

# Agricultural land retention: The Massachusetts' experience

By Tim Storrow and Frederic Winthrop, Jr.

**P**ROTECTION of important natural resources, such as agricultural land, is a complex task in our society. The balance between competing land uses is delicate, and for those who must make decisions, the choices are not easy. On one hand, there is the need for economic development, such as jobs, housing, roads, and sewers. On the other hand is the necessity for maintaining agricultural land capable of producing food and fiber for an infinite period under proper management. In addition to these direct agricultural production benefits is the maintenance of a diverse landscape, including open fields, woodlands, as well as wildlife habitat and the protection of watersheds and aquifers. All of these attributes are of direct social value. Rarely can they be replaced once agricultural land is converted to nonagricultural uses.

It is the finality of agricultural land conversion that makes the decision about which agricultural land to protect so difficult. Any particular preservation effort will never protect all farmland. This is true even in small states, such as Massachusetts, where less than five percent of the land area is improved agricultural land. Only through a careful weighing of choices

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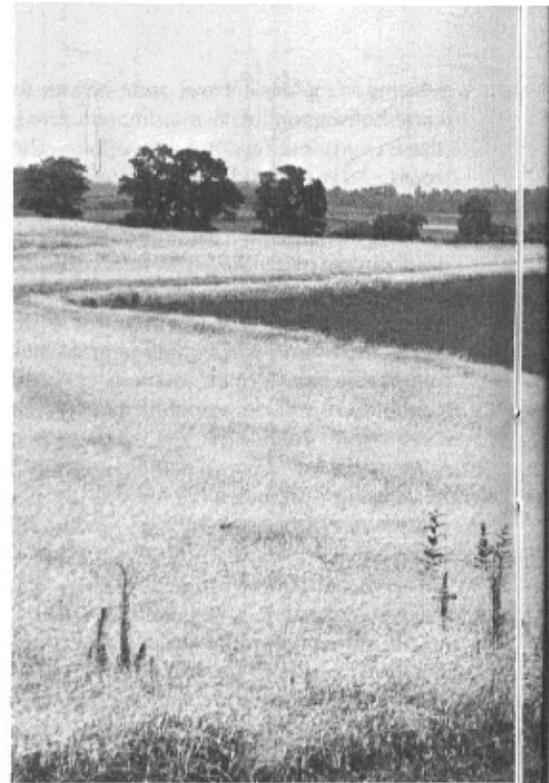
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should a decision be made to protect or not protect a tract of productive agricultural land.

## The Massachusetts program

Massachusetts is fortunate to have a program through which to preserve agricultural land once and for all. The state's Agricultural Preservation Restriction (APR) Program is based on the purchase of development rights. It is a voluntary program. A farmland owner applies to the Department of Food and Agriculture to sell his development right, which is a severable property right much like a mineral right or water right. After field inspection, a screening and selection process, appraisal, and agreement with the owner, the Commonwealth pays the landowner the difference between the land's fair market value and its agricultural value. In return, a deed restriction is recorded that runs with the land, in perpetuity. The restriction prohibits all activities that are detrimental to the present or potential agricultural use of the land. Title to the land still rests with the landowner, who enjoys all the traditional rights of property ownership, such as the right to privacy, to lease or sell the land, to devise it to his or her heirs, and of course, to farm the land.

The APR Program became law in December 1977. The first acquisition of a development right took place in March 1980. Since 1980, 102 farm properties have been protected, totalling more than 9,700 acres.



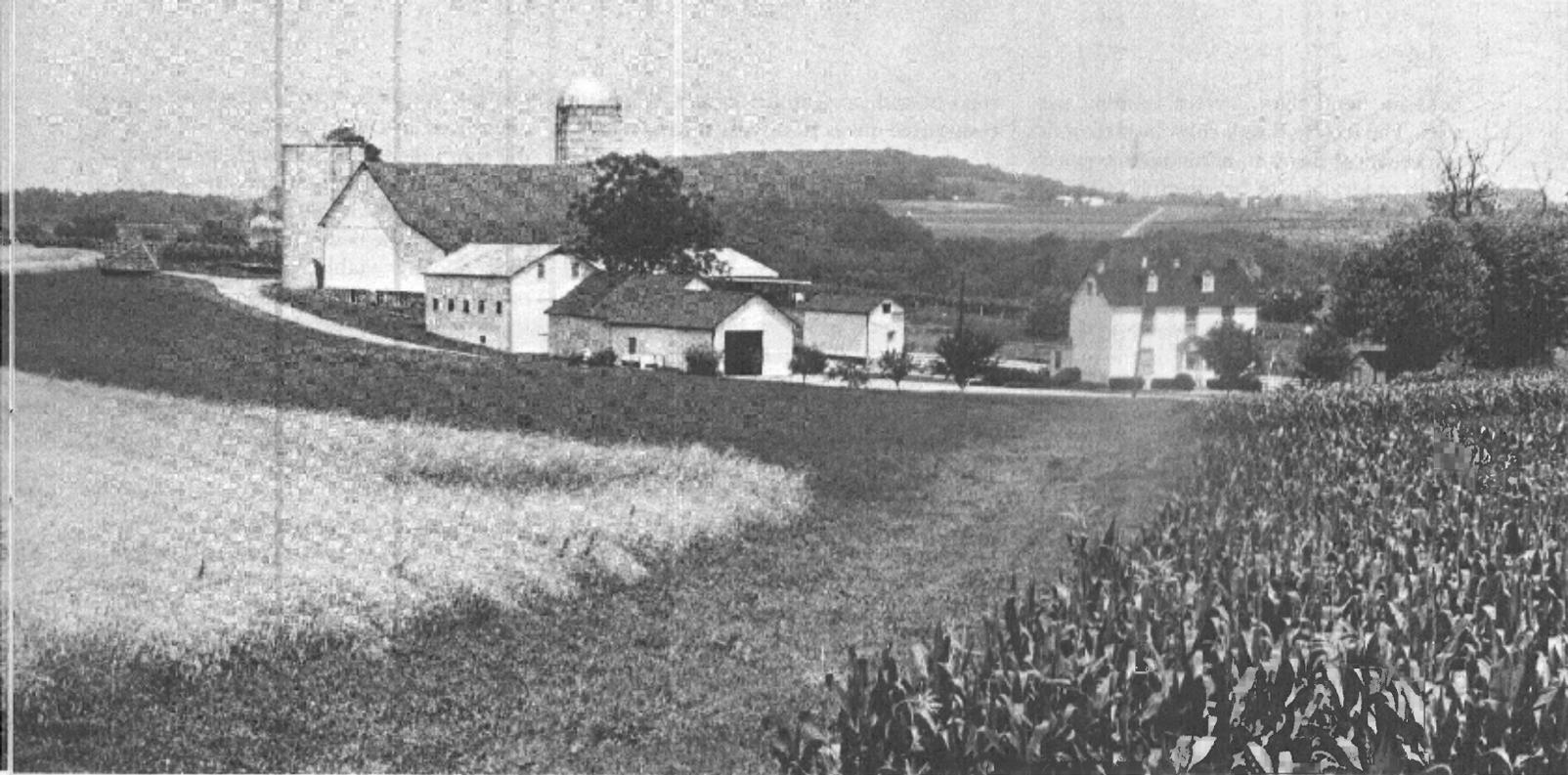
The program is ongoing. It receives funding through bond authorization by the legislature. To date, \$40 million have been appropriated. At this funding level, the Commonwealth can protect about 25,000 acres of land.

The program has been popular. More than 350 farmers and landowners have made application. Only one of three applicants is successful, however. Each application receives vigorous examination, and not all properties are deemed in need of immediate preservation.

## Which land to preserve?

Decisions on what properties are selected for participation in the APR Program rest with a nine-member Agricultural Land Preservation Committee. The committee, established by the 1977 legislation, includes the commissioner of the Department of Food and Agriculture, who is chairman; the secretary of environmental affairs; the secretary of communities and development; the chairman of the state's Board of Food and Agriculture; and four public members appointed by the governor, two of whom must be farmers. The state conservationist for the U.S. Department of Agriculture's Soil Conservation Service and the dean of the University of Massachusetts College of Food and Natural Resources are nonvoting members of the committee and serve as technical advisors.

Two individuals within the department of Food and Agriculture's Division of Land



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Use administer the program on a daily basis. These individuals conduct all field work and evaluate each application. Appraisal and legal work is handled by consultants.

The committee's decisions are guided by four criteria set forth in the enabling legislation and ensuing regulations. The criteria, in order of significance, are (1) quality of the soils for agricultural production; (2) degree of threat facing the farm; (3) significance of the farm to the state's agriculture; and (4) environmental and community planning objectives.

When a landowner makes application to the state, a portion of the application must be completed by the municipality where the land is located. All cities and towns are encouraged to participate actively. Their portion of the application queries them on how protection of the farm fits in with their planning objectives, zoning, and community development goals. The committee, while sensitive to local comments, is not bound to act upon a municipality's recommendations. In 95 percent of all cases a municipality's comments are favorable toward farmland preservation.

### Soil information needs

All four criteria require the gathering and interpretation of information for each property under consideration. In submitting an application, landowners are instructed to include a plan of his or her property outlined on a U.S. Geological

Survey topographic map. They must also submit a soils map of their property. The soils map must include a breakdown of the acreage of land in land capability classes I, II, III, and IV. This information is readily available from the conservation district office. A cooperative agreement between the Department of Food and Agriculture and the state conservationist ensures that APR applicants receive this information in timely fashion. Soils information, once received, is checked in the field. When questions arise about the suitability of a soil type for agricultural production, a soil scientist is consulted. A majority of a farm's acreage must be in land capability classes I through IV for the farm to be a serious candidate for preservation.

### Assessing the threat

Assessing the degree of threat facing a farm's conversion to nonagricultural uses is a task that requires careful judgement. Degree of threat has two aspects: (1) personal circumstances surrounding ownership, such as financial stress, age and health of owner, family problems, and so on and (2) physical characteristics of the land in terms of its development potential, such as amount of road frontage; suitability of soils to support on-site sewage disposal systems; availability of water, sewer, and utilities; building demand for the area; and local attitudes toward development.

An interview or interviews with the landowner is essential to ascertain the per-

sonal circumstances surrounding the individual's decision to submit an agricultural preservation application. In many cases, the prospect of retirement and the necessity to "cash in" on the land is the most important reason for submitting an application. Estate settlement and the division of assets among heirs can be another motivating factor. Financial problems, such as fire or dairy cow brucellosis and crop failure, can also place a farm in jeopardy.

In other cases, the personal problems of the owner may not be so immediate, but the land may be valuable from a development standpoint and the temptation to sell too hard to resist. Many farmers have sold house lots or parcels of land to pay back taxes or put children through college, even though they hated to do so. In other cases, the character of a neighborhood has changed and local attitudes are so pro-development that an individual may decide to sell and move to another area.

Often, there is not just one reason why a farm is threatened but a combination of personal circumstances, along with the land's situational characteristics. This information must be gathered in the course of field work. There is no other substitute. Interviews with owners, neighbors, and local officials are necessary, and the information must be recorded in field reports. Most often the details of such an investigation are carried in the heads of the staff who must sort it out.

The APR Program has become extremely competitive. There are more applica-

tions on hand than current funding permits. The feeling thus is that the state must protect those farms in immediate jeopardy if the program is to be effective. Clearly, some farms are threatened; others are not. But many farms cannot be easily placed in these two categories. A farm does not have to be on the real estate market to be immediately threatened. If there is a strong probability that once placed on the market a farm would pass to nonfarmers, then it is threatened. Also, if building demand is sufficiently high in an area, a farm is immediately threatened.

### Agricultural significance

The third criterion, a farm's significance to the state's agriculture, is another way of asking, "How significant is the agricultural resource of this property and how does it relate to other farms in the area?" A parcel's economic viability for agriculture relates to this criterion as well.

Because agriculture is scattered throughout the state, the APR Program is statewide. No particular region in the state has been targeted for farmland preservation. Each parcel of land before the Agricultural Lands Preservation Committee must bear some relationship to the farming activities in the area, however; and only after careful consideration is the committee interested in protecting an isolated farm. The farm must be large enough to stand on its own as an economically viable unit and it must be significant in terms of its production and an asset to the local community or region. There is concern about the prospect of protecting an individual property, only to have it fail agriculturally and become an island of restricted land beyond the mainstream of the agricultural economy.

Accordingly, the attempt now is to build on those farms already protected by adding other land nearby. This will preserve the overall viability of the farming area. Protected land can be in different ownership, but it must contribute to the area's farming integrity.

Parcel size is not necessarily a critical factor. For example, a seven-acre field has been protected. But this field was a natural add-on to a large dairy farm that came to depend upon the field's production. If developed into houselots, the field would have detracted from a larger farm and degraded the quality of the area for farming. Protecting that small field had significance far greater than its size alone.

Again, this kind of information is gathered through field inspection. It may come to light in the application as well. Such details are recorded in the field

reports and presented by staff when the committee meets to discuss the selections.

### Community planning

There are many collateral benefits in protecting a farm beyond its agricultural production capabilities. The most important of these in Massachusetts are scenic open space and watershed protection. In many cases, communities identify with these benefits more readily, and they can be important locally. It is rare for a large farm in the state not to have important environmental attributes, and these attributes have long been identified by the community in their open space or growth policy plans.

As mentioned, when a landowner submits an APR application to the state, a portion must be completed by the municipality where the land is located. This task is usually handled by the town's Conservation Commission, but often the Planning Board and Board of Selectmen get into the act. Here the community has an opportunity to comment on the application. Often, important environmental attributes of a farm are brought to light. For example, in some cases the Conservation Commission has had a policy of acquiring land or easements along a particular brook or pond, and the farm in question is partly comprised of wetlands that border the stream. Protection of the farm is thus important to the protection of the stream, a resource of importance to the community.

The APR Program's primary goal, however, is the protection of productive farmland. Therefore, if a particular APR application is comprised of five acres of tillable land and 60 acres of woods and wetland, a favorable determination by the committee is not likely. In these cases the landowner and community are encouraged to seek other means of protecting the resource.

### Hard decisions

Typically, the Agricultural Lands Preservation Committee meets once a month. Through the use of maps, photographs, and a summary sheet, the staff presents and discusses each farm in terms of acreage, location, soils, jeopardy, significance to the area, and municipal comments. Sometimes one or more of the committee members are familiar with the farm in question. At other times, when a particularly difficult decision needs to be made, members of the committee visit the farm. All in all, each application gets a complete evaluation. A motion is then made for a specific course of action. The entire process

is open. Applicants and citizens not infrequently sit in on the meetings.

From time to time there are particularly hard decisions. For example, the soils on a farm might be suitable for agriculture, but they are not the best. Or the farm might be economically viable, but perhaps only marginally so. Nevertheless, the farm is threatened and located in an important agricultural area. When the committee and staff are just not sure what should be the proper course of action, a field team of representatives from the Food and Agriculture Department, Soil Conservation Service, and Extension Service visit the farm to make another evaluation of the property using the APR criteria. This follow-up analysis by these agricultural experts generally provides the committee with the information and recommendations necessary for an informed decision, even if the choice is a tough one.

The committee does not use a point system for rating individual properties. There is a rating sheet, but each category receives a high, medium, or low rating instead of a numerical designation.

There are several good reasons for *not* using a numerical rating system. Some people claim that such a system protects against subjective decisions and is less "political" and more "scientific." Allocation of points can be subjective, however. For example, how does one tell a farmer that his or her property scored only 48 when 50 is needed to be selected. Is his or her farm any more or less in need of protection than one that scored 52? Obviously, the decision is a matter of judgement. The allocation of points does not necessarily protect against favoritism. Whoever allocates the points can always put down a higher point in each category if they favor a particular farm. Some people say a computer is necessary to do the job, but a computer is not always a substitute for good judgement.

Despite hundreds of decisions to date, the committee has never been taken to court or even threatened with a law suit. This is probably a result of the high degree of personal contact made with the landowner. If a landowner is unhappy with the decision made on his or her property, he or she can appeal to the committee for reconsideration and present new facts. But only once has the committee overturned a prior decision.

An old proverb contends, "The best fertilizer is a farmer's footsteps." This proverb no doubt holds true on decisions about farmland protection, but perhaps it should be reworded: "The best farmland protection decisions are made by those who leave their footsteps on the farm." □