

County Council Of Howard County, Maryland

2010 Legislative Session

Legislative Day No. 7

Resolution No. 87-2010

Introduced by: The Chairperson at the request of the County Executive

A RESOLUTION approving a public interest use for telecommunications antennas and associated ground equipment on land owned by Ricky and Leslie Bauer; finding that the proposed use is in the public interest; approving an amendment to certain deeds of easement to release the land used for the telecommunications antennas and accessory ground equipment for a public purpose; and providing that the release is contingent on a certain payment to the County and the construction of a grain silo.

Introduced and read first time _____, 2010.

By order _____
Stephen LeGendre, Administrator

Read for a second time at a public hearing on _____, 2010.

By order _____
Stephen LeGendre, Administrator

This Resolution was read the third time and was Adopted __, Adopted with amendments __, Failed __, Withdrawn __, by the County Council on _____, 2010.

Certified By _____
Stephen LeGendre, Administrator

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN ALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment

1 **WHEREAS**, Ricky and Leslie Bauer are the fee simple owners (the “Owners”) of
2 approximately 121.55 acres of land in Howard County known as 13815 Howard Road, Dayton,
3 Howard County, Maryland and as described in the Deed dated April 24, 2008 recorded among
4 the land records of Howard County, Maryland (the “Land Records”) at Liber 11212, Folio 450
5 (the “Property”), as depicted in the attached map marked Exhibit A; and
6

7 **WHEREAS**, the Property is subject to an Agricultural Land Preservation Easement
8 pursuant to the Deed of Easement dated July 13, 1990 and recorded in the Land Records on July
9 16, 1990 at Liber 2201, Folio 363 which was amended by an Amendment to Deed of Easement
10 dated November 5, 1995 and recorded in the Land Records on December 12, 1995 at Liber 3621,
11 Folio 330; a Second Amendment to Deed of Easement dated April 16, 2008 and recorded in the
12 Land Records on May 13, 2008 at Liber 11212, Folio 442; and a Third Amendment to Deed of
13 Easement dated April 16, 2008 and recorded on May 13, 2008 at Liber 11212, Folio 456 (as
14 amended, the “Easement”); and
15

16 **WHEREAS**, the Easement extinguishes the development rights on the Property and
17 restricts the use of the Property to agriculture uses as set forth in the Easement and the
18 Agricultural Land Preservation Act, Sections 15.500 *et seq.* of the Howard County Code (the
19 “Act”); and
20

21 **WHEREAS**, Section 15.516 of the Act allows the County to release from the Easement
22 up to one acre of land for a “public interest use,” as defined under the Act, if the Howard County
23 Agricultural Land Preservation Board recommends the release, the County Council finds that the
24 proposed use is in the public interest, and the property owner pays the County for the release at
25 the price per acre that the County paid to acquire the easement, with interest; and
26

27 **WHEREAS**, the Owners have submitted a request to the Department of Planning and
28 Zoning (“DPZ”) for approval of a release of a portion of the Property from the Easement for a
29 public interest use on the Property, specifically the installation of telecommunication antennas on
30 a future grain silo and accessory ground equipment on 875 square feet of the Property as shown
31 on the attached maps marked Exhibit B and Exhibit C (the “Release Area”); and

1
2 **WHEREAS**, DPZ reviewed the Owners’ request to release the Release Area from the
3 Easement and recommended approval of the request to the Agricultural Land Preservation
4 Board; and

5
6 **WHEREAS**, the Agricultural Land Preservation Board reviewed the findings of DPZ
7 and, after a public meeting on February 16, 2010, recommended that the Release Area be
8 released from the Easement, as long as the telecommunications antennas and accessory ground
9 equipment are required for a public interest use; and

10
11 **WHEREAS**, a new grain silo will be constructed on the Property in order to
12 accommodate the telecommunication antennas and the approval of the release of Release Area
13 from the Easement granted by this Resolution is subject to the completion of the new silo and the
14 Easement may only be amended upon the substantial completion of the silo; and

15
16 **WHEREAS**, because the Easement was purchased by the County, the Owners are
17 required to repay the County the amount of approximately \$295 for the release of the Release
18 Area from the Easement.

19
20 **NOW, THEREFORE, BE IT RESOLVED**, by the County Council of Howard County,
21 Maryland this ____ day of _____, 2010, that for the reasons cited by the
22 Agricultural Land Preservation Board at its meeting on February 16, 2010, the County Council
23 finds that the proposed use of 875 square feet of the Property for telecommunications antennas
24 located on the proposed new silo and accessory ground equipment is in the public interest and
25 therefore approves the public interest use of 875 square feet of the Property, as shown on
26 Exhibits A, B, C, owned by Ricky and Leslie Bauer, and the release of the 875 square feet from
27 the Easement;

28
29 **AND BE IT FURTHER RESOLVED** by the County Council of Howard County,
30 Maryland that it approves the request of Ricky and Leslie Bauer and authorizes the County to
31 amend the Easement to release the 875 square feet of the Property, as shown in Exhibits A, B

1 and C, for telecommunications antennas located on the proposed new silo and accessory ground
2 equipment, there being payment due to the County in the amount of approximately \$295 because
3 this was a purchased easement;

4
5 **AND BE IT FURTHER RESOLVED** by the County Council of Howard County,
6 Maryland that this release is contingent upon the construction of a grain silo as shown in Exhibits
7 A, B and C and if the grain silo is not constructed, this release shall be null and void without any
8 further action by the County Council;

9
10 **AND BE IT FURTHER RESOLVED** by the County Council of Howard County,
11 Maryland that if the telecommunications antennas and accessory ground equipment are no longer
12 needed for a public interest use then the current owner of the Property shall amend the Easement
13 to include the 875 square feet of the Property, as shown in Exhibits A, B and C, as part of the
14 Property subject to the Easement.