

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2006 Legislative Session

Resolution No. CR-82-2006
Proposed by Council Members Peters and Dernoga
Introduced by Council Members Peters and Dernoga
Co-Sponsors _____
Date of Introduction October 24, 2006

RESOLUTION

1 A RESOLUTION concerning

2 Program Regulations for the Purchase of Development Rights Program

3 For the purpose of adopting the program regulations for the Purchase of Development Rights
4 Program.

5 WHEREAS, the Purchase of Development Rights Program ("PDR") was created pursuant
6 to CB-47-2006 adopted by the County Council of Prince George's County on July 18, 2006 and
7 approved by the County Executive on July 31, 2006; and

8 WHEREAS, prior to implementation of the PDR Program, the program regulations and
9 procedures for the PDR Program must be reviewed and approved by the County Council
10 pursuant to Section 30-306(b)(1) of the Prince George's County Code; and

11 WHEREAS, program regulations and procedures for the administration and implementation
12 of the PDR Program have been drafted by Prince George's Soil Conservation District and are
13 attached as Exhibit 1.

14 NOW, THEREFORE, BE IT RESOLVED by the County Council of Prince George's
15 County, Maryland, that the program regulations for the Purchase of Development Rights
16 Program attached hereto as Exhibit 1, be and the same are hereby approved.

17 BE IT FURTHER RESOLVED that Prince George's Soil Conservation District shall
18 submit changes to the program regulations to the County Council of Prince George's County for
19 their review and approval from time to time as circumstances may require.

Adopted this 14th day of November, 2006.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Thomas E. Dernoga
Chairman

ATTEST:

Redis C. Floyd
Clerk of the Council

EXHIBIT 1
PURCHASE OF DEVELOPMENT RIGHTS
PROGRAM REGULATIONS

1. Establishment of Program. The Purchase of Development Rights Program (“PDR”) was established pursuant to CB-47-2006 to provide regulatory incentives to restrict the development of certain lands in the Rural Tier in perpetuity and to preserve sensitive natural resources.
2. Scope of Regulations. These regulations shall apply to the purchase of development rights pursuant to the PDR Program by Prince George’s County, Maryland.
3. Eligibility. A parcel must meet the eligibility criteria set forth in Section 30-307 of the County Code. Additionally, no property shall be eligible for participation in the PDR Program if it is already subject to a conservation easement pursuant to a County, State or Federal program which extinguished or transferred the development rights or permitted increased density on another property as a result of forest, woodland or open space mitigation. Parcels can be combined to meet the basic eligibility criteria, provided an easement is recorded for each parcel enrolled and the potential for lot creation on the combined parcels is reduced in accordance with these regulations.
4. Applications. Applications for the Program shall be accepted on a rolling basis on a form approved by the Program Administrator. The application materials to be provided to a property owner(s) shall include the application, a sample easement and information about the PDR Program. The application form shall require at a minimum (1) the names of all of the owners of the parcel; (2) the address for each owner; (3) the acreage for the parcel; (4) the tax identification number; (5) the zoning classification for the parcel; (6) a list of all of the encumbrances on the parcel including the contact information for the holder of any mortgage or deed of trust; and (7) disclosure of any easements currently encumbering the parcel, including but not limited to, forest conservation, woodland mitigation or conservation easement of any kind or description; and (8) a copy of the current deed. The property owner must sign and submit a “Lot Creation Disclaimer Form” at the time of application. The Lot Creation Disclaimer Form will set forth with particularity the remaining potential for lot creation on the parcel.
5. Evaluation of Application by Program Administrator. The Program Administrator shall evaluate each application received within thirty (30) days to determine whether the application is complete and whether the parcel satisfies the eligibility criteria set forth in Section 30-307 of the County Code. If the application is incomplete, the Program Administrator shall notify the owner(s) in writing of the information required to complete the application. The Program Administrator shall provide a written recommendation on each application to

the Agricultural Preservation Advisory Board ("Board"), including but not limited to, a brief narrative on the development potential of the parcel, the proximity to other preserved parcels, sensitive natural resources, the number of home sites to remain on the parcel after the easement acquisition and ranking for the parcel.

6. Evaluation and Ranking by the Board. On or before October 31st of each year, excluding the start-up year, which shall be January 31st, the Board shall consider the applications and corresponding recommendations from the Program Administrator for that funding cycle. Based on those recommendations the Board shall determine the parcels on which offers to purchase easements shall be made.
7. Offers to Purchase Development Rights. The Program Administrator shall send an offer to the owner(s) of each parcel as authorized by the Board. Each offer letter shall set forth the amount of the offer, the time within which the offer must be accepted and describe with particularity the steps necessary to sell the development rights on the parcel to the County. For the first three (3) years of this Program, a sign-up bonus equal to ten (10%) percent of the amount of the offer shall be paid to the owner(s) at the settlement of the acquisition of the easement as an incentive to participate in this Program.
8. Supplement to Maryland Agricultural Land Preservation Foundation program (MALPF). In the event that an offer is under the MALPF program to purchase an easement on land in the County, which is less than the per acre price currently being paid pursuant to this PDR Program, the Board may, upon recommendation of the Program Administrator, approve the payment to the owner(s) of the difference between the per acre MALPF offer and the County PDR Program price. The payment shall be paid to the owner(s) at the settlement of the MALPF easement as an incentive for participating in the State program. The owner(s) must execute a conservation easement for the benefit of Prince George's County, which junior in right and priority to the MALPF easement.
9. Right to Re-offer. The Program Administer shall have the right to reallocate funds from offers not accepted by owner(s) in the time or manner required in the offer letter, to other eligible ranked parcels at his discretion.
10. Ranking. In order to effectuate the purposes of the PDR Program, parcels for which a conservation easement application have been received shall be ranked according to the criteria and point values assigned as provided below:
 - A. Open-Space Resources.
 1. The parcel adjoins a parcel permanently protected by a conservation easement, a national, state or local park. 15 points
 2. The parcel is in the immediate vicinity of a parcel

- permanently protected by a conservation easement,
a national, state or local park (within 1 mile). 7 points
- B. Size of Parcel.
1. Parcel sizes less than 35 acres. 0 points
 2. Parcel sizes 35 to 49 acres. 5 points
 3. Parcel sizes 50 to 99 acres. 10 points
 4. Parcels over 100 acres. 15 points
- C. Preservation of Natural Cultural and Scenic Resources.
1. Chesapeake Bay, watershed protection:
for every twenty (20) acres in the critical area. 5 points
 2. Parcel with a registered historic site. 7 points
 3. Parcel adjacent to a County road. 5 points
 4. Parcel adjoins a Maryland Scenic Byway. 10 points
 5. Parcel with significant archeological relevance. 7 points
 6. Working family farm, including forestry being
defined as at least one family member's principal
occupation and income (more than half) is farming. 5 points
 7. Parcel consists of forty (40) tillable acres or more. 5 points
- D. Agricultural Resources.
The parcel contains capability class I, II, III and IV for agricultural lands
or ordination symbol 1 or 2 for forest land, based on federal natural
resources conservation service classifications found in the United States
Department of Agricultural Soil Survey of Prince George's County,
Maryland: 5 points for each ten (10) acres containing such soils up to a
maximum of twenty (20) points.
- E. Carry-over Preference.
1. Ranked parcel for which insufficient funding was available during the
funding cycle in which it was first eligible. 10 points
 2. Ranked parcel for which insufficient funding was available during the
second funding cycle from which it was first eligible. 20 points
 3. Ranked parcel for which insufficient funding was available during the
third funding cycle from which it was first eligible. 30 points
- F. Development Threat.
1. Parcel is threatened with forced sale. 5 points
 2. Parcel is threatened with other hardship. 5 points
11. Conservation Easement. The owner(s) must execute a conservation easement in
a form approved by the County Attorney at the settlement of the purchase of the
development rights on the parcel. The conservation easement shall be recorded
within fifteen (15) days of settlement. The owner(s) shall be responsible for
providing a metes and bounds description acceptable to the County for the

property to be encumbered by the conservation easement. The conservation easement shall at a minimum include the following provisions:

- A. Restriction on further subdivision. The parcel shall be restricted from further subdivision to maintain an average lot size of fifty (50) acres.
 - B. No buy-back option. The owner(s) shall not have the option to reacquire any development rights extinguished by the conservation easement.
 - C. Term of the Easement. The easement shall run with the land and bind successors in title in perpetuity.
 - D. Other Restrictions. The parcel shall be subject to the standard restrictions customary for conservation easement for the uses and activities to be permitted on the property and shall include, but not be limited to, restrictions (i) against accumulation of trash and junk; (ii) grading, blasting, mining or earth removal; (iii) the number of residential buildings to be permitted; (iv) commercial activities allowed; and (v) monitoring of the easement.
12. Easement Valuation. The Board shall determine once annually the dollar value per acre to be paid for conservation easements being purchased during that funding cycle. The Board shall base its valuation on the information and recommendation provided by the Program Administrator. The Program Administrator shall provide the Board with the following information:
- A. The prices paid by the other Maryland counties having agricultural and/or development rights programs for the acquisition of development rights during the prior funding cycle.
 - B. The price paid by the Maryland Agricultural Land Preservation Foundation for the acquisition of development rights during the prior funding cycle.
 - C. The average price paid for development rights based on the forgoing documentation. The Program Administrator shall have the discretion to exclude from the calculation of the average price paid, payments made by other counties, which have the effect of “skewing” the average because they are either too high or too low in relation to the amounts paid by other counties.
 - D. A recommendation as to the value paid per acre.
13. Lot Creation. The owner(s) of record at the time of an easement sale, may, at any time after the easement sale request a two-acre or less lot exclusion for limited purpose of residential use by the owner(s) or their children. The

owner shall be required to repay the County for each acre removed from the Program in connection with the creation of a lot under this Section. The repayment amount shall be equal to the amount paid per acre by the County plus interest at the statutory rate. Notwithstanding the forgoing, the total number of residential structures on a parcel shall not exceed one residential structure per 25 acres. Applications for lot creation must be submitted to the Agricultural Preservation Advisory Board with a copy to the Maryland-National Capital Park and Planning Commission to confirm that the parcel meets the minimum criteria set forth in this Section.