

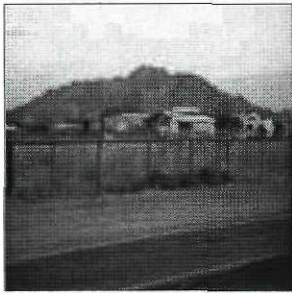


Appendix VI — Small-Scale Farm Preservation Strategies



Appendices: Southeast Chandler Area Plan

APPENDIX VI - SMALL-SCALE FARM PRESERVATION STRATEGIES



“Adopt an area plan for the Southeast Chandler Character Area that preserves the agricultural atmosphere of the community and creates open spaces, community gardens, and a feeling of openness.”

— City of Chandler Land Use Element

Section A — Overview

The Southeast Chandler Area study has confirmed the same findings that the Greater Agriculture Land Alliance (GALA) has discovered in the Phoenix Metropolitan area. Research has shown that 40% to 60% of land currently being farmed (depending upon location) is leased land. The owner of the farmland is LLC's, partnerships, corporations and non-farming owners. The non-farmers expectations are to develop the land into residential, commercial and industrial uses. Those farmers who are farming their own land have no desire to continue farming in the urban environment. In fact, many farmers have used growth as an investment strategy to increase their net worth. There is no support at this time for large acreage preservation of mono-crop agriculture from either farmers or the community.

However, there is a trend toward small-scale agriculture production in the urban environment or urban edge. The profile of these urban farmers are:

- ❖ From non-agricultural backgrounds
- ❖ Farm 2 to 15 acres of land, with 5 to 8 being an average
- ❖ Two person operations with seasonal help
- ❖ Sell direct to the consumer

An urban farmer's primary venues for selling direct to the consumer are:

- ❖ Farmer's markets
- ❖ Roadside fruit and vegetable stand
- ❖ "Pick-your-own" vegetables and flowers
- ❖ Special events or festivals
- ❖ Specialty or ethnic retailers

There are two market advantages that a small-scale urban farmer has over a retail grocery store. The first is the control of vertical integration of grower to consumer. This vertical integration eliminates the middlemen. Typically, a grower receives only 10 cents of the consumer's dollar when the farmer uses a food broker and the broker's distribution channel. If the grower sells direct to the consumer, he/she is able to receive the balance of the 90 cents. This is known as "growing for market."

The second advantage that a growing for market farmer has over the grocery store is the customer loyalty. There is a loyalty that develops between a consumer and a grower when the consumer is able to meet the person who grows the food. This relationship often develops into a social friendship. Hence, market day becomes a social event as well as a shopping event. Each visit strengthens, the grower-consumer relationship as the farmer shares the struggles and challenges that he/she has had in order to bring a crop to market against great odds of failure. The consumer begins to trust his/her grower to provide high quality, flavor rich, fresh and wholesome produce. This social relationship develops into a high level of trust when the consumer discovers that the farmer is a walking encyclopedia of horticultural knowledge. Consumers are willing to pay a slight premium in price for product in order to enjoy this social-trust relationship.



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In addition, small-scale urban farmers are involved with education through schools, summer camps and leisure learning classes. They communicate often and frequently with their non-farm neighbors and customers via newsletters and the internet in order to inform them of farming operations, production and events. Research conducted by GALA has shown that with a diversity of produce and production (cash crops and flowers), the small-scale acreage farm is economically viable and financially successful.

However, urban farming remains very much a slow growth cottage industry. The primary hurdle to become an urban farmer is the price of the land. The number of growers that could purchase 5 acres at \$50,000 an acre and place his/her residence and auxiliary buildings are few. There are even fewer mortgage companies that would lend money where the land is worth more than the improvements.

However, there is great support from the residents of the Southeast area for preservation of small-scale urban farms as a way to maintain the agricultural identity of the area. The survey also shows that there is public support economically for the urban farmer who would be selling direct to the consumer. In addition, there is public support for funding the purchase of development rights to preserve and encourage this agricultural heritage. If the City of Chandler found it prudent and in the public interest to preserve, facilitate and establish small-scale urban farms in the Southeast Chandler Area, it would do well to establish a small-scale farmland preservation program.

Small-scale Farmland Preservation Program

The purpose of a small-scale farmland preservation program in the Southeast Chandler area would be to preserve an agricultural identity in the area, as well as to create an economically viable, sustainable and renewable land use. Preservation of agriculture in any form is easily

defeated if the acreage involved is not a self-sustaining economically and self-perpetuating. If a land use is not economically self-sustaining, the land use will naturally transition to a different land use zoning in the future.

Establishing A Small-scale Farmland Protection Program

The first step in establishing a small-scale farmland protection program is to create a committee for that purpose. The purpose of this committee is to establish a blueprint that would aid Chandler in farmland preservation and to build upon the consensus within the City to protect small-scale agricultural land. The committee need not be large but should have well known and respected citizens who believe that small-scale urban farms are a part of the Southeast Chandler Area heritage. Membership should include but not be limited to:

- ❖ Local Urban Farmer(s)
- ❖ Planning and Zoning Commission Members
- ❖ Economic Development Commission Members
- ❖ Preservation Minded Citizens
- ❖ Realtors
- ❖ Bankers
- ❖ Developers

The purpose of this committee is to determine:

- ❖ Objectives: Determine the importance of small-scale farms to the community. Identify and recommend locations for small-scale farms. Develop a land use classification for small-scale farms.
- ❖ Strategy: Determine land preservation techniques and tools that will be used to preserve and protect small-scale farms.



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- ❖ Finance: Determine the financial resources the City will need to accomplish its goals.
- ❖ Preservation: An objective of the committee is to evaluate farmland and identify areas worthy of preservation.
- ❖ Open Space Plan: Small-scale farm preservation should be integrated into the City's open space plan which includes paths, parks and trails.
- ❖ Mapping: Identify farmers who want to continue farming in the Southeast Area and plot them on the general plan map.
- ❖ Identify Farming Activity: Identify the types of farming activities that are compatible with other land uses, those farming activities that would require buffering, and those farming activities that would be prohibited.
- ❖ Prioritize Farmland: Select a method to evaluate and rank farmland (soils). Preserve the best. Let the worst go first for other land uses.
- ❖ Define Farming: What farming activities are considered consistent with the agricultural heritage of the Southeast Chandler Area and which are not.
- ❖ Right to Farm Ordinance: Review City ordinances or policies that would limit or restrict farming activity, grower to consumer sales or create nuisance civil law suits.
- ❖ Collaboration: Coordinate collaborative efforts with Agriculture in the Classroom, City Sprouts Program, Leisure

Learning Classes, Youth Offender Programs, High School FFA and Youth 4-H Programs, Boys and Girls Club, YMCA, etc.

- ❖ Public Meetings: Hold public meetings to allow public input.
- ❖ Present Findings: Recommend to commissions, advisory boards and the city council suggested policies and ordinances, and report the committee's progress.

Permanently Protecting Farmland

Agriculture zoning is not recommended as a method for farmland preservation. In other states, agricultural zones have been created to prevent farmers from selling land for development. However, this prevents owners from realizing a profit from the development of the land. This techniques is paramount to a regulatory taking without compensation and is therefore not recommended.

Purchasing Farmland in Fee Simple

The most straight forward preservation of farmland that gives the City the greatest control would be to purchase the land in fee simple. This would transfer title to the municipality and remove the property from the tax rolls. However, this method would require the City to operate the farmland or lease it to a third party. This method has been used when a municipality does not have the financial resources or the expertise to operate an agricultural park.

The City of Weston, Massachusetts holds title to a 36 acre parcel of land that is leased for a dollar a year to a non-profit organization called "For Land Sake." The land contains farmland and woodlands. The non-profit organization provides leisure learning classes, youth



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internships, education tours, and pick-your-own flowers and vegetables. The non-profit organization generates sufficient revenues to cover 80% of its operating budget. The balance comes from donations and grants. The land is nestled in a residential area of homes that start at \$250,000.

Purchase and Leaseback to a For-Profit Entity

Like the Purchase in Fee Simple, the Purchase and Leaseback to a for-profit entity allows for the City to purchase farmland and lease it for continued agricultural use. This permits the municipality to recover a small portion of the purchase price through annual lease payments. Leased land in the East Valley runs at \$50.00 to \$150.00 per acre per year depending on the water rights. A lease period of five to eight years allows farmers to make improvements on the land and affords them the opportunity of more stable long-term planning. The disadvantage of this method is that any nuisance civil law suits filed against the farmer will include the landowner or the municipality as a defendant.

Purchase and Resale With Covenants

In this method of preservation, the municipality buys the land and resells it with deed restrictions requiring the buyer to maintain the parcel for agricultural use. It is important to already have defined the objective of the City for small-scale urban farms so the buyer has a clear understanding of what is expected. Otherwise, the municipality may have created a large lot residential home or a mini-ranch.

Purchase Development Rights or Conservation Easements

This land protection method operates on the premise that the right to develop a parcel of land is one of the bundle of rights of land ownership (like mineral rights) and separable from the ownership of that land.

The City can purchase the development rights or conservation easement to the land and thus prevent its development.

The municipality pays the owner the difference between the agricultural value of the land (\$2,500 to \$3,000 an acre) and its appraised commercial, residential or industrial market value. Once the development rights have been sold/purchased, the owner continues to retain title to the property. However, the owner cannot develop the land. The owner continues to pay property taxes. The owner retains the right to use the land as private property. The owner may fence or otherwise prevent the public from entering the land. The property is not public land. It is private land that cannot be developed by the current or future owner(s).

In studies conducted by AFT, farmers who have restricted their property through a PDR do one of three things upon receipt of the proceeds:

- ❖ They invest in capital improvements on the farm.
- ❖ They retire outstanding debt.
- ❖ They use the funds for retirement.

In follow-up studies by AFT, sellers of farmland restricted by PDR's indicate that the deed restrictions did not impede the sale of the property. Many of the "new" owner/farmers were able to purchase their first farm. In fact, purchasers of PDR restricted farmland could not have purchased the land had they to compete with and against development interests.

Unlike an agriculture zoning that has the potential of creating a regulatory taking, PDR's have been upheld by the courts as a contractual obligation or deed restriction running with the land. Sometimes, a new owner of PDR restricted land seeks to change the



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terms and conditions of the PDR agreement. The buyer may force the issue by building an unauthorized structure or by changing the land use from agriculture. In all cases to date, the courts have upheld the contractual obligations or deed restrictions established by the PDR, even to the extent of requiring the offending party to remove the breach and to restore the land to its original condition at their own expense.

Leasing of PDR's or Conservation Easements

An interim tool used to determine the viability of preservation of agriculture in a given area is leased development rights. This method prevents the land owner from developing the land for a contractually stated time period. This method is currently being considered in the area surrounding Luke Air Force Base. Leasing PDR's provides the element of time for a community to assess its preservation needs.

Bargain and Sale of Development Rights

A bargain and sale is the sale of property for less than its full market value. This results in a sale and part charitable contribution. The amount deductible for income tax purposes is the difference between the fair market value of the property and the actual sale price. A bargain and sale to a qualified organization provides the landowner with some attractive financial benefits:

- ❖ Actual cash from the sale
- ❖ Capital gains tax reduction
- ❖ Avoidance of brokerage fees
- ❖ A charitable contribution deduction

Summary

The limitations of any type of preservation program comes in the deed restrictions placed upon the land regardless of the type of method used to create the conservation or preservation restriction. The deed restrictions must be sufficiently flexible to permit the continuance of agriculture, but sufficiently restrictive to prevent non-agricultural uses. The deed restrictions often are negotiated with the original land owner but imposed upon subsequent owners who purchase the land. In a farmland preservation program, financial consideration must be given to the need of monitoring and enforcing the deed restrictions against those who thought they were buying "cheap" land, or attempt to use the defense that "no one told me."

It is for this reason that the preservation committee becomes critically important in its function. Creation of this committee would give a strong message to the Southeast Chandler Area of the City's commitment to preservation of its agricultural heritage in the form of small-scale urban agriculture.