

Montgomery County – January 2006

Certification of County Agricultural Land Preservation Programs
Re-Certification Request – Montgomery County
(Report Summary dated January 24, 2006)

COUNTY AGRICULTURAL PRESERVATION GOALS

- Montgomery County's goal is to preserve 70,000 acres by 2010. It is about 83% towards reaching the goal. More than 58,126 acres (of 93,000 acres in its Agricultural Reserve area) have been preserved through a combination of MALPF, Rural Legacy, MET, local preservation programs, and Conservation Reserve Enhancement Program.
- As of June 30, 2004, Montgomery County had preserved 3,322 acres through permanent agricultural preservation easements with MALPF, and another 6,336 acres through five-year district agreements with MALPF.

ATTRIBUTES OF LOCAL PROGRAM

- The County participates in MALPF's Matching Funds Program.
- The County's PDR program (Agricultural Easement Program (AEP)) purchases and holds development rights for sale on the TDR market. To date, the County has preserved 6,678 acres in this program.
- The County's TDR program is the most successful in the country. Density in the Rural Density Transfer zone is 1:25, but rights can be transferred at the rate of 1:5. To date, the County has preserved 43,145 acres in this program.

QUALIFYING EXPENDITURES AND USE OF CERTIFICATION FUNDS

- The County meets the certification requirements for qualifying expenditures and use of certification funds and has provided a record of revenues and expenditures.
- For FY 2003, the County collected \$3,241,910 in agricultural land transfer tax. Actual amount spent on easements was \$1,389,314. The County received about \$340,000.00 from the Federal Farm and Ranch Land Protection Program.
- For FY 2004, the County collected \$2,582,400 in agricultural land transfer tax. The actual amount spent on easements was \$1,652,343.
- Agricultural transfer tax revenues over the reporting period have been used for the purchase of easements.

PROGRAM ACCOMPLISHMENTS DURING THE REPORTING PERIOD

FY 2003

- Three MALPF easements on 492 acres were purchased in FY 2003.
- Three MALPF agricultural districts were established totaling 491.579 acres.

FY 2004

- No MALPF easement program for FY 2004.
- One MALPF agricultural district was established totaling 272.84 acres.

Other highlights

- During FY 2003, the Farmland Preservation Report recognized Montgomery County as the national leader in farmland preservation. The County retains its status of having the highest number of preserved acres of any county in the country.
- To reach its goal of protecting 70,000 acres by the year 2010, the County has developed a projection of targeted acres for preservation, by program, for fiscal years 2004 – 2010.
- The County recognizes that it may have to expand program policies and regulations to keep the preservation initiatives on track.

EVALUATION OF COUNTY'S ANNUAL REPORT

- Montgomery County did not submit an Annual Report for review. Instead, staff was provided a

copy of The Montgomery County Farmland Preservation Program Report FY 1980-2003. Although this report was quite informative, it did not directly address all of the issues that are required to maintain certification.

- During the period, FY 2003-2004, the County permanently preserved 492 acres of agricultural land and woodlands through MALPF.
- The Report did not provide the number of acres converted to non-agricultural purposes during the reporting period.
- The Report did not include information about preserved farms, nor was a map of preserved farms included.

PROGRAM DEVELOPMENT STRATEGY

A. Evaluation

- *Strengths:*
 - Ongoing strong financial commitment to easement purchases.
 - The County recognizes that "the continued success of the County's farmland preservation initiative may be dependent upon our ability to make program adjustments in order to provide viable alternatives to landowners above and beyond development options." To that end, the County developed a number of "Action Items":

Action Item #1: Modification of the easement valuation formula for the AEP.

Action Item #2: Develop county policy on TDRs held by the public sector.

Action Item #3: Recommend policy change that limits assessments on protected lands.

Action Item #4: Explore changes in the county code that create an economic environment conducive to agriculture.

Action Item #5: Implement the TDR Task Force Report and promote urban growth areas.

Action Item #6: Continue enhancement of easement formula base value to keep pace with rising land values.

Action Item #7: Revitalization of established urban and sub-urban communities.
 - Since the last reporting period, the County established, by the Maryland National Capital Park and Planning Commission in October 2000, the Montgomery County Legacy Open Space Program (LOS). This program identifies natural resources, open space, agricultural and historic lands for conservation and creates a comprehensive strategy to protect the County's "green infrastructure." Acquisitions will be both in fee and through conservation and agricultural easements. No farmland has been protected through this program to date.
 - The predominant zoning in the Agricultural Reserve area is the Rural Density Transfer (RDT) Zone. This zoning has a density of 1:25 for subdivision of land, but allows landowners to sell development rights on their land to areas designated for higher density growth elsewhere in the County.
- *Weaknesses:*
 - This is the first submission to the Foundation for recertification since 1999.
 - The report did not compare acres preserved to acreage developed during the past five fiscal years (the time period since the county's last submission).
 - The February 11, 2000 letter from the Department of Planning and MALPF requested that the next recertification request address a growing problem with major subdivisions in the RDT zone. This is a continuing problem.
 - Montgomery County had three easements in FY 2003 and none in FY 2005. However, there is one applicant (140 acres) in the FY 2006 cycle.
 - The Report states that: "Rising land values and limited funds are key concerns to securing easements on the remaining unprotected lands. In the meantime, encroachment upon the Agricultural Reserve by low density residential development continues, with the spread of residential lots continuing at the 25 acre density required in the RDT zone."

B. Description of Updated Program Development Strategy

Achieving objectives depends on the following:

- Increasing the number of landowners applying to the MALPF Program.

- Continued participation in MALPF's matching funds program.
- Implementing the seven (7) "Action items" listed above.
- Continuing the TDR program. The TDR Task Force report has been approved by the County's Planning Board, but has not yet received approval from the County Council.

COUNTY'S FOCUS ON PRESERVING AGRICULTURAL LAND

- The County has projected the placement of 2,944 acres under MALPF easements by 2010 in order to reach its target of 70,000 acres. However, this goal cannot be met with only one or two applicants per year. The County must address this issue.
- Currently, the County's easement offers are consistently lower than either MALPF's or Rural Legacy's. The County's Agricultural Preservation Advisory Board has drafted a Proposed Modification/Revisions to its policy. If this modified policy is adopted, it will represent a positive step forward to "provide for greater landowner acceptance, a more consistent valuation approach, and increased flexibility in marketing preservation programs in the County."

FOUNDATION STAFF RECOMMENDATION

- The County program continues to appear to be likely to succeed in supporting viable agricultural operations and preserving agricultural land in perpetuity. Foundation staff recommends approval of recertification for another two-year period.
- While there are continuing concerns about low-density residential development, the County has demonstrated a knowledge and willingness to implement steps to combat this problem (see "Action Items").
- The lack of MALPF easement applicants is of concern. It is recommended that additional steps be taken to market the MALPF program in the County, especially given the increased funding that is anticipated in coming years.
- This County places a strong emphasis on the preservation of its agricultural lands.