

RESOLUTION NO. RS-2011-01

**ADOPTING AMENDMENTS TO THE TEXT OF THE 2002 COMPREHENSIVE
PLAN FOR WASHINGTON COUNTY, MARYLAND
(CP-10-001)**

RECITALS

The Board of County Commissioners of Washington County, Maryland (the "Board"), adopted the 2002 Comprehensive Plan for Washington County, Maryland (hereinafter the "Plan") on August 27, 2002, effective August 27, 2002 in accordance with Md. Code, Article 66B, Section 3.07.

The Washington County Planning Commission (the "Planning Commission"), under the provisions of Md. Code, Article 66B, may recommend adoption of any amendment to the Plan.

Amendments to the Plan have been recommended by the Planning Commission and the proposed amendments would modify the existing Priority Preservation Element of the Plan to address concerns raised by the Maryland Department of Planning as part of the Washington County Agricultural Land Preservation Program certification in 2009.

It is the opinion of the Planning Commission and the Board that the amendments are consistent with the goals and objectives of the Plan.

The Planning Commission held a public meeting for the purpose of taking testimony on the proposed amendments on January 10, 2011 and a public hearing was held on February 8, 2011 by the Board pursuant to public notice duly given as required by Md. Code, Article 66B, Section 3.07.

A copy of the recommended amendments was referred to all adjoining planning jurisdictions, and to all affected State and local jurisdictions that have responsibility for financing or constructing public improvements necessary to implement the Plan.

The Board has considered all recommendations of the Planning Commission, the Planning Staff, those comments received as part of the public meeting before the Planning Commission and the public hearing before the Board, and also reviewed any written communications which were submitted concerning the proposed amendments to the Plan, and the Board conducted this review process in public session(s).

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF WASHINGTON COUNTY, MARYLAND, that the 2002 Comprehensive Plan for Washington County, Maryland is hereby amended as follows:

CP-10-001

Chapter 8, ENVIRONMENTAL RESOURCE MANAGEMENT, is hereby amended as follows:

- (i) Section B.6.c) is amended and shall read as follows:
 - B. ANALYSIS
 - 6. Agriculture
 - c) Priority Preservation Areas

The Agricultural Stewardship Act of 2006 (Act) provides the impetus and guidance for counties in the State of Maryland to become more diligent in the effective spending of land preservation funds. It is the intent of the Act that counties establish goals and priorities for the effective and efficient use of land preservation funding.

Land preservation efforts in Washington County have a 30 year history. Starting in 1978 with one program, the Maryland Agricultural Land Preservation Program (MALPP), the land preservation program in Washington County has grown to 7 programs including: MALPP, Farm and Ranchland Protection Program (FRPP), Maryland Environmental Trust (MET), Transportation Equity Act Funds (TEA), Green Print, Rural Legacy, and most recently Installment Payment Purchases (IPP's). Another

potential funding source currently being explored by the County is a Transfer of Development Rights (TDR) program whereby a privatized system of developer purchased development rights in the Rural Area could be transferred to the Urban Areas. The County has also had some limited success with donated preservation easements.

It has always been the goal of Washington County to support a diversified system of agricultural operations that include but are not limited to dairy, livestock, crop, orchards, vineyards, and timber. As stated in Chapter 2, one of the goals developed as part of the Washington County Comprehensive Plan is to, "promote a balanced and diversified economy, including agriculture." One of the County's objectives in obtaining this goal is to maintain at least 50,000 acres of land in the County in agricultural production. This acreage goal was developed in the early 1990's in coordination with the Agricultural Extension Office and the University of Maryland based on an evaluation of critical mass and land needed to support the agriculture industry. Through 2008, Washington County has permanently preserved approximately 22,000 acres of farmland and woodlands through various preservation programs. In addition, approximately 17,000 acres of land are in short-term preservation districts.

A key component in the success of an agricultural preservation program is the efficient spending of funds to maximize the community benefit. Since the inception of agricultural preservation programs in Washington County, a priority rankings system has been used to determine the best use of preservation funds. This ranking system was recently amended to further incorporate the goals of MALPF by expanding the contiguous definition to include open space lands and by increasing the penalty for exclusionary development. Expanding upon this existing practice, and to remain consistent with State preservation goals, the County's priority preservation areas are being designated to further refine and maximize the focus and impact of preservation funding. To establish the boundaries of the Priority Preservation Areas (PPA's), staff evaluated several criteria generally accepted by the MALPF program as priority criteria.

Analysis

Previous preservation efforts in Washington County have begun to build three primary blocks of easements. They are generally located in the Clear Spring, Downsville, and Smithsburg areas. To the degree possible, PPA's were extended around these existing blocks of easements to include parcels adjacent or in close proximity to existing permanent easements and 10 year districts. Using the County's GIS database, parcels generally located outside of Urban and Town Growth Area boundaries and Priority Funding Areas that are greater than 20 acres and have an agricultural use assessment were used as potential sites for PPA's. The areas were further defined by focusing on parcels that were located in close proximity to existing permanent easements as well as existing 10-year districts. Then the soils and forest cover were evaluated to ensure that productive areas were being defined. Finally, Staff focused the primary areas for establishment of PPA's around existing "blocks" of agricultural easements located generally in the Clear Spring, Smithsburg, and Downsville areas.

Some Rural Legacy Areas were also included within PPA boundaries; however, these areas

were limited based on the recommendations of the Agricultural Preservation Advisory Board. It was the Advisory Board's opinion that due to the limited amount of MALPP funding and the fact that the Rural Legacy Areas have a broader pool of preservation funds available to them due to a broader set of criteria (i.e. environmental and historical factors), that MALPP monies should focus on stabilizing active agricultural operations. Most of the Rural Legacy Areas designated in PPA's revolve around the Antietam Battlefield area stretching across the MD 34 corridor over to Boonsboro. Areas in the south and east of the Rural Legacy boundaries were evaluated as potential areas but were found to be either low in priority for agricultural use due to soil class or low forest cover, or because of the small parcels sizes (especially along South Mountain) caused by old 'wood lot' deeds created during the Civil War era.

In accordance with the guidance provided in the Agricultural Stewardship Act of 2006, the additional 30,000 acres of permanently preserved land needed to meet the County's stated goals should equal at least 80% of the total undeveloped area in the defined priority preservation areas. After determining preliminary locations for PPA designation, and establishing a minimum preservation target threshold of 30,000 acres, Staff began to build the PPA's with blocks of large undeveloped land around existing agricultural preservation easements and 10-year districts. As areas were added, the proportion of undeveloped land 'viable' for preservation efforts was continually tested against areas that contain existing development or existing permanent easements in order to maintain the 80% undeveloped requirement of the legislation. Ultimately, this process yielded a proposed area of 74,854 total acres, of which 20,690 acres contain permanent preservation easements and 9,461 acres do not meet the minimum MALPP requirements for easement acquisitions. This leaves a balance of 44,703 acres of 'viable' land within the proposed PPA's available for preservation efforts. A development analysis was then also completed to determine how much development could occur in the PPA's and whether there would be enough area to meet our land preservation goals.

Prior to 2005, Washington County had two prevailing zoning classifications labeled as Agriculture and Conservation. The zoning densities in these two classifications allowed dwelling unit to acreage densities of 1:1 and 1:3. This left the County susceptible to large amounts of sprawl development and threatened the resources the community found most important. In 2005, the County, based on recommendations founded by this document, adopted zoning densities in the rural areas that reduced development potential from dwelling unit per acreage ratios of 1:1 and 1:3, to ratios of 1:5, 1:20 and 1:30. Exemption lots were also assigned to varying degrees in these areas for farmers who may wish to provide lots to family members or need to sell lots to help finance the operation of the farm. Based on a development analysis of the designated PPA areas, with the current zoning designations of 1:5, 1:20 and 1:30 accompanied by exemption lot potential, the development potential in these areas is approximately 10,900 units as opposed to the approximately 23,250 potential units that may have occurred under previous zoning regulations. While this number may seem high, it is important to note that this figure has no projection date for total absorption and these findings need to be put into context with the County's historic growth patterns. Also, this analysis only evaluated development potential based strictly on zoning densities and did not evaluate other development limitations such as infrastructure requirements, sensitive area

deductions, or other land development requirements such as valid percolation tests or setback requirements that can reduce development potential.

As outlined in Chapter 12 of this document, several housing unit projection scenarios were analyzed for potential impact on available land area in the County. Two of these scenarios were analyzed for potential impact on land area. The first scenario analyzed is the 'composite' scenario. These figures are based on an average between the State of Maryland housing unit projections and Washington County's projections based on historic trends. The 'composite' scenario analysis projects that approximately 9,925 additional residential units will be added to the County housing stock over the next 20 years. This averages out to about 500 new units per year in the County. When these units are dispersed between urban vs. rural development, approximately 15% of the projected new units are designated to the rural areas of the County. This dispersal was further broken down into policy areas. Generally it is acknowledged that the rural areas of Washington County fall into 4 different policy areas designations - Agricultural, Environmental Conservation, Preservation and Rural Village. According to the dispersal analysis in Chapter 12, approximately 1,464 new units (73 units/year) are anticipated in the rural areas over the 20 year horizon period. Therefore, broken down on a policy level basis, an additional 1,115 units (56 units/year) are anticipated in the Agricultural Rural area, 180 units (9 units/year) in the Environmental Conservation area, 37 units (1.8 units/year) in the Preservation area, and 132 units (6.6 units/year) in the Rural Villages.

The second analyzed housing unit projection scenario evaluated in Chapter 12 was the 'wave' scenario. These figures were based on above average growth trends that might occur over the 20 year horizon. The projections were calculated using a 50% increase over the 'composite' figures. The 'wave' projections predict an additional 14,888 housing units added to the current housing stock over the 20 year horizon period. This would equate to approximately 745 new units per year over the 20-year horizon period. Applying the same 15% rural area dispersion that was used in the 'composite' scenario, the dispersal ratio predicts that 2,195 of the new units (110 units/year) could occur in the rural areas over the 20 year horizon period.

Relating these analyses to the PPA's, it was calculated that approximately 30% of the total rural land area is designated within a PPA. Assuming an even dispersal of the projected development over the entire rural area, it is anticipated that 30% of the potential development could occur within the PPA's. This would mean that we could expect to see between 440 and 660 new housing units (or between 22 and 33 units per year respectively) in the Priority Preservation Areas if the land is not permanently preserved within the 20 year horizon period.

Taking this evaluation one step further, potential land consumed by development over the 20 year horizon period was analyzed to determine if enough land was designated in a PPA. Assuming an average lot size of 2 acres per development right (based on historic development trends), under the more prolific growth scenario, the 'wave scenario', we would anticipate approximately 1,300 acres of land converted for development. Based on this evaluation, it appears that the 44,703 acres of land found to be 'viable' areas for preservation efforts designated in PPA's, should adequately absorb development while still providing opportunity for preservation goals to be met.

Challenges

Even though the development analysis projections show trends toward low growth potential in the Rural Areas of the County, development pressures are still one of the largest challenges to overcome for land preservation programs. In 2005, Washington County took a monumental and proactive approach in limiting sprawl development and protecting land resources in the rural areas by revising its zoning regulations for these areas. Among the changes made was a reduction in zoning densities from a dwelling unit to acreage ratio of 1:1 and 1:3 to ratios of 1:5, 1:20 and 1:30. These changes have significantly reduced development potential 60 to 70 percent on average on rural land and have consequently reduced the number of dwelling units and their potential to create incompatible uses next to existing agricultural operations. These changes are also allowing more time for local officials to explore and produce mechanisms for land preservation.

To illustrate the impact of the new zoning on development trends in the Rural Areas of the County, Staff analyzed data collected since the inception of the new zoning spanning the last four fiscal years (FY 2006-2009). As a first step in our analysis, we evaluated how much development has occurred in the last four fiscal years and broke the numbers down between the growth areas and rural areas of the County. As shown in the chart below, 68% of new lots and 33% of the newly developed acreage has occurred within designated Growth Areas.

	Growth Area	Rural Area	Totals
Lots	1,171	550	1,721
Acreage	1,235	2,515	3,751

Staff next analyzed how much of the rural area development was occurring in the proposed PPA's. Of the 550 lots and 2,515 acres of land developed in the rural areas of the County, 163 lots (30%) and 618 acres (24%) of the development occurred within the proposed PPA's.

While this gives useful information into where development is occurring, Staff decided to further evaluate these development numbers to determine impacts of the new development on preservation efforts by calculating actual agricultural acres lost. The purpose of this analysis was to compare how much land was being converted from potential easement areas delineated in the PPA's versus land that does not meet the minimum MALPF easement requirements and would most likely not be available for preservation efforts. As shown in the chart below, of the 2,515 acres of total land developed in the rural areas, 720 acres (29%) were agricultural acres lost (as defined by MALPF requirements). Furthermore, only 278 acres (11%) of the total rural areas developed were on "viable" PPA land.

Rural Area Developed	Rural Area Ag Acres Lost	PPA Developed	PPA Ag Acres Lost ("Viable" acres)
2,515	720	618	278

In comparison to lands developed over the last four fiscal years, Washington County has acquired 4,426 acres of permanent easements. Even if you compare land preservation acres (4,426) to total land developed (3,751) in the County over the last four fiscal years, preservation has outpaced development. While this analysis shows encouraging results, it is acknowledged that the results are somewhat skewed due to the fact the zoning changes are just in their infancy and these changes also happen to coincide with one of the worst real estate recessions in history. For this reason, it will be imperative to continually monitor and re-evaluate this analysis to ensure that preservation efforts are not being compromised by new development while we allow time for the new zoning to take full effect in a normal economy. As part of the monitoring process it may become evident that additional efforts may be needed to help support preservation efforts in the PPA's. Some of these efforts may include zoning changes, changes in funding formulas, or incorporation of new preservation programs such as a TDR's. However, after evaluating all of the available information, it is believed that the new zoning regulations adopted in 2005 are currently restraining residential development in the rural areas and additional controls are not needed at this time.

In addition to the density changes made in the 2005 rural area rezoning, building setback increases were instituted on newly created residential parcels that abut existing active farms. It is too early to determine the success of this new regulation; however, it is anticipated to reduce the typical incompatibility issues between farms and residential uses such as spray drift, dust, etc.

Other land management ordinances have also been used to help manage the impact of growth in the rural areas of the County. Most notably are the Forest Conservation Ordinance and the Adequate Public Facilities Ordinance. The Forest Conservation Ordinance was adopted in response to the 1991 State Forest Conservation Act which was passed to help slow the loss of forested lands across the State. As a result of the implementation of the Forest Conservation Act, forest conservation easements have been established all over the County and created de facto open space areas that have helped to preserve the natural resources of the County. In addition, developments that were unable to provide forest mitigation areas on site have assisted in the permanent preservation of several hundred acres of land through forest conservation easements using payment-in-lieu-of-planting funds.

The Adequate Public Facilities Ordinance was originally adopted in 1990. The purpose of this Ordinance is to ensure that public facilities and services needed to support development are available concurrently with the impacts of the new development. Public facilities recognized in the document include roads, schools, water & sewer service, and fire protection. In the rural areas, the most affected facilities are roads and schools. The APFO regulates development based on the availability of the infrastructure used by the new development. If new development is found to exceed the capabilities of the surrounding infrastructure, the developer becomes responsible for the upgrade of the affected facilities. This can limit or negate development in two different ways. First, the amount of infrastructure improvements needed could render a project fiscally impractical or at the very least reduce the overall intensity of development. The second limiting factor of the APFO is the ability of the local legislative body to reject infrastructure expansion based on other overarching factors such as long term financial impact to the public. Another tool used by the County to reduce development

pressure is the 10-year agricultural district program. In exchange for the landowner agreeing not to develop their property for a period of five to ten years, the County and the State provide a property tax break incentive on the land and its improvements. This program does not extinguish development rights but does provide the element of time for permanent preservation efforts to occur.

Funding has also been a significant challenge in trying to obtain permanent preservation easements. Both Washington County and the State of Maryland have had varying degrees of success in funding land preservation programs. Because funding for land preservation is primarily derived from property taxes and agricultural transfer taxes, funding tends to follow the fluctuations in the overall economy. Regardless of these fluctuations, the amount of funding needed to meet the goals of these land preservation programs continues to escalate and surpass the availability of funding in both the County and State budgets. Alternative means of funding such as TDR's, IPP's, and donated easements continue to be analyzed as options. However, the success and efficiency of these types of programs tend to be erratic and difficult to predict.

Another fluctuating hindrance to a land preservation program is the interest of landowners to participate in these programs. When the housing market is in decline, landowners seem to be more receptive to these programs to help generate revenue for the farm. However, during a housing boom, the market to develop usually outweighs the incentive to preserve land. This will continue to be an issue in the land preservation program as the supply and demand of the housing industry continues to fluctuate. Also included in this group are landowners who simply do not wish to participate in the programs for a variety of reasons. However, it is important to note that even though some of these landowners may not wish to participate in land preservation programs, they likewise do not have a desire to develop the land. Many simply preserve the land based on their own principles of land stewardship.

Supporting Agricultural Operations

Another way to overcome the challenges of land preservation is to help promote profitability in the industry. Recently, the County hired an Agricultural Marketing Specialist to assist in promoting the agricultural industry in Washington County. This position is expected to act as a lobbyist and liaison for the agriculture community.

Another important project the County Commissioners have supported for several years is the Agriculture Education Center. Owned and operated by the County, with financial assistance from the State, the Education Center holds events year round to promote and educate people about the agricultural industry. Also included at the Center is the Rural Heritage Museum that provides citizens a view of history about how people used the land to survive.

Finally, the County adopted a Right to Farm Ordinance in 2004 to help educate the general public about agricultural operations and the potential impacts of development. Efforts include notification of all new property owners of the impacts of farming operations such as odor, dust, spray, etc via a notification, signed by the purchaser, at the time of settlement. The Ordinance also

provides a process by which to handle the occasional nuisance complaints that can result from incompatible uses.

Conclusion


As stated previously, in the 30 year existence of land preservation programs in Washington County, approximately 22,000 acres of prime agricultural and forested lands have been preserved. This accounts for 44% of the 50,000 acre goal set by the County. Acknowledging that the trend in preservation efforts shows success is high at a programs inception and decreases slowly over time based on varying challenges such as development competition, unwilling participants, lack of funding etc, we anticipate that over the 20 year horizon of this document, the County should be able to obtain at least 70-75% of the overall 50,000 acre goal. This projection is partly supported by the 17,000 acres of land currently designated in 10-year agricultural districts. While these districts are not guaranteed to enter into a permanent easement status, historically, there has been a high degree of permanent easement purchase on these districts versus conversion for development purposes. It would also be anticipated that the County's growth management plans and land preservation policies will adapt and evolve to the accommodate changes in land use planning over the 20 year horizon period that could help limit development and promote land preservation and conservation.


Adopted this 8th day of March, 2011.

Effective the 8th day of March, 2011.

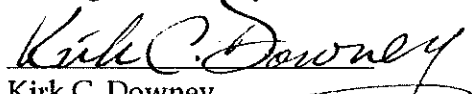
ATTEST:

BOARD OF COUNTY COMMISSIONERS OF
WASHINGTON COUNTY, MARYLAND


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