

Appendix I: Farmland/Open Space Tools

Related Section:

Farmland/Open Space Preservation

Open Land District (Special Purpose District)

Open Land Districts (OLDs) exist in many places in the lower 48. An Open Lpace District generally is a designated area in which land is reserved for special purposes, usually preservation. Generally farmland or open land is preserved from urban development and can be an additional layer of zoning, regulations, a special taxing district, or special designation. The opportunity with an overlay district is that it could create an area the bridges both the Matanuska Borough and the City of Palmer.

Heritage area

A heritage area could provide a designation that give the area a stronger identity, make funding available, and serve as a grassroots organizing catalyst.

*References: AFT FAQ on conservation easements
http://www.farmlandinfo.org/documents/27762/ACE_1-04.pdf*

Land trust

Land trusts are non-profit organizations that negotiate conservation easement agreements with land owners. Land trusts may purchase conservation easements themselves, or they may act as trustees for donated easements. They may also help negotiate 3-party agreements in which there is both donation to a land trust and purchase of development rights by a public entity. Land trusts are highly skilled in the legal aspects of this work, and as neutral, non-

Ebey's Landing, WA; San Juan County, WA

References: Palmer Heritage Area section
Agricultural enterprise district (AED)

Private investment in agriculture is encouraged through a variety of strategies, including current-use taxation, marketing support, reduced sales or property taxes, regulatory relief, and access to capital as an alternative to selling off large lots. Cost of the program is offset by reduced demand for community services. (Residential development generates less in property-tax revenue and places higher demand on city to provide services.)

Cumberland County, NJ; Massachusetts Rural Development Council, Inc.

References: Massachusetts Rural Development Council, Inc.
web site (<http://www.mrdc.org/index.html>)

Area-based allocation zoning (ABAZ)

The number of house lots allowed is directly proportional to the farmer's total acreage. Lots have maximum size restrictions, and development may be restricted to property that is least suitable for farming. This zoning, which is less restrictive than Agricultural protection zone (see below), can be used to keep contiguous farmland intact. As a zoning strategy, this solution can only be used within Palmer's city limits only. (The borough does not have a zoning code.)



governmental, non-profit organizations they are well positioned to gain the trust of all parties in the community. The initiative in securing the services of or setting up a land trust would ideally come from a group of Palmer area residents and land owners. A land trust that already exists or is starting up like the Great Land Trust based in Anchorage could be involved, or a local land trust could be formed. National groups such as the Trust for Public Lands and the Land Trust Alliance are active in assisting the development of local land trusts.

Precedents: PCC Farmland Fund <http://www.pccnaturalmarkets.com/farmlandfund/index.html>

Other AK land trusts: <http://www.lta.org/findlandtrust/AK.htm>

Real-estate transfer tax

A one-time tax is levied on certain classes of property at the time of sale. The seller or buyer may pay the tax. The funds are used to acquire or maintain land. Funds are collected and administered through a government agency, which may not be acceptable to community. Possible administration of funds through an independent entity.

Tax can generate substantial funds for acquisition and maintenance.
Tax can inflate real estate values and slow the market.

Precedents: Trust for Public Land

http://www.tpl.org/tier3_cdl.cfm?content_item_id=1060&folder_id=825

Sales tax

Tax on sale of goods or services. The tax can be ongoing or for

specified period of time. Tax could generate funds for acquisition or maintenance of farmland. For example, a tax could be levied on agricultural items that compete with local seasonal products to provide money for conservation easements and support local farmers at the same time.

Open space bond

Given the strong support in Palmer for farmland preservation, the city of Palmer could consider passing a city bond to fund conservation easements. One feasible project is to pass a bond to protect the rural gateways along the Glenn and Palmer-Wasilla highways.

Transfer of Development Rights (TDR)

A TDR program allows potential building space to 'drift' from one parcel to another'. TDRs are comprised of 'sending areas' such as farmland and 'receiving areas' such as parcels in high density areas. TDRs accommodate both development and preservation interests. TDRs can change the way development occurs because the TDR program designates where and how much development will occur.

Traditional TDRs typically require that land for development be relatively scarce in desirable areas. Though this is not yet the case in Palmer, the Density exchange option described below is a variation of TDR that may make sense in Palmer's near future.

*References: Daniels, Tom, Deborah Bowers, *Holding Our Ground: Protecting America's Farms and Farmland*, Island Press, Covelo, CA, 1997.*

*Arendt, Randall, *Rural By Design: Maintaining Small Town Character*. APA, Chicago, IL, 1994.*

Density exchange option (DEO)

Landowners and developers work together to preserve large tracts of open space or agricultural land. Developers are rewarded for locating subdivisions in such a way that large, contiguous blocks of farmland are preserved. This option does not require the designation of development receiving districts, and it does not require the city or county government to maintain a "land bank" as with other TDRs, because arrangements are solely between buyers and sellers.

This solution could help to preserve uninterrupted tracts of farmland around Palmer without infringing on the rights of farmers to sell their land or developers to develop.

Precedent: Howard County, MD

Purchase of Development Rights/ Conservation Easements

There are a variety of mechanisms by which a land owner can sell or donate development rights on all or a portion of a property in exchange for money payment, tax savings, or both. Public purchase of development rights by the city, funded by special taxes such as a real estate transfer tax, a sales tax increment, or a bond measure with possible federal matching grants would be one approach. A land trust could also purchase development rights on properties.

If a property owner donates property or a portion thereof to a public entity or a non-profit organization such as a land trust (and this donation may include compensation, but at less than full market value), he or she is then entitled to a package of tax benefits that include a one-time charitable deduction from federal income taxes, reduction or elimination of inheritance taxes, and usually reduced local property taxation at an assessed value based on farmland use.

The term *conservation easement* is used in all these situations to describe property from which development rights have been separated. These mechanisms are highly flexible, voluntary, and based on agreement reached between the property owner and the public or non-profit entity. They can be written to provide for the continued residence and farm use by the property owner and heirs (for example, to allow the property owner's children to build on the property), and to allow for development on and sale of portions of the property. The property owner continues to own all of the property, but development rights have been extinguished on the conservation easement.

These mechanisms and funding sources are further discussed above.

Farm property tax breaks

Property taxes on farmland may be as high as 20% of net farm income in some states. The tax burden may force the sale of farms. To lessen the burden, communities like Palmer can use a variety of approaches to taxation (see below).

Differential assessment: Under Differential Assessment, farmland is valued for property tax purposes according to its current use in farming, not at its highest and best use. The difference (differential) in assessed value between the highest and best use and the agricultural use multiplied by the local tax rate determines the size of the tax break.

Shifts tax burden from owners of farmland to other property owners. State may reimburse local governments for tax revenues lost by shifting burden to property owners state-wide. Improvements to tax



breaks would be to shift property tax to income tax. Caution: Land speculators and farmers acting as speculators may take advantage of this tax break while waiting to sell or develop land.

Preferential assessment + agricultural zoning: Preferential assessment reduces the tax burden on farmers, but does not protect farmland from conversion. PA is more effective in protecting conversion of farmland when land receiving a farm use-value tax break is zoned as agricultural/farmland.

Farm property tax breaks are a public investment in private land and taxpayers require protection of their investment, which can support zoning.

Deferred taxation + land transfer tax: Deferred Taxation is a property tax based on the farmland's highest and best use and is deferred until the land is no longer used for farming.

This tax is more effective preserving farmland when paired with a Land Transfer Tax. When farmland is converted to nonfarm use, the Land Transfer Tax is applied and the tax revenue goes to a fund to buy development rights, farmland, or support other preservation strategies.

Deferred Taxation provides a tax incentive to keep farmland in production. It may have eligibility requirements ie minimum acreage, income levels, farm activity. Used alone, the penalty for paying back taxes at the highest and best use may not deter conversion.