

COUNTY COUNCIL

OF

TALBOT COUNTY

2009 Legislative Session, Legislative Day No: January 12, 2010

Bill No: 1178

Expiration Date: March 18, 2010

Introduced by: Mr. Bartlett, Mr. Duncan, Mr. Foster, Mr. Harrison, Mr. Pack

A BILL TO REPEAL AND REENACT CHAPTER 6 OF THE TALBOT COUNTY COMPREHENSIVE PLAN TO ADOPT A PRIORITY PRESERVATION AREA PLAN, ENTITLED "TALBOT COUNTY PRIORITY PRESERVATION AREA PLAN", AS REQUIRED BY ARTICLE 66B § 3.05 (a) (6) (ii) (8), AND AGRICULTURE ARTICLE § 2-518, MD. ANN. CODE

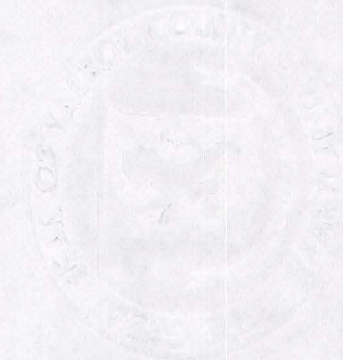
By the Council: January 12, 2010

Introduced, read the first time, and ordered posted, with Public Hearing scheduled on Tuesday, February 9, 2010 and Tuesday, February 23, 2010 at 2:00 p.m. in the Bradley Meeting Room, South Wing, Talbot County Courthouse, 11 North Washington Street, Easton, Maryland.

By order:

Susan W. Moran

Secretary



A BILL TO REPEAL AND REENACT CHAPTER 6 OF THE TALBOT COUNTY COMPREHENSIVE PLAN TO ADOPT A PRIORITY PRESERVATION AREA PLAN, ENTITLED "TALBOT COUNTY PRIORITY PRESERVATION AREA PLAN", AS REQUIRED BY ARTICLE 66B § 3.05 (a) (6) (ii) (8), AND AGRICULTURE ARTICLE § 2-518, MD. ANN. CODE

WHEREAS, Article 66B §§ 1.01, 1.02, and 1.03, Md. Ann. Code, require the County to periodically adopt, revise, and update a Comprehensive Plan; and,

WHEREAS, § 403 (b) Talbot County Charter provides that the County Planning Officer has the continuing responsibility and duty of planning for the physical development and growth of the County, including recommendations for the revision of the Comprehensive Plan; and,

WHEREAS, § 404 (c) Talbot County Charter provides that the Planning and Zoning Commission shall make advisory recommendations to the County Planning Officer and the Council relating to the Comprehensive Plan; and,

WHEREAS, Article 66B § 3.05 (a) (6) (ii) (8), and Agriculture Article § 2-518, Md. Ann. Code, require the County to adopt a priority preservation area plan developed in accordance with § 2-518 of the Agriculture Article, Md. Ann. Code; and,

WHEREAS, a Priority Preservation Area Plan establishes appropriate goals for the amount and types of agricultural resource land to be preserved in the priority preservation area; and,

WHEREAS, a Priority Preservation Area Plan includes maps showing the County's priority preservation area; and,

WHEREAS, a Priority Preservation Area Plan describes the priority preservation area in the context of the County's growth management plans; and,

WHEREAS, a Priority Preservation Area Plan describes the way in which preservation goals will be accomplished, including the County's strategy to protect land from development through zoning, preserve the desired amount of land with permanent easements, and maintain a rural environment capable of supporting normal agricultural and forestry activities; and,

WHEREAS, a Priority Preservation Area Plan includes an evaluation of the ability of the County's zoning and other land use management practices to limit the impact of subdivision and development, allow time for easement purchase and achieve land preservation goals before development excessively compromises the agricultural and forest resource land; and

WHEREAS, a Priority Preservation Area Plan identifies shortcomings in the abilities of the County's zoning and land management practices and identifies current or future actions to correct the shortcomings; and

WHEREAS, a Priority Preservation Area Plan describes the methods the County will use to concentrate preservation funds and other supporting efforts in the priority preservation area to achieve the goals of the Maryland Agricultural Land Preservation Foundation and the County's acreage preservation goal; and

WHEREAS, the Planning Office and Planning Commission have conducted studies, deliberations, and hearings concerning proposed recommendations for a priority preservation area plan to be added to the Comprehensive Plan, which have included public input and other data gathering and information sharing, the results of which have been prepared in the form of a "Priority Preservation Area Plan", together with accompanying maps; and

WHEREAS, the Council has the ultimate authority to determine the content of the Comprehensive Plan, taking the Planning Commission's advisory recommendations and the Planning Office's recommendations into account.

SECTION ONE: BE IT ENACTED BY THE COUNTY COUNCIL OF TALBOT COUNTY, MARYLAND, that Chapter 6 of the Talbot County Comprehensive Plan enacted February 15, 2005 by Bill 971, is hereby repealed and re-enacted to adopt the priority preservation area plan entitled, "TALBOT COUNTY PRIORITY PRESERVATION AREA PLAN", consisting of pages 1 through 12, including accompanying maps, which is attached hereto and incorporated by reference herein.

SECTION TWO: BE IT FURTHER ENACTED by the County Council of Talbot County, Maryland, that this Bill shall take effect sixty (60) calendar days from the date of its passage.

PUBLIC HEARING

Having been posted and Notice, Time and Place of Hearing, and Title of Bill No. 1178 having been published, a public hearing was held on Tuesday, February 9, 2010 and Tuesday, February 23, 2010 at 2:00 p.m. in the Bradley Meeting Room, Courthouse, 11 North Washington Street, Easton, Maryland.

BY THE COUNCIL

Read the third time:

Enacted: **February 23, 2010**

By Order:

Susan W. Moran

Secretary

Harrison - Aye

Pack - Aye

Duncan - Aye

Bartlett - Aye

Foster - Aye



Chapter 6 Rural and Agricultural Conservation

I. Vision

Talbot County's undeveloped and working agricultural lands are precious resources that are critical to the rural character and quality of life the Comprehensive Plan seeks to preserve. Residential and commercial development pressures conflict with preservation of the rural landscape. In response, the County and State have evolved land use policies to direct growth toward designated areas and otherwise preserve agricultural and forest lands.

The keystone preservation strategy is for critical tracts of undeveloped land to be placed under conservation easements. Comprehensive planning that designates preservation and growth areas, combined with rigorously enforced zoning ordinances and a range of land preservation incentives will help maintain a balance of land uses and foster agricultural operations.

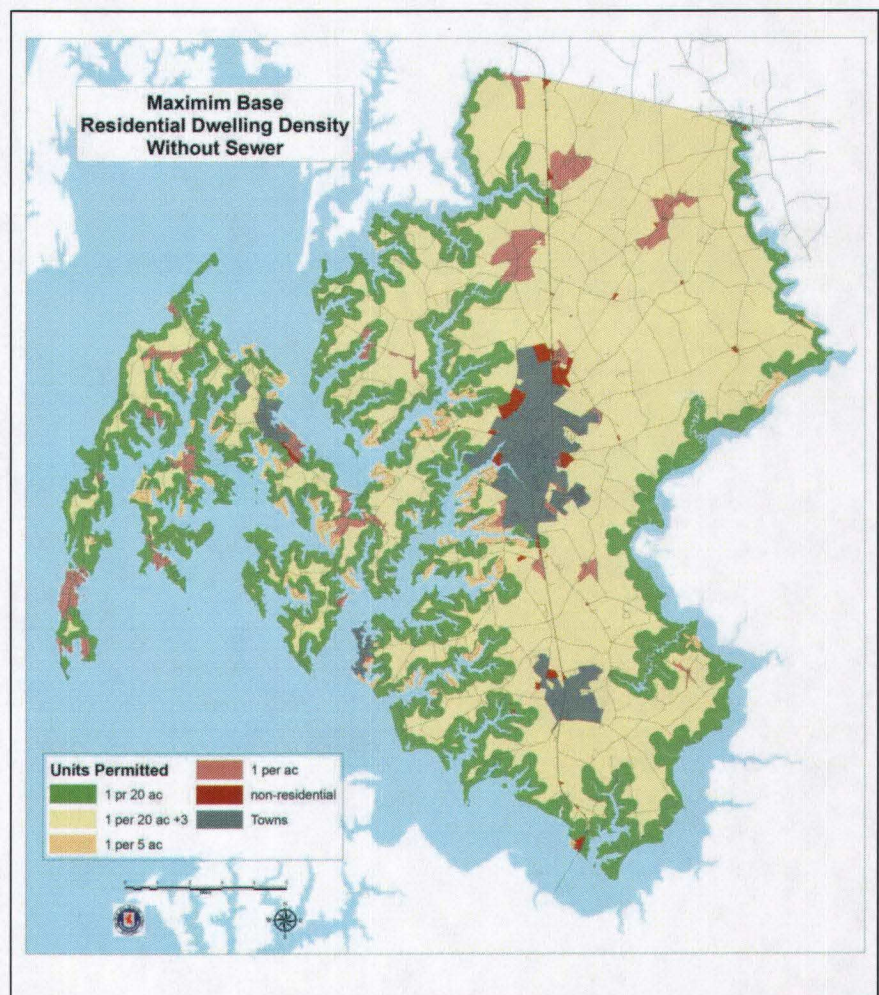
Goal

Conserve the agricultural land base of the County and preserve rural character in predominately undeveloped areas by directing growth to existing population centers.

II. Introduction

Agriculture is a significant part of Talbot County life, both as a major industry and as an important contributor to the County's distinctive character. Working farmland is a valuable and limited natural resource that once developed cannot be reclaimed for agricultural use.

Conservation of working land is an important component of agricultural industry protection. In spite of increasing development



pressure being placed on agricultural and open space lands, Talbot County continues to see clear benefits in conserving agricultural lands and rural character.

In order to preserve agricultural land and open space, Talbot County in 1991 adopted a comprehensive rezoning of rural and agricultural lands, reducing the density permitted in agricultural areas to 1 dwelling unit per 20 acres. Zoning calculations include 3 “up front” development rights for the entire parcel in most zoning districts, creating a variable density less than 1:20 in all but the RC zoning district. In certain circumstances clustering is required to maintain farmland. Code amendments passed in 2007 strengthened clustering requirements while eliminating the opportunity to increase development intensity through the use of TDRs.

To further protect agriculture as a land use activity, a Right to Farm ordinance was enacted in 2000, to stress the County’s commitment to agriculture and to help protect farmers from unwarranted nuisance suits.

Census of Agriculture statistics reports an increase in the number of farms from 1997 to 2007, though the number has decreased over two decades. Though the total number of acres in farms has rebounded to about 109,000 acres, the average farm size remains below the averages from 1987 through 2002. Some of these seeming contradictions can be interpreted as changes in the definition of farming operations and the way census data are gathered.

<i>Farm Number and Size</i>	<i>1982</i>	<i>1987</i>	<i>1992</i>	<i>1997</i>	<i>2002</i>	<i>2007</i>
Number of Farms	350	280	250	240	288	305
Average size (acres)	342	389	423	457	367	357
Land in Farms (acres)	119,684	109,032	109,108	109,572	105,729	109,002

III. Existing Land Preservation Programs

MALPF Districts and Easements

The Maryland Agricultural Land Preservation Foundation (MALPF), in existence since 1977, is one of the most successful programs of its kind in the United States. Its primary purpose is to preserve sufficient agricultural land to maintain a viable local base in food and fiber production for the present and future citizens of Maryland. The program is administered by the County and State in an equitable partnership.

Presently, Talbot County’s MALPF holdings consist of 9,712 acres in 61 easements, and 8,038 acres in 64 districts. An inventory of the properties that have been permanently preserved by a recorded easement is attached as an appendix to this chapter.

As a State Certified County, Talbot has made and intends to continue making qualifying expenditures of County funds that equal or exceed the estimated additional certification funds that are available as a result of certification. Further, the County has used and intends to use any

MALPF funds remaining at the end of each fiscal year to purchase development rights by any means approved by the program.

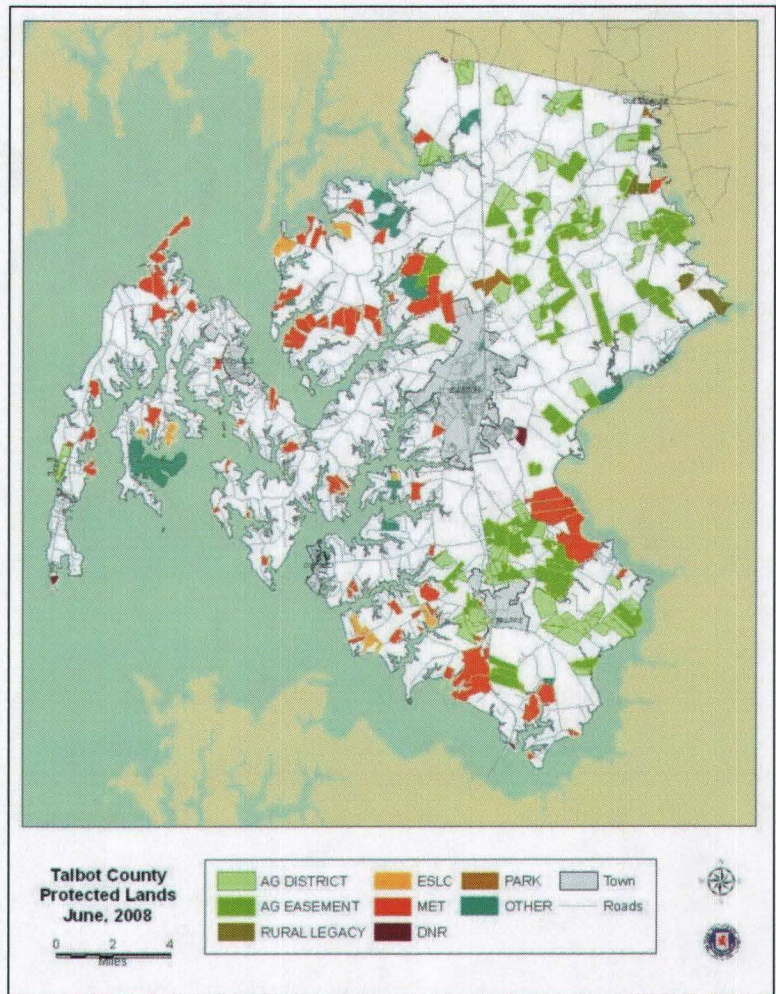
The County has used and intends to use all agricultural land transfer tax funds retained through certification to purchase development rights, supplement MALPF payments, for other direct use of funds to expedite or promote the sale or purchase of development rights, to cover 10% or \$30,000 of administrative costs, and/or for other uses in accordance with State regulations.

Rural Legacy Program and Program Open Space

The Tuckahoe Rural Legacy Plan was developed by the Eastern Shore Land Conservancy in cooperation with Talbot and Caroline Counties in order to preserve lands bordering the Tuckahoe River from the Town of Hillsboro to the confluence of the Tuckahoe and Choptank Rivers.

The Rural Legacy area is part of an upper shore area known as the Agricultural Security Corridor, established with the goal of safeguarding the agricultural economy of the Eastern Shore. The Tuckahoe area is an anchor for agricultural production and investment, enhancing the region’s preservation priorities. About 830 acres have been preserved through Rural Legacy easements.

Future rural legacy plan areas may provide for additional protection of farmland paralleling MD Route 404 in cooperation with Queen Anne’s County in an effort to maintain the corridor’s Rural Character in spite of planned transportation system improvements.



Land Trusts

Another available option for property owners who wish to voluntarily conserve lands is to enter into conservation easement agreements with a local, regional, state or national non-profit land trust organization such as the Eastern Shore Land Conservancy, the Maryland Environmental Trust, Chesapeake Bay Foundation or Nature Conservancy. Land trust organizations do not

typically purchase development rights from a property owner, but rather accept conservation easements as donations and in return the property owner receives significant tax benefits.

As of this report, approximately 14,804 acres of land within the County have entered into conservation agreements with various land trust organizations.

DNR Lands

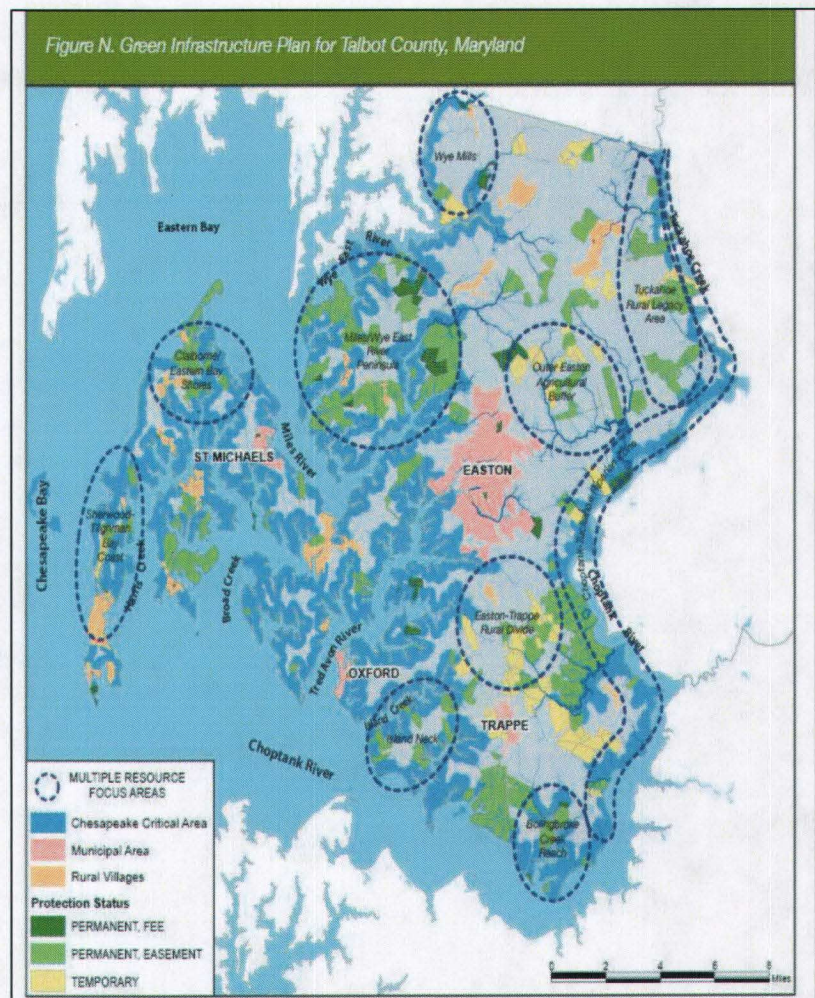
The Maryland Department of Natural Resources (DNR) manages publicly owned lands and protected open space in the State. In Talbot County, DNR manages 238 acres of public lands and protected open space, including Black Walnut Point Natural Resource Management Area, Choptank Fishing Pier State Park, Wye Oak State Park and Seth Demonstration State Forest.

IV. Priority Preservation Area Plan

The Talbot County Office of Planning and Zoning proposes a Priority Preservation Area for adoption as an element of the County Comprehensive Plan. The area encompasses approximately 83,000 acres and includes the majority of existing agricultural easements and districts, the Tuckahoe Rural Legacy area, and several conservation easements.

In 2004, Talbot County partnered with The Conservation Fund to develop a Green Infrastructure Plan identifying and evaluating areas of high natural resource and agricultural value. This geographic information system (GIS) model offers a holistic approach to preserving a range of important resources. The Plan provided important background to determine a viable priority area for agricultural preservation.

The PPA contains high concentrations of the most productive agricultural and forest soils in the County and is capable of supporting profitable agricultural and forestry enterprises.



This region is home to a high percentage of farm owner/operators. Farm operations are diversified, ranging from grain and poultry to greenhouse and hydroponic growers, wine grapes, specialty cheeses, homegrown and specialty produce.

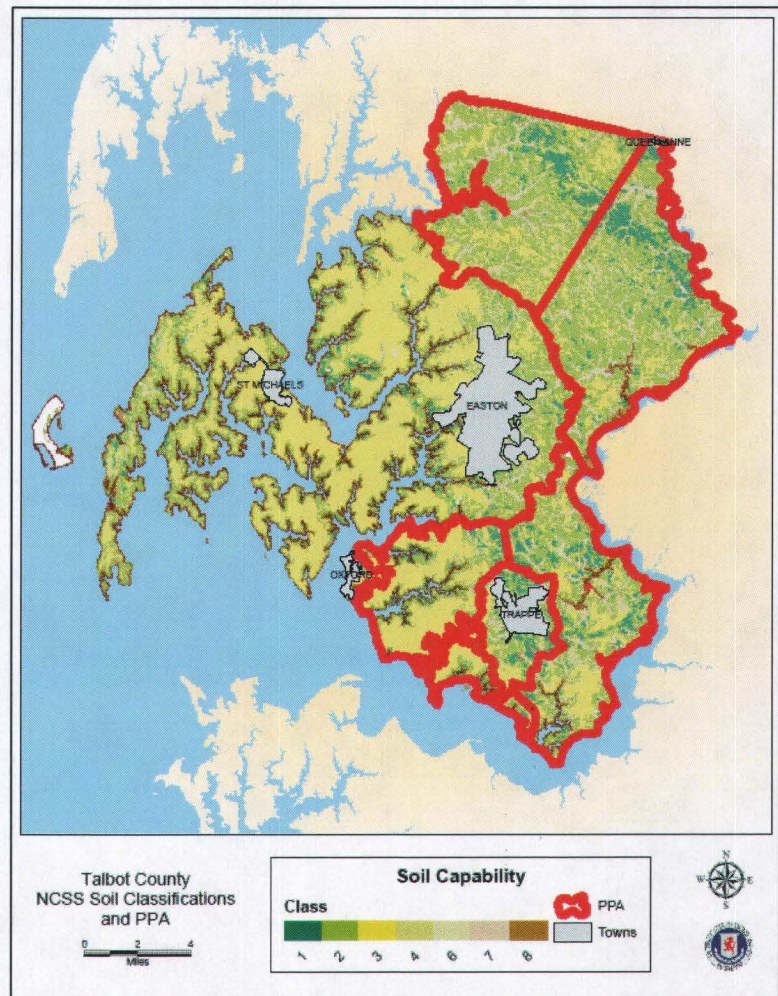
The PPA is also home to a variety of agricultural support services including grain storage facilities, agricultural equipment dealers and a network of specialized service providers.

Virtually all land in the PPA is zoned for agriculture at the most restrictive classifications in the County Code. AC zoning predominates, with slightly more restrictive RC zoning in the Chesapeake Bay Critical Area.

Also included are the unincorporated villages of Cordova, Bruceville, Ivy Town, Williamsburg and Wye Mills, which are emblematic of Talbot County's agricultural heritage.

Wye Mills traces its roots to the Colonial period when the extant grain mill was first established. As the oldest working mill in Maryland (1682), the gristmill has participated in three centuries of agricultural tradition.

Cordova's history dates to a later, commodity-based agricultural boom, having grown up around the railroad line that delivered fresh and processed foods from the fields, granaries and canneries in the region to markets in Philadelphia and beyond.



Within the 83,000 acre area, there are some 4,130 parcels of record. Of those, about 650 parcels are 50 acres or greater, 488 of those MALPF-qualifying parcels are not yet preserved or enrolled in the preservation program. Those qualifying parcels amount to approximately 70,000 acres of farm and forest land.

Conditions in the Priority Preservation Area will encourage:

- **Stabilized land use.** In 1989, the Talbot County Critical Area ordinance was passed, down-zoning 57,498 shoreline acres from 2 and 5-acre residential lots to a 1:20 density. In 1991, the County adopted a non-shoreline agricultural zoning district, replacing

permitted 2-acre lots with a residential density of about 1:20 acres. These two measures stabilized subdivision and development over more than 87% of the County, and over 90% of the PPA.

- Limited subdivision. The 2005 Comprehensive Plan strengthened growth management policies limiting outward expansion and consumption of agricultural resource land. Acting on Comprehensive Plan recommendations, the zoning code was amended to require mandatory clustering of subdivision lots, limiting lot sized and eliminating density bonuses. These actions assure that adequate agricultural acreage remains intact through the subdivision history of large parcels in the AC district, which comprises most of the PPA.

Clustering requirements and number of development rights in the AC, CP and WRC Districts

Parcel size (acres)	Maximum number of lots, including remainder of original parcel	Minimum number of clustered lots	Maximum acreage included in the cluster lots	Number of lots not required to cluster
Less than 4 acres	1	n/a	n/a	n/a
At least 4 and less than 6	2	n/a	n/a	n/a
At least 6 and less than 20	3	2	7	1
At least 20 and less than 40	4	2	7	2
At least 40 and less than 60	5	3	11	2
At least 60 and less than 80	6	3	11	3
At least 80 and less than 100	7	4	14	3
100 or more	3 plus one lot per 20 acres	All except 3 lots	Acreage equal to 3.5 acres times the number of cluster lots	3

- Stable and continued participation in land preservation programs. Talbot County has retained a District requirement for participation in the MALPF program. Regulations are almost identical to the former statewide program, but with a 3 year commitment. The Office of Planning and Zoning actively encourages participation in conservation programs and collaborates regularly with the Eastern Shore Land Conservancy (ESLC) on preservation efforts.
- Protection of normal farming activities. Talbot County passed a Right to Farm ordinance in 1998 and established an Agricultural Resolution Board to mediate in disputes between farmers and non-farm neighbors. In the years since the Board was formed, its members have never been called upon to intercede in any conflict over farm operations.

V. Rural and Agricultural Conservation Land Use Policies

Policies

- CO 6.P.1. Agricultural and forestry activities should be the primary and preferred land use activity in rural areas of the County.
- CO 6.P.2. Agriculturally-related commercial and industrial uses should be allowed in the non-Critical areas of the County, provided these uses can be compatible with surrounding land uses and do not adversely impact environmentally sensitive areas.
- CO 6.P.3. Clustering in the development of single-family residential homes should be encouraged in order to preserve working farmland.
- CO 6.P.4. Development design standards for rural residential development should insure the conservation of agricultural lands, open space, woodlands, environmentally sensitive areas and rural character.
- CO 6.P.5. The County should work with local farmers and the Maryland Agricultural Land Preservation Foundation to encourage the greatest possible participation in the State agricultural easement program. This could be achieved by the commitment of additional funds towards easement purchases by the County.
- CO 6.P.6. The County should encourage rural property owners to participate in other land preservation easement programs offered by national, state, regional and local land trust organizations.
- CO 6.P.7. Agricultural and forestry activities should be conducted in accordance with best management practices for soil and water conservation which are approved by the Natural Resources Conservation Service.
- CO 6.P.8. The County should examine opportunities to create additional tax incentives to preserve farmland.
- CO 6.P.9. The County should monitor the effectiveness of current incentives designed to preserve working farmland and open space by reviewing land use changes in the Agricultural Conservation, Western Rural Conservation, and Rural Conservation areas.

VI. Implementation Strategies

Conservation Programs

Action: **The County will establish a Priority Preservation Area program that specifies realistic goals, an implementation program, program evaluation, and program development strategy.**

Talbot County had previously set an ambitious goal of preserving 40,000 acres of land by the year 2020. At this time 1,000 acres per year would need to be preserved in order to meet that goal.

Nevertheless, a PPA goal to preserve 56,000 acres over the next twenty years has been set. This represents 80% of the remaining undeveloped land in the area that could qualify for an existing preservation program.

The new goal reflects a strategy of concentrating farmland preservation resources. MALPF participation has been almost exclusively within the PPA, and other preservation programs have shown significant success in the same vicinity.

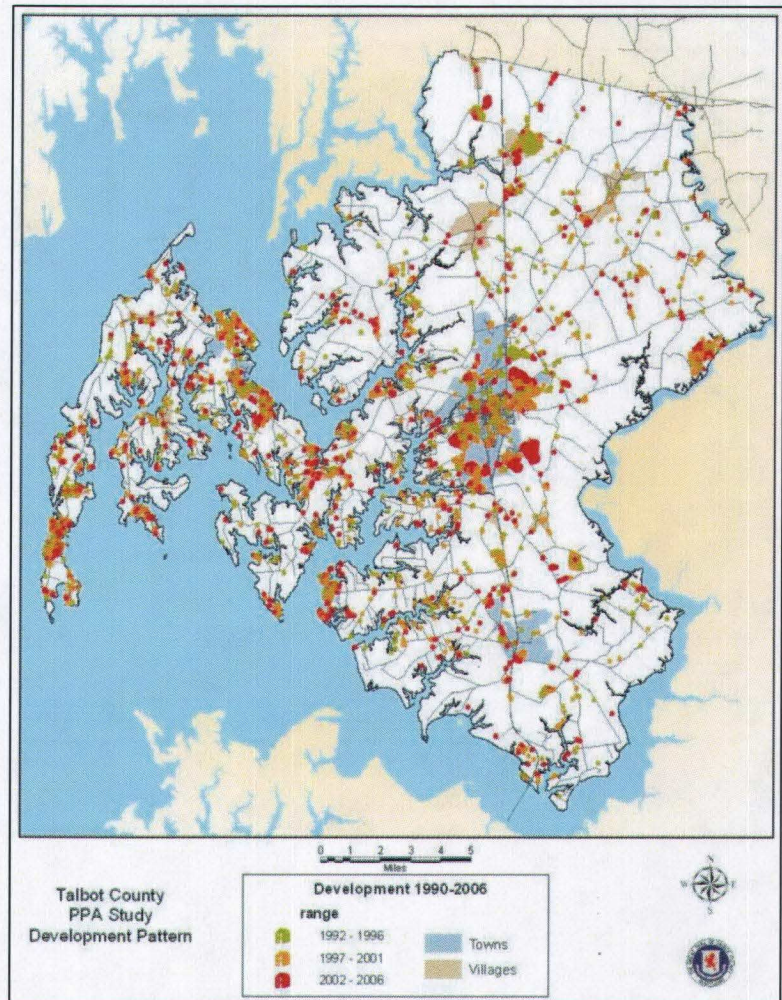
The Talbot County Comprehensive Plan (amended in 2005) contains 69 action statements to implement aspects of the plan from land use to conservation to economic development.

- One of the first items implemented has been a complete revision of the County Zoning Code. Several new zoning districts were created; Countryside Preservation Areas (greenbelts) and the Western Rural Conservation Area (adjacent to critical areas). The new classifications created more restricted development rights in the areas zoned for agriculture (see Map 3-1, Land Use Plan and Map 6-7).
- The County Council has established a Village Center Board and has initiated small area planning for the rural villages, as recommended in the Comprehensive Plan. Village Center plans will help guide future infill and redevelopment and will strengthen protection from sprawl in agricultural areas.
- The Council endorsed an Agriculture Vision Plan in 2008. The Plan is the product of a two year community collaboration to develop an agricultural vision for Talbot County. The Plan observes that Talbot County agriculture is conducted on 60% of the total land area, and that large-scale grain farming accounts for 86% of farm activity. The remainder consists of smaller operations producing niche products for restaurants and farmers' markets. Farm products and sales by agriculture-linked industries account for more than \$200 million annually. Economic factors, especially low net profitability, are leading farmers to sell their land for residential development. The Vision Plan directly concerns ways in which farm profitability might be sustained or enhanced.

Action: The County should monitor the effectiveness of current programs designed to preserve working farmland monitor rural residential development patterns to determine if existing policies have reduced the number of acres converted from working farmland.

GIS analysis of tax data indicate that overall residential development has been directed more towards urbanized areas over time. Particularly within the Priority Preservation areas, fewer subdivisions for development have occurred in the latest five year period than in prior intervals.

In November, 2005, The Eastern Shore Land Conservancy (ESLC) published a white paper, Eastern Shore 2010: A Regional Vision - Attaining the Growth Center Goal: Current Data. In their analysis, ESLC compared new housing unit permits granted within and outside growth areas for the six-county service area. The report concluded that Talbot County was successful at meeting ESLC's goal of 50% of new housing in designated growth areas. Talbot County demonstrated a progressively effective record of concentrating growth in the towns designated as growth areas.



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Agricultural related uses

Action: Implement regulations to permit the location of agriculturally related industrial and commercial uses in areas easily accessible to farm operators.

The General Table of Land Uses in the Talbot County Zoning Code outlines the agriculturally related uses that are permitted either by right or as by exception in agricultural areas. Agricultural Processing, Research Facilities, Cottage Industries, Farm Equipment Sales & Repairs and Livestock Auctions are among the uses permitted by special exception.

Development Design Standards

Action: Examine opportunities to create additional incentives to preserve farmland.

For over twenty-five years, the MALPF program has provided farmers with financial incentives to voluntarily extinguish land development rights through easements. Talbot County has maintained an active role in promoting the program in the community and is encouraged by the increased program funding that has been available in recent years.

The County should continue to actively encourage farmers to participate and should continue to support the Certified Agricultural Land Preservation Program. Certification has increased the resources available for purchase of agricultural easements.

The County should also pursue additional sources of funding both public and private to acquire conservation easements. A community task force was convened in 2008 to recommend funding strategies for a local PDR program. Their report to the County Council suggested introducing local transfer taxes as a dedicated preservation fund. The County should work to follow through on their recommendations.

The County should assist local property owners who are interested in participating in various local, regional, state and national land trust conservation programs. Private land trust organizations will complement County efforts to conserve valuable open space, farmlands and environmentally sensitive areas.

Certified Program Evaluation

Talbot County has a moderately successful MALPF program. Community participation has been steadfast and increasing: Several landowners who have not been aggressive about selling easements have maintained District status for 20 years or more. Thirty new Districts have been established from 2005 through 2009.

Easement applications have reached a record high as State funds for acquisition have increased. Concurrently, most of the decade has been characterized by dramatic increases in land value and by extension, easement acquisition costs. The net effect has been to counter any potential increase in acres preserved while draining the County's matching fund.

Despite the moderate progress in establishing permanent preservation easements, Talbot County's zoning and other land management tools have helped limit subdivision and development in the Priority Preservation Area.

Talbot's agricultural zoning, which is characterized by the Maryland Department of Planning as moderately protective, has helped to stabilize the agricultural land base. Development has been generally restricted to smaller, clustered lots close to major roads. Easement parcels have not become isolated by subdivisions and have retained viability for agricultural operations.

In order to provide time for easement acquisition take place, the County has retained a local District Agreement. Landowners wishing to participate in the MALPF program consent to abstain from subdivision for a minimum period of three years.

If Talbot County continues to secure MALPF easements at the present rate, it would take 112 years to reach preservation goals. In order to achieve the 20-year goal, about 2,800 acres per

year would need to be permanently preserved.

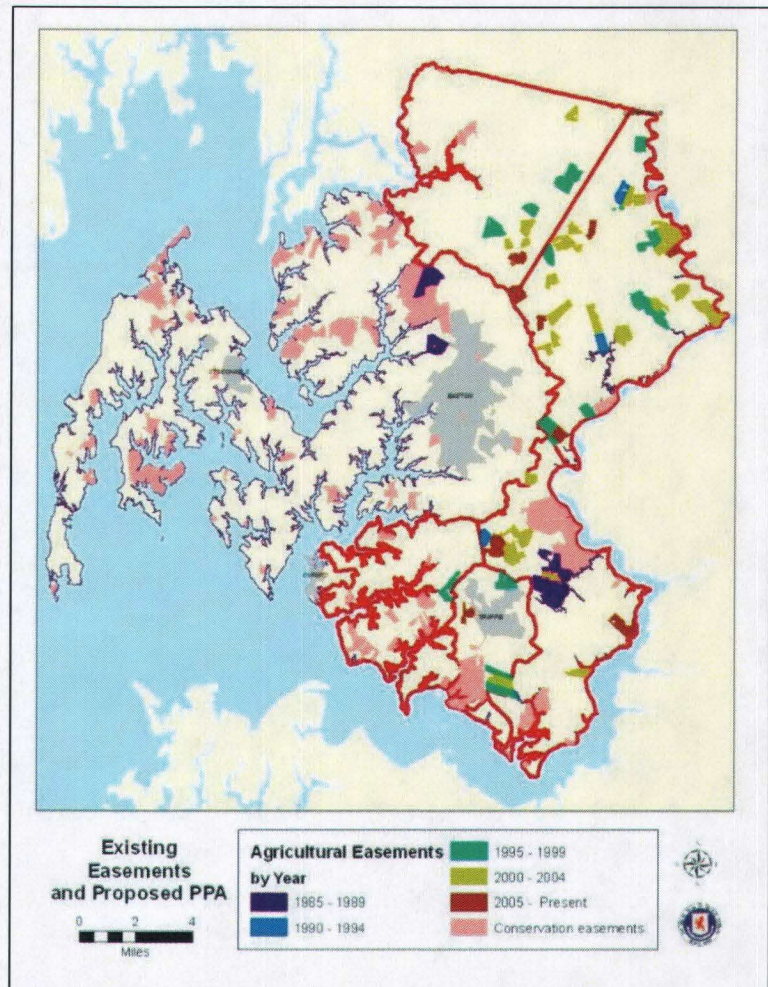
There are a substantial number of conservation easements in the PPA, but those represent a fraction of conservation easements county-wide, and fall short of the participation necessary to make a significant contribution to achieving the County goal.

In order to adequately gauge whether all or portions of the PPA may be compromised by development, a more detailed threat assessment would be required. The present ability of zoning to stave off harmful levels of development has been outlined. It should be noted in addition that the County has no plans to extend sewer or water into the area. Septic system requirements limit the location and number of housing units that can be developed, as do Critical Area regulations in the shoreline zones.

Zoning places other constraints and restrictions on non-agricultural development activities, in order to minimize conflicts with agricultural activities. Among the uses not permitted in the agricultural areas are Auto Service Stations, Hospitals, Hotels, Manufacturing, Nightclubs, Offices, Indoor Recreation Facilities, Major Retail and Solid Waste Disposal. Prohibiting large or intensive non-residential development will minimize the threats of conflicting use, heavy traffic and the lure to take land out of agricultural use.

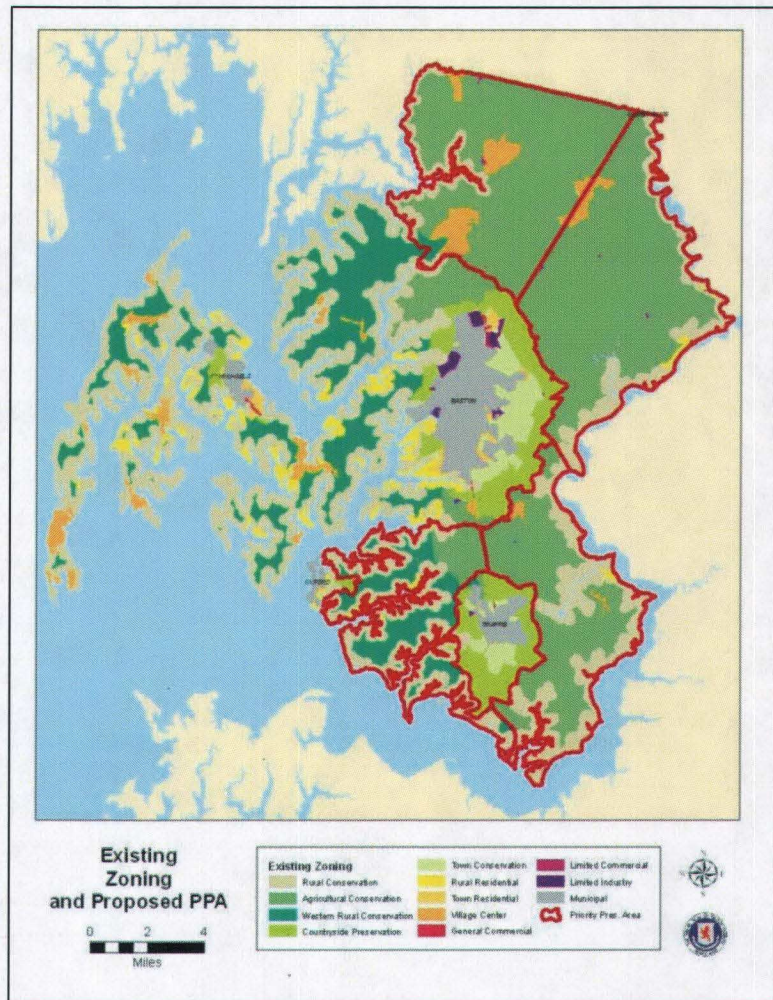
Talbot County is bound to the north by SR 404 and bisected north to south by US 50, both major tourism routes to Maryland and Delaware beaches. Despite the obvious attraction to develop these byways, non-agricultural development has been restricted almost exclusively to the incorporated towns along the highways. Outside the towns the roads are within the PPA.

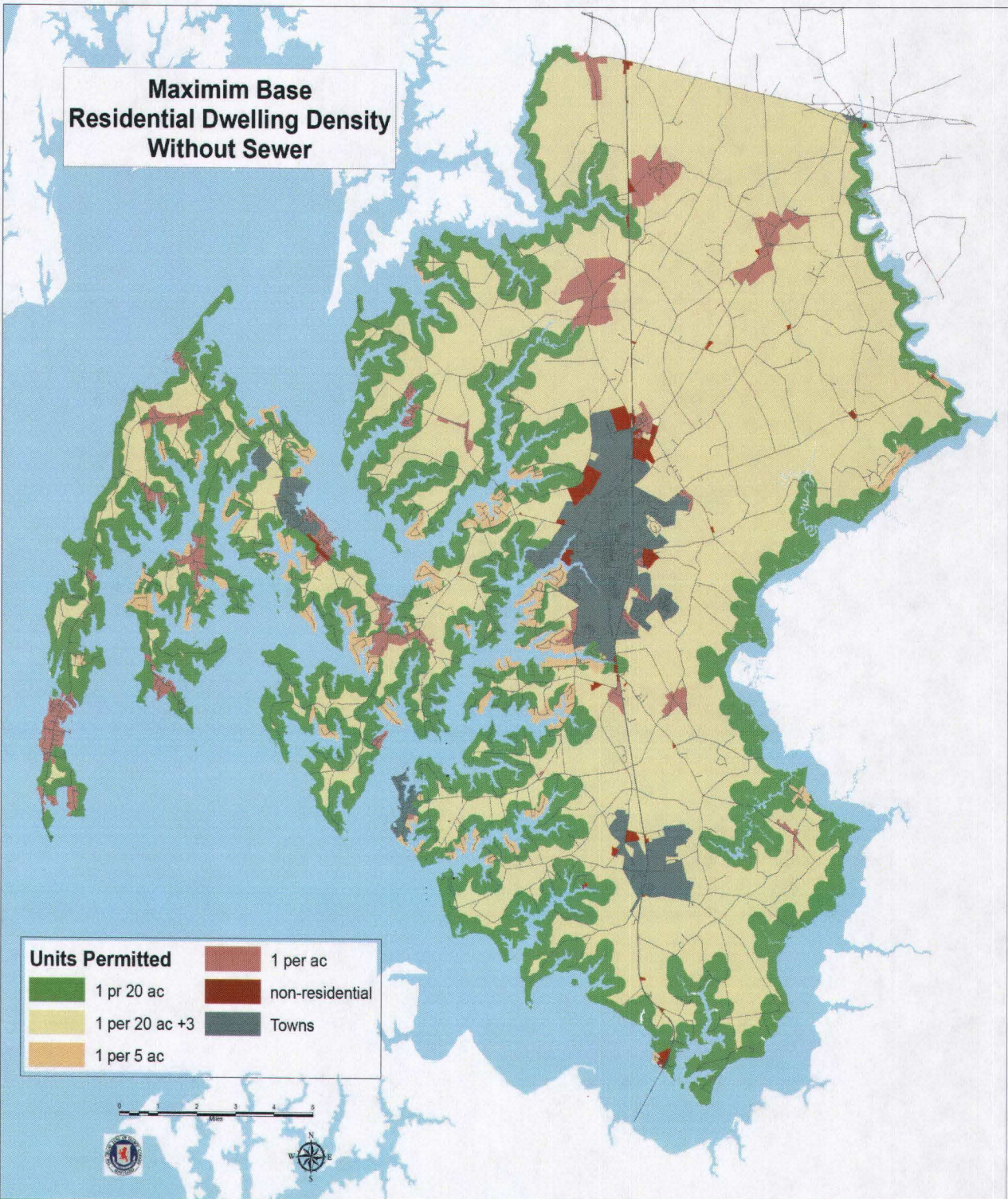
The County has over time moved to minimize constraints or restrictions on agricultural activities, within the growing limitations imposed by State and regional agencies. In addition to the Right to Farm ordinance and the permitted uses cited above, the County has adapted its regulations to accommodate a range of contemporary practices. For example, Farm Markets, Wholesale Greenhouses, Fish and Game Hatcheries are all permitted in agricultural areas.



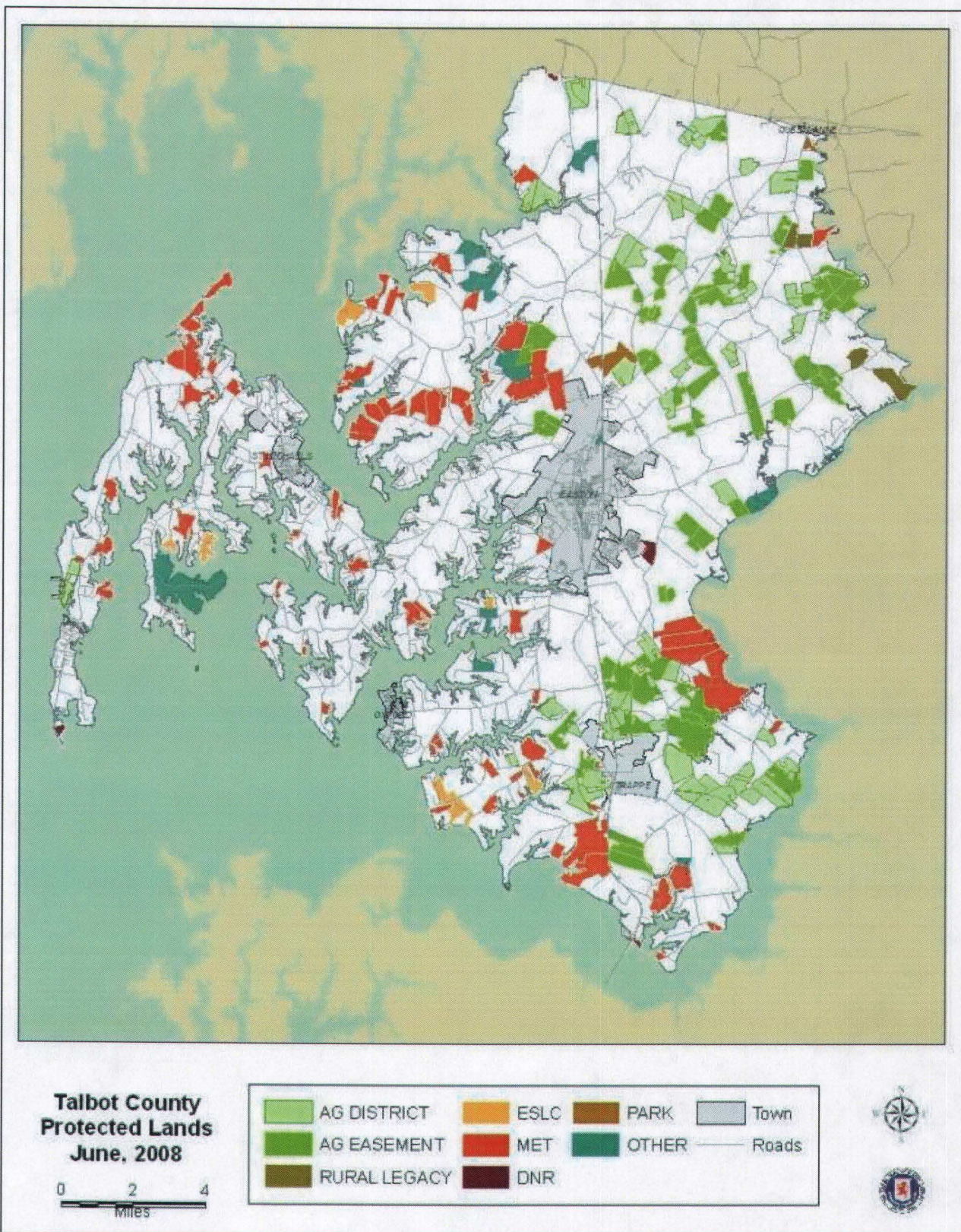
Adequate funding is the most significant shortcoming in the ability of the County to achieve its preservation goals. In light of financial constraints at every possible level of funding for land preservation, alternative measures of success at land preservation will need to be developed. Discussions with farm bureau members and other land owners have emphasized their stance that development is much less likely than imagined. Future conversations will take place in an attempt to quantify and locate any “virtually” preserved lands.

Discussions will also continue on County strategies to fund easement acquisition. The most viable alternatives so far all require State approval, which will not be forthcoming in the foreseeable future. Direct fundraising has yielded results that are modest at best, with little prospect to be adequate to meet the need.

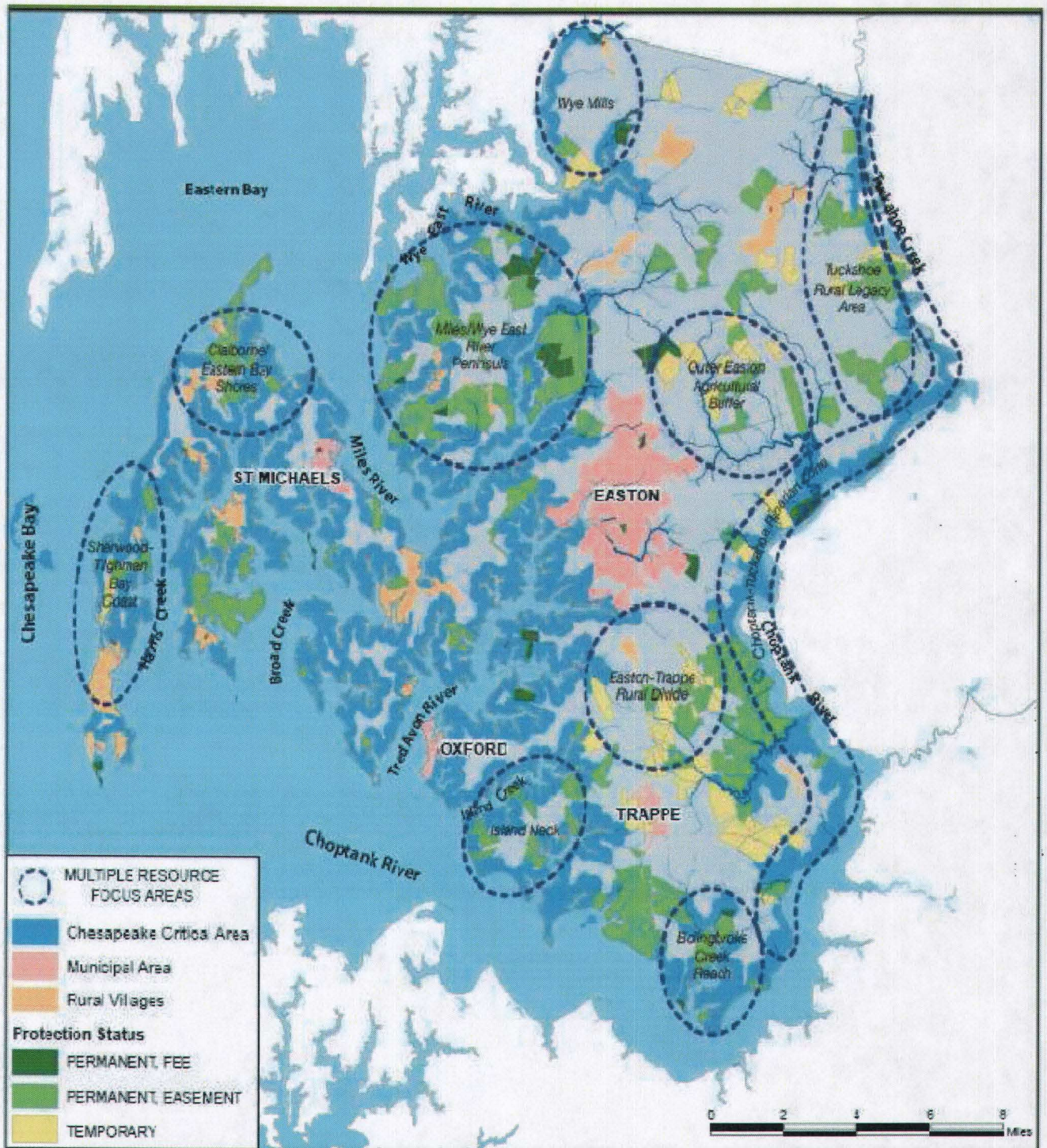




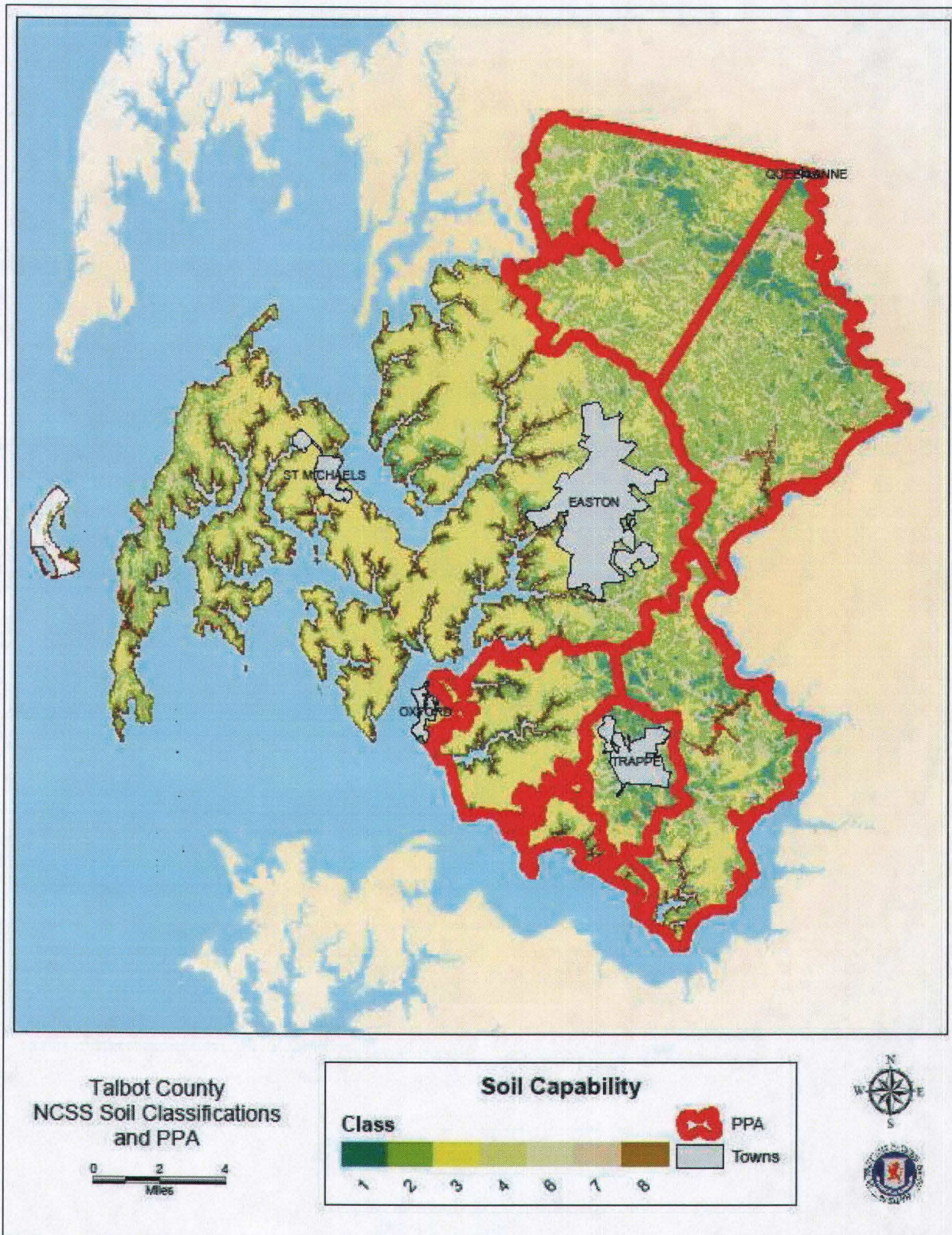
Map 6-1 Permitted Development Density



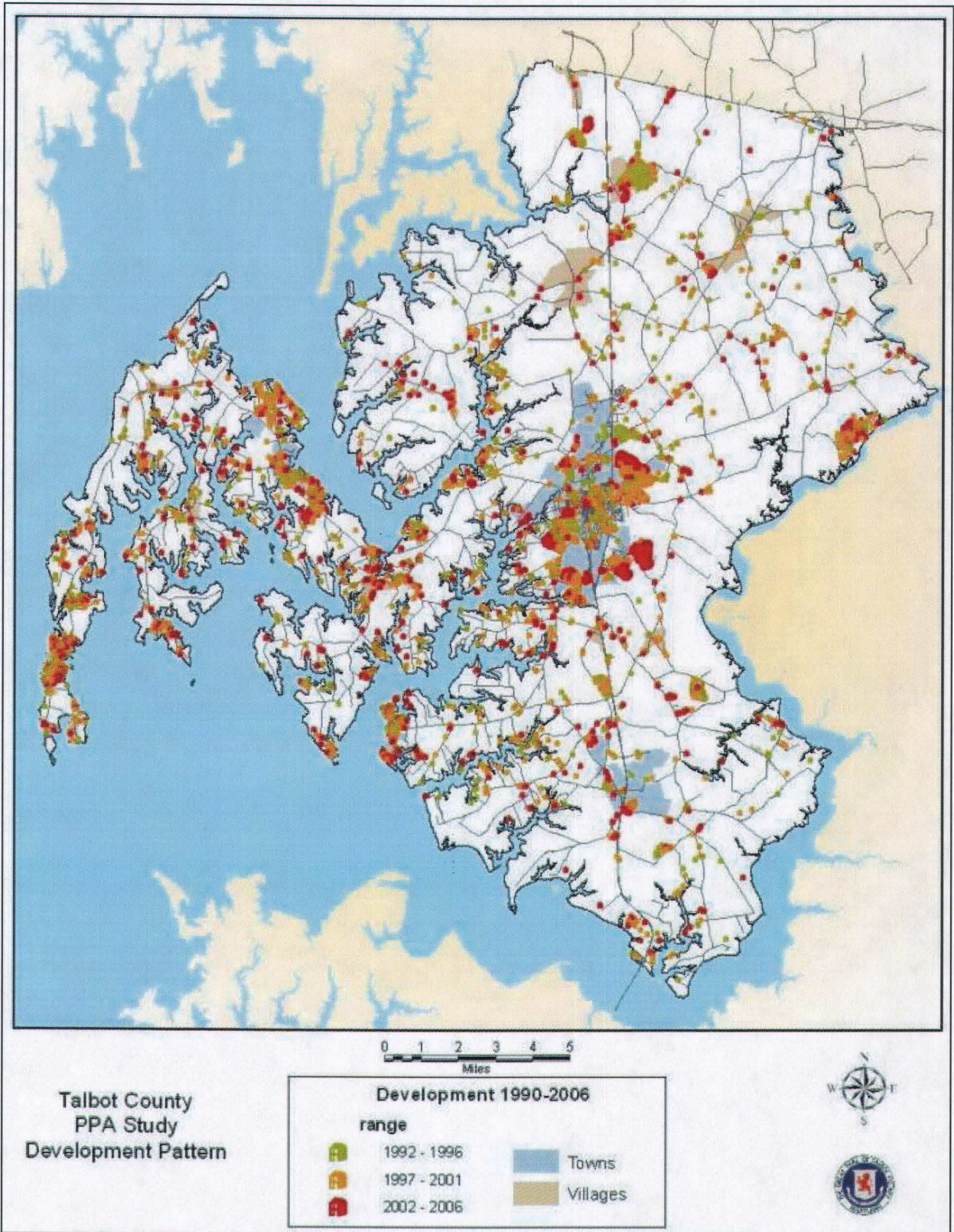
Map 6-2 Protected Lands



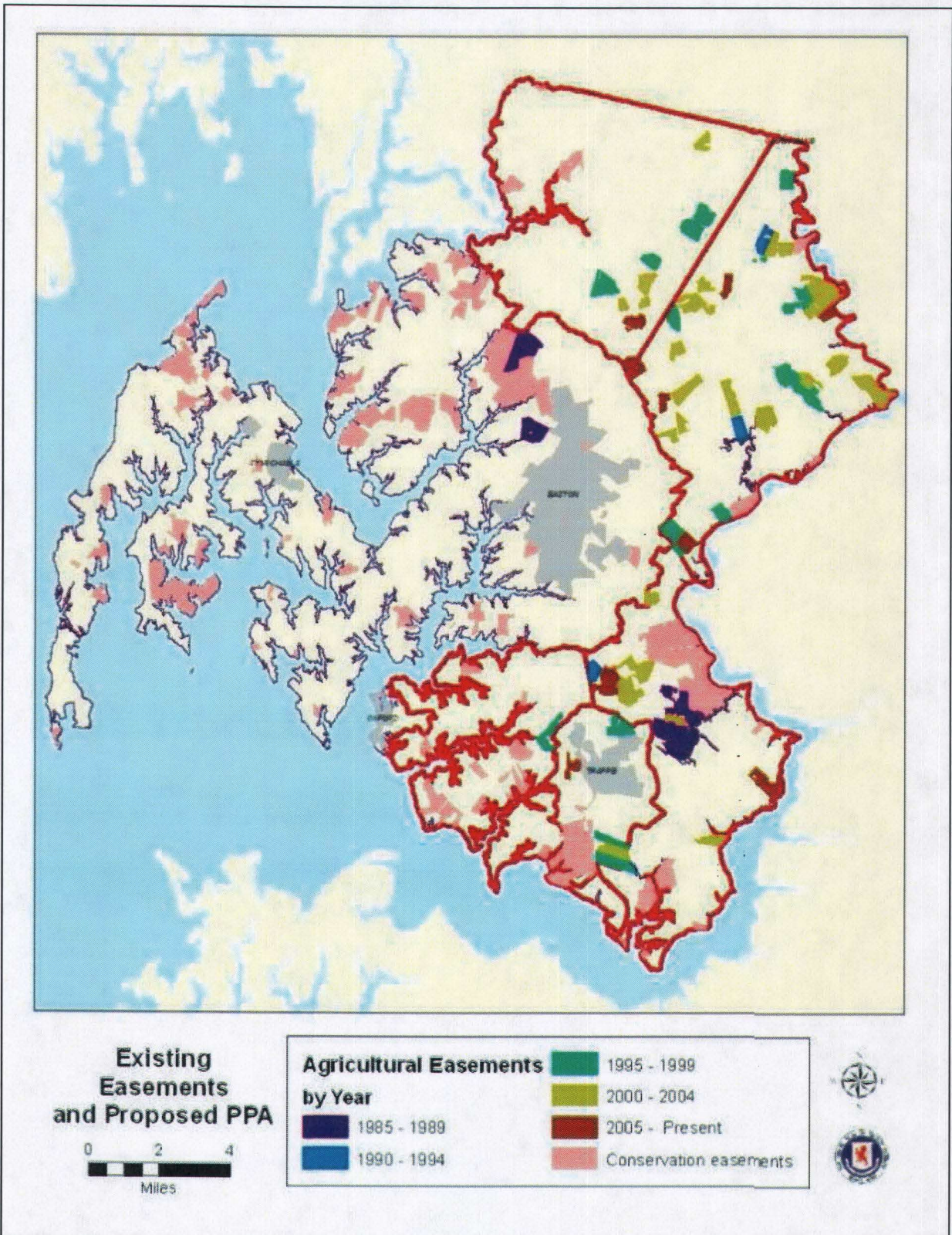
Map 6-3 Green Infrastructure Plan



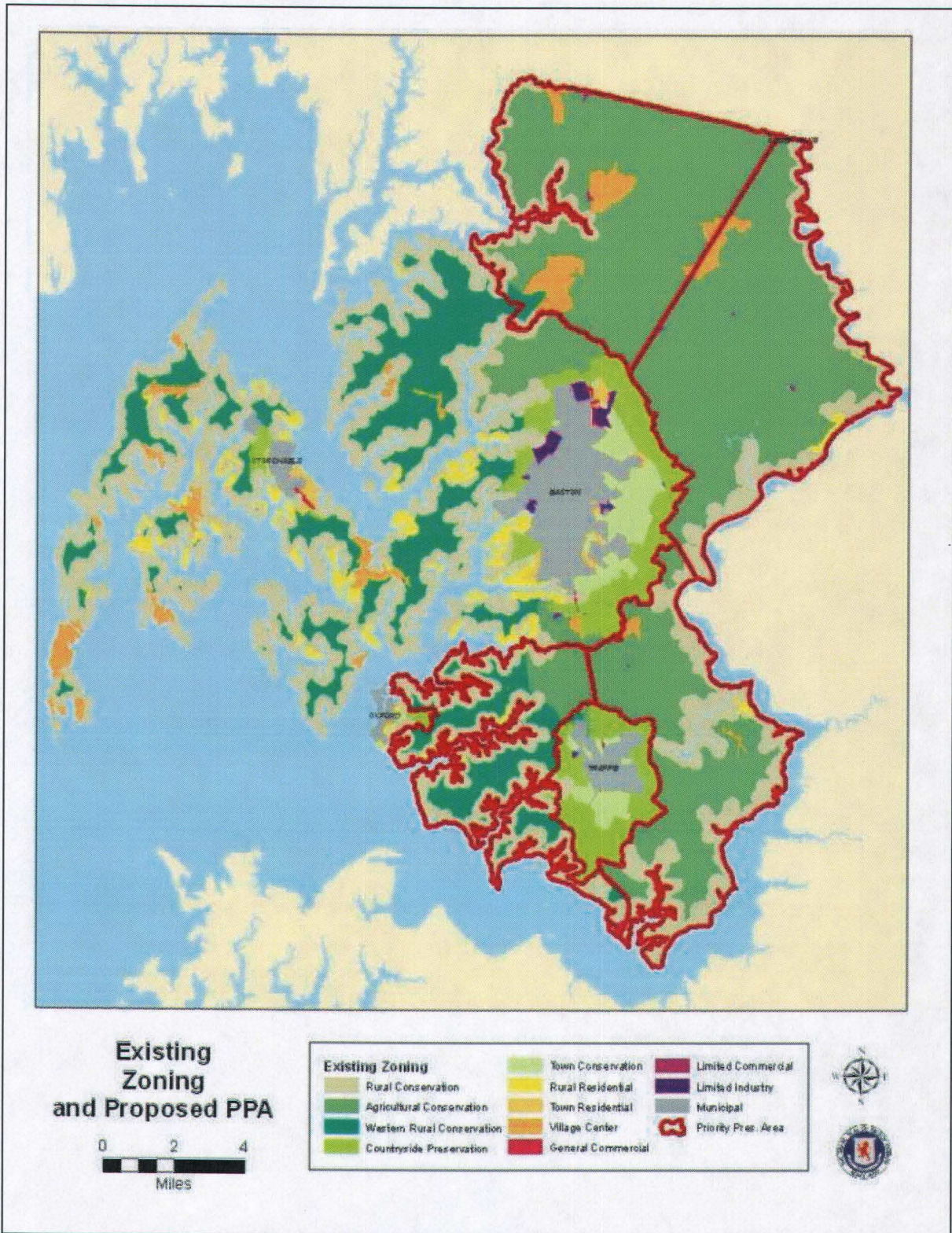
Map 6-4 Prime Soils and PPA



Map 6-5 Countywide New Construction Pattern, 1992-



nents and PPA



Map 6-7 Existing Zoning and PPA