



**HOWARD COUNTY
AGRICULTURAL PRESERVATION BOARD**

August 26, 2019

Staff Report

Review of Proposal Regarding Ag Preservation/Incentive Programs in Eastern Howard County

Summary

The County Executive would like to encourage farming opportunities in eastern Howard County. Potential opportunities include: an easement acquisition program akin to the Agricultural Land Preservation Program (ALPP) in the west, financial incentives, and regulatory changes to allow for suburban farming. Based on staff research, this report will present an analysis of the following:

- I) The current ALPP in the Rural West compared to a potential Purchase of Development Rights (PDR) program in the East
- II) Suburban/small acreage farming incentives like tax credits and innovation grants in Howard County and other jurisdictions
- III) Howard County Zoning Regulations provisions related to agricultural uses

I. Acquisition of Development Rights in Eastern Howard County

A primary consideration for establishing a program to assist potential or existing farmers in the east is whether the overarching goal is to preserve in perpetuity mostly small, isolated parcels at a cost through a PDR program, or to provide incentives and other measures that would increase profitability, expand markets and diversify operations.

PDR programs across jurisdictions generally place a high value on acquiring preservation easements on large contiguous blocks of farmland, usually consisting of sizeable parcels. In Howard County, even though the parcel size eligibility criteria for the ALPP has steadily decreased over the years to account for the viability of farming on smaller properties, the easement pricing formula has consistently assigned a higher monetary value to larger parcels. As such, parcel size is factored into a number of scoring criteria, resulting in the need to revamp a large part of the scoring system if extended to the east.

Similarly, easement acquisition of parcels that are adjacent to, or part of a cluster of protected land, has been a high priority, as these farms tend to have less conflicts with other neighboring uses and enjoy other locational advantages. This factor would also need to be adjusted if expanded to the east.

Another consideration is cost. The current maximum price per acre is \$40,000 in the west. Given the higher land values in the east, the financial reward is not likely a viable alternative use of land. To create an economically viable program in the east, the pricing would need to be evaluated and possibly escalated.

The chart below details challenges associated with expanding the current ALPP in the east and suggests that an entirely new program would need to be created for PDR in the east. Additional details are provided in [Appendix ?](#)

Details of Scoring System

	West	East
<i>Size</i>	20-acre minimum eligibility requirement	68 parcels of 20 acres or more
	APB has expressed priority to continue to value large farms, even as average size of available land has decreased	Zoning regulations require 3 acres to be considered a farm
<i>Soils</i>	Analyzed by both capability and productivity, due to importance to farming that is historically crop or pasture based	Rewarding for soil quality not as significant for suburban farming due to variety of alternative methods rather than traditional practices that are historically crop or pasture based; this item is weighted for parcel size currently
		Soil amendments are more economically feasible on small acreage
<i>Adjacency</i>	Strong emphasis on acquiring large, contiguous blocks of farmland	Rewarding for adjacency not practical or relevant
<i>Zoning</i>	Current program allowed in RC and RR	Which districts would be eligible – all or just certain ones?
<i>Land Use</i>	Rewards for a high percentage of the land in crop or pasture use	Rewarding for percentage of land in crop or pasture use not as significant for suburban farming
<i>Conservation Plan</i>	Rewards for stewardship of the land through established relationship with the Soil Conservation District (SCD)	Good stewardship is important wherever the land is farmed. The SCD writes plans for farmers in the East. Not a complicating factor
<i>Ownership/ Operation</i>	Rewards the most for land being farmed by the owner, then for land that is rented out	Not a complicating factor

<i>Road frontage</i>	Rewards the most for linear feet on a scenic road, then for linear feet on a regular road	Since this is based on linear feet of road frontage, it is weighted for parcel size
<i>Additional Points</i>	<ol style="list-style-type: none"> 1) Relinquishment of Parcel Division Rights 2) Relinquishment of Tenant House Rights 3) Protection of Green Infrastructure Network 	Of the three, only GIN points would be relevant
<i>Finances</i>	\$40,000 maximum per acre	Setting a maximum price per acre would be a challenge, as discussed above

II. Existing Urban Tax Credits in Maryland

Urban Agricultural tax credits can be found in several jurisdictions near Howard County, to include Baltimore City, Prince Georges County, Montgomery County and Washington D.C. Qualification for these tax credits are typically based on acreage, dollar amount of agricultural products produced on the property, and geographic location. The Maryland state definition for Urban Agriculture is commonly used for these tax credits, which defines Urban Agricultural properties to be 1/8 to 5 acres. Montgomery County differs from this definition with their acreage requirement being .5 to 3 acres. The dollar amount of required agricultural products produced for the majority of these tax credits is either \$2,500 or \$5,000 with Washington D.C. being an exception requiring only a planting plan be on file. The \$2,500 required amount of product produced is in accordance with the Maryland State Agricultural Use Assessment that requires \$2,500 worth of agricultural product to be produced from a parcel to be taxed as Agricultural Land.

Baltimore City Urban Agricultural Property Code Article 28 10 -19	
<i>Acreage restrictions</i>	1/8 - 5 acres (State Definition of Urban Agricultural Land)
<i>Ag. Products in a year (\$)</i>	\$5,000
<i>Amount of Credit</i>	The amount of the tax credit is equal to: (1) the amount of property tax that would otherwise be due on property, less (2) the amount of any other credit applicable to the property in that tax year, multiplied by (3) 90%
<i>Additional Requirements</i>	Renewable five-year terms

Prince Georges County Urban Agricultural Property Tax Credit Sec. 10-235.22	
<i>Acreage restrictions</i>	1/8 - 5 acres (State Definition of Urban Agricultural Land)
<i>Ag. Products in a year (\$)</i>	\$2,500
<i>Amount of Credit</i>	Equal to the amount of property tax that would be otherwise be imposed on the property, less the amount of any other credit applicable to the property in that tax year. (\$5,000 Max)
<i>Additional Requirements</i>	Liable for any property taxes if property ceases urban farm operations. May not be used for any other for-profit purpose that would subject the parcel to property tax liability. Waiver may be granted for startup properties and or declared natural disasters or drought.

Montgomery County Urban Agricultural Tax Credit Sec. 52-111	
<i>Acreage restrictions</i>	.5 - 3 acres
<i>Produce Produced in a year (\$)</i>	\$5,000
<i>Amount of Credit</i>	Must be equal to 80% of the County property tax otherwise due on the property.
<i>Additional Requirements</i>	Located within close proximity to Metro Station Policy Areas Limited to fruits vegetables, flowers, and ornamental plants, fowl, bees, or aquaculture. Renewable five-year terms

Washington, DC Food Protection and Urban Gardens Program Act D.C. ACT 20-599	
<i>Acreage restrictions</i>	No requirement
<i>Ag. Products in a year (\$)</i>	No requirement
<i>Amount of Credit</i>	90% of the real property tax otherwise levied used for the urban farm (Max \$20,000)
<i>Additional Requirements</i>	Provide annual planting plan.

III. Existing Agricultural Tax Credits Available to Howard County Farms.

Howard County Tax Credit For Properties in a ALPP	
<i>Acreage restrictions</i>	20 Acres or more
<i>Amount of Credit</i>	75% of any County property tax imposed on the land included in a county or state Ag. easement not including any improvements.
<i>Additional Requirements</i>	Must file application yearly. Must be enrolled in Howard County or Maryland Agricultural Preservation Program.

State of Maryland Agricultural Use Assessment	
<i>Acreage restrictions</i>	3 Acres or more**
<i>Amount of Credit</i>	Agricultural land will be valued at \$500.00 per acre for tax purposes
<i>Additional Requirements</i>	Land must be actively used for Agriculture***

- ** *If a property is 3 acres or less it may qualify for the Agricultural Use Assessment if it meets any of the following requirements:*
- 1) *The land is adjoining land that meets the qualification. Limited to only two parcels of less than 3 acres.*
 - 2) *Owner receives at least 51% of gross income from the active use of the parcel.*
 - 3) *Parcel is part of Family "Farm Unit" owned by an immediate family member, actively used for farming, contiguous to larger parcel, and is limited to only one.*

- *** *Actively used land for Agriculture is defined as the following:*
- 1) *Is an approved agricultural activity as defined in COMAR Title 18.*
 - 2) *Is engaged in an approved agricultural activity.*
 - 3) *Primary use of land on parcel, non-agricultural vs. agricultural.*
 - 4) *Size of parcel and ratio of land devoted to approved Agriculture activities.*
 - 5) *Amount and type of livestock or poultry.*
 - 6) *Acreage in participation in a government or private agricultural program.*
 - 7) *Parcel less than 20 acres but equal or more to 5 acres must have a gross income of \$2,500 from agricultural activity.*
 - 8) *Parcel that is 3 acres, but less than 5 acres must have a gross income of \$2,500 from agricultural activity.*
 - 9) *If the parcel is leased, farm leasing the property must generate a gross income of \$2,500 from agricultural activity.*

IV. Existing Howard County Grants Available to Howard County Farms.

Howard County Agricultural Innovation Grant

Grant to encourage Howard County's agricultural producers to expand or diversify their business operations. Eligible applicants must be a crop or livestock producer or processor, agricultural cooperative, seafood process, or primary or secondary timber products processor.

Applicants can receive grants from \$1,000.00 up to \$10,000.00 for research and development, production buildings, major fixtures, processing facilities, etc. The applicant must provide funds and/or materials of an invested value to the grant received. Grant applications are accepted throughout the year but are subject to funding availability. Currently grants are accepted and awarded two times a year with a total of \$20,000 given each time with a grand total of \$40,000 given in a year.

Grant administration is provided by the Howard County Economic Development Authority with funds from the Agricultural Preservation Fund. Grants are scored by a panel of judges with a provided scoring system. Applicants can receive a total of 200 points for an application. Scoring is broken down as followed: description of project (30 points), business plan (30 points), budget for project (35 points), innovation of the project (40 points), property in agriculture perseveration easement (35 points), and overall application (30 points).

V. Howard County Zoning Regulations pertaining to agricultural uses:

Zoning Overview

Zoning barriers related to farming in the east include the definition of farming; use restrictions; minimum lot size; and supplementary use criteria in residential zoning areas. To incentivize and expand farming in the east, Zoning Regulation Amendments (ZRAs) would need to address each.

Definitions:

The Howard County Zoning Regulations defines a *Farm* as 3+ acres and has no definition for suburban or urban agriculture. This precludes micro farming activities on small lots. Some type of suburban farming definition would need to be created to implement future incentive programs and the use would need to be added to appropriate districts.

Size:

Relatively few 3+ acre parcels and 3+ acre parcels in RR or RC zoning districts exist in the east, resulting in limited availability for farming, selling, and processing agricultural goods on-farm. Currently there are:

- 1,624 parcels, or 1.7% of all parcels in the east that are 3+ acres
- 84 parcels, or .09% of all parcels in the east that are 3+ acres and RR or RC zoned. As seen in Exhibit 1, almost all these parcels are located in western Ellicott City.

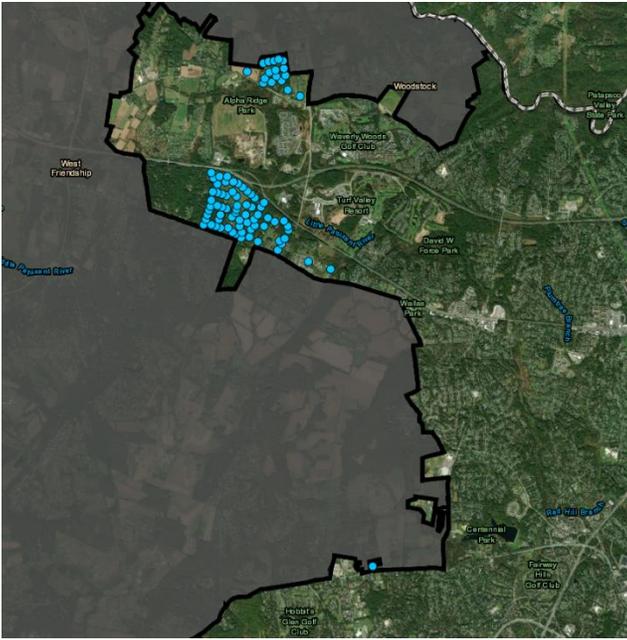


Exhibit 1: Location of Parcels 3 Acres or more in RR or RC Zoning Districts within the Public Service Area

Use Restrictions

Farming is a use permitted by-right in most residential districts and is permitted by-right in New Town on open space. However, in residential districts in the east (R-ED, R-20, R-12, R-SC, R-A-15, R-APT) livestock (excluding chickens) are prohibited on parcels less than 40,000 sq. ft. Livestock complaints are prevalent in residential zoning districts and chicken keeping regulations are difficult to enforce because of conflicts in the code. In the last five years, 53 complaints against livestock and chicken keeping have been made in residential districts. Any suburban agriculture program would need to determine which zoning district to allow the use and whether any additional restrictions, conditions or criteria should apply.

Supplemental Uses

The following chart summarizes supplemental uses to farming activities categorized in the Howard County Zoning Regulations. Many uses would need to be amended to apply to residential districts in the east and could result in adverse impacts such as traffic, odor, noise, or other conditions typically associated with farming. Requirements for supplemental uses that could conflict with residential districts in the east include:

- Many uses require lot sizes above 3 acres which are limited in eastern residential districts.
- Requirements for road frontage on arterial or collector public roads, restrictions on local roads and criteria regarding impacts to neighboring properties or other road uses.
- Requirements for linear road setbacks for uses and adequate off-street parking can limit usable space on smaller lots.

Zoning Code Section 128.0: Special Farm Uses and Supplementary Zoning District Regulations

Use	Zones Permitted	Minimum Acreage	Additional Criteria/Challenges with Applicability in the East
Value-Added Agricultural Processing	RC; RR	3	Road frontage, accommodation of traffic, off street parking, screening and setbacks (100 feet use setback) 84 parcels meet zoning and acreage minimums
Value-Added Agricultural Processing with On-Site Sales	RC; RR	3	Road frontage, accommodation of traffic, off street parking, screening and setbacks (100 feet use setback) 84 parcels meet zoning and acreage minimums
Small Farm Stands (Under 300 Sq. Ft.)	RC; RR; R-ED; R-20; R-12; R-SC	3	Minimum impact on neighbors and adequate off-street parking 452 parcels meet zoning and acreage minimums
Large Farm Stands (300-3,000 Sq. Ft.)	RC; RR	50	Would need to amend zoning code to reduce minimum acreage to allow use in the east. 0 parcels meet zoning and acreage minimums
Pick-Your-Own Enterprises	RC; RR	3	Road frontage, accommodation of traffic, off street parking, and screening. 84 parcels meet zoning and acreage minimums
Agritourism Enterprises	RC; RR	50	Would need to amend zoning code to reduce minimum acreage to allow use in the east. 0 parcels meet zoning and acreage minimums
Community Supported Agriculture (CSA)	RC; RR; R-ED	3	Road frontage, accommodation of traffic, off street parking, and screened property boundaries 175 parcels meet zoning and acreage minimums
Food Hubs	RC; RR	50	Would need to amend zoning code to reduce minimum acreage to allow in the east. 0 parcels meet zoning and acreage minimums
Riding Academies and Stables	RC; RR	5	Road frontage, accommodation of traffic, off street parking, 200 feet use setbacks, and screening. 36 parcels meet zoning and acreage minimums
Chicken Keeping/Livestock	Residential Districts	10,000 Sq. Ft. for Chickens; 40,000 Sq. Ft. for Livestock	15 feet use setbacks and sheltering (50 feet setback from neighboring dwellings); Can create conflict with neighboring properties.
Apiaries	Residential Districts	N/A	25 feet use setbacks and minimum impact on public areas
Farm Winery or Brewery	RC; RR	5; 25 acres if Class 2 Winery	Road frontage, accommodation of traffic, 75 feet use setbacks, off street parking, and minimum impact on surrounding area and environmental features. 36 parcels meet zoning and acreage minimums

Existing Agricultural Uses in the East: Community Gardening

While not currently defined in the Howard County Zoning Code, several community gardens run seasonally throughout the east and are in high demand for space. In Columbia’s New Town Zoning District, agricultural activities are a permitted use of open space. Columbia Gardeners, in partnership with Howard County Recreation and Parks, run three community garden locations across Columbia in Howard County park space with over 600 plots. The garden plots are in high demand and there is currently a waitlist. The Howard County Conservancy also runs a community garden program in Woodstock which has a waitlist.

Zoning code amendments could provide opportunities to expand community garden programs. While community gardens are permissible under farming in current zoning regulations, minimum acreage sizes and supplemental use zoning restrictions limit applicability. Specific provisions related to community gardening would need to be made to allow their use on smaller lots across multiple zones to expand garden uses throughout the east. Additionally, allowing community gardens to operate a CSA or farm stand at garden locations would encourage public engagement with agriculture and promote access to fresh foods.

Underutilized government land can also be leased to community garden organizations at a discounted lease rate. Parks, schools, and/or institutions are typical sites for community gardens. Also, yard sharing or land linking programs can provide a website where individuals with underutilized yards can allow others to garden in their yard for a share of the produce. Lastly, grantor tax incentive programs can support operating expenses to expand existing garden programs throughout the eastern portion of the county.