

DEFINING THE LEGACY

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DEFINING THE LEGACY

IX. LEGACY VISION

Legacy Open Space is framed by an open space vision to orchestrate existing and proposed conservation initiatives into a coherent, interrelated, countywide network of green. The vision provides an image of how the open space elements that comprise "green infrastructure" will evolve in the future, and establish a visual framework for decisions to make that vision become a reality.

The vision interrelates natural and heritage resources, rural and urban open spaces, farmland, and park and trail systems to create a pattern of open space with the following characteristics:

- Protected green space along the Patuxent and Potomac Rivers safeguards the water supply, natural resources, heritage clusters, and trail/wildlife corridors.
- Cross-county trail linkages between the Patuxent River, Potomac River, and the Northwest Branch of the Anacostia River provide important open space features for urban, suburban, and rural residents.
- Significant natural resources, primarily in the upper county, are protected. Additionally, smaller significant natural areas in the more urbanized portions of the county are protected and interpreted.
- The open space setting for significant heritage resources is protected.
- Important urban open spaces enhance the image of green boulevards along our major roads and provide new urban open space possibilities.
- Agricultural and rural open spaces are safeguarded and surround our developed areas.

The primary emphasis, particularly in the early years, for the expenditure of Legacy funds derived from County general obligation bonds, is to protect open space through the acquisition of land and easements. As the program matures, it will be broadened to include activities to implement the education and stewardship goals of the program. Capital improvements should be funded from other sources.

X. LEGACY OPEN SPACE ELEMENTS

Legacy Open Space recommendations are organized into six Resource Categories as follows:

Resource Category #1: Protection of Environmentally Sensitive Natural Resources

These are high quality natural areas where ecological processes are allowed to take place with limited human disturbance. These areas, which offer the user a high quality outdoor experience in a sufficiently quiet and tranquil setting, may include large contiguous forest land with a diversity of native plants and animals, good quality stream systems which support diverse aquatic communities, high quality wetlands or other unique habitats for plants and wildlife. Criteria for identifying these areas include:

- A. Unique or exemplary natural communities, including habitats for rare, threatened and endangered or watchlist species and/or those based on unique geological formations.
- B. Large areas of good quality, contiguous forest or large areas with a diversity of habitats that support a diversity of plants and wildlife.
- C. Land well suited to buffer sensitive resources or for use as a wildlife/human use corridor between significant natural areas.

Resource Category #2: Protection of Water Supplies

This category includes easements (or occasionally acquisition) of properties, preferably greater than 10 acres, bordering the mainstem or a tributary stream to the Patuxent River. Sites will continue to be identified where the risk of degradation to the streams draining into the drinking water supply is greatest. Ideally, properties or clusters of properties would be adjacent to, or upstream of, parkland. The following criteria would be used to identify properties under this category:

- A. The property contains land in the Patuxent Primary Management Area (1/4 mile from the Patuxent mainstem and 1/8 mile from all tributaries).
- B. Properties within priority subwatersheds identified by the *Countywide Stream Protection Strategy*, the Source Water Protection Program, or other studies indicating vulnerable areas.
- C. Properties (preferably greater than 10 acres) or groups of properties containing or adjacent to streams and adjacent to parkland.

Resource Category #3: Conservation of Heritage Resources

An individual historic site or a property located within a designated historic district with significant surrounding undeveloped or farm land that contributes to the historic character and aids in the interpretation of the historic property or area. Groupings of sites that will be emphasized in this category include significant open space surrounding Heritage Sites in the following areas:

- A. Underground Railroad/Quaker Cluster

- B. Farming History Cluster
- C. Industrial Heritage Cluster
- D. Rail Community Cluster

Resource Category #4: Protection of Greenway Connections

Any areas that help provide attractive, park-like connections between natural resources, heritage resources, rural, and urban open spaces. The character of these open space connections will vary depending on the type of landscape they traverse—they may be "green streets" in urban areas or wide contiguous areas of forestland in less developed areas. The criteria for identifying sites for Legacy Open Space Protection include:

- Gaps in major natural surface trail corridors identified by the Countywide Park Trails Plan

Resource Category #5: Protection of Farmland and Rural Open Spaces

Farmland and Rural Open Space have been designated for protection and preservation in Montgomery County since the adoption of the original "Wedges and Corridors" General Plan in 1962. Montgomery County remains committed to a strong and evolving program of agricultural and open space preservation programs. Legacy Open Space proposes a new program designed to work as a complement to the existing TDR and Agricultural Easement (AEP) programs, as well as the use of Legacy funds to supplement AEP funding. The new program would be a Legacy Open Space easement for "exceptional" properties in the agricultural zones, and the easement would require a density reduction to at least 1 dwelling per 50 acres, but no TDRs would be transferred. This would achieve the open space and density reduction goals of Legacy, but allow the property owner to retain the ability to sell the TDRs separately. Criteria used to identify sites for this program include:

- A. Areas on the edges of the Agricultural Reserve.
- B. Active Farmland that could be protected through Agricultural Easements.

Resource Category #6: Protection of Urban Open Spaces

Urban open spaces are generally thought of as undeveloped outdoor spaces, defined by buildings or streets that provide attractive amenity spaces and natural areas in urban areas. While they are generally landscaped green areas, they may also include urban forest, "green boulevards", private open spaces, school grounds, and parks that serve urban residents. Criteria for identifying sites in this category include:

- A. Key open spaces along major highways.
- B. Vacant land within existing urban neighborhoods.

- C. Important urban natural areas, especially if they promote interconnection of the urban green infrastructure.

Additionally, this category includes a special need for a new mid-county regional park site. A regional park site should be over 200 acres in size and able to accommodate both conservation and recreation goals. See Resource Category #6 in next chapter for detailed criteria for site selection.

XI. CLASSIFICATION OF SITES

The master plan recognizes that not all sites suggested during the preparation of the master plan have been thoroughly evaluated for inclusion in the plan. This document, therefore, identifies classes of sites to be considered as part of the master plan. Class I and II sites, detailed and mapped in each resource section (pages 33-80), are those that clearly meet the criteria and are considered appropriate for Legacy funding. Class III sites, listed in Appendix D, require further study to determine whether they meet the criteria and to delineate the size and configuration of those portions of the properties that are most suitable for inclusion in Legacy Open Space. In addition, the potential for conflicts with other County goals must be evaluated. If a portion of parkland proposed for acquisition under the Legacy program contains a County approved right-of-way for future transportation facilities, the Park and Planning Department will consider at time of acquisition whether that portion should be designated for future conveyance to the appropriate transportation authority. See Appendix F for a complete list of sites and target areas with their classification.

Sites in the various classes will be handled as follows:

Class I – Sites Included in Master Plan with reservation option

If a site is listed in the Natural Resources category (pages 41-43, excluding the Broad Run Stream System), the Greenway Connections category (pages 66-67) or in the Urban Open Space category (page 80) and mapped on page 30, it will be protected in the following ways:

- If development is proposed, the proposed development will be evaluated for the extent of resource protection provided through development design and various regulatory tools.
- If the determination is made that the site would be adequately protected by the development review process and resulting dedication or easements, the site may continue through the development process.
- If the determination is made that the site would not be adequately protected by the development review process, the entire site or a portion of the site will be identified for acquisition or easement.

- The site or a portion thereof will be targeted for legacy funding according to the process for setting priorities.
- The entire site or a portion thereof may be put in reservation for a period up to three years.
- If necessary, condemnation power may be used to complete the acquisition.
- Available funding and the process for setting priorities may not necessarily result in acquisition of, or easements on, every property identified.
- If the County decides not to purchase a property at the expiration of the reservation period, the property may be developed according the applicable master plan's land use and zoning. Emphasis will be placed on protection of as much of the resource of interest as possible through the development design process.

Class II – Sites Included in the Master Plan

All other sites not included in Class I and listed in the tables on pages 43 (the Broad Run Stream System only), 50, 59-61, 73, and 80 (Green Boulevards and Regional Park site) are considered part of the plan, but will not be considered for placement in reservation

- If development is proposed, the proposed development will be evaluated for the extent of resource protection provided through development design and various regulatory tools.
- If the determination is made that the site would be adequately protected by the development review process and resulting dedication or easements, the site may continue through the development process.
- If the determination is made that the site would not be adequately protected by the development review process, the entire site or a portion of the site will be identified for acquisition or easement.
- The site or a portion thereof may be targeted for legacy funding or protection according to the process for setting priorities.
- Available funding and the process for setting priorities may not necessarily result in acquisition of or easements on every property identified.
- If necessary, condemnation power may be used to complete the acquisition.
- If the County does not proceed with acquisition of the site, the property may be developed according the applicable land use master plans and zoning.

Class III – Sites Included in Appendix D

This class includes sites that were nominated for inclusion in this plan but have not been fully evaluated. The master plan proposes a process for further study and potential incorporation into the Legacy Open Space program (see section XII for more details).

- Owners of Class III sites may initiate the process for further study of their

properties by submitting a written request to staff. Staff will also conduct independent studies of existing Class III sites as part of the process for adding new sites, changing the level of protection outlined in Section XII, or if development is proposed or the resources on the site are threatened.

- Whether owner- or staff- initiated, the study will determine whether a site meets the Legacy Criteria and make recommendations to the Planning Board and County Council, as appropriate.
- Staff will attempt to complete owner-initiated studies of Class III sites and report to the Planning Board its recommendations within 90 days. Some natural resources category and other properties may require longer, seasonally-determined study periods; in no case shall such studies run longer than one year from the date of owner request.
- If the site meets the criteria, it may be recommended for addition to the Legacy acquisition program as a Class I or II site and targeted for priority funding according to the process for setting priorities.
- Key resources on sites that are not added to the Legacy Program may be protected through the development process.

Voluntary Reservation

Property owners of sites that are identified for acquisition in either Class I or II may be able to enter into a voluntary reservation contract with M-NCPPC. Voluntary reservation, which requires the consent of both parties, provides tax benefits to the property owner during the period that M-NCPPC is seeking funding sources to acquire the property in reservation. Voluntary reservation is usually a one-year contract that is renewable on an annual basis and can be renewed indefinitely. Voluntary reservation entered into under this master plan does not inhibit the Commission from placing a Class I property in involuntary reservation for the time allotted by law. See the subdivision regulations (Section 50-31 of Montgomery County Code) for current information on voluntary and involuntary reservation.

Properties Being Acquired Using Other Funding Sources

There are numerous properties that the County has acquired or will review for acquisition using funding sources other than Legacy Open Space that may otherwise have been candidates for inclusion in the Legacy Open Space Functional Master Plan as Class I resources. Examples of such properties include those in the Paint Branch area that have and would be purchased to protect natural resources. These purchases are equally significant as those identified in this Plan and have the same status as Class I resources in this Plan. Should other funding for these resources become unavailable, M-NCPPC should use Legacy Open Space funds to pay for such exceptional ongoing acquisition or protection efforts. No master plan amendment or additional study approvals would be required for M-NCPPC to pursue acquisition or use reservation authority for Paint Branch properties.

XII. PROCESS FOR ADDING NEW PROPERTIES OR CHANGING CLASSIFICATION FOR EXISTING LEGACY PROPERTIES

The Legacy Open Space Functional Master Plan provides guidance for a dynamic program, which will constantly adapt to new information and new directions as set by the Planning Board and County Council. The sites identified in this document represent the inventories and analyses completed to date with significant public participation. Input from a broad range of interest groups will be considered along with staff recommendations when making further site selections.

As the program matures, new sites may emerge as environmental, historic preservation and other inventories are completed and updated over time. In addition, new master plans, offers from landowners, suggestions from citizens, and new needs identified by advisory and decision-making bodies will present new opportunities for the program.

Proposals to include new sites in the program or to move an existing Legacy site to a higher level of protection may be submitted at any time provided that they appear to meet Legacy criteria. (To avoid the time associated with the review of a large number of applications for sites that do not meet Legacy criteria, the Park and Planning Department Staff will make an initial assessment at the time of application. Program Staff will discourage applications to purchase vacant lots that do not meet Legacy criteria.) Individuals, agencies or groups wishing to have sites evaluated will submit a standard application locating the property and explaining how it meets the Legacy Open Space criteria.

Staff will screen and evaluate all suggestions according to the Legacy criteria prior to recommending changes to the Planning Board and/or County Council. Recommended changes to the program will be one of two types:

A. New properties that are recommended for addition to the program as Class II sites or existing Class III properties that are recommended for being moved to Class II may be added to the Legacy Open Space program by approval of the Planning Board. Changes to the program of this type will not add the use of the reservation power over affected properties. The County Council will have general review over these changes to the program through the CIP review process.

B. New properties that are recommended for addition to the program as Class I sites or existing Class II or III properties that are recommended for being moved to Class I will require approval of both the Planning Board and the County Council with the exception of Paint Branch Properties which are addressed elsewhere in this Plan. These changes to the program involve adding the potential use of reservation on affected properties. The review of proposed new Class I properties by both entities will provide a fuller

opportunity for public notice and comment and thorough discussion in front of the Planning Board and County Council prior to approval of the study recommendations.

The Park and Planning Department will notify property owners when their properties are being considered for inclusion into the Legacy Open Space program or for a change of status within the Legacy program.

In the spring of every odd-numbered year starting in FY01, a special effort will be made to encourage identification of new sites (see diagram below showing the Priority-Setting Process). In addition, staff will conduct further evaluation of existing Class III sites to determine if they should be upgraded to Class II or I sites or removed from the Plan. By the fall, staff will assemble all suggestions and screen all new sites according to the Legacy criteria, assessing risks and opportunities associated with the sites. Based on this screening and evaluation process, a determination will be made whether any Class II recommendations need to be presented to the Planning Board and whether any Class I recommendations need to be presented to the Planning Board and County Council. In addition, such a study process may be initiated by staff on an ad hoc basis to address significant properties where timing is critical.

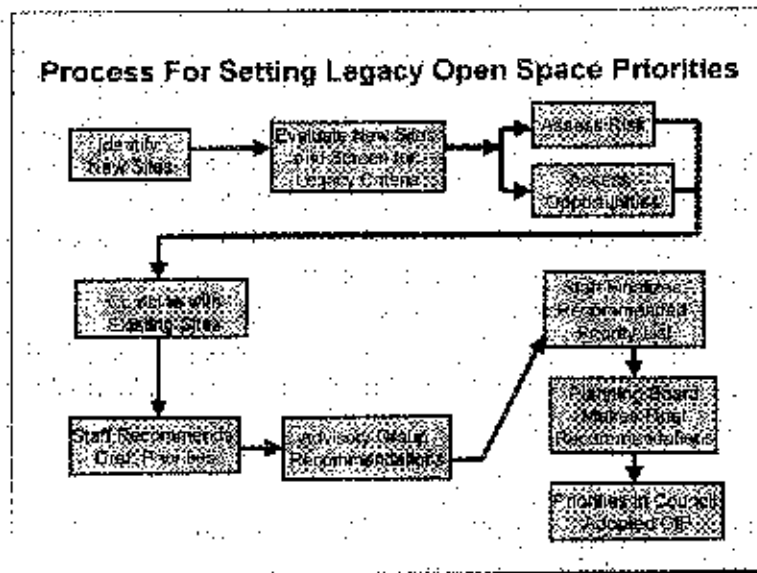
XIII. PROCESS FOR SETTING CAPITAL IMPROVEMENT PROGRAM PRIORITIES FOR LEGACY OPEN SPACE

Legacy Open Space Capital Improvement Program priorities and the order of protection will depend upon the threat to the resources on the sites and opportunities presented by funding sources, willing sellers and other factors.

In the first year following the adoption of the plan, the staff of Legacy Open Space along with the Legacy Open Space Advisory Group and the advice of the public will develop a systematic rating system for the six resource categories that are included in the Master Plan to assist in setting priorities. The staff will make recommendations for the rating system to the Planning Board for approval prior to setting priorities for the FY03-08 Capital Improvement Program Legacy funds. Any rating system prepared will retain sufficient flexibility to allow timely protection of sites based on opportunities and threats described below.

Based on the results of the rating system, staff will prepare an initial ranking of all sites into high, medium and low priority, with recommended priorities for the following two fiscal years. Priorities will be established for all six open space elements. These priorities will be based, in part, on relative threats and opportunities. Threats include the likelihood of imminent development and existing use of the site that jeopardizes the resource to be protected. Opportunities include special funding sources targeted to a specific resource or type of resource, partial

donations requiring a funding match, stewardship contributions or sales of properties that present an opportunity for a substantially reduced cost. Sites that meet criteria for more than one resource category will be considered as higher priorities. Staff recommendations will include at least one project for each open space resource category.



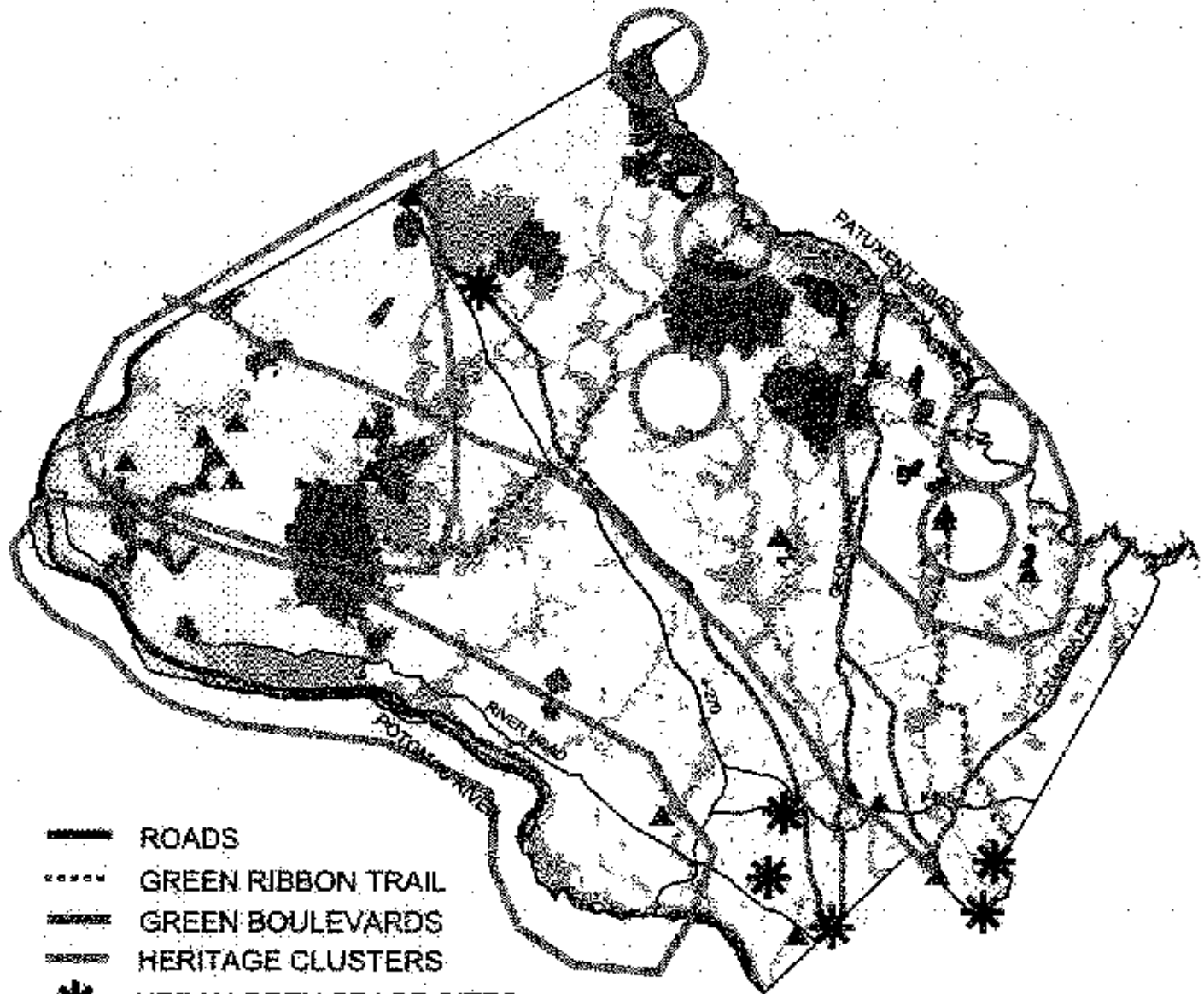
A meeting of the Legacy Open Space Advisory Group in the fall will highlight additional funding opportunities and targets for donations, and then the Advisory Group will make comments on the staff recommendations. The staff will then finalize the recommendations for Planning Board review every other year prior to drafting the Capital Improvement Program. With input from the Planning Board, a Project Description Form (PDF) will be prepared for the Capital Improvement Program. The Capital Improvement Program has its own public participation process to allow additional comment from the general public, parks and recreation advisory groups, and other interested parties.














In addition to setting CIP priorities, this priority list will be used to focus county efforts for pursuing federal, state and private funding sources for open space protection.

XIV. OVERVIEW OF LAND PROTECTION RECOMMENDATIONS

Using the six resource categories, specific sites or areas were identified that meet the criteria for Legacy Open Space (see map on page 30). The following chapter describes each resource category in detail and lists the sites that are recommended for protection. In some categories, general areas are targeted and specific criteria given for selection of sites within those areas. This is especially the case in the Water Supply and Farmland Protection categories where a fairly large number of landowners will be asked to consider voluntarily establishing easements or selling Transferable Development Rights.

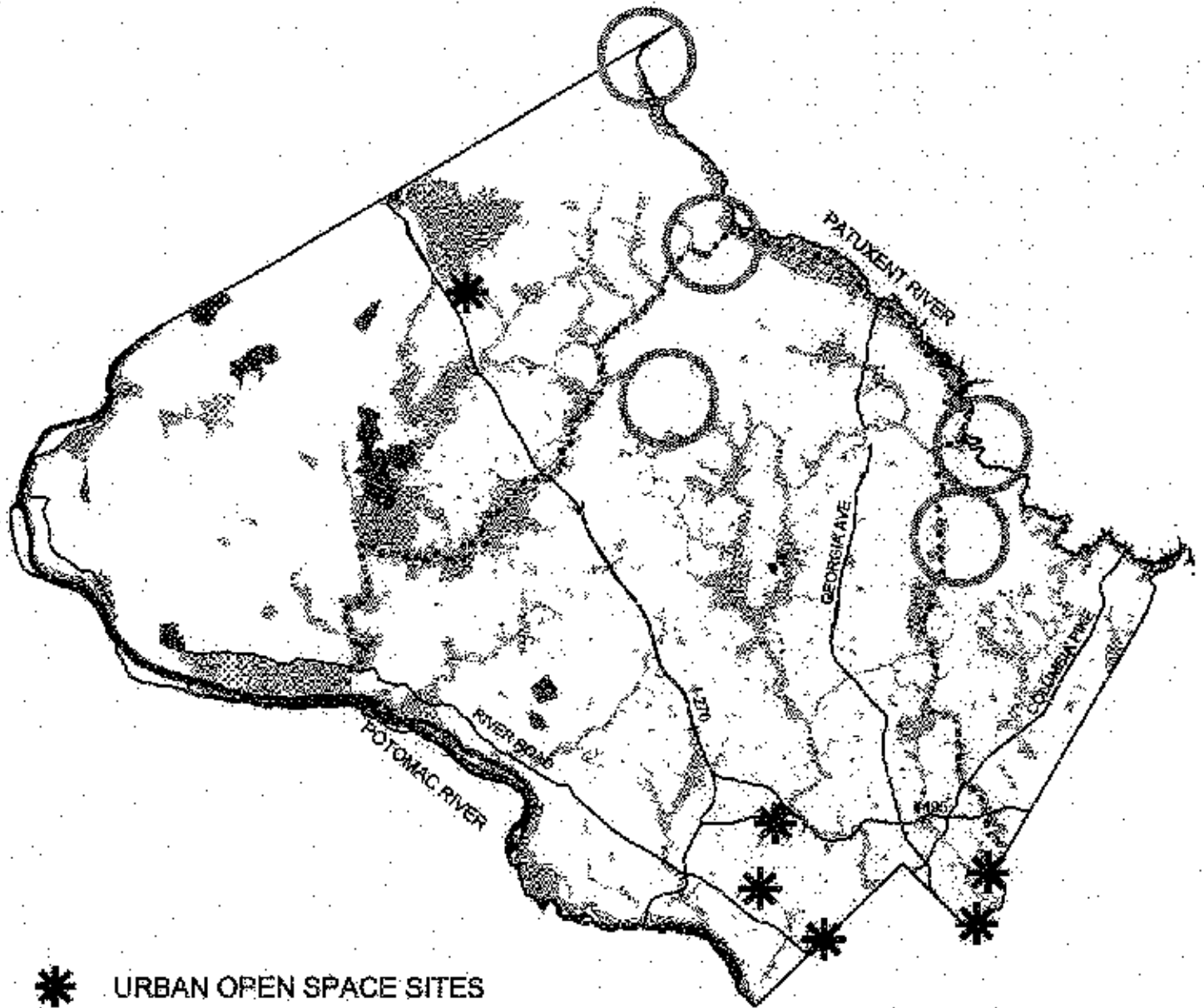
LAND PROTECTION RECOMMENDATIONS*










-  ROADS
-  GREEN RIBBON TRAIL
-  GREEN BOULEVARDS
-  HERITAGE CLUSTERS
-  URBAN OPEN SPACE SITES
-  HERITAGE RESOURCE SITES
-  WATER
-  PARKLAND
-  NATURAL RESOURCES SITES
-  FARMLAND & RURAL OPEN SPACE TARGET AREAS
-  WATER SUPPLY PROTECTION PROPERTIES (EXAMPLES)
-  EXISTING EASEMENTS & TDRS
-  GREENWAY PRIORITY AREAS

* INCLUDES CLASS I AND II. (SEE TEXT PAGE 21)

CLASS I SITES WITH RESERVATION OPTION



-  URBAN OPEN SPACE SITES
-  ROADS
-  WATER
-  PARKLAND
-  NATURAL RESOURCES SITES
-  GREENWAY PRIORITY AREAS
-  GREEN RIBBON TRAIL