



LCPCC Conservation Easement Committee Briefing – Case Study Review

November, 2020

Deed of Gift of Easement: July 27, 1987

Grantor: Albert S. Puelicher, Jr

Grantee: Board of Supervisors, Loudoun County
18927 LINCOLN RD. PURCELLVILLE, VA 20132

EASEMENT RESTRICTIONS:

1. Perpetual
2. **No industrial or commercial activities** with exception of farming, forestry and activities . . . Without alteration of external appearance of building.
8. **No building, facility or other structure** shall be erected . . . Unless:
 - a. Agricultural and naturalistic uses
 - b. Purpose of serving existing residence
12. Parties agree . . . **For breach of any terms** . . . Grantee may institute a suit to enjoin by exparte temporary and/or **permanent injunction of such violation and require restoration of the Property to its prior condition.** Grantee . . By any prior failure to act do not waive or forfeit the right to take action as may be necessary to ensure compliance with terms, conditions and purposes of this Easement.



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GRANTEE: Board of Supervisors, Loudoun County

18927 LINCOLN RD. PURCELLVILLE, VA 20132

CURRENT OWNER: TMG Construction/Matthews

EASEMENT RESTRICTIONS:

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**TMG Construction Corporate
Headquarters**

2 Light Utility
Buildings,
“Estate Stable”

Trillium Gathering Building



Banquet Hall,
Restroom
Building, &
Tennis court

Residence



TRILLIUM GATHERING BUILDING

REVIEWED with County Senior Staff May 2018

LOCATION

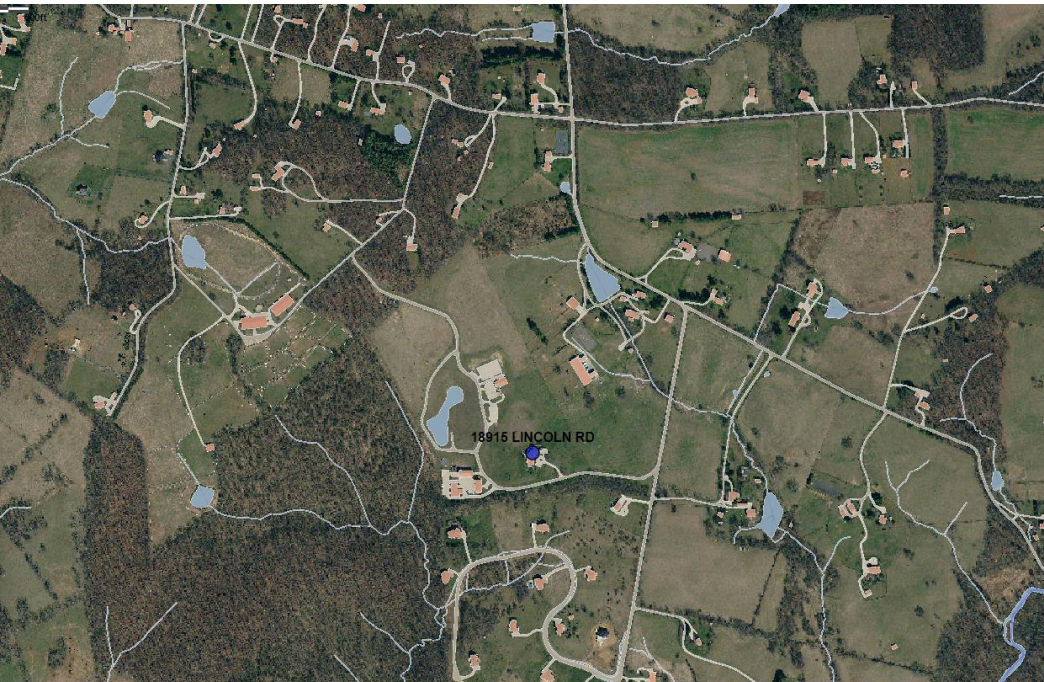
Purcellville, VA

DESCRIPTION

TMG provided all civil, building, interiors and systems construction for this new 7,400 SF timber-framed community facility located on a 50-acre farm and nature center in Loudoun County. The community building features a performance hall with a curved stage, large projection screen, and separate audiovisual control room; large reception hall with double-sided fireplace; a commercial kitchen; and conference facilities on the lower level.

The facility was completed with a stone and heavy timber façade, cedar shake siding and standing seam metal roof to blend with other facilities on the campus. The interiors were designed to be welcoming and to seamlessly connect with the surrounding landscape. This was accomplished through the use of natural and organic finishes such as the exposed timber framing and wood details, stone fireplace, windows that provide expansive views of the pond and surrounding nature, and multiple doors that open onto a large stone terrace.

The site also includes lighted basketball and tennis courts with separate restroom and shower facilities and a riding ring for the



7,400 sq ft
Performance
hall/stage
Commercial
kitchen
Conference
facilities
Sports courts,
Riding ring



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QUESTION to Loudoun County:

“Who is responsible for enforcing easement to current owner?”

RESPONSE from County Public Relations office:



*“The County **does not have a budget line item** specifically for Conservation Easement inspections.*

*If the County receives a complaint, we **will review the complaint and take appropriate action, if required**. This may include reviewing images as well as conducting a site visit.*

*If the County determines that there is a violation, **we provide notice to the landowner** and proceed accordingly based on the landowner’s actions (**including the possibility of legal recourse**).*

Open space easements do not contain contractual obligations for the County, but rather require the land owner to maintain the land pursuant to the terms of the open space easement.

Stewardship Field Report:

TMG/Trillium Gathering Building

1/18/2018: K. Brown, M. Constante, J. Hambrick

Site Visit

Extent of Site Visit (Areas inspected or not inspected, anyone staff met or accompanied during site visit, etc.):

We visited the owner mentioned community gathering building with a tour of the main room, theatre, and kitchen with Joseph and Tanya Matthews. Also included in the tour was the barn with stalls and offices for the non-profit Project Horse. Following the building tours we walked and drove the grounds inspecting the open space areas, pond, and fenced in horse fields with run-in sheds, and wooded area. In addition to the property inspection we photographed building exteriors (residence, community building, barn, garage, and accessory and outbuildings), and viewed the orchard from the property access way.

Observations (Description of property including features affected by easement terms, changes since previous visit, etc.):

All the buildings are well maintained and in good condition including the small run-ins for the horses located in fenced areas. Beyond the buildings the grounds have been kept open. Along with the horses and equestrian facilities the owners have begun planting trees both to bring back the natural look of the land and for an orchard with apple and peach trees. The owners reported that they have conducted erosion control by moving topsoil to areas they consider to be vulnerable. They also built a dam at a low area on the property for a pond. Toward the north of the property there is a forested area. This wooded area is in a natural state with little forest management readily observed. Major access ways around the property and the parking lots at the gathering building are paved and well maintained with a gravel road leading to wooded areas to the north.

The riding area that appeared on the 2017 GIS imagery on the north side of the gathering building had been converted to a large paved and lighted parking lot and the riding area has been moved north of the gathering building. An additional large paved and lighted parking lot on the south side of the gathering building was also observed. One observance when driving back to the wooded area behind the horse pasture were two pieces of heavy machinery; a large backhoe and construction roller. Per discussions with the Matthews and as observed, a non-profit called Project Horse keeps its horses in the stable and uses other portions of the stable building as office space. The Matthews shared that they have allowed the gathering building and specifically the stage to be used for meetings and performances by various organizations. Overall the property and buildings are well maintained.

Primarily reviewed
for Building &
Development
conditions,

not compliance
with conservation
easement terms.

CHRONOLOGY FOR

DRAFT as of 10/10/20

Conservation Easement Instrument #: 198707310293205
GRANTOR: Albert S. Puelicher, Jr
18927 Lincoln Rd. Purcellville, VA 20132; 50.059 acres

Deed of Gift of Easement: July 27, 1987
GRANTEE: Board of Supervisors, Loudoun County
Easement Type: Transfer of Development Rights (TDR)

Date	To	From	In Reference To / Remarks / Supporting Information
July 27, 1987			Albert S. Puelicher Jr. gifts 2 parcels to BOS.: -
March 19, 1989			Albert Puelicher dies
???			Joseph and Tanya Matthews purchase property at 18915 Lincoln Rd, Purcellville, VA 20132
			CAPP Request to build outdoor kitchenette building.
August 25, 2011	Marsha Keim, Zoning Permit Manager Cc: Lauren Murphy, Project Planner, Department of Planning	Mary Confroy Valenta, Assistant County Attorney, through Ron Brown, Deputy County Attorney	CAPP Request to build outdoor kitchenette building—Withdrawn when County did not approve it. Memorandum: Office of the County Attorney Loudoun County. Subject: Matthews Property (Trillium Farm)-Open Space Easement Inquiry PIN#457-46-4769 Dated August 25, 2011 <i>“The Board of Supervisors has statutorily mandated duty, with respect to such Open Space Easements granted to the Board, to carry out the purposes of the Open Space Land Act... “In applying criteria of paragraph 8 of the Deed, it is our opinion that the proposed kitchenette would not be allowed”</i> <i>“Paragraphs 8(c) and (d) clearly would not apply (as the proposed structure is a new structure) and is not being designed, constructed, and utilized for the principal purpose of “serving as a residence”.</i>
2013			CAPP for Gathering Building
12/12/2013	Comments on Permit CMT: Z30349950101		Comments on the Trillium Gathering Building permit: <i>“Approved for a two-story, accessory residential building that shall be limited to personal use only. Use of this building as a facility for business or professional events and/or training shall be in violation of this zoning approval.</i> <i>“Issuance of a zoning permit does not nullify restrictions that exist due to easement(s), buffer(s), legally established tree save area(s) and/or legally established wetlands.</i> NOTE: PROPERTY IS IN A DEED OF OPEN SPACE EASEMENT TO THE BOARD OF SUPERVISORS OF LOUDOUN COUNTY, VIRGINIA”
May 20, 2014	In email reply to Scott Gustavson,	Ron Brown, County Attorney	From email reply to Scott Gustavson, owner of 18690 Haps Lane, Purcellville, abutting property to Matthews

Date	To	From	In Reference To / Remarks / Supporting Information
			<p>“Last year, prior to the issuance of zoning permits for structures on PIN#457-46-4769000 (18915 Lincoln Rd) this office determined that a proposed <u>Equestrian & Recreation Area Gathering Building and Equestrian & Recreation Area Locker Room building</u> are permitted structures within paragraph 8b of the Open Space Easement (DB 954/pg 1790) on PIN#457-46-4769000 (18915 Lincoln Rd) <i>provided that the proposed buildings and sports area are for personal use associated with the existing principal residence on the property and not for any commercial use. I am also advised that the zoning permits for these 2 structures shall be limited to personal use only and that use of either building as a facility for business or professional events and/or training would be deemed to be a violation of the zoning permit approval.</i> “</p>
July 2, 2013	Loudoun Times Mirror Article		<p>Public verification that the site is being used for commercial uses Loudoun Times Mirror “Purcellville’s Southern Collector Road Opens Amid Protest”, Quote from article: “<i>It will help our employees get to work,</i>” TMG Construction President Tanya Matthews said. Matthews’ business and house lie to the south of Purcellville in Lincoln. “I’m tickled pink,” she said.”</p>
April 18, 2014	# Item 3 Board of Supervisors Transportation and Use Committee Information Item #3		<p>Supervisors Transportation and Land Use Committee (TLUC) Information Meeting Notes Subject: Conservation Easement Program “When a qualified organization accepts a conservation easement, that organization has a responsibility to make sure that the terms of the easement are upheld”. Why do we need a Conservation Stewardship Program? Members of partnering easement-holding organizations as well as citizens have expressed concern to County Administration over the lack of a stewardship program.(pg 2)”</p>
Jan 16, 2015			<p>Supervisors Transportation and Land Use Committee (TLUC) Information Meeting Notes Item 1, Conservation Easement Stewardship Program, Page 4 Projected Future Cost of Maintaining Easements Currently, staff estimates approximately 0.75 of existing FTE time spread out among multiple departments (Mapping, Building and Development, Planning and Zoning, the County Attorney’s Office) is dedicated to providing stewardship for easements the County currently solely holds.”</p>
March 2, 3, 4, 2018			<p>Plays are advertised and held on site Online Advertisement: The First Act Productions: Northern Virginia Theater and Music for a Difference Leaping Lizards! Annie Jr is on! (Posted Jan 11, 2018) http://thefirstact.org/author/83633762/ “The show will be performed March 2,3 and 4, 2018 at the Trillium Gathering Building (18915 Lincoln Rd, Purcellville, VA).</p>

Date	To	From	In Reference To / Remarks / Supporting Information
January 18, 2018	Stewardship Field Report performed by: Kristin Brown, Marion Constante, & Jacob Hambrick		<p>Stewardship Field Report:</p> <p>- Have any changes occurred since the previous site visit (forest management, building construction, subdivision or other activity)? – No</p> <p>-“<u>The riding area that appeared on the 2017 GIS imagery on the north side of the gathering building had been converted to a large paved and lighted parking lot and the riding area has been moved north of the gathering building.</u> An additional large paved and lighted parking lot on the south side of the gathering building was also observed.</p> <p>-“One observance when driving back to the wooded area behind the horse pasture were two pieces of heavy machinery: a large backhoe and construction roller. Per discussion with the Matthews and as observed , a non-profit called Project Horse keeps its horses in the stable and uses other portions of the stable building as an office space. The Matthews shared that they have allowed the gathering building and specifically the stage to be used for meetings and performances by various organizations.”</p>
Feb 5, 2018			CAPP Application to add 3,500 sq ft addition to “Family Gathering Building”
April-June 2018			Neighbors submit numerous Lex complaints County consolidates numerous Lex complaints, including: 4213957, 4214963, 4877449 into one complaint: 4113545. Complaint is still outstanding today, October 2020.
Feb 13, 2020	Reply to a neighbor (GL) for a Zoning Complaint	Jacob Hambrick	<p>COMMENT</p> <p>Jacob Hambrick:</p> <p>Zoning Enforcement Staff has an active zoning violation case (LEX# 4113545) for this property. Staff continues to work with the County Attorney's Office and the Zoning Administrator to address the alleged use violations concerning the Open Space Easement and the Zoning Ordinance. This case will be merged with original case (#4113545) and will be closed out. However, staff will continue to work the original case to address the alleged violations on the property.. Chris Sciolino is the Zoning Inspector that is handling the case and can be reached at chris.sciolino@loudoun.gov for updates.</p> <p><i>Feb 13, 2020, 7:40 AM EST by Jacob Hambrick (This is visible to Everyone)</i></p>
Sunday, Sept 27, 2020			Mr. Matthews and his son were tearing down trees and brush with an excavator. Work started at 4pm and continued on through 7:30 pm when suddenly our power went out. A neighbor across the way told us she saw Mr. Matthews knock down a tree that took out the powerline. The power was out on the street from 7pm-midnight.

Date	To	From	In Reference To / Remarks / Supporting Information
October 4, 2020			Large crew taking down trees and brush along edge of our property and Matthews, likely for a fence.

DRAFT