

GUIDELINES FOR LOT LOCATIONS ON MALPF DISTRICT/EASEMENT PROPERTIES

The Maryland Agricultural Land Preservation Foundation (MALPF) allows landowners to apply for the release of an owner's lot, child's lot, or an unrestricted lot under certain conditions. Lot locations on properties with MALPF districts and easements should be selected so that there is minimal impact on the current and future agriculture and forestry operations on the property.

An application for the release of a lot is first made to the local agricultural advisory board. If approved, the application is submitted to the MALPF staff for review and recommendation to the MALPF Board of Trustees.

When applying for the release of a lot from a district or easement property, the landowner should consider the following location criteria:

- A. Impact on agriculture and forestry operations:
 - 1. Current –operations and designation (both MALPF & County) of existing residential units;
 - 2. Future –operations and residential units

- B. Options for geographical location (in priority order from most to least desirable):
 - 1. Along public roadway and (if they exist) clustered with other dwellings;
 - 2. Along boundary lines, natural boundaries, or the edge of tillable land, and clustered with other dwellings (if they exist);
 - 3. Clustered with farmstead dwellings and buildings
 - 4. Other

- C. Options for Access (in priority order from most to least desirable):
 - 1. Direct road frontage access from public roadway;
 - 2. Use of an existing access, e.g., farm lane or right-of-way. If other dwellings exist, access should be on a shared drive if feasible;
 - 3. Along property boundary lines, natural boundaries, or the edge of tillable land. If other dwellings exist, access should be on a shared drive if feasible.

If the proposed location or access is not the most desirable option listed above (see B and C), the landowner should explain how more desirable alternatives were considered, and why they were not feasible:

When reviewing a request to release a lot from a district/easement property, the local Agricultural Advisory Board, MALPF staff, and the MALPF Board of Trustees shall consider the following guidelines:

- A. Lots allowed under MALPF statute and regulations must be a maximum of 1.0 acre unless county regulations or the Health Department requires additional acreage. When this happens, MALPF statute and regulations allow for the lot to be increased by such acreage as is necessary, up to a maximum lot size of 2.0 acres, with appropriate documentation. Therefore, all requests for lot exclusions should be for ‘up to 2.0 acres’ to minimize the possibility of the lot request coming back to the Board at a later date to receive approval for an increase in size. After MALPF Board approval, the specific lot size will be reflected in the legal description (if an easement property) that is provided by the landowner to MALPF staff. The legal description will be recorded with the preliminary release document.
- B. Program Administrators are required to provide property outlines, e.g. tax maps which show the location of the proposed lot and its access, and are encouraged to provide documents that will identify the requested lot location clearly (preferably color aerial maps that show the proposed lot location, its access, the dimensions from property lines, and the location of failed perc tests, if any). Photographs and site plans (may be hand drawn) also help identify the lot location and should be provided when available.
- C. When a lot is proposed to be located in an area that is not optimal but is the only place an acceptable perc can be located, the application must be accompanied by a site plan (showing failed locations) from the Health Department, a licensed sanitarian, or an engineer who is authorized to conduct perc tests or site preparation for perc tests.
- D. If direct road frontage access to a public road is not possible, the county should encourage right-of-way access unless the county has regulations that require lots to have fee-simple access. [NOTE: If fee simple access is required by County regulation, it must be included in the allowable acreage of the lot.] If access is to be in fee, and not along a property line, MALPF will 1) approve the lot only with the condition that “the owner grants a right-of-way back to the farm over top of the access to the lot” and 2) list a requirement on the approval letter to the landowner that the plat (survey or legal description) must include this right-of-way before it can be recorded.
- E. If an approved lot area does not perc after MALPF Board approval, as long as the new location overlaps the approved lot area, and the new location will not significantly interfere with farming or forestry more than the approved lot location, the new location can be reviewed and approved administratively by MALPF staff after it receives local agricultural advisory board approval. MALPF staff reserves the right to refer any request to the Board of Trustees for their review.
- F. If, just prior to a MALPF Board of Trustees meeting it is determined that a lot location must be changed, the request will be withdrawn from the agenda until such time as the local ag advisory board and MALPF staff have had an opportunity to review the new location.
- G. The MALPF Board of Trustees will not attempt to change the location or review any request that changes the location of a lot during the meeting. The application will be

withdrawn to allow the local agricultural advisory board and MALPF staff to first review the new location. However, the Board can make suggestions on where the lot should be located and the new location must be resubmitted at a subsequent meeting. To avoid a resubmission, when initially applying for a lot, a property owner may submit two locations for approval by the local agricultural advisory board, MALPF staff, and the MALPF Board of Trustees, designating one as the primary preference. Upon receiving a successful perc, the landowner will notify MALPF staff of which location will be used.

- H. The landowner and Program Administrator are **strongly encouraged** to be present at the MALPF Board meeting when the lot application is presented to answer any questions that may arise. Both landowners and Program Administrators must recognize that if they are not present, circumstances might arise that will require the request be tabled until they can be present.