

Acknowledgements

Members of Chesapeake City Council

Mayor William E. Ward	Dr. John M. de Triquet, Vice Mayor
Mr. Dalton S. Edge	Dr. Alan Krasnoff
Mr. Dwight M. Parker	Ms. S.Z. "Debbie" Ritter
Ms. Patricia P. Willis	Dr. Rebecca C.W. Adams
Mr. W. Joe Newman	

Open Space and Agriculture Preservation Task Force Members

Ms. Robin L. Freeman, Co-Chair	Mr. Lamont Simmons
Ms. Shirley K. Buchanan, Co-Chair	Mr. Lyle Pugh
Mr. Paul Zydron	Ms. Mary Kathryn van Eerden
Mr. Warren Cooke	Mr. Vernon Whedbee
Mr. Rodney Foster	

Chesapeake Staff Members

Mr. Clarence V. Cuffee, City Manager
Ms. Anne F. Odell, Deputy City Manager
Mr. Brent R. Nielson, Director of Planning
Mr. Watson Lawrence, Acting Director of Agriculture
Ms. Betty Jean Meyer, Director of Budget
Ms. Karen Shaffer, Assistant Director of Planning
Ms. Jaleh Pett, Comprehensive Planning Administrator
Ms. Rebecca Benz, GIS Administrator
Ms. Jan Proctor, Deputy City Attorney
Mr. Claus H. Koepke, Budget Analyst
Mr. Bill Petree, Recreation Coordinator, Northwest River Park
Mr. Lennie Luke, Senior Planner, Parks and Recreation
Ms. Amy Moore Ring, Senior Planner

Special Thanks

Mr. Louis Cullipher, Virginia Beach Agriculture Department
Mr. Melvin Atkinson, Virginia Beach Agriculture Department
Mr. Greg Hammer, NRCS Soil Service
Ms. Mary Heinrich, American Farmland Trust
Mr. Greg Edwards, The Nature Conservancy
Ms. Audrey Pritchard, The Nature Conservancy

Last but not least, sincere thanks to the Residents of the City of Chesapeake for their interest and input in the development of this proposal.

I. Background

Chesapeake's remaining open space, agriculture and rural character face growing development pressure. There are many factors which create this development pressure, including an increasing population, lower land prices in the City's remaining rural and undeveloped areas, as well as an enhanced transportation network which provides easier access to the Southern part of the City. In response to the community's concern to preserve the City's natural open spaces, rural character and the agricultural industry, City Council formed a task force to investigate a possible voluntary, city-wide open space and agriculture preservation program in January 2001.

Since that time, the task force has been meeting twice a month to evaluate similar programs from around Virginia and the country in order to assess the possibility of such a program in Chesapeake. The task force is made up of 16 members, including farmers, large land owners, civic league leaders, environmental interests, as well as elected officials and city staff.

Some of the main questions the group set out to answer include:

1. Is there a need for open space and agricultural preservation in Chesapeake?

According to the United States Census Bureau, Chesapeake's population grew by approximately thirty-one percent (31%) between 1990 and 2000.¹ With the introduction of 47,250 people since 1990, pressure to develop the City's remaining open space is rising.² As a result, there is an ever-increasing demand on city revenues to provide new public infrastructure, such as water, police and fire protection and schools.

As of the year 2000, a new high school in Chesapeake cost approximately \$46 million to build, which does not include the cost of land. An open space and agriculture preservation program could be used to purchase development rights on remaining open space and farmland in the city, which reduces the number of new schools we would need in the future.

Current zoning regulations would allow roughly five thousand (5,000) units in the southern portion of the City alone.³ Recent studies by the American Farmland Trust in other Virginia localities show that new houses contribute less money in taxes than what is required to provide them with new roads, sewers, and other services.⁴

¹ *Southern Watershed Area Rural Area Preservation Plan*, Draft Report, May 9, 2001, p. vii.

² *Southern Watershed Area Rural Area Preservation Plan*, Draft Report, May 9, 2001, p. vii

³ *Southern Watershed Area Rural Area Preservation Plan*, Draft Report, May 9, 2001, p. vii

⁴ Lackey, Patrick, "Loudoun Residents Detest Sprawl But Abhor Density, As Well," *The Virginian-Pilot*, March 23, 2001 and "Cows Don't Go To School," *American Farmland*, Spring-Summer 1997.

Between 1964 and 1997, approximately 23% of Chesapeake's farmland was lost due to development (Chesapeake Agriculture Department). Agriculture should be preserved, because it is an integral component of the City's economy. Agriculture is the largest user of land in the City of Chesapeake with 60,667 acres (Census of Agriculture, 1997). As of 1997, agriculture is the City's eighth largest industry.⁵ Due to a favorable climate, an extended growing season, and high quality soils, agricultural enterprises in Chesapeake are among the most productive statewide.⁶ In Chesapeake alone, agriculture produces \$36.4 million a year in raw agricultural products. The Chesapeake Comprehensive Plan states that the function and visual integrity of rural and agricultural areas should be maintained. An illustrative map showing the City's remaining prime farmland is included in Appendix A.

Open space is essential to preserving quality of life for City residents in terms of providing opportunities for recreation, wildlife habitat, pollution removal, flood abatement, and aesthetic enjoyment as well as providing a conducive environment for agriculture. Numerous natural and scenic resources are central to the character of the City. The Elizabeth River, the Albemarle-Chesapeake Canal, the Dismal Swamp National Wildlife Refuge, the Northwest River, and the North Landing River are the most visible components. The City's waterways are accessible for boating and fishing year-round. The Elizabeth River is a major tributary to the Chesapeake Bay, and the City is striving to protect water quality through programs to reduce nonpoint source pollution. Preserving the City's natural and scenic resources is a major focus of its long-term planning and land use decision-making. An illustrative map showing the City's recommended conservation corridors is included in Appendix A.

Many studies document the success and enhanced value of residential development located near open spaces.⁷ Recreational fishing and hunting generate approximately \$70 billion a year in the United States.⁸ Ecotourism and birdwatching are two of the fastest growing recreational pursuits in the United States and both depend on healthy ecosystems supported by intact natural processes and open space.⁹

Based on these findings, the OSAP task force asserts that the Chesapeake's remaining open space, agriculture and rural character are in danger of being lost to continued growth pressures. The OSAP task force concluded that there is a discernable need to preserve open space and agriculture in the City of Chesapeake in order to accomplish the following: 1) allow the City to budget for future increases in public service costs; 2) preserve the rural character of the

⁵ "South and West Area Plan," Staff Draft, City of Chesapeake, Planning Department, June 1997, p. 91.

⁶ "A Strategic Plan for Agriculture in Chesapeake and Virginia Beach," Virginia Polytechnic Institute, p. 79.

⁷ "Conservation Plan for the Southern Watershed Area," VA Department of Conservation and Recreation, Division of Natural Heritage, February 2001, p. 4.

⁸ VA Department of Conservation and Recreation, Division of Natural Heritage, p. 4.

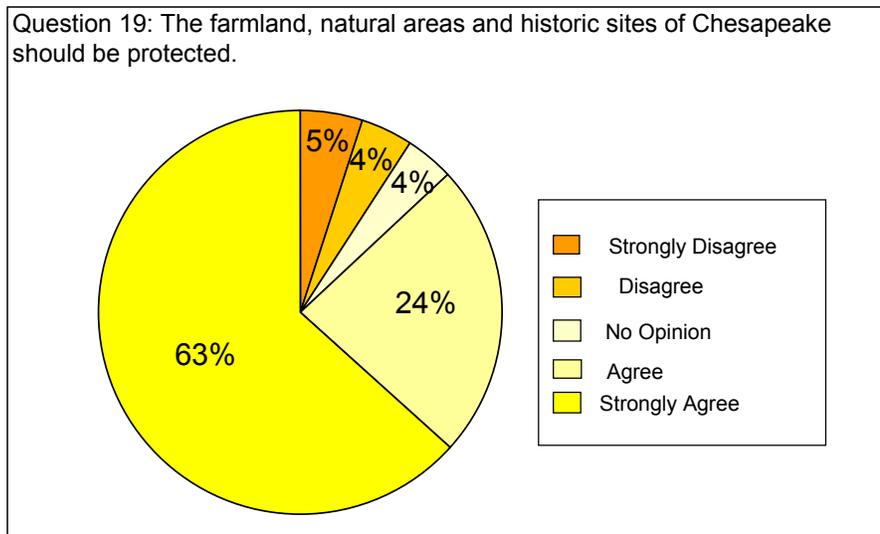
⁹ VA Department of Conservation and Recreation, Division of Natural Heritage, p. 4.

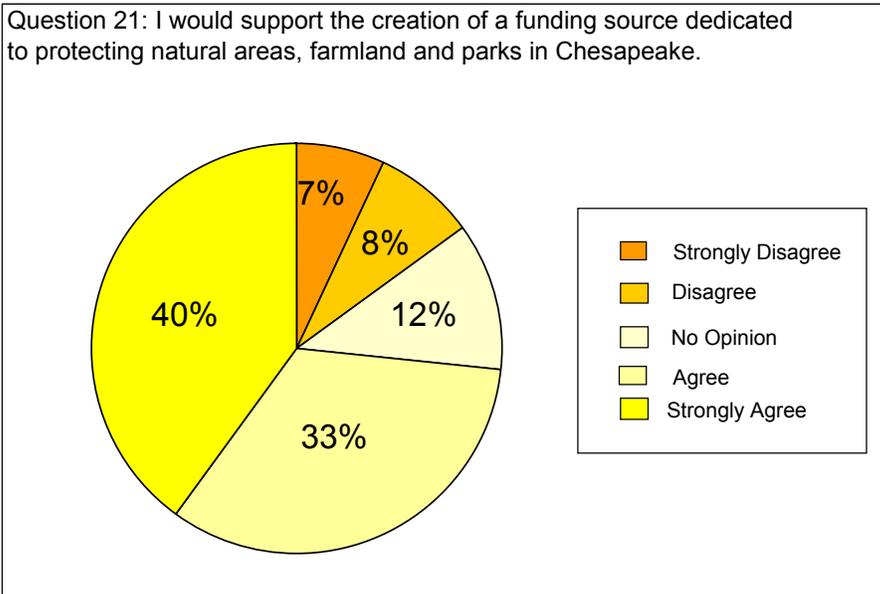
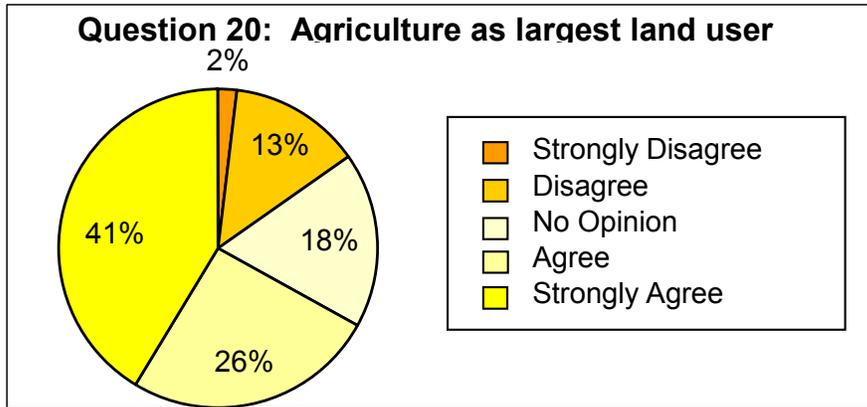
City; 3) support the agricultural industry; and 4) maintain quality of life for City residents through open space preservation and enhanced property values.

2. Will community residents support a preservation program?

In addition to basic research on open space preservation, the task force has been talking to community residents in order to ascertain how Chesapeake residents feel about a local preservation program. To date, task force members have made presentations to 28 community organizations, and received over 1,412 completed informal surveys on the public's feelings on open space and agricultural preservation. A full 89% of the total number of surveys either "strongly agreed" or "agreed" with the statement that farmland, natural areas and historic sites in Chesapeake are part of our heritage, and we owe it to our children and grandchildren to protect them. In addition, 86% of the respondents would be willing to dedicate a portion of their local tax dollars to protect more natural areas, farmlands and parks in Chesapeake.

In addition to the Task Force's informal surveys, the City of Chesapeake Planning Department also undertook a broad-based community survey as a citizen participation component for the update of their Comprehensive Plan. This survey contained six questions concerning rural preservation and open space issues. The City received 402 completed surveys with the following results specific to the farmland and open space preservation questions:





Local survey results reflect a larger trend on the State level. In May 2001, the Chesapeake Bay Foundation, the Nature Conservancy, and the Trust for Public Land released the results of a state-wide bi-partisan poll on open space conservation. Two well-known research firms – one Republican and one Democrat – conducted a telephone poll with 750 likely Virginia voters on behalf of the organizations. They found that 96% of respondents agreed that Virginians owe it to future generations “to protect the land, water and wildlife for their use and enjoyment.” An 80% majority also said they would support a plan to dedicate \$40 million per year from the state’s current land-recording tax as a permanent source of funding for land conservation.

From their community outreach efforts, OSAP Task Force members believe that most Chesapeake City residents would support an open space and agriculture preservation program. Task force members recommend that the City develop and implement a voluntary program to preserve open space and farmland.

3. Will an open space and agriculture preservation program be feasible in Chesapeake?

In addition to polling community members, the OSAP task force has evaluated similar programs from around Virginia in order to assess the possibility of such a program in Chesapeake. Every task force member agreed that participation in a preservation program should be strictly voluntary, and be a economically viable alternative for landowners.

An open space and agriculture preservation program does not mean “no growth.” A preservation program is only one tool the city could use to preserve prime agricultural lands and lands with important environmental, historical, or scenic values, while encouraging future growth in areas best equipped for it.

The groups investigated the terms of other preservation programs from across the State, including how they are established, administered and funded. The results of this comparison are summarized below:

Summary of Local Preservation Programs

Locality Name	Program Name	Program Type	Funding Source	Acreage Goal
Albemarle County	Acquisition of Conservation Easements (ACE)	One time purchase of development rights	General Fund & Lodging Tax	1,000 acres per \$1 million in funding
Clarke County	Conservation Easement Purchase Program (CEP)	One time purchase of development rights	General Fund Special Appropriation & Grants	None
Fauquier County	Farmland Preservation Program	One time purchase of development rights	Private Donation & Grants	None
James City County	Purchase of Development Rights Program	One time purchase of development rights	General Fund Appropriation (dedicated \$.01 from current real estate tax)	None
Loudoun County	Purchase of Development Rights Program	One time purchase of development rights	General Fund Appropriation & Hotel Tax	None
City of Virginia Beach	Agricultural Reserve Program (ARP)	Installment purchase of development rights*	Cell Phone Tax and Real Estate Tax	20,000 acres

The Task Force also personally interviewed program administrators from Virginia Beach, Loudoun County, and Albemarle County. The group also spoke with national preservation groups, such as the American Farmland Trust and The Nature Conservancy.

After comparing various agriculture and open space preservation strategies, the OSAP Task Force recommends that City Council establish a purchase of development rights (PDR) program whereby landowners could voluntarily sell a conservation easement to the City. A PDR program is a feasible preservation strategy for the City, because it is a voluntary program which offers landowners a proven economical alternative to development.

II. Purchase of Development Rights (PDR) Program

A. What is a Purchase of Development Rights (PDR) Program?

A purchase of development rights (PDR) program is a voluntary open space and agriculture land protection technique that compensates landowners for limiting future development on their land. PDR programs have been used by local and state governments on the East Coast since the mid-1970's. As of February 1999, there were at least 34 independently funded, stand-alone PDR programs in 11 states. Maryland and Pennsylvania have the most well-established PDR programs in the country. In Virginia, there are now six existing PDR programs.

Under a PDR program, a landowner may voluntarily offer to sell some or all of the development rights to an entity, such as a government agency or a private conservation organization. The organization purchasing the rights then extinguishes those rights. A legal document known as a preservation easement is created to limit the subdivision of land that is to be retained for farming or open space. The easement is attached to the landowner's deed and stays on the deed even when the land is sold or passed on through inheritance, thereby assuring that use of the property will be limited in accordance with the easement. The land itself remains in private ownership and the landowner still retains all other rights and responsibilities associated with being a property owner, including the right to farm, to restrict public access, to use the land as collateral for a loan, and to sell the land. Some easements allow tenant houses or one or more new residential lots, depending upon the size of the parcel being offered and other site characteristics.

B. Benefits of a PDR Program

A PDR program provides benefits to both the farming community and the public at large by protecting open space and farmland permanently, while doing it on a volunteer basis and keeping it in private ownership. A PDR program can also help control sprawl and its attendant costs on government, by preventing development in areas that do not have the infrastructure to support it. The cost of a conservation easement for a property will be far less, over time, than the cost of services for residential development (such as schools, parks, emergency services, solid waste, library, etc.). A PDR program can also protect historic and

scenic resources important to tourism and quality of life, as well as environmentally sensitive areas important to water quality and wildlife. Moreover, a PDR program allows the costs of preserving open space and farmland to be spread across the larger community, which benefits from agriculture and open space for a variety of reasons, including having access to locally grown food, enjoying scenic and historic landscapes, and benefiting from lower taxes.

For the landowner, a PDR program can provide a financially competitive alternative to selling for development or division among heirs as part of an estate plan. Selling an easement allows landowners to cash in a percentage of the equity of their land, while retaining ownership and use of their property. There are no restrictions on the use of the proceeds from the selling of an easement.

The main drawback to PDR programs is that they may appear expensive, but compared to the costs of new infrastructure as a result of unmanaged growth, it is far less costly. The voluntary nature of the program also means that some important open space or agricultural lands will not be protected through the program. For that reason, a PDR program should be used in conjunction with other smart growth tools, such as agricultural zoning, conservation subdivision design, agricultural economic development programs, and comprehensive plans that include agricultural protection.

III. A Proposed Open Space and Agriculture Preservation Program for Chesapeake

A. Elements and Purpose

The OSAP Task Force identified several purposes for the PDR program. The purpose of the program should be to promote and encourage the preservation of open space and agriculture throughout the City by means that are voluntary rather than regulatory. The preservation of open space should:

- (a) Establish and preserve open space and preserve the rural character of Chesapeake;
- (b) Preserve farm and forest lands;
- (c) Conserve and protect water resources and environmentally sensitive lands, waters and other natural resources;
- (d) Conserve and protect biodiversity, wildlife and aquatic habitat;
- (e) Improve the quality of life for the inhabitants of the City;
- (f) Emphasize the redevelopment and infill of older and underutilized areas of the City;
- (g) Promote tourism through the preservation of scenic resources;
- (h) Reduce and defer the need for major urban infrastructure improvements in the undeveloped portion of the City and the expenditure of public funds for such improvements; and
- (i) Ensure the long-term revenue resources for the City.

B. Eligibility Requirements

Participation in the program will be limited to those properties that meet the following criteria:

1. The property shall be no less than ten (10) acres in area for agricultural land or no less than three (3) acres for open space land, or be included in a batch in which the combined area of contiguous property is no less than ten (10) acres in area for agricultural land and no less than three (3) acres for open space land.
2. The property shall not contain any land required to be reserved or set aside for open space, recreation or similar purposes pursuant to the provisions of a conditional use permit, conditional zoning proffers, subdivision approval or other action by the City Council, or any ordinance or regulation;
3. No uses or structures, other than those permitted by preservation easements, shall be located upon the property; and
4. For eligibility for the farmland preservation portion of the program, no portion of the property shall contain any of the following soil types:
 - Mixed Alluvial Land;
 - Mucky Peat;
 - Mucky Peat, shallow over loams;
 - Mucky Peat, shallow over sands; and.
 - Tidal Marsh.
5. A soil determination will be allowed for those soils in section (5), if there is some question to the validity of the current soil survey or a land use change has resulted in a change of soil characteristics. This clause will apply until the new soil survey is completed in 2005.

C. Property Ranking System

The OSAP ranking system is used to establish the priority of acquisition of development rights under the program, when it is determined that available funding is insufficient to purchase the development rights on all available property offered for purchase of development rights. The number of OSAP ranking system points shall not be used in determining the value of development rights or the amount of any offer to purchase such rights.

There are two (2) sets of ranking criteria proposed for two categories: (1) agricultural resources; and (2) open space resources (non-agricultural). In each category, certain factors descriptive of the characteristics of property sought to be included in the OSAP program are included. Each factor is assigned a numerical weight signifying its importance relative to all other factors in that category. Property having the highest total scores shall rank highest in priority of acquisition. A draft copy of the ranking criteria is included in Appendix B.

D. Nature of Development Rights Acquired

The ownership of property is often characterized as a bundle of rights, and possession of all of these rights is called the *fee simple*. Typically, when referring to a PDR program, the government is considering the acquisition of only certain type of these property rights to promote a public purpose, leaving the remaining rights of ownership in private hands. Property may be developed at certain densities, or otherwise used or disturbed under existing regulations, but there may be important public values served in further limiting such activities. The locality can acquire or restrict the right to such activity through a purchase, leaving possession and other use with the fee simple landowner. The locality could also acquire the entire fee simple interest in a property, becoming the owner in all respects.

The mechanism for acquiring those rights through a PDR program is a property interest conveyed to the City and recorded among the land records. Typically, a PDR program involves the purchase of an easement restricting certain use and development on the property, and leaving access, residual uses and maintenance responsibility in private ownership. Such a property interest is referred to as a preservation easement, alternatively called an open space or conservation easement.

In the proposed OSAP program, it is proposed that no interest in land other than a perpetual preservation easement shall be acquired by the City. As a safeguard, the OSAP Task Force stipulated in its draft ordinance that the City shall not acquire this interest by the exercise of the power of eminent domain.

In addition, the draft ordinance stipulates that the acquisition of a preservation easement by the City shall not extinguish any rights of the landowner except for the right to develop the property for any use other than open space or agricultural uses, and shall not by right confer upon the public any right of entry or access, or any other rights, express or implied.

Duration of the Easement

The preservation easement shall be permanent, however, the landowner or successor in interest to the property which is subject to the easement may petition the City Council to repurchase the development rights on such property upon the expiration of a minimum of twenty-five (25) years from the date on which the preservation easement is recorded. The City Council may, by vote of no less than three-fourths of all its members, and in accordance with all other procedural requirements then governing the sale of municipal interests in land, authorize the sale of such development rights to the petitioning party at the then-current fair market value of such development rights and upon such terms and conditions as may be fair and reasonable. No such sale shall be authorized, however, unless the City Council determines by ordinance that: the sale of such development rights is essential to the orderly development and growth of the City; and the development of the property for nonagricultural or open space uses

would not be in conflict with the Zoning Ordinance and the Comprehensive Plan in effect at the time.

In each instance in which development rights to property are sold by the City to the landowner or the successor in interest, other preservation easements of: (i) at least equal fair market value; (ii) of greater value as permanent open space; and (iii) of as nearly as feasible equivalent usefulness and location for use as permanent open space land as the property which is the subject of the petition shall be acquired, unless the City Council determines by ordinance that: (i) the preservation easement upon the property which is subject of the petition is no longer needed; (ii) that substitution of other preservation easements is not feasible; and; (iii) that no state or federal funds were used in connection with the acquisition of the development rights upon the property which is the subject of the petition.

Easement Holder

The Virginia Open Space Land Act authorizes any county or municipality, park authorities, public recreational facility authorities, soil and water conservation districts, and certain state agencies to acquire and hold easements (Virginia Code §10.1-1700). The City of Chesapeake would hold the easement acquired through the PDR program.

E. Program Administration

The following is a general framework for administration of a PDR program. The administrative process and individual components should be used as a guide for full implementation of the PDR program. At such time as the PDR program is adopted by the City Council, the final administrative process including, but not limited to the preparation of necessary forms, applications, paperwork, deadlines, and funding requests, shall be implemented by the City.

Based on discussions with other local program administrators, it is estimated that one-full time employee be dedicated to establishing and administering the program. It is proposed that the program administrator would be responsible for, but not limited to, the following duties:

- establish application review procedures, including training programs for Agricultural Advisory Commission members;
- establish a program application process and operational procedures, including working with other City departments to develop required forms, arrange required appraisals, drafting conservation easement agreements, easement recordation, etc.
- publicize the program to the general public;
- receive voluntary applications from eligible landowners willing to sell development rights on their property;
- perform background research on properties, including collecting environmental data, pictures, and surveys;
- staff review committee meetings, prepare staff reports, meeting agendas, and minutes

- apply for grants;
- maintain program records and develop annual reports;
- investigate potential violations of easement agreement terms.

F. Calculating Development Rights and Negotiating Purchase

The value of the development rights of the property shall be equal to the difference between the fair market value of the property without encumbrance by a preservation easement and the fair market value of the property so encumbered. The City Manager shall contract with a qualified, independent appraiser in ascertaining the value of the development rights.

Based on the independent appraisal, the City Manager may make a written offer to purchase the development rights of the property. Prior to making an offer, however, the City Manager may first elect to seek City Council's preliminary approval of the offer. In no event shall the offer be binding on the City or the applicant.

All offers shall be subject to available funding, final approval of City Council, and such terms and conditions as the City Council or the City Manager may deem appropriate. The offer shall also be conditioned upon the absence of any defects in title or other restrictions or encumbrances which may, in the opinion of the City Attorney, adversely affect the City's interests in accomplishing the purposes of this Ordinance.

All written offers made to a landowner shall clearly state that: 1) the offer is contingent on City Council approval, funding and appropriation; 2) the funds used to purchase development rights may include federal and state monies subject to restrictions on use; 3) the offer is revocable by the City at any time prior to the authorized execution of a purchase agreement; 4) the offer is contingent on the landowner's execution of a purchase agreement and preservation easement acceptable to the City Attorney; 5) the acceptance of the offer by the landowner may be revoked at any time prior to execution of the purchase agreement; and 6) the preservation easement will be perpetual and nonrevocable.

In the event the offer is accepted by the landowner, the City Manager shall place the matter before the City Council for approval. The City Council may approve the purchase of development rights only with respect to such applications for which there is available funding, in a priority determined by points assigned under the OSAP ranking system, and only upon finding that the proposed terms and conditions of purchase, including the purchase price and manner of payment, are fair and reasonable and in furtherance of the purposes of this Ordinance. In the event there is sufficient available funding for the purchase of only a portion of the development rights included in the application, the landowner shall be given the opportunity to submit a revised application for a lesser amount of development rights equivalent in value to the amount of funding deemed available.

Consideration of applications that are the subject of an agreement of purchase, but for which there is insufficient funding in the then-current fiscal year, shall be deferred to the next fiscal year or until such other time as available funding is sufficient, unless the landowner withdraws the application. No preference shall be given to deferred or resubmitted applications except as indicated by the OSAP ranking system.

Within ten (10) days of the landowner's execution of a perpetual preservation easement, the Zoning Administrator shall make a notation on the official zoning map to indicate the City's acquisition of development rights with the date. No building permits shall be issued for such areas unless the Zoning Administrator verifies with the City Attorney that the proposed building or structure is permitted under the preservation easement.

G. Baseline Documentation

At the time an application is made for participation in the program, baseline data should be assembled to document the condition of the property and features subject to protection. This would include such things as aerial photographs, on-site photographs, soil maps, legal surveys, and maps showing features and conditions of the property. Much of this information can be readily obtained using existing City resources, and additional information would be developed through a site visit.

The purpose of this data collection is to create a record for administration of the easement and protection of the rights acquired. In addition, these records are necessary under IRS regulations for donated easement claimed as a charitable deduction. Specific data requirements will be included as a component of the application process.

H. Easement Acquisition

After the City and the property owner have reached agreement on the final price of the development rights, the purchase must be closed much like any other real estate transaction. For example, this involves preparation and execution of a deed, title work, and release of liens with respect to the easement. The City should develop a comprehensive closing checklist as a component of the program application.

I. Inspection and Enforcement

An effective easement program involves periodic inspection to ensure that the rights acquired are protected. The City also has the ability to coordinate this effort with its land development process for approving subdivisions and building permits. In the event enforcement action is necessary, the Program Administrator would work with the City Attorney to seek compliance with the terms of the easement. The Program Administrator can assist landowners in determining whether proposed uses or activities are consistent with easement restrictions on particular properties.

J. Review Board (Agricultural Advisory Committee)

It is the recommendation of the Task Force for City Council to appoint the City's existing Agriculture Advisory Commission to oversee the administration of the PDR program, including the application and ranking process, the negotiation of purchases, and inspection and enforcement efforts. This Commission will review applications and recommend purchases to City Council. This Commission shall also serve as an appeal board for determinations on whether proposed uses are consistent with eligibility requirements and easement restrictions.

K. Outreach Efforts

In order to encourage participation in the program, an effective outreach effort should be a basic component of the City's PDR program. The goal of a community outreach effort would be to inform those who may be interested in the program of benefits, the application process, the nature of the rights to be purchased, program requirements, ranking criteria, and other program details.

IV. Recommended OSAP Program Funding

A. Method of Purchase Payment

The acquisition of development rights shall be accomplished by the purchase of preservation easements through the use of installment purchase agreements, which allows the City to pay the landowner interest only on an annual basis for a period of years and principal at the expiration of such period.

B. Financial Scope of Program

It is estimated that a full-time program administrator would cost the City approximately \$61,000 in salary and benefits. It is proposed that the program administrator be housed in the City's Department of Agriculture and report directly to the City Manager. Operational costs for the program administrator, including salary would be approximately \$175,000 a year. Operation costs would include such items as contractual services (legal services, advertising, appraisals, surveys), phones, printing, postage, film, office supplies, and bond issuance fees (if required). The budget for the first year of the program should include sufficient funding to establish the financing mechanism by which to purchase development rights.

C. Source of Funding

Funding for the PDR program would be, initially, from three sources:

1. City General Fund;
2. Federal and State Grants;
3. Private Sources.

1. Appropriations from General Fund

The Task Force proposes that City Council dedicate the revenue received from a \$.01 increase in the real estate tax rate for the PDR program. According to the City Budget Office, this would generate approximately \$1 million annually. The \$1 million in funding would provide money for acquisition of development rights, operational costs, and the salary and benefits for a program administrator.

As an alternative to a real estate tax increase, City Council could consider dedicating the revenue received from an increase in the City's cigarette tax. It is estimated that a \$.10 increase in the tax per pack would raise approximately \$900,000 to \$1 million a year in new revenue. Another potential source of new revenue would be to create a City cell phone tax which could raise a possible \$1 million.

An alternative to new revenue sources would be to dedicate a portion of the revenues received from the Grantor's tax, Recordation tax, and the Land Use Rollback Tax. These types of taxes are typical funding for other local PDR programs, because they tie the level of funding to development activity. In 2002, the City received \$421,891 from the Grantor's Tax, and \$1,150,393 from the Recordation Tax. Revenues from Land Use Rollback tax are only occasional in nature and are not called out separately in the City's budget.

2. Federal and State Grants

Federal Programs

- The Farmland Protection Program provides matching grants to established state, local, and tribal programs, up to a maximum of 50% of the final negotiated sales price of conservation easements.
- Transportation funding (TEA-21) has been used to purchase development rights that protect scenic views and historic sites along transportation routes. Transportation enhancement activities are funded under the Surface Transportation Program (STP). Ten percent of each state's STP is set aside for enhancement and up to a 80% of a project can be financed with STP funds. The City may wish to pursue available TEA-21 funds for demonstration projects by linking open space and farmland preservation to reducing development pressure and protecting conservation corridors along the newly funded limited access Highway 17 parkway.

State Programs

- The Commonwealth of Virginia has established matching grant programs for land acquisition and purchase of conservation easements.

3. Private Sources

Private sources available for PDR programs include partial donations from landowners, grants from foundations, and other public – private partnerships.

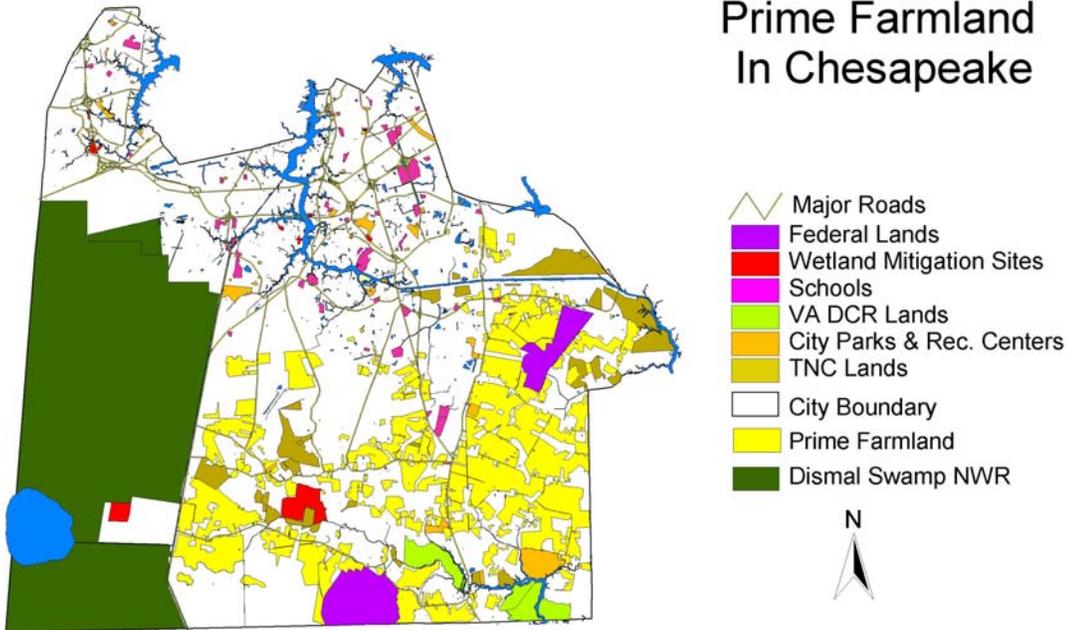
V. Recommended OSAP Program Implementation Process

Based on the proven benefits and effectiveness of local Purchase of Development Rights (PDR) Programs, the OSAP Task Force recommends that City Council should immediately begin the process of establishing a PDR program for the City of Chesapeake. To implement this program, the OSAP Task Force recommends the following steps:

1. The City Council agrees in principle to establish an Open Space and Agriculture Preservation PDR program as outlined in this document;
2. A series of public meetings will be held to inform the public of the proposed program and solicit comments;
3. After a formal public hearing process, the City Council considers adopting an ordinance enacting a program and specifies a level of funding and source of revenues. A draft copy of such an ordinance is included in Appendix C;
4. After adoption of the ordinance and appropriation of funds, the City Manager would select a PDR program administrator to implement the open space and agriculture preservation program.

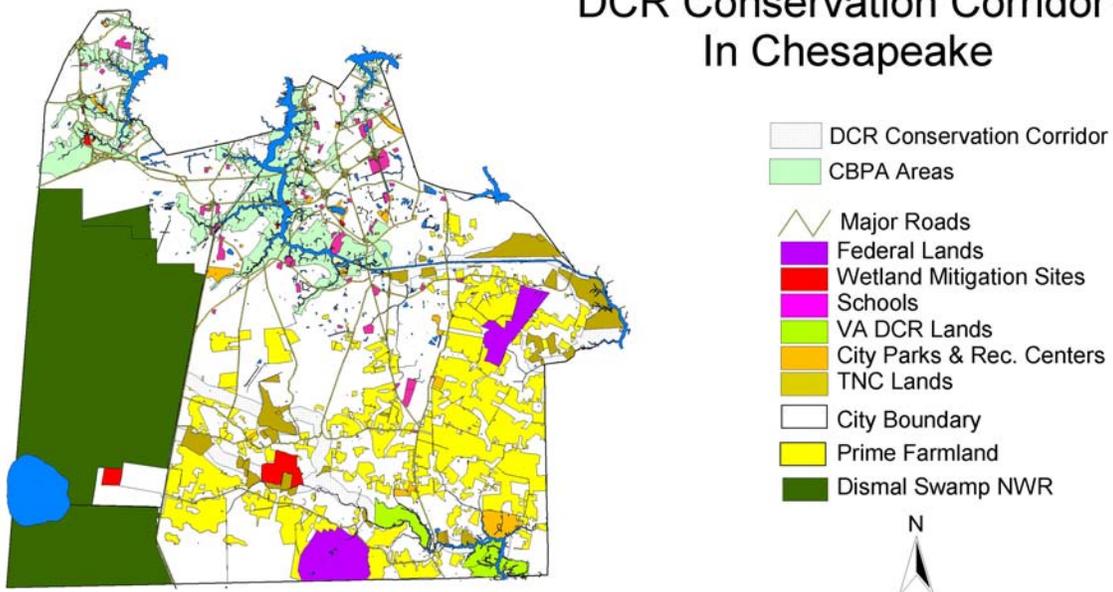
APPENDIX A

Prime Farmland In Chesapeake



Created for the Open Space & Agricultural Preservation Task Force by the Chesapeake Planning Department DRAFT dated 8/30/02. Prime Farmland based on "Strategic Plan for Agriculture," Virginia Tech, 1999. Map not to scale.

DCR Conservation Corridor In Chesapeake



Created for the Open Space & Agricultural Preservation Task Force by the Chesapeake Planning Department DRAFT dated 8/30/02. Corridor based on "Conservation Plan for the Southern Watershed Area," DCR, 2001. Map not to scale.