



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

3430 Courthouse Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2350
Voice/Relay

Valdis Lazdins, Director

FAX 410-313-3467

HOWARD COUNTY AGRICULTURAL LAND PRESERVATION BOARD March 28, 2016

Staff Report

- Owner:** Frank E. Rhodes, Jr.
6316 Silvery Star Path
Columbia, MD 21044
- Requested By:** Mark Burchick, Environmental Systems Analysis, Inc.
- Farm Location:** 1525 Daisy Road, Woodbine, MD 21797
Tax Map 8, Parcel 392, Block 13, PAR 2; 55.25 +/- acres
- Easement Designation:** Howard County easement #HO-03-02-PPSD
- Request:** Review and approval by the Howard County Agricultural Land Preservation Board of the request to create a forested wetland mitigation area
- Recommendation:** Approval to create a forested wetland mitigation area

Summary:

Mr. Frank Rhodes is the current owner of the subject property, which was placed in the Howard County Agricultural Land Preservation Program on February 12, 2003 by the Talley Family Limited Partnership, LLLP. The request is to create a wetland mitigation easement area, totaling 0.6 acres. The proposal also includes a forest planting of 100 1-inch trees along the eastern boundary of the proposed wetland and an existing summer pasture. Most of the area subject to the request is currently in active cow pasture along a tributary of Cattail Creek.

Staff Analysis:

The property was evaluated by Joe Brown of Patriot Land & Wildlife Management, and Will Saffell and Mark Burchick of Environmental Systems Analysis (ESA), Inc. for its suitability for both wetland creation and forest conservation planting. According to Mr. Burchick, at present the site is active cattle pasture, situated on low ground in between Cattail Creek and an emergent wetland. The proposed mitigation plan will create a .6 acre wetland cell, directly abutting an existing emergent wetland, and within the cattle pasture. The site has relatively straight boundary lines, so that disturbance to the surrounding pasture is kept at a minimum. The proposed site contains Codorus and Hatboro Silt Loam (Co) soils, and has 0 to 3% grade slopes, creating a dipped floodplain. As a result of this topography, the site is very poorly drained, with water observed from 10 inches deep to the surface. Once the forested wetland has been planted, fencing will be constructed to keep livestock out of the new wetland area. Other agricultural best management practices may also be considered,

such as stabilizing the soil at the southwest side of the concrete ford stream crossing. Mr. Burchick indicated in the mitigation concept plan that ESA has been coordinating with the Maryland Department of the Environment to ensure that state standards are met for this project prior to construction.

The Board's Wetland Mitigation policy (attached) regarding the creation of wetland areas on land that is encumbered with an Agricultural Land Preservation Program (ALPP) easement requires that any proposal be reviewed by the Soil Conservation District (SCD) to make sure that the amount of land suitable for pasture or cropping is kept to a minimum, and is justifiable based on sound management practices. Wes Earp with SCD reviewed the Board's policy and the plan proposed by Mr. Burchick, and has given his approval.

The Board's Forest Conservation Planting policy (attached) allows forest to be created on ALPP encumbered land along stream buffers, wetlands and their buffers and on steep slopes. According to ESA, the planting is to occur within the proposed and existing wetland and associated wetland buffers, so this part of the project would meet the second criteria. ESA has noted that the trees are a voluntary proffer that will serve to provide thermal closure to enhance the water quality of Cattail Creek. This creek is a naturally reproducing trout system, and the planting is an above and beyond measure to fully utilize this mitigation opportunity. ESA stated that although some areas of the planting may also fall within the first criteria due to them being within 100 feet of Cattail Creek, the vast majority of the work will fall under wetland buffers. Steep slopes are not applicable.

The land owner will receive compensation in exchange for allowing the perpetual .6 acre wetland mitigation easement. Mr. Rhodes is willing to sign a "Declaration of Restrictive Covenants" stating that the area in question must remain as a wetland and that this agreement will run with the land, whereby any future owner must abide by and adhere to the restrictions, and allow the created wetland to remain as a natural area, left undisturbed.

Staff Recommendation:

Based on the proposal being consistent with Howard County's Wetland Mitigation and Forest Conservation Planting policies, staff recommends approval of the proposed wetland mitigation and forest conservation planting project on the Rhodes property.

Prepared by:  _____

Date: 3/22/16

Joy Levy, Administrator
Agricultural Land Preservation Program

Attachments:

- Aerial Photo
- Preservation Map
- Soils Map
- Summary of Mitigation Concept Plan by ESA, including maps
- Wetland Mitigation policy
- Forest Conservation policy



 Proposed Wetland Mitigation Area (0.6 acres)

 Proposed Tree Planting Area

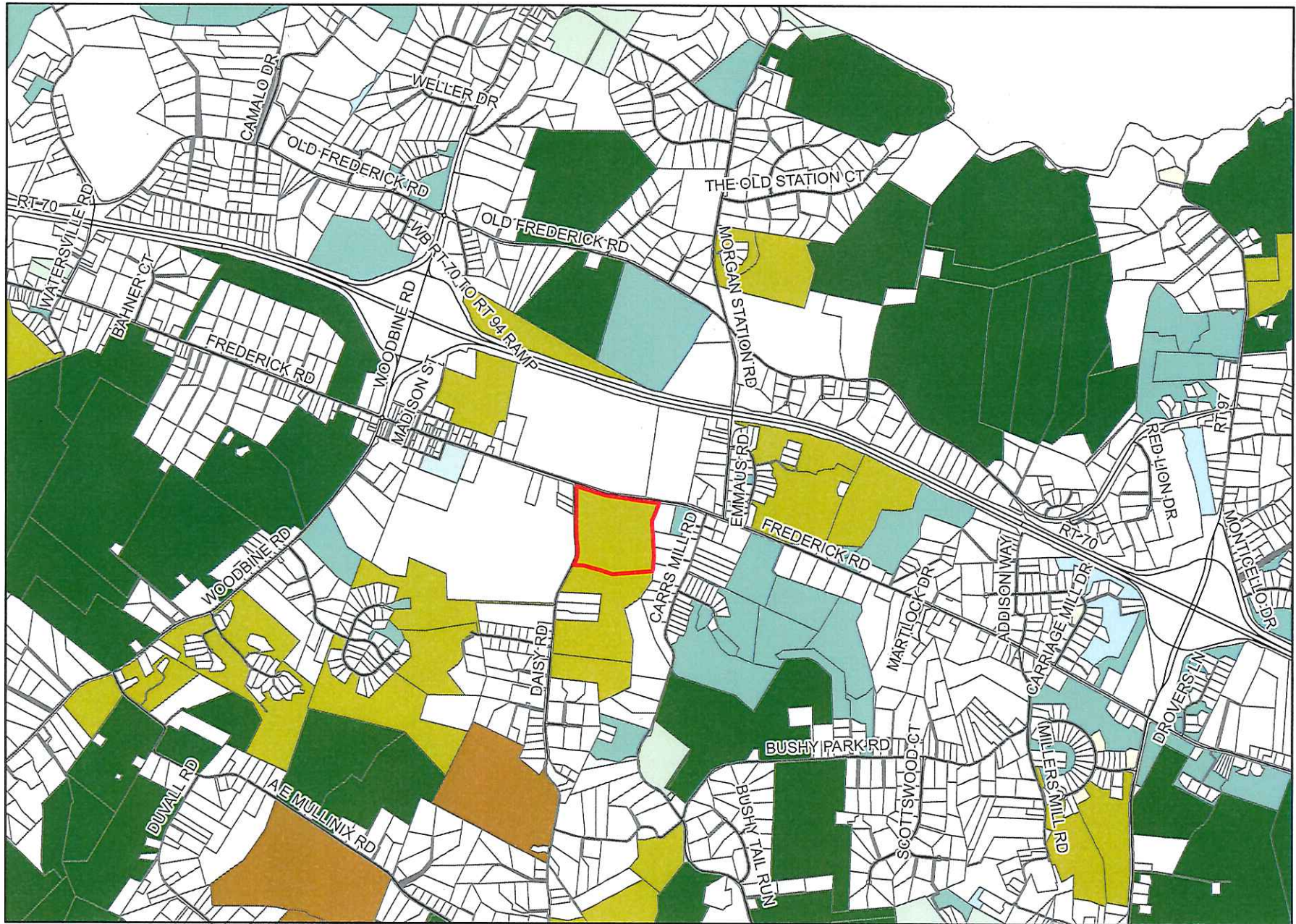
 Property Line

 Streams

Rhodes, Tax Map 8, Parcel 392

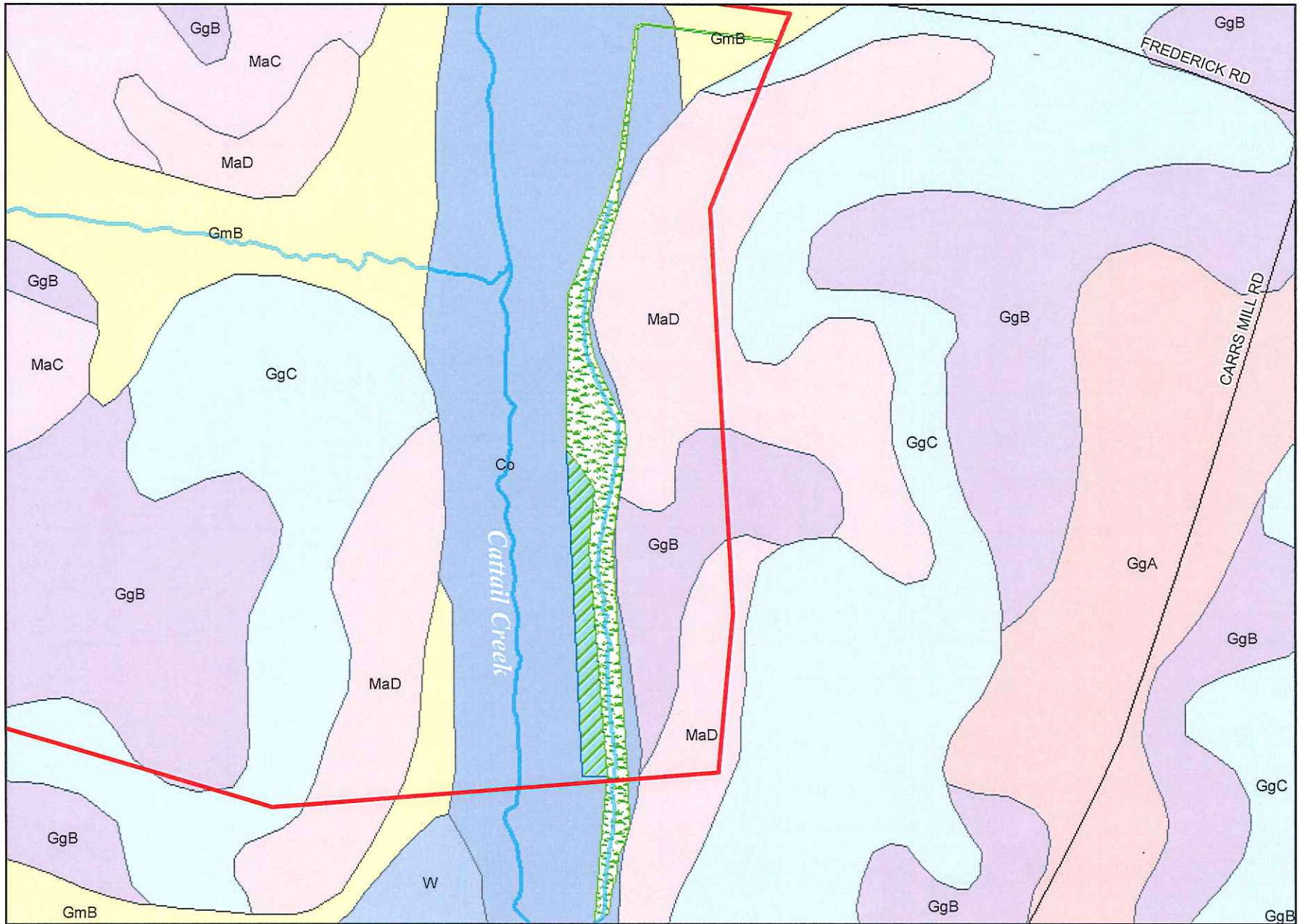
Aerial

By: Joy Levy
 Resource Conservation Division
 Map Width: 2,300 ft.
 Print Date: 3/22/2016



Rhodes, Tax Map 8, Parcel 392
Land Preservation

By: Joy Levy
Resource Conservation Division
Map Width: 4.8 miles
Print Date: 3/22/2016



Proposed Wetland Mitigation Area (0.6 acres)

Proposed Tree Planting Area

Property Line

Streams

Rhodes, Tax Map 8, Parcel 392

Soils

By: Joy Levy
 Resource Conservation Division
 Map Width: 2,300 ft.
 Print Date: 3/22/2016

Levy, Joy

From: Mark Burchick <mburchick@esatoday.com>
Sent: Thursday, February 25, 2016 2:09 PM
To: Levy, Joy
Subject: Frank Rhodes Farm Meeting Notes
Attachments: 2014-9-03_PR_Mitigation Site _Corps-MDE_Template.pdf

2/24/16

Stonewood Off-Site Wetland Mitigation (Frank Rhodes Farm Property)
Permit #14-NT-00088/201460310
2/17/16 Meeting Notes

Joy Levy:

Joe Brown (Patriot), Will Saffell and I (ESA) met with Mr. Frank Rhodes at his farm, on Wednesday, February 17, 2016. We provided him with a copy of the approved Phase I wetland mitigation plans and discussed our draft Phase II plans.

- Our first line of conversation was to walk Mr. Rhodes through the project, discussing the 0.6-acre mitigation site within the cattle pasture, the proposed planting of 100, 1-inch trees along the existing/abutting wetland and the BMP to stabilize the soil at the southwest side of the concrete ford stream crossing.
- We discussed and agreed that our access and staging area would be the Route 144 (Frederick Road) entrance and lawn area parallel with the road. We are to use the northeast cattle gate, driving thru the pasture to the mitigation site.
- We talked about how we would remove and re-install the electrified cattle fencing to demarcate our 0.6-acre mitigation envelope, and thereby create a more uniform rectangle of the summer pasture.
- The excavation will require a six-inch cut over a 0.6-acre area. Mr. Rhodes will work with his farmer, Mr. Denny Patrick, to determine the best on-site location(s) to veneer approximately 40 dump truck loads of topsoil, outside of the floodplain.
- I mentioned that Robert Vogel & Associates Survey will need to come on-site to prepare a survey map of the mitigation site. Vogel will then need to assist with the preparation and submission of a declaration of restrictive covenant (attached), whereby the farmer agrees to retain the created wetland as a natural area wetland into perpetuity, which will ride with the land, extending to any future land owner. Mr. Rhodes was in agreement with these terms.
- I mentioned that ACOE and/or MDE may require regulatory access through the five-year monitoring period. ESA will need to come on-site in post-construction to perform monitoring for an annual report that will be necessary for five growing seasons after construction. We will never go on-site without advanced permission, but do require access. Mr. Rhodes was in agreement with these terms.
- ESA will obtain concurrence from Joy Levy, Agricultural Land Preservation Program Administrator, Howard County Department of Planning & Zoning, 3430 Court House Drive, Ellicott City, MD 21043, 410-313-5407.

- Mark Burchick called Wes Earp, SCD District Conservationist (410-313-0680). We discussed the terms and language of the Agricultural Land Preservation Program, *Nontidal Wetland Mitigation* and *Forest Conservation Planting* documents. Wes said that our proposed plan would be in compliance with both documents, and that he might need to amend the SC&WQ farm plan to comply with requirements by Joy Levy. Wes suggested that we may need to present our plan to the Ag. Board. This needs to be done prior to going final with the Phase II mitigation plan, so that we address any of their concerns.
- The final item that we discussed was compensation for the use and conversion of 0.6-acre of Mr. Rhodes property. ESA performed a SDAT Real Survey Search and were able to document that Mr. Rhodes purchased the farm from Mr. John Talley on 5/2/2014. Mr. Burchick and Rhodes completed the discussion with a tentative offer. We are waiting on a possible final counter-offer from Mr. Rhodes. Once agreed, the applicant will cut a check to the land owner, after the easement has been filed with the County Records Office.
- Once we have the action item information regarding this meeting, ESA will be able to go final with the Phase II design and submit it to MDE for approval (April 2016). Once approved, MDE will require that the applicant post a bond in the amount of initial construction.
- With an approved Phase II final plan in place (May 2016), we will then submit it to Patriot, so that they can prepare a construction cost proposal. Once this contract is signed by the applicant (Bruce Jaffe), we can then post bond and schedule construction for the summer of 2016 (September).

Sincerely,

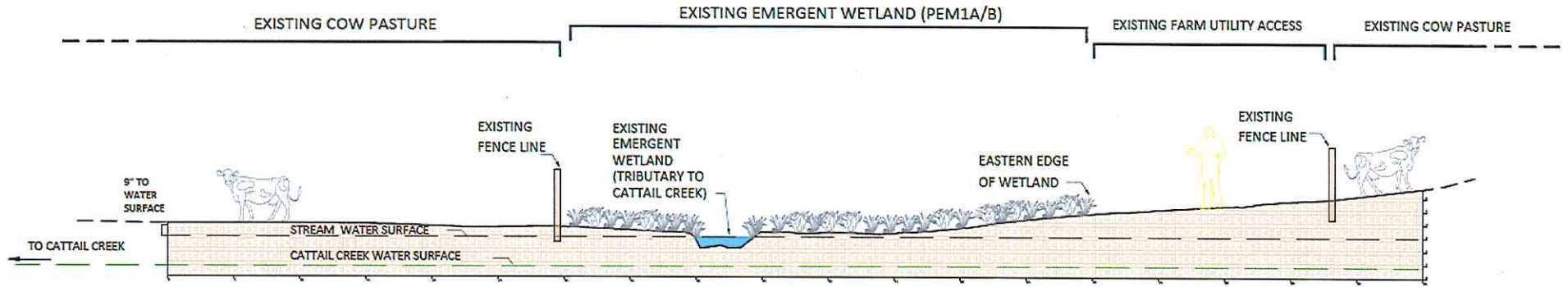
Mark Burchick
Environmental Systems Analysis, Inc.
2141 Priest Bridge Drive, Suite 1
Crofton, MD 21114
410-267-0495, ext. 203
mburchick@esatoday.com
www.esatoday.com



esa

NATURAL RESOURCES MANAGEMENT
ECOLOGICAL RESTORATION

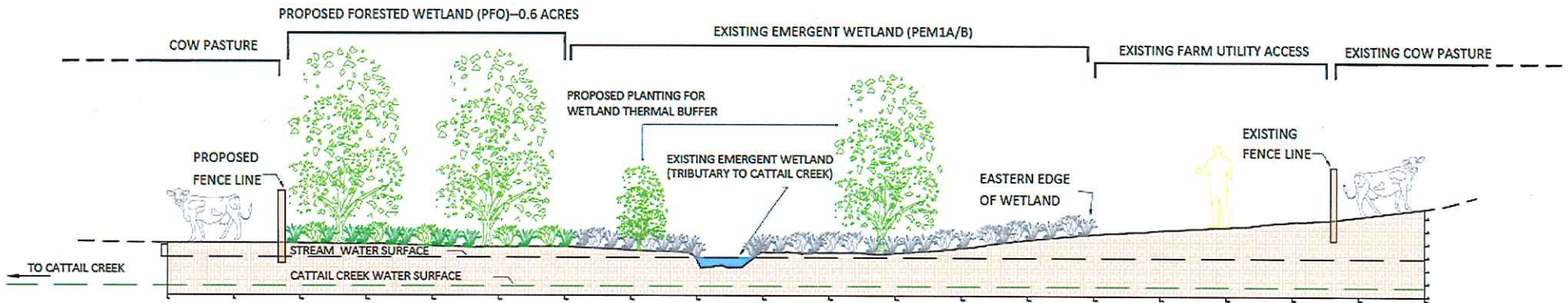
--EXISTING CONDITIONS--

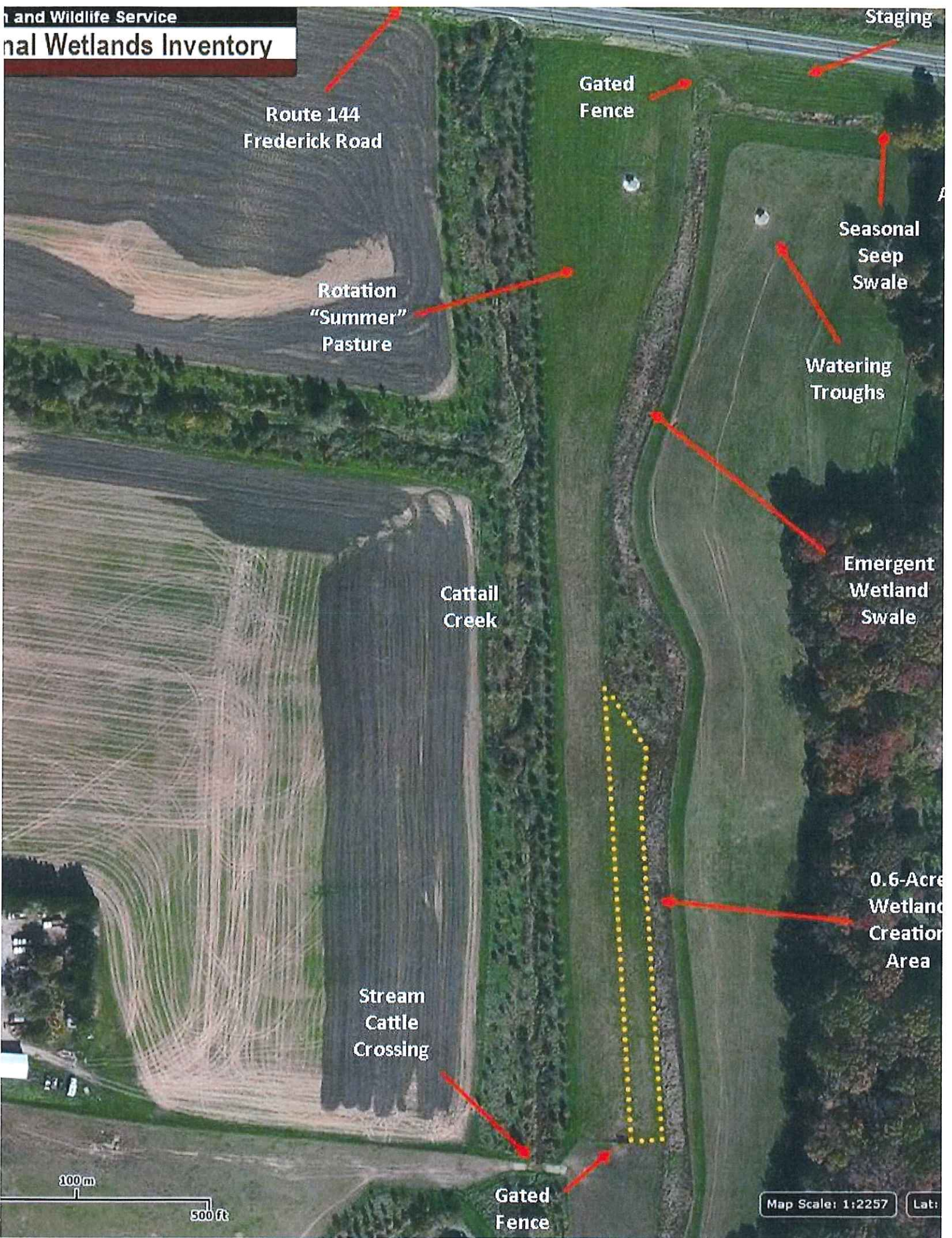


W

E

--PROPOSED CONDITIONS--





Route 144
Frederick Road

Rotation
"Summer"
Pasture

Cattail
Creek

Stream
Cattle
Crossing

Gated
Fence

Staging
Area

Seasonal
Seep
Swale

Watering
Troughs

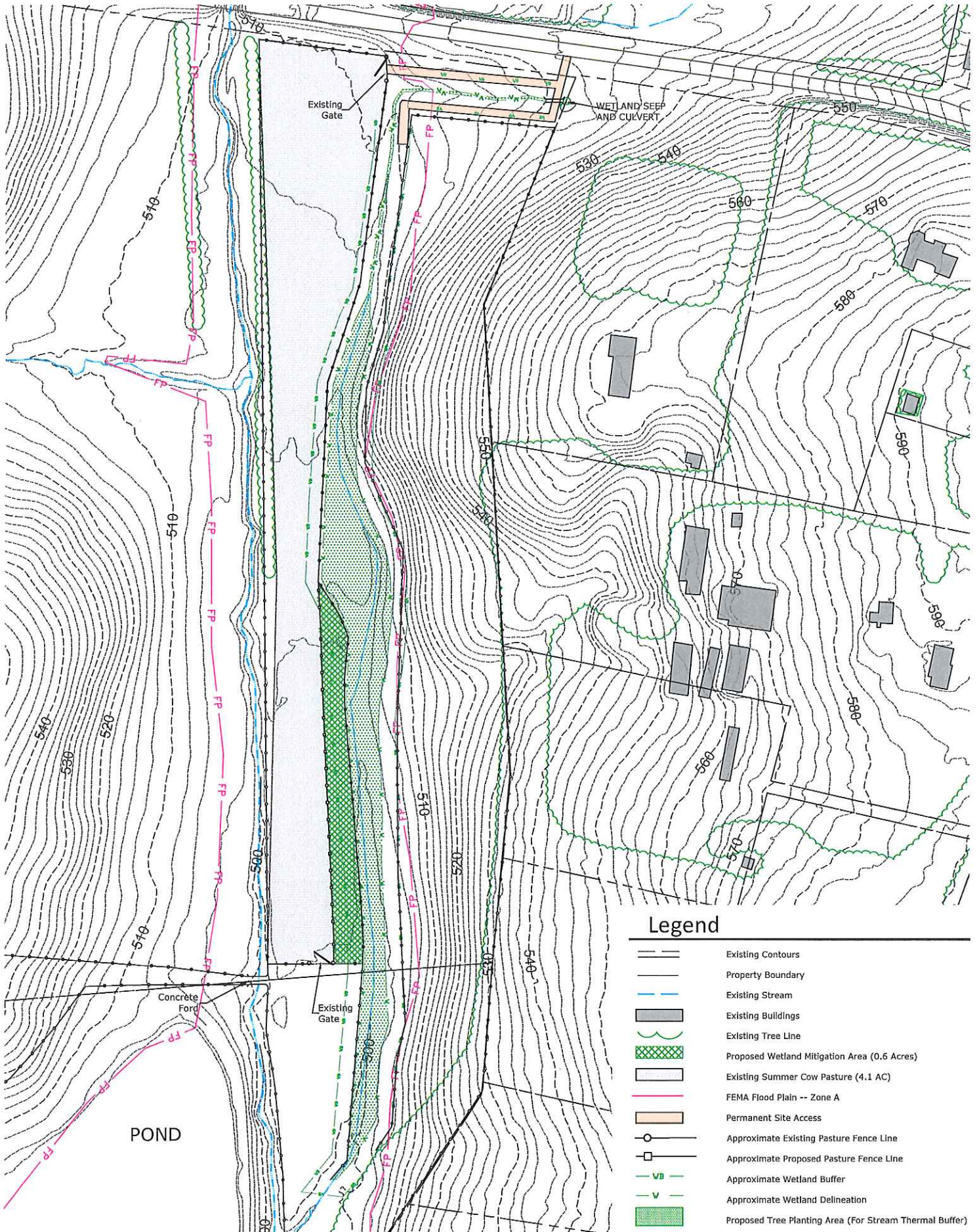
Emergent
Wetland
Swale

0.6-Acre
Wetland
Creation
Area















Gated
Fence

100m
500ft

Map Scale: 1:2257 Lat:



Legend

-  Existing Contours
-  Property Boundary
-  Existing Stream
-  Existing Buildings
-  Existing Tree Line
-  Proposed Wetland Mitigation Area (0.6 Acres)
-  Existing Summer Cow Pasture (4.1 AC)
-  FEMA Flood Plain -- Zone A
-  Permanent Site Access
-  Approximate Existing Pasture Fence Line
-  Approximate Proposed Pasture Fence Line
-  Approximate Wetland Buffer
-  Approximate Wetland Delineation
-  Proposed Tree Planting Area (For Stream Thermal Buffer)



Agricultural Land Preservation Program Howard County, Maryland



NONTIDAL WETLAND MITIGATION

The purpose of this policy is to allow for the enhancement of environmental conditions on preserved farmland while protecting the intent of the agricultural easement. This policy was approved by the Agricultural Land Preservation Board (ALPB) on February 16, 2010.

POLICY: Nontidal wetland (NTW) mitigation is the creation, restoration or enhancement of nontidal wetlands that were, or will be, lost due to regulated urban or agricultural activities. Under certain conditions, properties encumbered by an agricultural land preservation easement may be allowed to establish wetland mitigation areas, including off-site mitigation for a single site or banking for multiple sites. *To avoid incursions onto productive land, wetland restoration and/or enhancement projects would generally be appropriate and wetland creation projects would not.* Due to the complexity and site specific nature of wetland mitigation, this policy is meant to provide guidelines so that each request can be adequately evaluated on its own merits.

A complete Soil Conservation and Water Quality (SC&WQ) Plan, prepared by the Soil Conservation District (SCD), is required on any agricultural easement farm proposing to establish a wetland mitigation area. The ALPB will consider mitigation requests only after the SCD has had the opportunity to review a proposal and ensure that it is consistent with the SC&WQ Plan. Upon submission of the proposal, SCD staff will validate the proposed wetland boundary, determine whether conditions on the mitigation site are suitable and opine as to whether there is any negative impact on the farming operation.

The SCD will consider issues such as mitigation boundaries and access to farmable land in their review. A mitigation project boundary should be kept as straight as possible to allow for the fencing of livestock and for the efficient operation of farm machinery. This may necessitate allowing wetland creation on adjacent, relatively well-drained soils. The amount of land suitable for pasture or cropping that is included in a wetland mitigation plan should be kept to a minimum, and should be justifiable based on sound management practices.

Wetland mitigation projects should not create isolated pockets of crop or pasture land that are cut off from the remainder of the farm. In its review of any mitigation proposal, the SCD will ensure that all farmable areas of the property have sufficient access for farm equipment across, around or through the mitigation area. If this is not possible, the applicant will have to reconfigure the mitigation area to provide sufficient access.

Once the SCD has completed its review and determined that the project is consistent with the SC&WQ Plan, comments will be provided to the ALPP Administrator, who will then present the project to the ALPB for consideration. The ALPP Administrator will work with the applicant and the SCD to resolve any issues prior to ALPB review.

The following procedures and criteria shall be used:

1. A complete wetland evaluation will be submitted to the SCD for review, and the evaluation will include site specific soil and hydrology features, and a plan showing proposed boundaries. Proposed mitigation sites will be evaluated for the absence of wetland criteria, and the proposal should specify the actions to be taken to restore those deficiencies. As part of the evaluation process, the anticipated limit of the restored wetland shall be delineated in the field by the applicant, and the proposal should provide the basis for the delineation.
2. Projects should not alter hydrology in a way that diverts water from pasture, cropland or other farm water resources. Hydrology sources shall be consistent with, and limited to, the prior undisturbed condition of the original natural wetland.

3. Mandated wetland buffers that adjoin open pasture or cropland shall be confined to within the project boundary. With the exception of the situations detailed in #4 below, no soils outside of the wetland boundary can be retired from use by the creation of a wetland buffer. If the project becomes subject to the Howard County Subdivision and Land Development Regulations, a 25-foot wetland buffer may be required; in such case, the project limit shall be revised so that the buffer does not encroach into pasture or cropland.
4. Wetland creation may only be considered to expand wetland restoration areas in order to straighten field boundary lines or to avoid creation of isolated non-NTW pockets.
5. Small, isolated non-mitigation areas that adjoin woodland or natural stream channels may qualify to be reforested, and may, where appropriate, be used to provide a buffer, if consistent with the ALPB reforestation policy.
6. All wetlands to be protected from future pasturing shall be fenced at time of project implementation.
7. Adjustments to farm road elevations or locations may be required to address proposed changes in groundwater elevations.
8. Stream restoration or other mitigating riparian actions required to raise groundwater levels to previous levels are permitted under this policy.
9. All work shall have authorization of all regulating agencies, and no lands outside of the approved proposal delineation may be encumbered by any regulation specific to this activity.

This Policy applies to County agricultural easement properties. For all properties in the State agricultural preservation program, approval of a wetland mitigation proposal is required by the Maryland Agricultural Land Preservation Foundation (MALPF). MALPF has its own policy regarding wetland mitigation projects, which requires review by the County Agricultural Land Advisory Board (APAB). The APAB will forward the proposal to MALPF for review only if all County requirements are met.

For More Information

Joy Levy, Agricultural Land Preservation Program Administrator
Howard County Department of Planning and Zoning
3430 Court House Drive
Ellicott City, Maryland 21043
410-313-5407



Agricultural Land Preservation Program Howard County, Maryland



FOREST CONSERVATION PLANTING

The purpose of this policy is to allow for the enhancement of environmental conditions on preserved farmland while protecting the purpose of the agricultural easement, and to recognize changes to County, State and Federal farmland conservation programs. This policy is based upon the Agricultural Land Preservation Board Forest Conservation Policy of July 8, 1996, as revised September 8, 2008, and further revised June 17, 2013.

POLICY: Forest Conservation planting is the fulfillment of a developer's forest conservation obligation by planting off-site. Properties encumbered by an agricultural land preservation easement may be allowed to establish reforestation plantings, including off-site mitigation for a single site or multiple sites, and reforestation banks. Forest retention banks, however, are not permitted on easement sites. Planting may occur on County agricultural easement properties only in the following limited areas:

1. Stream buffers - trees may be planted no more than 100 ft. on either side of a stream (measured from top of bank).
2. Wetlands and wetland buffers - trees may be planted within a wetland and no more than 50 ft. from the edge of a wetland (wetlands do not include ponds).
3. Slopes - 25% or greater may be planted to prevent erosion on cropland, or on pastures if the pastures are contiguous to other forested areas.
4. Green Infrastructure Network – areas within the Howard County Green Infrastructure Network may be planted.

Note that the areas listed above are maximums to avoid incursions onto productive land. The reforestation criteria not considered to be sufficient reasons, by themselves, to reforest portions of each easement are a) wildlife habitat, b) areas adjacent to existing forest stands, and c) infill plantings between small forest and tree stands. A complete Soil Conservation and Water Quality (SCWQ) Plan, prepared by the Soil Conservation District, is required on any easement farm proposing to establish off-site forest conservation mitigation plantings or a reforestation bank. The SCWQ Plan must delineate the replanting areas, using the above criteria. In all cases the edge of planting lines shall be kept as straight as possible to allow for fencing to exclude livestock, and efficient operation of farm machinery. The following procedures and criteria shall be used in order to create field/pasture boundaries:

1. Delineate the proposed areas to be planted using criteria 1 through 4 above.
2. Calculate the area to be planted and show on an aerial map as "maximum allowable planting area" with boundaries noted.
3. Adjust boundary lines as needed to provide farmable/fence-able field edges. The acreage cannot vary more than 10% from the original calculated maximum acreage. Show on an aerial map as "final proposed planting area" with boundaries noted.

This Policy applies to County agricultural easement properties. The Maryland Agricultural Land Preservation Foundation (MALPF) has its own forest mitigation policy. Any forest mitigation proposals on MALPF easement land require both local and MALPF Board approval.

For More Information

Joy Levy, Agricultural Land Preservation Program Administrator
Howard County Department of Planning and Zoning
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Ellicott City, Maryland 21043
410-313-5407