

RESOLUTION

TO ADOPT AN AMENDMENT TO THE COMPREHENSIVE PLAN FOR KENT COUNTY, MARYLAND

WHEREAS, The Agricultural Stewardship Act of 2006, Chapter 289 of the Laws of Maryland of 2006, requires counties with certified agricultural preservation programs to adopt a Priority Preservation Area Element,

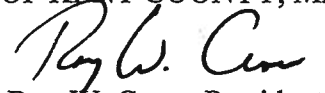
WHEREAS, A public hearing was held by the Kent County Planning Commission on March 4, 2010 on the proposed amendment to the Comprehensive Plan relating to the Priority Preservation Area. Following this public hearing, the Kent County Planning Commission voted to recommend to the County Commissioners for the adoption of the Priority Preservation Area as an appendix to the Comprehensive Plan.

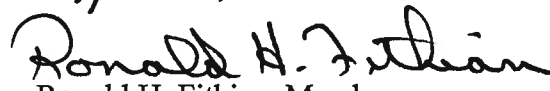
WHEREAS, A public hearing was held by the Board of County Commissioners on April 20, 2010 and was unanimously approved during their regular meeting on April 27, 2010.

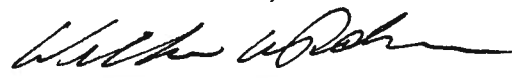
BE IT FURTHER RESOLVED that this Resolution be affixed to as Appendix "D" entitled "Agricultural Priority Preservation Area Element" and made a part of the Comprehensive Plan of Kent County, Maryland.

ADOPTED this 27th day of April, 2010.

THE COUNTY COMMISSIONERS
OF KENT COUNTY, MARYLAND


Roy W. Crow, President


Ronald H. Fithian, Member


William W. Pickrum, Member

Appendix D

Agricultural Priority Preservation Area Element

The Agricultural Stewardship Act of 2006, Chapter 289 of the Laws of Maryland of 2006, requires counties with certified agricultural preservation programs to adopt a Priority Preservation Area Element. The following Appendix to the 2006 Kent County Comprehensive Plan is meant to fulfill the requirements of Agricultural Article 2-518 and State Finance and Procurement Article 5-408.

The purpose of the Priority Preservation Area is to:

- ☞ Establish appropriate goals for the amount and types of agricultural resource land to preserved by the County;
- ☞ Describe the kinds of agricultural production the County intends to support and the amount of development the County intends to allow;
- ☞ Describe the methods the County will use to concentrate preservation funds and other supporting efforts in the PPA to achieve the goals of MALPF and the County's preservation acreage goal; and
- ☞ Identify shortcomings in the ability of the County's zoning and land management practices and identify current or future actions to correct the shortcomings.

The open, flat expanses of rich fertile soil that blankets the county is a gift of immeasurable value. Approximately 57% of the County is defined as prime farmland as compared with 23% of Maryland as a whole. The County has some of the best farmland in the United States and this combined with the proximity to a variety of markets makes Kent County an ideal location for agribusinesses to thrive. According to the 2007 US Census of Agriculture, the market value of production was \$85.7 million – up 28% from 2002. Crop sales accounted for \$46.4 million and livestock sales accounted for \$39.3 million of the total value. At 72.7%, Kent County has the highest percentage of total land area in farms of any county in the State, as reported in the 2007 Census of Agriculture.

Kent County recognizes that a successful farmland preservation program requires a comprehensive approach that integrates a variety of techniques, promotes the purchase of farms by farmers and minimizes the potential conflicts between farmers and their non-farm neighbors. The following goals and strategies represent a broad based program for the support and preservation of agriculture in Kent County. It is a program that was not easily developed but is the key to the success of many of the goals of this plan.

Priority Preservation Area Designation and Acreage Goal

In the 1980s, the County started taking steps to ensure the long-term viability of agriculture. One of the tasks given to the Agricultural Advisory Commission was to identify and map farmland that should be for agricultural use. The area was to consist of enough land to support a variety of agricultural activities and maintain a market for the necessary support services in the County. The original map included almost all of the undeveloped land in the County. In addition, Kent County farmers have made it clear that no one area of the County should be given special preference for easement acquisition—all farmers should be given an equal

opportunity to participate in land preservation programs—and the County’s easement ranking system will bring the best farms to the top of the list.

Therefore, the County’s Priority Preservation Area consists of the majority of the County’s “resource lands,” excluding any lands within growth areas or areas already too fragmented by development. Resource lands are defined as any parcel zoned Agricultural Zoning District (AZD) or Resource Conservation District (RCD). Resource lands also include any lands already protected by an easement. The total land area of the County is 179,840 acres and the total area in resource lands is approximately 151,350 acres.¹ Under the County’s Land Use Ordinance, a parcel over 20 acres is considered a farm, and for the purposes of the PPA, parcels under 20 acres are considered developed. Approximately 6,630 acres within the PPA are consumed by parcels under 20 acres and 142,925 acres are considered undeveloped. Eighty percent of the undeveloped land is approximately 114,340 acres.

The County has a long tradition of land preservation. Since the 1970s when the first easements were donated to the Maryland Environmental Trust through FY2008 MALPF offers, almost 29,775 acres of private land has been placed under some type of easement, and approximately 7,950 acres is publicly owned as park, recreation or resource management land. Therefore, approximately 37,725 acres, or 32.7%, of the undeveloped portion of the Priority Preservation Area are already protected in some way.

Types of Agricultural Production

Maintaining a strong agricultural industry is a core principle in Kent County. Over the years the County has supported programs and policies to encourage a diversified agricultural economy. Stewardship of our lands and waters is a universal ethic and any agricultural operation which respects the lands, waters and culture of the region has a place in Kent County. As agriculture has changed, the County has responded by changing regulations and policies to keep the industry strong. In Kent County, agriculture is an important component of the economy and not just a way of life.

According to the 2007 Census of Agriculture for crop production acres and livestock and poultry inventories, Kent County ranks among Maryland counties in the top 10 for all major commodities except land for forage. Row crops are the predominant type of agriculture in the County. In addition, several large nurseries have been established in the County, and recently a mushroom substrate production and growing facility was approved.

Crop Production Acres Rank among Maryland Counties, 2007			
Corn for Grain	2	Soybeans	5
Corn for Silage	4	Wheat	5

Livestock & Poultry Inventories Rank among Maryland Counties, 2002			
Broilers	8	Cattle	7
Layers	3	Ducks	2

Source: Census of Agriculture, NASS

¹ The total area of the county is taken from the Comprehensive Plan background document. The total area in resource lands was calculated using the assessment data in MdProperty View 2008. All parcels zoned AZD or RCD were selected and then cross-checked with the zoning maps. Then the acreage was totaled (again using the assessment data).

The County also allows farmers to process and sell products on-site in a building up to 10,000 square feet permitted by right and up to 25,000 square feet with approval from the Board of Appeals. The County has given support to the Chesapeake Fields Initiative, and a member of the Economic Development Advisory Board represents agricultural interests. There is no one kind of agriculture the County intends to support. Agriculture is a changing industry and farmers need to be able to change and adapt to stay in business. With an ethic of stewardship for our lands and waters guiding decisions, the County will continue to support all types of agricultural operations.

GOAL: MAINTAIN AND STRENGTHEN NATURAL RESOURCE-BASED INDUSTRIES

Strategy: Adopt a "Kent County Economic Resource Bill of Rights" that includes the right to farm, the right to fish, and the right to hunt

Farming, fishing, and hunting not only serve as the foundation of the County's economy but also of its culture. However, as the County continues to grow and diversify, the noise, odor and dust associated with these activities may be viewed as a nuisance. To avoid potential nuisance complaints and emphasize the importance of farming, fishing, and hunting, Kent County will review and strengthen, if necessary, the existing right-to-farm law and adopt right-to-fish and right-to-hunt regulations. In addition to limiting nuisance complaints, these ordinances will address zoning flexibility, equipment storage and other accessory needs of these natural resource-based industries. These will be compiled as a Kent County Economic Resources Bill of Rights and will be available to those purchasing property in Kent County.

Strategy: Promote agriculture as a viable industry and secure its future in the County

Economic development strategies should support agriculture as a viable and significant industry in the County. Effort should be made to attract agricultural related industries that not only provide job opportunities for county residents but also support the diversification of the agricultural industry and use raw materials from area farms.

The County will review plans, policies and regulations to ensure support for the continuance of agriculture in the County.

Strategy: Encourage the development of Farm-based business

Farm-based and value-added businesses are intended to expand the economic opportunities on farms while maintaining the agricultural character of the area. Agricultural related businesses include but are not limited to small packing/canning plants, dairies, roadside stands, crop genetic companies, and equipment repair.

Strategy: Participate in regional efforts to expand resource based economic opportunities

The county will support efforts to assist interested farmers with product diversification (including specialty and niche market development). The County will nurture entrepreneurial enterprises established by local farmers and community supported agriculture.

Strategy: Support the Chesapeake Fields Institute and other value-added initiatives

The mission of Chesapeake Fields Institute is to strengthen the profitability of traditional agricultural markets for family farms, while conserving the region's natural and cultural resources. "Preservation through Profitability" will be realized through collaboration among

area family farmers, community, government, business leaders, and institutions of higher education throughout the Delmarva Peninsula. This collaboration will result in the development of a community-based food systems enterprise that is locally-owned and operated using environmentally sound practices. This will be promoted through health and education entities.

GOAL: SUPPORT AGRICULTURE AS A PERMANENT AND PREFERRED LAND USE

Strategy: Promote Kent County as an agriculturally friendly county

The County will promote itself as an agriculturally friendly place. It has served and will continue to serve as a place for farmers who want to continue farming. The county will periodically review and, if necessary, update the right to farm ordinance.

Strategy: Support programs and initiatives to maintain the economic viability of agriculture

The County will consider the impact on agriculture when making decisions and will ensure that farmers are represented on appropriate boards and commissions.

Methods to Reach Goals

The County participates in a wide variety of programs aimed at preserving agricultural lands with permanent easements. The County intends to allow very limited development in the Priority Preservation Area. The County is committed to directing growth adjacent to existing neighborhoods, villages and towns. The County has one of the lowest land conversion rates in the state and the demand for agricultural land remains high. At the present time, there is competition among farmers for land whenever farms come up for sale, and there continues to be an influx of farmers from other regions who want to relocate to Kent County due to its reputation for strong support of the industry.

GOAL: MAINTAIN AGRICULTURAL LAND AND FORESTS

Strategy: Retain the Agricultural Zoning District

The County has established and will maintain the Agricultural Zoning District. It is important to focus attention on agriculture as an industry and not to merely address open space or the preservation of rural character. In Kent County, the continuance of agriculture as an industry, has always been and will continue to be a top priority. For agriculture to continue as a viable industry, specific standards which address preferred uses, farmland retention and diversification of the agricultural economy are essential.

- ☞ Farming, animal husbandry and agribusiness are the primary uses in the Agricultural Zoning District. Agriculture, including animal husbandry is the preferred and primary use in the agricultural zoning district. Non-farm construction is not appropriate. To minimize conflicts between land uses, non-farm construction must be limited and that which is allowed must officially recognize the characteristics of an active agricultural community, i.e. odor, dust, noise. In particular, housing development should be limited and consideration given in subdivision design to the potential effects on neighboring agricultural operations. Subdivisions and the sale of long strips of lots fronting on existing roads should be avoided.

- ☞ The ability to diversify agricultural operations and to expand agribusiness and agricultural support services is crucial to the continuance of agriculture as an industry. These businesses are critical adjuncts of the agricultural industry and may involve noise, dust and odor. The County will review existing setbacks and buffers for these types of business keeping in mind that agriculture is the preferred use in this area and non-farm construction is discouraged.
- ☞ Farm-based businesses and cottage and home-based occupations that are compatible with agricultural operations are encouraged in the agricultural zoning district as a means to further diversify the County's economy.
- ☞ Large contiguous areas of prime agricultural land are critical to an expanding and prosperous agricultural industry. The preservation of these large contiguous areas reduces the potential for conflicts between farmers and their non-farm neighbors, allows the diversification of agricultural operations and reduces the need for regulations governing nuisances sometimes associated with agribusiness. It is therefore essential to reduce the amount of land consumed by development and to promote the Agricultural Zoning District as the priority area for the targeting of easement programs.
- ☞ Public water and/or sewer systems will not be extended into this zoning district except to correct public health emergencies. The extension of services shall not be interpreted as allowing additional development and allocations will not be granted to parcels between developed areas and treatment facilities.

Strategy: Retain the Resource Conservation District

The County will maintain its current standards for the Resource Conservation District. This district is intended to:

- ☞ Conserve, protect, and enhance the overall ecological values of the Critical Area, its biological productivity, and its diversity;
- ☞ Provide adequate breeding, feeding, and wintering habitats for those wildlife populations that require the Chesapeake Bay, its tributaries, or coastal habitats to sustain populations of those species;
- ☞ Conserve the existing developed woodlands and forests for the water quality benefits that they provide.
- ☞ Conserve the land and water resource base necessary to maintain and support such uses as agriculture, forestry, fisheries and aquaculture. It includes areas characterized by nature-dominated environments (that is, wetlands, forests, abandoned fields) and resource-utilization activities (that is, agriculture, forestry, fisheries activities, or aquaculture).

GOAL: SUPPORT AGRICULTURE THROUGH OUTREACH AND EDUCATION

Strategy: Promote a regional Farm Link Program

The County will encourage a local agricultural interest group to establish a Farm Link Program which helps match farmers (especially young farmers) with those who want to sell or lease their farms.

Strategy: Develop an outreach program to recognize agriculture and its importance to the County

It is important for visitors and new county residents to recognize the importance of agriculture and its value to the County. Outreach through brochures, interpretive sites along the Chesapeake Country National Scenic Byway, or signs located at key gateways may encourage people to become more aware of the countryside and to better understand the needs of farmers.

Strategy: Promote the use of best management practices and support full funding of technical assistance and cost share programs

Although most farms already employ best management practices, there is a need to develop comprehensive farm management plans and update existing practices. Comprehensive farm management means coordinated nutrient and erosion control practices, which are one of the best ways to mitigate the environmental impacts of agriculture. One way to introduce new practices to farmers, contractors and the community is with agricultural and habitat restoration field days. Increased funding is necessary to provide the technical assistance to prepare the plans and the cost share to then implement the plans.

GOAL: PROMOTE VOLUNTARY PROGRAMS TO PERMANENTLY PRESERVE AGRICULTURAL LANDS

Strategy: Investigate a Transfer of Development Rights (TDR) Program

A Transfer of Development Rights (TDR) program is a private sector process for preserving farmland. TDR involves establishment of a "sending" area, which the county wishes to preserve, and designation of a "receiving" area where growth is planned and adequate public facilities are in place or planned. For example, a developer purchases development rights (density) from a landowner in the sending zone and uses them to build at a higher density in the receiving zone.

Strategy: Explore County Purchase of Development Rights (PDR) Program

The County will explore options for funding a County Purchase of Development Rights (PDR) program to supplement the Maryland Agricultural Land Preservation Foundation and Maryland Environmental Trust Program. The creation of a local PDR program would allow the county to establish its own standards for determining easement value, set its own procedures for paying landowners, and have more control over funding levels. The funds generated from this program will be used for acquiring development rights in the Agricultural Zoning District.

Strategy: Maintain a State Certified Agricultural Preservation Program

Kent County will maintain state certification of its agricultural preservation program. The Maryland Department of Planning and the Maryland Agricultural Land Preservation Foundation currently certify county agricultural land preservation programs, which affects the allocation of state agricultural transfer tax revenues. Counties which are certified, such as Kent, retain 75% of the locally derived agricultural transfer tax revenues. Part of maintaining certification requires the commitment of county funds towards easement acquisition. The County will continue to commit the minimum funds necessary to remain certified and will look for ways to increase funding above the minimum requirement.

Strategy: Participate in all available land preservation programs

There are a variety of land preservation programs available. The County will continue to participate in as many programs as possible. These programs may include but are not limited to the Maryland Agricultural Land Preservation Foundation, the Maryland Environmental Trust, the Rural Legacy Program, the Federal Farmland and Ranchland Preservation Program, the Delmarva Conservation Corridor, and the Eastern Shore Land Conservancy Agricultural Security Corridor. The County supports the efforts of the Eastern Shore 2010 Agreement to preserve through permanent easements 50% of the Upper Eastern Shore's Resource Lands by 2010.

Strategy: Explore tax credit incentive program for lands protected by MALPF Districts and Easements

Many counties offer tax credits to landowners enrolled in the Maryland Agricultural Land Preservation Foundation Program as an incentive to encourage landowners to participate. It may also be possible to use a tax credit program to provide funding for land preservation by allowing landowners to pay the full tax but have the value of the credit placed in a land preservation fund.

Strategy: Support funding of all land preservation programs

It is important at all levels of government that funding for agricultural preservation programs be maintained or increased. These programs may include but are not limited to the Delmarva Conservation Corridor and Federal Farmland and Ranchland Protection Program, the Maryland Agricultural Land Preservation Program and the Rural Legacy Program.

Program Evaluation

The County adopted a new Land Use Ordinance in December 2002, which went into effect in October 2003. The new Ordinance attempts to address the “farmette” issue and encourage the preservation of agricultural and resource lands. Subdivisions within the Agricultural Zoning District cannot use more than 10% of the parcel in lots; however, subdivisions where all the proposed lots and the remainder are over 100 acres do not count toward the maximum developed percentage. With this restriction, landowners are unable to fragment the Agricultural Zoning District into 20-30 acre farmettes. In addition, there can be no more than 2 new lots fronting onto an existing public road. The base density remains at 1 dwelling unit per 30 acres.

There is also an enclave option of 1 dwelling unit per 10 acres, but the bulk and design standards are very restrictive. The 10% rule still applies. In addition, the maximum lot size is 0.75 acres, the maximum enclave is 10 units with only 1 per parcel. There is a 600 foot setback from the external access road, plus a 600 foot setback from any protected lands (easement or district). Finally, as part of its decision, the Planning Commission must make a finding on the impact of the enclave on the agricultural operation. Only one landowner has submitted an enclave proposal, but it has not been reviewed by the Planning Commission because so far it has not met all the requirements of the Land Use Ordinance.

Subdivision activity can vary greatly from one year to the next, but in general, more subdivision activity occurs in development areas than in agricultural areas. In 2004, of the 79 lots created, only 6 were located in the Priority Preservation Area. In 2005, of the 74 lots created, only 4 were located in the Priority Preservation Area. Due to a moratorium in three of the Villages, subdivision activity was very limited in 2006. Only 13 new lots were created, and 6 were located in the Priority Preservation Area. The data for 2007 and 2008 is still being compiled. However, subdivisions in the Priority Preservation Area are often related to providing a building lot for a child or grandchild. Very few of the subdivisions are completed with the intent of selling the lots for profit. During the same time period, over 7,500 acres were permanently preserved.

The Agricultural Zoning District also considers how land uses can affect agricultural operations. Beginning with the 1989 Zoning Ordinance, the County removed uses that could

be incompatible with farming such as new churches. With the 2002 Ordinance, the County expanded the uses that support agriculture such as allowing structures for processing animals and farm products.

Shortcomings

The County's most significant shortcoming is dependence on funding from the Maryland Agricultural Land Preservation Foundation to purchase easements. The County recognizes the need to find alternative sources of funding to support land preservation and will investigate means of increasing funding from other sources. At this time, there is not enough development pressure to support a TDR program within the County or the Towns; however, the County will keep the possibility of a TDR program as an option for the future. When the opportunity or need arises, the County will be ready to implement a TDR program. In addition, the County will review existing fees and regulations to evaluate whether or not they interfere with existing agricultural operations or the ability of farmers to diversify. The County is committed to taking a pro-active approach to investigating new opportunities to promote a strong industry.

Appendix D - Priority Preservation Area

