

"Federation Corner" column  
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### **Time to stop Child Lot abuses in the Agricultural Reserve**

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After Montgomery County created its Agricultural Reserve in 1980, it allowed a provision for the children of farmers to be able to build their own houses on the family farm despite zoning restrictions. What started out as a common sense solution to allow farm families to better continue farming has been manipulated into becoming a policy for some farm families, and even non-farmers, to more easily harvest the crop known as land development. If the goal of our policies in the Agricultural Reserve is to remove all obstacles to agricultural use and to erect every possible reasonable obstacle to other uses, then much work needs to be done to close the loopholes in the Child Lot Provisions. The county is looking at ways to stop the abuse of this policy, but it is being very timid in its approach.

For starters, the PLU Committee believes that the only children of farmers who should be allowed to build a home on a child lot are those children who actually farm, if not for a living, then who spend most of their free time farming, using evenings and weekends when they aren't working the full-time, off-the-farm job that has been an important, stable source of income to generations of farmers. These children need to provide proof of such a commitment to agriculture. Other children who aren't involved in agriculture should not be allowed to build on child lots. It has been recommended that a house on a child lot should remain so for five years before it can be sold to anyone else. This generation of farmers, as committed as they are supposed to be to farming, should be required to keep their child lot in their family for 30 years, the same length of time that an owner of a Moderately Priced Dwelling Unit (MPDU) must do so. The child lot provision cannot be undermined by the same type of incremental impact that has turned our nationally-renowned (until very recently) MPDU law into a joke. Creating 11,000 MPDUs for 5 or 10 or 20 years has meant that eventually you don't have any of them, unless others have voluntarily chosen to save them. Creating hundreds of child lots with 5 year holding periods means you eventually don't have any of them, unless others voluntarily choose to save them. The more people who live in the RDT zone who don't earn some or all of their livelihood from agriculture, the more it becomes just another suburban zone.

There must be a web of enforceable regulations to ensure that these "children" do not hide behind their agricultural heritage as a way to make lots of money as land developers. Any farm family who has lived on and worked the land for decades or centuries, whose future plans include subdividing their property to make the big money, undermine our county's agricultural society and threaten its future viability. We must create additional programs that enable them to further extract an equitable enough amount of the development rights to sell to others to maintain these farms while denying them the back door enrichment that child lots provide.

We must simultaneously work to make it easier for farmers to make money from farming while making it harder to make money from development. Being required to keep a child lot in a farm family for 30 years is only a burden to those who do not plan on farming in this and future generations. Only the greatest hardships caused by a death without heirs or a foreclosure because there are no other assets should allow someone a release from this generous opportunity that has subsequently become an insurmountable burden.

There should be a requirement, running with the land, which the county must sign a release from this 30-year obligation to allow a child lot to be sold out of the family. An alternative approach would be to require that the child lot must be held for 10 years. If it were then sold at any time after that, up until 30 years,

any profits above the rate of inflation for the cost to build the original house on the child lot would have to be given to the county to use for agricultural preservation programs. This approach has similarities to the holding period for MPDUs by removing most of the incentives for selling before the control period is up. It's harder to spend money to build a house to make a quick profit if one has to wait 30 years to do so.

If we do not return this provision to its commonsense and necessary nature, then we are merely tweaking a policy that guarantees the loss of agricultural lands in the near future. The best proposed reform provision is the one that stops the creation of any more child lots in 2011. However, we would not want to see a flood of such applications late in 2010 because that might be a concerted effort to game the system one last time. The Planning and Land Use Committee asks that MCCF support our stronger recommendations to end child lot abuse in the Agricultural Reserve.