

Certification of County Agricultural Land Preservation Programs
Re-Certification Request – Queen Anne's County
(Summary of Certification Letter Dated January 23, 2006)

The Maryland Department of Planning (MDP) and the Maryland Agricultural Land Preservation Foundation (MALPF) would like to thank you for submitting Queen Anne's County's annual report for the Agricultural Certification Program, covering the 2001-2004 period. The County's report also served as its application for recertification.

This letter reflects the combined perspectives of MDP and MALPF. We are pleased to say that the County's agricultural land preservation program has been recertified for the period from July 1, 2005 through June 30, 2007. Since we are well into the certification period, the County may skip the interim report and submit just the recertification report, which is due on October 30, 2006.

We are, however, very concerned with the ability of the County's program to remain effective in light of increasing development pressure. This we discuss in some detail following general comments, ending with a list of items we think it important to address during the certification period. To that end, we look forward to working together, and will contact you to schedule a meeting.

General Comments.

Queen Anne's County's annual report indicated that its farmland preservation program continues to make strides:

- In the four fiscal years covered by the report, MALPF acquired 35 easements and preserved 5,539 acres in Queen Anne's County. The County saw the development of just 913.8 acres as rural lots. However, 3,071 acres were subject to agricultural land transfer tax, meaning they will not stay in farming.
- Queen Anne's County's goal is to preserve 30,000 acres by 2010 and 50,000 by 2030. The County has already surpassed its 2010 goal (however, see the concern about preserved County open space, below). More than 35,336 acres have been preserved through a combination of MALPF (21,604 acres), Rural Legacy, MET, and through the efforts of local land trusts, including the Eastern Shore Land Conservancy.
- Farmland preservation is a strong theme in the County's 2002 comprehensive land-use plan.
- The *Working Farm and Scenic Vista Preservation Programs* report, commissioned by the County's Preservation Task Force, recommends a local PDR program, an agricultural economic development program, and agricultural tax credit program. All these measures would strengthen the County's land preservation program. The increase in the recordation tax recommended by the Task Force would be a steady source of significant funding.

We look forward learning about the implementation of the recommendations in the *Working Farm and Scenic Vista Preservation Programs* report. For the Scenic Vista Buffer Incentives, the report recommended a density bonus to encourage developers to protect views from scenic roads. We suggest an alternative: that the County require viewshed preservation measures in the subdivision regulations? An existing body of planning literature is available to demonstrate how development can be sited to protect the most important features and views on rural land. We would be glad to provide references.

In addition, we had to wrestle with the descriptions of the Fee-in-Lieu program. Please let us know if our description of it in the attached *Summary of the "Working Farm and Scenic Vista Preservation Programs" Report* is accurate [not included here].

Concerns.

As you know, we have become increasingly concerned about what we perceive to be escalating amounts of development, at relatively high densities, in rural areas of Queen Anne's County. The magnitude of the problem is not clear, but may be compromising the effectiveness of the County program

substantially, as defined for purposes of certification.

Specific concerns include the following:

- During the reporting period 2001-2004, 55.4% of the new building lots approved were located outside of designated growth areas.
- The number of applicants for the MALPF program for FY 2005 decreased considerably (five applicants in FY 2005, as compared with 25 applicants in FY 2003 – no program in 2004).
- The total farmland acres preserved for FY 2005 through the MALPF program is anticipated to be 390 acres. SDAT indicates a conversion rate of 683 acres for FY 2005. The negative trend does not improve for FY 2006. Only one applicant, for a total of 114.3 acres, has applied for the MALPF FY 2006 easement application program.

A number of development options appear to make possible much greater capacity for residential lots in the agricultural zone than we understood. Unless we misunderstand them, these options include:

- The option to cluster at 1 lot per 8 acres.
- The sliding scale option allowing one extra unit per 100 acres.
- Non-contiguous cluster subdivision allows the developed portion of the receiving parcel to be developed at a high density, apparently as high as well, septic, and environmental restrictions will allow.
- Provisions that allow rights that could not be developed on sending parcels to nevertheless be transferred and developed on receiving parcels. The County's most recent recertification report states that such requests are "getting popular over time."
- Preserved open space is not necessarily permanent. We are uncertain if this impermanence is restricted to remainders from cluster subdivisions which can become receiving sites for non-contiguous transfers, or if it extends to other situations as well.

In general, it appears that under these provisions, a strong market has developed to create substantial subdivisions in proximity to preserved land. Unless such development is the exception rather than the rule, it will greatly compromise the rural landscape for farming, as it affects farmers' ability to farm, undermines supporting agricultural infrastructure, raises land prices beyond the reach of most farmers, and undermines State goals for preservation and certification.

Conclusion.

Overall, it appears that demand for the type of development allowed by County zoning and land use tools may be resulting in increasingly widespread development that is incompatible with the goals for the Foundation and the certification program. Land values for development appear to be rising drastically, making it difficult or impossible for preservation to compete with development of prime farmland, in parts of the County designated for preservation.

In your next certification report, please include the following.

- 1) An evaluation of the degree to which the County's land-use tools are allowing development that is compromising State preservation investment, addressing the concerns articulated above.
- 2) In the evaluation, please include provisions for clustering; non-contiguous transfer; sliding scale development rights; transferable development rights from parcels lacking corresponding development capacity; permanence or impermanence of County open space; and the cumulative effect of all provisions.
- 3) Please include the following data and explanations in the report:
 - The number of parcels on which non-contiguous transfer has occurred, their location on a map, the number of units on them, and the acreage that remains permanently open as a result of the non-contiguous transfer remainder;
 - The number, location, and acreage of open space parcels that exist as a result of the cluster option and that can be used as a non-contiguous receiving area;
 - The number, location, and acreage of open space parcels that have been built on as a

- result of the non-contiguous cluster option; and
- Clarification of County laws and procedures regarding County open space parcels: how much land must be preserved and is it permanently preserved or not.

Finally, the report should include the steps the County is taking to correct shortcomings in the ability of the program to manage subdivision and development, consistent with the requirements of the certification program.

Thank you very much for submitting your annual reports and for your hard work to preserve farmland in Queen Anne's County.