

**MOTION:**

**May 4, 2021  
Regular Meeting  
Ord. No. 21-**

**SECOND:**

**RE: COUNTY CODE AMENDMENT #DPA2017-00007, PURCHASE OF DEVELOPMENT RIGHTS – COUNTYWIDE**

**ACTION:**

**WHEREAS**, on September 20, 2016, the Prince William Board of County Supervisors in Resolution Number (Res. No.) 16-730 initiated an amendment to the County Code to create a Purchase of Development Rights Program; and

**WHEREAS**, the proposed County Code amendment creates a Purchase of Development Rights (PDR) program to sever residential density from eligible properties in the Rural Area through a voluntary process for permanently conserving agricultural and forestry uses of lands and preserving rural open spaces, historic and cultural landscapes, and natural and scenic resources; and

**WHEREAS**, on June 24, July 30, and September 24, 2019, the Planning Office held public meetings to discuss the proposed PDR ordinance and program as well as other recommendations from the Rural Area Preservation Study; and

**WHEREAS**, on October 23, November 13, and December 2, 2020, the Planning Commission held work sessions for the PDR ordinance and program at which time the draft County Code amendment was available for public review and input; and

**WHEREAS**, the Prince William County Planning Commission held a public hearing on County Code Amendment #DPA 2017-00007 on March 17, 2021, recommending approval as stated in Res. No. 21-029; and

**WHEREAS**, the Prince William County Board of County Supervisors duly ordered, advertised, and held a public hearing on May 4, 2021, at which time all interested members of the public were heard and the merits of the above-referenced County Code amendment were considered; and

**WHEREAS**, amending the County Code for the above-referenced issue is authorized under Section 10.1-1700 *et seq.* of the Code of Virginia, Ann.; and

**WHEREAS**, the Board finds that adoption of this ordinance secures and promotes the health, safety, and general welfare of the County and its inhabitants;

**NOW, THEREFORE, BE IT ORDAINED** that the Prince William Board of County Supervisors hereby adopts County Code Amendment #DPA2017-00007, Purchase of Development Rights.

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**Page Two**

ATTACHMENT:     Text Amendment

**Votes:**

**Ayes:**

**Nays:**

**Absent from Vote:**

**Absent from Meeting:**

**ATTEST:** \_\_\_\_\_

**Clerk to the Board**

## Purchase of Development Rights Ordinance

# **Chapter 32.1 Purchase of Development Rights**

### **Article I. – IN GENERAL**

#### **Sec. 32.1-100.– Purpose.**

Pursuant to the authority granted by § 10.1-1700 et seq. of the Code of Virginia, a purchase of development rights (PDR) program is established, the purpose of which is to sever residential density from eligible properties in the Rural Area of the County as shown in the Prince William County Comprehensive Plan through a voluntary process for permanently conserving agricultural and forestry uses of lands and preserving rural open spaces, historic and cultural landscapes, and natural and scenic resources. The PDR program is intended to supplement land use regulations, resource protection efforts and open space programs.

The purposes of this PDR Ordinance include, but are not limited to:

- Promote the public health, safety, and general welfare of citizens of Prince William County by establishing procedures, methods, and standards for the purchase of development rights.
- Provide an effective and predictable process for property owners of rural and agricultural land to preserve lands with a public benefit.
- Establish a program enabling the County to acquire open-space easements voluntarily offered by property owners to serve as one means of assuring that Prince William County's resources are protected and efficiently used.
- Preserve open space and scenic views, including contributing to greenways and wildlife corridors.
- Conserve rural character through preserving farmland and forested areas.
- Protect lands, resources and structures of aesthetic, architectural, archaeological, and historic significance.
- Conserve and protect water resources and environmentally sensitive lands, waters, and other natural resources.
- Assist in shaping the character and direction of the development of the County.
- Improve the quality of life for the citizens of Prince William County.
- Promote recreation tourism through the preservation of scenic and historical resources.
- Work cooperatively with the federal government, and/or non-profit organizations to locate funding, and leverage financial and other resources.
- Work cooperatively with Marine Corps Base Quantico to support their encroachment control program for lands located near the Base.

#### **Sec.32.1-101. - Definitions**

The Program Administrator shall use the following terms and definitions. In the event a term is not defined in this part, the Program Administrator must refer to other chapters of the Prince William

## Purchase of Development Rights Ordinance

County Code for guidance. If ambiguity remains, the Program Administrator must then rely upon the conventional, recognized meaning of the word or phrase (e.g., current edition, Merriam-Webster's Dictionary).

As used in this chapter, the term:

*Batch* means a grouping of contiguous parcels for purposes of making application for the sale of development rights.

*Board* means the Prince William Board of County Supervisors.

*Committee* means the Prince William County Purchase of Development Rights Committee designated by the Board of County Supervisors to oversee program implementation.

*Open-space easement* means a nonpossessory interest of a public body in real property, whether easement appurtenant or in gross, acquired through gift, purchase, devise, or bequest imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural or open-space values of real property, assuring its availability for agricultural, forestal, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural or archaeological aspects of real property.

*County Executive* means the County Executive of Prince William County or their designee.

*County Attorney* means the County Attorney of Prince William County or their designee.

*Development rights* means the number of lots into which a parcel could be divided and developed with a residential dwelling unit and all associated improvements and utilities under the County Code, excluding family subdivision lots. Each development right represents the right to build one single-family dwelling unit on the property.

*Director* means the Director of the Planning Office or their designee.

*Forced sale* means a sale of a parcel with unused development rights in a manner prescribed by law that is conducted under a judgement, order, or the supervision of a court of competent jurisdiction, other than a sale arising from a partition action; a sale resulting from bankruptcy or foreclosure under the laws of the Commonwealth of Virginia; or, a sale that is not the voluntary act of the owner but is compelled in order to satisfy a debt evidenced by a mortgage, judgment, or a tax lien deed of trust.

*Lot* means a designated parcel, tract or area of land established by plat, subdivision or as otherwise permitted by law, to be used, developed or built upon as a single-family dwelling unit. The grant of an interest, for security or other purpose, in less than an entire lot, or the foreclosure or sale of such interest, shall not be deemed to create a lot.

*Owner* means the equitable owner of the fee simple title to a parcel of land or, with respect to a parcel not encumbered by a deed of trust or mortgage, the legal owner of such title. Where more than one person or entity is the legal and/or equitable owner, the term refers to all such persons or entities jointly.

*Open space* means any land which is provided or preserved for (i) park or recreational purposes; (ii) conservation of land or other natural resources; (iii) historic or scenic purposes; (iv) assisting in the shaping of the character, direction, and timing of community development; or (v) wetlands as defined in Code of Virginia § 28.2-1300; or (vi) agricultural and forestal production.

*PDR program* means the purchase of development rights program established by this chapter.



## **Purchase of Development Rights Ordinance**

Program Administrator means the County Executive for Prince William County or their designee.

Property ranking system means the formula or deliberations by which applications for the sale of development rights are ranked in order of priority of acquisition of such rights.

Wetlands means both vegetated and non-vegetated wetlands.

### **Article II. - Applicability and Administration**

#### **SEC. 32.1-200 . - Applicability**

The PDR program is available for properties located within Rural Area as shown in the Prince William County Comprehensive Plan. Provided the properties meet all other requirements of this chapter. Any open-space easement acquired pursuant to this program must be voluntarily offered by the owner.

#### **Part 201. - Program Administrator established; power and duties.**

##### **Sec. 32.1-201.1. - Power and duties.**

The Program Administrator administers the PDR program and has powers and responsibilities to:

1. Establish reasonable and standard procedures, processes, and forms consistent with this program for the administration and implementation of the PDR program.
2. Promote the PDR program, in cooperation with the Committee, by providing educational materials to the public and conducting informational meetings.
3. Investigate and pursue, in conjunction with County, State, federal, and other programs, additional public and private resources to fund the PDR program and maximize private participation.
4. Evaluate all applications to determine their eligibility and their ranking score. Rank applications based on their ranking score as determined by the property ranking system and make recommendations thereon to the Committee.
5. Negotiate with the owner relating to open-space easement terms.
6. Provide staff support to the Committee.
7. Maintain a master list of current open-space easements, potential lots, and priority farmland lots for the PDR program.
8. For each open-space easement accepted into the PDR program, establish baseline data and assure that the terms and conditions of the open-space easement are monitored and complied with by coordinating a monitoring program with each easement holder.
9. Review rankings of applications and make recommendations to the Board as to which open-space easements should be purchased as determined by the property ranking system, and other applicable information.

#### **Part 202. - Purchase of development rights committee established; powers and duties.**

##### **Sec. 32.1-202.1. - Establishment.**

1. The Committee shall consist of five (5) members appointed by the Board and shall include one (1) member of the Planning Commission. Each member shall be a resident of Prince William County. The Committee should be, but is not required to be, comprised of members

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who are knowledgeable in the fields of conservation, conservation biology, farming, forestry, planning, real estate, and rural land appraisal, and may also include members of conservation easement holding agencies or other applicable organizations.

2. The members of the Committee shall serve at the pleasure of the Board. Each member shall serve two (2) year terms that begin on July 1st and expire on June 30th.

### **Sec. 32.1-202.2. - Powers and Duties.**

The Committee has the following powers and duties:

1. Promote the PDR program in cooperation with and under the guidance of the PDR Administrator, by providing educational materials to the public and conducting informational meetings.
2. Annually review the program's eligibility and ranking criteria and recommend to the PDR administrator any changes needed to maintain the PDR program's consistency with the Comprehensive Plan, or to improve the administration, implementation, and/or effectiveness of the PDR program.

### **Part 203. - Appraisal review committee established; powers and duties.**

#### **Sec. 32.1-203.1. - Establishment.**

The appraisal review committee is hereby established, as provided herein:

1. The appraisal review committee consists of three (3) members appointed by the Board of County Supervisors. The appraisal review committee shall include one (1) real estate professional, the Prince William County Director of Finance or designee, and one member of the Committee.
2. The members of the appraisal review committee serve at the pleasure of the Board.
3. The members of the appraisal review committee serve without pay, but the Board may, in its discretion, reimburse each member other than the County Director of Finance for expenses incurred in the performance of their duties.
4. The County Director of Finance or their designee shall serve as the chair of the appraisal review committee.

#### **Sec. 32.1-203.2. - Power and duty.**

The appraisal review committee has the power and duty to review appraisals to assure they are consistent with appropriate appraisal guidelines and practices and to make recommendations to the Board.

### **Part 204. - Eligibility and Ranking Criteria**

#### **Sec. 32.1-204.1. - Eligibility.**

To be eligible for the PDR program, a lot must meet the following criteria:

1. The property must be no less than twenty (20) acres in area or be included in a batch in which the combined area of contiguous parcels is no less than twenty (20) acres in area.

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2. The property or batch must be wholly located within the Rural Area as shown in the Comprehensive Plan.
3. The property must be capable of being qualified for subdivision for residential uses without Board approval.
4. The proposed use of the property as permanent open space conforms the Comprehensive Plan;
5. No uses or structures may be located upon the property other than those permitted by the deed of open-space easement; and
6. If any portion of the property being considered contains land that is currently reserved or set aside for open space, passive recreation, or similar purposes pursuant to the provisions of a proffer, special use permit, variance, or any ordinance or regulation, that portion must be excluded from the evaluation process.

### **Sec. 32.1-204.2. - Ranking Criteria**

The Program Administrator prioritizes parcels for which open-space easement applications are submitted using a ranking system. The Program Administrator and the Committee approve the initial ranking system and any subsequent changes. The Program Administrator uses the ranking system to prioritize their recommendation the Board regarding the acquisition of open-space easements.

## **Part 205. - Purchase of development rights procedure**

### **Sec. 32.1-205.1. - Application submission.**

1. Applications to sell development rights must be on a form prescribed by the Program Administrator and must be signed by the owner and submitted to the Program Administrator. An application fee in the amount established by the Board is required.
2. The Program Administrator may require supporting documentation, including, but not limited to: deeds, surveys, mortgages, deeds of trust, liens, title reports, or other legal instruments, to be submitted with the application.
3. An owner(s) may submit an application for each parcel or may submit a single application for a batch. Applications for batched parcels must follow the same procedure and must be signed by all owners.
4. Applications must be received in a location designated by the Program Administrator by the close of business on the last day of an open application period to be eligible for consideration during that open application period.

### **Sec. 32.1-205.2. - Evaluation process.**

1. The Program Administrator shall review each application to determine whether the eligibility criteria set forth in this chapter are met. In the event a lot, or portion thereof, fails to meet the eligibility criteria set forth in this chapter, such lot, or portion thereof, shall not be considered for inclusion in the PDR program. In the event the ineligibility of a lots or portion thereof, renders the remaining property that is the subject of the application ineligible, none of the property shall be considered for inclusion, unless it can independently meet the minimum criteria.

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2. The Program Administrator evaluates each application received and determines whether the application is complete. If the application is incomplete, the Program Administrator informs the owner of the information that must be submitted for the application to be deemed complete.
3. When the application is deemed complete, and the Program Administrator has determined that the lot(s) satisfy the eligibility criteria set forth in this chapter, the Program Administrator applies the ranking system.
4. The Program Administrator evaluates each application using the criteria of the property ranking system and ascertains the necessary facts and information for ranking the priority of acquisition of the lot(s) included in the application.
5. The Program Administrator notifies the applicants in writing of the evaluation of their properties. An applicant may request, in writing, a meeting with the Program Administrator to discuss the evaluation. The Program Administrator must hold the meeting within ten (10) business days after receiving the meeting request. The Program Administrator has sixty (60) days from the receipt of additional information to advise the applicant whether and how the evaluation is changed, if at all.

### **Sec. 32.1-205.3. - Evaluation by Program Administrator.**

The Program Administrator reviews the list of ranked lots submitted and forwards to the Board its recommendations as to which open-space easements should be purchased.

### **Sec. 32.1-205.4. - Invitation to sell.**

1. After the Program Administrator ranks the properties proposed for open-space easements, the Program Administrator selects the initial pool of lots to be considered for acquisition of open-space easements and assigns a value to be considered for acquisition of each selected open-space easement. In accordance with the action, the Program Administrator invites the owner of each selected lot to sell to the County an open-space easement on that lot for the amount determined by the Program Administrator and subject to the terms and conditions of a proposed deed of open-space easement.
2. The invitation to sell must be in writing and must include the proposed purchase price, the proposed deed of open-space easement, and the date by which the written offer must be received by the Program Administrator in order to be accepted. The invitation may contain a firm offer to be returned by the owner if the owner desires to sell an open-space easement.

### **Sec. 32.1-205.5. - Evaluation by Board of County Supervisors.**

The Board shall review the list of ranked lots submitted by the Program Administrator and the offers returned by the owners desiring to sell their development rights and identify which open-space easements should be purchased and their priority of purchase. Nothing in this chapter shall obligate the Board to purchase development rights on any property that is deemed eligible for purchase.

### **Sec. 32.1-205.6. - Acceptance.**

## **Purchase of Development Rights Ordinance**

The Program Administrator must accept the offers to purchase development rights based upon the priority for purchase approved by the Board, subject to the availability of sufficient funding.

### **Sec. 32.1-205.7. - Offers not made; offers not accepted; invitation to other owners.**

If an owner whose offer is accepted elects not to sell the developments rights, then the Program Administrator may accept the offer to sell from the owner(s) of the next highest prioritized lot (s) remaining on the list, subject to Board approval and the availability of sufficient funding.

### **Sec. 32.1-205.8. - Reapplication.**

An owner of a lot not selected by the Board for purchase of development rights may reapply in any future open application period.

## **Part 206. - Program Non-exclusivity**

This chapter shall not be construed in any way as a limitation upon the County's authority to acquire land for public purposes.

## **Part 207. - Open-space Easements, Inspection, and Enforcement**

### **Sec. 32.1-207.1. – Monitoring**

For each open-space easement accepted into the PDR program, the Program Administrator shall:

1. Establish baseline data for each open-space easement and assure that the terms and conditions of the easement are monitored and complied with including provisions related to public access and/or amenities such as trails to connect open spaces.
2. Conduct periodic inspections of each open-space easement site to assure compliance with the terms of the easement.
3. Coordinate this effort with the land development process for approving subdivisions and building permits.
4. Assist owners in determining whether proposed uses or activities are consistent with the open-space easement restrictions on particular properties.
5. Coordinate inspection and enforcement efforts where an open-space easement is held jointly by the County and another organization.
6. Coordinate the inspection program with, and seek the assistance of, the soil and water conservation district where applicable.

### **Sec. 32.1-207.2. – Enforcement**

The Program Administrator is authorized to enforce this chapter and the terms of any open-space easement acquired under this chapter, in consultation with the County Attorney, and to take all appropriate action to assure compliance with this chapter and the terms of any open-space easement acquired under this chapter.

## Purchase of Development Rights Ordinance

### **Part 208. - Restriction on buy-back; extinguishments and exchange of easements**

#### **Sec. 32.1-208.1. - Restriction on buy-back.**

The owner does not have the option to reacquire any property rights relinquished under the open-space easement, except as provided in this section. The deed of open-space easement may allow an exchange of easements as follows:

1. Petition to the Board. Upon the expiration of 25 years from the date on which an open-space easement was recorded, the owner or successor in interest to the property which is subject to the open-space easement may petition the Board for the extinguishment of such easement in exchange for the conveyance to the County of an open-space easement on a different parcel of property meeting all of the eligibility requirements as set forth in county code sec. 32.1-204.1.
2. Requirements. No such extinguishment and exchange of open-space easement may be authorized, unless a majority of the Board finds that:
  - (a) The extinguishment and exchange is determined to be essential to the orderly development and growth of the County;
  - (b) The extinguishment and exchange is in accordance with the Comprehensive Plan in effect at the time of the extinguishment and exchange;
  - (c) The extinguishment and exchange does not adversely affect the County's interests in accomplishing the purposes of this chapter; and
  - (d) There is substituted other real property which is (a) of at least equal fair market value and at least equal acreage; (b) of greater value as permanent open-space land than the land upon which the easement is extinguished, (c) of as nearly as feasible equivalent usefulness and location for use as permanent open-space land as is the land upon which the easement is extinguished and (d) is in accordance with the Virginia Open-Space Land Act, Virginia Code §10.1-1700 et seq.
3. Expenses. The petitioner must bear the expenses and fees in connection with the exchange, including, but not limited to purchase of the substituted open-space easement, site assessments, surveys, closing costs, recording fees and taxes, title search, and title insurance, if required.



# **STAFF REPORT**

<b>BOCS Meeting Date:</b>	May 4, 2021
<b>Agenda Title:</b>	County Code Amendment #DPA2017-00007, Purchase of Development Rights
<b>District Impact:</b>	Countywide
<b>Requested Action:</b>	Adopt County Code Amendment #DPA2017-00007, Purchase of Development Rights
<b>Department:</b>	Planning Office
<b>Staff Lead:</b>	Parag Agrawal, AICP

## **EXECUTIVE SUMMARY**

This is a request to establish and adopt a Purchase of Development Rights (PDR) Ordinance into the County Code. The program allows for landowners to apply to sever their residential development rights from eligible areas through a voluntary process for permanently conserving agricultural and forestry uses of lands and preserving rural open spaces, historic and cultural landscapes, and natural and scenic resources. The PDR program is intended to complement and supplement land use regulations, resource protection efforts, and open space acquisition programs.

Properties identified for eligibility in the PDR ordinance are properties located within the Rural Area of the Prince William County Comprehensive Plan. The affected area must be no less than twenty (20) acres in size and can be made up of one or more contiguous parcels. Any open space easement acquired pursuant to this program must be voluntarily offered by the owner.

It is staff's and the Planning Commission's recommendation that the Prince William Board of County Supervisors (Board) approve County Code Amendment #DPA2017-00007, Purchase of Development Rights.

## BACKGROUND

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- A. State Code – Section 10.1-1700 et seq. of the Code of Virginia, addresses the County's authority to implement this program.
- B. Rural Preservation Study - Through Directive (DIR 14-82), the Board directed staff to review the County Code to implement some of the recommendations of the Rural Preservation Study, including a Purchase of Development Rights Program. The purpose of the Rural Preservation Study was to provide an overview of the County's rural preservation policies and an evaluation of their effectiveness; identify additional rural preservation tools that may be appropriate and effective; and make recommendations regarding possible amendments to the County's land use planning policies. The study was completed and presented to the Board on May 6, 2014. Several of the study's recommendations relate directly to elements of the Comprehensive Plan (e.g., land use, open space, infrastructure, etc.)

The Board initiated an amendment to the Prince William County Code to create a Purchase of Development Rights Program through Resolution Number (Res. No.) 16-730.

- C. Existing Comprehensive Plan – Numerous existing long-range policies call for the review and development of policies including the purchase of development rights to support the County's open space, environmental, and land use policies.
- D. Proposed Recommendations – The Board directed the Planning Office to bring forward recommendations from the Rural Preservation Study (2014). The first recommendation of the Study was to adopt a vision. Additional recommendations of the 2014 Rural Preservation Study include implementing (existing) policies to incentivize and encourage land preservation through Purchase of Development Rights (PDR), Transfer of Development Rights (TDR), rural cluster with dedication of permanent conservation easements, and policies aimed at studying and stimulating a rural economy. Staff prepared and posted on the Planning Office webpage a draft document and associated draft language entitled, "Summary of Staff Recommendation: Rural Preservation," dated September 17, 2019.
- E. Major Points of Proposed Text Language – The PDR program is available for properties located in the Rural Area of the Comprehensive Plan. Any open space easement acquired pursuant to this program must be voluntarily offered by the owner. All properties that apply for the program will be evaluated and ranked according to the property ranking system. See attached PDR Ordinance.
- F. Implementation Needs – The PDR program, if adopted, would necessitate funding. Funding for purchases of development rights can be done in an ad hoc approach case by case, or by a recurring funding source. Funding for the administration of the program may also be necessary. Staff believes this may require some level of staffing to administer the program. The County could apply for funds through



federal, state, or private partnerships. These partnerships would leverage County funds and achieve a higher number of development right severances annually. Staff acknowledges that funding, and the ability to sever development rights in the County, is limited. Therefore, staff recommends other rural preservation tools be adopted along with the PDR Ordinance. These tools include the TDR, Transfer of Development Rights Ordinance and the Rural Conservation Ordinance together with the Comprehensive Plan Amendment for the Rural Area.

## **CURRENT SITUATION**

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- A. Community Engagement Sessions – The Planning Office held a series of Community Engagement public meetings on the Rural Area Plan, which included components of a Purchase of Development Rights program. The meetings were held on June 24, 2019, July 30, 2019, and September 24, 2019, to gather stakeholder ideas and thoughts on the Rural Area and to distribute information and answer questions regarding the staff recommendations for rural preservation.

The stakeholders represented a large cross-section of groups with varying interests in the rural policies of Prince William County and provided a broad perspective on the many issues the County faces with planning for rural preservation.

- B. Proposed language – The proposed language for a Purchase of Development Rights Ordinance was published on the project website on September 17, 2019, and notifications were sent to all who subscribe to PWC Alerts.

A project website was developed and maintained by the Planning Office throughout the project. This website included all project information including meeting materials, maps, survey results, presentations, etc. Notification of the public meetings was provided on the project website, the County's homepage, and through newspaper advertising.

- C. Planning Commission Work Session and Public Meeting – The Planning Commission held work sessions on the proposed language for a Purchase of Development Rights Ordinance on October 23, 2019, November 13, 2019, and December 2, 2020.

- D. Planning Commission Public Hearing – A public hearing before the Planning Commission on the PDR Ordinance was properly advertised and held on March 17, 2021. Staff, in accord with the Planning Commission, recommended that the Purchase of Development Rights Ordinance be uncoupled from CPA2018-00009, Rural Preservation (Rural Area Plan). The Planning Commission made the following additional recommendations:
- Update the proposed PDR Ordinance to include Planning Commission and citizen changes as deemed appropriate. Remove ambiguous statements and terminology. Upon completion re-post on County web page and send an electronic copy to the Planning Commission.

- The PDR Program administrator and (five) 5 members of the PDR Committee shall each have an extensive background in the Agricultural Industry which shall include but not be limited to: Forestry, Horticulture and Conservation Practices.

Staff has revised the proposed PDR Ordinance to remove its reliance on CPA2018-00009, Rural Preservation (Rural Area Plan). Staff has reviewed the PDR Ordinance for general Planning Commission and public inputs and ambiguity. Staff posted the revised proposed PDR Ordinance on the County's website on April 28, 2021.

Staff has not incorporated the Planning Commission's recommendation to require the Program Administrator and the PDR committee to have an extensive background in the Agricultural Industry which shall include but not be limited to: Forestry, Horticulture and Conservation Practices. This recommended change would limit the Board's and the County Executive's appointing and hiring authorities, respectively.

## **STAFF RECOMMENDATION**

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The Planning Office recommends approval of County Code Amendment #DPA2017-00007, Purchase of Development Rights for the following reasons:

- The PDR program is intended to complement and supplement land use regulations, resource protection efforts, and open-space acquisition programs.
- Establishes a voluntary process for landowners to permanently conserve agricultural and forestry uses of lands, and preserve rural open spaces, and natural and scenic resources.
- Creates reliability and transparency by providing a property ranking system, a PDR Committee, an Appraisal Committee, and guidance for the administration of the PDR program.

## **Community Input**

As required by Section 15.2-1427, Code of Virginia, notice of the County Code Amendment has been advertised and the proposed amendment has been published on the Prince William County government web site and has been available in the Planning Office. The Planning Office also received feedback during public meetings held June 24, 2019, July 30, 2019, and September 24, 2019.

The Planning Office has received hundreds of emails (reflected in a 281-page spread sheet posted on the webpage) and also received feedback through response cards which were completed by participants at the July 30, 2019 Community Feedback meeting. Copies of the responses received are located on our web page, <https://www.pwcgov.org/government/dept/planning/Pages/Rural-Area-Plan.aspx>.

The comments ranged from strongly agree to strongly disagree where some residents confirmed their desire for no change to current rural policy while others supported a wholesale adoption of the Rural Preservation Study Recommendations. There was significant feedback for "no change" to the rural policies however, a majority of participants did support a PDR program.

**Legal Issues**

Legal issues, if any, are appropriately addressed through the County Attorney's Office.

**Timing**

There is no time requirement for the Board of County Supervisors to take action on this proposed County Code amendment.

**STAFF CONTACT INFORMATION**

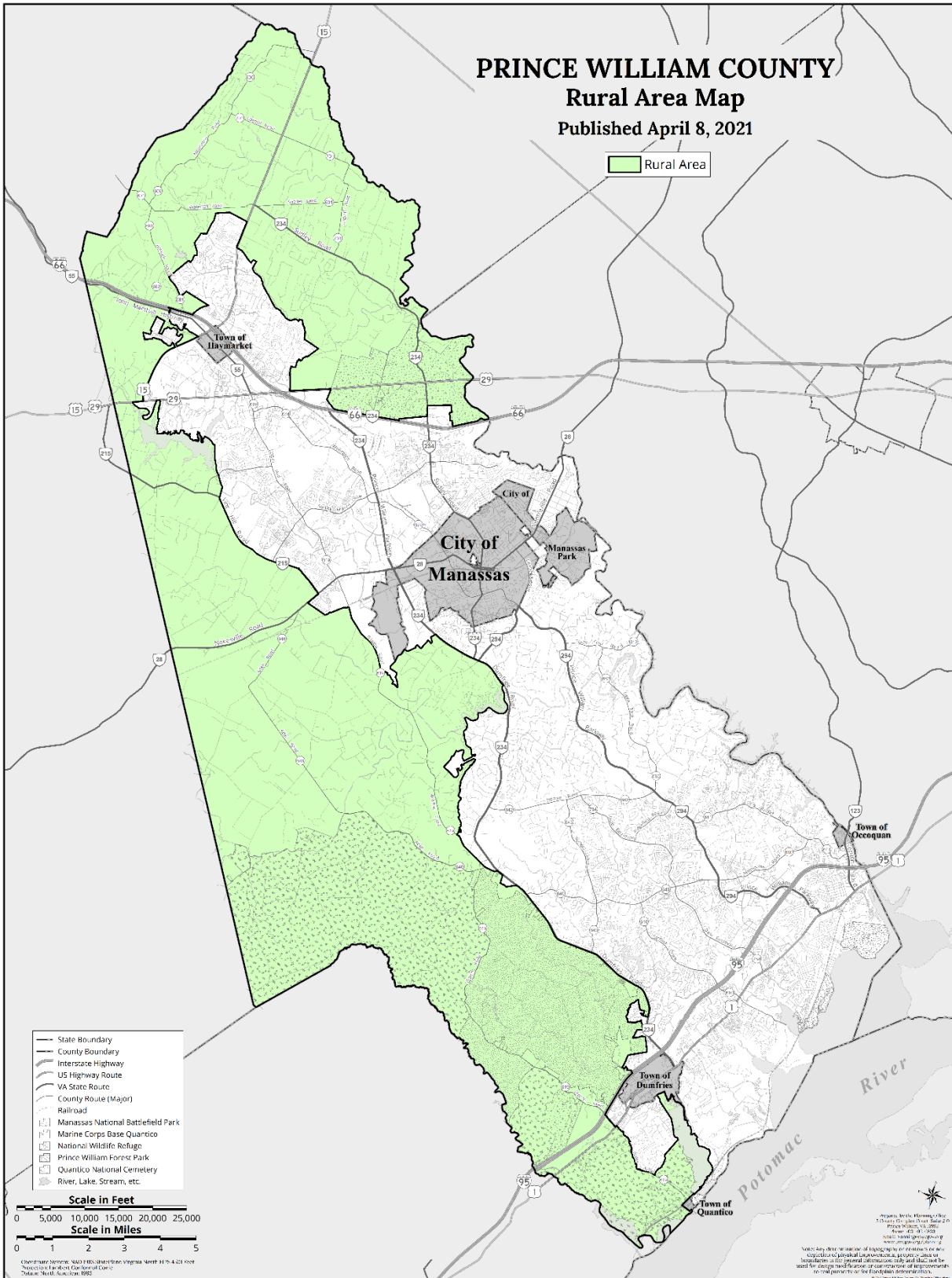
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Alex Stanley | (703) 792-7359  
AStanley@pwcgov.org

**ATTACHMENTS**

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- Rural Area Map (As shown in the Comprehensive Plan)
- Staff Analysis
- BOCS Initiating Resolution
- Planning Commission Resolution



### **Long-Range Land Use**

The PDR program is not part of the Zoning Ordinance. However, the PDR program is intended to implement multiple policies and action strategies in #CPA2018-00009 (LR Policy 1 and 3) and the existing Comprehensive Plan. (LR Policy 1 and 3)

### **Environment**

Adoption and implementation of the PDR program will help to achieve numerous existing Comprehensive Plan Policy Goals: Open Space Policy 4, Open Space Policy 5, and Environment Policy 3.

### **Rural Area Plan Policies/Tools**

The Rural Area Plan policies and tools are connected and interdependent. No individual policy can achieve the overall goals of the Rural Area Plan. The Rural Area Plan provides a suite of tools to help implement and achieve the policies of the the Rural Area Plan.

## BOCS Initiating Resolution

**MOTION: PRINCIPI**

**September 20, 2016  
Regular Meeting  
Res. No. 16-730**

**SECOND: NOHE**

**RE: INITIATE AN AMENDMENT TO THE COUNTY CODE TO CREATE A  
PURCHASE OF DEVELOPMENT RIGHTS PROGRAM**

**ACTION: APPROVED**

**WHEREAS**, in accordance with Sections 10.1-1700 et. seq. of the Code of Virginia, Ann., the Board of County Supervisors may acquire property or easement for use as open space land; and

**WHEREAS**, in 1998, Prince William County's Comprehensive Plan was amended as such that the County was divided into two main areas: the Development Area and the Rural Area (also known as the Rural Crescent); and

**WHEREAS**, the Prince William County Rural Preservation Study was completed in 2014, the purpose of this study was to be able to review the County's current preservation policies, to determine the effectiveness of these policies, and to provide the Board of County Supervisors with recommendations on how to improve the County's land use planning policies in relation to preserving open spaces; and

**WHEREAS**, on July 8, 2014, Supervisor Nohe (DIR 14-82), requested that staff provide additional information regarding implementation of the Rural Preservation Study, review the Zoning Ordinance to look for opportunities to eliminate barriers or create new incentives for more rural economic development, look for remedies for farmers who raise and slaughter livestock specifically for religious events, and further investigate opportunities to purchase property development rights and how that relates to other elements of the Study's recommendations; and

**WHEREAS**, rural preservation is important in Prince William County to address loss of farmland, reduce sprawl and focus growth in the development area, encourage environmental preservation, protect the Prince William Forest and Manassas National Battlefield Park, protect Marine Corps Base Quantico's training mission, and protect historic and cultural resources; and

**WHEREAS**, the amendment would allow purchase of development rights in the County to allow a landowner to voluntarily sell their development rights from their land to a land trust, public agency or the County for the purpose of permanently protecting the land from being developed; and

**WHEREAS**, this resolution will authorize the staff time and resources necessary for research, analysis and to conduct public hearings with the Planning Commission and the Board of County Supervisors;

## BOCS Initiating Resolution

September 20, 2016  
Regular Meeting  
Res. No. 16-730  
Page Two

**NOW, THEREFORE, BE IT RESOLVED** that the Prince William Board of County Supervisors does hereby initiate an amendment to the Prince William County Code to create a Purchase of Development Rights Program.

**Votes:**

**Ayes:** Anderson, Caddigan, Jenkins, Lawson, Nohe, Principi, Stewart

**Nays:** None

**Absent from Vote:** None

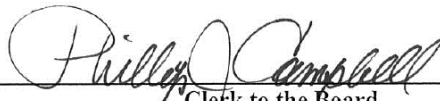
**Absent from Meeting:** Candland

**For Information:**

Planning Director

County Attorney

ATTEST: \_\_\_\_\_

  
Clerk to the Board

# Planning Commission Resolution



PRINCE WILLIAM  
COUNTY

Planning Commission

## PLANNING COMMISSION RESOLUTION

**MOTION:** TAYLOR **March 17, 2021**  
**SECOND:** FONTANELLA **Regular Agenda**  
**RE:** COUNTY CODE AMENDMENT #DPA2017-00007 **RES. No. 21-029**  
PURCHASE OF DEVELOPMENT RIGHTS  
COUNTYWIDE  
**ACTION:** RECOMMEND APPROVAL

**WHEREAS**, under Section 10.1-1700 et seq. of the Code of Virginia, Ann., the County's authority to implement this program; and

**WHEREAS**, this is a request to amend the county code to create a Purchase of Development Rights (PDR) program to sever residential density from eligible areas in the Rural Area through a voluntary process for permanently conserving agricultural and forestry uses of lands and preserving rural open spaces, historic and cultural landscapes, and natural and scenic resources; and

**WHEREAS**, by way of Resolution No. 16-730, the Board of County Supervisors initiated an amendment to the Prince William County Code to create a Purchase of Development Rights Program on September 20, 2016; and

**WHEREAS**, the Prince William County Planning Commission duly ordered, advertised, and held a public hearing on March 17, 2021, at which time public testimony was received and the merits of the above-referenced request were considered; and

**WHEREAS**, the Prince William County Planning Commission believes that public general welfare as well as good planning practices are served by the approval of this county code amendment;

**NOW, THEREFORE, BE IT RESOLVED** that the Prince William County Planning Commission hereby recommends approval of County Code Amendment #DPA2017-00007, Purchase of Development Rights on the regular agenda with the following recommendations:

1. Update PDR County Code Amendment to include Planning Commission and citizen changes as deemed appropriate. Remove ambiguous statements and terminology. Upon completion, re-post on County web page and send an electronic copy to the Planning Commission.
2. Remove any references to the Purchase of Development Rights areas and replace them with the "Rural Area as shown in the Comprehensive Plan"; and Ensure any reference(s) in the PDR ordinance to concepts identified in the Rural Preservation CPA are revised.



# Planning Commission Resolution

March 17, 2021  
Regular Meeting  
RES. No. 21-029  
Page 2

3. The PDR Program administrator and 5 members of the PDR Committee shall each have an extensive background in the Agricultural Industry which shall include but not be limited to: Forestry, Horticulture and Conservation Practices.

**Votes:**

**Ayes:** Berry, Fontanella, McKay, Milne, McPhail, Moses-Nedd, Perry, Taylor

**Nays:** None

**Absent from Vote:** None

**Absent from Meeting:** None

**Abstain from Vote:** None

**MOTION CARRIED**

Attest:

  
\_\_\_\_\_  
Robbyn Smith  
Clerk to the Planning Commission



**PRINCE WILLIAM**  
COUNTY

**Items 14-B to 14-E**

# Rural Preservation Study Implementation

**#CPA2018-00009, Rural Preservation**

**#DPA2017-00009, Conservation Residential**

**#DPA2017-00008, Transfer of Development Rights**

**#DPA2017-00007, Purchase of Development Rights**

**Parag Agrawal, AICP**

**May 4, 2021**

# Rural Preservation Study Implementation



## **#CPA2018-00009, Rural Preservation (Rural Area Plan)**

- Initiated on August 3, 2016

## **#DPA2017-00009, Conservation Residential Zoning Districts (CR-3 and CR-5)**

- Initiated on September 20, 2016

## **#DPA2017-00008, Transfer of Development Rights**

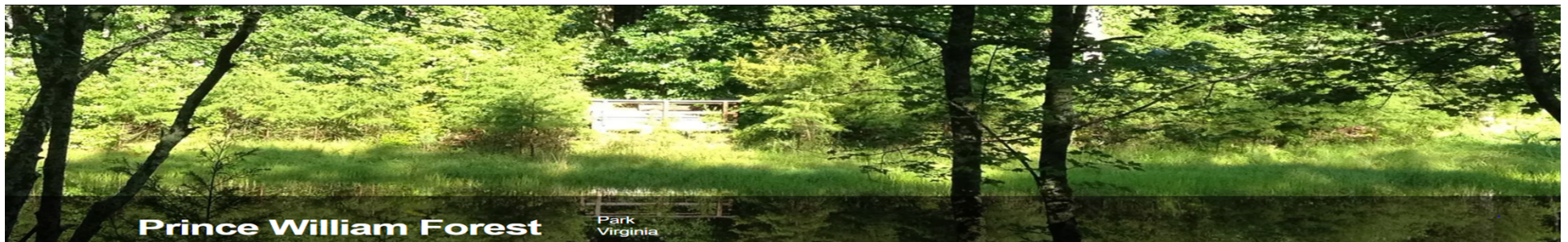
- Initiated on September 20, 2016

## **#DPA2017-00007, Purchase of Development Rights**

- Initiated on September 20, 2016

## **#DPA2016-00007, Agritourism and Arts Overlay District**

- Adopted on February 16, 2021

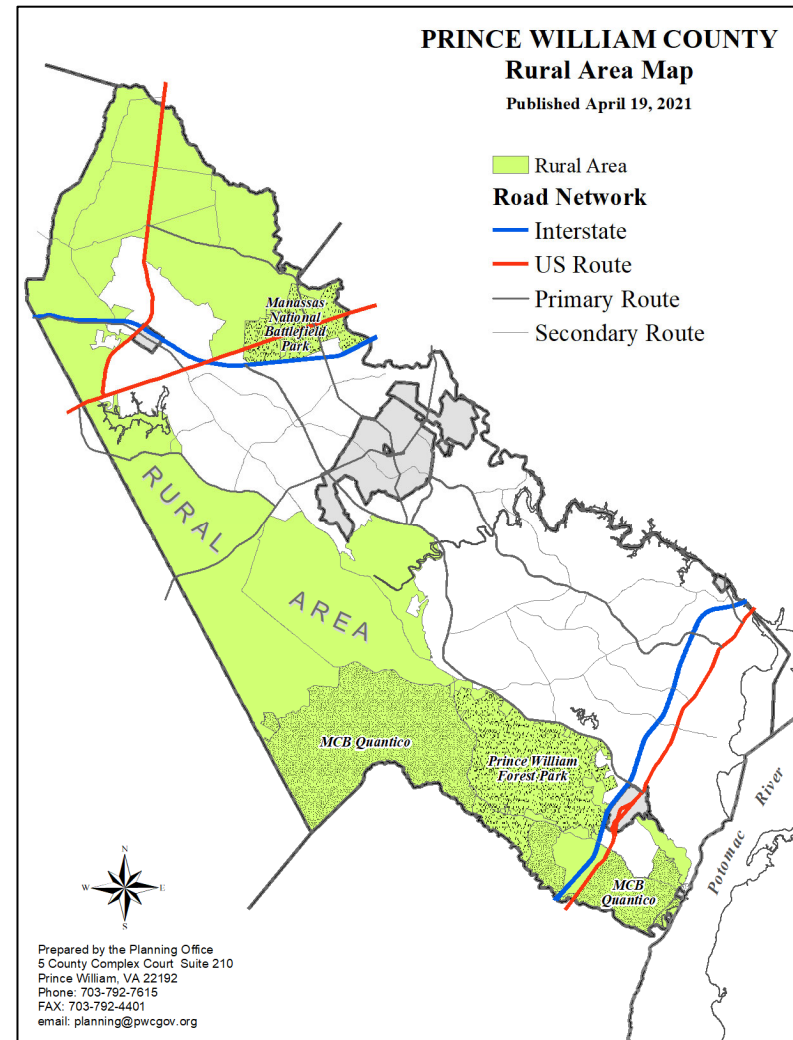


# Prince William County Rural Area



## 2008 Comprehensive Plan:

The purpose of the Rural Area designation is to help preserve the County's agricultural economy and resources, the County's agricultural landscapes and cultural resources, the quality of the groundwater supply, and the open space and rural character presently found there. The Rural Area also protects Prince William Forest Park and Manassas National Battlefield Park County Registered Historic Sites, which serve as key anchor points within the Rural Area classification.



# Prince William County Rural Area



## Facts:

**53 Percent (116,866 acres) of the County is in the Rural Area:**

- National Forest
- Battlefields
- Quantico Marine Corps Base
- Private Properties

**33 Percent (73,692 acres) of the County is non-federal and non-state land in the Rural Area.**

## Rural Area Population:

- Current Population: 35,000
- COG 2045 Projections: 38,465

**Land Use Categories:** Majority AE (ER, CRHS, P&OS)

**Zoning Categories:** Majority A1 (M1, SR1, SR5)



# Prince William County Rural Area

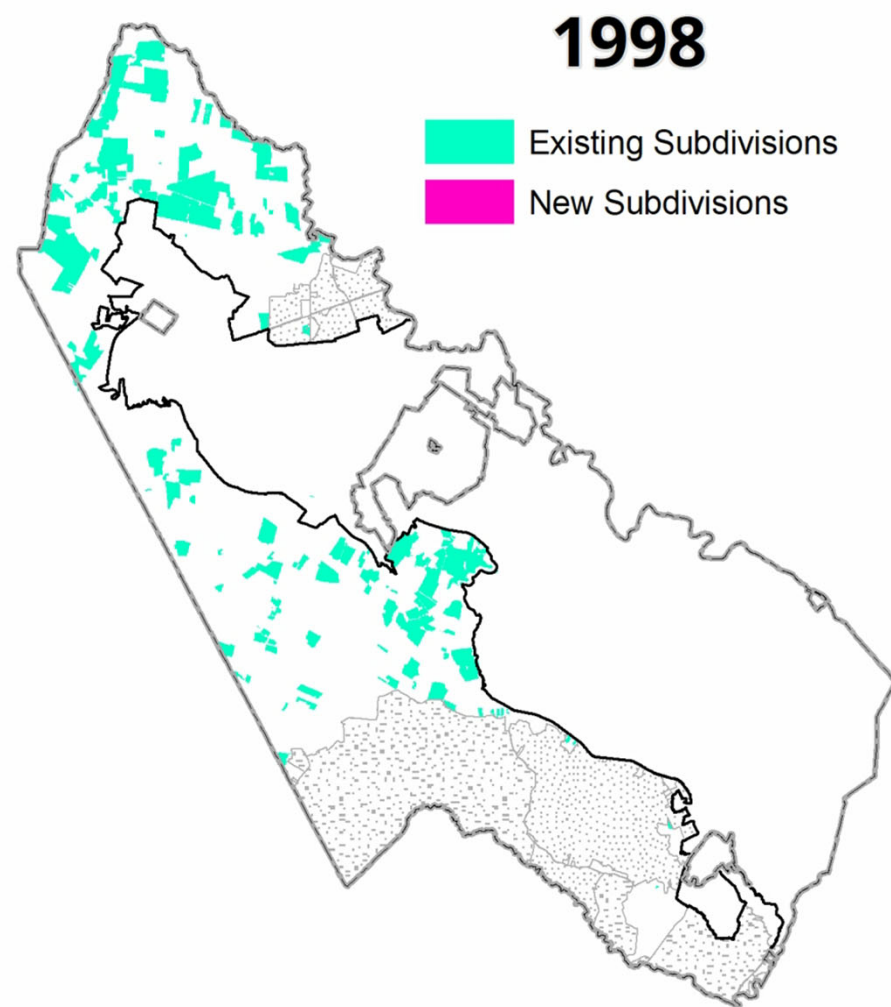


## Facts:

- 13,897 acres were subdivided into residential subdivisions (2009-2019)
- Approx. 17000 acres (20 acres +lots) of land is undeveloped (2020)
- Approx. 1700 new homes could be built based on existing policy (1 home/ 10 acre)
- Current projects = 100 homes/ year



# Rural Area Subdivision Growth from 1998 through 2018



Map prepared by the PWC Planning Office (7/1/2019 rth)



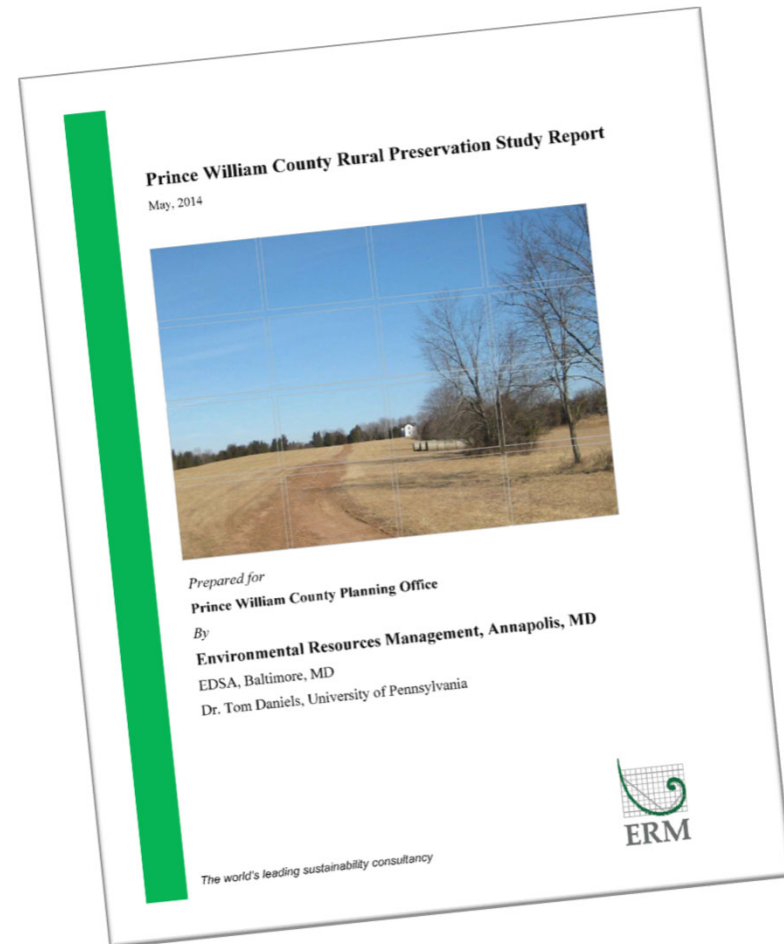
# Background | Why We Are Here

## Rural Area Preservation Study

- Presented in May of 2014
- Evaluated the effectiveness of current rural preservation policies
- Recommended new preservation tools

The BOCS directed the Planning Office to provide draft policies and ordinances to implement the

[Rural Area Preservation Study](#)





# Rural Preservation Recommendations

The Board of County Supervisors directed the Planning Office to bring forward recommendations from the Rural Preservation Study. The five recommendations the Planning Office considered are:

1



## **Adopt the Rural Area Plan**

- Adoption of a vision statement
- Recommendations for policies and action strategies
- The Rural Area Sector Plan including maps to support the other recommendations

2



## **Adopt a Purchase of Development Rights (PDR) Program**

3



## **Adopt a Transfer of Development Rights (TDR) Program**

4



## **Adopt a Agritourism & Arts Overlay District**

5



## **Adopt a Conservation Residential Land Use Designation**

- Designate appropriate areas of the Rural Area
- Zoning Text Amendment for a new zoning district: Conservation Residential.

**APPROVED**

# Rural Preservation Plan Components



## #CPA2018-00009, Rural Preservation (Rural Area Plan)

- **Vision Statement**

Preserves open space, environmental resources, and cultural resources; honors and respects property rights of county landowners; promotes availability of farmland (via easements) and agritourism

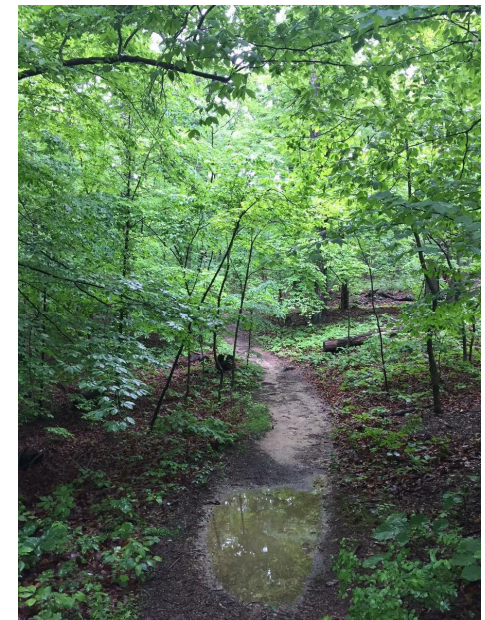
- **Rural Character Areas**

Rural character means a landscape dominated by or with a strong presence of rural elements; 5 primary character areas

- **Establishes policies and strategies**

(Rural Economic Development; Cultural Resources; Environment, Open Space and Recreation)

- **Amends Long Range Land Use Map**



# Rural Preservation (Rural Area Plan)

## #CPA2018-00009



### Intent

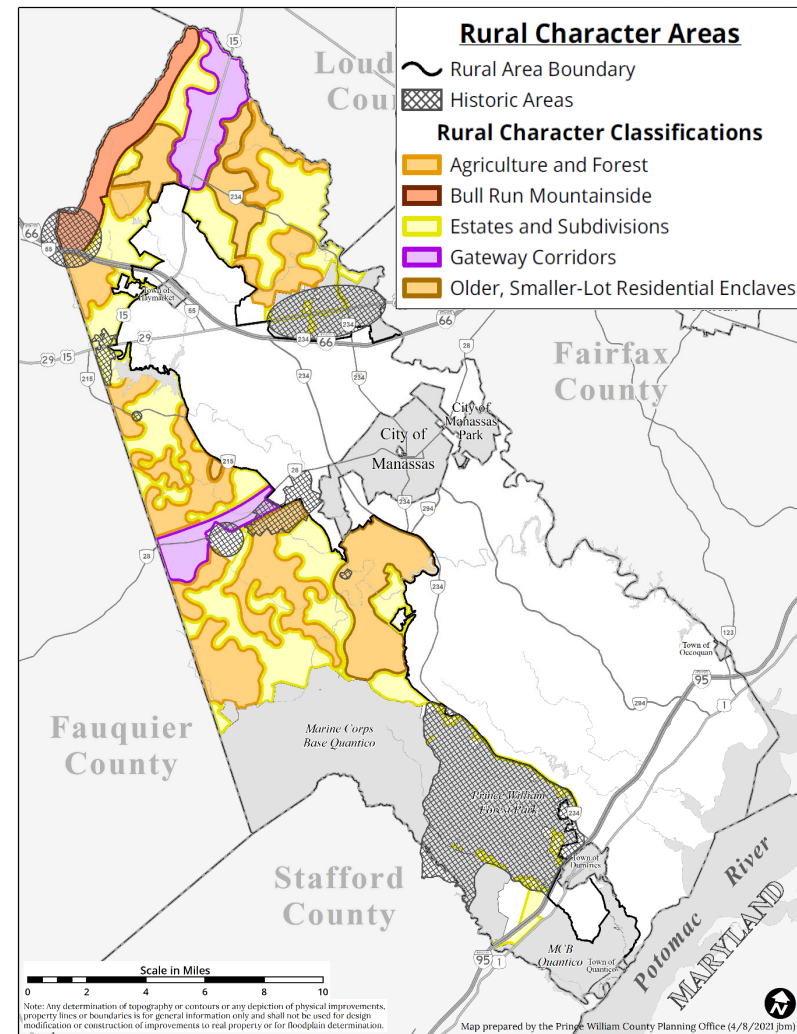
The intent of the Rural Area Plan is to provide policy guidance on uses and development within the Rural Area, including:

- Preservation tools
- Designate rural character areas
- Enhance rural economy
- Preservation of cultural resources and farmland

### Rural Area Plan Maps

The CPA includes a new map and revisions to the Long-Range Land Use (LRLU) Map:

- Rural Character Area Map (NEW)
- TDR Sending and Receiving Areas (Addition to LRLU Map)
- Conservation Residential Areas (Addition to LRLU Map)



# Rural Preservation Plan Components

## #DPA2017-00009, Conservation Residential

Requires a rezoning, public hearings, and legislative approval

### Two new zoning districts:

- CR-3 – One dwelling unit per three acres
- CR-5 – One dwelling unit per five acres

### 60% Open Space requirement

Public Sewer is permitted but not required



### Conservation Residential Impact Summary

Existing Permitted Units	±175 units
Potential Additional Units	±216 units
Max. Units with CR Program	±391 units
Acres Conserved	±1000 acres



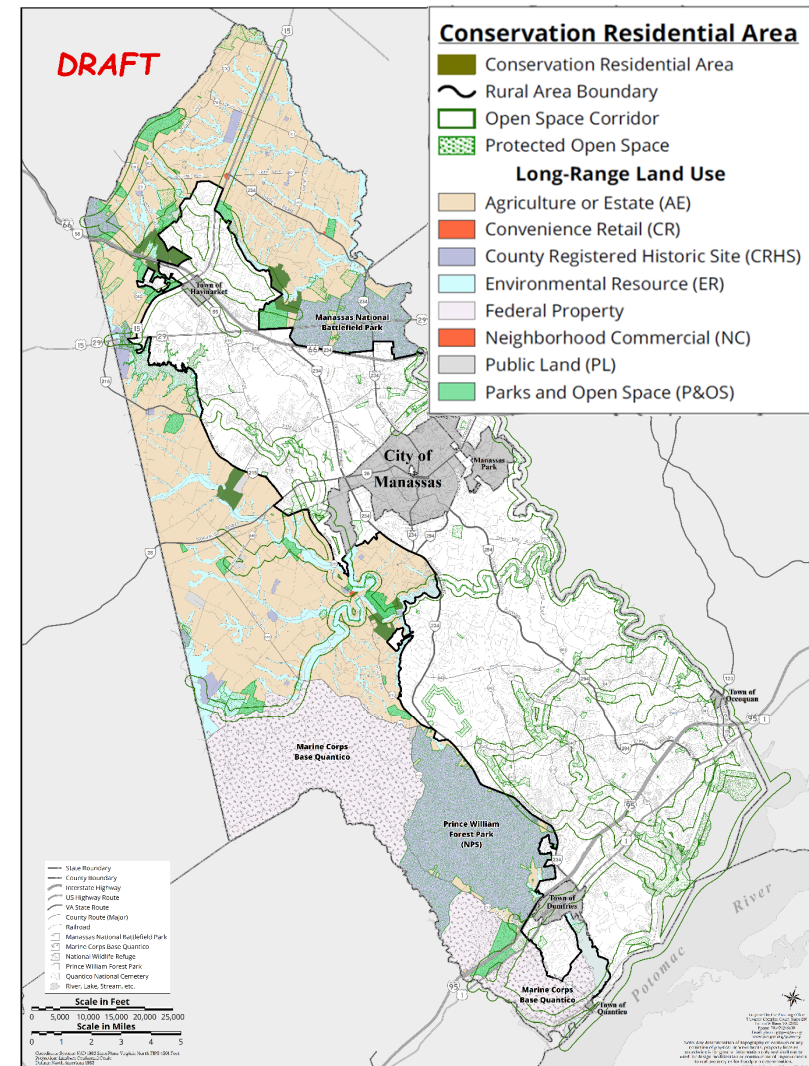
# Conservation Residential (CR) #DPA2017-00009

## Conservation Residential (CR)

Zoning districts encourage cluster development which will minimize impacts on the natural environment

### Key Considerations

- Incentivizes preservation
- Creates permanent protected open space
- Directs development to appropriate areas
- Alternative development option



# Rural Preservation Plan Components

## #DPA2017-00008, Transfer of Development Rights

**Private marketplace:** Administered publicly

### **Sending Area Eligibility:**

A-1 Property in Rural Area with more than 1 development right

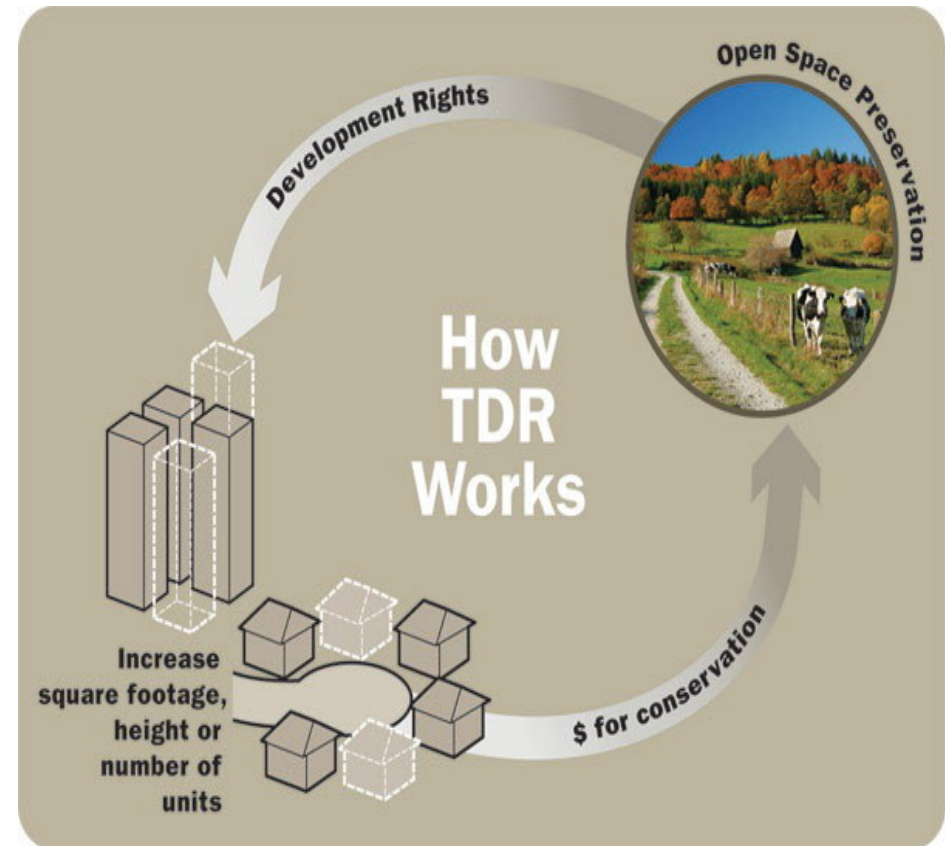
### **Receiving Area Eligibility:**

#### **Four areas in the Development Area:**

- PMR Urban High development standard

#### **Two areas in the Rural Area:**

- CR development standard



# Transfer of Development Rights (TDR)

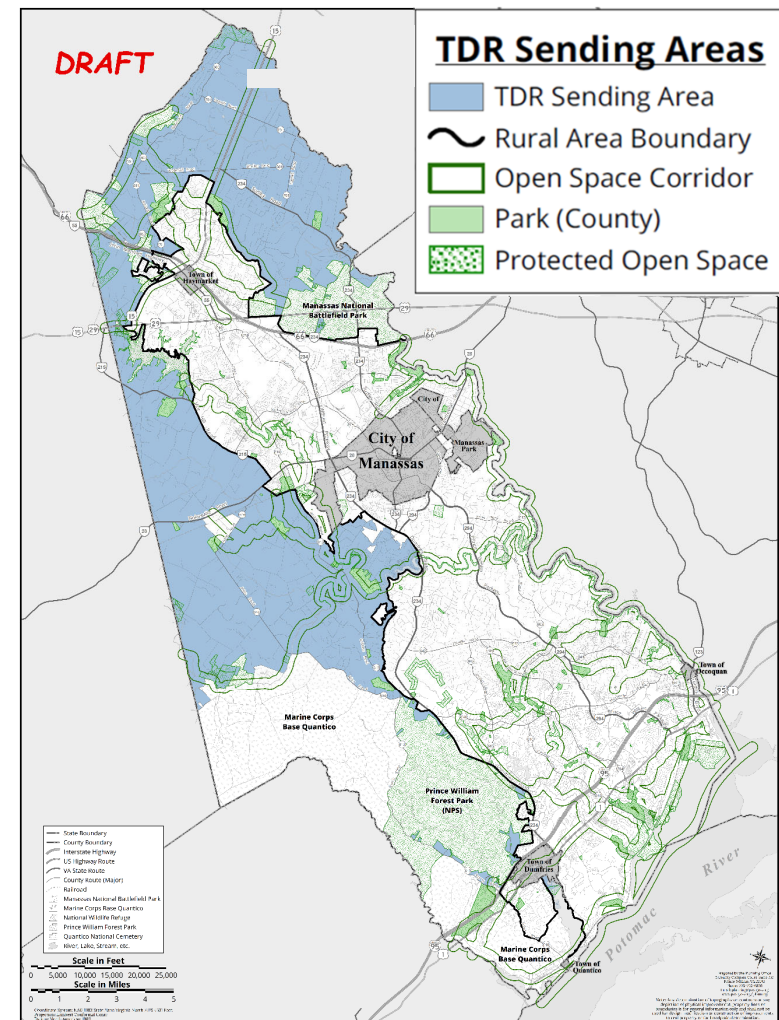
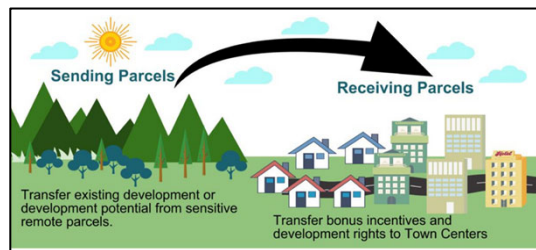
## #DPA2017-00008

### Transfer of Development Rights (TDR)

allows landowners to sever their residential development rights and **transfer** them to other areas of the County

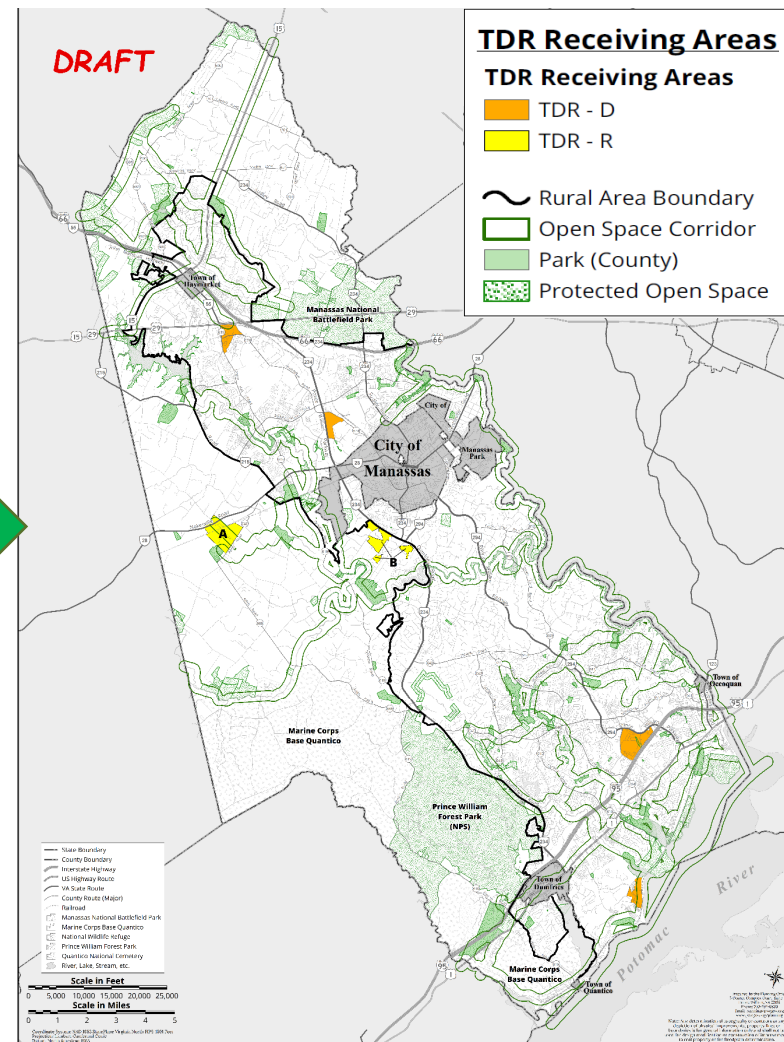
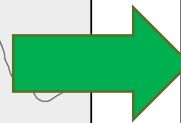
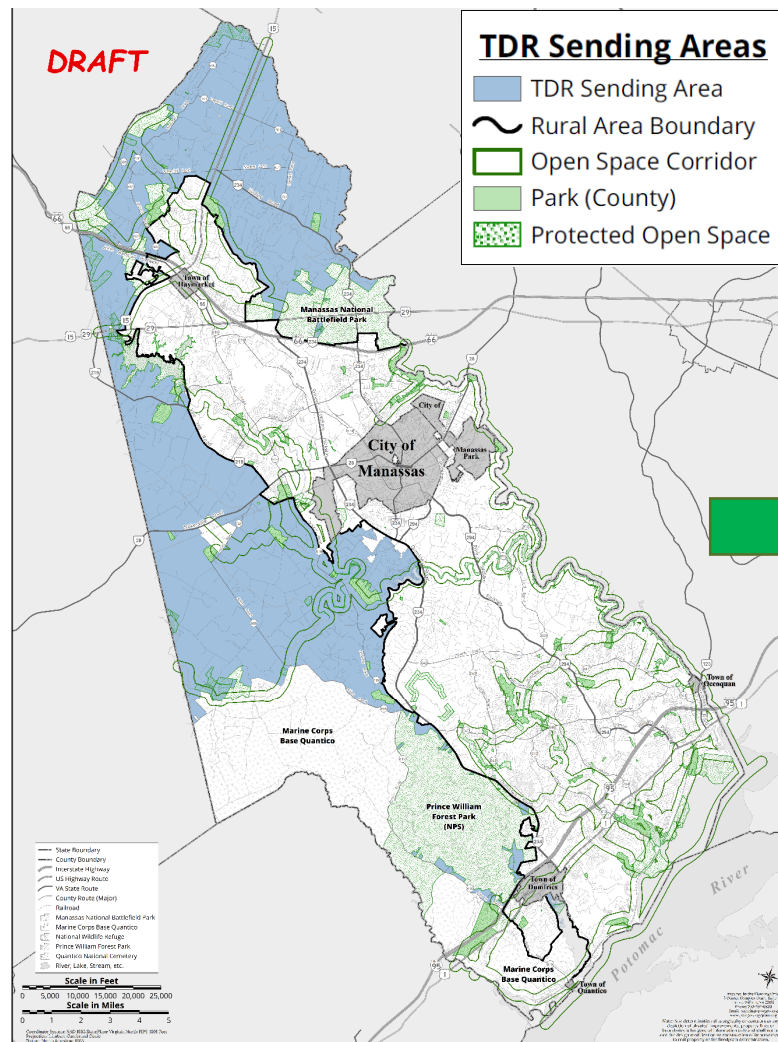
### Key Considerations

- Incentivizes preservation
- Creates permanent protected open space
- Directs development to appropriate areas
- Provides a review system ensuring timely processing





# TDR Sending and Receiving Areas





# Rural Preservation Plan Components



## #DPA2017-00007, Purchase of Development Rights

**Publicly Funded:** Local, state and federal funds

**Voluntary:** Residents choose to conserve their land

### Eligibility:

Properties located in Rural Area

20+ acres of undeveloped A-1 Property  
(acreage requirements may be met with multiple contiguous properties)



# Purchase of Development Rights (PDR) #DPA2017-00007



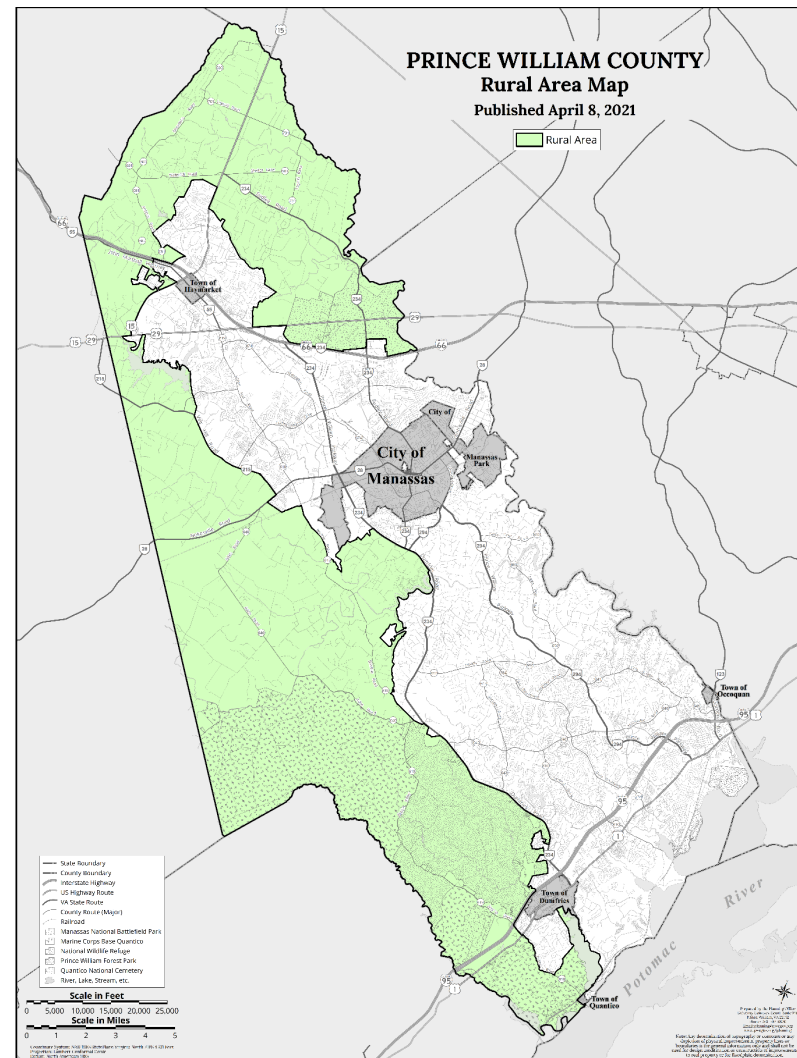
## Purchase of Development Rights (PDR)

allows landowners to sever residential development rights to **permanently** conserve:

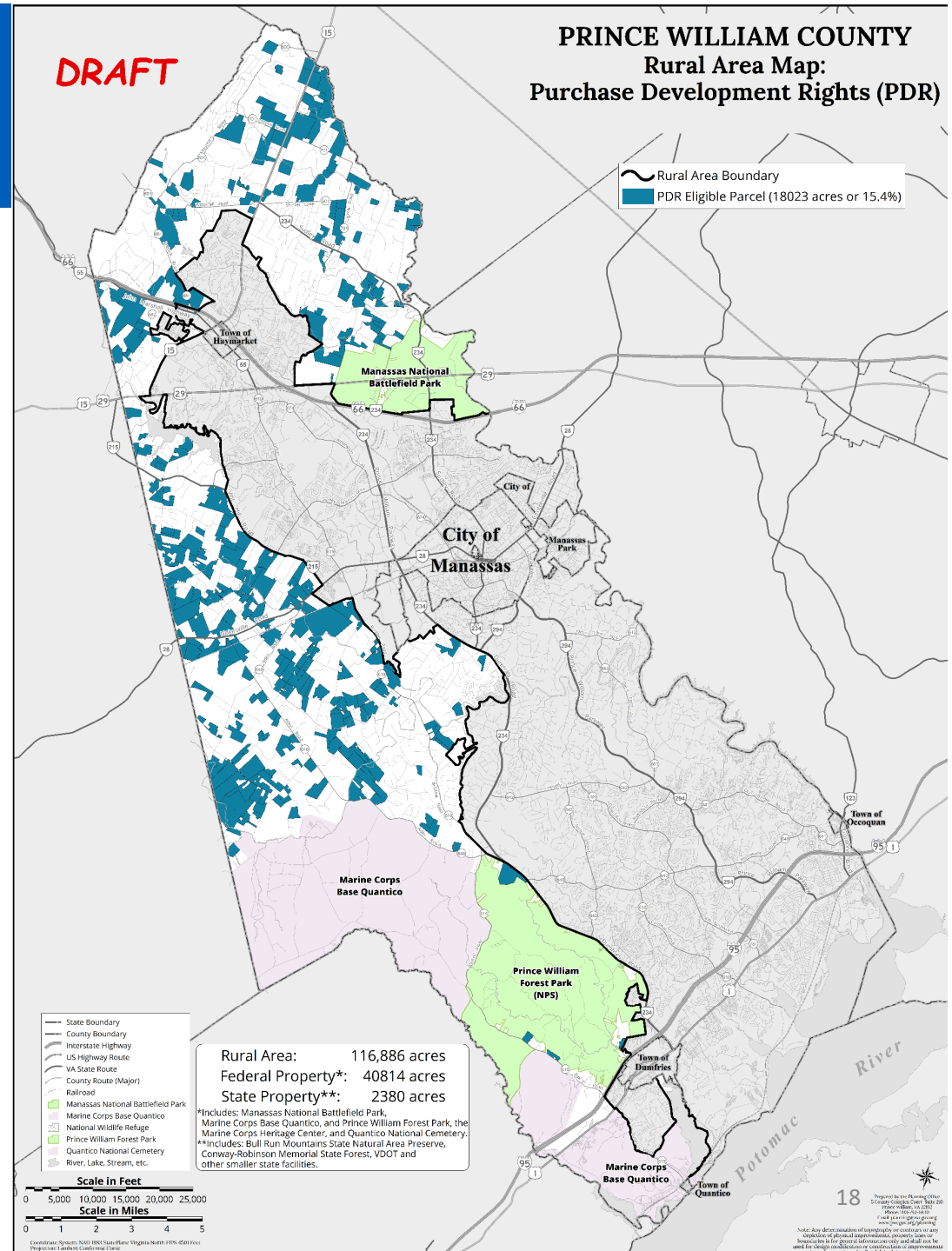
- Agricultural and forestry uses
- Rural open spaces
- Historic and cultural landscapes
- Natural and scenic resources

## Key Considerations

- Voluntary program
- Includes properties no less than 20 acres (allows for multiple contiguous parcels)
- Creates permanent conservation easements
- Recommended with other preservation tools



# PDR Eligible Properties



# Examples of Existing PDR Programs

## Funding can come from several places:

- Federal
- State
- Private grant programs



Locality*	Easements	Acres Protected	Local Funding	State PDR	Other	Total Funding	Cost per Easement	Cost Per Acres
Fauquier	14	4,013	\$2,716,145	\$2,133,900	\$100,000	\$4,955,046	\$353,585	\$1,234
Stafford	6	447	\$1,392,394	\$1,374,603	\$180,000	\$2,946,997	\$491,166	\$6,599
Albemarle	15	2,644	\$2,588,616	\$2,028,457	-	\$4,617,073	\$307,805	\$1,747
Virginia Beach	7	484	\$2,566,424	\$1,604,642	-	\$4,171,066	\$595,867	\$8,613

\*Sample of similar/surrounding localities

Source: Office of Farmland Preservation (OFP) Annual Report

# Public Participation

## Community Engagement

The Planning Office held numerous public engagement sessions including:

- Three Community Conversations
- Three Community Engagement Sessions
- Three Planning Commission Work Sessions

## Feedback

The Planning Office received feedback in the form of:

- Emails
- Comment Cards
- Mobile Application

Community Concerns ranged from strongly **agree** to strongly **disagree** with a significant feedback for “**no change**” to existing policies





# Planning Commission Recommendation



## Recommendation of Approval

[#DPA2017-00007, Purchase of Development Rights](#) with the following recommendations:

- Incorporate Planning Commission and citizen changes as deemed appropriate. Remove ambiguous statements and terminology. Publish and distribute revisions to the Planning Commission.
- Remove reference to Purchase of Development Rights areas and replace them with the “Rural Area as shown in the Comprehensive Plan”.
- The PDR Program administrator and Committee shall each have an extensive background in the Agricultural Industry.

## Recommendation of Denial

The Planning Commission recommended Denial of:

[#CPA2018-00009, Rural Area Plan](#)

[#DPA2017-00009 Conservation Residential](#)

[#DPA2017-00008, Transfer of Development Rights](#)

- Concerns in implementing multiple programs.
- The County should evaluate the efficacy of a PDR program before implementing additional policies.

# Staff Recommendation

**1 Recommend Approval of**  
#DPA2017-00007, Purchase of Development Rights Program

**2** The Planning Office  
**Recommends Approval of**  
Comprehensive Plan  
Amendment #CPA2018-00009,  
Rural Area Plan for the Following  
Reasons:

- Establishes a new vision, goals, and action strategies to guide preservation tools
- Identifies special character areas recognizing the diverse makeup of the Rural Area

Contingent  
upon approval  
of CPA

**3 Recommend Approval of**  
#DPA2017-00009 Conservation  
Residential

**4 Recommend Approval of**  
#DPA2017-00008, Transfer of  
Development Rights Program