Considerations for Acquiring a Farm:

Selecting the Best Farm Property

Ben Beale, Extension Educator, University of Maryland Extension
Greg Bowen, Southern Maryland Agriculture Development Commission
Paul Goeringer, Research Associate, Center for Agricultural and Natural Resource Policy

Introduction

A successful farm operation requires thoughtful property selection, whether you are leasing or purchasing land. When looking at properties, you need to consider how the property will support the goals in your business plan. Will the farm be productive? Will the location and regulatory environment fit into your marketing strategies, or can you adjust your strategies to suit your income needs? Is the price of the farm reasonable and realistic given your financial goals? Are there any zoning, covenant, easement, or plat restrictions that might prevent you from producing or selling what you want, where you want?

Maryland farmers are fortunate to have strong regional market opportunities and many farms contain soil types that will grow a wide variety of crops. However, as it has the fifth highest population density of any state in the nation and is bifurcated by the Chesapeake Bay and its tributaries, Maryland has greater need to regulate land use for the health, safety, and welfare of its citizens than other rural states. Much of the land currently in agriculture is available because of zoning, covenants, easements, or plat restrictions that limit its conversion to non-agricultural uses. However, those land preservation techniques may also include unwelcome restrictions that can limit your success.

Evaluating Farm Soils:

- **Evaluating Farm Soils.** Experienced farmers often provide one piece of advice to those looking for farmland: *Shop with a shovel.* In other words, be sure to fully investigate the inherent characteristics of the soil before you buy. Soil characteristics, such as texture, drainage, depth to water table, or depth to restrictive layer can vary greatly across a region, county or even the same field. In general, prime farm land contains deep, well drained soils without restrictive features such as steep slopes. How do you find out about the soils on a particular farm? USDA provides on-line soils mapping data that describes the type and features of soils by exact location in Maryland. NRCS developed a website, titled the Web Soil Survey where you can determine soil classification, ratings, and suitability for your type of farming operation as long as you know the approximate boundaries of the farm. You may want to start with the tutorial or you can go straight to the
USDA Web Soil Survey if you are familiar with basic web mapping tools and understand soils nomenclature. Unless the farm is irrigated, you will want to view the “non-irrigated capability class” under Land Classifications. Lastly, talk to farmers that are familiar with the farm, ask the opinion of Soil Conservation or Extension staff, and of course don’t forget to take your shovel when you visit a property.

- **Web Soil Survey**
  - Tutorial [http://www.smadc.com/farmRESOR/tut_soilsinfo.htm](http://www.smadc.com/farmRESOR/tut_soilsinfo.htm)
  - [Web Soil Survey](http://websoilsurvey.nrcs.usda.gov/app/HomePage.htm)

- **Testing your soil.** Soil testing provides a snapshot of the fertility level of the soil, including levels such as pH, Phosphorous, Potassium, Calcium, Magnesium, and the micro-nutrients. When selecting a farm, soil fertility is not as important as the inherent soil properties such as drainage or soil type because soil fertility can be improved over time. Poor fertility can be improved over time (2-3 years) with the addition of organic matter, manures, fertilizer, lime and other amendments. Soils will lower fertility values will require a larger upfront investment in lime and other nutrients, however these costs are minor in comparison to correcting drainage or erosion issues. Soil fertility levels are more important consideration if leasing farmland for a shorter period of time, due to the shorter payback window. In Maryland, regulations limit the amount of manure, fertilizer, or other amendments containing phosphorous that can be applied to soils with excessive Phosphorous fertility levels. This restriction should be a consideration for organic farmers who may not be able to use non-P bearing materials for Nitrogen sources and/or livestock farmers who need land for manure application.

- **Soil structure.** Soil structure or how well the soil particles are held together is another component of soil quality, that needs evaluated. A friable, porous soil which good organic matter and microbial activity will support plant life much better than a compacted soil with poor structure. Soil structure can be improved over time with good management and addition of organic matter.

**Finding General Information about a Property:** There are multiple avenues available for researching general information regarding farms. 20 years ago, this information could only be obtained by visiting the courthouse or state record offices. In today’s information age, a tremendous amount of information is available online through the internet. The obvious place to start is the landowner offering the property for sale. Realtors can also help to provide information.

- **Reviewing Property Assessment Data.** Maryland offers a free Real Property Search database where you can search for land parcels using either an address, account ID number, map/parcel number or by sales date. You can obtain records such as the tax assessed value of the property, prior property sales data, deed reference, map/parcel number, account ID, legal description, use classification, and name and address of the current owner. The Real Property database is often a good place to start to find information on the property before moving to other databases. The website can be found here: [http://sdat.resiusa.org/RealProperty/Pages/default.aspx](http://sdat.resiusa.org/RealProperty/Pages/default.aspx)

- **Reviewing the Deed and Plat.** Maryland offers access to all verified land record
instruments through MDLandRec.Net, a digital image retrieval system for land records in Maryland. This service is currently being provided at no charge to individuals who apply for a user name and password. After obtaining a user name and password you can search by county for land records based on last name or by deed reference number. Note that not all properties have recorded plats. All properties should have a recorded deed however. The site is available here: http://mdlandrec.net/main/index.cfm

**Using GIS Mapping Software.** There are numerous online mapping tools that can be useful for garnering more information about the history, location, topography, surrounding farms, building locations, and more. Many county governments use GIS mapping systems as part of their planning and zoning information systems. Check the individual county government website to see if your county offers this service. Other free public mapping software, such as Google Earth or ArcGis can be used to visualize aerial photographs of the property. These sites also have measuring software for determining approximate acreages of farm fields, proximity to water, and historical imagery. For example, you can use Google Earth to toggle between historical imagery and visualize changes in land use over time.

- www.earth.google.com/
- www.arcgis.com/ (click on MAP at top of page to avoid trial fee)

**Identifying Land Use Restrictions:**

Most open farmland in Maryland can be used for commodity crops. However, before signing a lease or purchasing a property, it is best to be safe and determine if there are any zoning, covenant, easement, or plat restrictions, particularly if you are considering direct farm sales or value-added sales (e.g. wineries, creamerries, etc.), or agri-tourism (e.g. corn mazes, on-farm weddings, etc.). Restrictions may be found in many places:

- **Zoning ordinances.** Nearly every county in the country as a zoning ordinance and everyone is different. However, most counties use similar zoning terminology and most in Maryland are available on-line, along with the zoning maps which define where the ordinances apply. A zoning tutorial is available on-line, along with links to county plans, ordinances and maps at: http://www.smadc.com/farmRESOR/tut_zoning.html
- **Covenants.** A covenant running with the land is a written agreement, usually recorded in land records, that applies conditions to the use of property. To be fairly certain as to whether or not there are covenants on a property, you will need to consult with your attorney about obtaining a title search. However, you can do some initial research on your own by:
  - Asking the owner or owner’s agent if there are covenants. If you are leasing, not purchasing, your quest for information might stop there. However, you might want to note the response in a lease agreement.
  - Going to Maryland AgPrint: http://agprint.maryland.gov/ to see if the state maps indicate that the property is preserved by some form of covenant.
Reading through the deed, you might find special covenants or conditions that apply to the land. This is by no means a failsafe method. The covenant may have been recorded after the deed was recorded or the attorney may not have mentioned the covenant specifically in the deed. However, the deed may contain some information that you may want to learn early in the property selection process.

**Easements.** People often think of an easement as a right of access over another's property, which in fact is something that you should watch out for (see plat restrictions below). Another definition of an easement is the same as a covenant running with the land. It is a written agreement which applies conditions to the use of property. To determine if there is an easement on the property you wish to lease or purchase, use the process outlined in “Covenants” above to see if there may be an easement on the property. And be sure to talk to your attorney about a title search before purchasing a property.

**Plat restrictions:** If a property has been divided in the last 50 years or so, there may be a plat recorded in the land records. Those plats may contain notes or conditions that are binding upon future owners of the property. Plat notes may indicate where access to the property is restricted, whether or not the property may be further divided, where a storm water easement crosses a farm, and so on. Plat conditions may describe permit requirements, land clearing limitations, forest buffers from streams, etc.

**Using a Title Search to Determine the Interest Being Purchased:** As mentioned previously, a title search is an essential step before purchasing a property to ensure the title to the property is “free and clear”. This is not a step you will be able to skip or adequately complete on your own. You need someone who is familiar with the title search process title and can determine what easements or other restrictions could exist on the property. For example, you should know if the neighbor has an easement to use the property you are considering buying to access his/her property; or whether a conservation easement exists which could limit how you can utilize the property. Never take the seller’s word as to what restrictions exist. A good title attorney will search the chain of title (all the deeds, easements, and other restrictions that would have been granted by previous owners) back to the original grant to the first owner. A good title attorney will also be able to tell you if the current owner owns the mineral estate or if a previous owner has retained ownership. The title search will help you fully understand the interest in the property being considered. Your real estate agent or your lender will typically be able to recommend a good title opinion attorney.

**Federal, State or Local Conservation Agreements.** Farms will often have existing conservation agreements or contracts that were implemented prior to the farm being offered for sale. These agreements relate to conservation practices installed on the farm using cost share funds, such as grass buffers, grass waterways, manure storage structures, or fencing. For example, the owner of a farm for sale may have entered into an agreement to place acreage in the USDA Conservation Reserve Program (CRP). In return for converting the land into the CRP program, the farm owner receives financial compensation each year. These contracts or agreements
are binding and often stretch over a period of 10-15 years. As a new farm buyer, you should take steps to learn of any existing conservation agreements that may be in place. There are several options for dealing with these contracts, depending upon the type of contract, which agency is responsible for the contract and whether you wish to keep or cancel the agreement. Be sure to ask if there are any existing conservation contracts on the property. For further information check with the USDA Farm Service Agency or Natural Resource Conservation Service (NRCS) for federal programs, the Maryland Agricultural Cost Share (MACS) for state programs, and the local Soil Conservation District for local programs.

**Lease or Purchase?**

Many beginning farmers lack the financial resources to buy land or they would rather invest in their farm business rather than tying up all their capital on land purchase. Land leasing is a viable option in Maryland. The majority of farmland is leased on a year-to-year basis for grain or forage production. A disadvantage of leasing is that it is difficult to secure leases long enough to be comfortable making major improvements to a farm. If you know what your long term business plan is and you can find a property that fulfills the needs, then land purchase may be the best option.

- **Information on Leasing Options**
  - Leasing Document: https://extension.umd.edu/grainmarketing/lease-agreements
  - Cash Rental Rates: https://extension.umd.edu/sites/default/files/_images/programs/grainmarketing/Maryland%20Cash%20Rental%20Rates%20Updated%20to%202014.pdf

- **Land Purchase Options.** Many states have established land link websites to connect those who want to sell or lease farmland with those who want to buy or lease. In Maryland,
  - Farm Link Website: http://www.marylandfarmlink.com/

- **Loan options for land or infrastructure purchase:** Resources are available at the federal and state levels, including:
  - Farm Credit (Congress established the Farm Credit System in 1916 to provide a reliable source of credit for the nation's farmers and ranchers): http://www.farmcreditnetwork.com/
  - Maryland Agricultural & Resource-Based Industry Development Corporation (MARBIDCO): www.marbido.org/

**Land Preservation Programs:** Land Preservation programs provide a financial incentive (normally a cash payment, though tax credits are also used) in return for the property owner giving up future development rights. While land preservation programs impose some limitations on the use of property (see covenants and easements above), they
provide an economic incentive to maintain property as farmland in Maryland. Being in a community of preserved farms provides stability and permanence. Farmers are more likely to invest in their farm enterprises if they know that neighboring farms will not be developed in the near future. And if the land has not already been preserved, land preservation programs can be used to help a farmer pay off the loan.

Maryland has some of the best local and state land preservation programs in the country. For a complete guide to land preservation options see: [http://smadc.com/farmRESOR/tut_landpres.html](http://smadc.com/farmRESOR/tut_landpres.html)

Information on specific programs can be found below:

- Rural Legacy Program: [http://www.dnr.state.md.us/land/rurallegacy/index.asp](http://www.dnr.state.md.us/land/rurallegacy/index.asp)
- Maryland Environmental Trust: [http://www.dnr.state.md.us/met/](http://www.dnr.state.md.us/met/)

**Timber Value:** When buying a property, it is always a good idea to estimate the market value of existing timber. Timber can have significant value, which will affect the overall value of the property. Consult with a public or private forester to estimate the value of the existing timber as well as when timber will be ready to harvest. Asking the current landowner when the timber was last cut and whether there is a timber management plan is also helpful.

**Neighbors:** What kind of neighbors will you have? Knowing your neighbors will give you an idea early on of the types of issues you may experience using the property. Although Maryland’s Right-to-Farm law may offer some protections to your operation, it will not stop all lawsuits that neighbors could bring. To learn more about Maryland’s Right-to-Farm law, see Goeringer and Lynch, Understanding Agricultural Liability: Maryland’s Right-to-Farm Law. Right-to-farm laws vary among counties in Maryland, to determine what is in your county’s Right-to-Farm law, see Maryland Agricultural Conflict Resolution Service’s webpage.

**Irrigation Water Potential:** Most intensive crops require some type of irrigation. Livestock require clean potable water. Water sources can include deep artesian wells, ponds, fresh water rivers and/or shallow wells. Check artesian wells for the Gallon per Minute water flow and the size pump installed. The county health department can provide information on well depth and flow rate based upon the well ID number. Ponds vary greatly in their recharge capacity and size, so ask when the pond was last used for irrigation, how deep it is and if the pond ever goes dry. Drip irrigation will require relatively clean water to prevent clogging of the sand filters and drip tape. Also ask if the well has a water appropriation permit (required if using on average over 10,000 gallons per day) if used for agricultural irrigation. In addition, GAP (Good Agricultural Practices)
certification require that water be tested routinely for factors such as total coliform, e-coli levels, and nitrate levels.

**Water Use for Food Processing:** If you are buying a farm with the intent of conducting value added processing, you will need to consider the potability of the water source. Water used in food processing activities must be able to meet strict potability standards. Public or municipal water and deep artesian well water typically will meet potability standards. Shallow dug wells, ponds and springs will typically not meet potability standards.

**Utilizing a Farm Real Estate Agent:** When you begin the search for a farm property, consider utilizing the services of a quality farm real estate agent. A good agent will be knowledgeable on what to consider when purchasing farmland, will have an idea on what to expect during the transaction, and can make the process less stressful. An agent will serve on your behalf and will often be able to catch land caveats on your behalf.

It is important to understand how a real estate agent is typically paid and who represents the buyer and seller. The Maryland Real Estate Commission (MREC) has prepared a document entitled “Understanding Whom Real Estate Agents Represent” that explains the roles of each agent in different circumstances. The document is available here: [http://www.dllr.state.md.us/license/mrec/mrecrep.shtml](http://www.dllr.state.md.us/license/mrec/mrecrep.shtml) When buying a farm property, you may engage the service of a real estate agent to help you in the process. The buyer’s agent can only prepare offers, and negotiate in the best interests of the buyer after a written agreement has been signed between the buyer and the buyer’s agent. This written agreement will contain the provisions of the agreement, including how the agent will be paid and the timeline. The buyer’s real estate agent will represent the buyer’s interest in the transaction. According to the MREC, a seller’s agent “works for the real estate company that lists and markets the property for the sellers and exclusively represents the sellers. That means that the Seller’s agent may assist the buyer in purchasing the property, but his or her duty of loyalty is only to the sellers.” In some cases, the same broker may represent the seller and the buyer, however this must be disclosed in writing and agreed to by the buyer and seller.

The seller of the property will typically pay the entire cost of the agent/broker fee. This fee is normally a percentage of the selling price of the property, and typically ranges from 5-7%. The fee is split between the buyer’s agent/broker and the seller’s agent/broker (normally equally) based upon the agreed upon terms of the contract. For example, if a property sells for $300,000, and the agreed upon fee is 6% split equally, the seller will pay a 3% fee to the buyer’s broker/agent and a 3% fee to the sellers broker/agent. While this arrangement is typical, the terms can vary widely and are governed by the agreed upon terms stated in the contract. Some buyer agents may require an administrative fee or may
stipulate a minimal guaranteed amount for their services. The fees for real estate agent services are transferred during the settlement process. In situations where the property is offered for sale by owner, without the use of a real estate company, the buyer's fee will need to be negotiated with the seller. The seller is not under any obligation to pay buyer agent's fees. In some cases, the same broker may represent the seller and the buyer, however this must be disclosed in writing and agreed to by the buyer and seller.

Finding a good farm real estate agent is not as hard as you might think. Maryland's FarmLINK has a listing of realtors who have professional training on issues related to buying and selling farmland. Realtors going through this training are given information on zoning and planning issues that impact agriculture, how to check soils on the property, how to check if the property is enrolled in a conservation easement or other conservation program, how to handle agricultural leasing issues, and how the septic law can impact agricultural properties. This listing does not currently cover all Maryland counties, but the training is ongoing and more realtors are added in additional counties as the course is completed across the state. A listing of farm realtors on Maryland's FarmLINK can be found at [http://smadc.com/farmRESOR/realtor_listing.html](http://smadc.com/farmRESOR/realtor_listing.html). Before picking a realtor, take your time to do the research to make sure that they have the skills you need when purchasing new farmland.

**Summary:** Selecting a farm property is one of the most important tasks to ensure success as a beginning farmer. Taking time to research a farm's potential productivity, land-use restrictions and capability before committing to a long-term lease or purchase will pay off in the long run.