by the Foundation regarding the easement Application

MAILING ADDRESS of Owner/Trust/Business Entity:

PRIMARY CONTACT PERSON:

Eleanor R. King

Andy King

Name

Name

[Redacted]

[Redacted]

Address

Mailing Address

[Redacted]

[Redacted]

City, State, Zip Code

City, State, Zip Code

[Redacted]

[Redacted]

Phone #: (1st)

(2nd)

Phone #: (1st)

(2nd)

[Redacted]

[Redacted]

e-mail

e-mail

- 2. **ENTITY INFORMATION:** Please list all members/partners/trustees/shareholders of the ownership entity, if applicable (see Instructions C.2.). (Attach a separate sheet if necessary.)

- 3. **LOCATION OF PROPERTY:**

PLEASE NOTE: FOR PROPERTIES CONSISTING OF MORE THAN ONE TAX PARCEL, IF THE APPLICATION TO SELL AN EASEMENT TO MALPF IS SUCCESSFUL, THE PARCELS MUST REMAIN UNDER IDENTICAL COMMON OWNERSHIP, AND MAY NOT BE CONVEYED OFF FROM EACH OTHER UNLESS SPECIFICALLY APPROVED BY THE MALPF BOARD.

Tax Map 0054 Grid 0015 Parcel # 0030

Tax ID# 1000-0428-8200

(List all if more than one)

Tax Map _____ Grid _____ Parcel # _____

Tax ID# _____

(List all if more than one)

Tax Map: _____ Grid: _____ Parcel #: _____

Tax ID#: _____

(List all if more than one)

Property Address: (if different from mailing address)

4. **DEED REFERENCE(S)** (see Instructions C.4.):

550 / 355 2682 / 95 _____ / _____
liber folio liber folio liber folio

If acreage reflected in deed is different from acreage of proposed easement, please explain:

5. **EXISTING PROPERTY RESTRICTION(S)**: (see Instructions C.5.)

Please state whether there are any existing restrictive easements or covenants (such as Forest Conservation Easements, Open Space Easements, etc.) on your property and, if so, please explain:

6. **OTHER THIRD PARTY INTERESTS** (see Instructions C.6.):

a. Does anyone own or lease surface or subsurface rights on this property (including oil/gas/mineral, whether or not there has been any activity on the lease)?

YES NO If yes, please explain: _____

b. Does anyone hold a lease, right of first refusal, or option to purchase for this property?

YES NO If yes, please explain: _____

c. Has any mining been done on the property?

YES NO If yes, please explain: _____

d. Are there any other third party interests in this property? (For example, life estate, right-of-ways, renewable energy operations, telecommunication company leases, ground leases in excess of 20 years, etc.)

YES NO If yes, please explain: _____

If you answered yes to any of the questions a. through d., please provide name and contact information for the third party interest; signatures of such parties will be required on the Option Contract and Deed of Easement if the Foundation extends you an easement offer.

Name of Other Third Party Interest

Name of Other Third Party Interest

Address

Address

City, State, Zip Code

City, State, Zip Code

Phone #

Phone #

Nature of Third Party Interest

Nature of Third Party Interest

7. **MORTGAGES OR LIENS:**

Is there a mortgage or other lien on this property, including equity line of credit?

YES NO

If yes, signatures and addresses of such holders will be required on the Option Contract and Deed of Easement, if the Foundation extends an easement offer to you.

Name of Mortgage or Lien Holder

Name of Mortgage or Lien Holder

Address

Address

City, State, Zip Code

City, State, Zip Code

Phone #

Phone #

8. **LAND USE (round to whole number):**

Tillable Cropland:	<u>61.5</u>	acres
Pasture:	_____	acres
Woodland:	<u>5</u>	acres
Wetland(s):	_____	acres
Orchard; Nursery:	_____	acres
Structure(s): (Farm buildings and dwellings)	<u>0.6</u>	acres
Pond/lake:	_____	acres
Other: <u>un-farmable areas</u> (Describe other land use)	<u>0.4</u>	acres
TOTAL ACRES:	<u>67.5</u>	acres

(Acres must equal Part A: f, on Page 1 – rounded to a whole number)

9. PROPERTY USE:

	YES	NO	DON'T KNOW
a. Has the property been used for a purpose other than agricultural operations and residential use (for example, landfill, commercial cell tower, commercial energy production, sand and gravel extraction, railroad right-of-way)? If so indicate use/explain.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Have any chemicals been used on the property beyond what could reasonably be expected in normal and customary agricultural practices? If so indicate type of chemicals.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Has the property ever contained areas used to dispose of waste other than normal and customary household and agricultural waste? If yes, indicate the kinds of material disposed and method of disposal. _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. Has there ever been a chemical spill or leak on the property to your knowledge? If yes, indicate what was spilled, where it was spilled, approximately how much was spilled, and what actions were taken in response. _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. Have any previous environmental assessments/tests/samplings/impact statements been conducted for the property, to your knowledge? If so, attach copies.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. Has any government entity ever investigated, cited, or been involved with any violations or regulatory actions regarding this property to your knowledge? If so, explain.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. Are there/have there been any disputes, including claims of adverse possession, or written or oral agreements with adjacent landowners regarding boundary lines? If so, explain and provide detail on map	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

IF YOU ANSWERED YES TO ANY OF THE ABOVE QUESTIONS, PLEASE EXPLAIN BELOW OR ATTACH A LETTER OF EXPLANATION ALONG WITH ANY SUPPORTING DETAILS TO THE APPLICATION.

10. **STRUCTURES** List and briefly describe any/all structures currently existing on the property including agricultural, residential and non-agriculturally-related structures existing at the time of application. On a current aerial map, locate and label by corresponding letter (a, b, c, d, etc.) all structures listed here. A current aerial map may be obtained through the county program administrator. Use separate page if necessary.

	<u>Structure</u>	<u>Approximate Dimensions or Capacity</u>
a.	Dwelling (Farm House)	24 x 35
b.	Work Shop	24 x 24
c.	Tobacco Barn	30 x 40
d.	Stable	30 x 40
e.	Stable	24 x 40
f.	Tobacco Barn	20 x 40
g.	Tobacco Barn	60 x 60
h.	Various Small Sheds	Various sizes
i.	Barn	30 x 50
j.		

11. **FARM OPERATION:**

Describe the farming operation(s): Hay Production, Raising Livestock

Owner operated: Leased: Both:

12. **QUALIFYING SOILS: (To be completed by the County Program Administrator, see Instructions C.12.)**
 Total acreage/percentage may not exceed 100% (may not count soils in both Class and Group categories.)

	<u>CLASS I</u>	<u>CLASS II</u>	<u>CLASS III</u>	<u>GROUP 1</u>	<u>GROUP 2</u>	<u>= TOTAL</u>
ACRES:	<u>0</u>	<u>16.3</u>	<u>17.9</u>	<u>0</u>	<u>0</u>	<u>34.2</u>
PERCENT OF TOTAL:	<u>0</u>	<u>24%</u>	<u>26%</u>	<u>0</u>	<u>0</u>	<u>50%</u>

Other information: _____
 (Please indicate if the wetland acres were not counted when calculating the percent of total figure.)

13. **CERTIFICATION OF SOIL CONSERVATION & WATER QUALITY PLAN** (see Instructions C.13.):

Property Owners: Eleanor R. King c/o Andy King Phone Number: 443-336-4179

Property Address: 1207 Double Gate Road

Tax Map: 54 Parcel: 30 Conservation Tract No: _____ Farm No: _____

The Anne Arundel County Soil Conservation District hereby certifies that the landowner(s) listed on the front of this Application to Sell an Easement has had a complete soil conservation and water quality plan prepared for the subject property.

John Gashawski
 Signature and Title of Soil Conservation District Official

June 2, 2020
 Date

14. IF PROPERTY HAS 25 ACRES OR MORE OF CONTIGUOUS WOODLAND, A FOREST STEWARDSHIP PLAN IS REQUIRED

- a) Is a Forest Stewardship Plan required: Yes No
- b) If yes, is it in effect Yes No
(If yes, submit evidence of the Plan)

15. **REQUIRED DOCUMENTATION** to be included with this Application to Sell an Easement:

- a. All deeds, surveys, and/or plats that describe the property.
- Md. Ann. Code Agriculture Article, § 2-510(b)(3) requires that an Application to Sell An Easement be accompanied by a complete description of the property to be encumbered by an Easement. Failure to submit a complete description with the Application to Sell an Easement may result in rejection of the Application.
- b. If property owned by an entity, provide necessary organizational documents (See Instructions Part C.2).
- c. Assessments and Taxation Data sheet from website (County administrator can provide)
- d. A tax map outlining property boundaries, and clearly indicating withheld acreage, if any, including legal and practical access to the withheld acreage.
- e. Aerial map with identified structures on the property located, as instructed in Part B #10.
- f. Forest Stewardship Plan, if one is required and completed
- g. Annual Implementation Review Sheet for the Nutrient Management Plan, if one is available.

PART D

Note: All landowners of record must sign this application. If the property is owned by an entity, all entity members must sign in their capacity as designated in the entity's organizational documents. Attach a separate sheet if necessary. Please note that if there are any life estate interests or right of first refusal in another person or entity, they must also sign this application.

I/We confirm my/our understanding that I/we may not change the lot selection unless I/we withdraw my/our application and apply in a subsequent cycle.

I/We acknowledge that the land on which I am/we are applying to sell an easement shall not be subdivided (including lot releases), conveyed to others, altered in its configuration, or encumbered by a restriction during the application process without prior written approval of the Foundation. Failure to comply with this restriction may result in withdrawal of the application.

I/We acknowledge that the land on which I am/we are applying to sell an easement consists of only the paid acres as described on page 1 of this application. I/We acknowledge that any acres identified on page 1, Part A, paragraphs d. and e., are voluntarily and willing incorporated into the easement for no compensation. In addition, when determining the agricultural value of the land (per COMAR 15.15.02.06), only the paid acres shall be considered.

I/We confirm my/our understanding that if the property contains at least 25 acres of contiguous woodland, I/we must submit evidence of a complete Forest Stewardship Plan performed by a forester certified in the State of Maryland prior to settlement and that delay in providing such evidence to the Foundation will delay settlement of the easement. I/we also confirm our understanding that the plan must include methods of management and a schedule of implementation. I/we also understand that the plan must have been created and/or updated for sufficiency within the last ten years, and I/we confirm our understanding that the Forest Stewardship Plan must be followed according to its schedule for implementation. If an easement is purchased on this property, I/we confirm our understanding of the responsibility for implementing the plan as outlined according to the schedule of implementation.

I/We confirm my/our understanding that a current Nutrient Management Plan must be implemented for the property prior to the sale of the MALPF easement on the property under the following circumstances: (i) an easement offer is extended and accepted, and (ii) if the property is required to have a Nutrient Management Plan under Md. Code Ann., Agric. Section 8-801 et seq. (associated regulations are located in COMAR 15.20.07-08).

I/We confirm my/our understanding that the Department of General Services shall be reviewing title to the property and may request additional documentation, require certain actions by me/us to clear title to the property, or may require me/us to provide a modern boundary survey of the property, at my/our expense, prior to settlement and that delay in providing such evidence to the Foundation will delay settlement of the easement. In addition, if there are multiple tax parcels being placed under one easement, then we may be required to combine those tax parcels into one account and parcel number.

I/We give MALPF permission to conduct appraisals on my/our property upon reasonable notification. I am/We are aware that any approval to obtain an option contract for the purchase of an agricultural land preservation easement made by the Foundation is subject to Board of Public Works approval and available funds.

I/We understand that there is no guarantee that an offer will be made or accepted for the purchase of an agricultural land preservation easement on this property.

I/We assert that all representation and information regarding the property are, to the best of my/our knowledge, accurate and complete. Additionally, I/we assert that there is no known reason (e.g. environmental or otherwise) why the property cannot be productively farmed.

In addition, I/we are aware that both Parts A and B of this Application to Sell an Easement must be completed and submitted to the County's Program Administrator, along with all necessary documentation. I/we understand that an incomplete application will be returned.

Eleanor R. King by Laura Jane King Andrews PDA
5/19/20
Landowner Signature Date

Landowner Signature Date

Eleanor R. King by Laura Jane King Andrew

Print Full Name

Print Full Name

Landowner Signature Date

Landowner Signature Date

Print Full Name

Print Full Name

I hereby affirm, to the best of my knowledge, information and belief, that this application to sell an easement is complete and accurate.

Bucchum Polito
County Program Administrator

6/4/2020
Date

Bucchum Polito
Print Name