

# CHAPTER V: FARMLAND AND RURAL OPEN SPACE LAND USE PROGRAM



## OVERVIEW

The 1973 Rural Zone Sectional Map Amendment, which affected the area generally recommended for farmland preservation was implemented to provide for "lower densities for use in the rural sections, for the protection of agriculture, environmental features, extensive recreational facilities, and residential use of a rural character." Since that time several significant changes have occurred within Montgomery County.

1. Farming has been shown to be a viable industry and a reasonable use of the land.
2. Preservation of farmland has been shown to be in the public interest.
3. The existing Rural Zone, alone, has been shown to be ineffective in protecting farmland from conversion to non-agricultural uses.
4. The increasing cost of energy, in recent years, strengthens the rationale of the General Plan because the growth management policies which recommend a compact form of development, and decrease the cost of sprawl to the homeowner, taxpayer, and consumer.
5. The need to preserve regional food supplies close to primary markets and international ports has become vital to energy conservation, the balance of payments, and the cost of a basketful of groceries.
6. Active farmland preservation programs within the State and region have been established.

As a result of these changes, this Functional Master Plan recommends that 110,000<sup>31</sup> acres of Montgomery County remain rural with agriculture as the most encouraged use. The 27,000 acres in the growth centers of Clarksburg, Damascus, Olney, and Poolesville serve the commercial and residential needs of the Study Area<sup>32</sup> while the open space needs are met on 26,000 acres in the Goshen/Woodfield Open Space Area, Lower Patuxent Conservation Area, Olney Rural Open Space Area, Boyds Master Plan Area, Sandy Spring/Ashton Area, and in other areas outside of the Agricultural Preservation Study Area including Potomac, Darnestown, Rock Creek, and Cloverly thereby implementing the overall objectives of the General Plan. A generalized land use and zoning map may be found in this Chapter. However, a detailed zoning and land-use map is included in the back pocket of this Plan.

AGRICULTURAL PRESERVATION STUDY AREA  
LAND USE DISTRIBUTION

<u>AGRICULTURAL RESERVE</u>	<u>110,000</u> Acres
RURAL OPEN SPACE AREAS	26,000 Acres
Goshen/Woodfield Open Space Area	
Olney/Sandy Spring/Ashton Rural Open Area	
Lower Patuxent Conservation Area	
Boyds Master Plan Area	
GROWTH CENTERS	27,000 Acres
Damascus Planning Area	
Clarksburg Planning Area	
Olney Town Center	
Town of Poolesville	
<u>STUDY AREA TOTAL.....</u>	<u>163,000</u> Acres

This Plan, then, proposes the use of the State Agricultural Land Preservation Program, rural clustering (Rural Cluster Zone - RC), transfer of development rights (Rural Density Transfer Zone - RDT), and the creation of a County Development Rights Revolving Fund to preserve farmland. These proposals are recommended to complement a series of positive overall government policies that are consistent with the intent of the preservation program expressed in this Plan. The policies are detailed in Chapter VI and VII.

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31 This 110,000 acre figure is gross; it includes existing rural subdivisions, rural communities, public lands, etc. Also, the Olney Planning Area recommendations for preservation of 15,300 acres of farmland have been included in the overall 110,000 acre figure.

32 When the revised Clarksburg and Damascus Master Plans are revised, additional farmland and open space acreage probably will be added to the total acres protected since both planning areas will not be developed entirely.

Preservation in this Plan, is one element in a comprehensive growth management framework that utilizes a wide range of public policies and regulatory techniques that are responsive to the different types of farmland and rural open space areas and the unique development pressures affecting them. It is a positive program designed to channel growth into designated growth areas so that market forces are not stopped, but deflected. Preservation and urban policy must complement each other. According to the National Association of Counties, Research Foundation Study, Disappearing Farmlands.<sup>33</sup> "Any one approach to farmland preservation is not likely to be effective, if other government programs or policies are inconsistent with it. For example, agricultural zoning can be undercut, if the local capital improvement plan calls for the extension of urban services into prime farming areas. Similarly, agricultural districting and the purchase or transfer of development rights can help preserve farmland, but may not succeed in preserving farming itself, if state or local policies do not support agriculture as an ongoing enterprise. And state and local initiatives themselves may be rendered ineffective if federal actions are not consistent with them. A coordinated farmland preservation strategy that meshes all the policy tools of government is the approach that is most likely to succeed."

In Montgomery County, the success of the existing growth management strategy is based upon private sector regulation and public facility planning within a coordinated public policy context; a similar approach has been utilized in this farmland and rural open space preservation program.

## PRESERVATION FRAMEWORK

This Plan reflects certain assumptions about farmland and rural open space preservation in the County. These assumptions are critical to understanding the preservation program, since they provide the basis for the plan recommendations.

PROGRAM ASSUMPTION 1: Farmland and rural open space preservation serves an important public purpose.

This Plan is based upon the assumption that preservation is in the public interest and local government plays a critical role in the protection of that public interest. This issue was discussed in Chapter IV, Farmland Preservation as a Public Purpose Issue. The preservation of farmland sustains a cultural landscape that is historically and immediately important to our society, it offers significant environmental values in the management of soil, water, and air resources of the region, it encourages an orderly form of development and the provision of public services in a logical and cost-effective manner, and it functions as an integral part of agricultural preservation activities within the entire region.

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National Association of Counties, Research Foundation Study, Disappearing Farmlands, Washington, D.C. December 1979, page 15.

PROGRAM ASSUMPTION 2: A critical mass of farmland and rural open space is located in the Agricultural Preservation Study Area.

The Agricultural Protection Study Area forms an identifiable and cohesive critical mass of farmland. It supports a viable agricultural community.

PROGRAM ASSUMPTION 3: Farming is a reasonable land use in Montgomery County and is an economically productive industry.

This Plan is based upon the fact that farming is a practical and reasonable use of the land and is a proven productive industry, especially when considered as part of the larger Piedmont agricultural community.

PROGRAM ASSUMPTION 4: A comprehensive agricultural preservation program strengthens the basic objectives of the General Plan.

The agricultural preservation program is fundamental to the preserving of the Wedges expressed in the General Plan. This Plan confirms the recommendation for satellite growth areas in Clarksburg, Damascus, Olney, and Poolesville, as expressed in the General Plan and detailed in adopted and approved area master plans. For the first time, this Plan offers an effective means of preventing urban sprawl from consuming the Wedge area included in this Agricultural Preservation Study Area.

PROGRAM ASSUMPTION 5: It is unrealistic to assume all farmland and rural open space can or should be preserved in the Agricultural Preservation Study Area.

Preservation does not mean that every farm, regardless of size, productivity or location should be preserved forever. A farmland preservation program should be selective. Preserving a small farm which is surrounded by residential development, for example, or one which lies on the edge of an urban area, may prevent orderly development and result in a leap frog expansion pattern. Preservation policies should be sensitive to surrounding land use activities and future growth potential, and farmland conservation areas should be designated accordingly.

This Plan recognizes the need for commercial and residential uses to serve the agricultural industry and the rural community at large. In accordance with the General Plan, this Plan supports growth centers of various sizes and in accordance with adopted plans in Clarksburg, Damascus, Olney, and Poolesville.

The Plan also recognizes that some residential development will occur even in productive areas. Therefore, residential development options are available in farming areas but only on a limited basis and in a manner that is consistent with preservation policies. This is why the plan proposes two rural land use categories; one emphasizes agriculture, the other open space.

There are some 30,000 acres of farmland outside of the Study Area boundary. These farms do not create an identifiable critical mass, and are not generally critical to the survival of Montgomery County agriculture. Generally, they are large scattered farm parcels. On some farm tracts sewer service is available and more intense zoning has already been applied or is obtainable. These farms should be encouraged to develop, since withholding them from urban use works counter to public policy and forces growth into fringe areas. There are other farm tracts within the envelope that should be encouraged to remain in farm use for a period of time as specified by area master plans and staging policies.

PROGRAM ASSUMPTION 6: Present zoning is ineffective in stopping residential conversion.

The agricultural portions of the County are now zoned for 2-acre or 5-acre lots. The Rural Zone, which was imposed by Sectional Map Amendment in 1973, is designed to limit non-agricultural uses and restrict any residential lots to five acres or more. The Rural Zone does not require that farming continue, or even prevent 5-acre lots from pre-empting farmland. Recent subdivision activity, as noted in Chapter III, highlights the inability of this zone, alone, to prevent the loss of farmland. A review of rural subdivision plans submitted throughout the County shows that lot sizes are now ranging from 4 to 15 acres. Thus, even the lowest residential density now available in Montgomery County, 5 acres, only slows but does not stop farm conversion.

PROGRAM ASSUMPTION 7: A comprehensive preservation program should include both traditional and innovative zoning powers and conservation techniques.

Planning has historically been oriented toward urban development and urban land use needs. Most zoning ordinances for example, contain numerous categories relating to urban uses but none regarding agriculture. Rural residential provisions are usually intended to accommodate suburban development and conserve open space rather than to retain farmland.

Land use regulations and economic incentives are needed which specifically relate to agricultural preservation. Zoning must be adapted to agricultural needs and supplemented by programs which recognize farming as an essential economic activity. Existing tax laws which reduce farm assessments have a temporary effect. They benefit current farmers and prolong their willingness to farm but they do not, in the long run, prevent the overall conversion process.

PROGRAM ASSUMPTION 8: Agricultural support services are important aspects to the continuance of farming.

A viable agricultural community requires nearby sources of seed, feed, fertilizer and farm equipment. It requires an available supply of labor and it requires a system for marketing its products.

It is vital to the economic well being of the agricultural community to develop appropriate programs and land-uses that encourage the continuance of farming. Such uses must be permitted and encouraged in agricultural areas, since they are compatible with and essential to it. The expanded list of permitted and special exception uses already expressed in the Rural Density Transfer Zone (RDT) and Rural Cluster Zone (RC) have gone a long way in supporting agricultural activity and related support services.<sup>34</sup>

PROGRAM ASSUMPTION 9: A comprehensive preservation program should not negatively affect housing opportunities for Montgomery County residents.

Unless a scarcity can be claimed for large rural lots, the proposed program cannot be expected to significantly affect the supply or price of housing in Montgomery County.

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<sup>34</sup> A summary of these zones is included in the Appendix A.

## PRESERVATION LAND USE POLICIES

The Proposed Land Use and Zoning Map illustrates the spectrum of recommended land use categories which represent the different land use policies to be applied. These land use policies make a distinction between the Agricultural Reserve, Rural Open Space, rural communities and villages, and growth areas such as the corridor cities and satellite communities.

- Agricultural Reserve (Primary Agricultural Areas)

This area includes the majority of the remaining working farms, as well as other land uses that will serve to define and support those working farms. It represents the County's critical mass of farms and is the focus of the Plan's farmland preservation policies.

- Rural Open Space (Secondary Agricultural Areas)

This area is generally located close to the developing areas. Although the soils are productive, much of the land has already been lost to residential development. The farms that remain are interspersed with rural subdivisions. Policies for the Rural Open Space Areas encourage a carefully planned mix of residential and farming uses.

- Rural Communities and Villages

These are historic rural settlements that were not affected by the 1973 Rural Zone Sectional Map Amendment of the upper county. Today the rural communities and villages remain zoned R-200 (1/2 acre lot sizes), or as in Boyds and Sandy Spring/Ashton which are governed by separate local area master plans. This functional plan reconfirms and is consistent with land use recommendations of those area master plans. There are also rural communities that have their own planning and zoning authority, Barnesville, Brookeville, and Laytonsville; therefore, recommendations are not made for those areas. These communities often provide limited number of commercial services to area residents. This Plan supports limited convenience and agriculturally related commercial activities in the rural settlements.

- Corridor Cities and Satellite Communities (Growth Centers)

These are areas designated for development in conformance with the General Plan. The extent and intensity of development will be or already has been identified in area master plans. As a result, this Plan makes no specific recommendations for the Clarksburg, Olney, and Damascus Planning Areas or the Town of Poolesville.

A portion of the Clarksburg Planning Area is identified in the General Plan as a corridor city and occupies a strategic location in the I-270 corridor; it is in the path of future corridor development. The Comprehensive Staging Plan (CSP) has already placed half the planning area in a sewer priority

category which will permit public sewer subdivision applications between 10 and 20 years.

The Olney Planning Area was the subject of a recent area master plan. Recommendations confirmed agricultural and rural open space uses within the planning area and utilized the Rural Density Transfer Zone (RDT) and Rural Cluster Zone (RC). In addition, a TDR receiving area for use only within the planning area was identified in the greater Olney area. This Plan confirms the land use and zoning recommendations of the Olney Master Plan.

The Poolesville Vicinity and the Town of Poolesville were the subject of recent master plans. Recommendations in those plans confirmed agriculture as an appropriate land use in the areas surrounding the Town of Poolesville and confirmed limited commercial development within the Town designed to serve, in part, the agricultural community.

The Damascus Planning Area is currently the subject of a study for a revised area master plan which will probably include its own preservation program. The General Plan calls for a satellite community in Damascus; this designation should be reassessed in light of the upcoming area master plan because of its location within the critical mass of farmland. The upcoming plan will also identify the overall growth ceiling, environmental constraints, and transportation network.

## PRESERVATION RECOMMENDATIONS

The purpose of this section is to recommend a planning framework to preserve the 110,000 acres designated for the Agricultural Reserve and 26,000 acres proposed for Rural Open Space Areas. Since one of the most serious threats to the Agricultural Reserve and Rural Open Space Areas is development<sup>35</sup>, the recommendations focus on policies that a) stabilize land values; b) minimize development pressures; c) avoid premature and fragmented subdivision; d) protect agricultural practices; e) improve agricultural support services; f) maintain a critical mass of agricultural land; g) relate County farmland preservation efforts to those of our neighboring counties; and h) channel growth into Clarksburg, Damascus, Olney Town Center, and Poolesville as recommended in the General Plan. The recommendations are based upon the premise that a positive preservation program can be justified to be in the public interest and that a wide spectrum of planning techniques developed to ZONE IT, REGULATE IT, TDR IT,<sup>36</sup> AND/OR BUY IT will be successful in protecting that public interest.

The four recommended techniques to preserve farmland and rural open space are the State Agricultural Land Preservation Program, Rural Clustering, Transfer of Develop-

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35 Other factors affecting farmland conversions include production costs, labor supply, profit margins, taxes, etc.

36 Transfer of Development Rights.

ment Rights, and the creation of a County Development Rights Bank. The overall recommendations for each of these elements are as follows:

### State Farmland Preservation Program Recommendations

State supported farmland districts and easement purchases are recommended for use in all Agricultural Preservation Study Areas if the farm parcel meets the criteria established by both the State and the Montgomery County Agricultural Board and Committee. The State program is administered by the Maryland Agricultural Land Preservation Foundation of the Maryland Department of Agriculture. The Foundation is an 11 member body appointed by the Governor, 2 are heads of State departments.

The program is completely voluntary on the part of owners of eligible farmland and involves the establishment of Agricultural Preservation Districts in which the landowner agrees not to develop the land for at least a period of five years. In exchange, normal agricultural activities (i.e., noise, odor, night operations, machinery operation, etc.) become protected activities in the District and, in Districts involving more than one property, landowners can assure self-protection from the encroachment of other land uses. For many landowners, a District which provides agricultural land use protection in addition to easement sale eligibility, is an attractive option.

Once a farm has been accepted into a District, the owner is immediately eligible, but not obligated, to sell a development right easement to the Foundation. To sell an easement is to sell only one of the many rights the property owner enjoys, the right to develop the land. When an easement is sold, the owner continues to own the farm or sell it, but the owner and his heirs, or the new buyer, can be assured that the farm will remain undeveloped.

The sale of an easement results in exchanging a portion of equity in land for cash and easement sale eligibility, or even a gift of the easement to the State can be used effectively in estate planning through providing a means of equitably dividing an estate while saving the family farm.

### Rural Clustering Recommendations

Rural clustering, is recommended in designated Rural Open Space Areas via the Rural Cluster Zone (RC); these are areas where subdivision activity has already eroded parts of the critical mass of farmland. Rural clustering retains open space by allowing residences to be grouped on a portion of the site and fosters a more cost-effective development pattern than conventional residential development. Overall density as established by the Rural Zone, would not be changed; it would remain at one dwelling unit per 5 acres with a cluster option for 1 acre minimum lot sizes (40,000 square feet). For example, if the base zone is one dwelling unit per 5 acres and the tract is 200 acres in size, the number of permitted dwellings is 40 units. The cluster option would allow these 40 units to be grouped on lots as small as 1 acre on approximately 40 percent of the parcel or 80 acres. The remainder of the tract (approximately 60 percent or 120 acres) could be preserved as open space or used for agricultural uses. Thus, the overall density, 1 dwelling unit per 5 acres, would not change. These areas can be publically watered and sewered if service can be logically and economically extended or the area can be tied into existing transmission systems.

By employing this technique, development can be confined to a smaller portion of a

site, thereby preserving the remaining land for agriculture or open space. The opportunity for continued farming operations is lost as productive farmland is carved piecemeal into individual residential lots. By grouping homes and requiring that a percentage of contiguous land be preserved from development, the opportunity remains for continued farming via a leaseback approach or, at the minimum, for open space. The location of the proposed Rural Open Space Areas is illustrated on the Proposed Land Use and Zoning Map.

#### Transfer of Development Rights Recommendations

For those areas designated as the Agricultural Reserve, the Rural Density Transfer Zone (RDT) is recommended. These areas contain a critical mass of productive farmland worthy of protection, as well as other non-farmland uses which serve to support and define the critical mass. The location of the proposed Agricultural Reserve is illustrated on the Proposed Land Use and Zoning Map.

A Transfer of Development Rights (TDR) program<sup>37</sup> should be implemented to help preserve farmland and farming in the Agricultural Reserve. The zoning technique to implement a TDR program is the Rural Density Transfer Zone (RDT). TDR is like cluster zoning in that development is shifted from the Agricultural Reserve to another area in order to preserve farmland. The basic difference is that TDR sending and receiving areas are not contiguous as in most cluster zoning situations and are not necessarily in the same ownership. By clustering residential uses away from farmland, TDR preserves a critical and irreplaceable natural resource while still allowing for needed housing.

There are two basic steps necessary to use TDR: 1) establishment of a density transfer "sending area" in which development rights are created and can be purchased, and 2) designation of density transfer "receiving areas" where the land and public services are capable of absorbing additional density. This Plan creates an obligation to examine all newly proposed master plans and all substantial amendments to existing master plans to identify suitable locations for receiving areas with the capacity to implement this Plan. The specific density bonuses, as defined in the receiving areas, should adhere to the following guidelines:

- a. The base or minimum density recommended by the master plan for a receiving area would not be below the minimum that would be reasonable from a planning perspective.
- b. The optional density through transferable development rights recommended for a receiving area in a new master plan shall not exceed the ability of the planned public facilities to serve the area or the ability of the land and the environment to accommodate the optional density, including MPDU's; and the optional density and related land uses shall be compatible with the density and uses planned for the surrounding areas.

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<sup>37</sup> This concept is a private market approach of the same objective as the 1977 State law, entitled "Maryland Agricultural Land Preservation Foundation" which allows the state to purchase development rights from a farmland owner.



- c. In general, property proposed in a new plan for downzoning from its existing zoning should not be designated as a receiving areas.
- d. The Transfer of Development Rights option generally should not be exercised to increase density derived from the Planned Development option.

#### Relationship of the Sending and Receiving Areas to the TDR Program

As noted previously, the TDR program would apply only to an area specifically identified for inclusion in the Agricultural Reserve area. The areas identified for inclusion in the Agricultural Reserve, are appropriate as sending areas since they demonstrate a long history of agricultural use and are interrelated to one another forming a critical mass of farmland. The development density, at one dwelling unit per 25 acres, is appropriate and consistent with studies in Montgomery County and other locations in the United States which demonstrate that a 25-acre parcel and smaller farm parcels, if managed properly, are economically viable.<sup>38</sup> The development density certainly helps to preserve the farmland, while the equity aspect of the TDR program encourages farming.

The TDR program is an optional, voluntary program; a landowner can still develop under the Rural Density Transfer Zone (RDT) if he so chooses. The base density of this zone is one dwelling unit per 25 acres. However, the sender bases the number of development rights to be sent on the density currently permitted under the Rural Zone, one dwelling unit per 5 acres.

The development value of the farm is not being "wiped out" by the proposed TDR program with no compensation to the owners. The TDR program, allows farmland owners to sell their development rights and still retain the title to their land. The sale of development rights can help to finance capital improvements needed on the farm without carving small residential lots from the farm. This approach, unlike traditional zoning techniques, offers farmland owners an economic incentive to resist development pressure by allowing for the sale of development rights, thereby helping to preserve the farming activity as well as the land itself.

Receiving areas are those areas where development rights are transferred to increase residential density. A developer must purchase development rights from a farmer in the Agricultural Reserve area, on the basis that one development right equals 5 acres of farmland. Remember that the additional units allowed in a receiving zone are being transferred from the Agricultural Reserve. They are units which could be built under the provisions of the Rural Zone at one dwelling per 5 acres. The TDR program simply shifts them from the Agricultural Reserve to designated receiving areas.

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38 Rene Johnson, white paper report entitled, "Small Farm Economics, Office of Economic Development, March 1980 and "Small Farm Costs and Returns," Purdue University, Department of Horticulture, Agricultural Experiment Station, Bulletins 223 and 232, West Lafayette, Indiana, 1978.

These receiving areas, however, have not been identified in this Plan. A detailed study of the receiving areas is needed to ensure that appropriate base and maximum (bonus) densities are assigned to minimize any adverse community impact. Not every area will be an appropriate TDR receiving area. As master plans are developed, or revised, opportunities to create receiving areas should be examined. It is recognized that identification of receiving areas is a key element of the TDR concept and essential for the degree of public confidence necessary to make the concept work. It is the Council's objective to accomplish the necessary studies and master plan amendments to provide for a reasonable balance of sending and receiving areas within a two-year time frame. Further, the Council expects the Planning Board to report within 6 months following approval of the Agricultural Preservation Master Plan areas suitable for establishment of additional receiving areas. The proposed County Development Rights Fund could play an important role in development right purchase prior to the opening of appropriate receiving areas.

The location, size and development potential of the receiving areas are important elements of the TDR program. Montgomery County is fortunate in that we have a relatively wide variety of possible receiving areas. The purchase of development rights must be very attractive to developers. If receiving zones are well located from a marketing standpoint, and the density bonuses are sufficient to justify the purchase of development rights, the TDR concept will work.

To emphasize again, the TDR concept shifts the potential for dwelling units from an important natural resource in the Agricultural Reserve to land more suited for development, the receiving areas. The receiving areas will be identified in adopted and approved master plans and will be consistent with environmental, transportation, housing, and population guidelines of those master plans.

An example of an operational TDR program is as follows:

#### Sending Area

Farmer A owns 600 acres.

1. Parcel must be in the Agricultural Reserve.
2. Farmer A, owning 600 acres, his development rights are calculated at one unit per 5 acres, therefore Farmer A controls 120 development rights.  $\frac{600}{5} = 120$  development rights.
3. Farmer A wishes to develop some lots on the farm; the Rural Density Transfer Zone permits Farmer A to convert 20% of the development rights into building lots (each lot having a minimum of 40,000 sq. ft., approximately 1 acre) on the farm.
  - 120 development rights x 20% = 24 lots which may be subdivided from the 600 acre farm.
  - 120 development rights x 80% = 96 development rights that are eligible for transfer.

4. After development rights are transferred to a receiving area, a restrictive easement on the property is filed among the County's land records limiting the development potential of the property to the number of rights retained. The restrictive easement is "owned" or controlled by the government. In this way, only action by the Council at some future time could release the easement. But even then, no more development could occur unless the parcel was also rezoned. However, if this occurs, the development potential of the parcel would be reduced by the number of development rights already sold. Once the development rights are sold, they may not be restored.

### Receiving Area

Developer B owns 80 acres.

1. A receiving area and TDR density bonus must be designated in an approved and adopted master plan.
2. Developer B would like to acquire 120 development rights. He approaches Farmer A and buys his 96 development rights and approaches another farmer to purchase the additional 24 development rights that he needs. Farmer A now has no development rights left for future sale. An easement on Farmer A's property documents the sale of the 96 development rights.
3. Developer B owns 80 acres, zoned RE-2 (1 unit/2 acres). With the base density he has the right to build  $40 \text{ units} \frac{80}{2} = 40 \text{ units}$ . With TDR, the land may increase in density to 2 units/acre  $80 \times 2 = 160 \text{ units}$ . To qualify for the higher density (120 units more than the base RE-2 zoning allows), Developer B must purchase 120 development rights.
4. A preliminary subdivision plan will be approved if Developer B acquires at least two-thirds of the units as a result of the density bonus. He is not required to purchase 100 percent of the allowable density bonus:

$$\begin{aligned} 2/3 \times 120 \text{ units} &= 80 \text{ units, minimum TDR purchase} \\ &\quad \underline{40} \text{ units, base zoning} \\ &= 120 \text{ units, minimum number of units.} \end{aligned}$$

In this example, Developer B wants to purchase 100 percent of the allowable density bonus. Developer B could utilize the full 120 development rights purchased from the farmers, plus the 40

units permitted under the base zoning. This results in the 160 units which are the maximum permitted as a result of the TDR density bonus.

### Making the TDR program Work

Two key elements are needed for the TDR recommendation to work: 1) the identification of receiving areas in area master plans; and 2) the calculation of the farmland that is to be preserved. The County Development Rights Fund or Bank is the subject of a report to accompany this Functional Plan. The receiving areas will be identified subsequent to the approval and adoption of this Plan. The specific amount of uncommitted farmland to be preserved can be defined within this Plan. In addition, the preservation program could be assisted by a County Development Rights Fund or Bank for an interim period. Due to the fact that receiving areas will be identified through individual master plans, it may be desirable to create a fund or bank to ensure the existence of an interim market for TDR's if a reasonable number of receiving areas are not available soon after the adoption of the sectional map amendment. The legislation to create a County Development Rights Fund or Bank should accompany the sectional map amendment for this preservation plan.

Excluding the Olney Planning Area, there are approximately 73,000 acres of uncommitted land in the Agricultural Reserve<sup>39</sup> to which development rights are applied, that is, land which is undeveloped, not in public ownership, and not in a municipality. As shown on Table 1, there are approximately 15,000 development rights generated by these 73,000 uncommitted acres which are available for transfer from the Agricultural Reserve to the receiving areas.

This many rights will probably never be fully utilized in the receiving areas since some farmland owners will decide not to sell all of their rights, others may choose to donate their land to an organization like the Maryland State Environmental Trust (see Appendix C for a description of the Trust), others will develop their farms at the base RDT density of one dwelling unit per 25 acres, some farms will be acquired for public uses, while others will sell their development rights to the State.

Although there are a maximum 15,000 dwelling units to transfer from the Agricultural Reserve, not everyone will choose to participate in the program for reasons noted previously. We can assume that 9,000 dwelling units is a more realistic number. The areas already within the sewer envelope could easily absorb this amount.

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39 A TDR program in the Olney Planning Area is already an element within an adopted and approved master plan. All calculations exclude the program already developed for Olney since it is designed to operate only within a single planning area.

TABLE 1

ESTIMATED NUMBER OF DEVELOPMENT RIGHTS  
IN THE AGRICULTURAL RESERVE\*

<u>Uncommitted Acres</u>	<u>Transfer Density</u>	<u>Development Rights to Send</u>
(a)	(b)	(a ÷ b)
73,000 acres	1 D.U./5 Acres	15,000 (Rounded)

\*Although there are 110,000 total gross acres in the Agricultural Reserve, only 73,000 acres remain uncommitted. The Clarksburg and Damascus Planning Areas are excluded since they are the subjects of upcoming area master plans; the Olney Planning Area is excluded since it has an operational farmland preservation plan within its boundaries; all publically owned land and municipalities, are also deducted from the total gross 110,000 acres, thereby leaving a residual of 73,000 acres uncommitted.

County Development Rights Fund Recommendations

As envisioned by this Plan, the County Development Fund could commit all, or part of the money available each year to: (a) guarantee loans through private banking institutions, (b) make loans and/or, (c) purchase TDR's funded by general obligation bonds at a level which permits acquisition of development rights at the historic rate of farm sales during the last decade.

Once an adequate market for TDRs has been established by adoption of receiving areas, the Fund could liquidate its holdings in TDRs and return the proceeds to the County treasury. This liquidation process should be orderly and gradual to prevent "flooding the market" with TDRs.

The County Development Rights Fund would be operated by the County government. The bank would be funded by general obligation bonds. It would be funded at a level which permits acquisition of development rights at the historic level of farm sale conversion. On the average 1,000 acres of farmland are lost each year in the Agricultural Reserve.<sup>40</sup> At a cost, in 1980, to purchase development rights less its agricultural value it costs \$1,500-\$2,000 per acre. Based on these general figures, a Montgomery County Planning Board staff report focusing on program costs, funding sources, and funding levels will accompany this Plan.

<sup>40</sup> Approximately 100 building permits are issued each year in the Agricultural Reserve. The average parcel size is 7-10 acres, which results in 1,000 acres lost to residential development yearly in the Agricultural Reserve.

This proposal would insure that the land from which the development rights are sold can be used or sold as farmland only, without development rights. This will permit farmland to be bought relatively reasonably, thereby helping the young farmer establish a land base or an older farmer expand his production capability. The Fund is a critical element to the success of the proposed farmland preservation program.

## SPECIFIC AGRICULTURAL PRESERVATION STUDY AREA RECOMMENDATIONS

This chapter has outlined a program that is designed to preserve farmland. The following section specifically highlights land use and zoning recommendations for the individual planning areas within the Agricultural Preservation Study Area excluding the municipalities and identified growth areas. To facilitate understanding, the Study Area has been broken down into three sectors, since the area is so large and the issues vary from planning area to planning area.

### Eastern Sector includes:

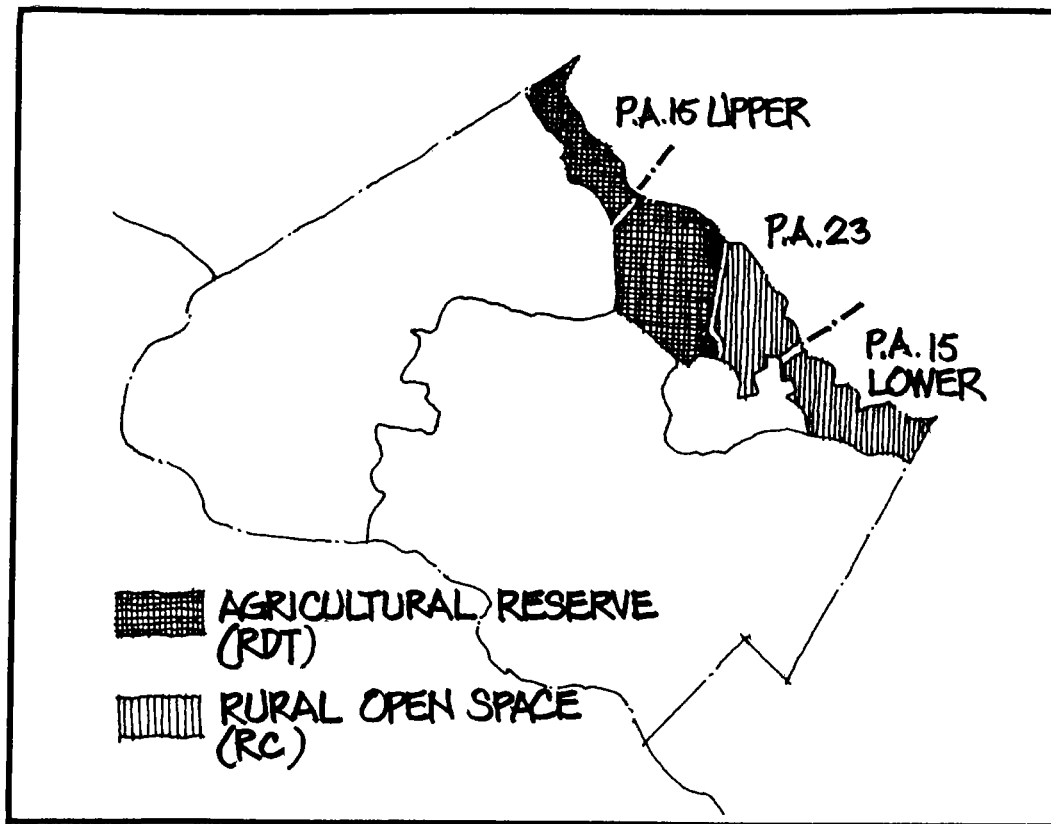
- Patuxent Conservation Area (P.A. 15)
- Olney Planning Area (P.A. 23)
- Sandy Spring/Ashton Special Study Area

### Central Sector includes:

- Bennett and Little Bennett Watershed (P.A. 10)
- Damascus and Vicinity (P.A. 11)
- Goshen Woodfield, Cedar Grove and Vicinity (P.A. 14)
- Clarksburg and Vicinity (P.A. 13)

### Western Sector includes:

- Little Monococy Basin, Dickerson, Barnesville (P.A. 12)
- Lower Seneca Basin (P.A. 18)
- Poolesville and Vicinity (P. A. 17)
- Martinsburg and Vicinity (P.A. 16)



EASTERN SECTOR RECOMMENDATIONS

TOTAL ACRES. . . . . 47,000 Acres  
 ACRES CURRENTLY FARMED . . . . . 21,900 Acres  
 PUBLIC LANDS . . . . . 2,600 Acres

	<u>Existing Zoning</u>	<u>Proposed Zoning</u>
PATUXENT CONSERVATION AREA (P.A. 15) <sup>41</sup>		
UPPER	RURAL ZONE	RDT
LOWER	RURAL ZONE	RC
OLNEY PLANNING AREA (P.A. 23)	Approve Olney Master Plan recommendation for RDT and RC.	

<sup>41</sup> "P.A." is an abbreviation of Planning Area.

## EASTERN SECTOR RECOMMENDATIONS

- Approve Olney Master Plan (P.A. 23) recommendations for farmland and rural open space preservation.
- Approve Sandy Spring/Ashton Special Study Plan recommendations for rural open space preservation.
- Rezone the northern (upper) part of the Patuxent Watershed Conservation Area (P.A. 15) from the Rural Zone to the Rural Density Transfer Zone (RDT).
- Rezone the southern (lower) part of the Patuxent Watershed Conservation Area (P.A. 15) from the Rural Zone to the Rural Cluster Zone (RC) when appropriate. Application of these zones should be in conformance with the Eastern Montgomery County Master Plan and the comprehensive rezoning as a result of that plan.

## EASTERN SECTOR JUSTIFICATION

This 47,000 acre sector contains a wide range of land uses, some of which are not compatible with the intent of a farmland preservation program. As a result, the thrust of the farmland preservation recommendations focus on the northern part of the Olney Planning Area (P.A. 23) and the upper Patuxent Conservation Area (P.A. 15).

Designating the upper Patuxent Conservation Area and the northern portion of Olney for inclusion in the Agricultural Reserve is appropriate and consistent with agricultural preservation land use policies as expressed in this Plan. The land area in northern Olney recommended for inclusion in the Agricultural Reserve has already been the subject of an adopted and approved master plan in which this concept was fully endorsed by the Montgomery County Council. Immediately adjacent to the Olney area is the upper Patuxent Conservation Area which also includes some of the most productive soils in Montgomery County which, in turn, support a viable and cohesive agricultural community which is very much an extension of the Olney critical mass of agricultural land.

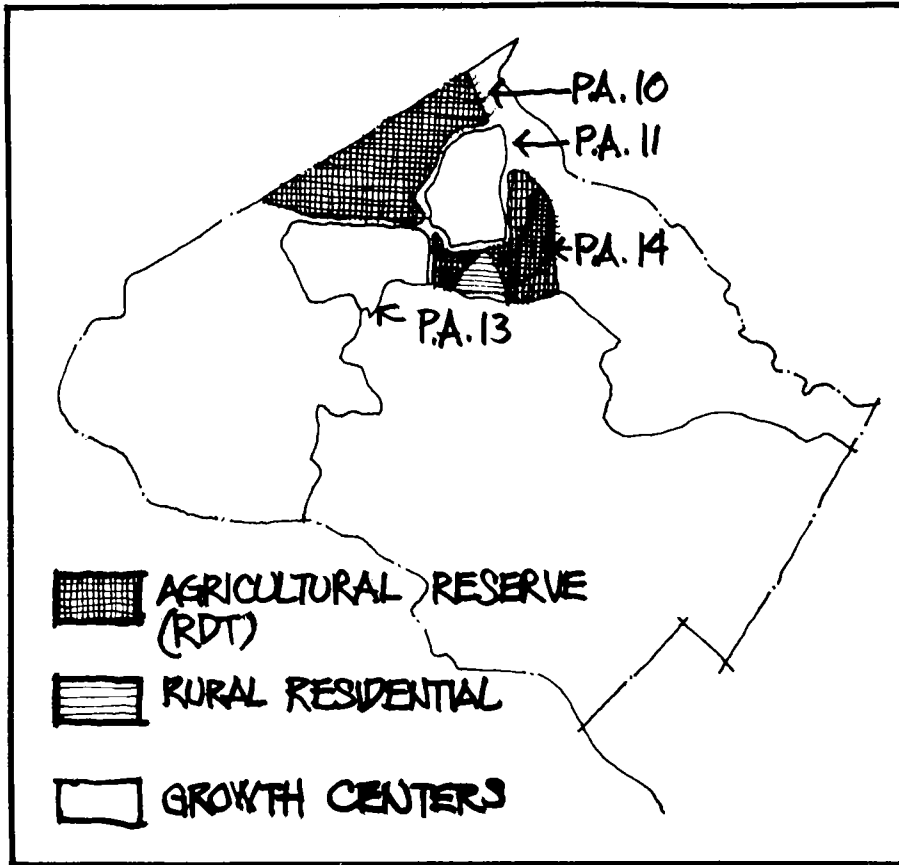
The upper Patuxent Conservation Area includes approximately 6,100 acres, approximately 80 percent of which are receiving farmland assessment. Little subdivision activity has occurred to seriously erode this agricultural area. Only two preliminary plans have been filed and approved since 1978 resulting in 36 proposed lots, none of which have been constructed. A land-use recommendation of this type is not only appropriate for the area but it serves to strengthen the agricultural community within Olney and Damascus and supports the preservation efforts of Howard and Frederick Counties.<sup>42</sup> The upper Patuxent Conservation Area abuts agriculturally zoned land in

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<sup>42</sup> The preservation efforts of our neighbors is expressed and justified in two planning documents - "The Work Force for the Preservation of Howard County Farmland Report 1976" and, "Agricultural Preservation," Frederick County, Maryland 1977.

Frederick County and is approximately 2 miles from Howard County's cluster of agricultural districts.

The lower portion of the Patuxent Conservation Area (P.A. 15) south of the Olney Planning Area has been seriously eroded by subdivision activity and cannot qualify for inclusion in the Agricultural Reserve; the average farm parcel is 50 acres and approximately 40 farm parcels remain out of the area's 7,468 acres. It already has been recommended for open space preservation in the Staff Draft of the Eastern Montgomery County Master Plan and abuts the rural open space area recommended in the Olney and Sandy Spring/Ashton Master Plans. As a result, this Plan recommends: a) to insure compatibility with the area master plans to the northwest and with the Eastern Montgomery County Master Plan; and b) to reflect the land-use pattern already established within the area. Implementation of the rural open space recommendation should be carried out by the Rural Cluster Zone (RC), when appropriate as determined by the Eastern Montgomery County Master Plan.



CENTRAL SECTOR RECOMMENDATIONS

TOTAL ACRES . . . . . 45,000 Acres  
 ACRES CURRENTLY FARMED . . . . . 35,700 Acres  
 PUBLIC LANDS . . . . . 10,300 Acres

	<u>Existing Zoning</u>	<u>Proposed Zoning</u>
BENNETT AND LITTLE BENNETT WATERSHED (P.A. 10)	RURAL ZONE	RDT
DAMASCUS AND VICINITY (P.A. 11)	Subject of Master Plan Update	
GOSHEN WOODFIELD, CEDAR GROVE & VICINITY (P.A. 14)	RE-2	RE-2 & RDT
CLARKSBURG & VICINITY (P.A. 13)	Subject of Master Plan Update	

## CENTRAL SECTOR RECOMMENDATIONS

- Rezone 6,321 acres of Goshen Woodfield, Cedar Grove & Vicinity from RE-2 to the Rural Density Transfer Zone (RDT).
- Confirm 7,689 acres of RE-2 zoning in the Goshen Woodfield, Cedar Grove and Vicinity (P.A. 14).
- Continue preparation of the Damascus and Vicinity Master Plan and exclude the planning area from the scope of this Plan.
- Prepare a new master plan for the Clarksburg Planning Area that re-evaluates the General Plan's recommendation for a Corridor City, and examines Clarksburg's potential for agricultural preservation.
- Rezone the Bennett and Little Bennett Watershed Area (P.A. 10) from the Rural Zone to the Rural Density Transfer Zone (RDT).

## CENTRAL SECTOR JUSTIFICATION

This 36,000 acre sector is the pivotal point in Montgomery County's agricultural and rural open space preservation program. Within the sector, one corridor and one satellite city were designated by the General Plan; the I-270 regional transportation corridor cuts a path through the sector; Goshen/Woodfield Planning Area, once a pristine agricultural area is being eroded in two areas by subdivision activity; pressure from Germantown and Gaithersburg continues to move northward toward the sector; and pressure to develop continues in the Little Bennett area which offers panoramic views of Sugarloaf Mountain and farm valleys that developers find difficult to resist.

The Bennett and Little Bennett Watershed (P.A. 10) is recommended for inclusion in the Agricultural Reserve via the Rural Density Transfer Zone (RDT), since the critical mass of farmland is still very much intact and the land is productive. Some of Montgomery County's oldest farm families still operate very successful agricultural businesses here. In addition, farm acreage has already been given, in perpetuity, to the Maryland State Environmental Trust. Little significant subdivision activity has occurred in this area since 1978, well over 90 percent of the area is receiving farmland assessment. Large farm parcels still prevail which encircle the 3,500 acres of Little Bennett Regional Park. In addition, the area abuts the Frederick County's agricultural and conservation zones and a recommendation for preservation would continue to strengthen the regional agricultural community. Pressure to develop this area is expected to increase because of its natural beauty and as employment opportunities move northward along the I-270 corridor. An aggressive preservation program should be focused on this area.

Although 76 percent of the Goshen-Woodfield Planning Area is still receiving farmland assessment, the balance of the area has already been subdivided, thereby "salt and peppering" three broad areas with rural subdivisions, an area immediately south of Damascus, one north of the Gaithersburg Planning Area, and one in the center of the

area as shown on the land use and zoning map between the Great Seneca and Woodfield Road. These three areas, therefore, should be retained in RE-2 zoning. In addition to these three broad areas, a small area currently zoned R-200 which includes both the Tregoning Farm and only a portion of the Watkins Amalgamated property to the immediate south will be considered as part of the Clarksburg Master Plan area. Since 1978 alone, preliminary subdivision plans affecting approximately 488 acres, have been submitted. Within that same timeframe 50 lots were approved covering an additional 164 acres, and a rezoning request that would create an additional 195 lots on 126 acres has been filed.

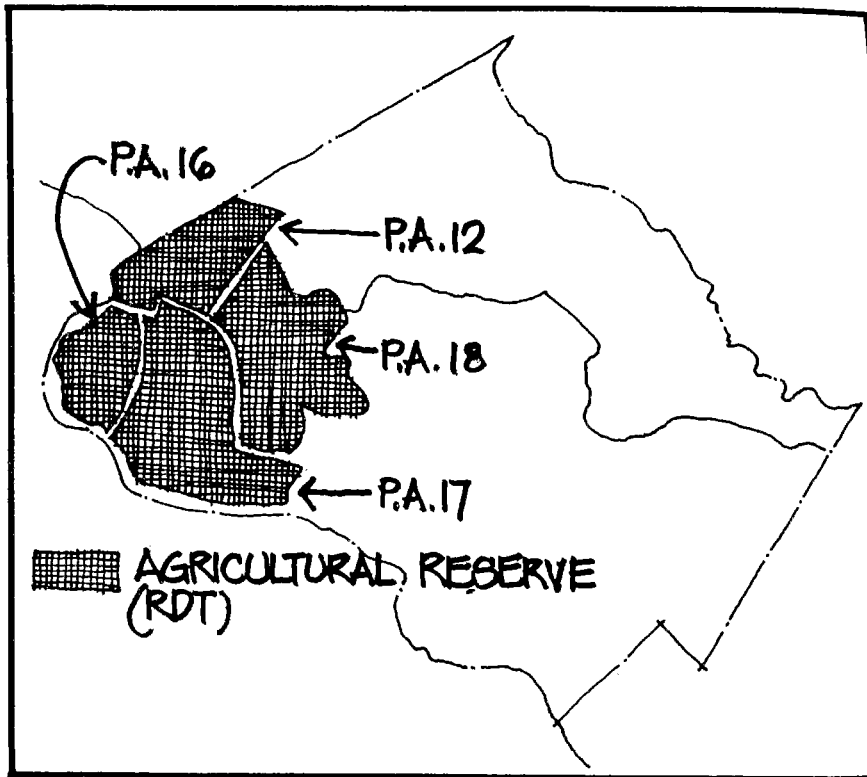
The preservation recommendations focus on two areas of Goshen-Woodfield.<sup>43</sup> The first of these is the area between Route 27 and the Great Seneca Stream Valley Park and Goshen Branch. Containing a few scattered houses and major farming operations, this area should be placed in the Rural Density Transfer Zone. The second area, between Woodfield Road, Route 108, and Great Seneca Park Extended has similar conditions. It contains several substantial farms and abuts the Olney Agricultural Preservation area. It is also recommended for RDT zoning.

The Rural Zone Sectional Map Amendment, in 1973, reclassified the entire Goshen-Woodfield area from the R-R (R-200) classification to the R-A (RE-2, Rural Estate) classification, since the General Plan indicated that low density, (approximately 2 dwelling units/acre) for this area. The staff report at that time did not involve the preparation of a detailed study, it was an effort to implement the general recommendations of the General Plan via the sectional map amendment process. The report indicated that zoning with a residential density should be "at least as low as RE-2," this indicates a flexibility which this Plan is now responding to, given the overall intent of this Plan, the historic agricultural character of the area itself, and the fact that since 1973 agricultural preservation has become a vital public purpose element that ultimately effects energy supplies, compact and efficient form of development, and ultimately the cost of a basketful of groceries.

This Plan will not make specific planning recommendations for the two growth areas delineated in the General Plan, the Damascus Planning Area (P.A. 11) or the Clarksburg and Vicinity Planning Area (P.A. 13) since they are or soon will be the subject of individual area master plans.

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<sup>43</sup> There are a total of 14,185 acres in P.A. 14.



WESTERN SECTOR RECOMMENDATIONS

TOTAL ACRES. . . . . 71,000 Acres  
 ACRES CURRENTLY FARMED. . . . . 47,400 Acres  
 PUBLIC LAND . . . . . 6,600 Acres

	<u>Existing Zoning</u>	<u>Proposed Zoning</u>
LITTLE MONOCACY BASIN, DICKERSON, BARNESVILLE (P.A. 12)	RURAL ZONE	RDT
LOWER SENECA BASIN (P.A. 18)	RURAL ZONE	RDT
POOLSVILLE & VICINITY (P.A. 17)	RURAL ZONE	RDT
MARTINSBURG & VICINITY (P.A. 16)	RURAL ZONE	RDT

## WESTERN SECTOR RECOMMENDATIONS

Rezone the entire area from the Rural Zone to the Rural Density Transfer Zone (RDT).

## WESTERN SECTOR JUSTIFICATION

The dominant use of the land in this 68,000 acre sector has for years been agriculture. Although agricultural pursuits in Montgomery County have shrunk greatly, this western part of the County remains a relatively undisturbed agricultural region. This region has also experienced extensive easement acquisition activity by the Environmental Trust.

The predominance of rural and agricultural uses continues for some distance throughout the entire sector, except for the Town of Poolesville. The first appearance of spotty suburban residential development occurs down-County along Route 28 and River Road; homes have been built in recent years along and near these highways, as extensions of earlier suburban development in Rockville and Potomac. The Seneca Creek and Seneca State Park are a natural divide between the critical mass of farms in western Montgomery County and suburban development close to the County's water and sewer envelope.

The one important fact concerning agriculture in this area is that, whatever is currently produced and whatever the ownership pattern now is, the land itself still exists; very little of it has been taken over by non-farm residential uses and thus lost forever as farmland. Although the soil is not considered the very best for crop purposes, compared with other parts of the County, it has supported a great amount of farming over the years, proving that non-prime soils can be productive and valuable especially when accompanied by good land management techniques and new methods of land tillage. The existence of this large undeveloped and agriculturally workable area gives support to the idea that its continued use as agriculture is not an unattainable or unreasonable goal.

The only area master plan for this sector, the Poolesville Vicinity Master Plan, has recommended that approximately 19,500 acres of farmland be preserved in the Poolesville Vicinity Planning Area - utilizing an appropriate preservation technique as recommended in this functional plan. Designating Poolesville Vicinity<sup>44</sup> for the Rural Density Transfer Zone (RDT) and inclusion in the Agricultural Reserve is appropriate and consistent with the land use policies expressed in this Plan, and with the intent of the Rural Zone Sectional Map Amendment in 1973, which applied the Rural Zone to

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Exclusive of the Town of Poolesville and the 30 acre Holleman property which is located at the edge of the Lower Seneca Planning Area (P.A. 18) adjacent to the South Germantown Park. This 30 acre property is currently zoned rural and should remain so.

approximately 110,000 acres of land in the County. The Rural Zone Sectional Map Amendment was intended "to serve multiple agricultural and conservation purposes, which would tend to reinforce each other when combined to provide protection for permanent agricultural and conservation areas. . ." However, as detailed in Chapter III, the Rural Zone has not protected agricultural and conservation (open space) areas. As a result, the Rural Density Transfer Zone (RDT) is recommended for use in this sector.

This preservation recommendation will also strengthen the agricultural preservation program in Frederick County, since their Agricultural Zone abuts this sector as well as the rural open space (secondary agricultural) areas recommended in the Darnestown area.

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The following specific recommendations relate to all of the sectors:

- Confirm existing rural community and village zoning.
- Confirm existing commercial and industrial zoning in the Agricultural Reserve and Rural Open Space Areas, as shown on the fold out map included in this Plan.

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This Chapter has outlined a preservation program that is designed to preserve farmland so that farming, as an industry, can survive in Montgomery County. Not only is it important to retain a "critical mass" of farmland in the Agricultural Reserve, but it is important to develop supportive County policies and programs that strengthen the industry itself. Included in Chapter VII, The Next Step, are specific recommendations that will help to strengthen agriculture in Montgomery County. The chapter will define the role and responsibilities of those most appropriate to implement the supportive recommendations.

SUMMARY OF LAND USE AND ZONING RECOMMENDATIONS

SECTOR	PLANNING AREA	EXISTING ZONING	PROPOSED LAND USE	PROPOSED ZONING
Eastern -	Patuxent Conservation P.A. 15 Upper Lower Olney P.A. 23	Rural Zone Rural Zone --	Agric. Reserve Rural Open Space Agric. Reserve Rural Open Space Growth Center	RDTZ RCZ
Central -	Bennett and Little Bennett P.A. 10 Damascus P.A. 11  Goshen/Woodfield Vicinity P.A. 14  Clarksburg P.A. 13	Rural Zone   RE-2	Agric. Reserve  Subject of Revised Plan  Rural Resid. Agric. Reserve  Subject of Revised Plan	RDTZ  Subject of Revised Plan  RE-2 RDTZ  Subject of Revised Plan
Western -	Little Monocacy, Dickerson, Barnesville P.A. 12  Lower Seneca P.A. 18  Poolesville P.A. 17  Martinsburg P.A. 16	Rural Zone  Rural Zone  Rural Zone  Rural Zone	Agric. Reserve  Agric. Reserve  Agric. Reserve  Agric. Reserve	RDTZ  RDTZ  RDTZ  RDTZ

Agricultural Reserve = 110,000 Acres  
 Rural Open Space = 26,000 Acres  
 Growth Centers and Areas to be Master Planned = 27,000 Acres  
 Rural Study Area = 163,000 Acres

Uncommitted Land Within Agricultural Reserve = 73,000 Acres