

**Agricultural Land Protection, Annexation, and Housing
Development: An Analysis of Programs and Techniques with
Potential Use in Napa County: A Report for the Jack L.
Davies Napa Valley Agricultural Preservation Fund**



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Table of Contents

	Page
List of Figures and Tables.....	3
Acknowledgements.....	4
Executive Summary.....	5
Chapter 1: Napa County.....	16
Chapter 2: Agricultural Land Preservation.....	50
Case Study 2.1: Lancaster County, Pennsylvania.....	55
Case Study 2.2: Sonoma County, California.....	58
Case Study 2.3: Montgomery County, Maryland.....	61
Case Study 2.4: Vermont Housing and Conservation Board.....	63
Case Study 2.5: The Carroll County, Maryland Installment Purchase Agreement to Acquire a Conservation Easement.....	64
Case Study 2.6 Using a Conservation Easement Payment in a Like-Kind Exchange.....	66
Chapter 3: Annexation.....	70
Case Study 3.1: Urban Growth Boundary Agreements in Oregon..	71
Case Study 3.2: Monterey County, California.....	72
Chapter 4: Housing.....	74
Case Study 4.1: Montgomery County, Maryland.....	80
Case Study 4.2: Champlain Housing Trust.....	83
Chapter 5: Conclusions and Recommendations.....	84
References.....	89
Appendix One. Local Agency Formation Commission of Contra Costa County, CA Agricultural Land Mitigation Policies and Guidelines.....	99
Appendix Two. Cooperative Agreement Between the Lancaster County, PA Agricultural Preserve Board and the Lancaster Farmland Trust.....	101

Appendix Three. The Sonoma County Agricultural Preservation & Open Space District.....	103
Appendix Four. Urban Growth Boundary Agreement Between the City of Halsey and Linn County, Oregon.....	104

List of Figures and Tables

Page

Figure 1.1 Napa County and the San Francisco Bay Area.	17
Figure 1.2. Napa County Land Use Plan Map, 2008-2030.	21
Figure 1.3. Napa County Zoning Map.	24
Figure 1.4. Agricultural Lands Not Subject to Measure J in the Agricultural Preserve and the Agricultural Water Shed/Open Space Zoning Districts.	25
Figure 1.5. Preserved Lands of Napa County.	27
Figure 2.1 Preserved Farm Parcels in Red, Urban Growth Areas in Gray, Effective Agricultural Zoning in Green, and Preserved Farm Boundaries Touching Urban Growth Boundaries in Blue, Lancaster County, Pennsylvania.	58
Figure 2.2 Preserved Lands in Sonoma County, California.	60
Figure 2.3 Montgomery County, Maryland Agricultural Land Preservation.	62
Figure 3.1 Prime Farmland, Salinas Valley, Monterey County.	71
Figure 3.2 City-County Memorandum of Agreement and Agreed Direction of Future Growth for City of Gonzales in Monterey County.	72
Table 1.1. Snapshot of Affordable Housing in Napa County, 2019.	41
Table 1.2 Napa County Progress in Meeting 2007-2014 Regional Housing Need Allocation.	45
Table 1.3. Napa County Regional Housing Need Allocation, 2015-2023.	46
Table 1.4 Napa County Annual Progress Report Permit Summary for Regional Housing Needs Allocation, 2018.	47

Table 2.1 California Counties and Land Trusts Active in Preserving Agricultural Land.	52
Table 2.2 State of California Farmland Preservation Programs.	54
Table 4.1 Six Main Federal Housing Programs for Low- and Moderate-Income Housing.	76
Table 4.2 Table 3.1 FY 2019 Income Limits by Family Size Category, Napa County, CA.	77
Table 4.3 Affordable Housing Produced, Preserved, Weatherized, and Rent-Assisted in Montgomery County, Maryland, Fiscal Years 2008-2014.	82

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Executive Summary

A. Introduction

Napa County is world-famous for its outstanding wines and beautiful landscape of valleys, hills, ridgelines, and compact settlements. Located in the North Bay Region of the San Francisco Bay Area, Napa County has made strong efforts to maintain its special character, but the future is uncertain.

More than 7.6 million people live in the nine counties of the Bay Area, and 9.3 million people are expected by 2040. Development pressures will increase across the Bay Area, even though the Plan Bay Area 2040 produced by the Metropolitan Transportation Commission and Association of Bay Area Governments has targeted growth to occur in existing communities and along existing transportation networks.

The Bay Area has a crisis of affordable housing, resulting from an overall shortage of housing, high housing prices and rents relative to income, and the high cost of building new housing. Building more housing to accommodate current and future Bay Area residents is a top priority in the Plan Bay Area 2040.

Over the next two decades, Napa County faces three related land use challenges:

- 1) How to maintain and preserve its agricultural land, which is the foundation of the Napa County economy;**
- 2) Whether, where, when, and how much to expand the county's municipalities through the annexation of unincorporated county land; and**
- 3) How to provide an adequate supply of affordable housing for all income groups.**

The purpose of this report is to identify successful agricultural land preservation techniques, annexation policies and procedures, and housing programs in other parts of the United States that may be useful if implemented in Napa County. This research project is intended to generate a discussion of policies and programs that could augment Napa's existing land protection policies and help the county manage its growth and meet its housing needs.

A.1. Agricultural Land Protection and Preservation

Napa County is America's premier wine producing region with 46,700 acres of vineyards (Napa County, 2018 Napa County Agricultural Crop Report, p. 6)). Agriculture, featuring wine production, is a critical industry in Napa County, generating more than \$1 billion in direct sales in 2018 (ibid., p. 3). Wine grapes accounted for \$751 million in sales, with the rest coming from the sale of livestock, flowers, fruit, and nuts

(ibid., p. 5) According to the 2017 Agricultural Census, Napa County had 1,866 farms and 255,778 acres of agricultural land in 2017 (USDA, 2019). Agriculture is an important source of employment, earnings, and economic activity in both the unincorporated County and the five municipalities. In 2016, the economic impact of the wine industry alone within Napa County was estimated at \$9.4 billion (Ziegler, 2018). The wine industry is also the foundation of a thriving tourism industry: some 3.5 million tourists visit the County each year. The wine industry together with the hospitality sector, provide 44,000 local jobs (ibid.). Agricultural land and open space cover 90 percent of the County and provide valuable environmental benefits, such as wildlife habitat, flood mitigation, ground water re-charge, and carbon storage and sequestration.

Napa County has been a national leader in the protection of agricultural land. The County has adopted strong zoning regulations to protect its agricultural land, both in the Agricultural Preserve where most of the county's grapes are grown and on the hillsides in the agricultural watershed where grape growing, livestock grazing, and open space and natural resource protection are prominent. In 1968, the county supervisors created the Agricultural Preserve on 23,000 acres. Over time the Preserve has expanded in size to 32,000 acres and development limited to one house per 40 acres. Also, very restrictive zoning of one house per 160 acres has been applied to the Agricultural Watershed District.

The San Francisco Bay Area is the fourth most populous metropolitan area in the nation (Ziegler, 2018). Already over seven million in population, the Bay Area is expected to increase by more than a million and a half by 2040. Despite these pressures Napa County remains the most rural of all the Bay Area counties, largely as a result of the Agricultural Preserve and the Agricultural Watershed District. However, the County is facing considerable challenges, notably in the lack of affordable housing and the need for continued efforts to preserve agricultural land in the face of development pressures.

In 1990, Napa County voters passed Measure J which amended the county's General Plan to give the voters control over any rezoning of land in the agricultural preserve or the agricultural watershed. In 2008, voters passed Measure P, which extended Measure J to 2058 and added language to provide for housing opportunities: "Where necessary to comply with applicable state law governing the provision of housing, the board may re-designate land designated as 'agriculture, watershed and open space' or 'agricultural resource' on the land use map . . . without a vote of the people" (Napa County, 2013, p. AG/LU-65).

A shortcoming of Measure J and Measure P is that they do not apply to annexations of land in the agricultural zones by incorporated cities and the town. Two of the five municipalities, City of American Canyon and City of Napa, have adopted growth boundaries (Rural Urban Limit Lines). The other three – Yountville, St. Helena and Calistoga - may expand beyond the existing city limits without a public vote.

Although Napa County has adopted strong agricultural zoning ordinances, zoning is not permanent, and the loss of agricultural land could occur through annexations by municipalities and voter-approved re-zonings for nonfarm developments in the agricultural zones. A fundamental concern is whether Napa County can meet its housing goals without the loss of land in the Agricultural Preserve and the Agricultural Watershed District.

Agricultural land preservation most often means the sale or donation of a conservation easement by a willing landowner to a government agency or to a private, non-profit organization, such as a land trust. The sale or donation of a conservation easement is a **voluntary** process involving a willing buyer/grantee and a willing seller/grantor. The land remains private property but is restricted to agricultural and open space uses. The cost of a conservation easement is less than the cost of purchasing the property in fee simple, as the value of the conservation easement is the difference between the fair market value of the property and the value of the property subject to a conservation easement. A property under a conservation easement remains on the property tax rolls.

Since 1976, the Land Trust of Napa County has preserved more than 73,000 acres, including 32 agricultural properties covering about 15,000 acres, through the acquisition of conservation easements (Land Trust of Napa County, 2019). But these preservation actions are limited due to cost. Vineyard land sells for anywhere from \$50,000 to \$400,000 an acre (California Chapter of the American Society of Farm Managers and Rural Appraisers: Trends in Agricultural Land and Lease Values, 2018, p.7). In addition, there has been a trend toward wineries and vineyards being taken over by absentee and corporate owners who are interested in profit rather than agricultural land preservation.

The Napa County Regional Park and Open Space District was created by the county's voters in 2006 "to protect and preserve natural areas, wildlife habitat and other open space resources, and to plan, improve and operate a system of public parks, trails, outdoor recreational facilities, and outdoor science and conservation education programs" (Napa County Regional Park and Open Space District, 2019). These land preservation activities could include the acquisition of conservation easements on agricultural land.

The Park and Open Space District proposed Ballot Measure Z in 2016, which would have created a one-quarter of one cent sales tax with the revenue dedicated to watershed and natural area preservation, wildfire risk reduction, and park maintenance. Ballot Measure Z required a two-thirds supermajority to pass but was narrowly defeated. The Park and Open Space District has proposed a new ballot measure, Measure K, for March of 2020, again featuring a one-quarter of one cent sales tax. The sales tax would raise an estimated \$9 million a year, and the revenues from the tax would be spent as follows:

"At least 52 percent would be spent on preserving watersheds, rivers, lakes,

open space and wildlife habitat. (This would include the preservation of agricultural land);

25 percent on operating, maintaining and improving open space;

20 percent on parks and recreation projects in local cities; and

3 percent on administrative overhead” (Stoneberg, 2019).

If the voters of Napa County approve the 2020 ballot measure, the Park and Open Space District could:

1) Make some agricultural land preservation grants to the Land Trust of Napa County, like the Marin County Open Space District does with the Marin Agricultural Land Trust;

2) Directly preserve some agricultural land like the Sonoma Ag + Open Space District; or

3) Decide when to cooperate on preservation projects with the Land Trust of Napa County and when to carry out its own preservation projects.

A.1.1. Preservation Strategies

1) Create a public-private partnership for preserving agricultural land with a goal of preserving at least 1,000 acres a year for 30 years. The Napa County Park and Open Space District and private organizations could enter into a memorandum of understanding to work together to preserve agricultural land, including the sharing of information and the possibility of jointly-funded projects. In general, a land trust is better suited to working with landowners who wish to donate a conservation easement, whereas the county agency may have access to more funding and is better able to work with landowners who wish at least some cash compensation for a conservation easement. For example, the Land Trust of Napa County and the Napa County Regional Park and Open Space District have already cooperated on a number of land preservation projects.

2) A key strategy is to preserve agricultural land in large contiguous blocks. Large blocks of preserved land protect agricultural operations from possible conflicts with encroaching residential and commercial development. This strategy is a challenge to implement because of the voluntary aspect of farmland preservation.

A.1.2. Preservation Funding Sources

1) Both public and private funding sources are needed to preserve agricultural land. For example, the Land Trust of Napa County preserved the Gunn Ranch in 2016 with public funding from the State of California’s Sustainable Agricultural Lands

Conservation Program (SALCP) and private funds from the Gordon and Betty Moore Foundation. Lancaster County, Pennsylvania is the national leader in farmland preservation with more than 112,000 preserved acres. About 80,000 of those acres have been preserved by the Lancaster County Agricultural Preserve Board, a county agency, and the private, non-profit Lancaster Farmland Trust has preserved 32,000 acres. Since 1989, the Preserve Board and the Farmland Trust have had a cooperative agreement to coordinate their preservation efforts, including some jointly-funded projects.

2) The federal Agricultural Conservation Easement Program (ACEP), administered by the Natural Resources Conservation Service, has been an important source of funding for several local governments and land trusts active in preserving agricultural land. The ACEP makes grants for up to half of the value of a conservation easement.

3) A dedicated funding source can provide a public agricultural land preservation program with a long-term stream of revenue. For example, Sonoma County voters approved a quarter of a cent sales tax for land preservation, beginning in 1990 and re-authorized the tax through Measure F in 2011. In fiscal 2018, the sales tax generated \$24,543,602 in tax revenue (Sonoma Agricultural Preservation and Open Space District, 2018).

Napa County has twice tried to pass a one-quarter of one percent sales tax. To gain the required level of voter approval, a dedicated tax for land preservation would most likely have to be divided among several types of land, such as parks and open space, natural areas, and agricultural land. This is how the Sonoma Ag + Open Space program has operated.

4) Montgomery County, Maryland has successfully used a transfer of development rights program to preserve 48,000 acres of agricultural land (Daniels, 2017). The County also uses the purchase of conservation easements, with funding from the County and the Maryland state farmland preservation program. In total, the County has preserved 73,000 acres. In a transfer of development rights program, the funding comes from private developers who purchase the transferable rights to build at higher densities in designated growth areas. Limited use of transfer of development rights may be useful in certain parts of Napa County.

5) The Napa County Regional Park and Open Space District is currently funded through a portion of Napa County's Transient Occupancy Tax (TOT) Special Projects Fund.

A.2. Annexation

Annexation is the transfer of unincorporated county land into a city or town. Annexation occurs as a city or town grows and needs additional land to accommodate housing, commercial development, and public service needs. Land that is proposed for

annexation into a city or town must first be in a designated Sphere of Influence of that city or town. A Sphere of Influence (SOI) is an area adjacent to city or town boundaries that is planned for possible extension of a public service area (e.g. sewer service) and possible annexation at some future date. The city or town exercises planning and control of development in the SOI, but the SOI and its boundaries must be approved by the Local Agency Formation Commission (LAFCO) of Napa County. The LAFCO is a state-mandated independent agency, made up of five local representatives and a hired staff, which reviews and rules on Spheres of Influence, annexation proposals, and municipal services. The LAFCO has the responsibility to promote orderly, efficient growth and to protect agricultural land as much as possible in the annexation process. A review of an annexation is required under the California Environmental Quality Act (CEQA).

Annexation policies are important for determining whether, when, where, and how much unincorporated county land to annex into a city or town. For example, the annexation of existing commercial sites from unincorporated county land can reduce future tax revenues, making it more difficult for Napa County to pay for mandated services.

In general, annexation should be considered an option of last resort when it comes to accommodating growth and development. It is preferable to direct new development to areas within a city with adequate public services to support an increased density of development and to take advantage of infill development opportunities.

A. 2.1. Annexation Strategies

Napa County's LAFCO has adopted strong policies to protect agricultural land. Annexation happens on a case by case basis. But very little agricultural land has been annexed over the years, and very little agricultural land has been placed in Spheres of Influence, with the exception of St. Helena. The LAFCO of Napa County defers to the County General Plan and has adopted a definition of agricultural land that is broader than the state definition.

The LAFCO does not have an explicit agricultural land mitigation requirement when agricultural land is annexed for development. Mitigation could require the owner/developer of land being annexed to preserve at least one acre of like quality agricultural land for each acre annexed. The reason for the absence of a mitigation policy is that very little agricultural land has been annexed and the annexation of agricultural land is strongly discouraged.

All cities and the town in Napa County should be encouraged to implement Rural Urban Limit Lines, and the expansion of these lines should be subject to a public vote.

The County of Napa, the City of Napa, and the LAFCO of Napa should continue to support the annexation of the Napa Pipe project lands into the city.¹ This annexation has the potential to provide a mix of residential and commercial development, including affordable housing needed to meet the Regional Housing Needs Allocation for the County. The impact on agricultural land is relatively small and does not include land in the Agricultural Preserve.

A.3. Housing

Affordable and available housing for sale and for rent is a serious challenge throughout the United States. But the problem in the San Francisco Bay Area is one of the most acute in the country. In August of 2019, the median housing sales price in the Bay Area was \$980,000 (bayareamarketreports.com, 2019). The need for affordable housing is felt in all nine Bay Area counties.

Affordable housing often declines as more land becomes off-limits to development, either through zoning restrictions or land preservation. The high cost of housing in Napa County has forced many workers to live elsewhere and commute long distances to work. It is important to note that for defining affordable housing it is not sufficient to look only at the price of housing. The location of the housing and transportation costs are also important.

The planning and permitting for housing in Napa County and its five municipalities are influenced by the State of California's Regional Housing Needs Allocation (RHNA) process which sets housing goals for different income groups: very low-income, low-income, moderate-income (workforce), and above workforce (market rate). The current RHNA goals apply for the period 2015-2023.

In the past, Napa County and its five municipalities have struggled to meet their housing goals. Meeting the housing goals has remained difficult especially for very low and low-income housing as well as for workforce housing. Given the population growth pressures in the Bay Area and the existing shortage of affordable housing, a fundamental concern is whether Napa County can meet its housing goals and still maintain the integrity of the Agricultural Preserve and the Agricultural Watershed zoning.

If Napa County or a municipality does not meet its RHNA goals, then any proposed multi-family development must be treated as a by-right use. This is a new state policy, which means that a multi-family housing proposal would face a less stringent or lengthy review process and would likely be built. The multi-family housing would move a jurisdiction toward meeting its RHNA goals. A bill in the state legislature,

¹ Napa Pipe is "a 150-acre property located between the City of Napa and the City of American Canyon within an older industrial area that has been proposed for redevelopment into a mix of commercial and residential land uses, including affordable housing" (Napa County, 2013, p. AG/LU-55).

if passed, would withhold gasoline tax revenues from local governments that did not meet their RHNA goals.

Rather than have RHNA goals for each local government, Napa County and its municipalities are seeking to be declared a “subregion” under RHNA and having the six local governments treated as one. This would better enable new housing to be located within the five municipalities, rather than in the unincorporated county. Napa County has a compact pattern of development and the subregion designation would help to reinforce this pattern and minimize the loss of agricultural land.

Federal, state, and local government funding programs for housing are available. However, HUD Housing Vouchers appear to be tapped out. The Low-Income Housing Tax Credit program is a major source of funding for low-income housing. The State of California Housing Finance Agency offers loans for low-income home buyers and for the construction of low-income rental housing. In 2018, Napa County and four of the five municipalities increased the Transient Occupancy Tax (TOT) by one percent to raise a total of more than \$4 million a year for affordable housing.

The City of Napa has two federal opportunity zones that help to incentivize real estate development in low-income areas. Napa County does not have a community land trust that works to provide affordable housing for low- and moderate-income residents. Providing affordable housing often results from a public-private partnership, much like in agricultural land preservation. Since 1977, Napa Valley Community Housing has operated much like a community land trust through building more than 600 new housing units and purchasing and rehabilitating more than 200 units for low- and moderate-income residents (Napa Valley Community Housing, 2019).

Santa Clara County created a nonprofit Housing Trust Silicon Valley in 2000, which has been funded mainly by local businesses. Since then, the Housing Trust has invested over \$171 million to create more than 16,100 homes (Housing Trust Silicon Valley, 2019). Similarly, the nonprofit Housing Land Trust of Sonoma County was created in 2002 (Housing Land Trust, 2019).

A. 3.1. Housing Strategies

A subregion approach to housing under RHNA would enable Napa County and the five municipalities to be treated as a single entity with regional housing goals. This approach makes more sense than giving each local government a housing goal. The subregion designation would: 1) make it easier to focus new housing in the five municipalities where public services exist; 2) maintain the overall compact development pattern of in the county; and 3) minimize the conversion of agricultural land.

Cities often face two choices in accommodating new development and a growing population: 1) expand the city boundaries through annexation; or 2) increase the density of development within the city.

Increasing density can happen in several ways:

a) re-zoning parts of single-family districts to allow duplexes, triplexes, and small multi-family apartments;

b) adopting an accessory dwelling unit (ADU) ordinance to allow a small cottage or attached apartment on a single-family property;

c) a local ordinance that allows mixed-use developments which combine commercial and residential space;

d) an inclusionary zoning ordinance that requires a certain percentage of dwelling units to be affordable for low- and moderate-income households in a residential project above a particular size;

e) infill development on vacant lots;

f) the relaxation or elimination of off-street parking requirements; and

g) public housing.

Finally, high-rise multi-family housing is unlikely in Napa County in part because of the low-rise style of development prevalent in the County and the potential risk of earthquakes.

A.4. Recommendations

A. 4.1. Agricultural Land Preservation

1. Napa County should present to the county voters a ballot measure to create a one-quarter of one percent (.25%) sales tax with revenues dedicated to the purchase of parkland and the purchase of conservation easements on agricultural land and other natural resource lands. Similar dedicated taxes have been approved by voters in Sonoma and Marin Counties and have generated significant revenues that have been used to preserve several thousands of acres. A one-quarter of one percent sales tax would raise about \$9 million a year.

2. The preservation of agricultural land works best as a public-private partnership. Napa County through the Napa Regional Park and Open Space District should consider entering into a formal cooperative agreement with the Land Trust of Napa County to coordinate their efforts in preserving agricultural land in the county, including opportunities to jointly fund the acquisition of conservation easements.

3. The Jack L. Davies Fund should consider offering small grants of \$2,500 to \$5,000 to the Land Trust of Napa County to help defray the costs of agricultural conservation easement transactions, such as appraisals, surveys, title insurance, and recording fees.

A. 4.2. Annexation

1. The annexation of agricultural land by the five municipalities should be seen as an option of last resort.
2. All municipalities in Napa County should be encouraged to implement Rural Urban Limit Lines, and the expansion of these lines should be subject to a public vote.
3. Cooperative agreements between Napa County and the five municipalities should be considered as a way to proactively manage whether, when, where, and how much land will be annexed into the five municipalities. Monterey County has done this.
4. The LAFCO of Napa County should consider adopting an agricultural land mitigation requirement of the preservation of at least one acre of similar quality agricultural land for each acre of agricultural land that is proposed for annexation.
5. Napa County, the City of Napa, and the LAFCO of Napa should continue to support the annexation of the Napa Pipe lands into the city. This annexation has the potential to provide a mix of residential and commercial development, including affordable housing needed to meet the Regional Housing Needs Allocation for the county. The impact on agricultural land is relatively small and does not include land in the Agricultural Preserve.

A. 4.3. Housing

1. Having Napa County and its municipalities declared as a single subregion for RHNA housing goals should be a major priority. This would better enable new housing in the municipalities and reinforce the existing compact development patterns.
2. The County and the five municipalities should discuss collaborative strategies to meet their 2015-2023 RHNA housing goals. The pending Napa Pipe annexation by the City of Napa with RHNA credit going to Napa County is a good example.
3. The five municipalities should work to attract projects financed through the federal the Low-Income Housing Tax Credit program.
4. The five municipalities should review their zoning ordinances and maps to identify areas where re-zoning to increase housing density would be appropriate through accessory dwelling units, mixed uses, relaxation of off-street parking requirements, inclusionary zoning, or infill development.

5. The City of Napa should promote its two opportunity zones for affordable housing projects.² In these zones, at least 20 percent of the residents have incomes below the poverty line or 80 percent or less of the area median household income. The opportunity zones could produce infill development, reducing the need for the city to annex land.

5. The creation of a non-profit community housing trust for Napa County would help to further the creation and preservation of affordable housing.

6. Napa County should review provisions for additional farm labor housing opportunities.

² Opportunity zones were created through the 2017 federal tax law. Individuals who invest in opportunity zones through special funds can defer or eliminate federal taxes on capital gains. See, Internal Revenue Service, 2019 [https://www.irs.gov/newsroom/opportunity-zones-frequently-asked-questions.](https://www.irs.gov/newsroom/opportunity-zones-frequently-asked-questions))



Chapter 1: Napa County

Napa County is located on the northeastern side of the San Francisco Bay between Sonoma County on the west and Solano and Yolo Counties on the east (See Figure 1.1). Napa County contains 401,000 acres of land and another 104,000 acres of water. The County has an estimated 2019 population of 140,386, according to the US Census Bureau. Only about one-fifth of the county's residents live in the unincorporated part of the county. The City of Napa is home to almost 60 percent of the county's residents. Other municipalities include: the City of Calistoga, the Town of Yountville, the City of St. Helena, and the City of American Canyon.

The Napa Valley runs north to south for 30 miles along State Route 29 and the Silverado Trail and stretches east to west for over five miles between two mountain ridges—the Mayacamas Range on the western edge and the Vaca Range to the east. The valley and some hillsides are ideal for grape production with volcanic soils and alluvial fans, a mild Mediterranean climate, and generally adequate rainfall, supplemented with irrigation.



Figure 1.1. Napa County and the San Francisco Bay Area. (Source: ABAG, 2013, p. 4).

Napa County is widely-known as the premier wine-producing region in California and the United States. The Napa County 2013 General Plan includes a Land Use Plan for the future growth of the county (See Table 1.2) and reflects a vision for the county going forward:

“Well into the future, Napa County will be a place where agriculture is the primary land use, and where a vast majority of the county is open space, and where residential and employment growth is concentrated in the incorporated cities and town and existing urbanized areas of the county. Urban centers will be livable communities with compact forms that maximize the preservation of rural landscapes, and those rural landscapes will be both productive and ecologically diverse, with abundant and healthy natural resources” (Napa County, 2013, p. AG/LU 11).

The Napa Strategic Plan 2019-2022 echoed this vision for the county: “Napa County is an agricultural treasure known for its legendary wines, our small-town character, and sustainable natural resources” (Napa County, 2019a, p. 4). In addition, the Board of Supervisors adopted the following mission: “Napa County is dedicated to sustaining agriculture and the environment and to providing leadership and services to advance the health, safety, and economic well-being of current and future generations” (ibid.).

Napa County has a long history of protecting its agricultural land. In 1968, the county board of supervisors voted to create the agricultural preserve, protecting 23,000 acres with a minimum lot size 20 acres and allowing only agriculture, wineries, and houses. Over time, the county supervisors expanded the Agricultural Preserve to 32,000 acres, tightened the zoning in the Agricultural Preserve to a 40-acre minimum lot size, and placed agricultural zoning on the so-called agricultural watershed that included the hills and some additional valley land (see Figure 1.3). In addition, some rural lands are zoned at a 160-acre minimum lot size (Napa County 2019b).

The federal government owns almost 63,000 acres of the county and the State of California owns more than 42,000 acres; together these acres comprise more than one-quarter of the county's land area (Napa County, 2013, p. AG/LU-11). In total, almost 90 percent of Napa County's land area is protected from residential or commercial development.

The agricultural zoning and the great success of the wine industry led to an increase in the amount of land in agriculture by more than 35,000 acres between 1969 and 2017 to 255,000 acres (Daniels, 2019; USDA, 2019). About 46,700 acres are planted in grapes (Napa County, 2018 Napa County Agricultural Crop Report, p. 6).

Napa County has some of the most expensive agricultural land in the United States, with vineyard land worth in the range of \$50,000 to \$400,000 an acre (California Chapter of the American Society of Farm Managers and Rural Appraisers, 2018 Trends in Agricultural Land and Lease).

The Napa wine industry enjoyed a breakout event in 1976, when Napa cabernets and chardonnays defeated French wines in blind tastings in Paris, a triumph still celebrated in Napa as the Judgment of Paris. The number of wineries grew rapidly and Napa County was named California's first American Viticulture Area a distinct wine-producing region, similar to a French *terroir* or *appellation*. In 2007, the European Union (EU) designated Napa County protected geographic status, the first wine region to receive this acclamation outside of the EU. Today, Napa County has approximately 1,700 registered wineries and about 500 have tasting rooms (California Winery Advisor, 2019) *The county growers had more than \$1 billion in crop sales in 2018* (Napa County, 2018 Napa County Annual Crop Report, p. 3).

The popularity of Napa's wines has spurred a booming tourist industry, estimated at 3.5 million visitors a year. In 2016, tourists spent \$1.92 billion in the county. In 2011 alone, the wine industry was estimated to have a total economic impact of more than \$13 billion on Napa County's economy (Stonebridge, 2012, p. 3).

In 2019 Napa County has had an unemployment rate of four percent or less with an unemployment rate of only 2.7 percent in April, a reflection of the seasonal employment opportunities (BLS, 2019). As of 2016, Napa County had a per capita

income of \$64,279, which was higher than the California per capita income of \$50,000 and the US per capita income of \$49,883 (City of Napa, 2017).

1.1. Challenges Ahead

More than 7.6 million people live in the nine counties of the Bay Area, with the expectation that there will be 9.3 million people by 2040. Development pressures will increase across the Bay Area, even though the Plan Bay Area 2040 produced by the Metropolitan Transportation Commission and Association of Bay Area Governments has targeted growth to occur in existing communities and along existing transportation networks. Napa County's population is projected to reach 163,680 by 2040, up from 136,480 in 2010. Plan Bay Area identified portions of the City of Napa and the City of American Canyon as Priority Development Areas which would accommodate most of the population and job growth in the county over the next two decades (Metropolitan Transportation Commission and Association of Bay Area Governments, 2017).

Meanwhile, the Bay Area has a crisis of affordable housing, resulting from an overall shortage of housing supply, high housing prices and rents relative to income, and the high cost of building new housing. Building more housing to accommodate current and future Bay Area residents is a top priority in the Plan Bay Area 2040. Nationally, the median home price in 2019 was just under \$280,000 whereas Napa County's median home price in August of 2019 was \$710,000, well beyond the means of a household earning \$50,000 a year or less (bayareamarketreports.com, 2019; Ziegler, 2018)

The primary challenge facing Napa County is how to plan effectively for growth, especially affordable housing, and yet protect its valuable agricultural land. Decisions about three related land issues are important for managing the county's growth:

- 1) How to maintain and preserve its agricultural land, which is the foundation of its economy;
- 2) Whether, where, when, and how much to expand its municipalities through the annexation of unincorporated county land; and
- 3) How to provide an adequate supply of affordable housing for all income groups.

1.2. Agricultural Land Protection and Preservation

The Napa County General Plan set out the following coordinated goals for the county's agricultural lands, development, and agricultural industry:

"Goal AG/LU-1: Preserve existing agricultural land uses and plan for Agriculture and related activities as the primary land uses in Napa County.

Goal AG/LU-2: Concentrate urban uses in the County’s existing cities and town and urbanized areas.

Goal AG/LU-3: Support the economic viability of agriculture, including grape growing, winemaking, other types of agriculture, and supporting industries to ensure the preservation of agricultural lands” (Napa County, 2013, p. AG/LU-12).

The Napa County General Plan included policies to support these goals:

“Policy AG/LU-3: The County’s planning concepts and zoning standards shall be designed to minimize conflicts arising from encroachment of urban uses into agricultural areas. Land in proximity to existing urbanized areas currently in mixed agricultural and rural residential uses will be treated as buffer areas and further parcelization of these areas will be discouraged.

Policy AG/LU-4: The County will reserve agricultural lands for agricultural use including lands used for grazing and watershed/open space, except for those lands which are shown on the Land Use Map as planned for urban development (see Figure B).

Policy AG/LU-5: The County will promote an agricultural support system including physical components (such as farm labor housing, equipment supply and repair) and institutional components (such as 4-H, FFA, agricultural and natural resources education and experimentation)” (Napa County, 2013, p. AG/LU-13).

To achieve the above goals and policies requires a blend of agricultural land protection techniques, a process to regulate urban expansion, and the programs that preserve agricultural land over the long run.

Agricultural land protection techniques. There are four main agricultural land protection techniques, all of which are found in Napa County: differential assessment of agricultural land for property taxation, a right-to-farm law, agricultural zoning, and urban growth boundaries/development limit lines.

1. Differential assessment. Every state provides some sort of preferential treatment of agricultural land in determining local property taxes (Daniels and Keene, 2018). The California Land Conservation Act of 1965—better known as the Williamson Act—has offered preferential property tax assessment for agricultural land based on the agricultural value of the property rather than its “high and best use” in return for a 10- to 20-year contract during which time the landowner agrees not to develop the property. The State of California provides subvention payments to counties for lost property tax revenue because of the Williamson contracts.

Napa County landowners began enrolling in Williamson Act contracts with the county in 1969. A contract is automatically renewed each year for a 10-year period unless the landowner or county gives notice of withdrawal, or the contract is cancelled

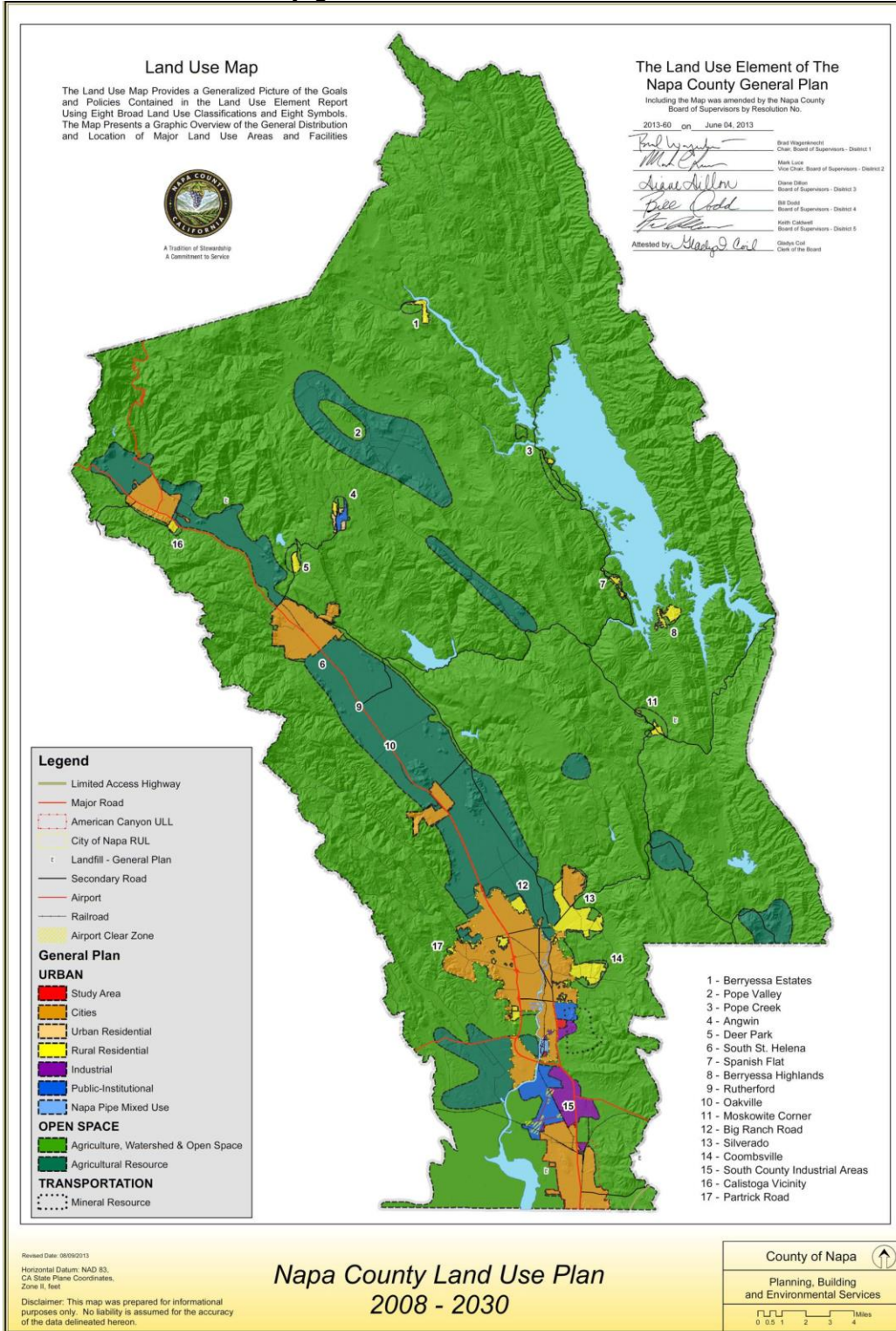


Figure 1.2. Napa County Land Use Plan Map, 2008-2030.

following a public hearing by the Board of Supervisors. Most of the contracts in Napa County are “Type H” contracts which require a minimum parcel size of 40 acres unless the annual production value per acre meets state standards, in which case the minimum parcel size is 10 acres (Napa County, 2007). Napa County also offers a contract for parcels between 5 and 10 acres provided the agricultural use demonstrates a unique commitment to sustainable farming practices and contributes to the diversity of crops raised in the county. As of as of January 1, 2017, there were 848 Williamson Act contracts on 74,711 acres in Napa County (Quackenbush, 2018).

In 1998, the California legislature passed the Farmland Security Zone tax incentives bill, known as the Super Williamson Act, which reduces the value of land for property tax purposed by 35 percent below the Williamson Act level. In return, the landowner must keep the land in farmland or open space for 20 years. Napa County has not used the 20-year contracts and Napa County landowners have not enrolled in the Super Williamson Act.

2. Right-to-Farm Law. A right-to-farm law is a state statute that provides some legal protection for farmers and ranchers against nuisance lawsuits involving normal agricultural operations and practices. A right-to-farm law does not remove an adjacent property owner’s right to sue; but the law makes it more difficult for a plaintiff to prevail and force a change in the neighbor’s agricultural operation (Centner, 2006).

California’s right-to-farm law was adopted in 1981 and has been amended over time, most recently in 1999 (California Civil Code § 3482.5, “The Right to Farm Act” 2001). The law states that an agricultural operation has protection against nuisance lawsuits if the operation has not been declared a nuisance and has been in existence for more than three years. Also, if the operation changes, then the new operation (e.g. walnuts to cattle) is not covered by the right-to-farm law until the new operation has been in existence for at least three years.

Napa County adopted a local right-to-farm ordinance in 1990, (Chapter 2.94, County Code). Napa County mails a notice of the right-to-farm to all property owners in the unincorporated county each year. For all subdivision approvals and development permits, there is a form that must be signed and filed with the county Planning Department acknowledging the right-to-farm. For the sale of property, a disclosure (but no signed form) is required between the buyer and seller about the proximity of agricultural operations and the right-to-farm (Wacker, et al., 2001).

The County General Plan states:

“Policy AG/LU-15: The County affirms and shall protect the right of agricultural operators in designated agricultural areas to commence and continue their agricultural practices (a “right to farm”), even though established urban uses in the general area may foster complaints against those agricultural practices. The

“right to farm” shall encompass the processing of agricultural products and other activities inherent in the definition of agriculture provided in Policy AG/LU-2, above. The existence of this “Right to Farm” policy shall be indicated on all parcel maps approved for locations in or adjacent to designated agricultural areas and shall be a required disclosure to buyers of property in Napa County” (Napa County, 2013, p. AG/LU-15).

3. Agricultural zoning. Agricultural zoning is found throughout California. This is not surprising given that California is the nation’s leading agricultural state with more than \$45 billion in farm product sales in 2017 (USDA, 2019). By restricting the amount of nonfarm development that can occur in an agricultural area, agricultural zoning also holds down the cost of purchasing conservation easements (Daniels and Payne-Riley, 2017).

The purpose of agricultural zoning is to: a) put the county’s General Plan into action; b) separate conflicting land uses; c) protect productive agricultural soils now and for the future; d) regulate the density of development; and e) designate agriculture as the preferred land use in that zone (Daniels and Keene, 2018).

The Napa County Board of Supervisors first adopted agricultural zoning with a 20-acre minimum lot size in 1968 with the creation of the Agricultural Preserve. This standard was later changed to a 40-acre minimum lot size on lands noted as Agricultural Resource on the county Land Use Map. The lands designated as Agriculture, Watershed, and Open Space on the Land Use Map of the Napa County General Plan have a minimum parcel size of 160 acres (Napa County, 2013, p. AG/LU-16) (See Figure 1.2 and Figure 1.3).

Agricultural zoning covers more than 235,000 acres of the county, including more than 200,000 acres in the agricultural watershed. Napa County has approximately 32,447 acres of Prime Farmland (Natural Resources Conservation Service Class I and II, 9,792 acres of Farmland of Statewide Importance (NRCS Class III) and 17,812 acres of Unique Farmland (NRCS Class IV) (Napa County, 2007, p. 4.1-22).

The agricultural zoning in Napa County has changed in important ways in the last 30 years. In 1990, the voters of Napa County passed Measure J which amended the county’s General Plan to give the voters control over any rezoning of land in the agricultural preserve or the agricultural watershed. As of 2015, county voters had approved only seven of the fifteen rezoning proposals in the countryside. In 1995, the California Supreme Court ruled that Measure J was constitutional. In 2008, the Napa County voters overwhelmingly passed Measure P, which extended Measure J to 2058 and added language to provide for housing opportunities: “Where necessary to comply with applicable state law governing the provision of housing, the board may re-designate land designated as ‘agriculture, watershed and open space’ or ‘agricultural resource’ on the land use map . . . without a vote of the people” (Napa County, 2013, p. AG/LU-65).

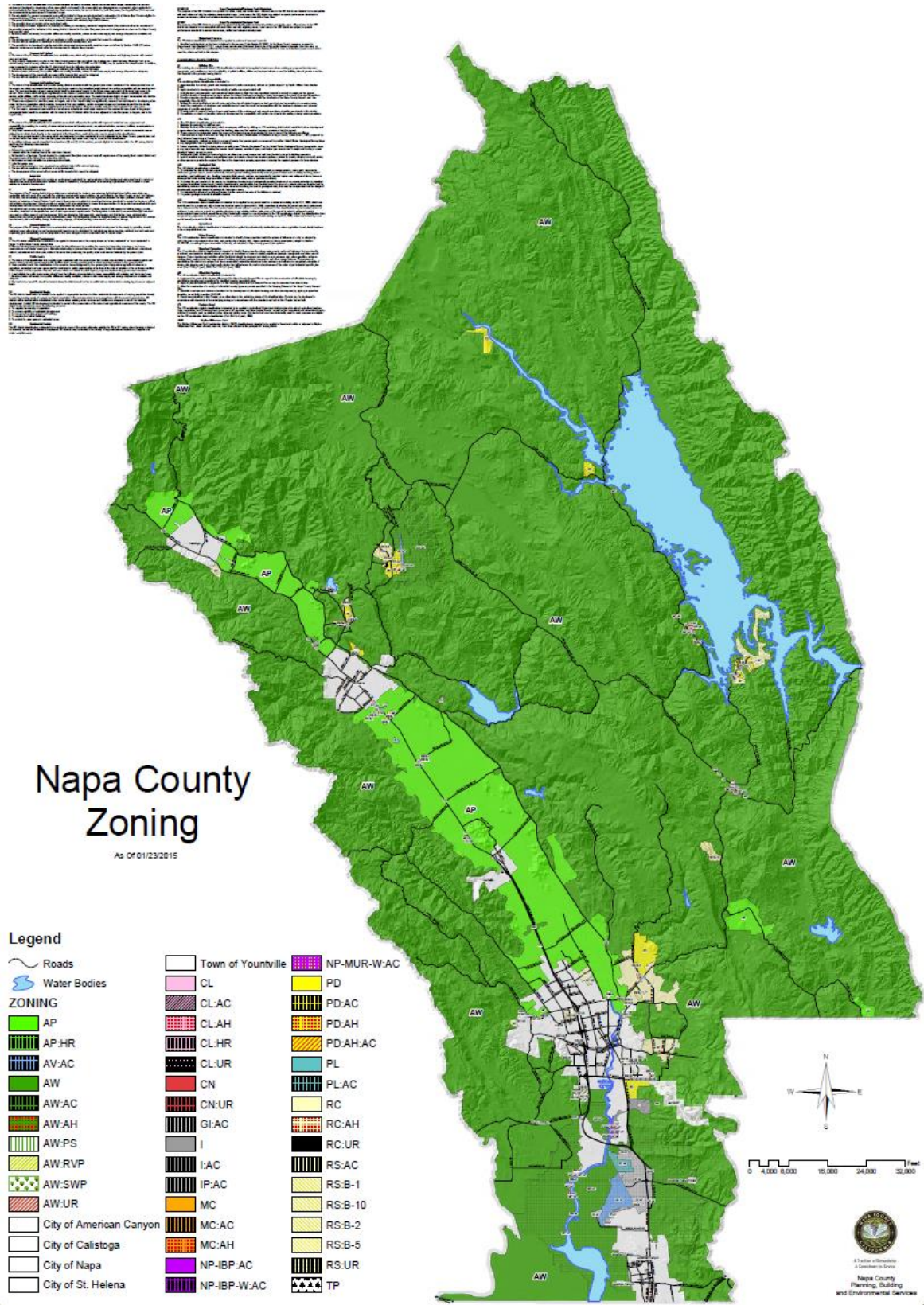


Figure 1.3. Napa County Zoning Map (Source: Napa County, 2015).

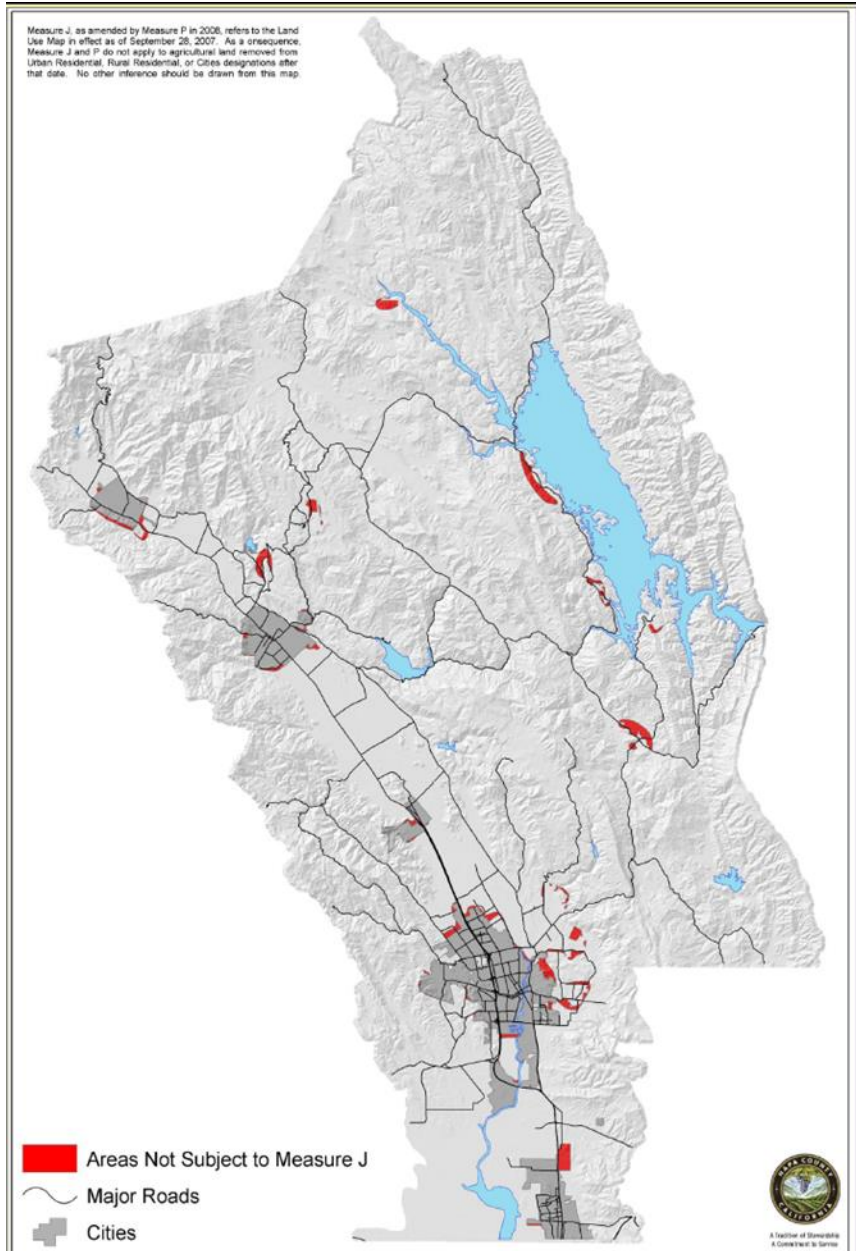


Figure 1.4. Agricultural Lands Not Subject to Measure J in the Agricultural Preserve and the Agricultural Water Shed/Open Space Zoning Districts.
 (Source: County of Napa, Office of Conservation, Development, and Planning).

A shortcoming of Measure J and Measure P is that they do not apply to annexations of land in the agricultural zones by incorporated cities and the town. Some agricultural land is not subject to Measures J and P (see Figure 1.4).

4. Urban growth boundaries/development limit lines. The purpose of an urban growth boundary or development limit line to demarcate the separation of urban and rural land uses and to identify to extent of urban services, such as central sewer and water. The City of Napa and the City of American Canyon have urban growth boundaries.

Agricultural land preservation. Agricultural land preservation most often means the voluntary sale or donation of a permanent conservation easement by a landowner to a government agency or private, non-profit land trust. Three other ways to preserve agricultural land are: a) through a transfer of development rights program in which a landowner can sell these rights to a government agency or a private sector entity (usually a developer); b) through an agricultural land mitigation program which requires the preservation of agricultural land in return for permission to develop other agricultural land; or c) through the purchase of agricultural land by a government agency or land trust.

1. Sale or donation of conservation easements. The sale or donation of conservation easements to preserve agricultural land has advantages to both the landowner and the government agency or land trust that acquires the conservation easement. The sale or donation of a conservation easement is a voluntary process involving a willing buyer/grantee and a willing seller/grantor. The land remains private property but is restricted to agricultural and open space uses. The cost of a conservation easement is less than the cost of purchasing the property in fee simple, as of the property and the value of the property subject to a conservation easement (Daniels and Bowers, 1997; Daniels and Keene, 2018). A property under a conservation easement remains on the property tax rolls.

The Land Trust of Napa County has preserved more than 73,000 acres since 1976, including about 15,000 acres of agricultural land (see Figure E) (Land Trust of Napa County, 2019a). The large majority of the preserved land is ranchland in the agricultural watershed, rather than vineyards in the valley and agricultural preserve. The Land Trust of Napa County has relied mainly on the donation of conservation easements to preserve agricultural land on the valley floor because of the high costs of purchasing land or purchasing conservation easements.

Napa County vineyard land is very expensive and the price of prime acreage has continued to increase. Sales at \$400,000 per acre or more are not unusual (Ziegler, 2018). Buyers of vineyard land and wineries may be located outside the U.S. Purchasers may also be large corporations (Constellation, Diageo) headquartered elsewhere and driven by profit motives without concerns for local agricultural land preservation. These trends could dilute support for agricultural land preservation.

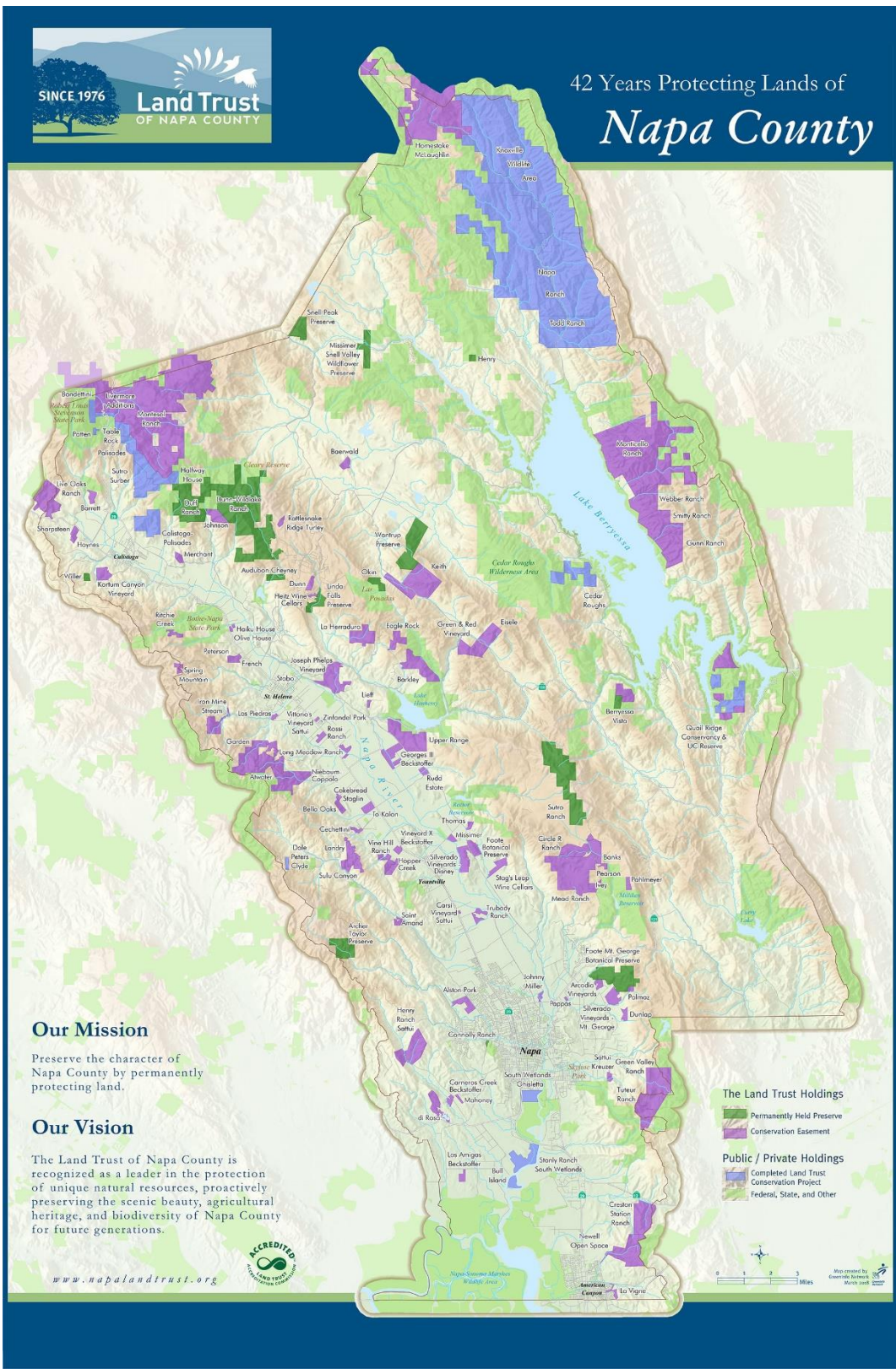


Figure 1.5. Preserved Lands of Napa County. Source: Land Trust of Napa County.

Ranchlands in eastern Napa County are more affordable per acre, making the purchase of conservation easements more viable, but the ranchland tracts cover large acreages making the total price large. For example, the California Rangeland Trust, based in Sacramento, has preserved one ranch in Napa County, the Running Deer Ranch of 1,275 acres, bordering Lake Berryessa (California Rangeland Trust, 2019). Funding was provided by the California Department of Conservation and the Natural Resources Conservation Service of the US Department of Agriculture, through its Farm and Ranch Lands Protection Program.

Unlike neighboring Sonoma County, Napa County has not created a public agricultural land preservation program. The Napa County General Plan includes Policy Ag/LU-7 to evaluate a public conservation easement program (Napa County, 2013, p. AG/LU-13).

In 2016, Napa County voters narrowly rejected Ballot Measure Z, which required a two-thirds majority, to increase the sales tax from 8% to 8.25%. The revenue from the one-quarter of one percent additional sales tax was to be dedicated for land acquisition projects by the Napa County Regional Park and Open Space District and was expected to generate \$8 million a year for 14 years. Measure Z stated:

“To protect drinking water by preserving and restoring watersheds, rivers, creeks; protect natural open spaces and wildlife habitat; reduce wildfire risk; and maintain parks and trails; shall Napa County enact a 1/4 percent sales tax for the Napa County Regional Park and Open Space District raising an estimated eight million dollars annually for fourteen years with citizen oversight, annual audits, and funds that cannot be taken by the State?” (Ballotpedia, 2016).

Ballot Measure Z was not aimed specifically at the preservation of agricultural land.

Ballot Measure K, proposed for a vote in March of 2020, presents a sales tax increase to the voters, with one of the purposes the preservation of agricultural land. This is similar to the Sonoma County Ag + Open Space District which has preserved four different types of land, including agricultural land (See Appendix Three).

If a publicly funded agricultural land preservation program was approved and funded, the Open Space District could:

- 1) Make preservation grants to the Land Trust of Napa County, like the Marin County Open Space District does with the Marin Agricultural Land Trust;
- 2) Operate the agricultural land preservation program in tandem with the preservation of other types of land like the Sonoma Ag + Open Space District; or
- 3) Decide when to cooperate on preservation projects with the Land Trust of Napa County and when to carry out its own preservation projects.

In Napa County, there are two general types of agricultural land: rangeland and vineyard land. Vineyard land is among the highest value agricultural land in the United States, ranging from \$50,000 to \$400,000 an acre (Land Trust of Napa County, 2019b). The price of land of some storied vineyards is even higher. The cost of purchasing conservation easements on vineyard land is likely to be in the range of several thousands of dollars per acre. The value of the conservation easement depends in part on the location, zoning, and the specific restrictions that are being placed on the property. For example, for vineyard land, the value of the conservation would increase if the landowner agreed to give up the right to build any additional houses and winery buildings.

Rangeland generally sells for about \$1,000 an acre and a conservation easement typically has an appraised value of \$400 to \$500 an acre (Land Trust of Napa County, 2019b). Given that ranchland is typically held in large parcels of several hundred to more than 1,000 acres, the ability of a land trust to purchase several conservation easements is remote.

In purchasing conservation easements, it is possible to negotiate a “bargain sale” of part cash payment and part donation for an income tax deduction, and possibly an estate tax reduction or elimination (Daniels and Keene, 2018). Some counties have placed a cap on how much they will pay per acre for a conservation easement. The landowner can use the difference between the appraised value of the conservation easement and the cap as an income tax deduction.

2. Transfer of development rights (TDR). The transfer of development rights involves a county or city creating and distributing “transferable development rights or credits” to landowners in one or more designated sending areas from which the rights may be sent and designated receiving areas where purchasers of the rights are able to develop at higher densities than the zoning would normally allow. The attraction of TDRs is that private developers buy the TDRs from landowners in the sending areas. The price of the TDRs is negotiated between the buyer and the seller. Some TDR programs include a public TDR bank to purchase and sell TDRs. A few programs allow developers to pay an in lieu of fee rather than purchase TDRs in return for higher density. Transfer of development rights programs to protect agricultural land exist in San Luis Obispo County and the City of Livermore (Nelson et al., 2012, pp. 195-197 and 155-158). The San Luis Obispo program has preserved slightly more than 5,000 acres (Nelson et al., 2012). Napa County has not explored or implemented a transfer of development rights program.

TDRs may have some potential in Napa County, but for very specific areas. For example, creating a TDR sending area to preserve land inside Napa City’s Rural-Urban Limit line on the southwest side of the city and transferring that development potential to inner city sites through up-zoning or rezoning, such as possibly the redevelopment of the Napa Expo Fairgrounds.

3. Agricultural land mitigation. Agricultural land mitigation is a process in which some farmland is allowed to be developed for nonfarm uses in return for the preservation of other farmland at a ratio of one to one or higher. The preservation involves a permanent conservation easement. In some cases, a developer may make a payment in lieu of preservation that the local government can use to preserve agricultural land. Several counties in California have adopted agricultural land mitigation programs, including: Mendocino, San Joaquin, Stanislaus, and Yolo Counties, and the cities of Brentwood, Davis, Livermore, and Stockton (Daniels and Keene, 2018, p. 266; Nelson et al., 2012).

The California Environmental Quality Act (CEQA) has favored mitigation, stating,

“[E]ach public agency shall mitigate or avoid the significant effects of on the environments of projects that it carries out or approves whenever it is feasible to do so” (California Public Policy Code § 21002.1(b).

Although Napa County has not adopted an agricultural land mitigation program, such a program has been recommended:

“Where conversion of farmlands of concern under CEQA cannot be avoided, the County shall require (at minimum) long-term preservation of one acre of existing farmland of equal or higher quality for each acre of state designated Prime Farmland, Farmland of Statewide Importance and Unique Farmland that would be converted to non-agricultural uses. This protection may consist of the establishment of farmland easements or other similar mechanism. The farmland to be preserved shall be located within the County and the preservation of such farmland shall occur prior to the conversion of the subject lands. The County shall recommend that this measure be implemented by cities and LAFCO as part of the consideration of annexations that involve farmlands of concern under CEQA” (Napa County, 2007, p. 4.1-27).

4. Purchase of agricultural land by a government agency or land trust. The State of California owns more than 42,000 acres in Napa County. The purchase of agricultural land for agricultural uses by the state, county, or a land trust is unlikely because of the high cost of the agricultural land and the donation or purchase of conservation easements are more attractive to a government agency or land trust.

1.2.1. Key Takeaways

1. Napa County has implemented a strong set of agricultural land protection policies and programs, including Williamson Act contracts, a right-to-farm ordinance, agricultural zoning, and municipal development limit lines. Napa County has adopted strong agricultural zoning policies, beginning with the Agricultural Preserve in 1968. Strong agricultural zoning was added to the agricultural watershed in 1981. Today, there are approximately 235,000 acres under agricultural zoning.

2. Napa County has achieved a compact pattern of development. Only about one-fifth of the county's population lives in the unincorporated areas.
3. The Land Trust of Napa County has preserved about 15,000 acres of agricultural land, mainly in the agricultural watershed.
4. Napa County does not have a publicly-funded agricultural land preservation program.
5. Napa County does not have a transfer of development rights program or an agricultural land mitigation program. The fee simple purchase of agricultural land by a government agency or land trust to keep the land in agriculture is unlikely to happen because of the high cost and there are more attractive alternatives such as the purchase or donation of a conservation easement on agricultural land.

1.3. Annexation

Annexation is the transfer of unincorporated county land into a city or town. Annexation occurs as a city or town grows and needs additional land to accommodate housing, commercial, and public service needs. Land that is proposed for annexation into a city or town must first be in a designated Sphere of Influence of that city or town (LAFCO of Napa County, 2018b, p. 11). A Sphere of Influence (SOI) is an area adjacent to city or town boundaries that is planned for possible extension of a public service area (e.g. sewer service) and possible annexation at some future date. The city or town exercises planning and control of development in the SOI, but the SOI and its boundaries must be approved by the Local Area Formation Commission of Napa County:

“the commission shall develop and determine the sphere of influence of each local governmental agency within the county and enact policies designed to promote the logical and orderly development of areas within the sphere” (California Government Code §56425).

Also,

“In order to prepare and to update spheres of influence ... the commission shall conduct a service review of the municipal services provided in the county or other appropriate area designated by the commission” (California Government Code §56430). This process is required by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.”

However,

“a LAFCO cannot impose any conditions that would directly regulate land use density or intensity, property development, or subdivision requirements” (California Government Code § 56375 (a)(6)).

A Local Agency Formation Commission (LAFCO) is an independent government agency that is unique to California. In 1963, the California legislature created LAFCOs in each county to promote orderly growth, prevent sprawl, protect agricultural land and open space, and assure efficient, sustainable public services (CALAFCO, n.d.). A LAFCO has the authority to create new cities, spheres of influence, and special districts, change the boundaries of cities, spheres of influence, and special districts, perform municipal service reviews, change the services provided by a city or special district, extend public services, and re-organize local agencies (CALAFCO, n.d.). But it is important to note that a LAFCO does not initiate an annexation action. A city does that.

LAFCOs have the sole authority to regulate the boundaries and service areas of cities and most special districts and thus can discourage expansions onto agricultural lands (CALAFCOs and AFT, 2018, p. 3). LAFCOs define prime agricultural land as NRCS Class I and II, if irrigated, and can also include agricultural land of statewide importance, unique farmlands, and grazing lands (California Government Code § 56064). Each LAFCO monitors the conversion of prime agricultural land within its jurisdiction (CALAFCOs and AFT, 2018, p. 5).

A primary challenge for LAFCOs is how to balance urban growth and protect agricultural lands and open space. A LAFCO can deny, approve, or approve with conditions expansion proposals by cities and special districts. A LAFCO can avoid, minimize, and mitigate the loss of agricultural land. But a LAFCO should have written policies and procedures to follow in its decision-making process. Some LAFCO policies vary from county to county.

Four special issues that arise in the annexation process that can affect agricultural land are: 1) the annexation of islands; 2) the annexation of disadvantaged unincorporated communities (DUCs); 3) the exchange of property taxes between a city and county; and 4) the protect process.

Islands are “surrounded” or “substantially surrounded” by the annexing city. The city can annex unincorporated islands of up to 150 acres without protest from the residents who would be annexed. But the city must annex the entire island (Novak, 2016).

A disadvantaged unincorporated community is a neighborhood of at least 12 registered voters with a median household income of less than 80% of statewide median household income. These communities are substantially residential and often have little to no basic public services of sewer, water, and fire protection. A LAFCO must consider DUCs when amending a city’s Sphere of Influence. A common problem is that when a city grows it will annex land to avoid the DUCs. This can result in awkward land use patterns in the form of isolated fringe communities just outside of cities and Spheres of Influence as well as islands of unincorporated land with disadvantaged communities surrounded or nearly surrounded by city land. In short, “the city does not want to invest in [public services in] county territory, nor does the county

wish to invest in [public services in] a community that, once improved, will be more attractive for incorporation by a neighboring city” (Policy Link, 2013, p. 21). The role of the LAFCO is to ensure orderly growth and adequate public services in approving annexations and Spheres of Influence. Recognizing the problem with DUCs, the California legislature passed SB 244 in 2011. The law:

“requires that any city annexation proposal greater than 10 acres (or as determined by Commission policy) that is contiguous to a DUC cannot be approved without a companion annexation of the DUC unless a prior application for annexation of the same DUC area was received in the prior five years or the Commission finds that based upon written evidence that a majority of the residents within the DUC are opposed to annexation” (LAFCO for San Bernardino County, 2016).

In the annexation process, the city and the county must adopt a property tax exchange resolution. An annexation proposal cannot be brought to the LAFCO until the LAFCO has received the property tax exchange resolution. The city is taking over service responsibilities for the annexed area and is entitled to a portion of the revenues that previously accrued to the County to offset service costs. The property tax exchange specifies how much property tax revenue will shift from the county to the city.

The annexation decision of a LAFCO may be reversed in two ways at a LAFCO public hearing after the LAFCO has approved the annexation. First, the LAFCO must cancel its approval of the annexation if 50% or more of those present protest the annexation. Second, if between 25% and 50% of those present protest the annexation, the LAFCO must approve the annexation but also must call for an election involving the registered voters within the territory proposed for annexation. In the election, a favorable vote of 50% or more of the voters is then needed to approve the annexation (Bui and Ihrke, 2003).

1.3.1. LAFCO of Napa County

The LAFCO of Napa County has two county supervisors, two city council members, one at-large public member, and three staff.

The LAFCO of Napa County has adopted strong policies aimed at avoiding the conversion of agricultural land to other uses.

The Mission Statement of the LAFCO of Napa County declares:

“The Local Agency Formation Commission (LAFCO) of Napa County is committed to serving the citizens and government agencies of its jurisdiction by encouraging the preservation of agricultural lands and open-space and coordinating the efficient delivery of municipal services” (LAFCO of Napa County, 2018a. p. 1).

In addition,

“The Commission declares its intent not to permit the premature conversion of designated agricultural or open-space lands to urban uses..... In evaluating a [development] proposal, the Commission will use the Napa County General Plan to determine designated agricultural and open-space lands.....The Commission shall guide urban development away from designated agricultural or open-space lands until such times as urban development becomes an overriding consideration as determined by the Commission” (2018b, p. 2).

And,

“The Commission discourages proposals involving the annexation of undeveloped or underdeveloped lands to cities and special districts that provide potable water, sewer, fire protection and emergency response, or police protection services” (2018b, p. 3)

Specifically,

“A proposal which includes agricultural or open-space designated land shall be evaluated in light of the existence of the following factors:

- a) "Prime agricultural land", as defined by Government Code §56064.
- b) "Open-space", as defined by Government Code §56059.
- c) Land that is under contract to remain in agricultural or open-space use, such as a Williamson Act Contract or Open-Space Easement.
- d) Land which has a County General Plan agricultural or open-space designation (Agricultural Resource or Agriculture, Watershed and Open-Space).
- e) The adopted general plan policies of the County and the affected city.
- f) The agricultural economic integrity of land proposed for conversion to urban use as well as adjoining land in agricultural use.
- g) The potential for the premature conversion of adjacent agricultural or open-space designated land to urban use.
- h) The potential of vacant non-prime agricultural land to be developed with a use that would then allow the land to meet the definition of prime agricultural land under the Williamson Act” (2018b, p. 3).

Very little agricultural land has been annexed in Napa County. In 2018, the LAFCO of Napa County did approve an annexation by the City of Napa of three parcels totaling 4.2 acres with approximately 3 acres of vineyards. The land was in the city's Sphere of Influence, inside the city's rural-urban limit line, and zoned RI-5 Single Family Infill (LAFCO of Napa County, 2018c). The property owners were no longer interested in maintaining the vineyard. In 1999, voters approved the pre-zoning of 70 acres of the Jaeger Vineyards property for a town center in the City of American Canyon. The LAFCO then approved adding the 70 acres to the city's Sphere of Influence. In 2008, American Canyon adopted an Urban Limit Line—a growth boundary—through 2030. In 2010, the LAFCO approved the annexation of the 70 acres into the City of American Canyon (American Canyon LLC, 2017).

In the case of Spheres of Influence,

“The Commission shall use the most recently adopted County General Plan as the basis to identify designated agricultural and open-space lands in establishing, amending, and updating a city's sphere of influence..... Land specifically designated as agricultural or open-space lands shall not be approved for inclusion within any city's sphere of influence for purposes of urban development unless exceptions are warranted based on the criteria outlined in Section B (3) and (4)” (2018b, pp. 6-7).

And,

“A city's sphere of influence shall generally be used to guide annexations within a five-year planning period. Inclusion of land within a sphere of influence shall not be construed to indicate automatic approval of an annexation proposal; an annexation will be considered on its own merits with deference assigned to timing” (2018b, p. 7).

Also,

“The Commission will consider the Agricultural Preserve and Measure P in its decision-making processes to the extent they apply, prior to taking formal actions relating to SOIs” (LAFCO of Napa County, 2019b, p. 3).

Furthermore,

“The Commission discourages SOI amendment requests involving vacant or underdeveloped land that requires the extension of urban facilities, utilities, and services where infill development is more appropriate”.....A local agency's SOI shall generally be used to guide annexations within a five-year planning period. Inclusion of land within an SOI shall not be construed to indicate automatic approval of an annexation proposal” (LAFCO of Napa County, 2019b, p. 3).

In determining Spheres of Influence, the LAFCO of Napa County “shall consider, at a minimum, the following land use criteria:

- a) The present and planned land uses in the area, including lands designated for agriculture and open-space.
- b) Consistency with the County General Plan and the general plan of any affected city or town.
- c) Adopted general plan policies of the County and of any affected city or town that guide future development away from lands designated for agriculture or open-space.
- d) Adopted policies of affected local agencies that promote infill development of existing vacant or underdeveloped land.
- e) Amount of existing vacant or underdeveloped land located within any affected local agency’s jurisdiction and current SOI.
- f) Adopted urban growth boundaries by the affected land use authorities” (LAFCO of Napa County, 2019, p. 4). The City of American Canyon and the City of Napa have urban growth boundaries. Calistoga, St. Helena, and Yountville do not.

The LAFCO of Napa County also adopted a policy on disadvantaged unincorporated communities in 2018 (LAFCO of Napa County, 2018d).

The creation, amendment, and updates to Spheres of Influence are subject to review procedures defined in the California Environmental Quality Act (CEQA) as well as the Napa LAFCO CEQA Guidelines. For Sphere of Influence amendments, the LAFCO Executive Officer drafts a written report with a recommendation and presents it to the commission. The LAFCO is usually the lead agency in reviewing proposals to change spheres of influence. For a CEQA review the lead agency must either make a negative declaration of environmental impacts or else produce an environmental impact report (EIR). An EIR must describe the environmental impact of a project or action, alternatives, and possible mitigation measures (CALAFCO and AFT, 2018, p. 15).

In general, a LAFCO can take actions to avoid, minimize, or mitigate the loss of agricultural land. To avoid the conversion of agricultural land to other uses, a LAFCO can:

1. Offer comments to a city, town, or county during a general plan update, especially when establishing or amending a Sphere of Influence, to keep development away from agricultural land;

2. Ask a city that is seeking to annex agricultural land or increase its Sphere of Influence to “demonstrate that infill or more efficient use of land is not feasible” (CALAFCO and AFT, 2018, p. 11);
3. Ask the lead agency in a CEQA review to include alternatives that avoid the loss of agricultural lands (CALAFCO and AFT, 2018, p. 10, 11).

To minimize the loss of agricultural land when some loss is unavoidable, the LAFCO could recommend a smaller development footprint, clustering of development to increase the retention of agricultural land, longer setbacks from adjacent properties and land buffers to minimize impacts on neighboring agricultural lands (CALAFCO and AFT, 2018, p. 11). And, again, the CEQA lead agency should be asked to study alternatives to the annexation of agricultural land.

Agricultural land mitigation can be used when the loss of agricultural land cannot be avoided or minimized in order to promote orderly growth. Agricultural land mitigation means the preservation of agricultural land elsewhere in at least an equal amount and quality or a fee in lieu of in return for permission to convert agricultural land to a nonfarm use. A ratio of one acre of preserved agricultural land for each acre converted is typical.

A LAFCO can require mitigation even if the county does not have a mitigation program (CALAFCO and AFT, 2018, p.13). The Contra Costa LAFCO has adopted a mitigation policy (see Appendix One).

There are, however, two potential drawbacks to a mitigation requirement: 1) some agricultural land will still be converted to nonfarm uses, resulting in an overall net loss of agricultural land; and 2) the cost of agricultural land mitigation may increase the cost of the proposed development and reduce affordable housing opportunities.

The County General Plan Policy AG/LU-9 recommends an agricultural land mitigation program:

“Where conversion of farmlands mapped by the state cannot be avoided, the County shall require long-term preservation of one acre of existing farm land of equal or higher quality for each acre of state-designated farmland that would be converted to nonagricultural uses. This protection may consist of establishment of farmland easements or other similar mechanism, and the farmland to be preserved shall be located within the County and preserved prior to the proposed conversion. The County shall recommend this measure for implementation by the cities and town and LAFCO as part of annexations involving state-designated farmlands” (Napa County, 2013, p. AG/LU-14)

In general, annexation should be considered an option of last resort when it comes to accommodating growth and development. It is preferable to direct new development to areas within a city with adequate public services to support an increased density of development and to take advantage of infill development opportunities.

Finally, communication and cooperation between the LAFCO of Napa County and Napa County, the five municipalities, and the service districts is essential for long-term orderly growth and development and the protection of agricultural land through the annexation, Sphere of Influence, and Municipal Services Review processes. The pending County-City partnership on the next round of the Regional Housing Need Allocation (RHNA) process is evidence of existing collaboration. See the Housing section 1.4 below.

The Napa County Board of Supervisors have adopted a goal to “increase intergovernmental cooperation between Napa County and the cities and town” (Napa County, 2019, p. 6). The strategic action related to annexation states: “Continue to work with the cities and town regarding joint projects on County-owned land within the municipalities, including.....Napa Pipe” (Napa County, 2019, p. 15).

1.3.2. Napa Pipe Annexation

The annexation of the former industrial lands and brownfields site known as Napa Pipe by the City of Napa has important implications for the county in meeting its Regional Housing Needs Allocation requirements. The Napa Pipe development would include a Costco, other commercial uses, parkland, and as many as 945 residences (Eberling, 2019a).

The County General Plan describes Napa Pipe as “a 150-acre property located between the City of Napa and the City of American Canyon within an older industrial area that has been proposed for redevelopment into a mix of commercial and residential land uses, including affordable housing. The county General Plan noted the potential for Napa Pipe to be annexed by the City of Napa” (Napa County, 2013, p. AG/LU-55).

Further, the designation of the Napa Pipe lands as Mixed Use “provides for flexibility in the development of land, allowing either industrial, or commercial and residential uses. This designation is intended to be applied only to the Napa Pipe site in the unincorporated area” (Napa County, 2013, pp. AG/LU-21-22).

The County General Plan specifically states for the Napa Pipe lands:

“Parcel sizes shall be as set forth in an approved development plan for the Napa Pipe Mixed Use designation, provided that the County shall allow 202 owner-occupied or rental units by right pursuant to Housing Element Program H-4e.
 d) Maximum Residential Density: No more than 700 total dwelling units (945 with state required density bonus) shall be allowed within the Napa Pipe Mixed Use designation, with an estimated population of 1,540 (or 2,079) persons.
 e) Maximum Non-Residential Building Density: No more than a total gross floor area of 319,000 gross square feet of enclosed non-residential uses shall be

allowed east of the railroad track within the Napa Pipe Mixed Use designation. No more than 50,000 square feet of enclosed non-residential uses shall be allowed west of the railroad track within the Napa Pipe Mixed Use designation. In addition, on the parcel west of the railroad track, one hotel with no more than 150 suites and associated uses such as meeting space and spa, and up to 150 total units within continuing care retirement and assisted living or similar special use facilities for seniors shall be permitted, and shall not be included in the calculation of total gross floor area or total dwelling units” (Napa County, 2013, p. AG/LU-22).

In 2015, the Napa Pipe lands were added to the City of Napa’s Sphere of Influence. In 2016, the City of Napa completed the first phase of the Napa Pipe annexation. In the spring of 2019, the City of Napa expressed an interest in beginning the second phase of annexation (LAFCO of Napa County, 2019c, p. 3). The second phase consists of one parcel and some railroad area totaling 43 acres of unincorporated land within the city’s Sphere of Influence.

State Senator Bill Dodd of Napa has introduced Senate Bill 235 to allow Napa County to receive credit toward its RHNA goals for housing built on the Napa Pipe lands, even though the lands would be annexed by the City of Napa (Eberling, 2019a). The bill is expected to pass and become law. The County is behind on its housing goals for very low-income and low-income housing for 2015-2023 (see Table D). The Napa Pipe development would add an estimated 140 affordable housing units and help the County meet its RHNA housing goals (Eberling, 2019b).

1.3.3. Key Takeaways

1. The LAFCO of Napa County LAFCO plays an important role in the annexation process in balancing urban expansion with the protection of agricultural lands and open space.
2. Napa County and the LAFCO of Napa County have policies that are protective of agricultural land in the annexation process.
3. The LAFCO of Napa County does not have a formal agricultural land mitigation process as part of its annexation review. But very little agricultural land has been annexed or placed in Spheres of Influence over the years
4. The County has stated a desire to increase cooperation between the county and the cities and town, especially in the case of joint projects on county-owned land.
5. The annexation of the Napa Pipe lands by the City of Napa could also provide Napa County with credit toward its affordable housing goals under the Regional Housing Needs Assessment for 2015-2023. State legislation would be needed to make this happen.

1.4. Housing

Housing affordability and availability are major challenges throughout the United States, and especially in the San Francisco Bay Area (Hinshaw and DeAngelis, 2019; Metropolitan Transportation Commission and Association of Bay Area Governments, 207a)).

More than 7.6 million people live in the nine counties of the Bay Area, with the expectation that there will be 9.3 million people by 2040. Development pressures will increase across the Bay Area, even though the Plan Bay Area 2040 produced by the Metropolitan Transportation Commission and Association of Bay Area Governments has targeted growth to occur in existing communities and along existing transportation networks.

The Bay Area has a crisis of affordable housing and workforce housing, resulting from an overall shortage of housing supply, high housing prices and rents relative to income, and the high cost of building new housing. Building more housing to accommodate current and future Bay Area residents is a top priority in the Plan Bay Area 2040.

The Napa County General Plan reported that “As of 2006, the median price of a home in the unincorporated area of Napa County was approximately \$622,500, well beyond the reach of households earning a moderate income. The median price of a home in the county as a whole was just over \$600,000. The shortage of housing affordable to moderate, low, very low, and extremely low-income households makes it difficult for many of the county’s workforce to live in the county” (Napa County, 2013, AG/LU-7). In 2019, the median home price in Napa County was \$670,000 according to Zillow (Zillow, 2019) and \$710,000 according to bayareamarketreports.com. (bayareamarketreports.com, 2019).

A major decision for Napa County and its municipalities is how, where, when, how much, and what types of housing supply to increase.

Table 1.1 provides a snapshot of affordable housing in Napa County. Low-income apartments account for a very small proportion of the county’s housing units, slightly more than 3%. Moreover, more than half of all renters are rent-burdened, meaning that they spend more than 30 percent of their income on housing.

A concern in a popular tourist destination like Napa County is that property owners can earn a higher return from renting out their properties to tourists through Airbnb than from renting their properties longer-term to local tenants.

Table 1.1. Snapshot of Affordable Housing in Napa County, 2019

Total Affordable Apartment Properties	25
Total Low-Income Apartments	1,588
Total Rent Assisted Apartments	757
Percentage of Housing Units Occupied by Renters	40.04%
Average Renter Household Size	2.90
Total Population	140,295
Housing Units	49,494
Average Household Size	2.74
Median Household Income	\$71,379 ±\$2,063
Median Rent	\$1,405 ±\$42
Percentage of Renters Overburdened	51.94% ± 3.25pp

Source: Affordable Housing Online, 2019.

Affordable housing often declines as more land becomes off-limits to development, either through zoning restrictions or land preservation. The high cost of housing in Napa County has forced many workers to live elsewhere and commute long distances to work. It is important to note that for defining affordable housing it is not sufficient to look only at the price of housing. The location of the housing and transportation costs are also important.

1.4.1. Housing and Growth Management

Napa County has been clear about promoting compact development and new development within its cities and town. For example, General Plan Policy AG/LU-25 states:

“The County opposes the creation of new special districts planned to accommodate new residential developments outside existing urbanized areas, except as specified in the Housing Element or as permitted within the Napa Pipe Mixed Use designation” (Napa County, 2013, p. AG/LU-18)

The county has created a Proximity Workforce Housing Assistance program to help workers purchase a house within 20 miles of where they work in Napa County. The total amount of Proximity Housing Assistance offered cannot exceed 10% of the purchase price of the home. The total down payment amount contributed by a buyer cannot exceed 10% of the purchase price. The maximum purchase price of a home is capped at 110% of the median price of a home in Napa, American Canyon, Yountville, St. Helena, or Calistoga. Workers eligible must have a gross household income which does not exceed 20% of the Area Median Income. The program is funded through the county's Affordable Housing Trust Fund, as described in Section 18.107.020 of the Napa County Code (Napa County, 2019c).

Since 1977, Napa Valley Community Housing has operated much like a community land trust through building more than 600 new housing units and purchasing and rehabilitating more than 200 units for low- and moderate-income residents (Napa Valley Community Housing, 2019).

The Napa County Housing Authority (NCHA) works mainly to address the need for safe and affordable housing for farm workers, particularly migrant and seasonal workers (Napa County Housing Authority, 2019). There are three public farmworker housing centers, and each accommodates 60 workers and is open from 9 to 11 months of the year. Vineyard owners pay a per acre assessment to help house and feed migrant fieldworkers (James, 2011).

The Napa County Code allows for farm worker housing and camps and spells out requirements for the development of permanent and seasonal housing for farm workers. The requirements include development standards, occupancy limitations, parking standards, affordability provisions, and compliance with health, safety and building codes (see Napa County Code Sections 18.104.340, 310, 320, and 330. Farm Worker Housing and Labor Camps (Napa County 2007).

Migrant worker housing has been allowed in the agricultural zones but does not provide enough shelter for all migrant workers. General Plan Policy AG/LU-11 declares:

“Agricultural employee housing shall be permitted in agricultural zoning districts in conformance with state law. Seasonal farm labor housing may be provided in agricultural areas without regard to the location of farm employment in Napa County when the housing is under local public agency ownership or control” (Napa County, 2013, p. AG/LU-14).

The County General Plan has identified several housing policies and recommendations to increase the supply of housing:

- a. Consider re-use of former industrial sites designated as Study Area on the Land Use Map to provide for a mix of uses, including affordable and market rate work force housing as appropriate.

- b. Use of overlay designations to permit/facilitate multi-family housing on specific sites within designated urbanized areas shown on the Land Use Map.
- c. Collection and disbursement of housing impact fees to subsidize construction of affordable housing.
- d. Cooperative agreements with incorporated agencies within the County where these jurisdictions are able to accept additional housing requirements in exchange for other considerations.
- e. Actions that provide housing to farm workers and their families.
- f. Use of County-owned land for affordable housing where this land is no longer needed to meet the County's operational requirements and would be appropriate for housing.
- g. Other policies and programs which address the need for workforce housing.

In addition, General Plan Action Item AG/LU-30.1 recommends that the county:

“Develop a Workforce Housing Ordinance, including revisions to the current Inclusionary Housing Ordinance, to define workforce housing and establish additional workforce and inclusionary housing requirements for all multifamily housing proposals consisting of eight or more units constructed in the unincorporated County. Such an ordinance could also require on-site workforce housing in place of in-lieu fees for any large commercial or institutional projects constructed outside of areas where housing would be inconsistent with the applicable airport land use compatibility plan” (Napa County, 2013, p. AG/LU-19).

Also, General Policy AG/LU-31 states:

“The County will work with the cities and town to see that low and moderate cost housing is provided to address the needs of low- and moderate-income households in Napa County. In addition, the County will accept responsibility for meeting its fair share of the housing needs, including a predominant percentage generated by any new employment in unincorporated areas. (Napa County, 2013, p. AG/LU-19).

In the current county strategic plan, the Napa County Board of Supervisors have adopted goals to “Collaborate with local, state and federal partners to create opportunities for development of affordable and accessible housing” and “Identify housing resources and remove barriers to maximize housing opportunities” (Napa County, 2019a, pp. 5, 6).

The Supervisors also adopted the following strategic actions:

“A. Establish a structural rehabilitation program to allow people to remain in their homes and to retain existing affordable housing

B. Expand the Junior Accessory Dwelling Unit (JADU) loan program to include Accessory Dwelling Units and allow (JADUs) in the Agricultural Preserve.

C. Explore the availability of vacant or under-utilized County and State owned properties for housing.

D. Expand worker proximity housing by revising eligibility requirements and partnering with funding organizations.

E. Work with landowners to explore farmworker housing options on privately owned parcels” (Napa County, 2019, p. 8).

The Supervisors also adopted the following strategic actions related to housing:

“A. Update the farmworker housing needs assessment.

B. Support legislation and seek State and Federal to support housing programs, including funding to authorize the creation of a workforce housing model in various industries using the current framework for farmworker housing.

C. Conduct a housing inventory to inform the next update of the Housing Element in the General Plan.

D. Continue to enforce against illegal short-term rentals.

E. Initiate conversations for working with the cities and town to streamline the development of housing on County-owned land” (Napa County, 2019a, p.12).

State of California housing requirements. Napa’s housing programs and policies are strongly influenced by housing requirements established by the State of California. Since 1969, all California cities, counties, and towns have been required to plan for the housing needs of all income groups. In the 1980s, the California Department of Housing and Community Development (HCD) created the Regional Housing Need Allocation (RHNA) process statewide to increase the supply of housing and to ensure that local governments consider the housing needs of households at all income levels. The RHNA process defines very low-income households as earning 50% or less of the area median income; low-income households have 50% to 80% of the area median income; moderate income households have 80% to 120% of the area median income—this income level lives in what is known as workforce housing—and above moderate income households earn more than 120% of the area median income.

The HCD determines the total number of new homes and the affordability of those homes needed to be built in the San Francisco Bay Area. The Association of Bay

Area Governments (ABAG) through the RHNA process “distributes a share of the region’s housing need to each city, town and county in the region. Each local government must then update the Housing Element of its general plan to show the locations where housing can be built and the policies and strategies necessary to meet the community’s housing needs” (ABAG, 2019). The current RHNA applies to the years 2015 to 2023.

In Napa County, the allocation of housing need generated by the unincorporated Sphere of Influence (SOI) is assigned to the cities (ABAG, 2013, p. 11). Napa County and its municipalities have formed a subregion for RHNA purposes. A subregion is allowed to undertake a housing allocation process that parallels, but is separate from, the regional process. Once each subregion receives its share of the total housing need by income, it must meet the same statutory requirements and follow the same steps as the regional allocation process (ABAG, 2019).

For the 2024-2032 RHNA, the subregion approach means that the number of new housing units by income group will be based on the county together with the five municipalities, not on each local jurisdiction separately. This will give the county and the five municipalities a better chance to decide where to develop affordable housing, the types of affordable housing and how to provide public services for these units. ABAG will begin work on the RHNA for 2022-2030 this fall (ABAG, 2019).

For 2007 to 2014, Napa County and its five municipalities were given a RHNA of 3,705 units and they permitted 1,434 units for a compliance rate of 39%. Napa County had a RHNA of 651 units and permitted 417 units for a compliance rate of 64% (see Table 1.2). The average compliance rate for counties in the Bay Area was 57%.

NAPA COUNTY	Very Low (0-50% AMI)			Low (50-80% AMI)			Moderate (80-120% AMI)			Above Moderate (120%+ AMI)			Total		
	RHNA	Permits Issued	Percent of RHNA Met	RHNA	Permits Issued	Percent of RHNA Met	RHNA	Permits Issued	Percent of RHNA Met	RHNA	Permits Issued	Percent of RHNA Met	RHNA	Permits Issued	Percent of RHNA Met
American Canyon*	169	-	0%	116	-	0%	143	2	1%	300	86	29%	728	88	12%
Calistoga*	17	14	82%	11	9	82%	18	2	11%	48	8	17%	94	33	35%
Napa	466	88	19%	295	26	9%	381	162	43%	882	495	56%	2,024	771	38%
St. Helena	30	2	7%	21	8	38%	25	16	64%	45	25	56%	121	51	42%
Yountville ²	16	20	125%	15	22	147%	16	12	75%	40	20	50%	87	74	85%
Napa County	181	11	6%	116	6	5%	130	74	57%	224	326	146%	651	417	64%
County Totals	879	135	15%	574	71	12%	713	268	38%	1,539	960	62%	3,705	1,434	39%

Table 1.2. Napa County Progress in Meeting 2007-2014 Regional Housing Need Allocation. Source: ABAG, (2015).

For 2015-2023, Napa County as a whole subregion received a housing allocation of 1,482 units, including 370 very low-income units, 199 low income units, and 243 moderate income units (see Table 1.3). The unincorporated county needs to provide 180 new housing units of which 51 are very low-income units, 30 low-income units, and 32 moderate income units.

	Very Low	Low	Moderate	Above Moderate	Total
American Canyon	116	54	58	164	392
Calistoga	6	2	4	15	27
Napa	185	106	141	403	835
St. Helena	8	5	5	13	31
Yountville	4	2	3	8	17
Unincorporated	51	30	32	67	180
Napa Total	370	199	243	670	1,482

Table 1.3. Napa County Regional Housing Need Allocation, 2015-2023. (Source: ABAG, 2013, p. 24).

At the end of 2018, the Napa County subregion had issued permits for 1,452 housing units out of 1,482 units required under the RHNA, or 98% of the overall required increase in housing supply (see Table 1.4). But a closer look at the income levels reveals a shortfall of permitted housing units for very low-income and low-income housing. Of the 370 required very low-income housing units, only 142 units or 38.4% had been permitted. And of the 199 required low-income housing units, just 74 units had been permitted. Calistoga has met its RHNA housing requirements for all four income categories. American Canyon has made good progress and has exceeded the required number of units for moderate-income housing. St. Helena has also made good progress and has exceeded the required number of units for above moderate-income housing. Yountville has exceeded the required number of units for both moderate- and above moderate-income housing.

For the 2015-2023 RHNA, the unincorporated area of Napa County was given a target of 180 dwelling units. As of May of 2019, Napa County had issued 134 permits for new houses. However, 99 houses were in the above-moderate category well above the RHNA target of 67. The county has issued 11 permits for moderate-income dwellings out of the goal of 32, six out of 30 low-income units and 18 of 51 very low-income units

(Eberling, 2019b). If current trends continue the county may not meet its very low- and low-income housing requirements by the end of 2023.

If the pending Napa Pipe annexation and development moves forward and Napa County receives credit toward its RHNA goals for housing built on the Napa Pipe lands, then the County would meet its RHNA housing targets.

The City of Napa has also exceeded its required number of above moderate-income homes. The City of Napa has made some progress by permitting about one-fifth of the required very low- and low-income housing units.

The current penalty for not meeting the RHNA housing goals is that multi-family housing is allowed as a by-right land use under the zoning. This means that a multi-family housing proposal would face a less stringent or lengthy review process and would likely be built. The multi-family housing would move a jurisdiction toward meeting its RHNA goals.

An additional concern is that the number of RHNA housing units will rise in the next eight-year RHNA plan 2024-2032 (Eberling, 2019b).

Table 1.4. Napa County Annual Progress Report Permit Summary for Regional Housing Needs Allocation, 2018. (Source: California Department of Housing and Community Development, 2019).

<u>Income Level</u>	<u>American Canyon</u>	<u>Calistoga</u>	<u>Napa</u>	<u>St. Helena</u>	<u>Yountville</u>	<u>Unincorporated Napa County</u>	<u>TOTAL</u>
<u>Very Low Income</u>							
RHNA Units	116	6	185	8	4	51	370
Units Permitted	57	23	53	5	1	3	142
% of RHNA Units Permitted	49.1%	383.3%	28.6%	62.5%	25%	5.9%	38.4%
<u>Low Income</u>							
RHNA Units	54	2	106	5	2	30	199

Units Permitted	40	7	22	3	1	1	74
% of RHNA Units Permitted	74.1%	350%	20.8%	60%	50%	3.3%	37.2%
<u>Moderate Income</u>							
RHNA Units	58	4	141	5	3	32	243
Units Permitted	141	7	4	4	12	52	220
% of RHNA Units Permitted	243.1%	175%	2.8%	80%	400%	162.5%	90.5%
<u>Above Moderate Income</u>							
RHNA Units	164	15	403	13	8	67	670
Units Permitted	143	36	695	50	14	78	1,016
% of RHNA Units Permitted	87.2%	240%	172.5%	384.6%	175%	116.4%	151.6%
TOTAL RHNA Units	392	27	835	31	17	180	1,482
Units Permitted	381	73	774	62	28	134	1,452
% of RHNA							

Units Permitted	97.2%	270%	92.7%	200%	164.7%	74.4%	98%
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Federal housing programs. The City of Napa Housing Authority operates the federal Department of Housing and Urban Development Section 8 Housing Choice Voucher program that provides subsidies for privately-owned rental units. However, the waiting list for this program is currently closed with no prospect for re-opening any time soon (City of Napa, 2019).

The Home Investment Partnership Act (HOME) was created by Title II of the National Affordable Housing Act of 1990. HOME is a federally funded, grant program for housing and replaces a number of former federal housing programs, including HUD's Rental Rehabilitation program. The HOME Program can help to fund many types of housing activities: first time homebuyer and homeowner rehabilitation; rental housing production and rehabilitation; and tenant-based rental assistance.

The federal low-income housing tax credit (LIHTC) program works through the state of California to ensure that projects are eligible. Permitted housing density is one of the criteria, which means that local zoning that allows multi-family housing is an important factor in developing affordable housing (Hinshaw and DeAngelis, 2019).

1.4.2. Key Takeaways

1. Napa's housing programs and policies are strongly influenced by housing requirements established by the State of California. Napa County and the five municipalities, if allowed to be treated as a single subregion, must work together to meet the Regional Housing Needs Allocation from the California Department of Housing and Community Development and the Association of Bay Area Governments.
2. Napa County has recognized several actions that could be taken to increase the supply of housing in general and specifically affordable housing.
3. It is easier to meet affordable housing requirements through a small number of larger new developments rather than several small projects. However, it is important to plan for both large and small affordable housing projects.
4. Cooperation and even joint projects between the county and the five municipalities will be needed to provide meet State of California affordable housing unit requirements.

Chapter 2: Agricultural Land Preservation

The preservation of agricultural land means the permanent protection of agricultural land from non-farm development. Preservation differs from the short- to medium-term protection of agricultural land through zoning. The preservation of agricultural land most often occurs through the sale or donation of a perpetual conservation easement by a willing seller or donor to a government agency or a private non-profit land trust (Daniels and Keene, 2018). The preservation of agricultural land is a **voluntary** process. By comparison, zoning is a government land use control that is mandated. Also, it is very difficult to remove a conservation easement whereas zoning can be changed by a vote of the local elected officials or the general public.

When a landowner sells or donates a conservation easement to a government agency or a qualified private, non-profit land trust, a deed of easement is recorded in the county land records. The land remains in private ownership, and may be sold or passed on to heirs, but the restrictions in the deed of easement “run with the land” and apply to all future landowners (CCLT, 2014; Daniels, 1991).

There are two major reasons for the popularity of farmland preservation from a public policy perspective: 1) Conservation easements provide longer term and stronger protection than zoning keeping farmland from being converted to other uses; and 2) the voluntary nature of conservation easements avoids the Fifth Amendment “takings” issue which may arise through the use of government land use restrictions such as zoning. In addition, landowners receive compensation for the conservation easement in the form of cash and/or an income tax deduction and possibly estate tax benefits. And the land remains private property and on the property tax rolls.

Federal, state, and local government programs exist for farmland preservation; and private, nonprofit land trusts have also been active in preserving farmland (American Farmland Trust 2016, 2018). There are now about six and a half million acres of preserved agricultural land in the United States, out of a total of 900 million acres of agricultural land (USDA, 2019).

The first local government program to acquire conservation easements to farmland was created in 1974 in Suffolk County, New York, on the eastern end of Long Island. Maryland became the first state to create a state-level farmland preservation program in 1977. As of today, 28 states and more than 95 local governments have formed farmland preservation programs (American Farmland Trust, 2016, 2018).

Agricultural land preservation works best as a package of protection and preservation. The four main agricultural protection techniques are discussed in the previous chapter on Napa County: differential assessment for agricultural land for property tax purposes, right-to-farm laws and ordinances, agricultural zoning, and urban growth boundaries/development limit lines. These protections promote the continuation of agricultural operations and the agricultural industry as a whole. Agricultural zoning and development limit lines help to make the acquisition of conservation easements

more affordable, given that the value of the conservation easement is the difference between the fair market value of a property and the value restricted to agricultural and open space uses under a conservation easement.

Goals

The preservation of agricultural land has several goals:

- (1) Protect highly productive agricultural soils for the long run;
- (2) Maintain and enhance the local agricultural industry by preserving a critical mass of farms and farmland that help the farm support businesses to thrive;
- (3) Keep development at a distance from farming areas to minimize development pressures and potential conflicts with nonfarm neighbors;
- (4) Channel growth to areas with adequate infrastructure (Stoms et al., 2009);
and
- 5) Offer landowners a variety of financial options to preserve their land.

Strategies

To achieve these goals, five strategies are key:

- (1) A steady increase in the amount of preserved land over time, such as preserving at least 1,000 acres a year for 30 years. Land preservation is a long-term process. The county, cities, Land Trust of Napa County, and the Jack L. Davies Agricultural Land Preservation Fund should set a goal for land preservation over the long-term.
- (2) The preservation of agricultural land in large contiguous blocks of at least 500 acres and, ideally, 1,000 acres or more, especially for rangeland. Scattered preserved farms are likely to experience more nonfarm development nearby as well as problems with nonfarm neighbors. Moreover, the traditional measures of dollars invested and acres preserved do not give an accurate picture of the spatial outcomes of preservation and preservation effectiveness (Daniels and Payne-Riley, 2017).
- (3) A limit to the outward extension of urban services and urban development into the countryside. The leading counties in agricultural land preservation use Urban Growth Boundaries. The boundaries may be expanded over time. The idea is to promote compact development that also limits the conversion of agricultural land.
- (4) The use of strong agricultural zoning to limit nonfarm development in agricultural areas. Although agricultural zoning is not permanent, it does provide short-

to medium-term protection for farming operations by restricting the amount of nonfarm development that can occur in an agricultural zone;

(5) The creation of a public-private partnership to preserve agricultural land. A government preservation program together with the preservation efforts of a private, non-profit land trust can help to coordinate preservation activities, boost overall funding for preservation, and result in joint preservation projects that otherwise could not have been possible.

2.1 Farmland Preservation in California

Local governments and land trusts. There are a small number of county government farmland preservation programs in California and several land trusts active in preserving agricultural land (see Table 2.1).

Table 2.1 California Counties and Land Trusts Active in Preserving Agricultural Land.

<u>County</u>	<u>Public Program Acres Preserved</u>	<u>Public Dollars Spent</u>	<u>Land Trust Farm Acres Preserved</u>	<u>Land Trusts</u>
City of Davis	3,449		Joint	Yolo Land Trust
Marin*	---		54,000	Marin Ag Land Trust
Monterey			30,000+**	Monterey County Ag Land Trust
Napa	---	---	15,000	Land Trust of Napa County California*** Rangeland
			1,275	
Trust nta Clara****	---	---	---	
San Mateo	---	---	8,000+	Peninsula Open Space Trust
Sonoma Land Trust	34,746	\$81,668,250	10,000+Sonoma****	
Yolo	---	---	5,500+	Yolo Land Trust

Sources: American Farmland Trust, 2016; California Rangeland Trust, 2019; Land Trust of Napa County, 2019; Marin Agricultural Land Trust, 2019; Monterey Santa Clara County Open Space Authority, 2019; Peninsula Open Space Trust; Sonoma County Ag + Open Space District, 2019; Yolo Land Trust, 2019.

* In 2014, Marin County voters approved Measure A which levied a quarter-cent sales tax on purchases made in the County to fund the Farmland Preservation Grant Program. In five years, the program has made grants to the Marin Agricultural Land Trust to preserve 12 farms and more than 7,000 acres (Post, 2019).

**Mostly in Monterey County.

***The Land Trust of Napa County has preserved a total of 76,000 acres of which 15,000 acres are agricultural land. The California Rangeland Trust has preserved more than 330,000 acres across the state.

***It is not clear how much funding has gone to preserve agricultural land and how much to protect other types of land with Measure Q funds since 2014 (Santa Clara Valley Open Space Authority, 2019).

****The Sonoma Land Trust has preserved more than 52,000 acres of which more than 10,000 acres are agricultural lands.

Funding for local government farmland preservation projects has varied from a dedicated one quarter of one percent sales tax in Marin and Sonoma Counties to a \$24 per lot tax for 15 years in Santa Clara County (expected to generate a total of \$118 million) to agricultural land mitigation between the City of Davis and Yolo County.

State of California programs to preserve agricultural land. The State of California has three programs to help fund the preservation of agricultural land. These include: the California Farmland Conservancy Program (CFCP), the Sustainable Agricultural Lands Conservation Program, and the Agricultural Land Mitigation Program

The California Farmland Conservancy Program was created in 1995 to provide state grants to land trusts and local governments to acquire agricultural conservation easements to preserve agricultural land (see Table 2.2). Funding has come from a variety of sources, including a state budget appropriation, the sale of bonds, and the federal Agricultural Conservation Easement Program (ACEP). Funding has varied considerably from year to year. In 2018, the CFCP made \$1.3 million in grants (California Department of Conservation, 2019). Since 1995, the program has preserved 58,000 acres in 175 conservation easement projects.

In recent years, the proceeds from the sale of emissions allowances derived from the state cap-and-trade program to reduce greenhouse gas emissions has provided a modest source of funds for farmland preservation. The Land Trust of Napa County has used funding from the Sustainable Agricultural Lands Conservation Program to preserve two properties.

Table 2.2 State of California Farmland Preservation Programs

<u>Name (funding source)</u>	<u>Date Started</u>	<u>Number of Easements</u>	<u>Acres Preserved</u>	<u>Dollars Spent</u>
Agricultural Land Mitigation Program (Cap and trade auction Proceeds)	2016/2017	1	273	\$2,639,047
California Farmland Conservancy Program (Appropriations, bonds, mitigation fees, private contributions, ACEP)	1995/1997	184	59,498	\$88,485,139
Sustainable Agricultural Lands Conservation Program (Cap and trade auction proceeds)	2014/2015	8	15,608	\$8,624,800
TOTAL		193	75,379*	\$99,748,986

* Out of 18 million farmland acres in California or just or 0.4% preserved.

Source: American Farmland Trust, 2018.

Agricultural Land Mitigation. Agricultural land mitigation means that if farmland is allowed to be developed, the developer must in turn preserve an equal or greater amount of agricultural land somewhere else with a perpetual conservation easement. In the 1990s, the City of Davis and the Yolo County Local Agency Formation Commission (LAFCO) reached agreement about annexation and the development of farmland for several residential projects (CCLT, 2014). The mitigation land or conservation easement may be held by a city, county, special district, or Native American tribe. Counties with agricultural land mitigation programs include: Mendocino and Stanislaus (CCLT, 2014, p. 9).

In creating agricultural land mitigation programs, local governments in California faces two challenges: 1) forging functioning and legally sound mitigation programs; and 2) drafting regional plans in compliance with SB 375 (the Sustainable Communities

and Climate Protection Act of 2008). These plans can require agricultural mitigation programs (CCLT, 2014, p. ix).

The California Council of Land Trusts report notes that “[m]itigation requirements for impacts to farmland are determined as part of a CEQA or NEPA review, by local ordinances or general plan policies” (CCLT, 2014, p. 6). Agricultural land mitigation is consistent with the California Environmental Quality Act (CEQA) which defines mitigation as “[c]ompensating for the impact by replacing or providing substitute resources or environments” (California Code of Regulations Section 15370).

The downside of agricultural land mitigation is that it is likely to apply to only a small amount of land. This is especially the case in Napa County where the county’s land use policies and zoning have promoted a compact settlement pattern. But mitigation could be useful as part of an annexation of agricultural land into a city or town.

2.2 Federal Agricultural Land Preservation

In the 1996 Farm Bill, Congress created the Farm and Ranch Lands Protection Program, to offer grants to state and local governments (land trusts were added in 2002) to purchase conservation easements on working farm land and ranchlands (Phelps, 2019). The 2014 Farm Bill repealed the Farm and Ranch Lands Protection Program and consolidated it with the Wetlands Reserve Program and Grassland Reserve Program into the Agricultural Conservation Easement Program (ACEP). The Natural Resources Conservation Service (NRCS) within the US Department of Agriculture administers the ACEP program and the Secretary of Agriculture determines how much of the annual appropriation for ACEP will be spent on Farm and Ranch Lands, Wetlands, and Grasslands. The NRCS will provide cost share funds for up to 50 percent of the value of the easement; the grant recipient may provide a match in cash or the landowner can donate a up to half of the easement value toward the match. The 2018 Farm Bill authorized \$450 million a year for five years to fund the ACEP program. Napa County and the Land Trust of Napa County should consider applying for ACEP funds.

Case Studies

The following case studies provide insight into best practices in agricultural land preservation. The case studies together with the existing conditions in Napa County will be used as the basis for recommendations presented in Chapter 5.

Case Study 2.1 Lancaster County, Pennsylvania

Lancaster County covers 603,000 acres in southeastern Pennsylvania, about 60 miles west of Philadelphia. The county contains some of the most productive farmland in the nation and about two-thirds of the county is in farm use (USDA, 2019). The

average farm size is only 85 acres, in part because of the presence of Amish and Mennonite farmers, who farm with horses and mules rather than machinery (Daniels, 2000). County farmers produce more than \$1.5 billion a year in farm product sales featuring dairy, egg, and poultry products (USDA, 2019). Yet, the county has a population of 540,000, which defines the county as a metropolitan area. Lancaster County is a popular tourist destination, with about 10 million visitors a year because of the farms and the Amish.

Farmland prices typically run more than \$10,000 an acre, and the median house price in 2019 is \$212,000, according to Zillow. These numbers are well below the price of Napa County's vineyard land and median house prices. The price of an agricultural conservation easement is about \$3,000 an acre. Relevance to Napa County is the Lancaster County farmland preservation program, which has preserved more agricultural land than any other county in the United States.

In the late 1970s Lancaster County began to feel development pressure from the sprawling Philadelphia metropolitan area, as well as from internal population growth. In 1980 the Lancaster County commissioners appointed a nine-member Agricultural Preserve Board to develop strategies to protect farmland. The board recommended the creation of a purchase of agricultural conservation easements program to preserve farmland. The county program began in 1983 with the formation of the Agricultural Preserve Board, a county agency.

Meanwhile, restrictive agricultural zoning grew in popularity and more than half of the county, about 325,000 acres, is now zoned for agriculture (Lancaster County Planning Commission, 2010, p. 7), and effective agricultural zoning is found in 38 of the county's 41 townships. Effective agricultural zoning means that only one new house is allowed per 20 acres, and the house must be on a lot of no more than 2 acres (Lancaster County Planning Commission, 2010, p. 3). Most townships use a standard of one house per 25 acres, and six townships allow only one house per 50 acres. Zoning, however, can be changed by the local government at any time.

In 1993, the county planning commission worked with local governments to create urban and village growth boundaries to produce more compact growth by restricting the extension of sewer and water lines. A total of 13 urban growth boundaries and village growth boundaries have been put in place around cities and villages through voluntary agreements (Lancaster County Planning Commission, 2006). Today, nearly 112,000 acres, more than one-sixth of the total acreage of the county, lies within an urban or village growth boundary with enough land for development to accommodate development over a 20-year period, based on population growth projections and expected land use needs. Every three to five years, the county may review and recommend changes to the boundaries. The boundaries have changed only slightly since 1993.

The Agricultural Preserve Board has used funding from the county government, the state of Pennsylvania, the federal Farm and Ranch Lands Protection Program, and its successor the Agricultural Conservation Easement Program (ACEP). The Preserve Board has spent more than \$175 million to preserve nearly 82,000 acres of farmland (Daniels and Payne-Riley, 2017; Wanner, 2018). The State of Pennsylvania formed a farmland preservation program in 1988 through a statewide referendum approving a \$100 million bond to preserve farmland. Since 1994, the state has relied mainly on a two-cent a pack tax on cigarettes, which has produced more than \$20 million a year in revenue. Individual counties authorize matching funds and receive a grant from the state based on the county funding and county property tax levels. This dedicated cigarette tax has been a critical source of funding for Lancaster County.

In 1988, the nonprofit Lancaster Farmland Trust was established to add a private farmland preservation effort especially for preserving farmland owned by the Amish, who generally do not want to receive government funds. The Farmland Trust has preserved more than 30,000 acres (Wanner, 2018). Funding has come from individual donors, agricultural businesses, foundations, and the federal ACEP program. The Preserve Board and the Farmland Trust have had a cooperative agreement since 1989 and have combined efforts to preserve a dozen farms. This public-private partnership for farmland preservation has been a national model.

2.1.1. Key Takeaways

1. Lancaster County has used a package of agricultural zoning, urban and village growth boundaries, and a public-private partnership between the county government and the Lancaster Farmland Trust in the acquisition of conservation easements to preserve farmland in the long run.
2. Although farmland preservation is a voluntary process, Lancaster County has been able to create 17 blocks of more than 1,000 acres of preserved farmland (Daniels and Payne-Riley, 2017) (See Figure 2.1). Creating large contiguous blocks of preserved farmland is important for the overall success of the preservation effort.
3. Funding for farmland preservation has come from a variety of sources: a) county funds—through bonds and annual appropriations; b) the State of Pennsylvania (annually since 1989 with a dedicated cigarette tax since 1994); c) the federal Farm and Ranch Lands Protection Program and its successor the Agricultural Conservation Easement Program; and d) private funders, including individual donors, agricultural businesses, and foundations.

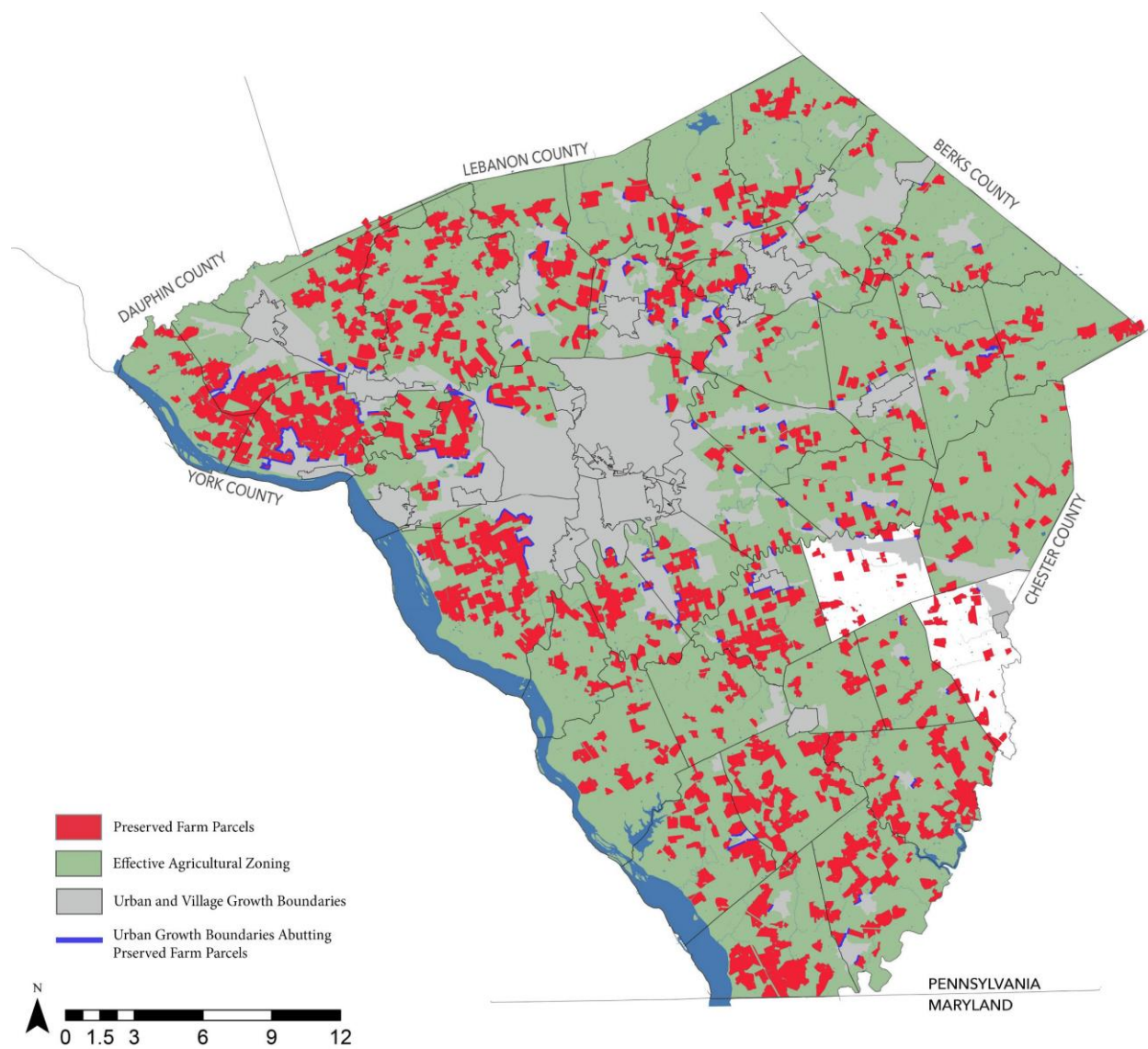


Figure 2.1 Preserved Farm Parcels in Red, Urban Growth Areas in Gray, Effective Agricultural Zoning in Green, and Preserved Farm Boundaries Touching Growth Boundaries in Blue, Lancaster County, Pennsylvania.

Source: Daniels and Payne-Riley, 2017, *Journal of Agriculture, Food Systems, and Community Development*, 7(3), p. 75. Used by permission.

Case Study 2.2 Sonoma County, California

Sonoma County lies east and northeast of Napa County in the North Bay region of the San Francisco Bay Area. Sonoma, like Napa, is world-famous for its scenic vineyards, excellent wine, and rugged ridge lines. Sonoma County is a large County,

stretching from the San Francisco Bay north to the Russian River and west to the Pacific Ocean. In 2017, Sonoma County had nearly \$920 million in farm product sales and 567,284 acres of agricultural land covering 56 percent of the county (USDA, 2019). The County had an estimated population of 503,000 in 2019.

Sonoma County's vineyard land sells for about half the price of Napa County's vineyard land. The median house price in Sonoma County in 2019 was \$600,500, according to Zillow, not much less than in Napa County.

Land preservation in Sonoma County has its origins in neighboring Marin County. In 1972, the Marin County supervisors adopted strict agricultural zoning of one house per 60 acres for about one-third of the county. In the early 1970s, Congress passed the Point Reyes National Sea Shore and the Golden Gate National Recreation Area, in effect removing development potential from another one-third of the county. Development in Marin has concentrated along the US Route 101 corridor. Marin County has long been known for its high property prices. A shortage of developable land and high house prices pushed new development northward into Sonoma County.

In 1990, Sonoma County voters approved ballot Measures A and C to create a county agency, the Agricultural Preservation and Open Space District and a one-quarter of one percent sales tax to fund a land preservation program (see Appendix Three for details of the Sonoma Ag + Open Space District). Sonoma County's Ag + Open Space District has focused on preserving a variety of lands including: greenbelts (community separators), scenic viewsheds, farms and ranches, and natural areas. In 2006, Sonoma County voters approved Measure F, which extended the quarter-cent sales tax through 2031. As of 2019, the Ag + Open Space District has preserved more than 113,200 acres at a cost of \$398.2 million (Sonoma Ag + Open Space District, 2018a, p. v). About 35,000 acres of this land is agricultural (see Table 2.1). In fiscal 2018, the one-quarter of one percent sales tax generated \$24.5 million in revenue and the Sonoma Ag + Open Space District spent \$16.6 million on land preservation projects (Sonoma County Ag + Open Space, 2018b).

Sonoma County has also received funding for farmland preservation from the federal Agricultural Conservation Easement Program (ACEP).

The Sonoma Local Agency Formation Commission (LAFCO) has policies to protect agricultural land in the annexation process, specifically:

"The Commission shall discourage proposals which would likely convert to urban uses those lands identified by the County General Plan as suitable for long-term agricultural or open space use or identified by the Sonoma County Agricultural Preservation and Open Space District Acquisition Plan as a priority for acquisition or protection in cooperation with willing landowners" (Sonoma LAFCO, 2014).

2.2.1 Key Takeaways

1. Sonoma County, like Lancaster County, has employed a package of agricultural zoning, urban growth boundaries, and both a county program and a land trust to acquire conservation easements to preserve farmland in the long run.
2. Sonoma County voters enacted a one-quarter of one percent sales tax in 1990 to raise funds for land preservation. The voters approved an extension of the sales tax in 2006. The tax has raised nearly \$400 million to preserve more than 113,200 acres of several types of land, including about 35,000 acres of agricultural land.

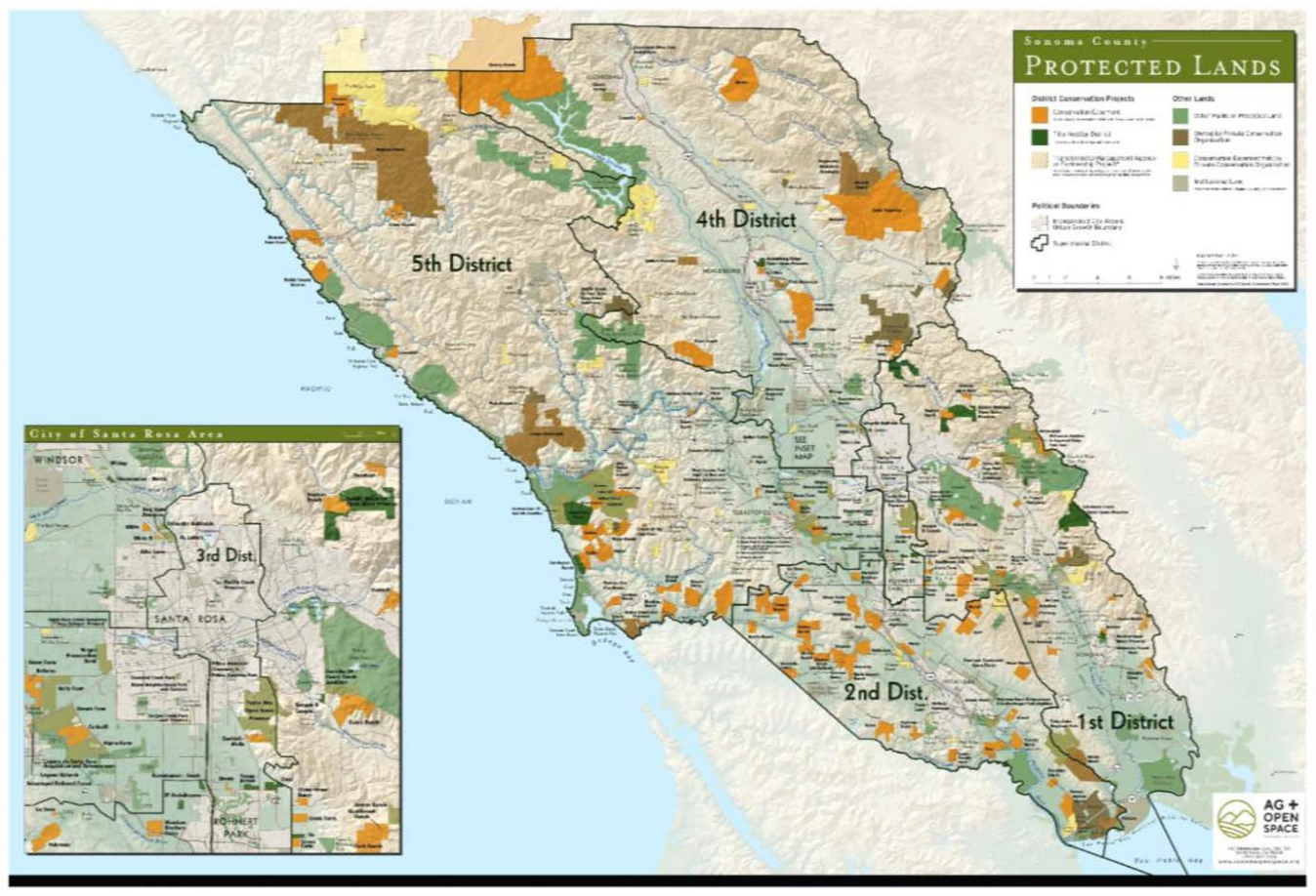


Figure 2.2 Preserved Lands in Sonoma County, California. (Source: Sonoma County, 2018)

Case Study 2.3 Montgomery County, Maryland

Montgomery County, Maryland is adjacent to the northwest border of Washington, D.C. The county covers 324,000 acres and has grown from 579,000 residents in 1980 to an estimated population of 1.059 million in 2017. The county had 65,500 acres of agricultural land as of 2017 and produced \$43 million in farm products (USDA, 2019). The acreage figure is probably incorrect because it does not reflect the observation of local planners that the Agricultural Reserve has not changed since the early 1980s (Daniels, 2017). The farm production figure does not include the value of the horse industry which is estimated at \$100 million a year.

Agricultural land was valued at slightly more than \$8,000 an acre in the 2017 Agricultural Census (USDA, 2019). The median house price in Montgomery County in 2019 is \$445,800, according to Zillow. Montgomery County has created the most successful transfer of development rights program to preserve agricultural land in the nation. This approach could be useful in certain locations within Napa County, rather than as a county-wide program.

In 1980, mounting development pressures compelled the county to draft a new comprehensive plan to manage the county's growth. To help implement the plan, the county created a transfer of development rights (TDR) program to protect its agricultural land and to direct development to areas with adequate public services. The county first designated a TDR sending area of 93,000 acres—known as the Agricultural Reserve—in the western part of the county. Next, the county downzoned the Agricultural Reserve from one house per five acres to one house per 25 acres. Then, the county gave to each landowner of five or more acres one TDR for every five acres they owned. Next, the county identified TDR receiving areas separated from the sending areas. This approach is known as a dual zone TDR. The county downzoned the receiving areas to one house per two acres from one house per three acres. For each additional house per acre a developer wanted to build in the TDR receiving area, the developer would have to purchase one TDR from a landowner in the TDR sending area. The county offered a density bonus if a development project would use TDRs and provide affordable housing.

Landowners in the sending areas can decide how much to develop their property and how many TDRs to sell. For example, the owner of a 100-acre farm has the right to subdivide one lot per 25 acres or a total of four lots. Or, the landowner could sell all 20 TDRs and preserve the property with a conservation easement. Or, the landowner could develop two lots and sell the ten remaining TDRs. When the first TDR is transferred, a permanent conservation easement is placed on the property and held by the county. The county must keep records of which landowners have how many TDRs and how many rights to develop lots. The county must also monitor the properties under a conservation easement and enforce the terms of the easement, which allow agricultural and open space uses.

TDR prices in Montgomery County have been negotiated between landowners in the TDR sending areas and developers who want to build in the TDR receiving areas. During the mid-2000s, prices reached more than \$8,000 per acre or more than \$40,000 per TDR. In 2016, TDR prices averaged around \$5,000 per acre or \$25,000 per TDR (Daniels, 2017).

Montgomery County has chosen not to operate a TDR bank because of the strong demand from developers for TDRs. Developers have purchased more than \$115 million in TDRs from landowners in the sending areas (Daniels, 2017).

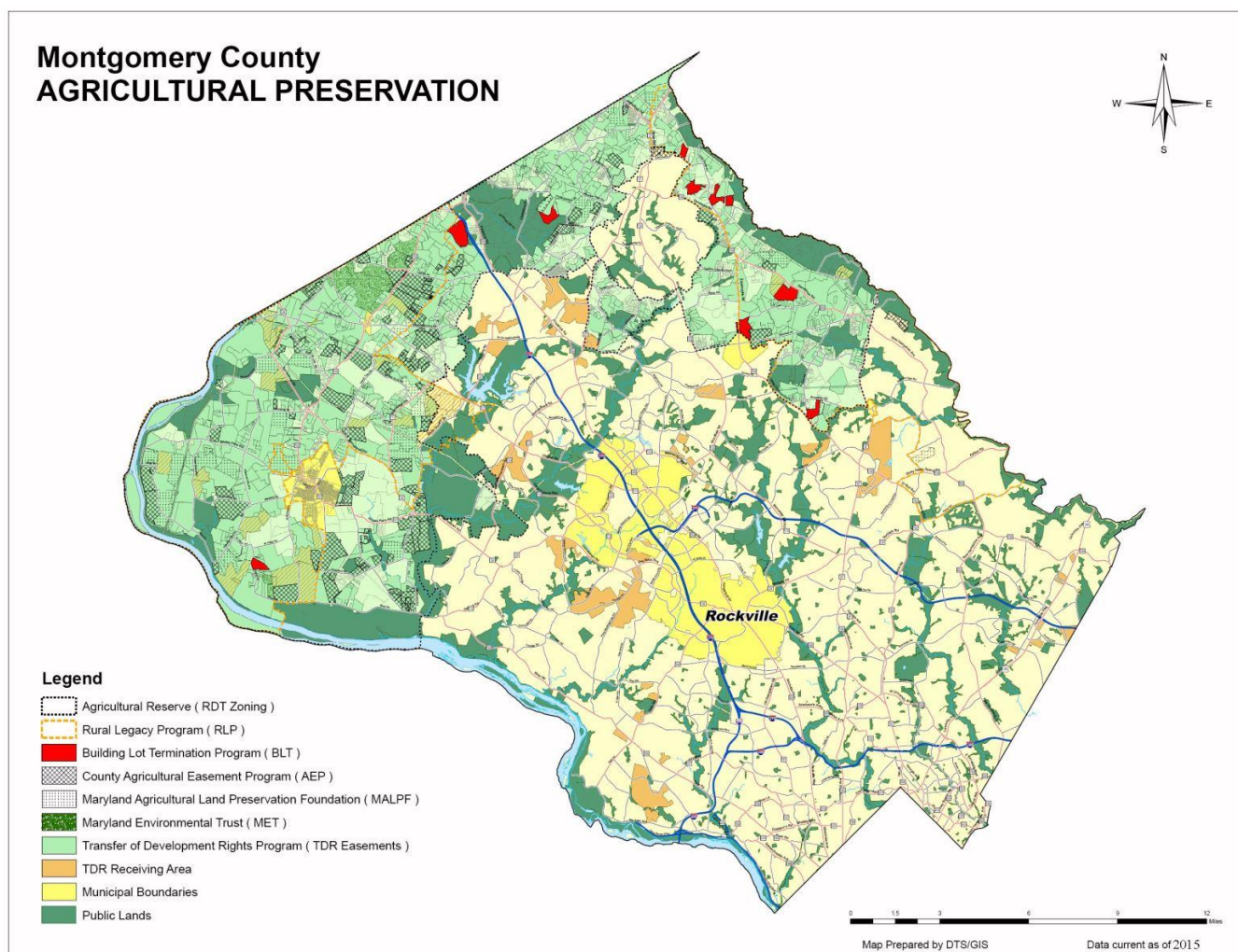


Figure 2.3. Montgomery County, Maryland Agricultural Land Preservation (in green and blue-green).

Although Montgomery County has one of the most successful TDR programs in the nation, the county has used both TDRs and the purchase of conservation

easements to preserve agricultural land (Nelson et al., 2012). The county has preserved more than 48,000 acres through the transfer of development rights and more than 20,000 acres through the purchase of conservation easements (Daniels, 2017)(see Figure 2.3). Montgomery County is among the top ten counties nationwide in acres of preserved agricultural land. In addition, Montgomery County has accommodated more than 90 percent of the county's population within “priority funding areas,” which are designated for growth by the county through the state’s Smart Growth legislation of 1997 (Daniels, 2001).

2.3.1. Key Takeaways

1. The transfer of development rights requires a county or a county and city to establish the program by identifying sending areas for land preservation and receiving areas for additional development. There need to be more places to put TDRs in receiving areas than there are TDRs in the sending areas to ensure that the TDRs will have value. Developers need assurance that if they purchase TDRs, their development projects in the receiving areas will be approved.
2. The transfer of development rights relies mainly on the private sector to provide the funding for land preservation.
3. A TDR bank with public funds may be necessary to maintain and streamline the TDR market.
4. TDR receiving areas can include unincorporated county land that is “released” for urban development when needed. This unincorporated county land could then be annexed by a municipality.
5. A TDR program can work together with a purchase of conservation easements program.

Case Study 2.4 Vermont Housing and Conservation Board.

In 1987, the Vermont legislature created the Vermont Housing and Conservation Board (VHCB) to address the two related issues of land preservation and affordable housing (Libby and Bradley, 2000). The thinking was that if land was going to be preserved and removed from potential development, then the reduction in the supply of developable land would contribute to higher housing costs to the disadvantage of low- and moderate-income Vermonters.

The VHCB receives an annual appropriation from the state legislature, derived mainly from property transfer tax revenues. On the agricultural side, the VHCB has used this funding since 2002 to match federal grant funds through the Farm and Ranch Lands Protection Program and its successor, the Agricultural Conservation Easement

Program. Since 1987, the VHCB has helped to preserve more than 164,000 acres on 700 farms, or nearly one-seventh of the state's farmland (USDA, 2019; VHCB, 2019a).

In fiscal 2019, the VHCB had \$3 million to purchase conservation easements to farmland and in the process leverage \$3 million in federal ACEP funds, for a total of \$6 million for farmland preservation.

Since 1987, the VCHB has helped to develop more than 12,500 permanently affordable homes through grants and loans for the acquisition, rehabilitation, and construction of affordable housing by nonprofit housing organizations (VHCB, 2019b). In 2017, the VHCB received the proceeds of the sale of \$12 million in housing bonds to add to the state appropriation of about \$8 million for a total of \$20 million.

2.4.1. Key Takeaways

1. The price of land and housing is likely to increase over time as more land is restricted by conservation easements.
2. Affordable housing is a priority as is land preservation. Thus, public and private funding for both priorities is needed. The VHCB has provided grants to local housing organizations to create or maintain affordable housing.
3. The VHCB has taken maximum advantage of the federal Farm and Ranch Lands Protection Program and its successor program, the Agricultural Conservation Easement Program, to preserve farmland.
4. The VHCB has a public-private partnership with the Vermont Land Trust. The Vermont Land Trust conducts the monitoring of conservation easements funded by the VHCB. The Vermont Land Trust and VHCB have joined together to fund many conservation easement projects on agricultural land.

Case Study 2.5 The Carroll County, Maryland Installment Purchase Agreement to Acquire a Conservation Easement

A key strategy for a farmland preservation program is to be able to offer landowners a set of options for the payment of conservation easements in order to best tailor the payments according to the landowner's needs and goals. Most purchase of conservation easement transactions involve a one-time lump sum payment to the landowner. The conservation easement payment is taxed as a capital gain rather than as ordinary income. Generally, a landowner may be able to use the *basis* in the farm property (the price paid for the property plus improvements minus depreciation) in determining the capital gains liability (see IRS Revenue Ruling 77-414). Depending on the landowner's financial situation, a lump sum payment can have major tax consequences.

Some farmland preservation programs, such as Pennsylvania counties, have offered annual installment payments in equal amounts plus interest for up to five years. This can help landowners better manage the tax liability, depending on the viability of income and any loss carry forwards. The interest on the installment payments may be taxable.

A local government must first determine whether it is allowed by state statute to make installment payments. If so, then the local government must decide on whether to offer interest payments as part of the installment payments and at what rate of interest. The interest rate will be influenced by how the local government is financing the purchase of the conservation easement.

2.5.1. The Securitized Installment Purchase Agreement

In the early 1990s, investment banker Pat O'Connell developed a variation of installment payments for Howard County, Maryland, which turned the payments for a conservation easement into a local government financial obligation in which the annual interest payments are tax-exempt and the final principal payment is made at the end of the term of the obligation. The final principal payment for the conservation easement is taxed as a capital gain.

This Securitized Installment Purchase Agreement, or IPA for short, is a legal contract between the local government and the seller of the conservation easement. The local government agrees to make annual interest payments based on a negotiated interest rate for a specific period of time, usually 20 years, with a final payment for the value of the conservation easement at the end of 20 years.

The local government makes annual interest payments out of its general fund but purchases long-term (usually 20-year) zero coupon US Treasury bonds to cover the cost of the final conservation easement payment. This approach enables the local government to put up a relatively small amount of money upfront in paying for a conservation easement.

The IPA is a flexible financial instrument because the seller of the conservation easement can sell the IPA on the bond market at any time before the end of the 20 years. When the IPA is transferred, the seller of the conservation easement than must pay any capital gains due.

The IPA is attractive to landowners who: a) would face an immediate and major capital gains liability if they sold a conservation easement; and b) find tax-exempt income attractive. Such landowners are likely to have owned their land for a long time and are nearing retirement age.

The IPA has been used in several counties in Maryland and New Jersey and by the State of Maryland and the State of Pennsylvania in their farmland preservation programs (Daniels and Keene, 2018).

2.5.2. Carroll County, Maryland

Carroll County, Maryland is located northwest of Baltimore and along the border with Pennsylvania. The county covers 290,000 acres and has a population of 168,000. Carroll County has one of the nation's leading farmland preservation programs with nearly 75,000 acres under permanent conservation easements. The county has a goal to preserve a total of 100,000 acres.

Carroll County's farmland was valued at slightly more than \$8,000 an acre according to the 2017 Agricultural Census (USDA, 2019). The median house price in 2019 is \$322,100. The average price for a conservation easement is about \$4,000 an acre.

The county offers two payment options for conservation easements: 1) a lump sum payment; and 2) "Installment Purchase Agreement (IPA): Payment through a 20-year contract that will pay approximately 5% tax-free interest on the offer amount yearly, with full offer amount paid at the end of the period. IPA offers are capped at 40% of fair market value but boosted with the tax-free interest. The cost of bonds may affect the interest rate offered, but the program strives to offer 5%" (Carroll County, 2019). Also, under the IPA option, applicants may elect to receive up to 10% of the easement offer at settlement.

Case Study 2.6 Using a Conservation Easement Payment in a Like-Kind Exchange

A conservation easement payment is typically taxed as a capital gain. But there is a way to defer capital gains tax if the seller of the conservation easement puts the conservation easement payment toward the purchase of real estate involved in business, trade, or investment. Section 1031 of the Internal Revenue Code allows for such a "like-kind exchange" of real estate. The definition of real estate is broad and in two private letter rulings in the early 1990s, the Internal Revenue Service ruled that a conservation easement was an interest in real estate and therefore real estate in the case of a like-kind exchange. The IRS then ruled that a conservation easement payment could be used in a like-kind exchange (Daniels and Keene, 2018).

For example, a landowner sells a conservation easement on a farm for \$500,000. Rather than receive a check for the conservation easement, the landowner has the local government write the check to the landowner's intermediary, such as an attorney. The landowner then directs the intermediary to acquire real estate in the form of additional agricultural land, which costs \$800,000. The landowner then takes title to the additional

agricultural land but must finance the additional \$300,000 above the amount of the conservation easement payment.

The landowner defers the capital gains tax that would have been due on the sale of the conservation easement. If the landowner sells the farmland or the additional agricultural land, then the capital gains tax on the sale of the conservation easement comes due.

The rules for a like-kind exchange in Section 1031 are detailed and require the assistance of an experienced attorney. For example, a landowner has 45 days from the sale of a conservation easement to identify the exchange property to acquire and 180 days to acquire it.

The like-kind exchange with a conservation easement was first done in Pennsylvania and since then hundreds of like-kind exchanges have been executed in several states. Conservation easement sellers have used the like-kind exchange to acquire additional agricultural land, townhouses, and even a warehouse. Thus, a like-kind exchange can help to expand a farming operation or diversify a landowner's real estate investment portfolio or retirement nest egg.



Chapter 3: Annexation

Annexation is a process in which a city can expand its limits by absorbing adjacent unincorporated county land. Annexation is allowed in 44 states. *Hawaii and the New England states, except Massachusetts, do not allow annexation.*

The rules and procedures for annexation vary from state to state. An important distinction exists between friendly and hostile annexation. A friendly annexation occurs when both the county and the city agree on what land will be annexed and when. A hostile annexation happens when a city takes land from county jurisdiction without the approval of the county. Landowners in the unincorporated county often resist annexation into a city because of the higher property taxes they would have to pay as city residents.

An annexation can be a logical expansion of a city, both to provide needed services, such as central sewer and water, and to achieve rational, efficient patterns of development. The annexation process can reduce the need for special districts to provide sewer and water service to developments on county land near cities.

A city can influence the annexation process by exercising extra-territorial jurisdiction over county land within a mile or two of the city boundaries. The idea of extra-territorial jurisdiction (also known as a Sphere of Influence) is to enable the city to

manage growth close to its boundaries through the review and approval or denial of development proposals. Usually when an annexation occurs, unincorporated county land within the extra-territorial jurisdiction area (Sphere of Influence) is brought within the city's corporate limits.

There are three common problems with annexation: timing, sprawling development, and awkward development patterns. Poor timing of annexations often results in premature annexation; that is, a city annexes county land before the city has a demonstrated need for the additional land or has no plans in place for how to use the annexed land. Sometimes premature annexations have occurred as a way to thwart the creation of new incorporated cities in battles over property tax base.

A second common problem occurs when a large amount of land, such as several hundred acres, is annexed, and produces a sprawling low-density pattern of development that is expensive to service with central sewer and water.

Third, annexation can create awkward development patterns or make new developments difficult and expensive to service. Some states allow cities to annex county land that is not contiguous to the city's boundaries. This practice allows for islands of development that can isolate county lands between the city boundaries and those islands of development.

Another key issue is whether the annexation process is mainly proactive or reactive. Often, the process is reactive. A city proposes an annexation and the county and residents of the proposed annexation area react favorably or not to the proposal. A proactive annexation process can be based on an urban growth boundary agreement between a city and county or a Memorandum of Understanding about where a city's boundaries should expand in the next several years, if needed (see Case Study 3.1 and 3.2 and Appendix Four).

Finally, annexation should be considered an option of last resort when it comes to accommodating growth and development. It is preferable to direct new development to areas within a city with adequate public services to support an increased density of development and to take advantage of infill development opportunities. Annexation should also avoid agricultural land whenever possible.

Case Study 3.1 Urban Growth Boundary Agreements in Oregon.

In 1973, the Oregon legislature passed Senate Bill 100 to establish the pioneering Oregon Land Use program. The legislation required every city and its adjacent county to create urban growth boundaries to: 1) set a limit on the extension of urban services, especially central sewer and water facilities; 2) contain sufficient buildable land inside the boundaries to accommodate projected population growth and land use needs over the next 20 years; and 3) establish a process for annexation of unincorporated county land into a city.

Creating and managing the urban growth boundary are guided by an intergovernmental agreement between a city and a county (For an example of an intergovernmental agreement see Appendix Four). Both the city and county must agree upon: 1) when the annexation will happen; 2) the location of the annexation; 3) the size of the annexation; and 4) the future use of the annexed land.

3.1.1. Key Takeaways

1. Two municipalities—City of American Canyon and City of Napa have urban growth boundaries.
2. A city-county agreement can help to manage the annexation process.

Case Study 3.2 Monterey County, California.

Monterey County is one of the leading vegetable-producing areas of California and famous as the Salad Bowl of the World. The Salinas Valley has a narrow concentration of prime farmland (see Figure 3.1). Most of the agricultural land in Monterey County is grazing land, as is also the case in Napa County.

The General Plan for Monterey County has several policies to protect agricultural land, including agricultural zoning, agricultural buffers, a right-to-farm ordinance, and Williamson Act contracts for preferential farmland assessment for property taxes. The agricultural buffer policy states in part:

“The County shall require that well-defined buffer areas be provided as partial mitigation for new non-agricultural development proposals which are located adjacent to agricultural land’ (Monterey County, 2010, p. AG-3).

An easement, either temporary or permanent is placed on the buffer property. And no municipal services can be extended from a city to any land beyond the Buffer Easement property (Darlington, 2017).

In 1984, the County created the Ag Land Trust to preserve agricultural land by the sale of donation of conservation easements. The Ag Land Trust has preserved more than 30,000 acres, mainly in Monterey County (Darlington, 2017) (see Figure 2.2).

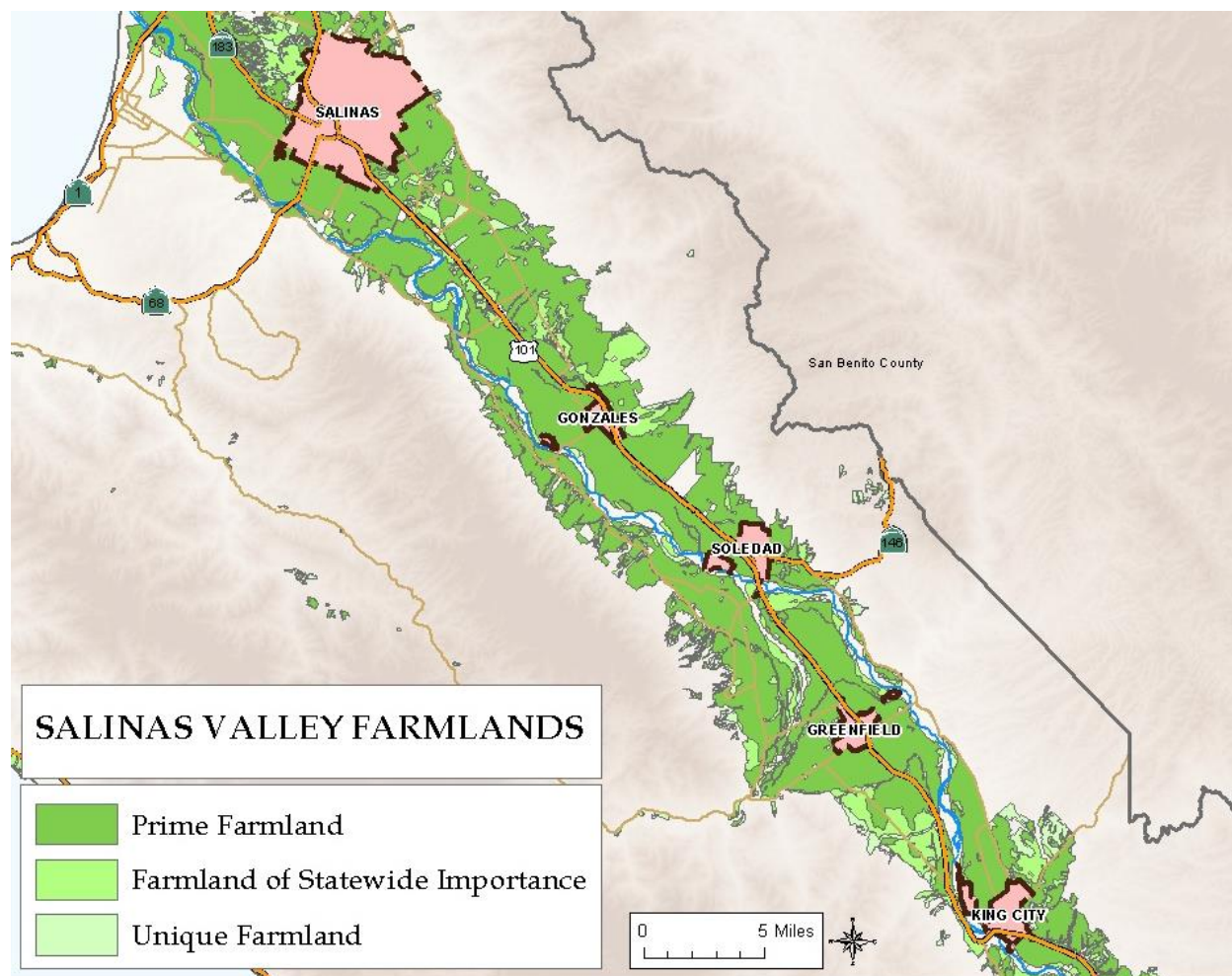


Figure 3.1 Prime Farmland, Salinas Valley, Monterey County.

Because prime farmland makes up only a small percentage of Monterey County's agricultural land, protecting the prime farmland is a top priority. One of the techniques the county has used is Memorandums of Agreement between the county and individual cities to set down agreed principles for annexation and the direction of growth. Figure 3.2 shows the City of Gonzales, agreed on agricultural buffers to protect farmland, the direction of future growth, and preserved farmland that is influencing the direction of future growth away from a large area of prime farmland.

The practice of using preserved farmland to direct growth is also found in Lancaster County, Pennsylvania (see Case Study 2.1), Sonoma County (Case Study 2.2), and Montgomery County, Maryland (Case study 2.3).

Finally, the Monterey County LAFCO has the authority to discourage sprawl, preserve prime agricultural lands, and promote orderly urban development. The LAFCO does this through: agricultural preservation and buffer policies, encouraging city-county cooperation and Memorandums of Agreement before any amendments to a city's

Sphere of Influence, and participating in plan making, development decisions, and the CEQA process.

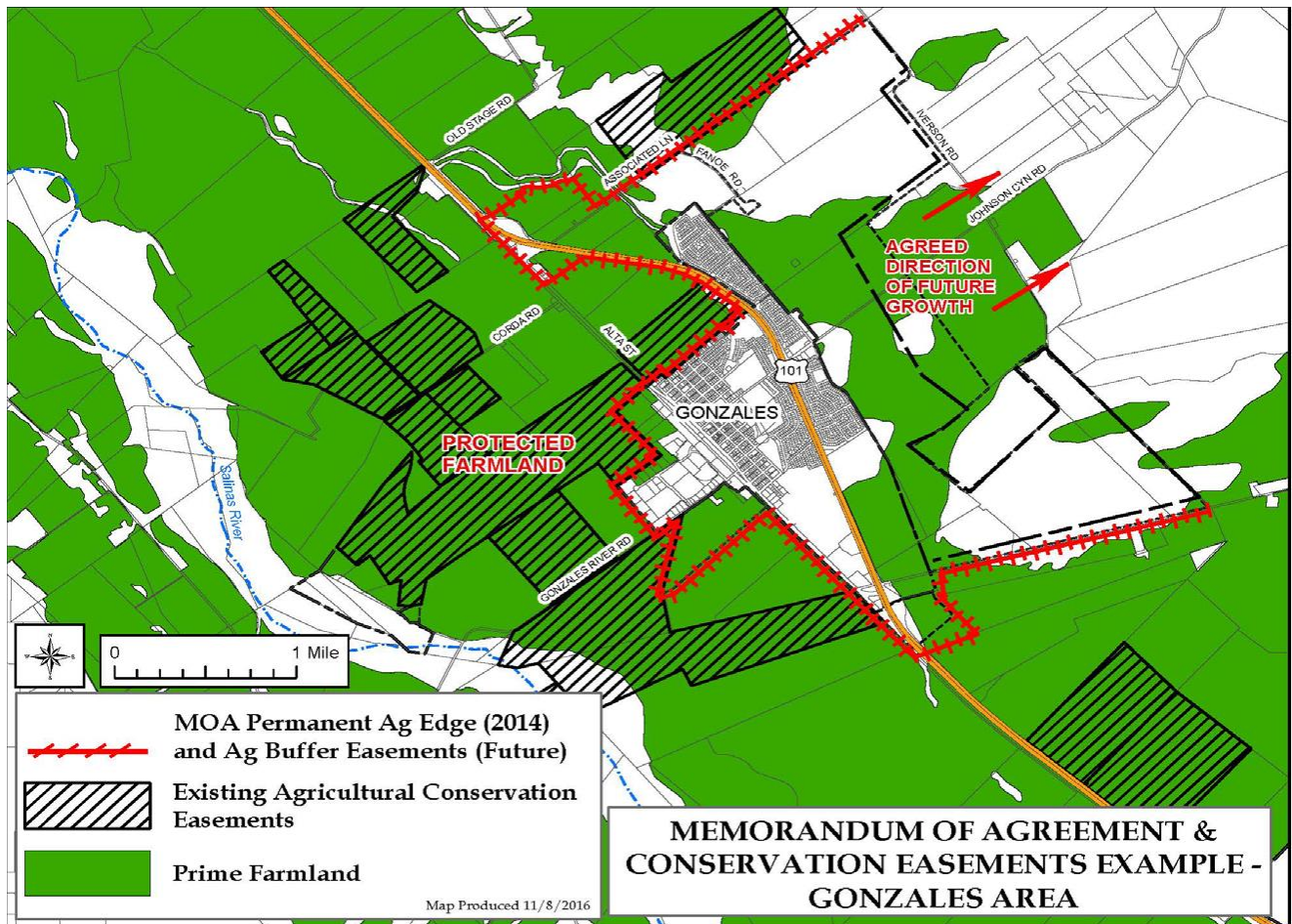


Figure 3.2. City-County Memorandum of Agreement and Agreed Direction of Future Growth for City of Gonzales in Monterey County.

3.2.1. Key Takeaways

1. One way to avoid hostile annexations is to have a Memorandum of Agreement between a city and a county that creates a blueprint for determining when, where, and how much land can be transferred from the county to a city.
2. The LAFCO of Monterey County, like Napa County, has strong policies in favor of protecting agricultural land in the annexation process.

3. The agricultural buffer zones can help to minimize conflicts between new development and agricultural operations. The buffers were created in Monterey County as a mitigation technique when some agricultural land was developed. A conservation easement, either permanent or for a set term, such as 30 years, is then placed on the buffer land, which comes from the developer, to help separate active agricultural land from developed land. This buffer may or may not be located within a city's Sphere of Influence. In the case of a permanent conservation easement on the buffer, the buffer should be outside of a Sphere of Influence. If the buffer has a temporary conservation easement, the buffer could be located within a city's Sphere of Influence, but could not be privately developed until the conservation easement expires.

4. Conservation easements can preserve farmland and help determine the logical direction of future city expansion and maintain orderly growth. The combination of MOUs and buffers with conservation easements between active agriculture and new development could work well for Napa County.



Chapter 4: Housing

Affordable housing and housing availability are nationwide challenges and are especially acute in the San Francisco Bay Area (Metropolitan Transportation Commission and Association of Bay Area Governments, 2017). Availability refers to the supply of for sale and rental housing relative to demand as shown in the housing vacancy rate. For example, a vacancy rate of less than 5 percent indicates a tight housing market with little available housing. And vacancy rates are usually lowest for lower cost housing (American Planning Association, 2019, p. 4).

Housing affordability is a measure of price or rent relative to income. Generally, households that spend more than 30 percent of their income are said to be “cost burdened.” About one-third of all US households are cost burdened for housing (American Planning Association, 2019, p. 4).

The State of California uses a household’s income compared to the median household income in an area to define different housing needs: very low-income

households earn 50% or less of the area median income; low-income households bring in 50% to 80% of the area median income; moderate income households have 80% to 120% of the area median income—this income level lives in what is known as workforce housing—and above moderate income households earn more than 120% of the area median income.

A major decision for local governments and housing developers is how, where, when, how much, and what types of housing to build—single-family, duplex, triplex, or multi-family. Increasing the housing supply depends on:

1. Local zoning ordinances that allow at least medium-density housing (10-12 units per acre) in parts of a city or county;
2. Public funding and private financing;
3. For-profit and non-profit housing developers; and
4. In the case of affordable housing, it is not only important to produce a new supply of affordable housing, but also to maintain the affordability of existing housing.

Housing for households with 60% or less of the area median household income is eligible for federal Low-Income Housing Tax Credit-supported housing. Housing for households earning 60% to 120% of the area median income has become a particular challenge, known as “the missing middle.” Similarly, the other missing middle is the shortage of construction of housing of between two and 19 units (Fox, 2019). Instead, large projects have become more popular because of high construction costs, zoning regulations that work against smaller housing projects, and housing finance that favors large projects. Often, gradual increases in density that duplexes, triplexes, and small apartment buildings create may be harder to achieve than large housing developments.

Table 4.1. Six Main Federal Housing Programs for Low- and Moderate-Income Housing.

There are six main federal housing programs for low- and moderate-income housing. Federal programs work through city or county housing authorities to provide public housing or vouchers for renters in privately-owned housing. The ability of a household to choose between public housing and a voucher program varies greatly depending on local circumstances.

- 1) Community Development Block Grant (CDBG) funds;
- 2) The HOME Investment Partnerships Program;
- 3) Housing Choice Vouchers;
- 4) Low-Income Housing Tax Credits;

5) Section 202 Supportive Housing for the Elderly; and

6) Opportunity Zones.

Community Development Block Grants. Federal grants to local public housing agencies to develop and maintain affordable housing.

The HOME Investment Partnership Program. Federal grants to local public housing agencies to serve low- and very low-income renters.

Housing Choice Vouchers. Housing Choice Vouchers, previously known as Section 8 vouchers, provide housing subsidies to private landlords for low-income tenants.

Low-Income Housing Tax Credit (LIHTC) program. Congress created the LIHTC program in 1986 to provide investors with an incentive to invest in the acquisition, construction, and rehabilitation of low- and moderate-income rental housing. Since its inception, the LIHTC has helped to develop about two million housing units. Today, the LIHTC program is the largest source of new affordable housing in the United States generating about 110,000 units a year (National Housing Law Project, 2017).

The federal government issues tax credits to states, and the state housing agency then award the credits to private developers of affordable rental housing projects through a competitive process. Developers typically sell the credits to private investors to obtain funding. Once the housing project ready for tenants, investors can claim the LIHTC over a 10-year period.

Section 202 Supportive Housing for the Elderly. The federal government provides two kinds of grants under this program. One offers capital advances to nonprofit housing developers to finance the construction of housing for elderly residents. The other makes grants for the operation of elderly housing projects.

Opportunity Zones. An opportunity zone can be designated by a state or local government for a neighborhood that has a poverty rate of at least 20 percent or a median family income of no more than 80 percent of the regional or statewide median income. Projects in an opportunity zone can include: commercial real estate, affordable housing, and new businesses.

Investors can avoid paying federal capital gains taxes for seven years if they invest in an “opportunity fund,” that develops real estate projects in the zone. If they sell the property in year eight, the investors pay 15 percent less in capital gains tax. And if they hold onto the property in the opportunity zone for 10 years, they pay no capital gains tax on the profit when they sell. This financial incentive has increased or enabled the feasibility of many real estate projects. For example, an opportunity zone in

Washington, DC has a new 108-unit apartment building with 11 affordable units available to households earning 60 percent of the area median income (Washington Post, 2019).

Nationally, there are about 9,000 opportunity zones and almost 900 in California. The City of Napa has two opportunity zones: in downtown Napa and in the Westwood neighborhood west of Highway 29 (Huffman, 2019).

Table 4.2 FY 2019 Income Limits by Family Size Category, Napa County, CA

Persons in Family	1	2	3	4	5	6	7	8
Very Low-Income (50% of Area Median Income)								
Income Limits (\$)	35,150	40,200	45,200	50,200	54,250	58,250	62,250	66,300
Extremely Low-Income								
Income Limits (\$)	21,100	24,100	27,100	30,100	32,550	34,950	39,010	43,430
Low-Income (80% of Area Median Income)								
Income Limits (\$)	55,650	63,600	71,550	79,500	85,900	92,250	98,60	104,950

Note: Napa County family median income is \$100,400

Source: US Department of Housing and Urban Development, 2019.

4.1 State of California Housing Programs

Since 1975, the California Housing Finance Agency (CALHFA) has helped more than 160,000 families purchase their first home with a mortgage they can afford and has helped build or preserve more than 65,000 affordable homes and apartments (CALFA, 2018). CALHFA offers programs to finance the purchase of a house through favorable mortgage terms and for the construction of affordable housing. For multi-family housing, financing programs include: 1) loans to public and private developers to build multi-family housing; 2) a grant program for the construction of mixed-income housing projects for families between 30% and 120% of the area median income; and 3) special

needs housing for people with mental illness, homeless, or at risk of becoming homeless (CALHFA, 2019).

4.2 City of Napa Housing Programs

As the largest city in Napa County, the City of Napa plays an important role in administering an array of federal, state, and local programs to provide low- and moderate-income housing. The City's Housing Division manages the first-time homebuyer program and loans for housing rehabilitation, the Community Development Block Grant (CDBG) program and financing for the development of affordable housing, and, through the Housing Authority of the City of Napa, Section 8 rental assistance throughout the county (City of Napa, 2019).

4.3 Affordable Housing Programs Around the United States

Affordable housing is important for stimulating economic development and maintaining a jobs/housing balance. Workers are best able to take advantage of employment opportunities when they can afford to live near their work. Affordable housing strategies also must consider the cost of transportation. When workers cannot afford to live in the communities in which they work, they must find housing elsewhere as well as transportation to commute to and from work. Transportation then becomes a major household expense. Between 2006 and 2013, the median commute distance for people earning \$15,000 a year or less jumped from 12 to 21 miles (American Planning Association, 2019, p. 5). In California, the provision of affordable housing has implications for planning under SB 375, which requires Metropolitan Planning Organizations to draft transportation and land use plans that reduce greenhouse gas emissions.

Access to amenities, such as parks, schools, and shopping are also important considerations for new housing, especially for affordable housing. In addition, keeping housing away from natural hazards is critical for greater resilience and safety.

The cost of home construction has made it "impossible to build a new 1,500-square-foot single-family house that is affordable to households earning the U.S. median income of \$57,652 in 2017 without a public subsidy" (American Planning Association, 2019, p. 5).

The following are strategies to increase the supply of housing in general and especially for affordable housing.

Increasing Density. In December 2018, the Minneapolis City Council approved the Minneapolis 2040 plan, which eliminated single-family zoning by allowing by-right development of duplexes and triplexes in formerly exclusively single-family residential zoning districts. At the same time, the plan eliminated off-street parking requirements, which in the past have had the potential to make multi-family housing financially unfeasible. Changing local zoning to allow a greater density of housing, more multi-

family housing units, and mixed commercial and residential projects are the main points of the American Planning Association's Housing Policy (American Planning Association, 2019, p. 8).

Infill development. A city can keep track of vacant properties within the city that could be developed for housing or a mix of housing and commercial uses. Local zoning ordinances that allow mixed use developments and at least medium-density can encourage infill development. A summary of new and redeveloped infill development projects in Napa County's five cities would be useful to have.

Accessory Dwelling Units (ADUs). An accessory dwelling unit can be a detached dwelling unit with full services—bath, bedroom, and kitchen—or a separate apartment attached to a house (Daniels, 2012). Accessory dwelling units are a form of infill development that can fit into a residential neighborhood with relatively little visual impact. Also, accessory dwelling units can provide affordable housing for retirees, single young adults, and local workers. Both the City of Napa and Napa County have ordinances that allow Accessory Dwelling Units of up to 1,200 square feet and Junior Accessory Dwelling Units of up to 500 square feet (Yune, 2019).

Density bonus. A density bonus offers additional dwelling units per acre in return for affordable housing units. It is an incentive (a carrot) to create affordable housing, rather than inclusionary zoning which is a regulation (a standard that must be met) to create affordable housing.

Inclusionary Zoning. An inclusionary zoning ordinance requires developers to provide a certain percentage of affordable dwelling units in a new housing project above a set number of total units (see Case Study 3.1). For example, if a proposed housing project has more than 50 units, at least 15 percent of those units would have to be affordable for very low-income, low-income, and moderate-income households. Though growing in popularity across the United States, inclusionary zoning alone will not meet the need for affordable housing (Hinshaw and DeAngelis, 2019, p. 7).

Public housing. The federal government has built about one million public housing units since 1937. In recent decades, however, Congress has not adequately funded the construction of new public housing units. Several cities have moved to acquire, build, and rehabilitate public housing to try to make up for the shortfall in both public housing and privately-developed low- to moderate income housing.

Several cities have raised funds to invest in public housing. Seattle has been a leader in this effort. Private developers often have little financial incentive to build very low income, low-income, or even workforce housing. Non-profit organizations, such as Habitat for Humanity, have built homes for very low- and low-income households. Many cities have relied on the federal Department of Housing and Urban Development (HUD) Section 8 rent subsidies. New rent subsidies have become scarce, however.

In 2018, voters in unincorporated Napa County and four of the five municipalities passed supermajority ballot measures to raise the Transient Occupancy Tax (TOT) from 12 to 13 percent with the one percent increase dedicated to increase, improve, and preserve for-sale and rental housing for very low-income, low-income, moderate-income, and workforce housing. A similar ballot measure was defeated by a small margin in the City of American Canyon. The TOT increases are expected to raise \$4,631,325 a year (Ballotpedia, 2019). This funding could be leveraged through the sale of bonds to increase the amount of upfront money for affordable housing projects.

Non-profit housing development. Non-profit housing organizations are important for providing new affordable housing and preserving the affordability of existing low- and moderate-income dwellings. These housing organizations include national groups, such as Habitat for Humanity, local community land trusts, housing cooperatives, and tenant cooperatives (see Case Study 4.2). Santa Clara County created a nonprofit Housing Trust Silicon Valley in 2000. Since then, the Housing Trust has invested over \$171 million to create more than 16,100 homes (Housing Trust Silicon Valley, 2019). Similarly, the nonprofit Housing Land Trust of Sonoma County was created in 2002 (Housing Land Trust, 2019).

Land banking. Land banking is a relatively new technique in which a city or county government acquires vacant land and/or buildings and then re-sells them to developers (Alexander, 2015). About 50 land banks exist and are mainly found in Midwestern and Eastern states.

Streamlining the permit process. Obtaining a permit to build housing takes time and money. Permits can cost from a few thousand dollars to hundreds of thousands, depending on the size of the project. Project review times can range from several months to years. Often developers will pass along the cost of acquiring permits to renters and home buyers, which raises rents and the price of housing. Several cities and counties have begun to make efforts to streamline the permit process to lower the time and cost. Streamlining, however, does not mean avoiding regulations such as a CEQA review in California (San Diego Union-Tribune, 2019).

Case Study 4.1 Montgomery County, Maryland

Montgomery County, Maryland has one of the leading growth management systems in the United States (see Case Study 2.3). In addition to its nationally-recognized Transfer of Development Rights program to preserve agricultural land, the County has also been a leader in the provision of affordable housing.

Montgomery County has a median household income of nearly \$100,000 a year and just over one million residents. But many years ago, County leaders became concerned that people who worked in the County could not afford to live there.

The County's Department of Housing and Community Affairs (DCA) has affordable housing goals to promote mixed-use, mixed-income, and senior housing.

Housing Acquisition and Preservation Fund. This fund provides affordable housing loans to for-profit and non-profit developers for the construction and rehabilitation of affordable housing. The fund has more than \$100 million and is financed by county bonds plus loan repayments.

Property tax abatements. The County offers property tax abatements for affordable housing projects. Most affordable housing units receive the average Montgomery County homeowner tax credit. Non-profit community housing organizations and senior housing projects may receive up to a 100 percent reduction of the County property tax. The properties are still subject to a local school tax. The financial impact to the County is "generally low because the tax abatement initially applies to unimproved land or to a building operating below its highest and best use" (Montgomery County, 2014, p. 7). *The cost to the County is just under \$10 million a year in lost revenue; still, the County adopted a goal of adding 300 tax-abated units each year starting in 2016.*

Right of First Refusal. The right of first refusal allows the DHCA, homeowner cooperatives, and tenant groups to match a signed contract for the sale of residential properties containing four or more units in order to preserve affordable housing.

Rental Agreements. The buyer of a multi-family property agrees to keep them affordable for renters, usually for five to 10 years. The County agrees not to exercise a right of first refusal. There is no cost to the County.

Moderately Priced Dwelling Units (MPDUs). This program requires developers to provide affordable housing to low-income households, generally at or below 65%-70% of the area median income, in new developments that have more than 50 units. More than 14,000 units produced since 1974, of which 9,500 for sale and 4,500 for rent (Montgomery County, 2014, p. 13). The MPDU program uses inclusionary zoning which requires that 15% of units must be affordable if the housing project has 50 or more dwelling units.

Workforce Housing – This program is voluntary for developers to provide affordable housing to households at or below 120% of the area median income.

Senior housing. The DHCA has helped to finance the construction or rehabilitation of nearly 800 units of senior housing ((Montgomery County, 2014, p.19).

Rental assistance program. Half of the revenue from a county special property recording tax for commercial or residential units sold at or above \$500,000 is dedicated for providing rental assistance to very low-income tenants. The recordation fee is normally \$8.90 per \$1,000 in the sales price. (In Napa County, by comparison, the recordation tax is \$1.10 per \$1,000 of sales price). For properties priced at \$500,000 and above, the recordation tax is 1.35%. So, for a \$500,000 house, the tax is \$6,750 –

(\$890 if owner-occupied) or \$5,860 compared to \$4,450 at the \$8.90 rate. The program helped 1,800 renters in fiscal 2014 (Montgomery County, 2014, p. 20).

Contributions to Affordable Housing <i>FY08-FY14</i>	
Housing Type	Affordable Units
New Production / Rehabilitation - Units Added to the Inventory	4,147
Preservation of Existing Affordable Units	2,357
MPDU's / No Cost Rental Agreements	3,517
Weatherization Programs	1,471
Housing First, Rental Assistance & Eviction Prevention	10,372
Homeownership Assistance	495
TOTAL	22,359

Table 4.3 Affordable Housing Produced, Preserved, Weatherized, and Rent-Assisted in Montgomery County, Maryland, Fiscal Years 2008-2014.
(Source: Montgomery County, 2014, p. 3).

4.1.1. Key Takeaways

1. Affordable housing is part of an overall land use planning effort to promote mixed-use, mixed, income, and senior housing.
2. Property tax abatements can be attractive for developers to provide affordable housing.
3. A special recordation tax for commercial and residential properties selling at \$500,000 and above could raise revenue for a rental assistance program for low-income renters.
4. Inclusionary zoning can require 15% or more units in a large housing project to be for low- and moderate-income households.

Case Study 4.2 Champlain Housing Trust.

The Champlain Housing Trust, based in Burlington, Vermont, was founded in 1984 and has grown into the largest community land trust in the United States (Champlain Housing Trust, 2019a). Active in three counties in northwestern Vermont with a population of 220,000, the Champlain Housing Trust manages 2,200 apartments and stewards 565 owner-occupied homes.

The CHT's shared-equity program offers down payment assistance grants to eligible home buyers. The grants are state and federal funds and are permanently tied to the property. The owner must repay the grant if the home is sold. The grant is then given to the next buyer of the home as a way to keep the property affordable. The owner upon selling the home is able to recoup the down payment the owner paid to buy the home and the value of any authorized capital improvements the owner made. If the home appreciated in value, the owner receives 25 percent of the appreciation. The remaining appreciation stays in the home to keep it affordable and help to pay for the shared-equity program (Champlain Housing Trust, 2019b).

Also, the CHT owns the land under the house. The home buyer enters into a ground lease agreement with the CHT that gives the owner full rights, use, and responsibility for the land.

The CHT provides homebuyer education and financial fitness counseling and offers affordable energy efficiency and rehab loans.

The CHT supports "development strategies that use the land wisely and that foster pedestrian and transit-oriented communities" (Champlain Housing Trust, 2019a).

The CHT is a membership-supported non-profit organization with a Board of Directors drawn from local governments, residents of CHT homes, and the community (See CHT Annual Report, 2018).

4.2.1. Key Takeaways

1. A community land trust can ensure long-term housing affordability.
2. Fills part of the shortfall in public housing and privately-development low- and moderate-income housing.
3. Affordable housing is part of an overall community and regional land use planning effort.



Chapter 5: Conclusions and Recommendations

Napa County, its municipalities, and LAFCO are doing a lot of things well in managing the growth of the county. The development patterns are generally compact and the protection of agricultural land through strong zoning has been a hallmark of the county for more than 50 years. The great success of the wine industry has brought considerable wealth to the county and attracts millions of tourists each year.

The county has taken a long-term approach to managing its growth, and this perspective is essential for the preservation of agricultural land, managing the expansion of municipalities through the annexation process, and for providing adequate affordable housing for a range of housing types and income levels. The strategic use of public and private funds is also at the heart of land preservation, annexation, and housing.

The recommendations presented here are meant to add to, not replace, the efforts already underway in the county to preserve agricultural land, manage the annexation process, and provide affordable housing and meet state Regional Housing Needs Allocation goals. The following recommendations are consistent with the policies of the Napa County General Plan which call for: a) strengthening the agricultural zoning; b) promoting compact growth and development; and c) evaluating the creation of a public conservation easement program.

5.1 Agricultural Land Preservation

Agricultural land preservation is a long-term process. The most successful counties in the United States and California have operated and funded land preservation programs for more than three decades (see Case Study 2.1, 2.2, and 2.3). The preservation of agricultural land offers more permanent protection of the land than agricultural zoning, which can be changed.

Agricultural land preservation is voluntary on the part of landowners. The benefits to landowners are that they receive a cash payment and/or tax deductions and have the satisfaction of knowing that their land will remain in agriculture. The benefit to the county is that preserved farmland cannot be developed for other than agricultural uses and the land stays on the tax rolls.

Agricultural land preservation works best when there is a complementary package of agricultural land protection techniques in place, such as agricultural zoning, right-to-farm laws, preferential property tax assessment, and urban growth boundaries. Napa County has strong agricultural land protection techniques, such as agricultural zoning in the Agricultural Preserve and the Agricultural Watershed districts, the Williamson Act contracts, and two municipalities, the City of Napa and American Canyon, have urban growth boundaries.

5.1.1. Options to Consider

1. A local sales tax of one-quarter of one percent dedicated to land preservation, including parks, natural areas, and agricultural land. Both neighboring Marin County and Sonoma County have enacted such a local sales tax for land preservation. This local sales tax would require approval by the voters of Napa County. One quarter of one-percent is the equivalent of \$.25 of tax on \$100 of goods sold. Given that Napa County has a thriving tourist industry, tourists would be a significant source of the sales tax revenue.

A one quarter of one percent sales tax ballot measure, Measure Z, was narrowly defeated in 2016. This ballot measure did not include agricultural land as a type of land that would be eligible for preservation. Still, Ballot Measure Z was expected to raise \$8 million a year for 14 years. It was expected to preserve up to 30,000 acres of watersheds, forests, and wildlife habitat throughout Napa County.

Another ballot measure, Measure K, with a one quarter of one percent sales tax is being put before the voters in March of 2020 for watershed protection, parks and recreation funding, along with the potential to preserve some agricultural land. The passage of this ballot measure is important for parks and open space as well as to spur the preservation of agricultural land. Voters should

be made aware that some of the sales tax revenue could be used for preserving agricultural land.

Ideally, the County should set a goal to preserve at least 1,000 acres of agricultural land each year for 30 years. This would enable the creation of large blocks of preserved agricultural land and could influence future annexations by the county's municipalities.

It is important to note that matching funds exist at the federal level in the Agricultural Conservation Easement Program (ACEP) and at the state level in the California Conservancy program and the Sustainable Agricultural Lands Conservation (SALC) program to augment funds raised in Napa County for agricultural land preservation.

2. The county does not need to explore the creation of a Transfer of Development Rights program. TDR programs to preserve agricultural land have not gained popularity in California and the county has already adopted strong agricultural zoning to protect its agricultural land. A public program to purchase conservation easements to agricultural land is far easier to implement than a TDR program.

3. Napa County, through the Napa County Parks and Open Space District, should enter into a formal cooperative agreement with the Land Trust of Napa County to coordinate efforts to preserve agricultural land (see Appendix Two).

5.2 Annexation

Napa County has a generally compact pattern of development. The large majority of the County's population lives in four cities and one town. As population increases along with housing and development needs, the cities and town will increasingly face the choice of: 1) whether to expand their boundaries; 2) where and when to expand their boundaries; 3) increasing development densities inside their boundaries through infill development or re-zoning; or 4) a combination of expanding boundaries and greater densities. Traditionally, cities have annexed very little agricultural land, and the annexation of agricultural land should be seen as the option of last resort. In some cases, the annexation of county land may involve very little agricultural land. For instance, in 2013, as part of an expected annexation of land into the City of Napa, the County of Napa approved a re-zoning for the Napa Pipe development for mixed uses and a minimum density of 20 dwelling units per acre (Napa County, 2014, p. 2).

Any annexation proposal or Sphere of Influence must be reviewed by the LAFCO of Napa County. The LAFCO has policies to protect agricultural land in the annexation process and has approved the annexation of very little agricultural land. The LAFCO has also generally avoided including agricultural land within a Sphere of Influence.

Two municipalities—the City of American Canyon and the City of Napa—have urban growth boundaries which designate a limit of the extension of urban services, such as central sewer and water facilities.

5.2.1. Options to Consider

1. Cooperative agreements between Napa County, and the five incorporated municipalities would help to determine where, when, and how much land should be involved in annexations (see Case Study 3.2).

2. Within the next several years, the Local Agency Formation Commission of Napa County should consider adopting an agricultural land mitigation requirement as part of its annexation review (see Appendix One).

5.3 Housing

Affordable and available housing are a challenge across the United States and California. The median single-family home price in Napa County is \$670,000. Rental housing is in short supply for low- and moderate-income families. A recent emerging challenge in popular tourist areas are Airbnb units where the owners can earn a higher return from short-term rentals to tourists, than from long-term leases to local tenants.

The California Department of Housing and Community Development sets Regional Housing Needs Allocation goals for Napa County and the five municipalities. These goals spell out the number of new dwelling units according to different income levels: very low-income, low-income, workforce housing, and market rate (above workforce housing). For the 2015-2023 RHNA goals, the unincorporated parts of the County are behind on their very low income and low-income housing goals.

In the next set of RHNA housing targets, Napa County hopes to be treated as a “subregion,” which would enable the county and its municipalities to be treated as a single entity with a single set of housing goals. This approach would better enable the county to locate new housing within its municipalities rather than on unincorporated county land, and reinforce the county’s compact pattern of development.

In 2018, the County and four of the five municipalities recently increased their Transient Occupancy Tax (TOT) by one percent with the increase in revenue (estimated at more than \$4 million a year) dedicated to providing low-income and workforce housing. The County has an Affordable Housing Trust Fund.

Public-private partnerships in housing, as in agricultural land preservation, can increase available funding resources and the number of projects completed.

1. Napa County and its five municipalities should work collaboratively to meet the Regional Housing Needs Allocation for new housing units according to income levels

that it receives from the California Department of Housing and Community Development and the Association of Bay Area Governments.

2. The five municipalities should review their zoning ordinances to: a) ensure that they allow Accessory Dwelling Units (ADUs) of up to 1,200 square feet and Junior Accessory Dwelling Units (JADUs) up to 500 square feet; and b) include inclusionary requirements for low- and moderate-income housing for housing developments above a certain number of units, such as Montgomery County, Maryland has done.

3. Napa County and five municipalities should explore creating a Napa Community Land Trust, similar to the Champlain Housing Trust, to increase the supply of affordable housing (see Case Study 4.2).

4. Cooperative agreements and even joint projects between Napa County and the five municipalities should be explored to identify opportunities for affordable housing and actual projects to meet State of California requirements for new affordable housing units.

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Appendix One: Local Agency Formation Commission of Contra Costa County, CA Agricultural Land Mitigation Policies and Guidelines

Adopted December 14, 2016

Policies

Policy 9. The Commission will consider feasible mitigation if an application would result in the loss of prime agricultural, agricultural and/or open space lands.

Policy 10. Any mitigations that are conditions of LAFCO's approval of an application should occur close to the location of the impact and within Contra Costa County.

Guidelines

Guideline 2. If an application involves a loss of prime agricultural, agricultural and/or open space lands, property owners, cities and towns, the county, special districts, and other agricultural and open space conservation agencies should work together as early in the process as possible to either modify the application to avoid impacts or to adequately mitigate the impacts.

Guideline 3. The following factors should be considered for an annexation of prime agricultural, agricultural and/or open space lands:

a. The applicant should reference and include a land use inventory that indicates the amount of available land within the subject jurisdiction for the proposed land use. The land use inventory may be one that has been prepared by the applicable land use agency.

b. The applicant should provide an evaluation of the effectiveness of measures proposed by the applicant to mitigate the loss of prime agricultural, agricultural and/or open space lands, and to preserve adjoining lands for prime agricultural, agricultural and/or open space use to prevent their premature conversion to other uses. Examples of such measures include, but are not limited to:

1. Acquisition or dedication of prime agricultural and agricultural land (e.g., substitution ratio of at least 1:1 for the prime agricultural land annexed), development rights, open space and agricultural conservation easements to permanently protect adjacent or other prime agricultural, agricultural and/or open space lands within the county. Any land previously protected should not be used as the mitigation for any other project.

2. Participation in other local development programs that direct development towards urban areas in the county (such as transfer or purchase of development credits).

3. Payment to local government agencies and/or recognized non-profit organizations working in Contra Costa County for the purpose of preserving prime agricultural, agricultural and/or open space lands; payment should be sufficient to fully fund the acquisition, dedication, restoration and maintenance of land which is of equal or better quality.
4. Other measures agreed to by the applicant and the land use jurisdiction that meet the intent of replacing prime agricultural and agricultural lands at a minimum 1:1 ratio.
5. Participation in an advanced mitigation plan for prime agricultural, agricultural and/or open space lands.

Guideline 7. Regarding the timing and fulfillment of mitigation, if the mitigation measure is not in place prior to LAFCO's approval, the responsible entity (e.g., government agency, recognized non-profit organization) should provide LAFCO with information as to how the entity will ensure that the mitigation is provided at the appropriate time. Following LAFCO's approval, the responsible entity should provide LAFCO with an annual update on the status of agricultural mitigation fulfillment until the mitigation commitment is fulfilled.

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Appendix Two: Cooperative Agreement Between the Lancaster County, PA Agricultural Preserve Board and the Lancaster Farmland Trust

Cooperative Agreement for Public-Private Partnership in Farmland Preservation

Lancaster County Agricultural Preserve Board and Lancaster Farmland Trust

Farmland Preservation Coordination and Cooperation

Points of Agreement:

1. General

The parties agree that in Lancaster County, Pennsylvania both public and private programs are needed to preserve and protect our most productive agricultural lands. Such compatible and complementary efforts enhance our ability to ensure that Lancaster County's exceptionally fertile soil, magnificent landscape, and farming traditions are passed on for generations.

2. Board of County Commissioners, Lancaster County Agricultural Preserve Board, and Lancaster Farmland Trust, Board of Trustees

The parties agree to hold, at least once annually, a meeting of representatives of each of the Boards to review progress and to enhance coordination of farmland preservation activities. An annual January meeting is suggested.

3. Program Management/Administration

The staffs of the Lancaster County Agricultural Preserve Board and the Lancaster Farmland Trust shall remain in close and frequent communication regarding land preservation projects and prospects in order to coordinate the respective organizations' land preservation investments and interests, to avoid the perception of and/or any actual market competition for land preservation interests, to maximize the success of combined efforts of public agencies and private organizations to preserve and protect farmland resources and to assure the complementary and compatible nature of public and private farmland preservation activities.

4. Landowners and Preservation Options

The parties agree that, in both written material and in person, landowners should be informed of the full array of appropriate conservation tools and options and various public agencies and private organizations which may provide farmland preservation services and investments. The parties agree to refer landowners to one another's programs, when appropriate, to ensure that any farmland preservation transaction makes use of the best possible conservation tools.

5. Municipal Communication

The parties agree to communicate on a periodic basis with officials of the municipalities in which farmland preservation interests are sought or secured concerning the

compatibility of the respective organizations' land conservation activities with adopted municipal plans and policies and to report on the nature and location of land conservation interests held. When a prospective land conservation interest is not compatible with adopted or proposed municipal plans and policies but may be justified by compatibility with other adopted public plans and policies, the parties agree to communicate with elected municipal officials in advance of securing such a conservation interest. Further, it is agreed that the organizations may provide technical and material assistance to municipalities and landowners toward the voluntary establishment of Pennsylvania Agricultural Security Areas (agricultural districts) to the extent that resources permit.

6. Cooperative Land Conservation Projects

The parties agree to consider, when appropriate, and on a case-by-case basis, the possibilities of implementing cooperative farmland preservation projects. Loans, grants, jointly held conservation interests and reimbursable acquisitions between public agencies and private non-profit conservation organizations are possible. Each such cooperative endeavor involving actual land conservation interests will be based on a separate and subsequent agreement specifying terms and interests of the respective organizations.

This cooperative agreement shall take effect on the 29th day of August, 1990. In order to further our jointly held goal: the protection of Lancaster County's rich farming heritage.

Signed Lancaster County Board of County Commissioners
Lancaster County Agricultural Preserve Board
Lancaster Farmland Trust

Appendix Three: The Sonoma County Agricultural Preservation & Open Space District

The Sonoma County Agricultural Preservation & Open Space District (“the District”) was created and funded with a quarter-cent sales tax in 1990 by a vote of the Sonoma County electorate for a period of twenty years. The mission of the District is to permanently preserve the diverse landscapes of Sonoma County for future generations, including working farms and ranches; greenbelts and community separators between and around urban areas, natural areas and wildlife habitat, and land for public access and passive recreation. In November 2006, voters overwhelmingly approved Measure F, which reauthorized the District and extended the quarter cent sales tax through 2031. Measure F began on April 1, 2011. Since its inception, the District has protected over 84,000 acres on 182 properties with an acquisition cost of \$281 million; and today, ranks as one of the top open space and farmland conservation programs in the nation.

The District is a separate legal entity and has specific purposes and powers, which are set out in Public Resources Code Sections 5500 et seq. Primary financing for the District comes from the voter-approved 0.25 percent sales tax. The District is thus different from Sonoma County departments, which are created by the Board of Supervisors for internal administrative convenience but are not separate legal entities. Through March 2011, the Open Space Authority levied the sales tax and ensured that the District’s open space purchases were consistent with the voter-approved expenditure plan. The Authority contracted with the District to acquire open space (planning, appraisal, negotiation, and stewardship). On April 1, 2011, the Authority reorganized as the Sonoma County Open Space Fiscal Oversight Commission to provide fiscal oversight of the District’s operations. The Sonoma County Board of Supervisors now levies the sales tax and entered into a contract with the District for funding the administration of Measure F. The District partners with willing landowners, public agencies and non-profit organizations to protect land permanently from being developed, through agreements with landowners (conservation easements) and through outright purchase of land.

The District’s status as a separate legal entity with specific powers affects the types of activities in which the District may engage. Unlike Sonoma County, which generally may spend its general fund revenues for activities the Board of Supervisors determines benefit the public good, The District may only expend its sales tax revenue to further the purposes specified in the voter approved Expenditure Plan. Unlike the County, the District has no general land use authority, and does not exercise general regulatory “police powers.”

(Source: Sonoma County Agricultural Preservation and Open Space District Annual Report for The Fiscal Year Ended June 30, 2011, p. iv.

Appendix Four: Urban Growth Boundary Agreement Between the City of Halsey and Linn County, Oregon.

Agreement between the City of Halsey, Oregon and Linn County, Oregon for the joint management of the Urban Growth Boundaries, the Plans for the Urban Growth Area and the Area of Mutual Interest.

WHEREAS, the City of Halsey, Oregon and Linn County, Oregon, are authorized under the provisions of ORS 190.003 to 190.030 to enter into intergovernmental agreements for the performance of any or all functions that a party to the agreement has authority to perform; and

WHEREAS, ORS 197.175, 197.190, 197.250, 197.275, and 197.285 and OAR 660-03-010 requires counties and cities to prepare and adopt comprehensive plans consistent with statewide planning goals, and to enact ordinances or regulations to implement the comprehensive plans; and

WHEREAS, Statewide Planning Goal Number 14 requires that establishment and change of urban growth boundaries shall be a cooperative process between the city and the county that surrounds it; and

WHEREAS, the City of Halsey and Linn County recognize a common concern regarding the accommodation of population growth and utilization of lands adjacent to the City; and

WHEREAS, the City of Halsey and Linn County have adopted coordinated and consistent comprehensive plans which establish Urban Growth Boundaries, a plan for the Urban Growth Area, and policies related to urban development and the provision of urban services within the Urban Growth Area; and

WHEREAS, the City of Halsey and Linn County recognize that as their comprehensive plans and implementing ordinances are amended from time to time that they shall remain consistent and coordinated with each other; and

WHEREAS, the City of Halsey and Linn County recognize that it is necessary to cooperate with each other to implement the urbanization policies of their comprehensive plans.

NOW, THEREFORE, THE PARTIES DO MUTUALLY AGREE AS FOLLOWS:

1. The Intent of Agreement.

a. The City of Halsey, Oregon and Linn County hereby agree to establish a joint management procedure for the implementation of the Halsey Urban Growth Boundary and plan for the Halsey Urban Growth Area, both of which form an integral part of the Halsey Comprehensive Plan. The Halsey Urban Growth Boundary is attached to this

agreement as Exhibit "A". The area situated inside the Halsey Urban Growth Boundary and outside the Halsey City Limits shall be referred to as the Urban Growth Area.

b. The procedures for implementation of the Urban Growth Boundary and the plan for the Urban Growth Area shall be specified in this agreement.

c. The City and County further agree to utilize the provisions of this agreement, the Halsey Comprehensive Land Use Plan, and the Linn County Land Use Plan, as amended, as the basis for review and action on Comprehensive Plan Amendments, development proposals and implementing regulations which pertain to the Urban Growth Area.

2. Comprehensive Plan Amendments.

a. An amendment to the following comprehensive plan provisions shall be enacted only after agreement by both parties in accordance with plan amendment procedures as established by both jurisdictions and as specified in this section.

1) An amendment to the City of Halsey Comprehensive Plan text and map as it pertains to the Urban Growth Area, the Urban Growth Boundary, and urbanization policies.

2) An amendment to the Linn County Comprehensive Plan text and map as it pertains to the Urban Growth Boundary and urbanization policies.

b. An amendment request may be initiated through either the City or the County. Whichever jurisdiction

initiates the plan amendment request shall forward the request to the other jurisdiction within 10 days after the request has been initiated. The responding jurisdiction shall be given 30 days to complete its review and make an initial decision on the request. Additional time may be provided at the request of the responding jurisdiction and with the concurrence of the initiating jurisdiction.

c. If the initial decisions of the City and County are in agreement, they shall be final.

d. If the initial decisions of the City and County differ, a joint meeting or meetings of the City Council and the Board of County Commissioners, or their designers shall be held to resolve the difference. A maximum of 45 days from the date of the initial action by the initiating jurisdiction shall be used to resolve the differences.

e. If after the 45-day period is over and concurrence cannot be achieved, the amendment request shall be considered denied. Either party may seek review of the denial from the Land Use Board of Appeals.

f. If both parties agree to approve the amendment, the City and County shall then formally amend their comprehensive plans to reflect the agreed upon change.

3. Review Process for Land Use Activities. The City and County shall use the following process for review and action on development proposals and implementing programs and projects in the Urban Growth Area:

a. The City shall make recommendations on development proposals, and implementing programs and projects in the Urban Growth Area, including the following:

1) Amendments to the text or map of the zoning ordinance.

- 2) Amendments to the subdivision ordinance.
- 3) Conditional use permits.
- 4) Planned unit developments.
- 5) Land divisions.
- 6) Plans, or amendments to plans, for economic or industrial development.
- 7) Functional plans, or amendments to plans, for utilities, drainage, recreation, transportation, or other similar activity.
- 8) Recommendations for the designation of health hazard areas.
- 9) Requests for amendment or establishment of special districts.

b. The County shall make recommendations on development proposals, and implementing programs in the Urban Growth Area, but which are a responsibility of the City, including the following:

- 1) Transportation facility improvements or extensions.
- 2) Public water supply, sanitary sewer, or drainage system improvements or extensions.
- 3) Public facility or utility improvements or extensions.
- 4) Requests for annexations.

c. The jurisdiction, City or County, which has authority for making a decision regarding a specific development proposal, implementing ordinance, or program, shall formally request the other jurisdiction to review and recommend action for consistency with its comprehensive plan. This request shall allow the reviewing jurisdiction thirty (30) days within which to respond. If the positions of the two jurisdictions differ, every effort will be made to arrive at an agreement.

4. Area of Mutual Interest.

a. The City and County agree to establish an Area of Mutual Interest outside of the Halsey Urban Growth Boundary. A map of the Halsey Area of Mutual Interest is attached to the agreement as Exhibit "B". The County shall give the City a minimum of twenty (20) days to review and submit recommendations to the County with regard to the following activities which will apply to the Area of Mutual Interest:

- 1) Provisions of the County Comprehensive Plan or amendments to the plan.
- 2) Amendments to the text of the County Zoning Ordinance and to the Zoning Map.
- 3) Conditional use permits.
- 4) Planned unit developments.
- 5) Subdivisions.
- 6) Major public works projects, including transportation projects.
- 7) Formation of, or changes of, the boundary or function of special service districts.

8) Other plans or proposals similar to the above.

5. Special Provisions.

a. Annexations.

1) The City of Halsey shall consider annexation of land only under the following circumstances:

- a) The land is contiguous with the city limits.
- b) The development of the property is compatible with the rational and logical extension of utilities and roads to the surrounding area.
- c) The City is capable of providing and maintaining its full range of urban services to the property without negatively impacting on existing systems and the city's ability to adequately serve all areas within the existing city limits.

2) Annexation proposals to the city which are for areas outside the Urban Growth Boundary shall be considered as a request for an amendment to the Urban Growth Boundary and shall be subject to the approval of the City and County as an amendment to the Comprehensive Plans of each jurisdiction and shall be subject to the provisions of each comprehensive plan.

b. Urban Services.

1) Extensions of City water and/or sewer services shall be permitted when they are consistent with the policies and proposals of the Comprehensive Plan.

2) City services such as sewer, water, and street maintenance shall be provided only to those subdivisions or other development projects which annex to the City.

c. Extension of Services Beyond the Urban Growth Boundary.

Provision of City sewer and/or water service capable of supporting development at urban densities shall occur beyond the Urban Growth Boundary only after a determination by affected agencies that a "danger to public health" exists, as defined by ORS 413.705 (5). The service thus authorized shall serve only the area in which the danger exists.

6. General Provisions.

a. Severability. The provisions of this agreement are severable. If any sentence, clause, or phrase of this agreement is adjudged by a court or board of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this agreement.

b. Review and Amendment. This agreement may be amended at any time by mutual consent of both parties, after public hearing and referral to the City and County Planning Commissions for a recommendation. Any modifications in this agreement shall be consistent with the Comprehensive Plans of the City of Halsey and Linn County.

c. Termination. This agreement may be terminated by either party under the following procedure:

1) A public hearing shall be called by the party considering termination. The party

shall give the other party notice of hearing at least 40 days prior to the scheduled hearing date. The 40-day period shall be used by both parties to seek resolution of differences.

2) Public notice of the hearing shall be in accordance with applicable statewide and local goals and statutes.

3) An established date for termination of the agreement shall be at least 180 days after the public hearing in order to provide ample time for reconsideration and resolution of differences.