

A white paper exploring tools to protect from development through the use of voluntary preservation programs 50% of Eastern Shore land outside of locally designated growth areas by 2010.

—*Eastern Shore 2010 Goal 1*

Eastern Shore 2010: A Regional Vision

**Tools Available for Attaining the
*Eastern Shore 2010 Land Protection Goal***

Prepared June 2003 - January 2004

ACKNOWLEDGMENTS

Funding for this project was provided by Town Creek Foundation and the Chesapeake Bay Trust. Special thanks to members of the Land Protection Task Force for their ongoing participation in this project: Tammy Buckle, Anthony DiGiacomo, Karen Houtman, Carla Martin, Commissioner Gene Ransom, Faith Elliot-Rossing, Steve Cohoon, Commissioner Hope Harrington, Frank Hall, George Kinney, Grant Dehart, John Hutson, George Maurer, Debi Osborne, Edith Thompson, Elizabeth Watson, Rob Etgen, and Carl DeMatteo.

Eastern Shore Land Conservancy is a private, nonprofit land conservation organization dedicated to the preservation of farmland and habitat on the Eastern Shore. A 32-member volunteer board of directors, chaired by former Gov. Harry Hughes, includes a diverse group of Eastern Shore landowners representing the agricultural and business communities as well as local governments.

Since its inception in 1990, ESLC, funded by member contributions, has helped landowners to protect more than 35,000 acres of farmland and important habitat on 182 properties on the Eastern Shore.



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TABLE OF CONTENTS

Introduction.....	9
Defining baseline got the goal.....	11
Implementation: Strategies for increasing land protection efforts	16

APPENDIX

1: List of task force members.....	34
2: Accounting of land protected in each county	
3: Data & calculations for land protection projections	
4: Local land protection financing tools—resources	
• General information on PDR programs	
• General information on common local land protection financing tools	
• General information on transfer of development right programs	
5: Details about task force discussions regarding the definition of “lands protected from development”	

EXECUTIVE SUMMARY

Eastern Shore 2010: A Regional Vision (Eastern Shore 2010) is an inter-county agreement that sets the highest expectations for the care of the Eastern Shore landscape. Similar in intent to the Chesapeake Bay Agreement but tailored for the specific regional needs of Eastern Shore lands and communities, this agreement sets four important land use goals focusing on protecting land, strengthening working landscapes, curbing sprawl, and planning for regional transportation.

To garner the research and resources to reach the first goal of the agreement, a regional task force—comprised of county representatives and experts from the federal, state, and private sector—was organized to explore the strategies available to “*Strive to protect from development through the use of voluntary preservation programs 50% of Eastern Shore land outside of locally designated growth areas by 2010.*” The deliberations and ideas developed by the land protection task force is documented in this research white paper with the main purpose of providing voluntary options for individual county consideration (not to be mandates).

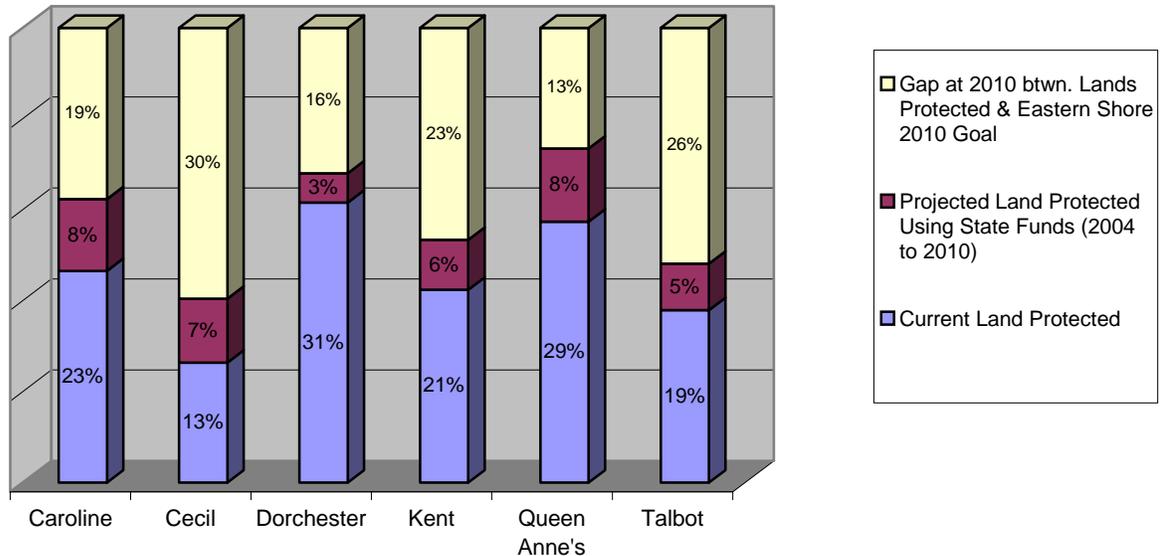
The task force first studied the current state and past accomplishments of land protection in the region, summarized as follows:

BASELINE FOR LAND PROTECTION EFFORTS					
	Acres			Percent	
	Total Land Outside of Growth Area	Eastern Shore 2010 Goal	Protected Land (as of 2003)	Eastern Shore 2010 Goal	Percent Land Protected (as of 2003)
Caroline	185,383	93,691	43,169	50%	23.3%
Cecil	123,030	61,515	16,244	50%	13.2%
Dorchester	319,082	159,541	98,244	50%	30.8%
Kent	156,100	78,050	33,098	50%	21.2%
Queen Anne’s	223,273	111,637	64,065	50%	28.7%
Talbot	147,686	73,843	28,007	50%	19%
REGION	1,154,554	578,277	282,827	50%	24.6%

Even with this success, these baseline calculations of the task force revealed that the Eastern Shore 2010 goal would mean, on average, a doubling of land currently protected in each county. In order to better understand the level and type of effort needed to achieve the 50% goal, the task force explored the following question: if we were to do nothing more than buy easements using State funds (Maryland Agriculture Land Protection Fund and Rural Legacy Program) between years 2004 and 2010, how close would Eastern Shore counties be to attaining the 50% goal at the year 2010?

These projections of current efforts was calculated through the year 2010, summarized as follows:

Projected Progress Toward Goal at year 2010 (status quo)



It is important to note that although purchase of development right-type programs are an essential part of reaching the goal, significant progress has been and should be made through such other mechanisms as the *donation* of development rights. For example, rough calculations of the acreage protected show that, if the current level of effort is extended for protecting land through the donation of easements (as opposed to the purchase), another 0.5% to 3% progress in each county toward the goal can be expected. Further, moving beyond the current level of effort (as explored further in this white paper) to ramp up easement donation could increase substantially this percentage.

The *Implementation section of this white paper* addresses the important question of next steps by laying out the implementation tools available to federal, state, and local governments, and to the private sector that could help the region attain the land protection goal of *Eastern Shore 2010*. The following charts depict the strategies and actions offered by the task force, as well as baseline (as of December 2003) progress towards these actions.

POSSIBLE LOCAL STRATEGIES & ACTIONS		CARO	CECIL	DORC	KENT	QA	TALB
Strategy 1. Create a Strategic Land Protection Plan							
<i>Action 1a</i>	County establish strategic conservation plan outlining conservation priorities			(see *)	√		√
<i>Action 1b</i>	County include "priority preservation areas" in its conservation plan per MALPF task force recc.						
Strategy 2. Create a Local PDR Program							
<i>Action 2a</i>	County make development of PDR program a priority						
<i>Action 2b</i>	County explore financial opportunities for PDR program		underway			underway	
<i>Action 2c</i>	County develop partnerships/strategy needed to implement PDR program		underway			underway	
Strategy 3. Establish an Effective Transfer of Development Rights (TDR) Program							
<i>Action 3a</i>	Counties, individually or regionally, evaluate current and possible TDR programs	underway					
Strategy 4. Provide Local Incentive for Gift Easements							
<i>Action 4a</i>	County include in their MALPF conservation outreach information about donated easement options				√		
<i>Action 4b</i>	County authorize property tax credits for donation of easements			Has enabling legislation as of 1998		√	
Strategy 5. Evaluate Rural Cluster Zoning Policies							
<i>Action 5a</i>	Establish policies to be strategic about open space protection in rural developments						
<i>Action 5b</i>	Counties, together or individually, create a land banking process for protecting priority conservation lands						

POSSIBLE STATE STRATEGIES & ACTIONS		STATE of MD
Strategy 1. Provide Additional Incentives for Conservation Easements		
<i>Action 1a</i>	State provide a capital gains tax exclusion for land sold for conservation	
<i>Action 1b</i>	State improve income tax credit for easement donation	
<i>Action 1c</i>	State provide greater incentives for donated easements, per recent "impediments to conservation easements report"	
Strategy 2. Provide Incentives to Help Local Government Provide Funds for Land Protection		
<i>Action 2a</i>	State provide enabling language for uniform taxing authority for Eastern Shore counties	
<i>Action 2b</i>	State launch a local land preservation program	
Strategy 3. Provide Stable and Increased Funding		
<i>Action 3a</i>	State maintain and augment funding for existing conservation programs	

POSSIBLE FEDERAL STRATEGIES & ACTIONS		FEDS
Strategy 1. Provide Funding for the Delmarva Conservation Corridor (DCC) Pilot Project		
<i>Action 1a</i>	Federal reps. fund DCC to advance Eastern Shore land protection priorities	
Strategy 2. Use the National Park Service Chesapeake Bay Special Resource Study toward Land Protection Efforts		
<i>Action 2a</i>	Federal reps. include in chosen NPS alternative resources for land protection funds	
Strategy 3. Monitor Opportunities for CO₂ Trading and Related Funding for Eastern Shore Farmers		
<i>Action 3a</i>	Federal reps. monitor CO ₂ trading as land protection funding source	
Strategy 4. Maintain and Expand Existing Federal Land Protection Funding Programs		
<i>Action 4a</i>	Fed reps. maintain and augment funding for existing conservation programs	

POSSIBLE PRIVATE SECTOR STRATEGIES & ACTIONS		PRIV
Strategy 1. Explore Private Sector Partnerships for County Land Protection Donations		
<i>Action 1a</i>	Private sector work to establish local land protection donor pools	
Strategy 2. Explore Private Sector Partnerships for Education, Capacity Building and Land Acquisition		
<i>Action 2a</i>	Private sector help develop partnerships to advance land protection outreach and support new conservation efforts/groups	
<i>Action 2b</i>	Private sector partner with local governments on acquisition projects	ongoing

I. INTRODUCTION

Eastern Shore 2010: A Regional Vision (Eastern Shore 2010) is an inter-county agreement that sets the highest expectations for the care of the Eastern Shore landscape. Similar in intent to the Chesapeake Bay Agreement but tailored for the specific regional needs of Eastern Shore lands and communities, this agreement sets four important land use goals focusing on protecting land, strengthening working landscapes, curbing sprawl, and planning for regional transportation.

The agreement was proposed spring 2002 by Eastern Shore Land Conservancy, with the guidance of a steering committee chaired by Congressman Wayne Gilchrest and former Governor Harry Hughes. Following extensive regional discussion about the agreement, in fall 2002, six Middle and Upper Shore Counties—Caroline, Cecil, Dorchester, Kent, Queen Anne’s, and Talbot—demonstrated forward thinking policy consensus in passing resolutions of endorsement for *Eastern Shore 2010*.¹

To garner the research and resources that will be needed to reach these goals, four regional task forces are being organized to explore the strategies available for each *Eastern Shore 2010* goal. The deliberations and ideas developed by each task force will be documented in individual research white papers, which then will be presented to the Upper and Mid-Shore local government and public to provide voluntary options for individual county consideration (not to be mandates).

This white paper focuses on the first of the *Eastern Shore 2010* goals that reads, “*Strive to protect from development through the use of voluntary preservation programs 50% of Eastern Shore land outside of locally designated growth areas by 2010.*” This aggressive land protection goal was developed to launch regional momentum toward a key Eastern Shore priority: protection of the region’s rural lands from development. The amount and timing of the goal were established as benchmarks to raise the tide of land protection efforts, and doing so in time to stave off sprawl.

To develop this white paper, each of the six signatory counties designated a representative to participate on a research task force, and were joined by other key experts from state, regional, and national agencies and organizations (see Appendix 1 for a full list of participants). Coordinated by Eastern Shore Land Conservancy, the task force met over the course of several months in 2003 to define the land protection goal and explore possible implementation strategies, as detailed in this report. These land protection strategies are intended to work in tandem with growth area and working landscapes investment as outlined in the other goals of the regional agreement.

A. PURPOSE OF THIS WHITE PAPER:

The *Eastern Shore 2010* land protection task force was charged with developing a research white paper that explores and offers information and strategies to federal, state, and local governments, and to the private sector that could help the region attain the land protection goal of *Eastern Shore 2010*. This report is primarily targeted for an audience of Upper and

¹ Cecil County opted not to sign onto the 4th goal due to its unique transportation issues.

Mid-Shore county officials and staff, and intended be a working document subject to revision throughout the life of the *Eastern Shore 2010* agreement.

B. ELEMENTS OF THE WHITE PAPER:

This white paper is divided into two sections. The first section, *Defining Baseline for the Goal*, summarizes the task force definitions of the current baseline for land preservation on the Eastern Shore, and of the goal for individual counties and for the region. The second section, *Implementation*, lays out a set of the most effective strategies and actions that could be used to obtain the goal. The *Implementation* strategies are presented as *voluntary preservation* efforts, as stated in the *Eastern Shore 2010* goal. Regulatory tools, such as zoning, were beyond the scope of this paper.

II. DEFINING BASELINE FOR THE GOAL

The purpose of this section is three-fold. First, it summarizes the definitions established by the task force to develop a land protection baseline for the goal. Second, it provides the calculations for individual counties and the region for this baseline. The third section offers the projections of current land protection efforts toward the *Eastern Shore 2010* goal at status quo.²

A. Definitions:

In order to assess how close the region is to the *Eastern Shore 2010* goal, two definitions were established by the *Eastern Shore 2010* land protection task force, as follows.

Lands Protected from Development: The task force defined what types of conservation mechanisms would provide the level of land protection called for in *Eastern Shore 2010*: “protect from development...50% of land outside of...growth areas...” Because the goal sets the bar at “protecting land from development”, it was necessary for the task force to define the mechanisms beyond permanent protection (i.e., in addition to conservation easements) that would meet the goal’s intent and be included in calculations for the land protection baseline for each county. After considering the long-term levels of protection of different conservation mechanisms, the categories of protected lands that were decided by the task force to meet the goal’s intent can be placed in three main categories:

- 1) Land placed in conservation easements or owned in fee simple for conservation purposes;
- 2) Federal, state, and locally owned conservation and recreation lands (except transportation right-of-ways, military bases, etc.); and,
- 3) Deed restricted open space, if the intention is permanent protection.

In several counties, development outside of growth areas has been managed using cluster zoning policies—the practice of grouping residential units on a relatively smaller portion of a parcel at a relatively higher density, leaving the remainder of the parcel as open space. In reviewing the types of land protection, there was a significant difference in opinion among the task force members about including cluster ordinance-related deed restricted properties (e.g., open space in cluster subdivisions, etc.) in the preserved land totals. The primary issue of discussion was the permanence of protection for deed-restricted lands.

*In the end, it was reaffirmed that the baseline numbers would include these and other like deed-restricted lands, provided that county intent was permanent protection and the mechanisms encumbering the lands would reasonably be permanent. To help combat some of the drawbacks of cluster development, the *Implementation* section of this report offers that local government consider establishing policies to be strategic about the protection of the open space portion of rural developments (Appendixes 4 and 5 also provides resources on this topic). If there is to be development in rural lands, the design and location should be sensitive to the business of farming and protection of important resource lands.*

² *Status quo* is defined as extension of current land protection efforts.

Locally Designated Growth Areas:

The task force also had to define the meaning of “locally designated growth areas,” as called for in *Eastern Shore 2010*: “protect from development...50% of land outside of locally designated growth areas...” After an extensive discussion, the task force agreed that the *priority funding areas*, used by the State as growth areas in collecting data about growth and land protection in and outside of towns, was not an accurate enough measure of local growth areas on the Eastern Shore. The task force discussed the range of methods used to determine individual acreage goals for counties, and decided that each county would individually define their method of calculating growth areas, striving to keep the method as consistent across the region as possible. These methods are summarized in Table 1. Individual counties may want to hone their definition and calculations of growth areas as GIS capabilities and policies change.

CALCULATING "LANDS OUTSIDE OF LOCALLY DESIGNATED GROWTH AREAS"	
Description of Method	Type of Method
Caroline County: All lands outside of areas intended for growth (growth areas are estimated by planning office at 10 % of the total land in the county).	<i>Estimate</i>
Cecil County: Start with rural zones (NAR and SAR, for total of 138, 948 acres)—these do not include business, open space, and rural residential (19,253 acres) zones—and subtract the following: 1) major and minor subdivisions, 2) non-open space zoned public lands.	<i>Land use zone, less developed lands & others</i>
Dorchester County: All lands except those where it is intended that growth will be directed (incorporated towns, areas adjoining towns, development areas, and villages); Estimates based on 1996 comprehensive plan with a few updates from county planning office.	<i>Land use plan areas (estimates from comprehensive plan)</i>
Kent County: Includes all "Resource Lands" defined as any parcel zoned Agricultural Zoning District, Resource Conservation District or Rural Character. The total area of the county is taken from the Kent County 1996 Comprehensive Plan Background Document. The total area in resource lands was calculated using the assessment data in MdProperty View.	<i>Land use zoning districts (comp plan/ zoning ordinance)</i>
Queen Anne's County: All lands outside of those areas defined as being within growth area boundaries in the 2002 comprehensive plan (areas of Centreville, Queenstown, Grasonville, Stevensville, Chester, and Kent Narrows).	<i>Growth area analysis (comprehensive plan)</i>
Talbot County: Land in the following land use districts (breakdowns calculated in the 2002-2003 revisions to the comprehensive plan): greenbelt, rural conservation, resource conservation, cultural conservation, and agriculture.	<i>Land use districts (comprehensive plan)</i>

Table 1: Summary of definitions used by individual counties to define locally designated growth areas.

Of significant discussion was the methodology used by Cecil County—it is the only method of the six to subtract developed lands from its total acreage in calculating progress toward the *Eastern Shore 2010* goal. The task force noted the County has growth pressure unique from the other five counties, and also already has a significantly higher percentage of developed lands in its rural zones. Given this unique situation and

strong commitment to the *Eastern Shore 2010* goal, the task force agreed that it was defensible and reasonable that the County use their unique calculation in an effort to make the goal realistic, while still very aggressive.

B. Baseline Calculations

From the data collected according to task force discussions (see Appendix 2), the following baseline was established. All numbers are estimates based on best available data (as of 6/03), and are summarized in Table 2.

BASELINE FOR LAND PROTECTION EFFORTS

	Acres			Percent	
	Total Land Outside of Growth Area	<i>Eastern Shore 2010 Goal</i>	Protected Land (as of 2003)	<i>Eastern Shore 2010 Goal</i>	Percent Land Protected (as of 2003)
Caroline	185,383	93,691	43,169	50%	23.3%
Cecil	123,030	61,515	16,244	50%	13.2%
Dorchester	319,082	159,541	98,244	50%	30.8%
Kent	156,100	78,050	33,098	50%	21.2%
Queen Anne's	223,273	111,637	64,065	50%	28.7%
Talbot	147,686	73,843	28,007	50%	19%
REGION	1,154,554	578,277	282,827	50%	24.6%

Table 2: Summary of current land protection totals.

C. Projection of Current Efforts

The State of Maryland is a foremost leader in land protection: there were permanently protected more than a million acres of land for open space, or 19.66% of the State's total land area at the end of 2003. A significant portion of this land protection occurred on the Eastern Shore. On the local front, four Upper and Mid-Shore Counties are certified for the Maryland Agricultural Land Preservation Foundation program (MALPF). Through the MALPF program 86,573 acres of farmland across the region have been protected. Five counties in partnership with Eastern Shore Land Conservancy, and such national conservation organizations as The Conservation Fund and The Nature Conservancy have participated in the State's Rural Legacy program, which in total has protected 14,141 acres. Private conservation organizations also have contributed considerably to land preservation in the region—for example, Eastern Shore Land Conservancy, in partnership with the Maryland Environmental Trust, has protected over 35,000 acres of land in the six-county region.³

Even with this success, the baseline calculations of the task force revealed that the *Eastern Shore 2010* goal would mean, on average, a doubling of land currently protected in each county. In order to better understand the level and type of effort needed to achieve the 50% goal, the task force explored the following question: if we were to do nothing more than buy easements using State funds (MALPF and Rural Legacy Program)

³ As of 6/03.

between years 2004 and 2010, how close would Eastern Shore counties be to attaining the 50% goal at the year 2010? These projections of current efforts were calculated through the year 2010, summarized as follows in Table 3 and Figure 1. Also added to these projections is the amount of land, based on historical average annual rate, that can be estimated to be protected through *donated* easements (as opposed to *purchased* easements). Data, assumptions, and details about the calculations are located in Appendix 3.

SUMMARY OF PROJECTED LAND PROTECTION THROUGH 2010 (STATUS QUO)

A.	Current Baseline 2003 (acres)		Projections 2004 - 2010 (acres)			Projection at 2010 (acres)	
	Land Outside of Growth Area	Land Protected as of 2003	Projected Protected by MALPF \$\$ Purchased Easements	Projected Protected by Rural Legacy \$\$ Purchased Easements	Projected Protected by Donated Easements*	Total Land Protected	Eastern Shore 2010's 50% Goal (acres)
Caroline	185,383	43,169	12,001	2,616	857	58,644	92,692
Cecil	123,030	16,244	7,575	1,079	1,013	25,911	61,515
Dorchester	319,082	98,244	8,498	1,786	1,923	110,451	159,541
Kent	156,100	33,098	7,699	897	4,882	46,576	78,050
Queen Anne's	223,273	64,065	14,904	3,071	2,081	84,121	111,637
Talbot	147,686	28,007	7,140	414	4,175	39,736	73,843

B.	Land Protected as of 2003	Projections 2004 - 2010 (%)			Projection at 2010 (%)	
		Projected Protected by MALPF \$\$	Projected Protected by Rural Legacy \$\$	Projected Protected by Donated Easements	Total Land Protected	Eastern Shore 2010's 50% Goal
Caroline	23.3%	6.5%	1.4%	0.5%	31.6%	50%
Cecil	13.2%	6.2%	0.9%	0.8%	21.1%	50%
Dorchester	30.2%	2.7%	0.6%	0.6%	34.6%	50%
Kent	21.2%	4.9%	0.6%	3.1%	29.8%	50%
Queen Anne's	28.7%	6.7%	1.4%	0.9%	37.7%	50%
Talbot	19.0%	4.8%	0.3%	2.8%	26.9%	50%

Table 3: Summary of calculations projecting how much land is expected to be projected using state funds (MALPF and Rural Legacy) and donated easements (based on average rate of acreage protected per year through easement donation in each county, 1990-2000). Table 3A reports in acres towards the *Eastern Shore 2010* goal and Table 3B reports in percentage toward the *Eastern Shore 2010* goal of 50% protected.

From these rough and optimistic estimates, it is evident that **additional significant efforts will be necessary to reach the *Eastern Shore 2010* goal**. Table 4 ballpark the level of funding estimated to be needed to purchase the development rights for the remainder of the lands in each county to achieve the 50% goal. It is important to note that although purchase of development right-type programs are an essential part of reaching the goal, significant progress has been and

should be made through such other mechanisms as the donation of development rights (explored further in this white paper) and using funding from a variety of local, state, federal, and private sources. The following section, *Implementation*, addresses the important question of next steps by laying out the implementation tools available to federal, state, and local governments, and to the private sector that may help the region attain the land protection goal of *Eastern Shore 2010*.

Projected Progress Toward Goal at year 2010 (status quo)

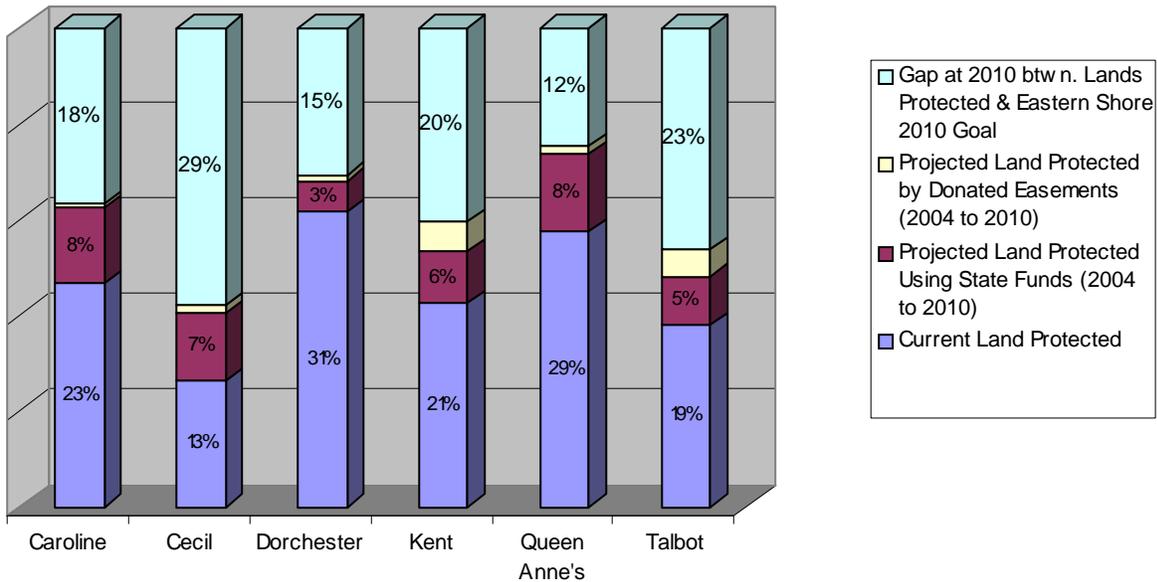


Figure 1: Summary of calculations projecting how much land is expected to be protected using state funds (MALPF and Rural Legacy) and using donated easements.

GENERAL LEVEL OF FUNDING NEEDED TO PURCHASE REMAINDER OF DEVELOPMENT RIGHTS TO REACH 50% GOAL IN EACH CO. (STATUS QUO)

County	Acres left at 2010**	Cost per acre*	Total Estimated Cost \$\$
Caroline	34,048	\$662	\$22,539,776
Cecil	35,603	\$1,826	\$65,011,078
Dorchester	60,586	\$819	\$49,619,934
Kent	31,475	\$1,505	\$47,369,875
Queen Anne's	27,516	\$975	\$26,828,100
Talbot	34,107	\$1,354	\$46,180,878

Table 4: Summary of projected estimate of level of funding estimated to be needed to purchase the development rights for the remainder of the lands in each county to achieve the 50% goal.

* Using 7-year annual cost/acre estimate of MALPF easement cost (1996-2000)---see Appendix 3 for more information.

**Given projections detailed in Appendix 3

III: Implementation

The following section lays out a set of the most effective strategies toward the main objective of Eastern Shore counties: to garner the leadership, partnership, and resources to achieve 50% land protection by the year 2010. The following are presented as *voluntary preservation* efforts, as stated in the *Eastern Shore 2010* goal, and divided into local, state, federal and private strategies and related action items.

A. Local Strategies for Land Protection

- 1. Create a Strategic Land Protection Plan**
- 2. Create a Local Purchase of Development Right (PDR) Program**
- 3. Establish an Effective Transfer of Development Rights (TDR) Program**
- 4. Provide Local Incentive for Gift Easements**
 - Maximizing Public Education Efforts.
 - Exploring Local Tax Incentives.
- 5. Evaluate Rural Cluster Zoning Policies**

Much of the Eastern Shore land protection success thus far has depended on the strong leadership from the State of Maryland. Despite the leadership and innovation of Maryland's land protection program, an Achilles heel of these programs is the vulnerability of State preservation funds during economically lean times. Of particular note were the diversions of millions of preservation funds (Public Open Space transfer dollars) to balance the state budget in 1992 and 2002—moves that created and are creating a great burden of Eastern Shore counties because of the region's reliance on these funds as the primary source for land preservation efforts. Given that the need for these funds in the Eastern Shore increases with time, it is imperative that local government leverage rather than depend wholly on State funds for land protection.

Local Strategy 1. Create a Strategic Land Protection Plan

Though the land protection goal of *Eastern Shore 2010* is acreage focused, the quality of land preserved is of equal importance for maintaining agriculture, protecting habitat, as well as increasing the region's competitiveness for land protection funding at the state and federal levels. In fact, it is argued strongly in the recently published book **Land Conservation Financing**, published by the national conservation nonprofit The Conservation Fund, that future land conservation will depend on being "more proactive and less reactive; more systematic and less haphazard; multifunctional, not single-purpose; large-scale, not small-scale; and better integrated with other efforts to manage growth and development."⁴

⁴ McQueen and Ed McMahon (2003) **Land Conservation Financing**. Island Press, Washington, D.C.

On the local-level the counties of the Eastern Shore have made great strides toward strategic land protection, notably the regional Rural Legacy partnership, Eastern Shore Heritage, Inc.'s four-county heritage partnership, the Upper Shore's work to develop the Chesapeake Country Scenic Byways, Kent County's agricultural lands priority mapping, Talbot County's development of a countywide green plan of land protection priorities, and Queen Anne's County's investment in a Land Preservation Task Force. On the state level, Governor Ehrlich's administration has identified the focus for land conservation investment including programs associated with the Chesapeake Bay, outdoor and recreational facilities, and land base for agricultural and forestry industries.⁵ Further steps toward strategic land protection highlight the importance of valuable and/or threatened areas of land--town green belts, scenic byways and heritage areas, critical areas, prime working lands, and prime habitat places.

ACTION 1a: Needed are further refinement, augmentation, and partnership of current efforts through the development of **conservation plans that lay out land protection priorities** in each county.

ACTION 1b: Included in counties plans could be the **Priority Preservation Areas (PPAs)** that were identified by the 2002 MALPF Task Force as a critical enhancement to the existing MALPF program. The Task Force suggested that MALPF should increasingly *"focus easement acquisitions on high quality farms in areas that best address the Program's goals...greater incentives must be created for counties and landowners to limit development and stabilize land use in PPAs...Any additional program funds should be invested in easements acquisition in those areas, to make possible for landowners to sell easements more readily."*⁶

Local Strategy 2. Create a Local Purchase of Development Right (PDR) Program:

Local governments across the country have established purchase of development programs that enable them to buy and receive development rights from landowners.⁷ In fact, all of the top county agricultural land preservation programs in the nation utilize local land protection techniques, notably four in Maryland.⁸

In Maryland, there are established already a variety of local funding mechanisms for county PDR programs including local real estate transfer taxes, annual dedicated real estate property tax assessment, recording taxes, general obligation bonds, and annual general funds allotted to specific projects. As shown in Table 5, these sources fund county PDR programs that have resulted in significant land protection. Table 6 shows the breakdown of these local funding sources, and Table 7 summarizes associated tax levels for these counties.

⁵ Report of MD Governor Ehrlich Administration (2003) Maryland's Land Conservation Programs: Protecting the Chesapeake Bay Watershed.

⁶ Report of the Maryland Agricultural Land Preservation Task Force (2001) Maryland Department of Planning.

⁷ Trust for Public Land and Land Trust Alliance (2003) Land Vote 2002, Americans Invest in Parks and Open Space; available at http://www.tpl.org/download_landvote_02.cfm.

⁸ Bowers, D. (2003) Nation's Top Local Farmland Preservation Programs *Farmland Preservation Report* 13, No. 9 (July-August 2003): 4-5.

In comparison, in the six counties of the Upper and Mid-Shore the majority of local fund sources is generated from the agriculture transfer tax, along with one county general obligation bond, and general fund appropriations when feasible. Table 8 shows the breakdown of Eastern Shore local funding for land protection, and Table 9 summarizes the tax levels for Eastern Shore counties compared to the state average, highs, and lows. **From this overview, it is evident that there exists for Eastern Shore counties an important funding source that is as yet unexplored: the purchase of easements using a local funding program.**

SUMMARY OF MD COUNTY PDR PROGRAM SUCCESSES

	Year of Inception	Total Easements	Total Acres Protected	Total Funds Spent
Anne Arundel *	1991	83	8,679	\$25,200,000
Baltimore	1979	160	18,537	\$51,300,000
Calvert	1992	N/a	N/a	N/a
Carroll*	1979	309	37,190	\$54,210,903
Frederick	1991	114	17,296	N/a
Harford*	1993	185	26,800	\$48,900,000
Howard*	1978	146	16,738	\$187,560,000
Montgomery	1988	72	10,348	\$28,079,376
Washington	1991	41	7,332	N/a

Table 5: Summary of PDR programs in Maryland, excerpted from AFT Fact Sheet (*use IPAs).^{9,10}

ACTION 2a: Make the development of a local PDR program a priority for the county or town. The objective would be to foster the funding needed to achieve the *Eastern Shore 2010* goal. The PDR program should at the minimum seek to provide the maximum leveraging of State money, such as the MALPF matching funds and for the Federal Farmland Protection Program grants. Examples of existing Maryland PDR programs include:

- **Calvert County** partners with their local land trusts to buy land or easements through a \$1 million revolving loan fund.
- The Critical Farms Program of **Carroll County** offers farm owners 75% of the easement value. In return the landowner applies to a State easement program, and if accepted in 5 years, the owner reimburses the county—otherwise the county owns the easement. This program creates a revolving fund to help additional owners and guarantees landowners a minimum easement price. The budget for this program is approximately \$300,000 a year, split between general funds and the agricultural transfer tax.

⁹ Installment Purchase Agreements are a program that pays for development rights through a innovative financing plan that helps jurisdiction stretch available funds and allows land owners to receive semi-annual, tax exempt interest over a term of years (typically 20 to 30); Information can be found at <http://www.farmlandinfo.org/fic/tas/tafs-ipa.html>.

¹⁰ Fact From American Farmland Trust Fact Sheet (2003) Status of local PACE programs Fact sheet; available at <http://www.farmlandinfo.org/>.

SUMMARY OF MD COUNTY FUNDING FOR LAND PROTECTION

	AA	Bal	Cal	Car	Fre	Har	How	Mon	Was
Appropriation	√	√	√	√	√	√		√	√
Bonds	√	√		√			√	√	√
Taxes									
• Sales									
• Property			√	√					
• Ag Transfer	√	√	√	√	√	√	√	√	√
• Real Estate Transfer						√	√		√
Recordation Fee			√		√				
Federal Funding (FPP)¹¹	√	√	√	√	√			√	
State Grants								√	
Transportation Funding		√			√				
Investment Income								√	
Private Contributions		√	√						

Table 6: Funding sources for selected Maryland local PDR programs 2003.¹²

SUMMARY OF MD COUNTY TAX LEVELS

	Property Tax Rates	Income Tax Rates (CY 01-CY02)		Recordation Tax	Transfer Tax	Hotel/Motel Tax
Allegany	0.9800	2.87%	2.96%	\$2.20	0.20%	5.00%
Anne Arundel (AA)	0.9500	2.56%	2.56%	\$3.50	1.00%	7.00%
Baltimore City	2.4400	3.05%	3.05%	\$2.75	1.50%	7.50%
Baltimore County (Bal)	1.1150	2.83%	2.83%	\$2.50	1.50%	10.00%
Calvert (Cal)	0.8900	2.52%	2.52%	\$5.00	\	\
Carroll (Car)	1.0500	2.85%	2.85%	\$3.50	\	\
Charles	2.0200	2.90%	2.90%	\$5.00	\	5.00%
Frederick (Fre)	1.0000	2.96%	2.96%	\$5.00	\	\
Garrett	1.0400	2.65%	2.65%	\$3.50	1.00%	4.00%
Harford (Har)	1.0900	3.06%	3.06%	\$3.30	1.00%	\
Howard (How)	1.0400	2.45%	2.45%	\$2.50	1.00%	5.00%
Montgomery (Mon)	0.9100	2.92%	2.95%	\$3.45	.25 - 6%	7.00%
Prince George's	0.9620	3.10%	3.10%	\$2.20	1.40%	5.00%
St. Mary's	0.9800	3.10%	3.10%	\$4.00	1.00%	5.00%
Somerset	1.0100	3.08%	3.15%	\$3.30	\	3.00%
Washington (Was)	0.9500	2.80%	2.80%	\$3.80	\	6.00%
Wicomico	1.0500	3.05%	3.10%	\$2.30	\	4.00%
Worcester	0.7300	1.25%	1.25%	\$3.30	0.50%	4.00%

Table 7: Summary of county taxes in FY 2003 for MD counties (Eastern Shore counties summarized in Table 9).¹³ Note : shaded rows refer to counties possessing locally-funded land preservation programs, as detailed in Table 6.

¹¹ Federal Farmland Protection Program.

¹² From American Farmland Trust Fact Sheet (July 2002) Status of local PACE programs fact sheet, available at <http://www.farmlandinfo.org/>.

¹³ From MACo report (2003) **Budget, Tax Rates, and Selected Statistics—FY 2003**; available at <http://www.mdcounties.org/>.

SUMMARY OF EASTERN SHORE COUNTY FUNDING FOR LAND PROTECTION

	CARO	CECIL	DOR	KENT	QA	TALB
Appropriation		As budgeted, not annual		As budgeted, not annual		
Bonds					√	
Taxes						
• Sales						
• Property						
• Ag. Transfer	√	√ (certified)	√	√ (certified)	√ (certified)	√ (certified)
• Real Estate Transfer						
Recordation Fee						
Federal Funding (FPP)¹⁴	√	√	√	√	√	√
State Grants						
Transportation Funding						
Investment Income						
Private Contributions						

Table 8: Funding sources for selected Maryland local PDR programs.

SUMMARY OF EASTERN SHORE COUNTY TAX LEVELS

	Property Tax Rates	Income Tax Rates (CY 01-CY02)	Recordation Tax	Transfer Tax	Hotel/Motel Tax
State Average	1.064708	2.72% 2.73%	\$3.37	\	4.83%
State High	2.0200	3.10% 3.10%	\$5.00	0.20%	10.00%
State Low	0.7300	1.25% 1.25%	\$2.20	.25 - 6%	3.00%
Caroline	0.9500	2.63% 2.63%	\$3.30	0.50%	\
Cecil	0.9800	2.80% 2.80%	\$3.30	\$10/deed	5.00%
Dorchester	0.8800	2.62% 2.62%	\$3.30	1.00%	5.00%
Kent	1.0100	2.52% 2.58%	\$3.30	0.50%	3.00%
Queen Anne's	0.9760	2.85% 2.85%	\$3.30	0.50%	3.00%
Talbot	0.5500	1.79% 1.79%	\$3.30	1.00%	3.00%

Table 9: Summary of county taxes in FY 2003 for MD counties (Other MD counties summarized in Table 7).¹⁵

¹⁴ Federal Farmland Protection Program—In Maryland, FPP funds are funneled into MALPF and MALPF funds are used as the match. In this system, each the six Eastern Shore counties receives one share of the total state FPP pool.

¹⁵ From MACo report (2003) **Budget, Tax Rates, and Selected Statistics—FY 2003**, available at <http://www.mdcounties.org/>.

- **Howard County** developed a unique land protection financing strategy called Installment Purchase Agreements (IPA) to invigorate its PDR program. Realizing that lump-sum payments for easements were no longer a competitive option for landowners due to dramatic increases in land prices, the county met with a financial advisor to explore how to make the most of accumulated tax revenues. The program developed combined installment payments and the purchase of zero coupon bonds with the county's traditional funding mechanisms. To date, 81 agreements have been executed in Howard County, adding 9,200 acres to the 7,500 protected before the IPA program was created.
- **Montgomery County** created its Legacy Open Space program that is funded by a \$33 million (over six years) general obligation and park bond. About 30% of future revenues are targeted to come from private sources.

ACTION 2b: Explore the county or town's unique financial opportunities for a PDR program (see Appendix 4 for resources). This would include certification for MALPF in counties not yet certified to receive the maximum return on the state agricultural transfer tax. As explored in Appendix 4 and summarized in Table 10, there are a variety of mechanisms used to fund local PDR programs. Another resource available for this topic is **The Chesapeake 2000 Tax Policy Study**, a report designed to identify tax policies that may affect the parties' abilities to meet the sound land use goals of the Agreement (available at http://www.elistore.org/reports_detail.asp?ID=10894&topic=Land Use).

FUND SOURCES FOR OPEN SPACE AND RECREATION

A Review of Public Referenda and Ballot Measures from 1998 to 2001

Fund Source	2001	2000	1999	1998	TOTAL	% by Source
TOTAL ENACTED	137	181	92	126	536	100.0%
Total Funds Authorized (millions)	\$1,700	\$7,494	\$1,833	\$8,300	\$19,327	
Approval Rate (%)	70.0%	83.0%	90.0%	84.0%	81.8%	
Bond Bills	35	90	28	34	187	34.9%
Tax Bills	98	85	60	85	328	61.2%
Benefit Tax		1			1	0.2%
Property Improvement Tax		1			1	0.2%
Hotel Tax		1			1	0.2%
Income Tax	2	4	2	1	9	1.7%
Parcel Tax		3			3	0.6%
Property Tax	90	59	47	73	269	50.2%
R.E. Transfer Tax		1	2	6	9	1.7%
Sales Tax	4	15	7	4	30	5.6%
Use of excess tax revenue	2		2	1	5	0.9%
Lottery - Gaming	1	1	0	2	4	0.7%
General fund appropriations	3	5	4	5	17	3.2%

Table 10: Summary of funding sources for open space protection, excerpted from the agency report for House Bill 1131 of the Maryland Department of the Environment and Maryland Department of Natural Resources (2002) Implementation of a Local Land Preservation Program.

ACTION 2c: Develop partnerships to launch successfully the financing strategy needed in the county or town. Figure 2 describes an example process developed by the Trust for Public Land in coordination with the National Association of Counties.

CHECKLIST: SECURING CONSERVATION FUNDS

1. Identify local funding options

- Determine all available funding options, including pay-as-you-go and borrowing.

2. Design a local ballot measure

- Assess funding options in detail, including various funding levels and corresponding costs to taxpayers.
- Research legal constraints of referring a measure to the ballot.
- Conduct a professional, public-opinion poll that tests voters' conservation priorities and spending tolerance.
- Design a measure that reflects public opinion and addresses conservation challenges.

3. Understand community values and cost/benefits of open space.

- Design a greenprinting* plan and secure a local funding source.
- Research potential grant and incentive programs to determine where there is geographic or programmatic convergence.
- Forge alliances with public- and private-sector leaders who can facilitate funding and champion local efforts.

4. Identify federal funding sources

- Evaluate federal funding sources.
- Determine the federal or state agency that distributes funds and the process by which funds are allocated.

5. Evaluate a state's conservation funding landscape

- Assess a state's role in providing direct funding (grants and incentives) and authorizing local funding.
- Consider the following best practices:
 - a substantial, dedicated state funding source
 - significant local enabling options
 - a program of incentives for local governments
 - a purchase-of-development-rights program
 - public-private partnerships
 - conservation tax credits

6. Assess private funding sources

- Consider funding from foundations, corporations, and individuals.
- Partner with nonprofit land trusts that can sponsor private fundraising campaigns and solicit foundation funds.

Figure 2: Excerpt from Trust for Public Land and National Association of Counties report, **Local Greenprinting for Growth Workbook**.¹⁶Note: "greenprinting" is a term used for a strategic land protection plan.

¹⁶ Excerpted from Trust for Public Land and National Association of Counties report (2003) **Local Greenprinting for Growth Workbook, VOLUME III: HOW TO SECURE CONSERVATION FUNDS**; available at http://www.tpl.org/tier3_cd.cfm?content_item_id=10648&folder_id=175.

Local Strategy 3. Establish an Effective Transfer of Development Rights (TDR) Program

TDRs provide an economic incentive for preserving undeveloped land. Nationwide there are 53 TDR Programs:¹⁷

- 8 (15%) have preserved more than 1,000 acres;
- 21 (40%) have preserved more than 100 acres; and,
- 88,575 acres preserved with TDRs in U.S. (not counting urban TDRs).

In Maryland there are 10 TDR Programs:

- 4 (40%) have preserved more than 1000 acres;
- 5 (50%) have preserved more than 100 acres; and,
- 53,704 acres have been preserved with TDRs (60.6% of national total).

TDRs create a market by which farmers, for example, can sell their development rights to someone wishing to develop in a receiving area for TDRs. There are several type of TDR programs, ranging from same parcel transfer, to TDR from parcels in a designated “sending area” to non-adjacent tracts in different ownership in a designated “receiving area” across local boundaries. TDR programs are further defined as being either “voluntary” or “mandatory” (see Appendix 4 for further information).

ACTION 3a: At the forefront of TDR programs are the goals of guiding growth toward growth areas, preventing fragmentation of open space and of farmland, and mitigating loss of equity for landowners. **To choose the most appropriate type of TDR program, the Eastern Shore Counties together or independently could consider the effectiveness of current programs, and study of the potential market for refinement of current efforts, including:**^{18,19}

- Economics of TDRs (e.g., demand for development in either sending or receiver areas);
- Planning and zoning (e.g., review policies other than TDRs that grant density);
- Politics (e.g., test attitudes of those in sending areas and receiving areas, especially in relation to real and perceived quality and impact of new high density development); and
- Existing alternatives (e.g., review of alternative open space preservation programs available and supported with funding – to extinguish rather than transfer development rights).

Local Strategy 4. Provide Local Incentives for Donated Easements

One of the most economically efficient tools of land protection is the *donated* conservation easement—a process in which a landowner donates the development rights of a parcel, rather

¹⁷ From PowerPoint presentation developed by Grant Dehart, Policy Director for the Maryland Department of Natural Resources, Capital Grants and Loans Administration, 2003.

¹⁸ Both Talbot and Queen Anne’s Counties have voluntary TDR programs. Queen Anne’s County uses a non-contiguous transfer between rural receiving and sending areas. Talbot County uses a non-contiguous transfer within election districts.

¹⁹ From PowerPoint presentation developed by Grant Dehart, Policy Director for the Maryland Department of Natural Resources, Capital Grants and Loans Administration, 2003.

than selling them. In fact, the Maryland Environmental Trust calculates that preservation by donation costs under \$150 per acre, in contrast to cost of preservation by purchasing at about \$1900 per acre.²⁰ There also exists tremendous opportunity for donated easement work on the Eastern Shore—for example, in twelve years with no more than one dedicated staff person, the Eastern Shore Land Conservancy and partners have protected on the Eastern Shore 21,820 acres of the organization’s total protected acreage of 35,479 through donated easements (as of 12/03). Given the tough budgetary climate and cuts to state purchase of development rights programs, **the attractiveness and importance of easement donations is striking, and local governments are crucial partners in fostering this land protection mechanism.**

ACTION 4a: Given the philanthropic nature of this transaction, much of the work needed to generate donated easements is through public education.²¹ To this end, **Eastern Shore county governments could include in their existing outreach to landowners information about the donated easement option.**

ACTION 4b: Eastern Shore counties could **authorize property tax credits** for donations of conservation easements to local land trusts, as authorized by §9-220 of the Property-tax Article, as Queen Anne’s, Anne Arundel, Harford, Montgomery and Carroll Counties have done.

Local Strategy 5. Evaluate Rural Cluster Zoning Policies to Support Strategic Land Protection

To combat the costs of sprawl, the state of Maryland has been a foremost national leader in the prioritizing and streamlining of funding into designated growth areas. On the local level, Eastern Shore counties and towns have made related progress, particularly in the past decade, in placing more growth into existing communities. This effort continues as demonstrated by the recent regional endorsement of the *Eastern Shore 2010* goal focused on reducing sprawl (goal #3).²²

ACTION 5a: To help combat the drawbacks of cluster development, **local government can establish policies to be strategic about the protection of the open space portion of rural developments.** Design and location should be sensitive to the business of farming and protection of important resource lands.

ACTION 5b: Another option would be to **create a land banking process that could target greenbelt areas or preserve key agricultural tracts.** An example of this is found in San Luis Obispo County (CA) that uses Transfer of Development rights (TDR) for land banking. In this case, land owners sell credits which comprise the development potential of a restricted site. Those credits may be used to increase development intensity in the receiving area designated in a town area. The County also has passed an ordinance allowing their local land trust to sell the

²⁰ Report submitted to the Maryland Center for Agro-Ecology by Rogers, S.R.T., et al. (2003) Impediments to the Donation of Conservation Easements; available at http://www.agroecology.widgetworks.com/data/files/pdf/1068481691_48423.doc.

²¹ Ibid.

²² Goal 3 of *Eastern Shore 2010* asks that, working with existing communities, counties strive to guide at least 50% of new annual growth into and around locally designated growth areas.

development rights to the land it is conserving. Property owners in the receiving zone may purchase development credits (in the form of square feet of building area) from the land trust in order to increase the square footage of their homes above the normally permitted limit. Proceeds from the sale of development credits are used to purchase additional lands for open space. A great benefit to the county is that this transfer of development credits program costs the county nothing, as the sale of credits is administered by the trust.

B: State Land Protection Strategies

1. Provide Additional Incentives for Conservation Easements

- Capital gains tax exclusion for lands sold for conservation
- Improve existing income tax benefits for donated easements
- Incentives for donated easements

2. Provide incentives to help local government provide funds for land protection

- Enabling language for uniform taxing authority for counties
- Local land preservation program

3. Provide Stable and Increased Funding

Maryland and its local governments are recognized throughout the United States as having among the most successful state and local land preservation programs in the nation.²³ Despite this success, changing priorities and availability of funding disproportionately impact rural regions like the Eastern Shore, where there is a tremendous need for land protection money. The following options are presented as efforts that Eastern Shore counties could ask the region's state delegation to advance at the state level.

State Strategy 1. Develop Additional Incentives for Conservation Easements:

The crucial partner to easement funding is providing additional easement incentives. Potential action items to develop and/or strengthen these incentives include the following:

ACTION 1a: The State could provide a capital gains tax exclusion for lands sold for conservation.

ACTION 1b: Another option would be to **improve Maryland's income tax credits for donations of conservation easements**, as Virginia does through its Land Conservation Incentives Act of 1999. Through this program a landowner can receive an income tax credit equal to 50% of the fair market value of the donated land or easement. As of 2002, the credit is limited to \$100,000—if the total tax credit exceeds this then the excess value can be carried over for a total of five years. Furthermore, credits not used by landowner(s) can be sold. In 2003, these tax credits were sold for as much as \$.80 on the dollar, significantly increasing the cash benefits for easement donors. Another example of innovative use of income tax for conservation purposes was developed in Colorado. This state's Conservation Tax Exchange Program, which trades state income tax credits for conservation easements, has resulted in over \$50 million in donated easements in its 4-year life. In this program, landowners, when donating an easement, receive dollar-for-dollar state income credits for up to \$100,000 in land value. For

²³ Bowers, D. (2003) Nation's top Local Farmland Preservation Programs. *Farmland Preservation Report* 13, No. 9 (July-August 2003): 4-5.

values between \$100,001 and \$50,000, the landowners receive 40 cents on the dollar. The tax credits can be used over a 20-year period, and are transferable.

Specifically, the State could review and take action in support of the Maryland Environmental Trust's recommendations for the Maryland income tax credit, summarized as follows:²⁴

- Make the tax credit transferable;
- Increase the annual cap to \$10,000, but keep the total credit allowed the same (\$800,000);
- Fix the flaw in Maryland tax law that causes a large increase in “piggyback”, or local income taxes, when the State tax credit is taken; and,
- Provide that a partnership or corporation can take advantage of the credit.

ACTION 1c: Finally, the State could provide **greater incentives for donated easement programs**. A Maryland Center for Agro-Ecology recent study makes recommendations on this front following a yearlong examination of the easement donation process in this State, with highlights including the following:²⁵

- Provide Cost Assistance: The State could look into assistance to help property owners with costs associated with easement donation (legal, accountant, survey and appraisal costs). For example, a fund could be established by the Maryland Environmental Trust to reimburse donors of transaction costs.
- Extend Gift Deduction: The State could encourage its Congressional members to support elements of the Charities Aid, Recovery and Empowerment Act of 2003 (S.476), which contains language to allow landowners who donate a permanent conservation easement to a non-profit entity or government agency to deduct the value of the gift over sixteen years (as opposed to six years). It also contains language that increases the amount that can be deducted in any one year from the current 30% of the donor's income to 50%. The Maryland Environmental Trust could examine the need for extending the fifteen-year time period for deducting the value of easements. Also, the Maryland Environmental Trust along with MALPF could examine the law in Virginia that allows landowners to sell their unused tax credits to others.
- Increase Outreach: The State and the Maryland Environmental Trust could step up efforts for outreach to landowners about easement donation—of particular use would be increasing one-on-one contact by those who have already donated is the most effective approach to take, and donation success stories need to appear more frequently in newspapers and magazines.
- Match Budget to Outreach Needs: Increase funding for the Maryland Environmental Trust's operational budget targeted to enhanced marketing of donated conservation easements. In addition, funding could be increased for the Maryland Environmental

²⁴ From the Agency document, “The Income Tax Credit for Donated Easements to MALPF and MET.” Developed 11/25/03, and provided by Grant Dehart, Policy Director for the Maryland Department of Natural Resources, Capital Grants and Loans Administration.

²⁵ Report submitted to the Maryland Center for Agro-Ecology by Rogers, S.R.T., et al.: Impediments to the Donation of Conservation Easements, October 2003; available at agroecology.widgetworks.com/data/files/pdf/1068481691_48423.doc

Trust's Jan Hollmann and William James administrative grants to land trusts to enable and enhance local land trust's marketing and solicitation of conservation easements donated jointly to Maryland Environmental Trust and the land trust.

State Strategy 2. Provide Incentives to Help Local Government Provide Funds for Land Protection:

ACTION 2a: Provide enabling language for uniform taxing authority for counties. The counties of the Eastern Shore vary in their authority to change taxing levels. To enable local government to utilize important and commonly used funding sources for land protection, the authority to establish and use property taxes, income taxes, and transfer taxes should be authorized.

ACTION 2b: Launch a Local Land Preservation Program. Initiating a long-term incentive program for local land preservation programs would provide funds to match those provided by local programs. Funding sources for such a program are detailed in the State agency report, Implementation of a Local Land Preservation Program.²⁶ The State could also consider more broadly an initiative like the Agriculture Land Preservation Matching Grant Act of 2000 (HB186, with information at <http://mlis.state.md.us/2000rs/billfile/hb0186.htm>) which would have provided up to \$1 million to counties to that increase their agricultural preservation funding.²⁷

State Strategy 3. Maintain and Augment Funding Sources for Existing Programs.

ACTION 3a: As noted earlier in this report, **state funding has been the mainstay of land protection in Eastern Shore counties, and are of primary importance** as Eastern Shore local government reaches cooperatively toward a more aggressive land protection goal. Though the budgetary climate for 2004 and 2005 are meager for land protection funds, it is crucial that funds are restored and increased to more closely match the needs and priorities of the Eastern Shore.

²⁶ Agency report for House Bill 1131 of the Maryland Department of the Environment and Maryland Department of Natural Resources (2002) Implementation of a Local Land Preservation Program.

²⁷ Chesapeake Bay Commissioner and Trust for Public Land (2001) Keeping Our Commitment, Preserving Land in the Chesapeake Watershed; available at www.tpl.org/tier3_cd.cfm?content_item_id=2560&folder_id=625.

C: Federal Strategies for Land Protection

1. **Provide Funding for the Delmarva Conservation Corridor Pilot Project**
2. **Use the NPS Chesapeake Bay Special Resource Study toward Land Protection Efforts**
3. **Maintain and Expand Existing Federal Land Protection Funding Programs**

The Federal government is a key partner in helping provide resources and support for Eastern Shore land protection efforts. The following options are presented as efforts that Eastern Shore counties may ask the region's state and federal representatives to advance at the federal level.

Federal Strategy 1. Provide Funding for the Delmarva Conservation Corridor (DCC) Pilot Project

This comprehensive five-year pilot program, which was included in the 2002 Farm Bill, aims to protect and conserve natural resources and make farming profitable, thereby preserving Delmarva's rural way of life. A major goal of the DCC is to make it easier for farmers to enroll in the various agricultural preservation programs the USDA offers through federal, state, local and private programs. Currently, these programs operate independently, but with an established DCC, they could function together and farmers could go to one place to sign up for any of the available programs.

ACTION 1a: Although the DCC proposal treats Delaware, Maryland and Virginia as one region, each requested state-specific funding. Maryland asked for \$114 million for the first year of the program, including about \$66 million for easement purchases. **This funding is essential for Eastern Shore land protection efforts and should be allocated in its entirety as soon as possible.**

Federal Strategy 2. Use the NPS Chesapeake Bay Special Resource Study toward Land Protection Efforts

The National Park Service recently presented The Chesapeake Bay Special Resource Study that explores whether and how additional Chesapeake Bay resource areas should be represented within the National Park System and if they would help advance conservation of the Chesapeake Bay. Alternatives under consideration include:²⁸

A – Today's Programs – No New Initiatives

²⁸ Information from www.chesapeakestudy.org/.

- B – An Enhanced Chesapeake Bay Gateways Network
- C – Chesapeake Bay Estuary National Park
- D – Chesapeake Bay National Reserve
- E – Chesapeake Bay Watershed Ecological & Cultural Preserve

ACTION 2a: Beyond Alternative A--which calls for the retirement of the Gateways program in 2008—each alternative offers an opportunity to raise the visibility of the Eastern Shore as one of the last great Chesapeake Bay landscapes. In this light, it would be greatly beneficial for the **chosen National Park Service alternative to include additional resources for the acquisition funds**, possibly through a focus of the Land and Water Conservation Fund grants program.

Federal Strategy 3. Monitor Opportunities for Carbon Dioxide Trading and Related Funding for Eastern Shore Farmers

Resources such as wetlands are touted by researchers as sinks for the greenhouse gas carbon dioxide, meaning that wetlands are being shown to store this gas. Without the carbon dioxide sequestering processes of wetland resources, this gas, it has been argued, would contribute to global climate change. Given this link, economists are devising a system to use stored carbon found in such resources as wetlands as a commodity (valued in tons). As such, tons of carbon estimated to be present in a wetland could be translated into shares or permits to be sold on the open international market.

By way of application to land protection, plans are underway in the Midwest to pay farmers for the carbon dioxide stored in their unfarmed wetlands. Given the number of wetlands on the Eastern Shore, carbon trading could be a funding source for landowners willing to leave their wetlands unplowed.

ACTION 3a: Federal representatives of the Eastern Shore could monitor the development of carbon dioxide trading as a means to foster funding for farmland protection

Federal Strategy 4. Maintain and Expand Existing Federal Land Protection Funding Programs

The federal government offers several important land protection funding sources, notably the Forest Legacy program, the Farmland Protection Program, and the Land and Water Conservation Fund. All are mainstays of local preservation across the nation. Despite this importance, the Land and Water Conservation Fund, for example, was calculated by the National Park Service as leaving an astounding 92% of the requested need for grants unmet.²⁹

ACTION 4a: The federal granting programs are of primary importance to Eastern Shore local governments, particularly as the capacity is built to meet the grant matching requirements, and should be maintained and expanded.

²⁹ McQueen and Ed McMahon (2003) **Land Conservation Financing**. Island Press, Washington, D.C.

D. Private Sector Strategies for Land Protection

1. **Explore Private Sector Partnerships for County Land Protection Donations**
2. **Explore Private Sector Partnerships for Education, Capacity Building and Land Acquisition**

The private sector is a key partner in helping provide resources and support for conservation. The following options are presented as efforts that Eastern Shore counties could consider in partnering with this sector to advance local land protection efforts.

Private Strategy 1: Explore Private Sector Partnerships for County Land Protection Donations

Thus far, efforts to procure private sector funding by Eastern Shore counties for land protection include the use of *voluntary check-off boxes*, a donation mechanism in which local tax bills include an option to voluntarily add a contribution toward conservation. **Central to building on this type of donation effort are partnerships that enable increased incentives to and marketing for potential county land protection donors. Both of these activities could be furthered through local government partnership with private, non-profit entities** such as the Mid-Shore Community Foundation, local United Ways, local land trusts, and others.

ACTION 1a: Envisioned are partnerships in which **land protection donor pools** are created for a county to be managed by a private entity, marketed by the county, and provide tax deduction opportunities for individual donors and foundations. Among the applications are:

- Challenge and matching grants;
- Support of emergency land rescue revolving funds; and,
- Funds for outright land acquisition funding.

A prime example of such a partnership is found in Marin County where thousands of acres in the region outside of San Francisco have been protected. This local government established a multi-pronged land protection effort that included a county-designated Open Space District, approved by voters and funded by a property tax. To support this effort, the Marin County Community Foundation in Marin County (CA) has played a key role by creating the Beryl Buck Open Space Fund. This fund provided \$5.8 million in challenge grants to assist twenty land protection projects, totaling in nearly 4,000 acres protected, and leveraged \$7.3 million in grants from the county open space district, and more than twice that amount from other public agencies and private donors.

Private Strategy 2. Explore Private Sector Partnerships for Education, Capacity Building and Land Acquisition

Mentioned in the local, state, and federal tools sections has been the focus on fostering land protection generally, and donated easements specifically, through public education efforts. This same option exists for the private sector, specifically for Eastern Shore private land protection entities (see Table 8).

ACTION 2a: Specifically for private sector groups is the necessity to:

- **Develop partnerships needed to strategically step-up outreach** to landowners about easement donations—for example, an action would be to initiate a joint public awareness effort that would advance one-on-one contact between existing easement donors and potential donors, and promote donation success stories in local media; and,
- **Support together burgeoning efforts and new conservation groups that may be needed** to reach the land protection goal.

ACTION 2b: Also, the local governments and private conservation groups could look to each other for partnership on acquisition projects, capitalizing on the strengths of each sector. For example, a public-private partnership protected a key 178-acre farm called The Anchorage in Cecil County that was at immediate risk of development. Eastern Shore Land Conservancy purchased the farm from the developer using a bank loan and emergency contributions from over 150 local donors. To help repay the loan, a scenic easement was purchased by the Maryland State Highway Administration with 25% of the funds provided by Cecil County and 25% by Eastern Shore Land Conservancy. In the end, the farm was sold to a local farmer with a restrictive conservation easement in place.

Cecil Land Trust is a nonprofit land trust that works to protect land in Cecil County. For information contact: 135 E Main Street, Elkton, MD 21921-5932; (410) 392-9667; <http://www.cecilandtrust.org/>.

Chesapeake Wildlife Heritage (CWH) is a nonprofit conservation organization dedicated to creating, restoring and protecting wildlife habitat and establishing a more sustainable agriculture through direct action, education and research, in partnership with public and private landowners. Over the past two decades CWH has worked with more than 1,000 landowners on various land and farm management projects. CWH is the only private nonprofit conservation organization in Maryland working daily with private landowners to restore habitat to benefit a variety of wildlife species, and reduce the negative impacts of conventional farming operations. Their focus on private landowners is critical because the future vitality of the Bay is in the hands of private landowners and how they use their land. For additional information contact: Old Railway Station, 46 Pennsylvania Ave, P.O. Box 1745, Easton, MD 21601; (410) 822-5100; www.cheswildlife.org.

Eastern Shore Land Conservancy (ESLC) is a private, nonprofit land conservation organization dedicated to the preservation of farmland and habitat on the Eastern Shore. A 32-member volunteer board of directors, chaired by former Gov. Harry Hughes, includes a diverse group of Eastern Shore landowners representing the agricultural and business communities as well as local governments. Since its inception in 1990, ESLC, funded by member contributions, has helped landowners to protect more than 35,000 acres of farmland and important habitat on 182 properties on the Eastern Shore. For additional information contact: P.O. Box 169, Queenstown, MD, 21658; (410) 827-9756; www.eslc.org.

The Conservancy Fund (TCF) is a national, nonprofit land conservation organization with offices in Maryland and other locations throughout the United States. Since 1985, TCF has acquired and protected more than 3.6 million acres of open space, wildlife habitat and historic sites throughout the nation including more than 135,000 acres in Maryland. TCF also assists partners in business, government and the nonprofit sector with projects that integrate economic development with environmental protection. For additional information contact: National Office, 1800 N. Kent Street, Suite 1120, Arlington, VA 22209-2156; (703) 525-6300; www.conservancyfund.org.

The Nature Conservancy (TNC), a national nonprofit conservation organization, has a mission to preserve the plants, animals and natural communities that represent the diversity of life on Earth by protecting the lands and waters they need to survive. Since 1951, TNC has been working with communities, businesses and people to protect more than 116 million acres around the world. Together with members and conservation partners, the Maryland/DC Chapter of The Nature Conservancy has protected more than 57,000 acres of critical natural lands. For additional information contact: 5410 Grosvenor Lane, Suite 100, Bethesda, MD, 20814; (301) 897-8570; www.tnc.org.

Trust for Public Land (TPL) is the only national nonprofit working exclusively to protect land for human enjoyment and well-being. TPL helps conserve land for recreation and spiritual nourishment and to improve the health and quality of life of American communities. Since 1972, TPL has helped protect more than 1.4 million acres in 45 states—from expansive recreation areas, to historic homesteads, to vest-pocket city parks. For additional information contact: Chesapeake Field Office, 660 Pennsylvania Ave. S.E., Suite 401, Washington, DC, 20003; (202) 543-7552; www.tpl.org.

Table 8: Private sector organizations protecting land in the Upper and Mid-Shore region.

APPENDIX

1: List of task force members.....35

2: Accounting of land protected in each county.....36

3: Data & calculations for land protection projections..... 44

4: Local land protection financing tools—resources..... 51

- **General information on PDR programs**
- **General information on common local land protection financing tools**
- **General information on transfer of development right programs**

5: Details about task force discussions regarding the definition of “lands protected from development”57

APPENDIX 1: List of task force members

Expert Panel:

- Representative from Caroline County:
Tammy Buckle, Dept. of Planning & Codes Adm.
- Representative from Cecil County:
Anthony DiGiacomo, Office of Planning & Zoning
- Representative from Dorchester County:
Karen Houtman, Planning & Zoning Office
- Representative from Kent County:
Carla Martin, Dept. of Planning & Zoning
- Representatives from Queen Anne's County:
Commissioner Gene Ransom
Faith Elliot-Rossing, Dept. of Planning & Zoning
Steve Cohoon, Dept. of Planning & Zoning (until fall 2003)
- Representatives from Talbot County:
Commissioner Hope Harrington
Frank Hall, Office of Planning & Zoning (until fall 2003)
George Kinney, Office of Planning & Zoning (beginning 2004)

- MD Dept of Natural Resources:
Grant Dehart
- MD Environmental Trust:
John Hutson
- Chesapeake Bay Foundation:
George Maurer
- Eastern Shore Heritage, Inc:
Elizabeth Watson
- Office of Congressman Wayne Gilchrest:
Edith Thompson
- MD Farm Bureau
Carl DeMatteo (until fall 2003)
Valerie Connelly (beginning 2004)
- Trust for Public Land:
Debi Osborne

Coordinator:

- Eastern Shore Land Conservancy:
Amy Owsley

APPENDIX 2: Accounting of land protected in each county

Insert cecil excel sheet

Insert Dorchester excel sheet

Insert Dorchester excel sheet, 2

Insert Kent excel sheet

Insert QA excel sheet

Insert Talbot excel sheet

APPENDIX 3: Data & calculations for land protection projections

To better understand the level and type of effort needed to achieve the 50% goal, the task force posed the following question: if we were to do nothing more than buy easements using State funds (MALPF and Rural Legacy Program) between 2004 and 2010, how close would Eastern Shore Counties be to attaining the 50% goal at 2010?

To answer this question, task force member Grant Dehart (DNR) calculated the following:

- 1) **The projected estimated acres preserved using MALPF funds in each county:**
 - a. Chart A1 estimates the average cost per acre of MALPF easements in each county;
 - b. Chart A2 calculates the estimated state share of MALPF funds per county using data from FY 2000 through 2002;
 - c. Chart A3 calculates the estimated state share of MALPF funds per county from FY 2004 through FY 2010;
 - d. Using above data, Chart A4 calculates the **projected estimated acres preserved using MALPF funds in each county.**
- 2) **The projected estimated acres preserved using Rural Legacy funds in each county:**
 - a. Chart B1 estimates the average cost per acre of Rural Legacy easements in each county;
 - b. Chart B2 calculates the estimated state share of Rural Legacy funds per county using data from FY 2000 through 2002;
 - c. Chart B3 calculates the estimated state share of Rural Legacy funds per county from FY 2004 through FY 2010;
 - d. Using above data, Chart B4 calculates the **projected estimated acres preserved using Rural Legacy funds in each county.**

All calculations were made using best available data, and are considered optimistic estimates to be adjusted throughout the life of the *Eastern Shore 2010* agreement. The assumptions for these calculations are as follows:

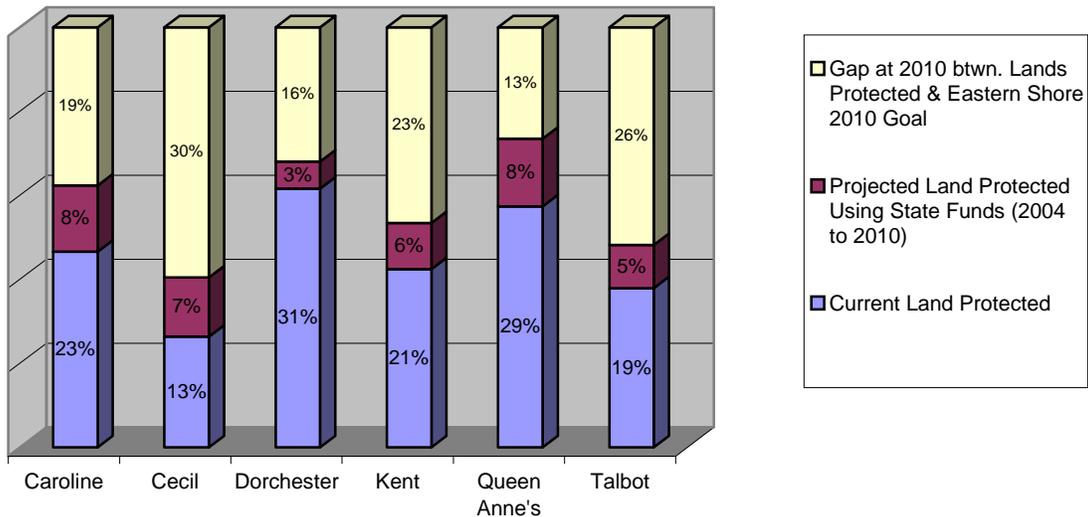
- 1) Each county's average share over the past three years of MALPF funds (FY 2000-02) will stay the same—note: this does not obligate counties to retain the same level of match through 2010.
- 2) Each county's average share of Rural Legacy funds for last five years (FY 1999-03) will stay the same; due to fluctuations in funds from FY 1999-FY 2003, this average share is not necessarily an accurate reflection of the individual county funds each year into the future, however, at the regional level, the average is acceptable;
- 3) Average cost/acre will stay the same as FY 2002 for MALPF, and the same as 5 year average for Rural Legacy for each county; It is important to note that adjustments were not made for interest rate changes through 2010 (see analysis in Charts C).
- 4) Projected State Capital Budget for FY 2005-FY 2010 will reflect Board of Revenue Estimates (only available FY 2005-08); these numbers, and projections based upon them, are optimistic.
- 5) Both MALPF and Rural Legacy continue to be funded, GreenPrint funds end (per five year capital budget) at end of FY 2004; and

- 6) MALPF continues to get local matching funds, federal FPP funds, and Ag. Transfer Tax funds as projected by DBM through FY2008, on top of existing share of POS transfer tax funds (17.05%).

The calculations based on the above calculations result in the following estimates:

	Current Baseline 2003 (acres)		Projections 2004 - 2010 (acres)		Projection at 2010 (acres)	
	Land Outside of Growth Area	Land Protected as of 2003	Projected Protected by MALPF \$\$	Projected Protected by Rural Legacy \$\$	Total Land Protected	Eastern Shore 2010's 50% Goal
Caroline	185,383	43,169	12,001	2,616	57,787	92,692
Cecil	123,030	16,244	7,575	1,079	24,899	61,515
Dorchester	319,082	98,244	8,498	1,786	108,528	159,541
Kent	156,100	33,098	7,699	897	41,693	78,050
Queen Anne's	223,273	64,065	14,904	3,071	82,040	111,637
Talbot	147,686	28,007	7,140	414	35,561	73,843

Projected Progress Toward Goal at year 2010 (status quo)



Summary of calculations projecting how much land is expected to be projected using state funds (MALPF and Rural Legacy).

CHARTS A:

1. Calculation of **Estimated Cost of MALPF Easements**

County	Average MALPF cost/acre FY2002	Total Acres of MALPF easements as of 6/30/01	Total Cost of MALPF easements FY86-FY02
Caroline	\$569.19	24,482	\$13,934,730
Cecil	\$1,846.28	10,236	\$18,897,572
Dorchester	\$1,254.83	6,475	\$8,125,557
Kent	\$1,148.85	9,944	\$11,424,585
Queen Anne's	\$1,032.19	18,720	\$19,322,802
Talbot	\$1,334.63	7,265	\$9,695,677
REGION		77,122	\$81,400,923

2. Calculation of the **Share of Total Statewide MALPF Funding FY2000-2002**

	Caroline	Cecil	Dorchester	Kent	Queen Anne's	Talbot	TOTAL
County	\$2,754,042	\$5,638,622	\$4,299,236	\$3,565,849	\$6,202,067	\$3,841,943	\$26,301,759
Statewide	\$95,438,138	\$95,438,138	\$95,438,138	\$95,438,138	\$95,438,138	\$95,438,138	\$95,438,138
County %	2.89%	5.91%	4.50%	3.74%	6.50%	4.03%	27.56%

3. Calculation of the **Projected Share of County MALPF funds FY2004-FY2010**

Fiscal Year	MALPF State	Caroline	Cecil	Dorchester	Kent	Queen Anne's	Talbot	TOTAL
2004	\$35,835,000	\$667,617	\$2,117,183	\$1,614,272	\$1,338,901	\$2,328,745	\$1,442,568	\$9,509,286
2005	\$23,465,000	\$437,160	\$1,386,346	\$1,057,036	\$876,721	\$1,524,878	\$944,604	\$6,226,745
2006	\$34,070,000	\$634,735	\$2,012,904	\$1,534,763	\$1,272,955	\$2,214,046	\$1,371,517	\$9,040,920
2007	\$34,662,000	\$645,764	\$2,047,881	\$1,561,432	\$1,295,074	\$2,252,517	\$1,395,348	\$9,198,015
2008	\$34,478,000	\$642,336	\$2,037,010	\$1,553,143	\$1,288,199	\$2,240,560	\$1,387,941	\$9,149,189
2009	\$36,201,900	\$674,453	\$2,138,860	\$1,630,800	\$1,352,609	\$2,352,588	\$1,457,338	\$9,606,648
2010	\$38,011,995	\$708,175	\$2,245,803	\$1,712,340	\$1,420,240	\$2,470,217	\$1,530,205	\$10,086,980
TOTAL:	\$236,723,895	\$4,410,239	\$13,985,987	\$10,663,786	\$8,844,700	\$15,383,550	\$9,529,522	\$62,817,784
%	100%	1.86%	5.91%	4.50%	3.74%	6.50%	4.03%	27.03%

4. Calculation of the Projected Share of County MALPF acres FY2004-FY2010

FY2004-2010	Acres	5,956	8,110	11,329	3,445	14,045	4,680	47,566
7 year	Annual Est.	850.9	1158.6	1618.4	492.1	2006.5	668.6	6795.2
FY2002	Cost/Acre	\$740.42	\$1,724.43	\$941.27	\$2,567.50	\$1,095.28	\$2,036.20	\$1,300.73

CHARTS B:

1. Calculation of Estimated Cost of Rural Legacy Easements

County	Total Acres of RLP easements as of 3/08/03	Total Cost of RLP easements as of 3/08/03	Estimated Cost per acre
Caroline	2,890	\$3,936,947	\$1,362.23
Cecil	1,293	\$2,141,778	\$1,656.83
Dorchester	1,503	\$1,817,756	\$1,209.43
Kent	913	\$2,063,518	\$2,260.97
Queen Anne's	3,302	\$5,400,000	\$1,635.37
Talbot	496	\$845,866	\$1,705.03
REGION	10,397	\$16,205,864	\$1,558.77

2. Calculation of the Share of Total Statewide Rural Legacy Funding FY2000-2002

	Caroline	Cecil	Dorchester	Kent	Queen Anne's	Talbot	TOTAL
County total	\$4,178,854	\$3,519,119	\$2,392,789	\$2,073,518	\$5,400,000	\$855,129	\$18,419,408
County RLP ac.	3,133.3	1,292.7	2,138.3	1,073.8	3,678.0	496.1	11,812.2
Statewide	\$103,759,831	\$103,759,831	\$103,759,831	\$103,759,831	\$103,759,831	\$103,759,831	\$103,759,831
County %	4.03%	3.39%	2.31%	2.00%	5.20%	0.82%	17.75%

3. Calculation of the Projected Share of County Rural Legacy funds FY2004-FY2010

Fiscal Year	MALPF State	Caroline	Cecil	Dorchester	Kent	Queen Anne's	Talbot	TOTAL
2004	\$35,835,000	\$667,617	\$2,117,183	\$1,614,272	\$1,338,901	\$2,328,745	\$1,442,568	\$9,509,286
2005	\$23,465,000	\$437,160	\$1,386,346	\$1,057,036	\$876,721	\$1,524,878	\$944,604	\$6,226,745
2006	\$34,070,000	\$634,735	\$2,012,904	\$1,534,763	\$1,272,955	\$2,214,046	\$1,371,517	\$9,040,920
2007	\$34,662,000	\$645,764	\$2,047,881	\$1,561,432	\$1,295,074	\$2,252,517	\$1,395,348	\$9,198,015
2008	\$34,478,000	\$642,336	\$2,037,010	\$1,553,143	\$1,288,199	\$2,240,560	\$1,387,941	\$9,149,189
2009	\$36,201,900	\$674,453	\$2,138,860	\$1,630,800	\$1,352,609	\$2,352,588	\$1,457,338	\$9,606,648
2010	\$38,011,995	\$708,175	\$2,245,803	\$1,712,340	\$1,420,240	\$2,470,217	\$1,530,205	\$10,086,980
TOTAL:	\$236,723,895	\$4,410,239	\$13,985,987	\$10,663,786	\$8,844,700	\$15,383,550	\$9,529,522	\$62,817,784
%	100%	1.86%	5.91%	4.50%	3.74%	6.50%	4.03%	27.03%

4. Calculation of the Projected Share of County Rural Legacy acres FY2004-FY2010

		Caroline	Cecil	Dorchester	Kent	Queen Anne's	Talbot	TOTAL
FY2004-2010	Acres	2,616	1,079	1,786	897	3,071	414	9,863
7 year	Annual Est.	373.8	154.2	255.1	128.1	438.7	59.2	1409.0
FY2002	Cost/Acre	\$1,333.71	\$2,722.30	\$1,119.01	\$1,931.01	\$1,468.19	\$1,723.70	\$1,471.13

CHARTS C: How do we establish an inflation rate to apply to future per acre costs of easement purchases in each of the ES2010 Counties?

**MALPF EASEMENT EXPENDITURES AND ACRES ACQUIRED BY COUNTY
ES 2010 Historical review and projections**

Expenditures

Fiscal Year	Caroline	Cecil	Dorchester	Kent	Queen Anne's	Talbot	TOTAL
2002	\$1,286,792	\$3,459,805	\$2,562,581	\$1,123,989	\$2,022,922	\$1,766,689	\$12,222,778
2001	\$382,926	\$426,798	\$287,104	\$350,000	\$1,493,960	\$1,125,922	\$4,066,710
2000	\$108,324	\$1,752,019	\$1,449,551	\$2,091,860	\$2,685,185	\$949,332	\$9,036,271
1999	\$603,521	\$809,129	\$1,005,553	\$1,462,294	\$1,003,873	\$1,878,262	\$6,762,632
1998	\$754,729	\$1,560,960	\$239,673	\$1,455,607	\$882,170	\$1,269,248	\$6,162,387
1997	\$36,692	\$14,000	\$7,756	\$13,324	\$24,898	\$11,027	\$107,697
1996	\$245,277	\$1,726,883	\$149,559	\$779,884	\$746,117	\$231,019	\$3,878,739
1995	\$135,872	\$956,496	\$212,128	\$916,056	\$1,030,652	\$196,840	\$3,448,044
1994	\$111,991	\$2,443,082	\$262,580	\$297,494	\$0	\$551,641	\$3,666,788
1993	\$323,614	\$224,736	\$279,851	\$79,025	\$0	\$254,102	\$1,161,328
1992	\$842,341	\$439,644	\$531,489	\$271,100	\$1,235,629	\$0	\$3,320,203
1991		\$0	\$0	\$0	\$0		\$0
1990	\$2,065,808	\$1,746,438	\$146,087	\$200,175	\$1,368,976		\$5,527,484
1989	\$944,768	\$919,136	\$355,579	\$737,195	\$3,261,949	\$153,000	\$6,373,616
1988	\$2,043,701	\$0	\$0	\$729,640	\$424,680	\$240,010	\$3,438,031
1987	\$1,186,883	\$309,900	\$0	\$183,106	\$1,388,154	\$310,080	\$3,378,123
1986	\$1,515,598	\$0	\$0	\$328,980	\$153,114	\$0	\$1,997,692
TOTAL:	\$12,588,837	\$16,789,026	\$7,489,491	\$11,019,729	\$17,722,278	\$8,937,172	\$74,546,534

Cost per acre (from MALPF Annual Reports)

Fiscal Year	Caroline	Cecil	Dorchester	Kent	Queen Anne's	Talbot	AVERAGE TOTAL	Average % change
2002	\$740.42	\$1,742.43	\$941.27	\$2,567.50	\$1,095.28	\$2,036.20	\$1,520.52	5.35%
2001	\$813.00	\$2,795.00	\$783.00	\$1,667.00	\$943.00	\$1,659.00	\$1,443.33	29.71%
2000	\$637.38	\$1,769.75	\$812.38	\$1,379.29	\$918.24	\$1,159.33	\$1,112.73	-3.46%
1999	\$600.00	\$1,430.00	\$839.00	\$1,721.00	\$916.00	\$1,410.00	\$1,152.67	-1.26%
1998	\$678.00	\$2,200.00	\$913.00	\$1,226.00	\$900.00	\$1,087.00	\$1,167.33	20.93%
1997	\$630.00	\$1,409.00	\$699.00	\$1,036.00	\$955.00	\$1,063.00	\$965.33	-0.38%
1996	\$534.00	\$1,437.00	\$745.00	\$938.00	\$1,099.00	\$1,061.00	\$969.00	-13.60%
1995	\$449.00	\$2,097.00	\$700.00	\$1,500.00	\$1,200.00	\$783.00	\$1,121.50	
1994	\$605.00	\$100.00	\$950.00	\$1,000.00	\$0.00	\$1,200.00	\$642.50	

% Cost/acre annual change

Fiscal Year	Caroline	Cecil	Dorchester	Kent	Queen Anne's	Talbot	Average Change
2002	-8.9%	-37.7%	20.2%	54.0%	16.1%	22.7%	11.1%
2001	27.6%	57.9%	-3.6%	20.9%	2.7%	43.1%	24.8%
2000	6.2%	23.8%	-3.2%	-19.9%	0.2%	-17.8%	-1.8%
1999	-11.5%	-35.0%	-8.1%	40.4%	1.8%	29.7%	2.9%
1998	7.6%	56.1%	30.6%	18.3%	-5.8%	2.3%	18.2%
1997	18.0%	-1.9%	-6.2%	10.4%	-13.1%	0.2%	1.2%
1996	18.9%	-31.5%	6.4%	-37.5%	-8.4%	35.5%	-2.7%
1995	-25.8%	1997.0%	-26.3%	50.0%		-34.8%	

SUMMARY: Year to year costs per acre are too variable within the same counties and across all 6 counties to be useful for future projections.

Also projected was how much land can be estimated to be protected using the *donation* of easements, rather than through *purchase* of easements. To this end, the average annual acreage of easements donated every year from years 1990-2000 was calculated for each county. This average was then projected for the years 2004 through 2010. Chart D shows the best available historical data for donated easements in each of the six counties, and Chart E shows the data used to project the historical donated easement trend through 2010.

Chart D. Estimated Acreage Protected through Donated Easements*

	Caro	Cecil	Dorc	Kent	QA	Talb
1990		97	93	437	212	
1991		450	111	3,288		
1992			239	230		305
1993	331	125		285		837
1994	379	279	38	79	25	74
1995	276	195	863	688		344
1996			412	30	333	1,084
1997			139	364	462	521
1998	149	155	94	242	1,102	1,311
1999	90	31		1,286	100	154
2000		114	757	46	739	1,335

*best available data, provided by ESLC and the MET

Chart E.	Historical Data		Projection
	Acreage easements donated 1990-2000	Average annual acreage of easements donated	Projected acreage protected by donated easements 2004-2010
Caroline	1,224	122	857
Cecil	1,447	145	1,013
Dorchester	2,747	275	1,923
Kent	6,975	697	4,882
Queen Anne's	2,973	297	2,081
Talbot	5,964	596	4,175

APPENDIX 4: Local land protection financing tools—resources

1) General Information on PDR Programs:

- **Trust for Public Land’s Conservation Financing Center:** This team of experts provide professional, technical assistance and campaign services to state and local government executives, legislatures, land trusts, and public agencies that need to research and evaluate conservation finance options.

Recommended resources:

- TPL’s conservation finance website offers numerous case studies and resources: http://tpl.org/tier2_rp2.cfm?folder_id=708
 - An overview and evaluation of PDR funding sources is offered in a matrix of local finance tools: http://www.tpl.org/tier3_cd.cfm?content_item_id=1071&folder_id=825
 - **Conservation Finance Handbook:** TPL's is developing a handbook for communities seeking to raise conservation funds--from initial demographic research to post election analysis. Topics include: Measuring Public Opinion, Designing a Winning Measure, and Running a Conservation Campaign. http://tpl.org/tier3_cd.cfm?content_item_id=11606&folder_id=175
 - **Local Greenprinting for Growth:** Published in partnership with the National Association of Counties, this workbook series is a guide for communities seeking to create a greenprint conservation program. http://www.tpl.org/tier3_cd.cfm?content_item_id=10648&folder_id=175
- **American Farmland Trust:** In cooperation with the U.S. Department of Agriculture's Natural Resources Conservation Service and the National Agricultural Library, AFT has developed the farmland protection information center. The FIC offers an electronic library and a technical assistance service, at <http://www.farmlandinfo.org/fic/tas/index.htm#fs>

Recommended resources:

- PACE Funding Source Fact Sheet: <http://www.farmlandinfo.org/fic/tas/tafs-pacefund.html>
 - Status of Local PACE Programs Fact Sheet: http://www.farmlandinfo.org/fic/tas/PACE_local_903.pdf
- **The Conservation Fund:** The Fund helps local, state and federal agencies, and nonprofit organizations acquire property from willing sellers to protect open space, wildlife habitat, public recreation areas, river corridors and historic places. Through its Sustainable Programs, the Fund works with communities as well as different sectors of industry, including forest and chemical companies, developers, and ranchers to demonstrate sustainable practices that balance economic and environmental goals.

Recommended resource:

- **Land Conservation Financing**, written by Ed McMahon and Mike McQueen, Island Press, examines how communities have created billions of dollars in new funding for land conservation by developing successful campaigns to win ballot measures. <http://www.conservationfund.org/?article=2835&back=true>

- **The Environmental Law Institute:** ELI is an independent, non-profit that conducts policy studies on the environment and sustainability and reaching out with educational programs, publications, and technical assistance across the U.S. abroad.

Recommended resource:

- This organization recently release the report, **The Chesapeake 2000 Tax Policy Study**, designed to identify tax policies that may affect the parties` abilities to meet the sound land use goals of the Agreement (available at http://www.elistore.org/reports_detail.asp?ID=10894&topic=Land_Use).

2) General Information on Common Local Land Protection Financing Tools:

- **Bonds/Borrowing:** According to the Trust for Public Land’s (Local Parks, Local Financing Volume1), borrowing through “bonds are a unique and attractive park financing mechanism because they provide large sums of up-front cash. As such, borrowing—either outright or tied to a financing mechanism—is a common park and open space tool used by county and municipal governments.” The following is a summary of the main types of borrowing and bonds used by local governments for conservation purposes.

General Obligation (GO) Bond: One of the most popular sources of funding for preservation programs, a general obligation (GO) bond is loan taken out by a county or town. No assets are used as collateral; rather the bond is backed by value of taxable property. Bonds are typically issued for 15, 20, or 30 years. A primary benefit of a GO is that it allows for the immediate purchase of open space, locking in current land values, and allowing for the payment of these purchases over time. Drawbacks include the extra costs of interest for the loan, and the need for voter approval for the GO bond.

Revenue Bond: Similar to the GO bond, a revenue bond is a loan that allows for the immediate purchase of lands at current value. This type of bond, however, is paid from the proceeds of taxes or fees. Bonds are typically issued for 15, 20, or 30 years. The pros and cons of this bond are the same as the GO bond, though this bond is more expensive. However, unlike the GO bond, the revenue bond is not restricted to debt ceilings.

Certificates of Participation (COPS): Enabling government to pay for a property over time, COPS are lease-purchase arrangements in which payments are made year-by-year. COPS, although relatively new, are becoming an important conservation tool, and is used in more than half the states, according to the Trust for Public Land (http://tpl.org/tier2_rp2.cfm?folder_id=708). One main benefit is that COPS do not require a referendum and, because the transaction is not formally considered debt, they do not impact a community's debt limit.

For more information:

http://www.tpl.org/tier3_cdl.cfm?content_item_id=1063&folder_id=825

- **Installment Purchase Agreements (IPAs):** This program pays for development rights through a innovative financing plan that helps jurisdiction stretch available funds and allows

land owners to receive semi-annual, tax exempt interest over a term of years (typically 20 to 30). The transaction works as follows:

- The interest rate for payment to the easement seller is established the day before the settlement of the sale, set at the current return on US Treasury bonds (a minimum rate can also be set by local government to provide landowners with additional security).
- At settlement, a landowner grants a jurisdiction a conservation easement in exchange for an IPA—the jurisdiction then begins making twice a year, tax-exempt interest payments, with the balance paid to the landowner at the end of the term (the landowner may also sell the bond on the municipal market to recover the outstanding principal before the end of the agreement).
- Jurisdictions can purchase zero-coupon bonds (“zeroes”)—with a face value equal to the purchase price—to cover the final balloon payments. Rather than generating regular interest income, zeroes yield a lump sum when the bond matures. Because zeroes costs a fraction of their face value, the jurisdiction leverages available funds.

Benefits of IPAs to the landowners are many, and make an attractive package that may encourage them to accept less than the appraised value for their easements: landowners may defer capital gains taxes until the principal is paid; the semiannual interest paid on the outstanding balance is interest-free; landowners can liquidate their IPA prior to the end of the agreement; and the IPA can be transferred to heirs. The main benefit for the jurisdiction is that it enables the stretching of public funds, and allows the purchase of more easements while land is still available and affordable. Also, the zeroes enable the jurisdiction to spend a fraction of the purchase price at closing and leverage available funds. Possible drawbacks of IPAs are: they require a dedicated funding source to cover the interest payments; may take up to 6-months to set-up; may cost more to set up than cash-purchase easement sales because they require a bond counsel, paying agent, and financial advisor to set up; and each IPA may require the same approval process as GO bonds because they are backed by the faith and credit of the jurisdiction.

For more information: <http://www.farmlandinfo.org/fic/tas/tafs-ipa.html>

- **Fees**

Impact Fees: With the purpose of offsetting costs of new infrastructure, this is a one-time fee paid by a developer. This fee provides an important link between land protection and land development. Because of its impact on housing prices, it should be used in context of growth policies that foster a range of affordable housing in a community.

For more information:

http://www.tpl.org/tier3_cdl.cfm?content_item_id=1061&folder_id=825

User Fees: User fees are fees generally used to cover the cost of providing goods or services—parking, recreation, and tuition, for example. They can be collected from all users, but also can be made more targeted through creation of special districts that charge these fees for services provided to people in a defined area. Because they are generally voluntary, user fees are generally exempt from tax limitation laws. According to the Trust for Public Land (http://tpl.org/tier2_rp2.cfm?folder_id=708), user fees are an

increasingly popular financing tool for local government, far more than federal or state governments.

For more information:

http://www.tpl.org/tier3_cdl.cfm?content_item_id=1067&folder_id=825

- **Taxes**

Property: This tax is applied to real property paid for by commercial and/or residential property owners. This tax can provide a steady source of revenue built that can be designed to be a broadly distributed burden. It also is an efficient funding mechanism because a relatively small increase can create substantial funding, and is easily administered. Though it has shown to be popular with voters when linked directly to conservation needs, rate increases could be a concern of taxpayers.

For more information:

http://www.tpl.org/tier3_cdl.cfm?content_item_id=1053&folder_id=825

Sales and Use: This tax is applied to the sales of goods and services. This tax can enjoys the same benefits of the property tax, with the added attractiveness of being paid by out-of-town visitors and may be linked with tourism profits generated by open space amenities. This type of tax, however, is strongly linked with the economy, and will drop or rise accordingly. Tax may be ongoing or increased over a defined period of time.

For more information:

http://www.tpl.org/tier3_cdl.cfm?content_item_id=1059&folder_id=825

Real Estate Transfer: This tax is applied to the sale of property, paid by either the buyer or the seller. Funds have been used for land acquisition and deposited into land banks. This tax can generate a substantial, albeit less predictable, stream of funds. Providing an important link between taxing new development and protecting land, this tax in many communities may not be popular with the real estate and development interests.

For more information:

http://www.tpl.org/tier3_cdl.cfm?content_item_id=1060&folder_id=825

Income Taxes: This tax can be an important source of revenue for most states, and, although not common, can also be used in counties.

For more information:

http://www.tpl.org/tier3_cdl.cfm?content_item_id=1064&folder_id=825

Voluntary Tax Bill Check-Off Boxes: The option to voluntarily add a contribution to land conservation in an individual's local tax bill—typically a brochure is sent with local tax bills that describes the county's farmland protection efforts and asks for a contribution. Several Eastern Shore counties, including Kent and Talbot Counties, are using the method of procuring conservation funding. The results vary according to public attitude and awareness in the community about the importance and priority of land protection.

Special Assessment District: Commonly this is used as a special taxing district on areas that benefit from an open space project. Tax may be ongoing or increased over a defined

period of time. In addition to property taxes, revenue may be generated through such mechanisms as user fees or bonds. This predictable revenue stream can be established in small increments and allows those who benefit from open space a sense of ownership/responsibility of land. The drawbacks may include general reticence about additional taxes and possibility of time consuming administration. One possible application is a surcharge tax for land outside of growth areas.

For more information:

http://www.tpl.org/tier3_cdl.cfm?content_item_id=1054&folder_id=825

3) General Information on Transfer of Development Right Programs:

Transfer of Development Rights (TDRs): TDRs provide an economic incentive for preserving undeveloped land. TDRs create a market by which farmers, for example, can sell their development rights to someone wishing to develop in a receiving area for TDRs. In rural areas, TDRs may be difficult due to economics (e.g., insufficient or unbalanced demand for development in either sending or receiver areas), insufficient planning and zoning (e.g., TDRs not the only mechanism to be granted density), politics (e.g., skepticism by those in sending areas, and opposition from those in the receiving areas, especially in relation to real and perceived quality and impact of new high density development), and existing alternatives (e.g., there are alternative open space preservation programs available and supported with funding – to extinguish rather than transfer development rights).

The town of Berthoud, Colorado (between Denver and Fort Collins) created and implemented an alternative process to transfer development from farmland to the town. Termed a “Density Transfer Fee”, this transaction works as follows: upon issuance of a building permit for a new dwelling unit, a fee is collected by that was made possible by an upzone (typically through annexation from the county into the town). The proceeds from these fees are then spent to purchase existing development rights from surrounding lands envisioned as non-growth areas. This program has been used in an effort to avoid the complication of creating a robust market with competitive pricing for TDR programs, and the Town of Berthoud claim this program provides more control over the targeting of preservation funds. Drawbacks are that the density Transfer Fees have been used only limitedly thus far; the determination of a defensible fee may be difficult (the Town of Berthoud calculates the fee in conjunction with subdivisions, with credits given for prior allowed density and acres of qualifying open space provided); and it may require a high level of cooperation between county and town, specifically with their comprehensive plans and implementation.

For more information:

- AFT Fact Sheet, at: <http://www.farmlandinfo.org/fic/tas/tafs-tdr.html>
- McConnell, V., Kopits, E. and M. Walls (2003) **How Well Can Markets for Development Rights Work? Evaluating a Farmland Preservation Program.** Resources for the Future, Discussion Paper 03-08.
<http://www.rff.org/Documents/RFF-DP-03-08.pdf> (full report), or
<http://www.rff.org/Documents/RFF-Resources-150-landpres.pdf> (summary article)
- Pruetz, R. (1997) **Saved By Development: Preserving Environmental Areas, Farmland and Historic Landmarks with Transfer of Development Rights.** Arje

Press: Burbank, California. Summary at:
[http://www.planning.org/bookservice/description.htm?BCODE=RSBD.](http://www.planning.org/bookservice/description.htm?BCODE=RSBD)

APPENDIX 5: Details about task force discussions regarding the definition of “lands protected from development”

In several counties, development outside of growth areas has been managed using cluster-zoning policies—the practice of grouping residential units on a relatively smaller portion of a parcel at a relatively higher density, leaving the remainder of the parcel as open space. In reviewing the mechanisms that provide land protection, there was a difference in opinion among the task force members about 1) including cluster ordinance-related deed restricted properties (e.g., open space in cluster subdivisions, etc.) in the baseline protected land totals; and, 2) including cluster development policies as a strategy for future land protection. The following provides more detail on the task force deliberations and eventual decisions.

Issue #1: Are deed-restricted lands considered “protected from development?”

As a start to defining what lands would be considered “protected from development”³⁰, the task force discussed a proposal to use the definition established by The Chesapeake Bay Program’s Land Conservation Work Group: “*Land that is permanently protected from development with a perpetual conservation or open space easement or fee ownership, held by a federal, state or local government or nonprofit organization for natural resource, forestry, agriculture, wildlife, recreation, historic, cultural or open space use, or to sustain water quality and living resource values.*” Some members of the task force noted that this definition was not broad enough, for it did not include lands protected by open space deed restrictions. For example, both Queen Anne’s and Talbot Counties include in their baseline calculations for current lands protected from development significant lands in the category of “deed restricted.” Appendix 3 provides this data for all six counties.

The task force discussed at length the permanence of protection for deed-restricted lands. Of concern was the possible vulnerability of deeded conservation lands to changes in political intent, as opposed to the relative permanent protection of conservation easements that generally held as protected in perpetuity.³¹ **In the end, it was determined that, given that *Eastern Shore 2010* is a county-based agreement, it should be up to the individual counties to decide if the intent of their deed restrictions was permanent protection from development.** Further, it was hoped that including these lands in the white paper category of “protected from development” would help prevent any possible changes in the status of these lands in the future.

Issue # 2: Should cluster zoning be included as a strategy for reaching the goal?

³⁰ The land protection goal for *Eastern Shore 2010* states that counties, “Strive to **protect from development** through the use of voluntary preservation programs 50% of Eastern Shore land outside of locally-designated growth areas by 2010.”

³¹ It was also noted that Maryland Agricultural Lands Preservation Foundation (MALPF) easements include a clause for a 25-year review. Maryland law provides that conservation easements in existence for at least 25 years that have been purchased in whole or in part with MALPF funds may be terminated through repurchase by the landowner. However, there are stringent requirements for qualifying for this buy-back provision that make this unlikely in the Eastern Shore region, including: the landowner must convince their local governing body that their land can no longer be farmed profitably, and the governing MALPF board, along with the state secretary and treasurer must sign off on such approval if granted by the local governing body (Md. Code Ann., Agric. §§ 2-514).

Several Eastern Shore counties already utilize cluster-type policies to manage development in rural lands. The question that arose in task force discussions was whether or not cluster development policies should be included in the white paper as a means of reaching the *Eastern Shore 2010* goal. Some members of the task force were not comfortable with encouraging any land protection techniques predicated upon development in rural lands.

Cluster-type development has been credited with several advantages. The most obvious plus is it uses land more efficiently than conventional large-lot development, and results in protection of open space in that tract of land. Conservation planner and cluster development advocate Randall Arendt³² states that cluster zoning is relatively easy to administer and provides a mechanism for protecting land that does not require large public expenditures needed to purchase development rights.

While decidedly superior to conventional large-lot development practice that consumes more land, clearly there are serious drawbacks of any development in rural areas. Of great importance to the Eastern Shore is the negative impact on agriculture by erosion of the critical mass of land needed to sustain the industries, as well as impacting the investment in farms and farming due to feelings of impermanence which are exacerbated by conflicts with suburban neighbors. Specific to cluster zoning, states conservationist Tom Daniels³³, is the emphasis it places on unsystematic and non-deliberate land use management. Daniels states that cluster zoning in particular is labeled as a “quick fix” or “happy medium” for decision-makers who are faced with development pressures and tough choices about the location and amount of growth. In this light, cluster zoning is attributed with emphasizing individual site plans rather than forward-thinking comprehensive planning.

In the end, similar to the resolution about deed-restricted lands in Issue #1, it was reaffirmed that because *Eastern Shore 2010* is a county-based agreement, it is the choice and responsibility of individual counties to decide which techniques to employ in protecting their rural lands. However, some members of the task force wanted it noted that creating protected open space as part of rural cluster development was not agreed to be encouraged in the white paper as a means to meet the *Eastern Shore 2010* land protection goal. Instead, to help combat the drawbacks of cluster development, the *Options* section of this white paper offers that local government consider establishing policies to be strategic about the protection of the open space portion of rural developments. If there is to be development in rural lands, the design and location should be sensitive to the business of farming and protection of important resource lands.

³² Arendt, R (1992) Open Space Zoning. From **Taking a Closer Look: Green Essentials**, Planning Commissioners Journal; available at <http://www.plannersweb.com/articles/are015.html>.

³³ Daniels, T. (1997) Where does cluster zoning fit farmland protection? *American Planning Association Journal* Winter 1997: 29-37.