Skagit County
Planning & Development Services

DALE PERNULA, AICP *Director* **JACK MOORE, CBCO** *Building Official*

Response to Selected Comments on Skagit TDR Report and its Majority Recommendation

TO: Interested Parties

FROM: Kirk Johnson, TDR Project Manager

DATE: September 4, 2014

Several members of the public submitted written comments surrounding last week's TDR presentation to the Board. Many of those comments raise issues that that are already covered in the TDR project report; addressing them one-by-one would take considerable time and would simply duplicate the report-writing effort. Following are responses to some of the assertions that are repeated most frequently, are most misleading or incorrect, or otherwise appear to warrant a response. The comment letters specifically addressed here are from Ellen Bynum and Allison Aurand.

Overall, these comments suggest that a TDR program, if implemented, would fatally undermine the Farmland Legacy Program and existing comprehensive plan and zoning protections for Ag-NRL and other natural resource lands. However, these catastrophic predictions don't stand up to logical scrutiny. The Skagit TDR report and majority recommendation acknowledge the importance and success of those existing policies and programs, support their continuation as is, and recommend TDR as simply one additional conservation tool that can help complement the existing framework.

- **TDR conservation isn't permanent (Bynum)**

This is an incorrect statement that Ellen Bynum makes repeatedly and without substantiation. TDR programs utilize permanent conservation easements just like purchase of development rights programs. This is clearly stated numerous times in the Skagit TDR report, including on p. 46: "The residential development right would be retired on the sending site through a permanent conservation easement, held by the County…."

The TDR report explicitly notes that a Kitsap County TDR program that proposed a 40-year conservation easement was found non-compliant by the Growth Management Hearings Board (p. 36, footnote 10). Clearly, non-permanent easements are not an option, even if the County wanted to pursue them—and there is no indication from the Advisory Committee's majority recommendation or from the Board of County Commissioners that it does.

From the perspective of the property being conserved, there is no material difference between a TDR program and a PDR program. Given this fact, it is puzzling how one tool (TDR) can be perceived and portrayed as inherently bad and ineffective and the other (PDR) as inherently good and effective.

1800 Continental Place ◆ Mount Vernon, Washington 98273 ◆ phone (360) 336-9410
pds@co.skagit.wa.us ◆ www.skagitcounty.net/planning

- **TDR programs must be mandatory to work (Bynum)**

Bynum quotes extensively from a report by Timothy J. Lawrence, including this statement: "A TDR program takes time to work and must be mandatory, rather than voluntary, for landowners in the sending area and for the higher density building in the receiving areas." Mary Heinricht, the consultant who conducted a previous review of TDR for Skagit County in 2006, also asserted that to be successful, a Skagit County TDR program would need to include a mandatory downzone of agricultural land.

However, available evidence indicates that voluntary programs—as proposed by the Skagit TDR report's majority recommendation—do indeed work. **Participation by sending-area landowners is voluntary in all 25 TDR programs** included in the attached list of the top 25 TDR programs (by acreage conserved). Only two of those programs—in Maryland's Montgomery and Caroline counties—involved an initial mandatory downzone of sending-area properties. (See additional discussion of Montgomery County below).

- **TDR is not effective in rural areas (Bynum, Aurand)**

Similarly, Bynum quotes Lawrence as asserting that TDR programs are not effective in rural settings (a point echoed by many others Skagit TDR critics as well). Again, the top 25 TDR program list indicates that eight of the 25 programs that have conserved the most acreage through TDR are rural based on their overall population size or density. Many of Bynum's other sweeping statements about TDR are similarly unsupported by fact.

- **A density-credit program is a cost-effective conservation tool (Bynum)**

It is refreshing to see Bynum acknowledgement that "you can increase density…. using density bonus credits….. [which will] generate income to offset infrastructure and/or contribute to one of the Legacy Programs (farm or forests). This is a cost effective way to generate funding and increase density." Implementing a density credit system like Burlington's is in fact an element of the Skagit TDR report's majority recommendation. It is good to see some common ground.

- **TDR was never intended to cross jurisdictional boundaries (Aurand)**

Allison Aurand writes that "TDR is, at its core, a single-jurisdiction, urban tool, and was never intended to cross jurisdictional boundaries or work in rural areas." This might be news to the inter-jurisdictional TDR programs in King County, Boulder County, the rural Town of Southampton, and the rural Chesterfield Township (all included in the Top 25 list), as well as to the inter-jurisdictional programs in Snohomish and Pierce counties. Inter-jurisdictional programs are no doubt more complex than single-jurisdiction programs, but they do exist, and some do work.

- **TDR programs are being used in ways never intended when the first program was developed in New York City back in the early 1900s (Aurand)**

The same could be said of cars, airplanes, computers, telephones, planning, zoning, medicine, and numerous other inventions that have been modified over the years to meet evolving human needs. Typically innovation in public policy is seen as a positive thing, not a negative one.

- **"Additionally, it appears from the Skagit TDR report that the prevailing belief is that these transactions to transfer rights will be private transactions, with no cost to or involvement by the government." (Aurand)**

The report states: "A final important consideration is how much time and effort would be required to implement a TDR or density credit program and manage it over time. The answer would depend in part on the scale and complexity of the program that was implemented; how active the County chose to be in providing information about it to potential users; and, of course, its level of use." (Chapter 10, p. 88) It's difficult to provide a precise estimate of cost when so many issues have yet to be decided.

Nonetheless, to suggest some likely outer bounds, the report provides examples of TDR programs with low, medium and high staffing levels, ranging from a small percentage of an FTE up to 2.5 FTE's for King County's very active program. It also includes a Committee recommendation that program staffing *should* be kept low to moderate until program usage warrants otherwise.

Chapter 10 discusses various other administrative tasks that could or would be associated with a TDR program, including developing and a maintaining a website, helping interested buyers and sellers finding each other, tracking the transfer of development rights, and implementing and monitoring conservation easements.

The report does not seek to minimize the administrative needs associated with establishing a TDR program. It clearly indicates that those needs and associated costs would be higher or lower depending on policy and program decisions yet to be made by the Board of County Commissioners, as well as the level of program use. If a TDR program were eventually to ramp up to the same level of activity as the Farmland Legacy/Conservation Futures Program has, then staffing and administrative support levels would likely be comparable to that program.

- **Exchange rates or development right multiplier factors are unfair and will distort the price of resource lands (Aurand and Bynum, the latter quoting Heinricht)**

Exchange rates are used to reconcile the fact that development-right values often differ between smaller urban lots and large-acreage rural lots. The exchange rate helps to bring those different values into the same ballpark so that buyers and sellers can negotiate a sales price that meets both of their financial needs.

Aurand suggests no one wins in a TDR transaction: not the purchaser, the seller, or the community that accepts the transferred development rights. TDR does require the belief that people and communities are rational actors and are capable of making informed decisions regarding their economic self-interest. If a transaction does not provide adequate financial return for the buyer or seller, then they can simply walk away from it, and neither party is harmed. If a city does not want additional residential development through TDR, it can choose not to participate in a TDR program. Some may decide to participate (for instance, Burlington) and others not to, depending on their particular development and conservation goals. The recommendation is simply to create the option.

Exchange rates are a complicated and difficult concept for many people to understand and feel comfortable with. It can be tricky to develop exchange rates in a county as large as Skagit where sending area development right values may vary significantly from place to place (even within the same zone). One benefit of a density credit approach is that only half of the exchange rate equation

is needed—the estimated value to developers of additional units of development potential, which is incorporated into the density credit fee schedule. Once adequate funds are generated to purchase development rights from sending-areas, the value of those rights can be determined by appraisal or similar mechanism.

- **TDR will create upward pressure on Ag-NRL prices (Bynum)**

Bynum quotes Heinricht as concluding that TDR will place upward pressure on Ag-NRL land prices (driving prices up by as much as 30%). The Heartland market analysis does not bear that out. Prices offered by private TDR purchasers for Ag-NRL development rights will likely be toward the low end of the range historically paid by the Farmland Legacy Program. Rather than paying more for Ag-NRL development rights, TDR purchasers would likely find a better deal on development rights from other, lower-cost natural resource lands. In other words, there simply are not likely to be any TDR transactions where the amount offered for Ag-NRL development rights approaches or exceeds the average of around $100,000 paid by the Farmland Legacy Program. Absent such transactions, it is unclear how TDR would drive up the price of ag lands. (That might occur if there were very strong demand for TDR credits and only a small number of sending-area properties, but neither is the case here.)

Aside from the market analysis, Bynum's assertion doesn't make logical sense. On the one hand, she claims a rural TDR program won't be successful due to inadequate demand. On the other hand, she claims demand for TDR purchases will drive up the price of agricultural land above what is paid by the Farmland Legacy Program. Those are contradictory assertions. They can't both be true, at least not during the same period of time.

- **The Committee wasn't provided contrary information on TDR (Bynum)**

Early in the process (November 1, 2012), the Committee received an electronic copy of Mary Heinricht's TDR Feasibility Study for Skagit County and accompanying PowerPoint slides. Both are largely negative toward TDR and prospects for its use in Skagit County. That report, the slides, and another report recommended by Bynum were also posted on the TDR project website. Bynum attended several of the Advisory Committee's meetings and shared many of the same views about TDR as she included in her recently-submitted written comments.

As project manager, I worked hard to accurately report Advisory Committee and focus group meeting dialogue, whether comments were supportive of or in opposition to TDR. Meeting notes were always provided to meeting participants before being finalized and posted. Committee and focus group meeting discussions included extensive commentary both for and against the use of TDR in Skagit County.

The Skagit TDR report includes a number of sections reflecting concerns about TDR, including the one titled "What are the major concerns about TDR?" (pp. 16-19). The report also discusses objections from the development community, the challenges of encouraging cities to participate, the market conditions that won't immediately support a robust TDR market, and the mixed experiences of the Mount Vernon TDR program. Of course, the minority recommendation and the written comments from Committee members supporting that recommendation also articulate the case against TDR.

In fact, several members of the Committee commented that the initial draft of the report was *excessively negative* given that a majority of Committee members were favorable to the implementation of a TDR and density credit program in Skagit County.

- **TDR will harm Farmland Legacy (Bynum, Aurand)**

The Committee spent a great deal of time discussing this issue and had outspoken members on both sides. The potential interactions are discussed in the report on pages 41-42 and in Chapter 9, "Interaction of TDR and Existing Conservation Programs." Potential interactions were also a focus of the Heartland market analysis, which concluded that a well-designed TDR program *would not* harm Farmland Legacy—but nonetheless suggested an option for isolating the two if that was the County's desire: Ag-NRL could be excluded as a TDR sending area, eliminating any potential competition between the two programs for the same parcels of land.

As it is, the eight members of the Committee who supported the majority recommendation concluded that any interaction between TDR and Farmland Legacy would be complementary and not harmful. This included Kendra Smith who has managed the Farmland Legacy Program for many years, and Allen Rozema, representing the leading non-governmental ag-land-preservation organization in Skagit County.

The report and the majority recommendation propose no changes to the Farmland Legacy Program. The only direct overlap between the two programs would be identification of Ag-NRL as a TDR sending area. The practical effect of this would be to provide Ag-NRL landowners another option when considering selling their development rights: one option being Farmland Legacy, the other being the TDR program.

- **The TDR program in Montgomery County, Maryland has resulted in "fragmentation of the agricultural zone" and "helped along a type of suburbanization that has served, over time, to undermine much of the County's agricultural industry." (Aurand)**

The Skagit TDR report quite deliberately does not identify Montgomery County as a potential TDR model because of the vast differences between the two locations. Montgomery County has a population of nearly 1 million (2010), lies immediately north of Washington, DC, and includes the employments centers of Bethesda, Silver Spring, and Rockville.

Experiencing intensive growth pressures in the 1970s, Montgomery County downzoned much of its undeveloped rural land to 5 acre zoning in 1974. According to *The TDR Handbook*[1]: "This action, however, only led to a spate of five-acre-lot subdivisions. In the next five years, Montgomery County lost almost twelve thousand acres of farmland to development, making farmers uncertain about the future of county agriculture." (Ibid)

This all occurred *before* the implementation of TDR.

In 1980, the County had five-acre zoning on more than 93,000 acres of its most productive farmland, its Agricultural Reserve. To protect its agricultural land base, the County then downzoned much of the Agricultural Reserve to one residence per 25 acres. Owners could build one residence on 25 acres and could sell through a *new* TDR program the remaining development rights

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[1] A similar account is given in the Montgomery County Farmland Preservation Annual Report FY 1980 – FY 2009, December 21, 2009, attached.

associated with the former 5-acre zoning. Montgomery County implemented TDR as a way to soften the economic blow to landowners resulting from the downzone to 25-acre zoning.

Perhaps Aurand would have preferred that the County downzone its agricultural land to 1 unit per 40 acres with no compensation to those landowners; however, that may not have been politically feasible or considered fair or equitable by affected landowners, elected officials, and the general public.

It appears clear that the fundamental problem in Montgomery County was inadequate zoning protections for agricultural land through 1980. When it sought to correct that problem with a downzone to 25 acre zoning, it used TDR as a way to soften the economic blow to agricultural landowners. Blaming TDR for fragmentation of the Montgomery County agricultural landscape is like blaming fire fighters who help to put out a fire for starting it in the first place.

Aurand writes: "PDR and strong agricultural planning and zoning are the only **proven** methods for protecting farmland in the long term." It would be more accurate to say that strong planning and zoning are the **fundamental tools** for protecting farmland (and other resource lands) in the long-term; additional tools like PDR and TDR can help to complement and support strong planning and zoning. That's why GMA *requires* Counties to designate and protect resource lands of long-term commercial significance, while *encouraging* the use of innovative tools such as TDR and PDR as well.

Skagit County has those strong zoning protections in place. Neither PDR nor TDR will be effective in their absence. And neither will cause the fragmentation of the landscape and destruction of viable resource industries where such zoning protections already exist.

* * *

Attached is Montgomery County's Farmland Preservation Annual Report dated December 2009. The report does not present the same picture of doom and gloom that Aurand describes. It's clear from reading the first four pages that Montgomery County and its Agricultural Preservation Advisory Board are proud of their ag conservation program, whether Ms. Aurand finds it admirable or not. That's the beauty of local government – individual jurisdictions can tailor policies and programs to meet their individual needs, circumstances, and definitions of success. Despite having conserved 70,000 acres of farm land through TDR and other measures (under the circumstances described above), the Montgomery County Board acknowledges the need to continue its work – including offering incentives to retire remaining buildable residential development rights (the 1 residence per 25 acres) that landowners retained through the 1980 downzone.

Appendix E. Top 25 Transfer of Development Rights Programs

City or County	State	Population	Density (pop/sq mi)	Year Began	Acres Conserved
King County	Washington	2,044,449	912.9	1993	141,400
Montgomery County	Maryland	1,016,677	1,978.2	1980	52,052
Palm Beach County	Florida	1,372,171	670.2	1980	31,000
Caroline County	Maryland	32,693	103.5	1989	28,264
Calvert County	Maryland	90,484	416.3	1978	24,723
Howard County	Maryland	304,580	1,144.9	1994	19,362
Indian River County	Florida	141,994	274.5	1985	11,914
Hillsborough Township	New Jersey	38,303 (2010)	702.3	1975	10,571
Sarasota County	Florida	390,429	682.6	2004	8,199
Queen Anne County	Maryland	48,517	128.5	1987	8032
Blue Earth County	Minnesota	65,528	85.6	1970	6,160
Pitkin County	Colorado	17,389	17.7	1994	5,840
San Luis Obispo County	California	276,443	81.7	1996	5,464
Charles County	Maryland	152,864	320.2	1992	5,274
Boulder County	Colorado	294,567	405	1981	5,000
Payette County	Idaho	22,623	55.6	1982	4,113
Rice County	Minnesota	65,049	129.4	2004	4,074
Douglas County	Nevada	47,118	66.2	1996	4,003
Adams County	Colorado	469,193	378.2	2003	4,000
Collier County	Florida	339,642	160.9	1974	3,612
Marion County	Florida	337,362	209.1	2005	3,580
Churchill County	Nevada	24,063	5	2006	3,468
Town of Southampton	New York	56,790	190	1972	2,800
Chesterfield Township	New Jersey	7,699	360.9	1975	2,231

Highlighted jurisdictions are rural in character based on overall population size or population density. For comparison purposes, Skagit County's population is approximately 118,000, with a population density of 67.5 persons/square mile. Mount Vernon's population is approximately 33,000.

Source: Forterra National TDR Program Database, updated July 2012.

The TDR Handbook

Designing and Implementing Successful Transfer of Development Rights Programs

Arthur C. Nelson, FAICP
Rick Pruetz, FAICP
Doug Woodruff, RLA

With
James C. Nicholas
Julian Conrad Juergensmeyer
Jonathan Witten

Foreword
Dwight H. Merriam, FAICP

Washington | Covelo | London

Chapter 14

Farmland Preservation Case Studies

Farmland preservation ranks among the most popular purposes of TDR programs. Of the many successful programs we reviewed, here are five that focus on preserving agricultural lands.

Montgomery Country, Maryland

Montgomery County, which has a population of nearly 1 million (2010), lies immediately north of Washington, DC, and includes the employment centers of Bethesda, Silver Spring, and Rockville. Despite intense growth pressure, Montgomery County has managed to preserve 132,603 acres in farmland and parks, with TDR being responsible for almost 40 percent of that total.

In 1969, Montgomery County adopted a general plan titled *On Wedges and Corridors* to concentrate most future development in a central growth corridor and preserve much of the remaining rural land—the so-called wedges. In 1974, to implement that plan, Montgomery County downzoned much of the undeveloped portion of the county to a maximum density of one unit per five acres. This action, however, only led to a spate of five-acre-lot subdivisions. In the next five years, Montgomery County lost almost twelve thousand acres of farmland to development, making farmers uncertain about the future of county agriculture.

In 1980, Montgomery County adopted its master plan titled *Functional Master Plan for the Preservation of Agriculture and Rural Open Space in Montgomery County*, which emphasized farmland preservation.[1] The plan established an "agricultural reserve" with ninety-three thousand contiguous acres that include wooded areas, stream corridors, wildlife habitat, and parkland, as well as most of the best remaining farmland in the county. Most of the agricultural reserve was downzoned from a maximum density of one unit per five acres to one unit per twenty-five acres, based on an agricultural economist's determination that at least twenty-five acres of land is needed to support a farm family in Montgomery County. The preservation plan also launched what was to become the most famous, most studied, and most emulated TDR program in the nation.[2]

Process

In this program, the sending area is the agricultural reserve. Montgomery County wants landowners in the agricultural reserve to record easements that permanently restrict development to the density limit of one unit per twenty-five acres imposed by the rural density transfer (RDT) zoning adopted for the reserve. The owners of farm-

land who choose to record such easements are granted transferable development rights at a ratio of one TDR per five acres of restricted land. In keeping with the plan's goal of preserving the agricultural reserve as an integrated whole, all RDT properties in their entirety qualify for the same TDR allocation ratio regardless of their agricultural characteristics or suitability for development.[3]

When owners in the RDT zone choose to preserve their land, they must retain one TDR for each existing dwelling unit on the sending site. Owners can also choose to retain one TDR per twenty-five acres of land, thus maintaining the ability to develop their land at the maximum density allowed by the RDT zone: one dwelling unit per twenty-five acres. These fifth TDRs are sometimes called "super TDRs" because they can actually be used to achieve the maximum allowed on-site density. In fact, many participating property owners have retained these super TDRs, which are estimated to have ten to twenty times the value of the other TDRs. If the county wants the program to result in sending area densities lower than one unit per twenty-five acres, it may have to adopt a mechanism for motivating landowners to sell these super TDRs (Walls and McConnell 2007).

Montgomery County places the receiving areas outside the agricultural reserve in areas designated as appropriate to receive transferred residential density because they are planned for urban uses and served by public infrastructure. Several zoning districts include a baseline density, which developers can achieve with no TDR requirement, plus a maximum allowable density that can be reached only by using TDRs. The program allows one single-family residential unit per TDR or two multiple-family residential units per TDR.

The amount of land preserved by TDR demonstrates that Montgomery County created a sufficient number of receiving areas to create a successful program. But, according to some observers, the program has been constrained because a collaboration of developers, planners, and the general public decides the formation of receiving areas and the amount of TDR-related development allowed in these receiving areas during the master planning process conducted in each planning area. As a result, some planning areas have accommodated few or no TDRs. In fact, only 6 percent of the subdivisions built in Montgomery County between 1981 and 2004 were in TDR zones (Walls and McConnell 2007).

When developers choose to exceed baseline in TDR zones, they must achieve density of at least two-thirds of the maximum density allowed by the TDR option. This requirement was intended to maximize utilization of TDRs. But, some observers believe, this provision prompts many developers to avoid the TDR option altogether. One study found that more than one-third of the subdivisions built between 1981 and 2004 did not use the TDR option even when it was available (Walls and McConnell 2007).

Montgomery County established a Development Rights Fund in 1982 primarily to buy TDRs, bank them, and resell them at auction to the highest bidder. Without assistance from the fund, however, sending site owners found developers willing to buy their TDRs at prices established through private market transactions. Consequently, after the Development Rights Fund went unused for eight years, the county terminated it. To this day, independent real estate agents who specialize in TDR facilitate and broker the transactions. In fact, unlike most TDR programs, Montgomery County has not seen a need for a publicly maintained clearinghouse through which potential buyers and sellers can find one another. In addition to TDR, Montgomery County motivates farmland preservation through four easement acquisition programs and the Maryland Environmental Trust, which provides tax benefits to owners who donate conservation easements.

Montgomery County Farmland Preservation Annual Report FY1980 - FY2009

December 31, 2009

The Montgomery County Farmland Preservation Program Annual Report FY1980-FY2009

In additional to meeting the Annual reporting requirements under Chapter 2B of the Montgomery County Code, this report also is used to comply with the new Priority Preservation Area (PPA) requirements establish for certified Counties. This report details the tools and programs already being implemented by Montgomery County that emulates the spirit and intent of setting a Priority Preservation Area. While the name of our agricultural preservation area (Agricultural Reserve) and elements designed for the protection of this area may be called something else, they are in essence identical in substance, and we believe don't need to be re-designated and re-approved by the County just for a name. In terms of goal setting within the PPA, it is important to note that during FY2008, Montgomery County has achieved the goal for the protection of agricultural land through permanent easements with easements protecting 71,353 acres through June 30, 2009. Montgomery County was the first Maryland County approved for State Certification, without condition, under the new Priority Preservation Area (PPA) requirements. Montgomery County is State Certified through June 30, 2012.

The information below details the policies, zoning and other tools PDR/TDR accomplishments, and the creation of the Building Lot Termination program within the County's Agricultural Reserve documenting Montgomery County's long term commitment to the preservation of agricultural lands.

For over two hundred years, Montgomery County has been the home to a strong agricultural industry. There is a long and rich farming heritage in the County; a heritage and tradition that has contributed greatly to the incredibly high quality of life the residents of Montgomery County enjoy today. Preserving that heritage and encouraging its growth, through land preservation efforts and public policy, continues to be a top priority in Montgomery County.

The most significant initiative began 29 years ago in 1980 when almost a third of the County, more than 93,000 acres of land, was designated as the County's Agricultural Reserve. The vision was to preserve this land not only for the benefit of the County's farmers, but to ensure future generations of residents would enjoy the environmental and esthetic benefits of this wondrous open space. The vision has become a reality. Montgomery County is recognized as a national leader in the field of land preservation by preserving over 70,093 acres of farmland to date. This represents about 90 percent of all agricultural land (79,011 acres) remaining that is protected by agricultural easements.

We have done this incredible work by partnering with rural landowners to utilize several agricultural land preservation programs. The programs are designed to work with the landowner to place agricultural and conservation easements on land to prevent future commercial, residential or industrial development of the property.

The most revolutionary tool created by the County to fight the battle against suburban sprawl, was the designation of a bona-fide agricultural zone, known as the Rural Density Transfer (RDT) Zone. This first-of-its-kind zoning became the predominant zoning in the

Agricultural Reserve. By law, RDT zoning sets a 25 acre density for subdivision of land, but allows landowners to sell development rights based on the previous zoning designation of 1 unit per 5 acres to areas designated for higher density growth elsewhere in the County. The results are that the rural landowner can recapture some of the lost equity which resulted from the 1980 down-zoning, while centering development in strategic areas where the existing infrastructure can accommodate the increased density. While this "transferable development rights" program has been successful, further protection measures have been necessary to protect farmland.

To keep Montgomery County's Farmland Preservation programs adequately funded, a combination of funding sources has been used, including:

Agricultural Transfer Taxes: Beginning with the certification of our farmland preservation program in *FY1990* and through *FY2009*, a total of *$29,661,618* of agricultural transfer taxes have been retained by the County for agricultural land preservation.

Investment Income: Agricultural Transfer Taxes that are retained by Montgomery County are placed into an interest bearing account. Beginning in *FY1994*, the income generated by the interest was invested back into the agricultural land preservation program. As of *FY2009*, a total of *$4,564,408* of interest has accrued. Investment Income has been used to fund preservation initiatives, emergency agricultural economic development initiatives and staffing costs. As of the end of FY2009, the fund balance of Investment Income is about *$2,167,682* and is available to the program.

General Obligation Bonds: One alternative farmland preservation funding source is General Obligation Bonds. While no G.O. Bonds are currently authorized for this project, in light of reduced collections of Agricultural Transfer Tax and linkage to a current level of appropriation which exceeds our cash supported revenues, DED intends to explore the appropriation of G.O. Bonds during the FY11-16 Capital Improvements Program budget submission process during the fall of 2009.

State and Federal Grants: Beginning in 1997, the State's Rural Legacy Program was enacted as part of the State's Smart Growth and Neighborhood Conservation initiative to protect our natural resources. Since the first grants were awarded during the FY1998-1999 grant cycle, Montgomery County has been awarded/allocated a total of *$19.3* million in State Grant Funds. The Federal Farmland Protection Program (FPP) was first created for the State of Vermont and then in 1996, was finally expanded to include all States and Counties in the U.S. While Montgomery County Government has been an active participant within the FPP since its first year in 1996, changes to the program have made many jurisdictions across the United States ineligible or unable to qualify for Federal Funding. Unfortunately, Montgomery County and the State of Maryland are included among the jurisdictions which are unable to apply for Federal funds due to the new funding eligibility requirements. While we hoped that changes recommended in the 2007 Farm Bill would correct the deficiencies with this program, however once the final rules were published both Montgomery County and the State of Maryland found they could not meet eligibility requirements for these Federal Funds. From an historical perspective, since the inception of the Federal program, Montgomery County has been awarded a total of *$792,363* in Federal Funds, a total of $92,500 had to be returned to the Federal Government due to changes in eligibility requirements.