

Community Character Preservation Tools



Cache County Courthouse, February 22, 2023

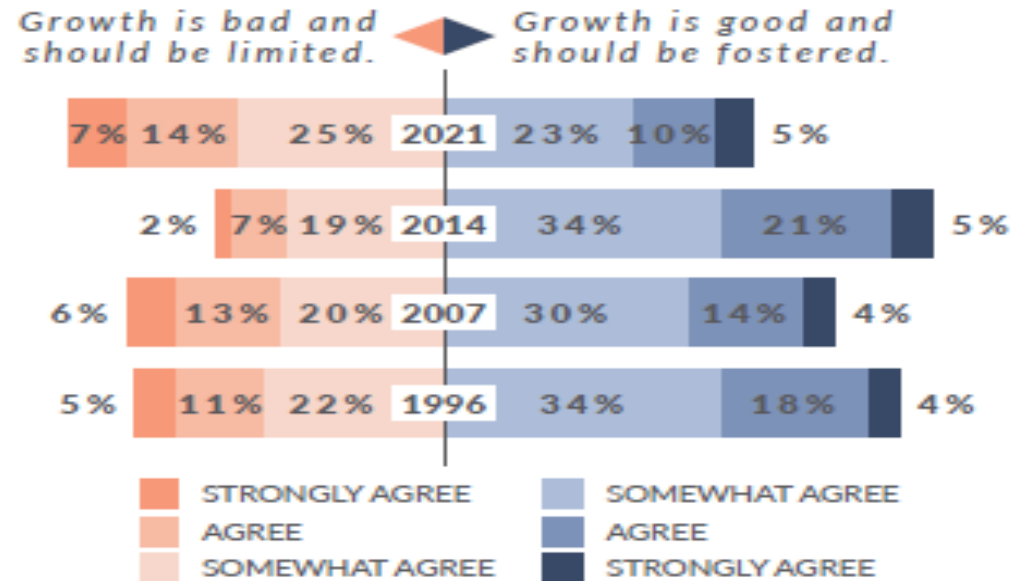
Panelists

- Mayor Larry Jacobsen – Nibley City Mayor
- Tim Wadkins – Cache County Planning Manager
- Levi Roberts – Nibley City Planner
- Wendy Fisher – Executive Director, Utah Open Lands
- John Janson – Consulting Planner and moderator (skier)



Mayor Larry Jacobsen

- Are we tired of winning?
- Here in Nibley, I hear:
 - We need to conserve open space
 - Preserve our rural heritage
 - Build some attainable housing
 - Change our half acre mindset
 - Don't raise taxes (but do all kinds of stuff!)



Main Concerns – Housing, Traffic,
Community/Family
Anything missing? *Water?*
Source: Envision Utah

Session Intent

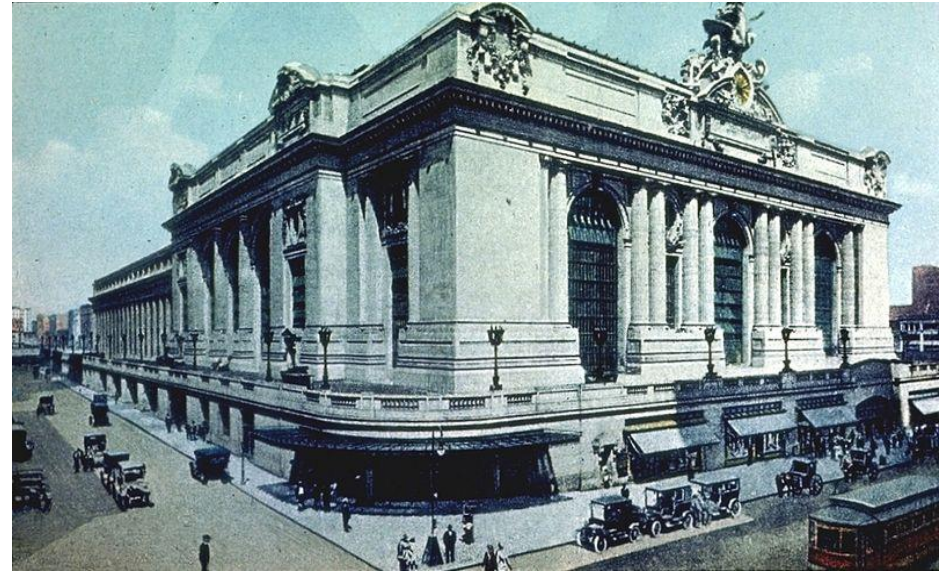
- Learn about various tools that can be used to preserve your community character and open space



- Transfer of Development Rights
- Conservation Easements
- Purchase of Development Rights
- Overlays
- Cluster Zoning
- Flexible Agricultural Zones

TDR Background

- First used in NYC to sell the air rights above Grand Central Station
- Many programs across the country
- Local examples
- Success depends on the market and a well constructed program



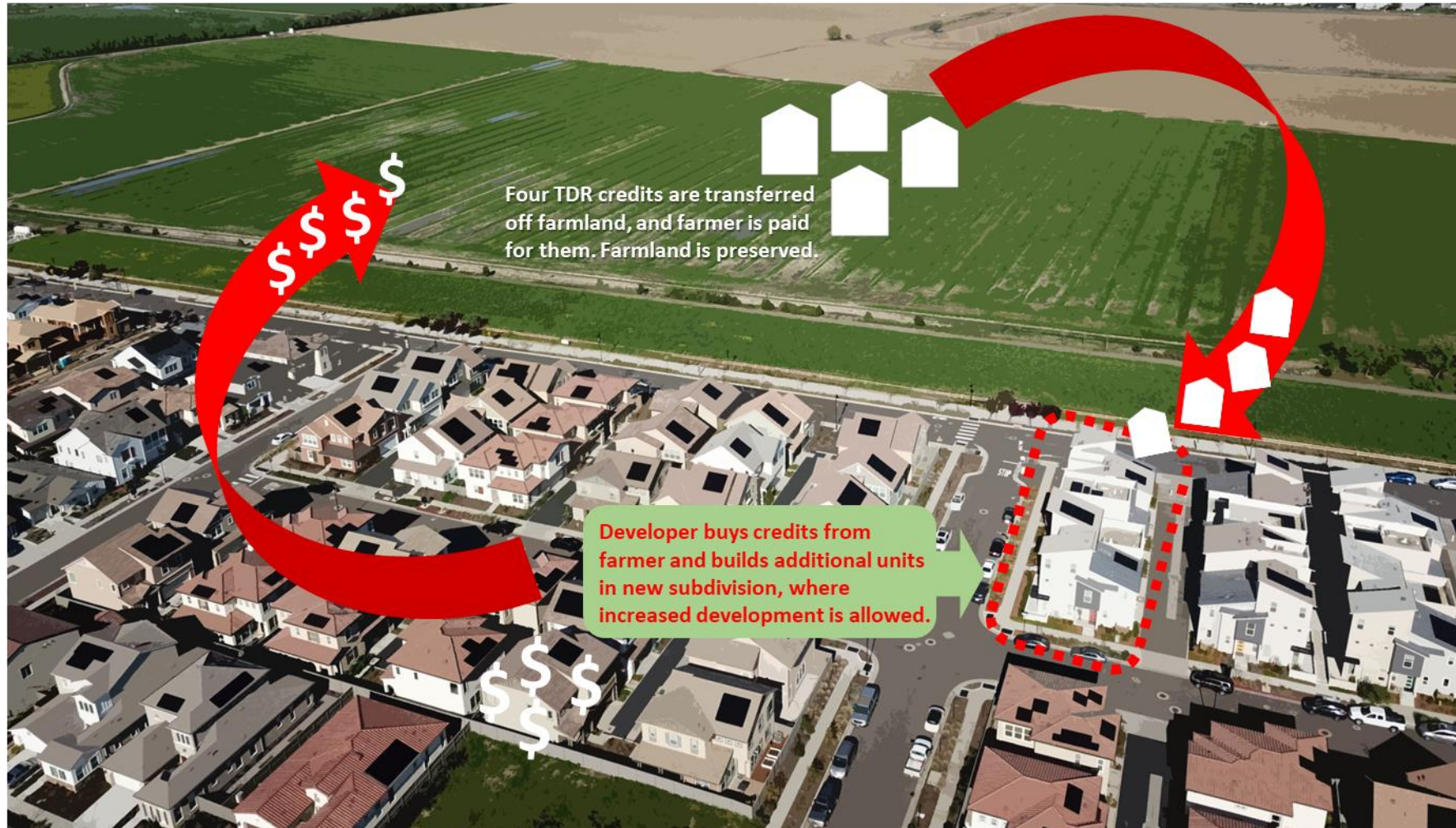
Transfer of Development Rights

How does it work?



Transfer of Development Rights

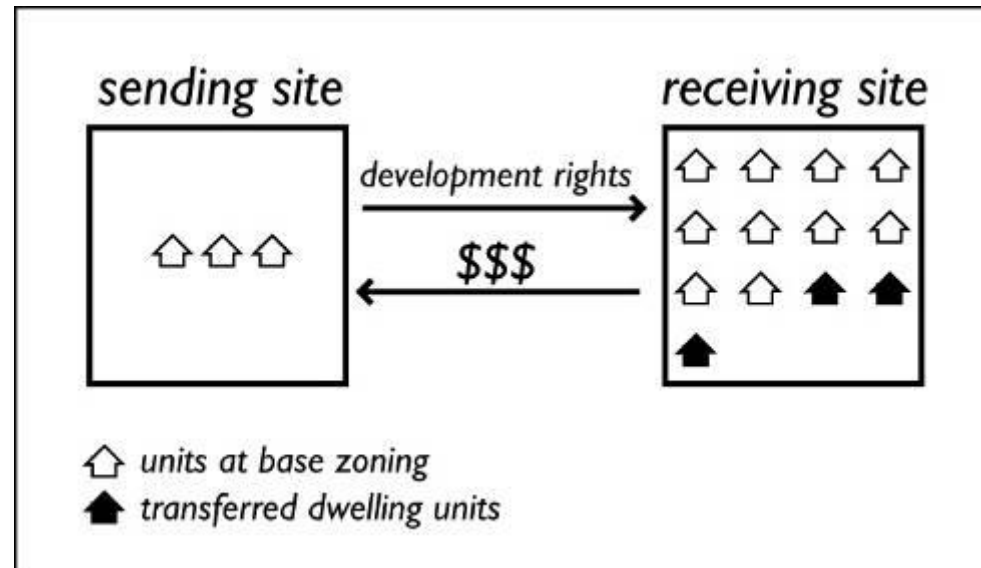
How does it work?



TDR Systems

Credits are sold representing what could *theoretically* be built in a preservation (sending) area (ag land, open space). Transferred credits/units are built where the community believes they are acceptable (town centers or planned centers or citywide).

- ***Sending Areas*** (Example: productive agricultural land or open space)
- ***Receiving Areas*** (Example: areas contiguous to major development clusters or planned centers)



What Makes this Work?

- Farmer's development rights are purchased for what he/she thinks the land is worth (lots of caveats)
- Farmer gets to stay in the farming business! Or find someone to takeover
- A conservation easement is recorded, allowing for **permanent** preservation/continuing agricultural use and is held by a land trust/non-profit or the City/County (potential cost for maintenance/management)
- Developer is willing to purchase the rights, if guaranteed the ability to build the credits/units purchased – which may be in addition to some base density
- **100% Voluntary**

TDR's Potential Role

- It can encourage farmers/owners of open space to continue farming and/or preserve significant open spaces (stream corridors, wetlands, mountainsides, etc.)
- It becomes like a new *“currency,”* a new property right
- Everyone must understand that it is an *incentive based, voluntary* implementation tool
- City enables the transactions through an ordinance, but the transactions are *private and voluntary*
- *It is a market-based system, and it requires market demand to work*

Making TDR “Pencil”

- A townhouse or small lot home is worth less than a big lot home. To make the transaction pencil:
 - If you sell “credits” from a farm (*TDR ordinance adds those **theoretical credits***)
 - the buyer gets, for example, three small lot credits
 - notably more units get built in receiving areas

*Discussion: “hurdles” in every community – heights, densities, and design in the receiving areas. **Additional hurdle – long term maintenance***

Rezone “Discipline” Is Needed

- No demand = no transfers
- If a landowner/developer can get more density without TDR, he/she/they/them won't be interested in buying credits from the sending area
- Jurisdictions that participate need to have *zoning discipline*, clearly outlining when up-zoning will or won't occur
- This may cost some developers more to develop than previously thought, *BUT* “If *zoning certainty* can be obtained *through* credits, it can counter-balance additional cost with less time, less risk.” (Arthur C. Nelson, Rick Pruetz, *The TDR Handbook*)

Successful Utah Stories

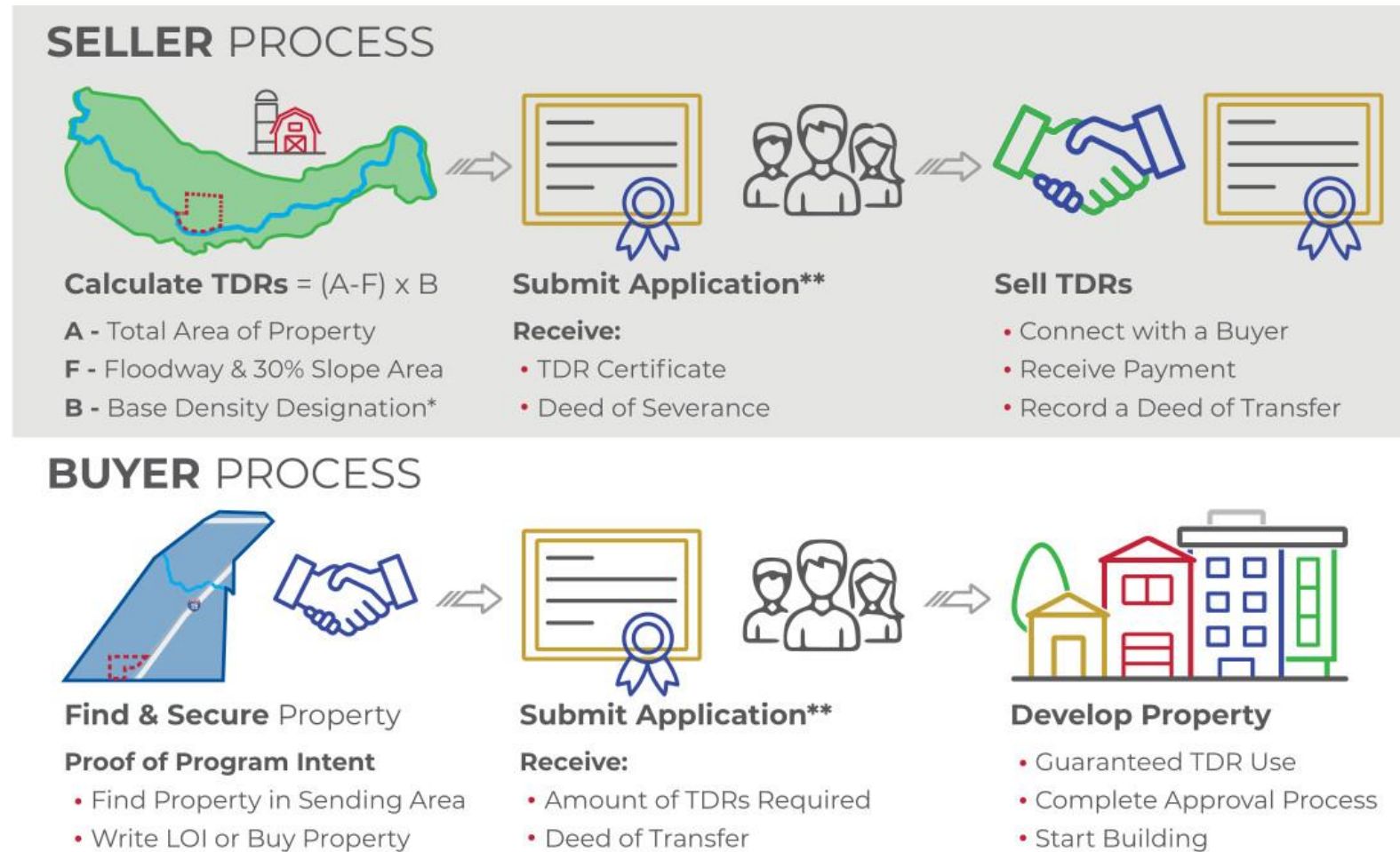
- Mapleton Utah – TDR ordinance adopted in 1998. Approximately 750 acres have been preserved to date
- Ogden Valley (Weber County) ordinance and general plan in place to transfer density to village centers (which can be ski resorts).
- Spanish Fork – working on preserving their river bottoms
- Nibley – TDR system underway

Utah TDRs - Mapleton

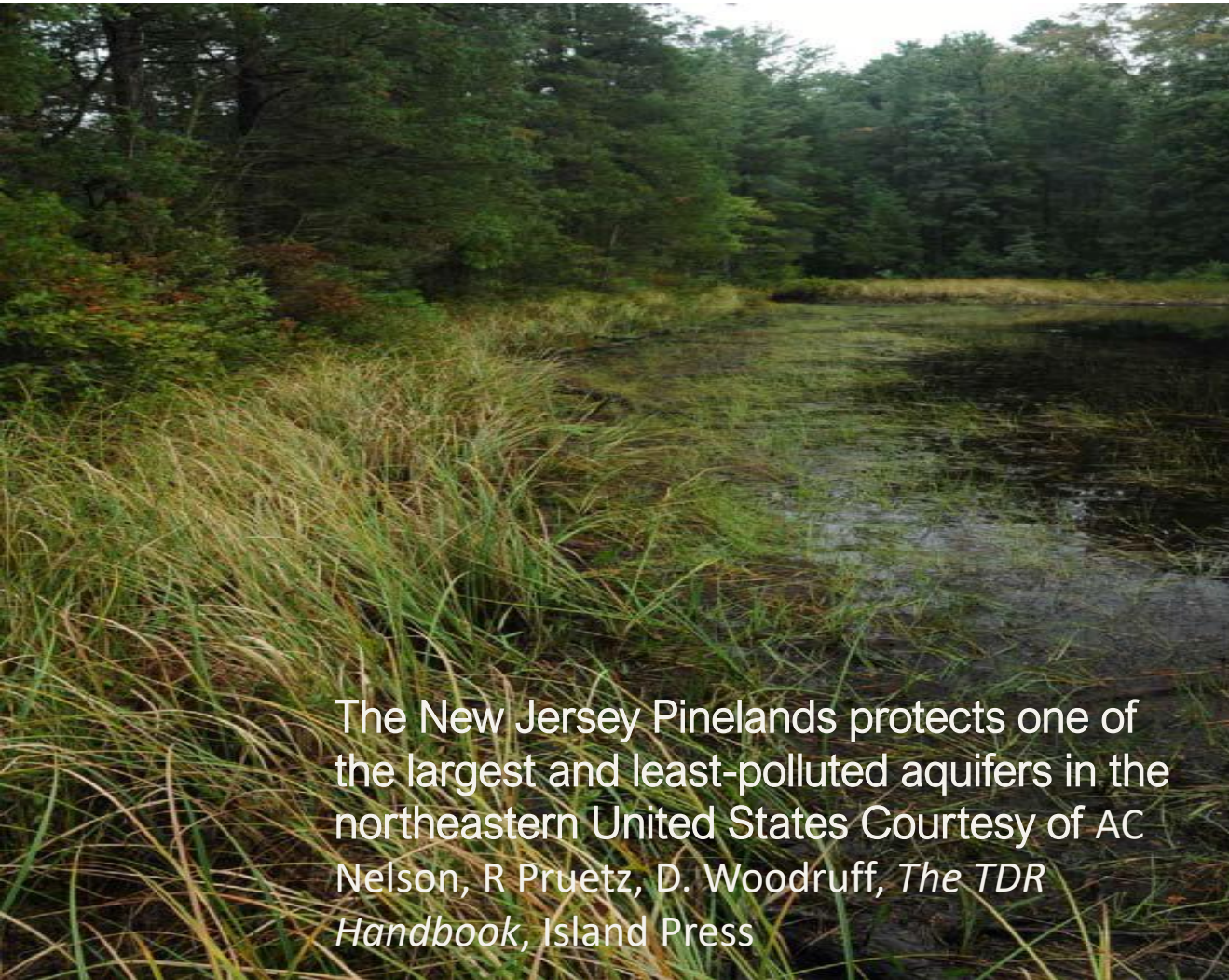
- First established in 1998 – **open space goal with trails**
- City has both approved sending and receiving areas per overlay zoning districts
- Density increase options
 - Less density if the property has conservation easements
 - More density if the property is a transfer of fee title to the City
- City issues certificates for TDRs to the developer after conservation easements are recorded
- As of 2019 - approximately 750 acres protected
- Protected bench (habitat, recreation(trails), farming & scenic)

Utah TDRs – Spanish Fork (in progress)

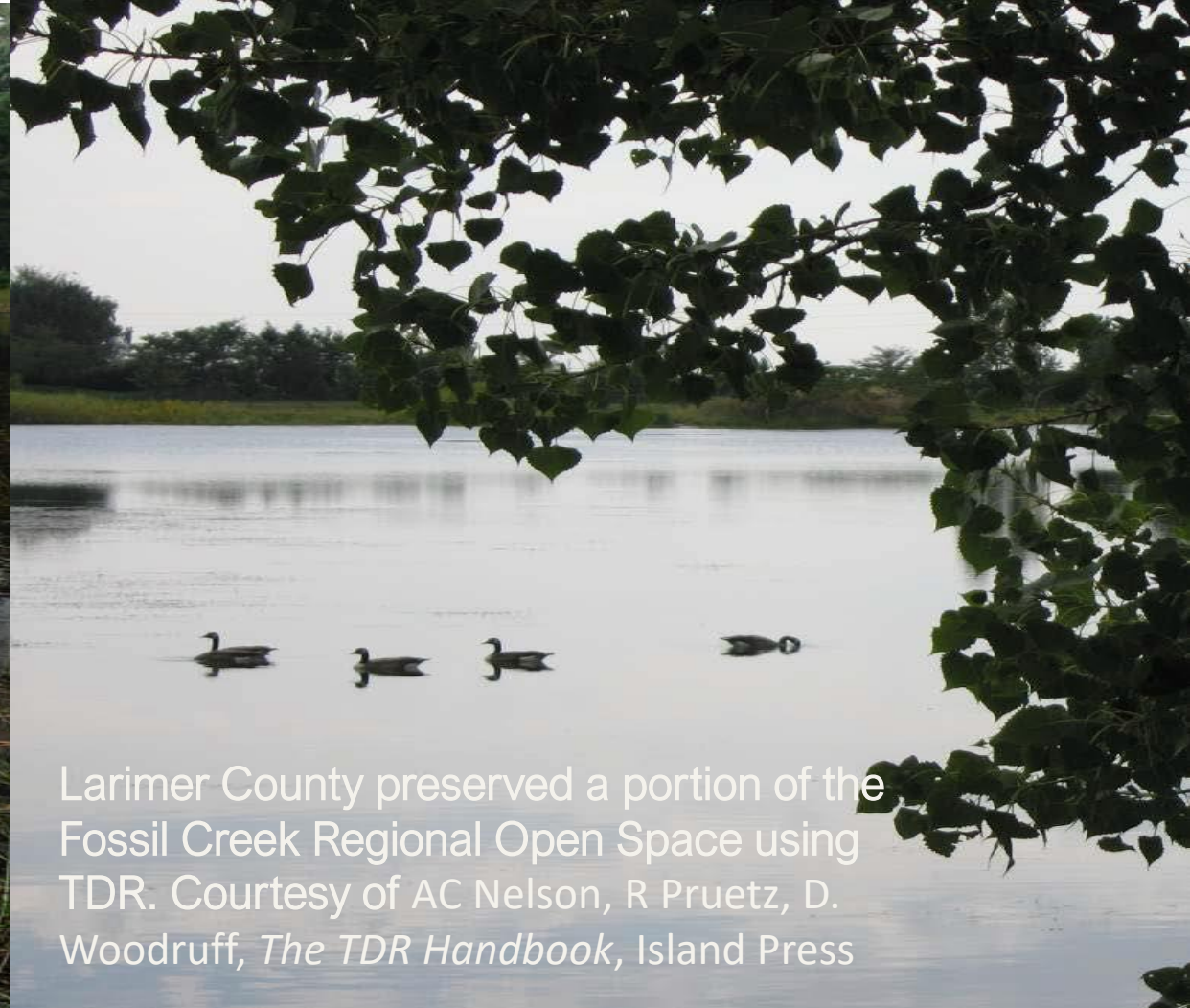
In process of reviewing TDR ordinance and adopting



County-Wide Systems – Tim Wadkins



The New Jersey Pinelands protects one of the largest and least-polluted aquifers in the northeastern United States. Courtesy of AC Nelson, R Pruetz, D. Woodruff, *The TDR Handbook*, Island Press



Larimer County preserved a portion of the Fossil Creek Regional Open Space using TDR. Courtesy of AC Nelson, R Pruetz, D. Woodruff, *The TDR Handbook*, Island Press

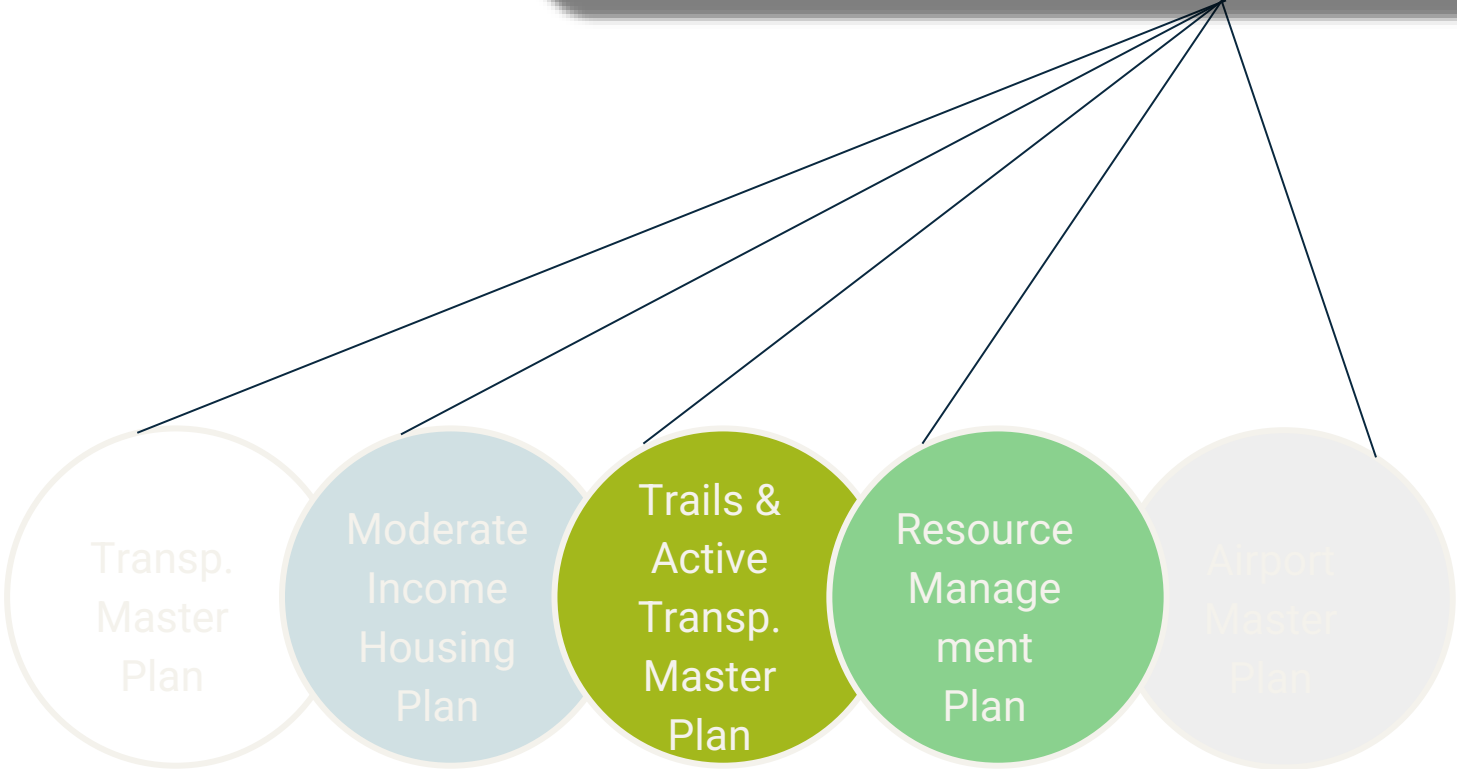
Conservation Development Concepts



Imagine Cache



Final Draft

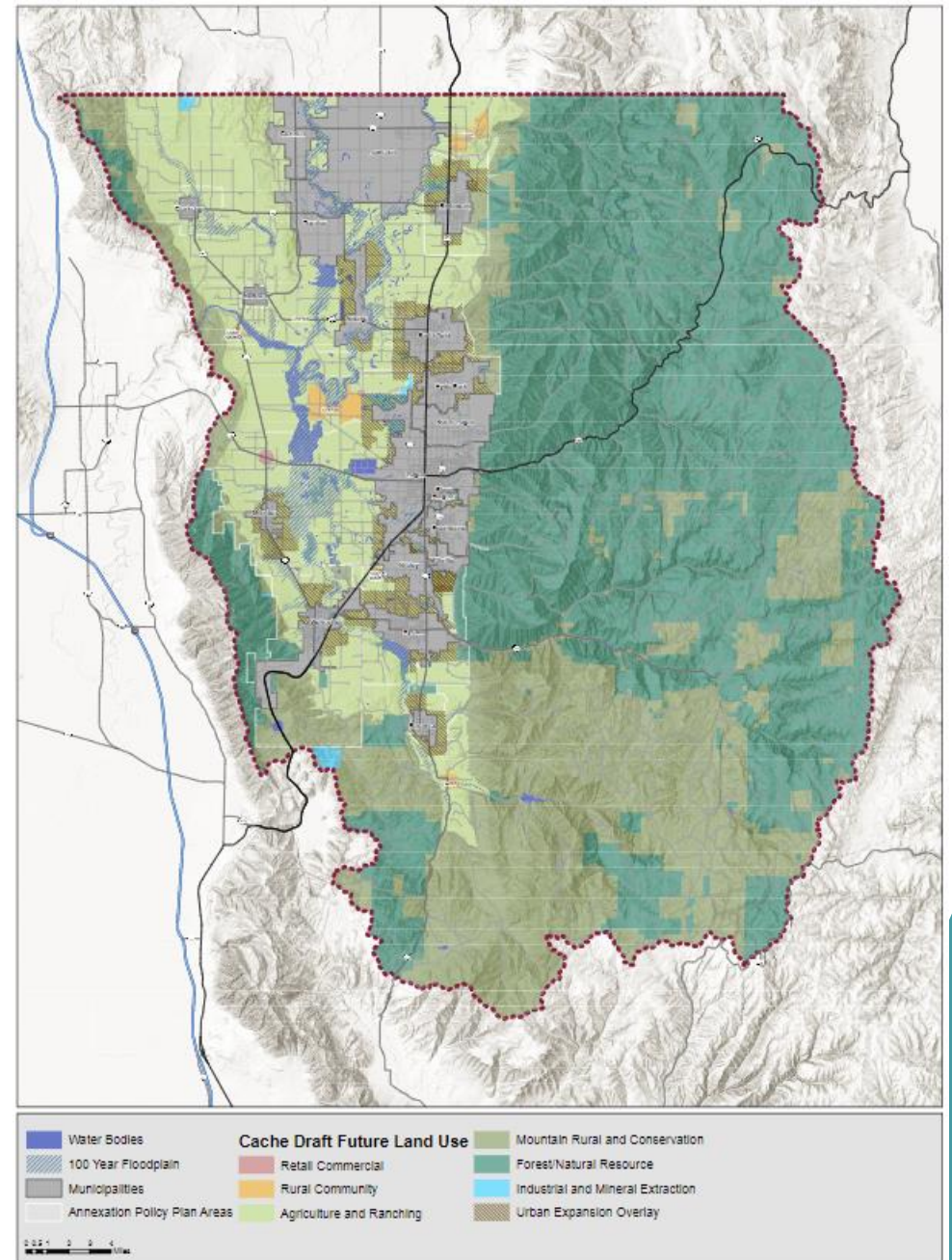
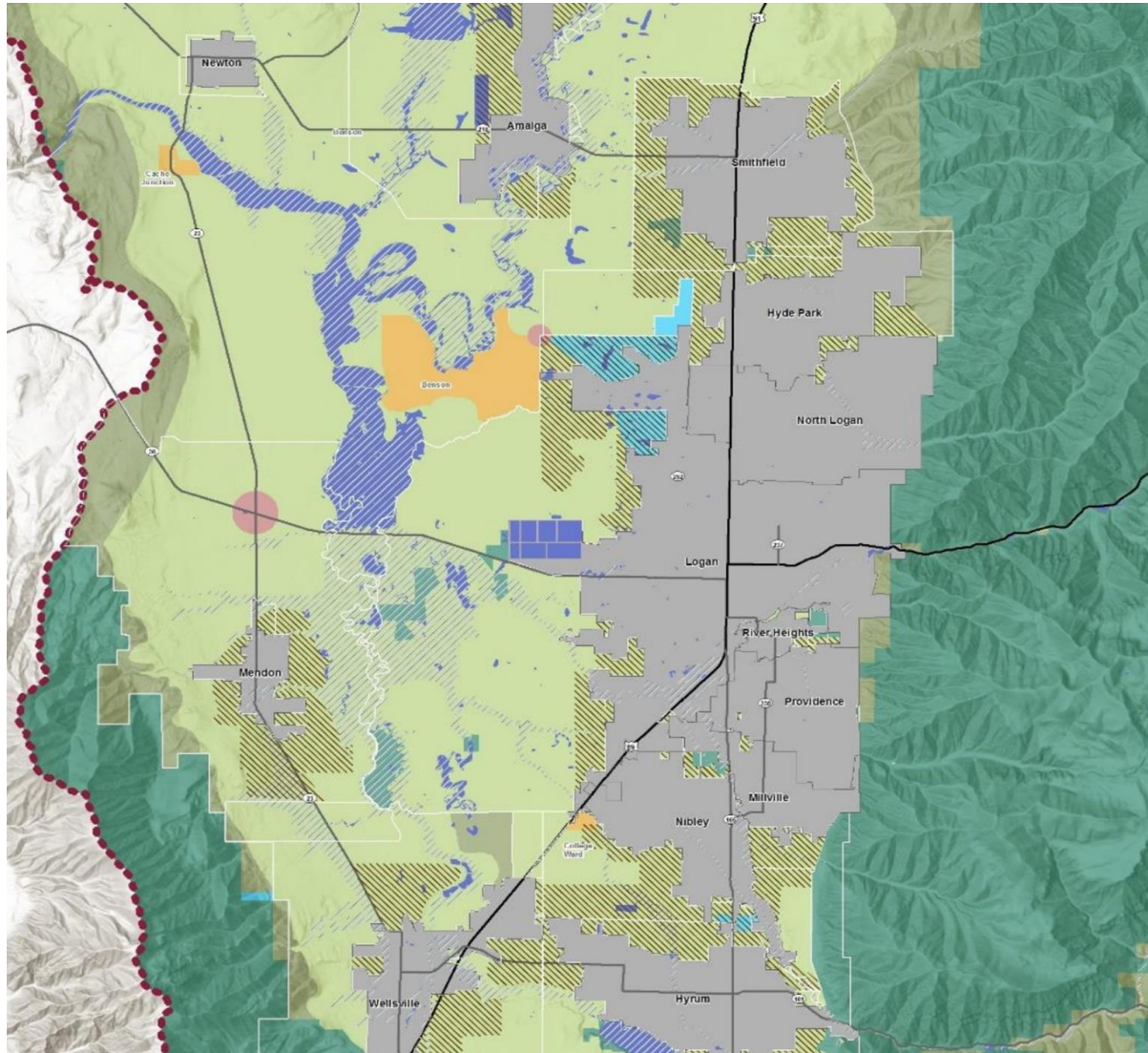


Regional Collaboration Plan



Urban and Rural Area Assessment / Cost of Services Planning Scenarios

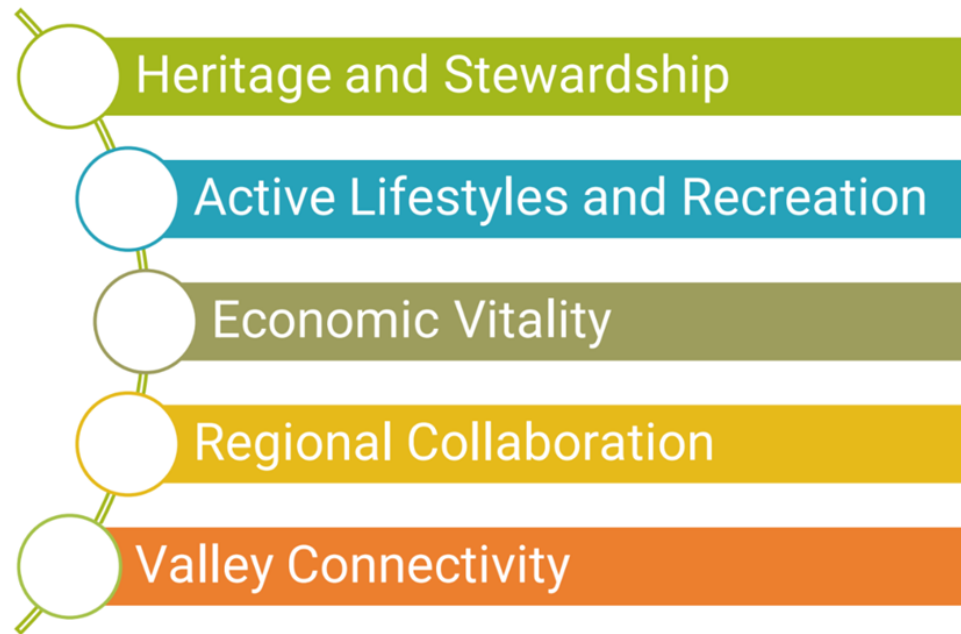
Draft Future Land Use Map





IMAGINE CACHE GUIDING PRINCIPLES

The *Imagine Cache* Mission and Vision are firmly supported by five Guiding Principles. These Principles show commitment to the community values and priorities and provide a compass to guide and shape the community into the future. The General Plan's goals and policies are organized by each Guiding Principle.



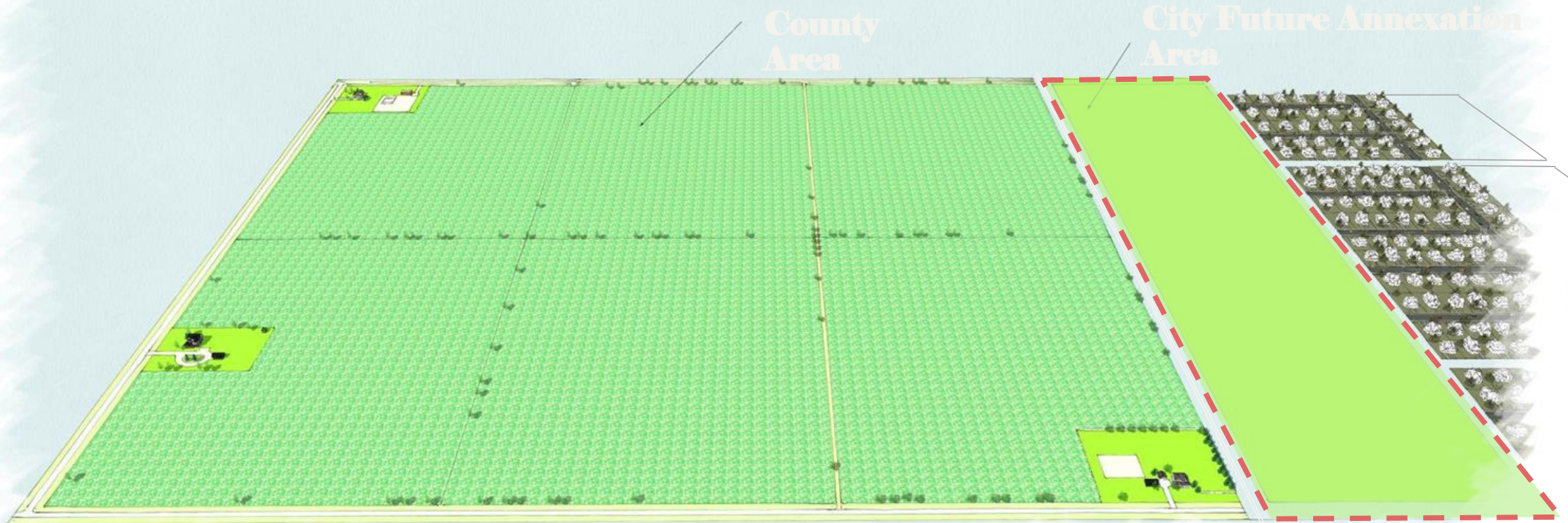


1. Heritage and Steward- ship

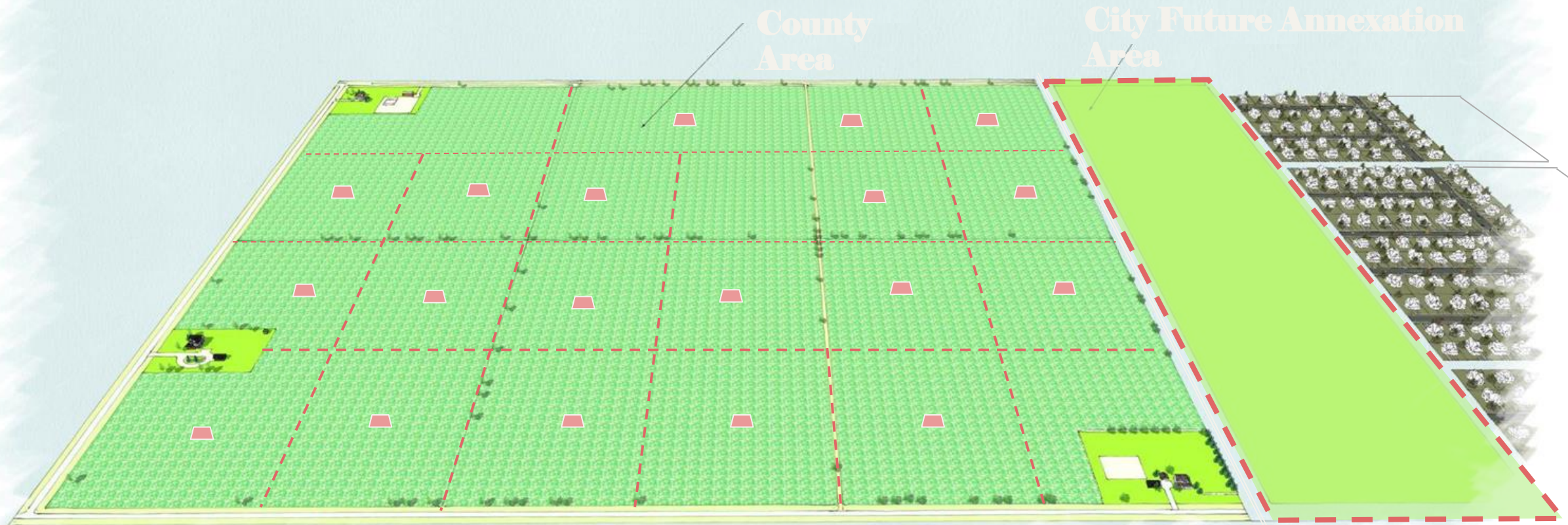
The open and rural nature of the County's unincorporated areas is an important component of the community's character that should be preserved.

- Apply appropriate land use zoning to limit development in sensitive land areas
- Protect watersheds, air, soils, and water supply through appropriate growth management.
- Explore new regulatory tools to support development and agland preservation (eg. TDR and PDR).
- Support agricultural community to identify and remove barriers to agricultural success.

Existing Condition



Existing Condition - 1 Unit per 10 Acre Zoning



Maintain A10 zoning as a base property right

Alternative 1. 2 Ac. to 5 Ac. Rezonings

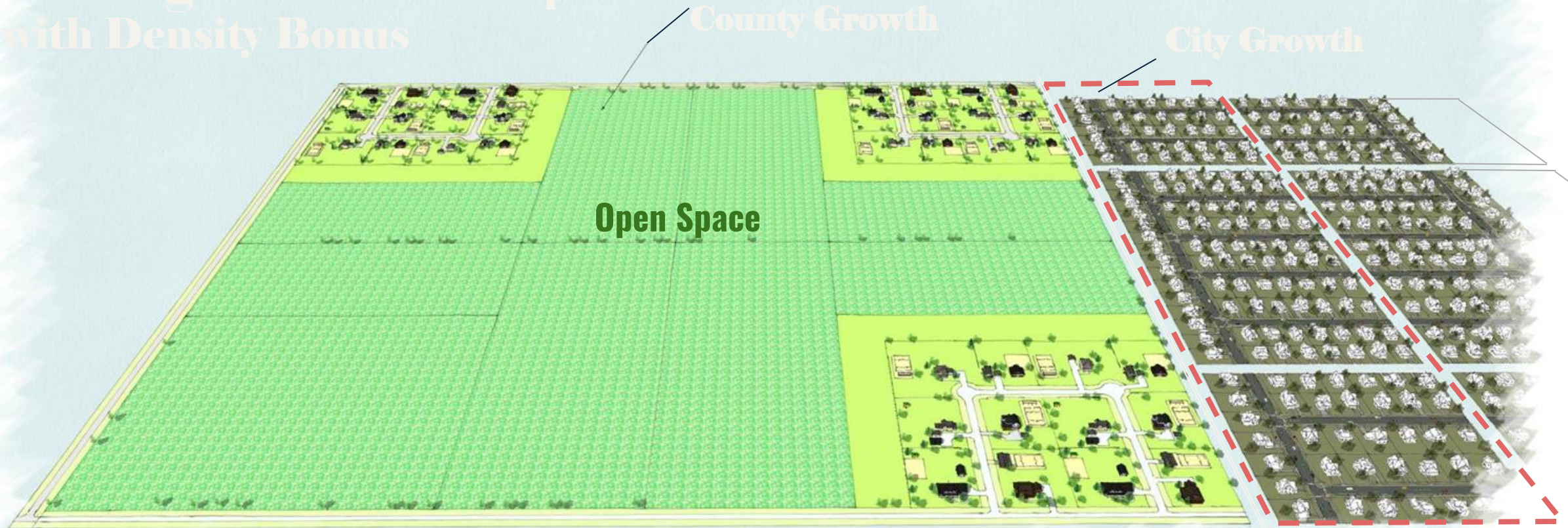
County Growth

City Growth



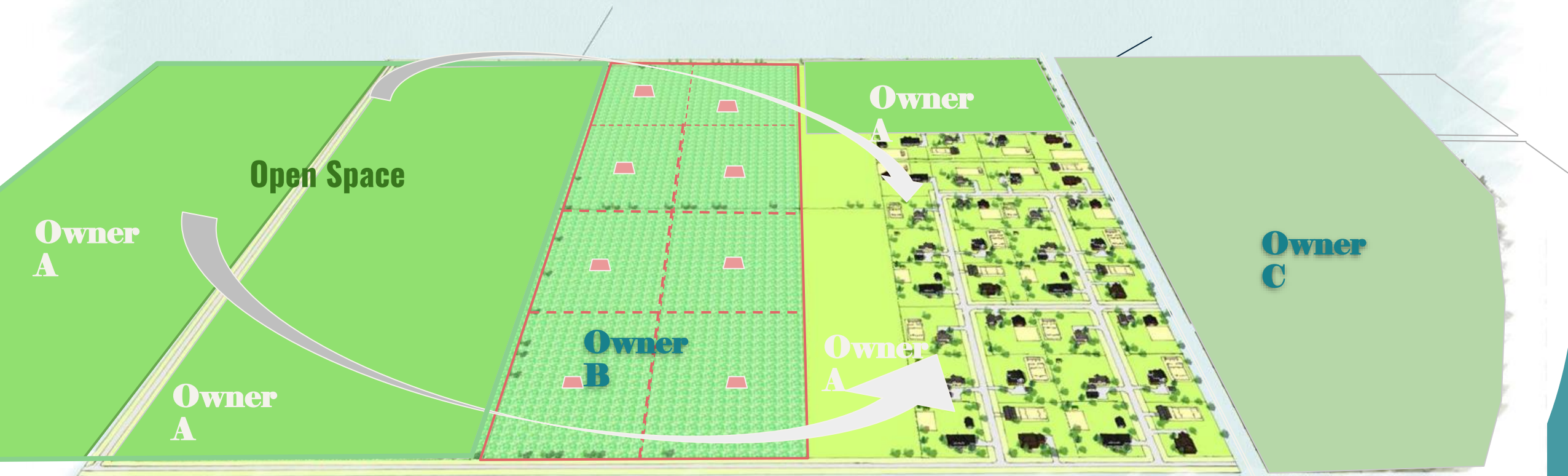
More public and private road miles and utilities required

Alternative 2. 10 Acre Zoning - Cluster Development with Density Bonus



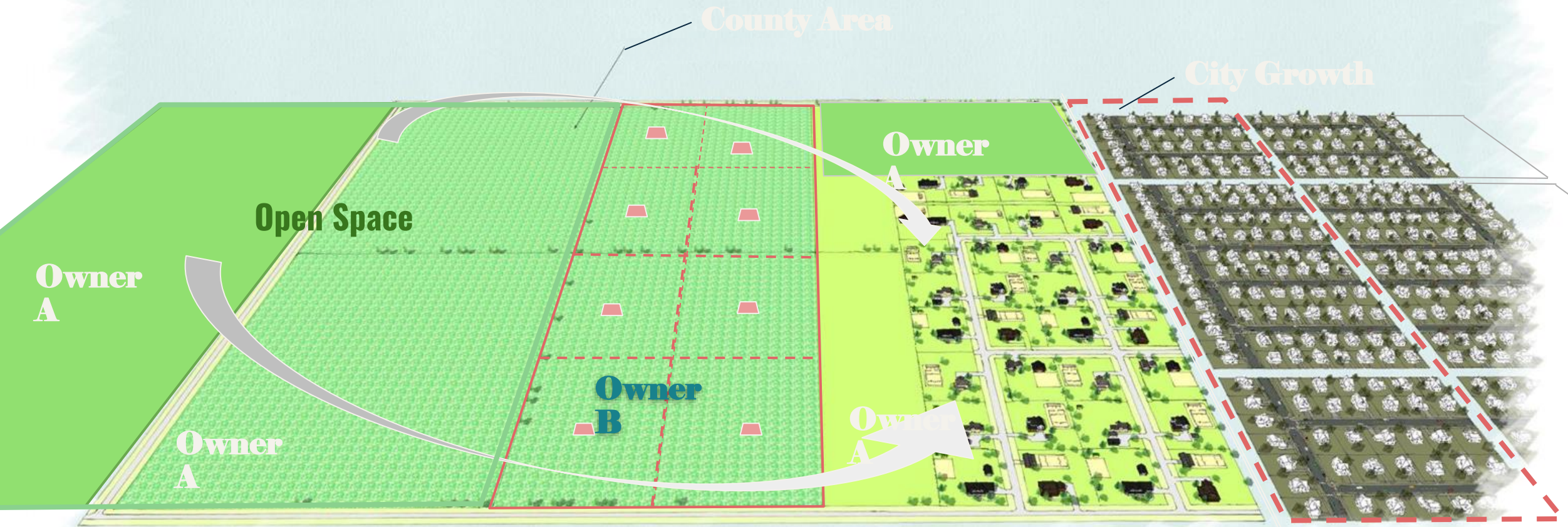
**Less public and private road miles and utilities
required**

Cluster / Transfer Development



Less public and private road miles and utilities required

Cluster / Transfer Development



Less public and private road miles and utilities required

Transferable Development Rights

- Most Development Rights Sold to Developers
- 1 Unit per 20 acres developed in County

City of New Community
Receiving Zone
• Allows more density with
purchase of TDR's

Open Space

160 Un

Substantially Less public and private road miles and utilities required

Agritourism &

added Uses



2. ACTIVE LIFESTYLES AND RECREATION

Active lifestyles and access to open spaces and trails bring significant benefits to the community.

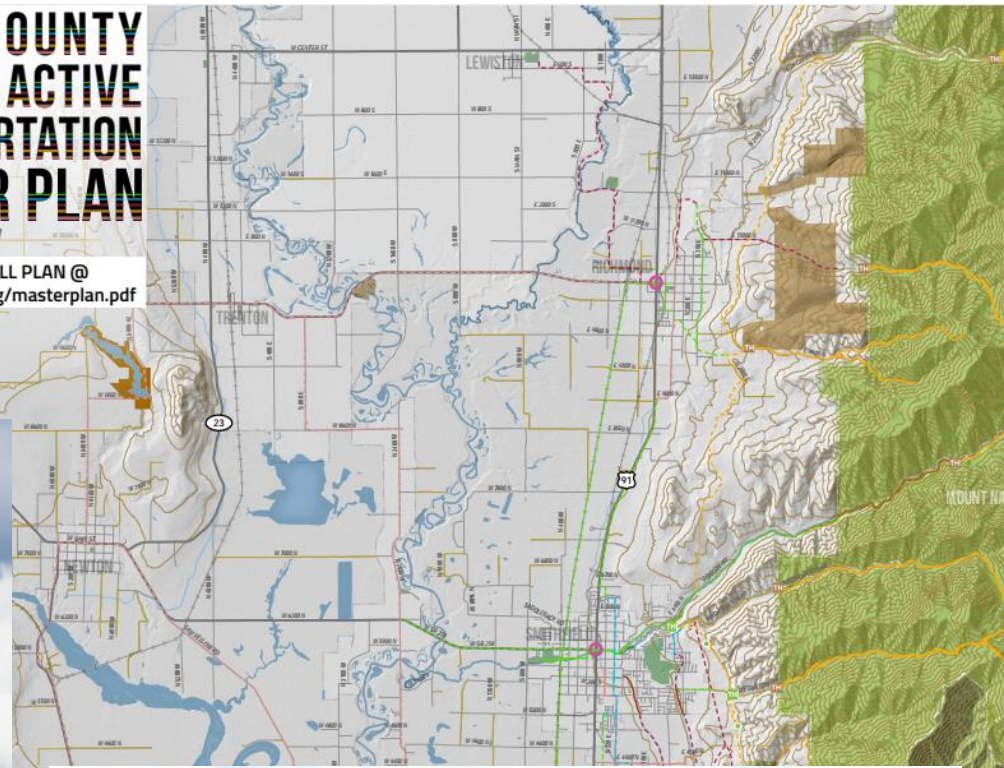
Preserve, construct and manage open spaces and natural areas for a connected system of open space, trails, recreation and scenic corridors.





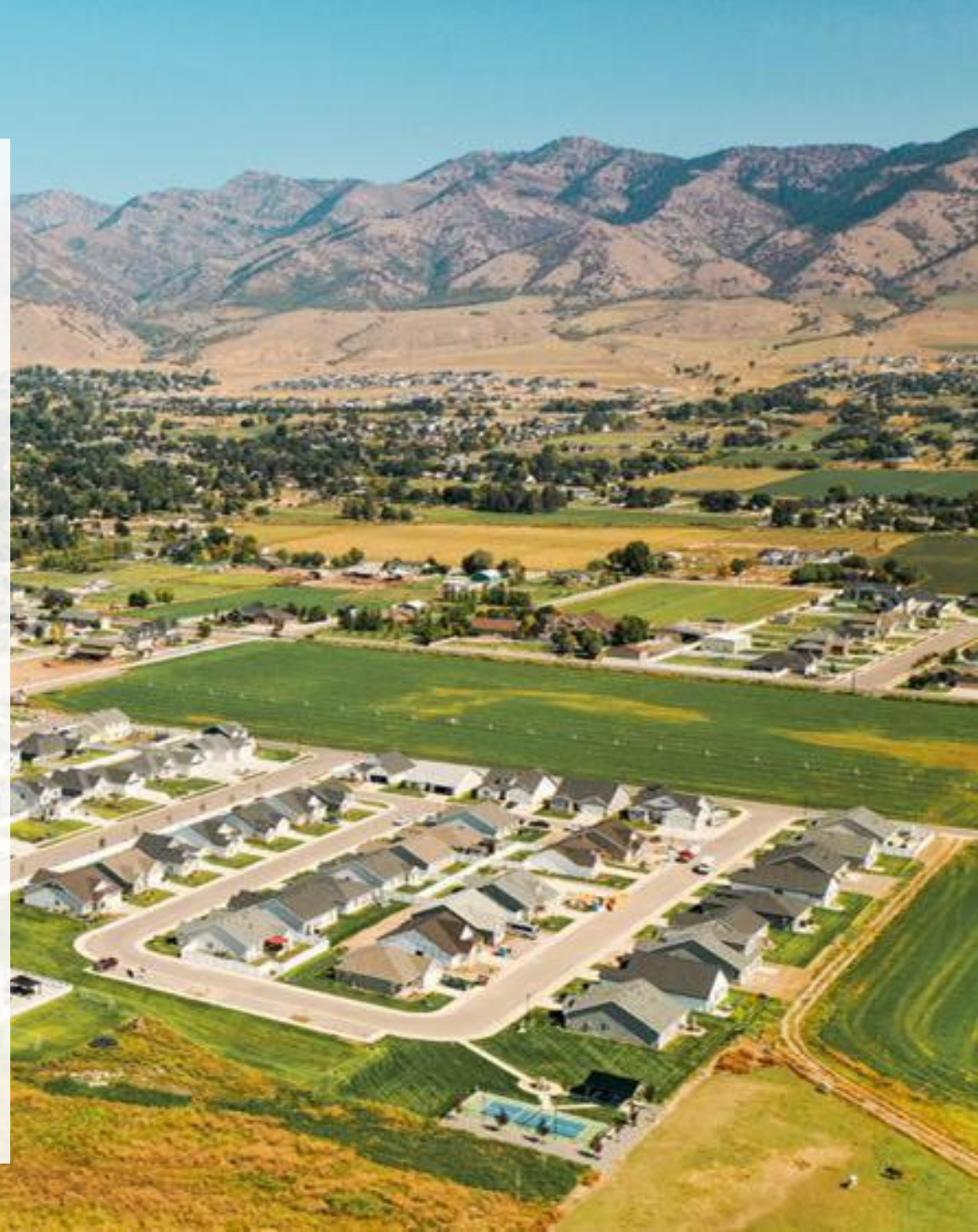
CACHE COUNTY TRAILS & ACTIVE TRANSPORTATION MASTER PLAN 2017

DOWNLOAD FULL PLAN @
trails.cachecounty.org/masterplan.pdf



3. Regional Collaboration

- 1. Land use compatibility:**
- 2. Economic Development Opportunities:**
- 3. Land preservation:**
- 4. Trails and Recreation:**
- 5. Access to public lands:**
- 6. Culinary water protection:**
- 7. Floodplain management:**
- 8. Housing affordability:**
- 9. Fiscal and Economic Land Use Analysis:**
- 10. Cost of Services and Efficient Use of Infrastructure:**
- 11. Water availability and resources:**
- 12. Sewer and septic systems:**
- 13. Road and corridor connectivity:**
- 14. Fire and Emergency Management Services:**
- 15. Law Enforcement:**

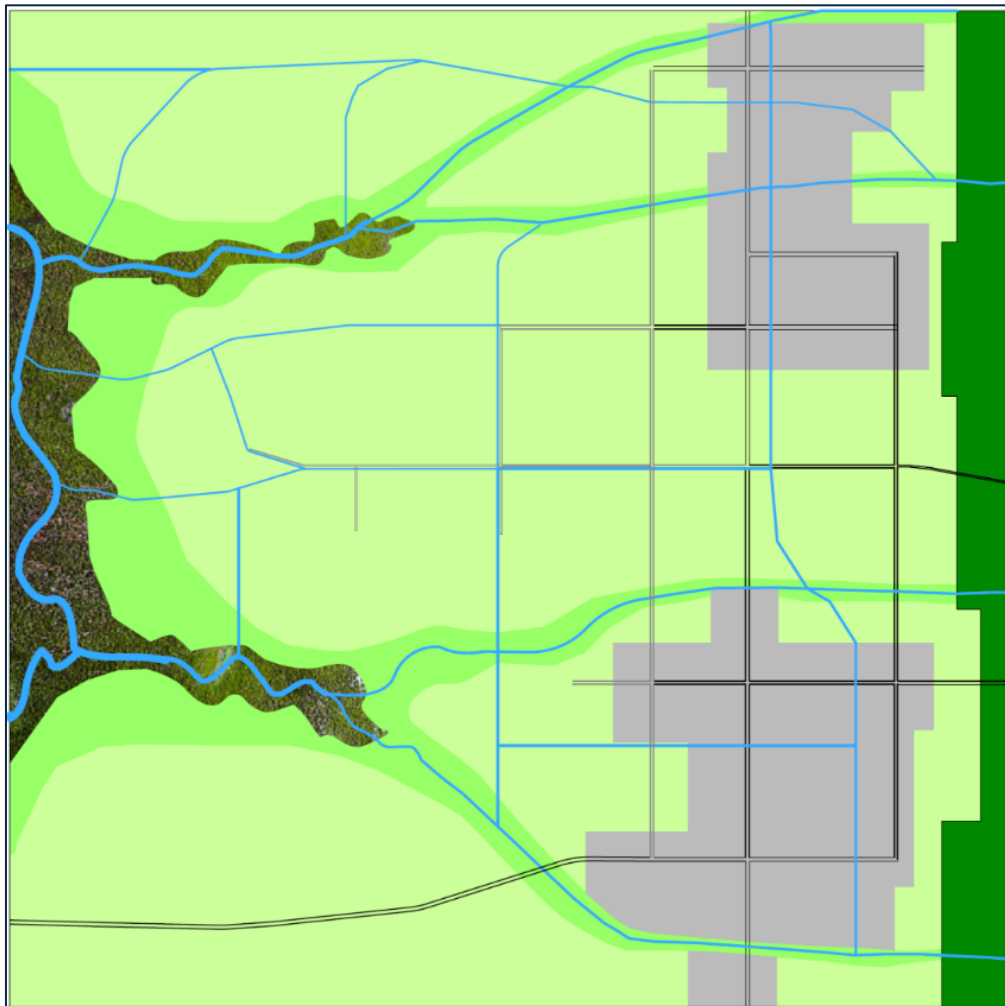


Urban and Rural Area Assessment

Table 1. Cache County Growth Projections

Source: Kem C. Gardner Policy Institute - 2020 to 2060 Projections

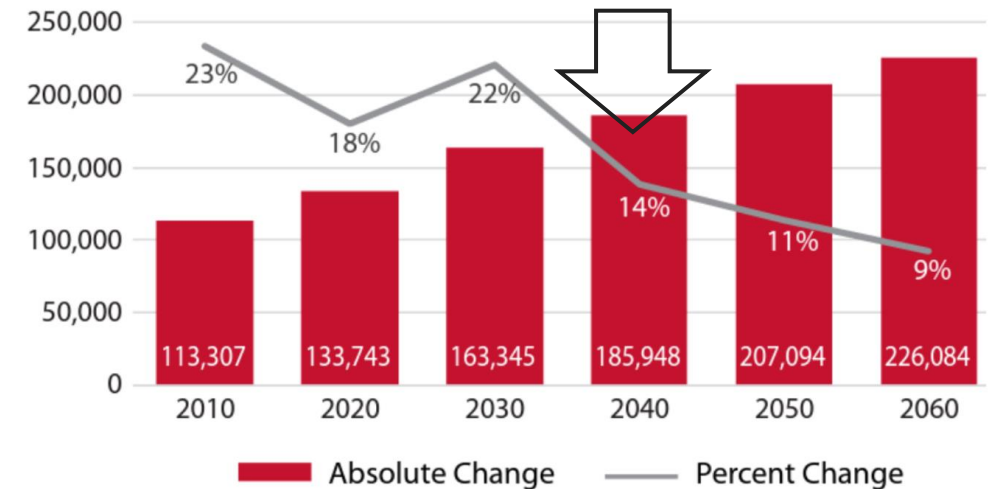
	2022	2040	Increase
H.H. Population	137,900	186,000	48,100
Households	43,100	65,200	22,100
Employees	64,600	88,000	████████



EXISTING COMMUNITIES & SURROUNDING AREA

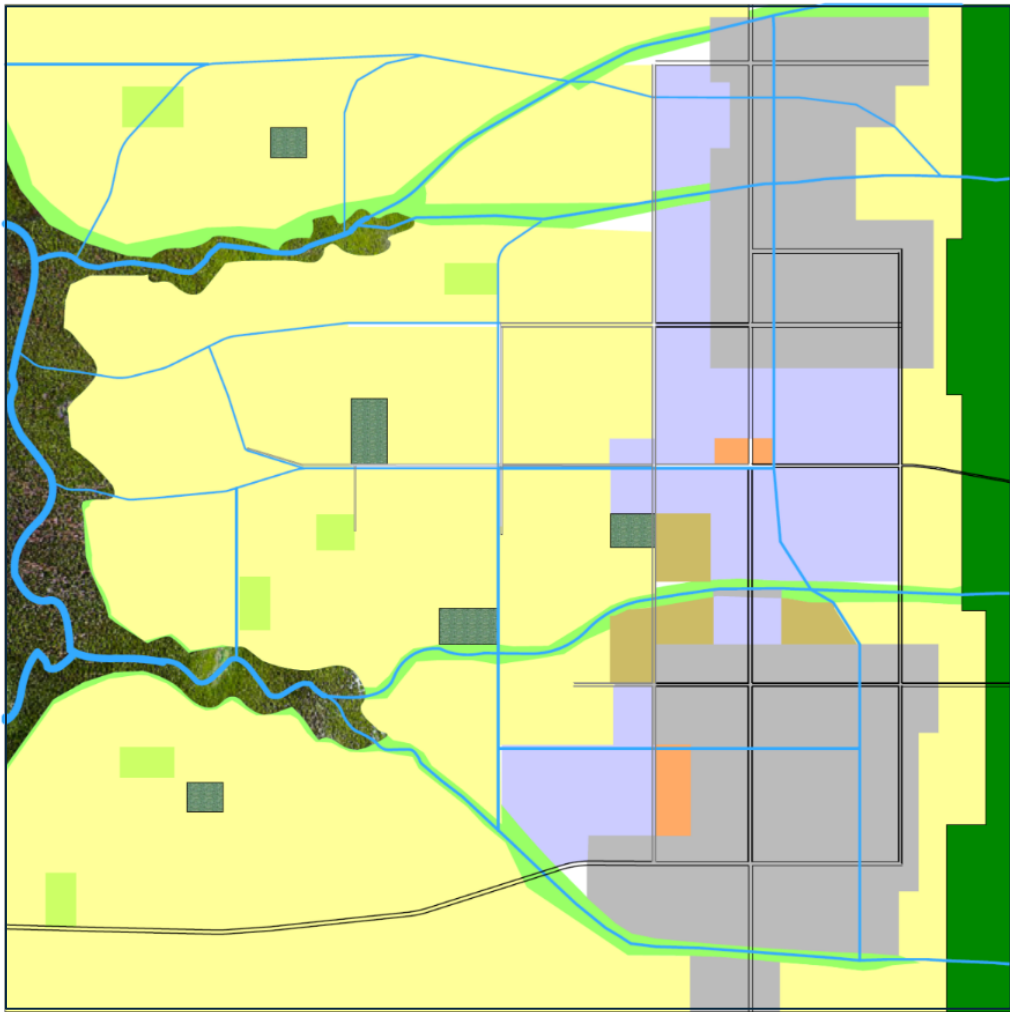
- EXISTING COMMUNITIES
- AGRICULTURE / VACANT LAND
- PUBLIC LANDS
- RIPARIAN (NONDEVELOPABLE)
- FLOODPLAIN (SENSITIVE AREA)
- CANALS

Historic and Projected Growth in Cache County



Source: Kem C. Gardner Policy Institute, 2020-2060 Projections

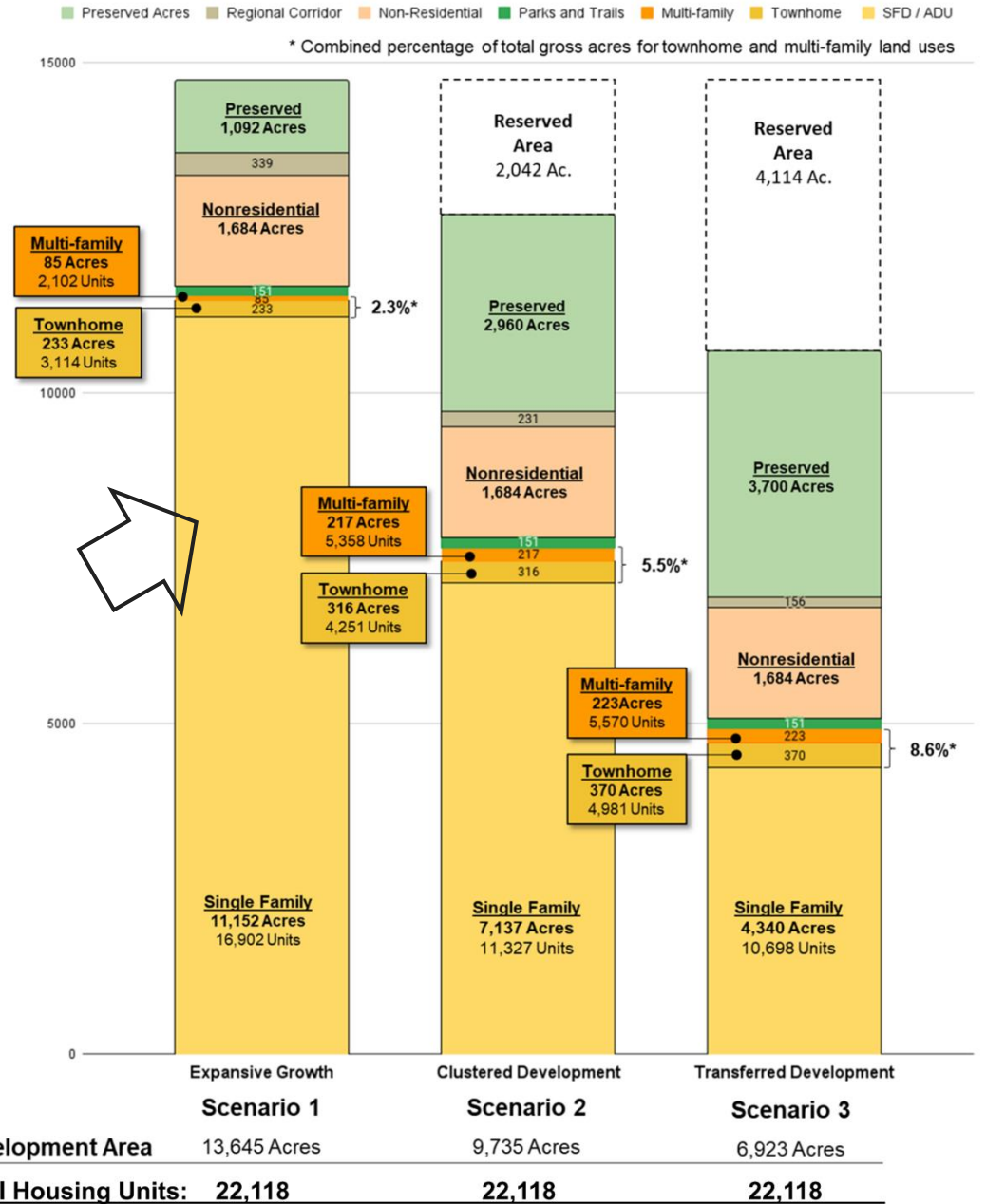
Cost of Services Scenarios

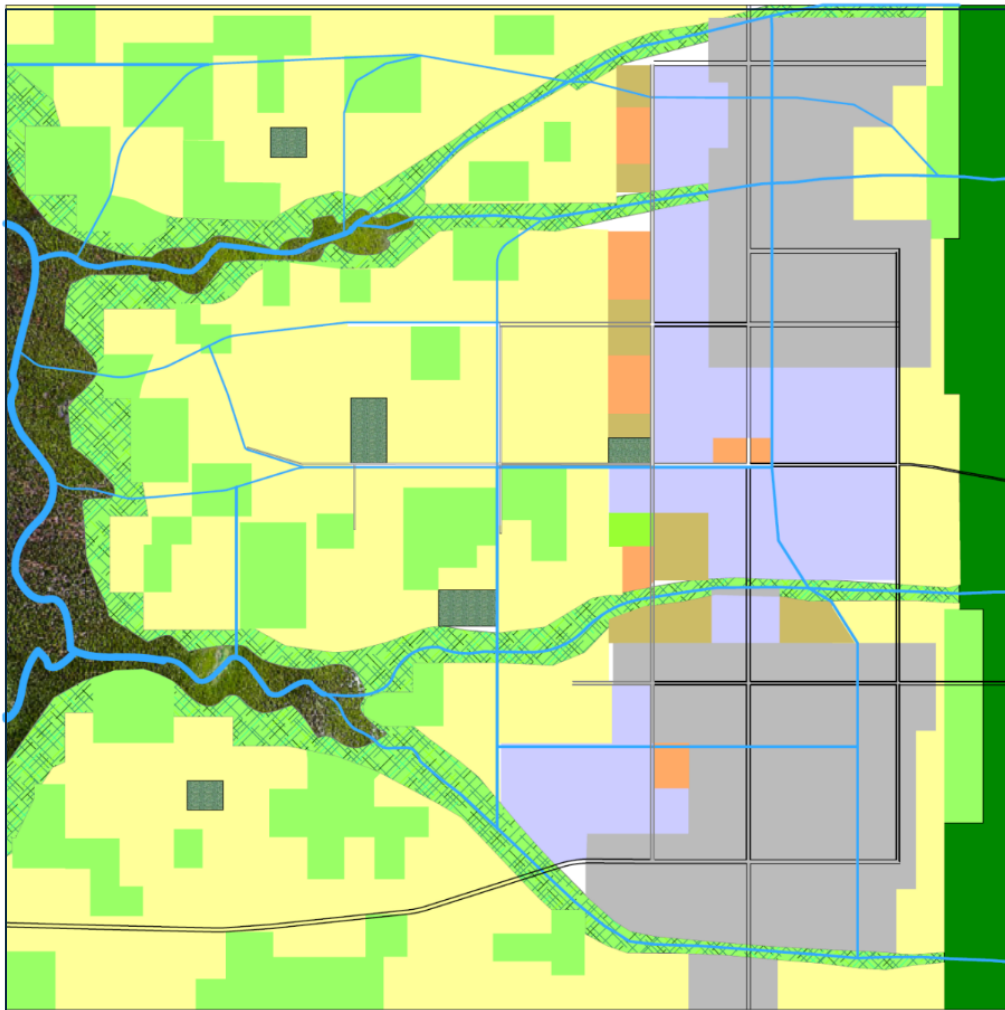


1. EXPANSIVE GROWTH SCENARIO

- SINGLE FAMILY DWELLING / ADU'S
- NONDEVELOPABLE
- TOWNHOME
- PRESERVED AG / OPEN SPACE
- MULTI-FAMILY
- PARKS & TRAILS
- NONRESIDENTIAL
- EXISTING COMMUNITIES

ACREAGE COMPARISON OF COUNTYWIDE GROWTH SCENARIOS

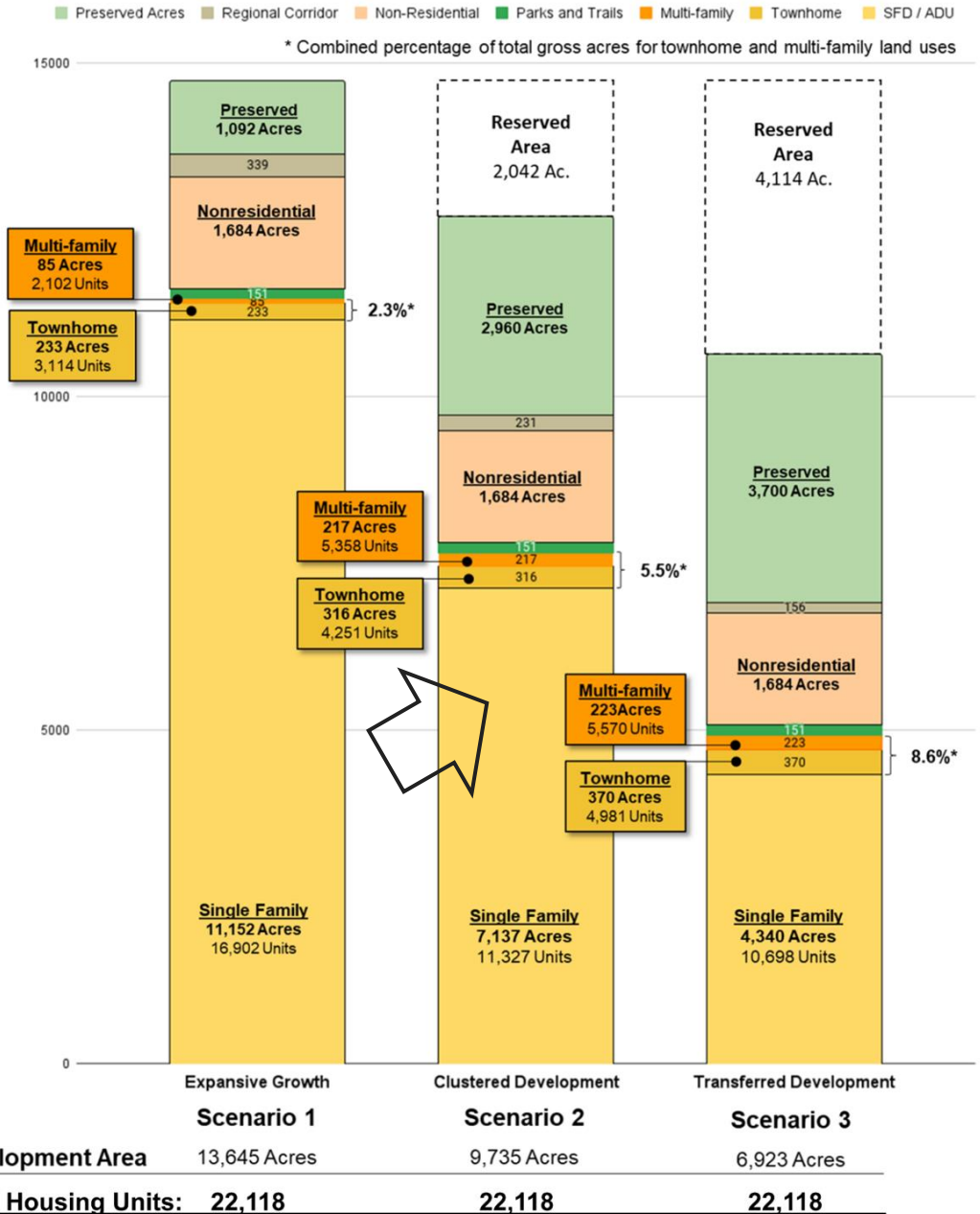


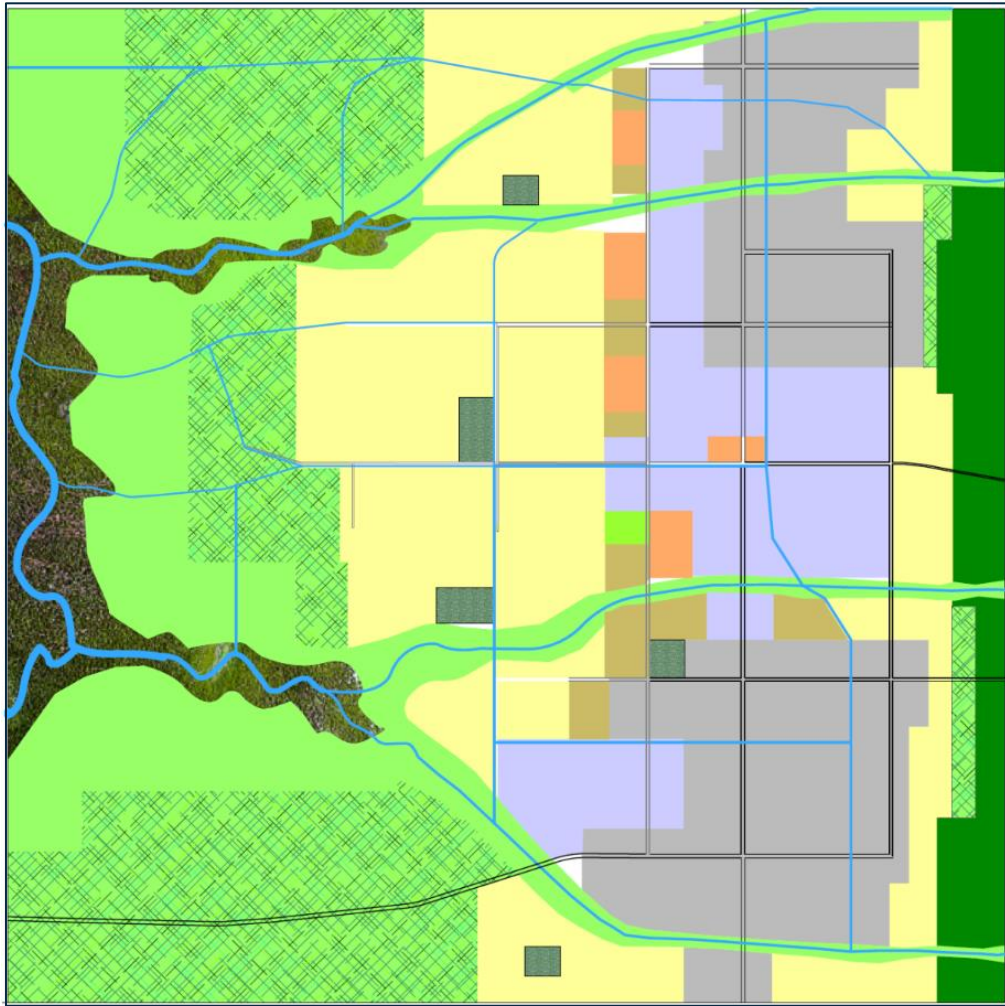


2. CLUSTERED GROWTH SCENARIO



ACREAGE COMPARISON OF COUNTYWIDE GROWTH SCENARIOS

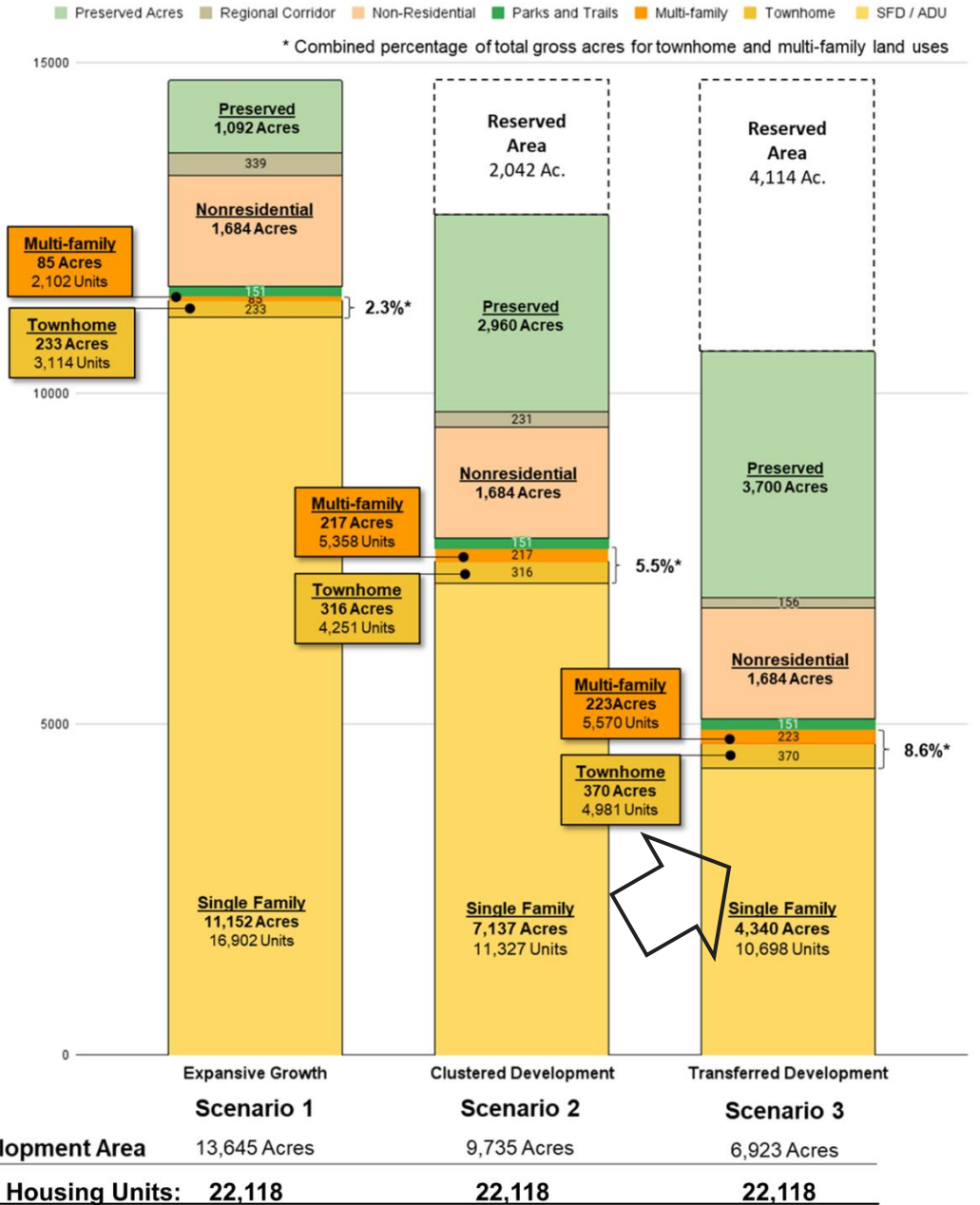




3. TRANSFERRED GROWTH SCENARIO



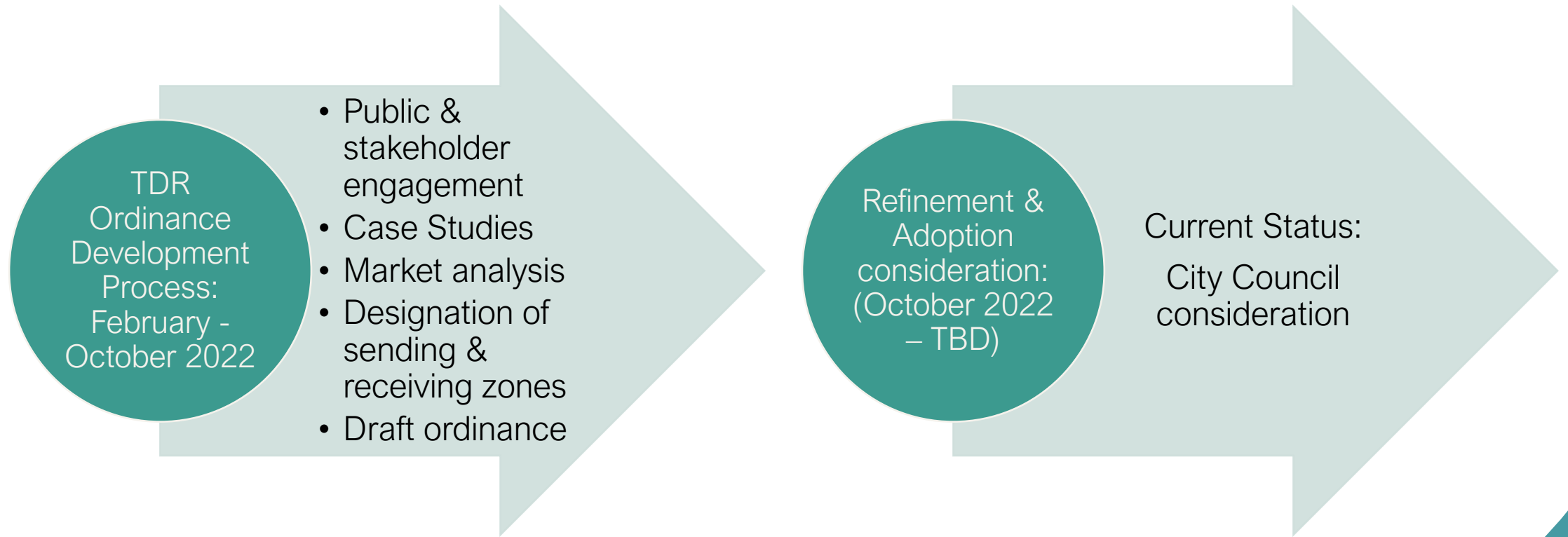
ACREAGE COMPARISON OF COUNTYWIDE GROWTH SCENARIOS



The Nibley Story – lessons learned – Levi Roberts, City Planner



Nibley City TDR Process



Nibley TDR Process: Lessons Learned

- General support to preserve somewhere or something in your community is needed.
- Gauge support for TDR early and throughout process
- Sending & receiving areas should be defined early
- Define the scope of the TDR program
- TDR can be complicated. Visual aids can help.
- Clear communication with the public and other stakeholders about what it is and what it isn't
- Harp on VOLUNTARY nature of TDR



Legal Issues to Avoid

- State Law requires that you have an ordinance
- The ordinance needs to treat everybody the same
- Clear purpose
- Vague mapping
- Turning the process into some sort of City or County negotiation



*Wendy Fisher, Executive Director
Utah Open Lands*

WHAT IS A LAND TRUST?

- * NATIONAL, STATEWIDE OR COMMUNITY BASED
- * 501(C) 3 NON PROFIT PUBLIC CHARITY
- * QUALIFIES UNDER THE FEDERAL 170(H) AS AN ENTITY ELIGIBLE TO HOLD CONSERVATION EASEMENTS
- * PERPETUAL GUARDIAN OF THE CONSERVATION EASEMENT TERMS AND CONDITIONS
- * STEWARD OF COMMUNITY OPEN LAND RESOURCES
- * DEFENSE OF PROTECTED OPEN SPACE



LAND CONSERVATION IN UTAH COMMUNITIES

- 1985 Conservation Easement Enabling Statute
- 1999 Utah Critical Lands Task Force
- 2000 LeRay Critical Lands Fund
- 2000 First Community Open Space Bond Park City
- Open Space Bond Communities: Park City, Summit County, Wasatch County, Midway City, Draper City, Salt Lake City, Salt Lake County, Cache County





TYPES OF CONSERVATION PURPOSES ALL ARE CONSERVATION EASEMENTS

SCENIC (AGRICULTURE AND FOREST), CLEARLY DELINEATED GOVERNMENTAL CONSERVATION POLICY (NRCS, WRP, REPI, ACUB, OPEN SPACE BONDS), PUBLIC RECREATION AND EDUCATION, NATURAL HABITAT, REGISTERED HISTORIC LANDSCAPES



CONSERVATION EASEMENTS & LANDOWNER/HOAs/CONSERVATION SUBDIVISIONS

- Working with Landowners
 - Tax deduction, reserved rights
- HOAs as successive Grantors
- Successive Lot Owners as Grantors
- Open Space Maintenance
- Social Trails/Private community benefits





- TDRs and Conservation Easements
- TDRs and Land Trusts
- TDRs and Deed Restrictions
- Can TDRs create long term community benefit without a deed restriction?



WHY A LAND TRUST?

- * COMMUNITY PROMISE -
- THIRD PARTY
- * UNRESTRICTED OPEN
- LAND
- * CONSERVATION
- EASEMENTS ROLE IN
- PERMANENT PROTECTION
- * OTHER TOOLS





Ensuring the Promise

Conservation Easement Defense

- * *Violations by third parties*
- * *Swaps*
- * *Amendments for development*
- * *Curing Violations*



Protecting the Lands We Love



Purchase of Development Rights

- Development Rights under the current zoning are purchased
- Land is preserved with a conservation easement, held by a Land Trust or other non-profit like a City or County
- Fund raising and/or bonding required
- **Voluntary**
- Owner can retain the property but with reduced value and reduced uses
- Property can be leased
- No issues about where to move the density – development potential is “retired”



Overlays

- Overlays can impact the kind of development that a community might consider “better” for an area
- Examples
 - Limited uses
 - Design ordinances – assures the retention of the character of your downtown – sometimes hard to define
 - Town Center Development



Cluster Zoning

- Somewhat like a PUD but with an emphasis on preserving agriculture
- Creates an option for farmers/ranchers to develop a smaller piece of their property – transferring density from the overall acreage to a corner.
- The original use can continue on the remainder
- Needs a preservation technique



Flexible Agricultural Zones

- A new trend of allowing more uses along with farms, orchards, and ranches
- Add uses like:
 - Restaurants
 - Fruit and vegie stands
 - Associated retail sales
 - Temporary worker housing
 - B&B
 - Sell other “stuff”
 - Agritourism activities
 - Cluster development

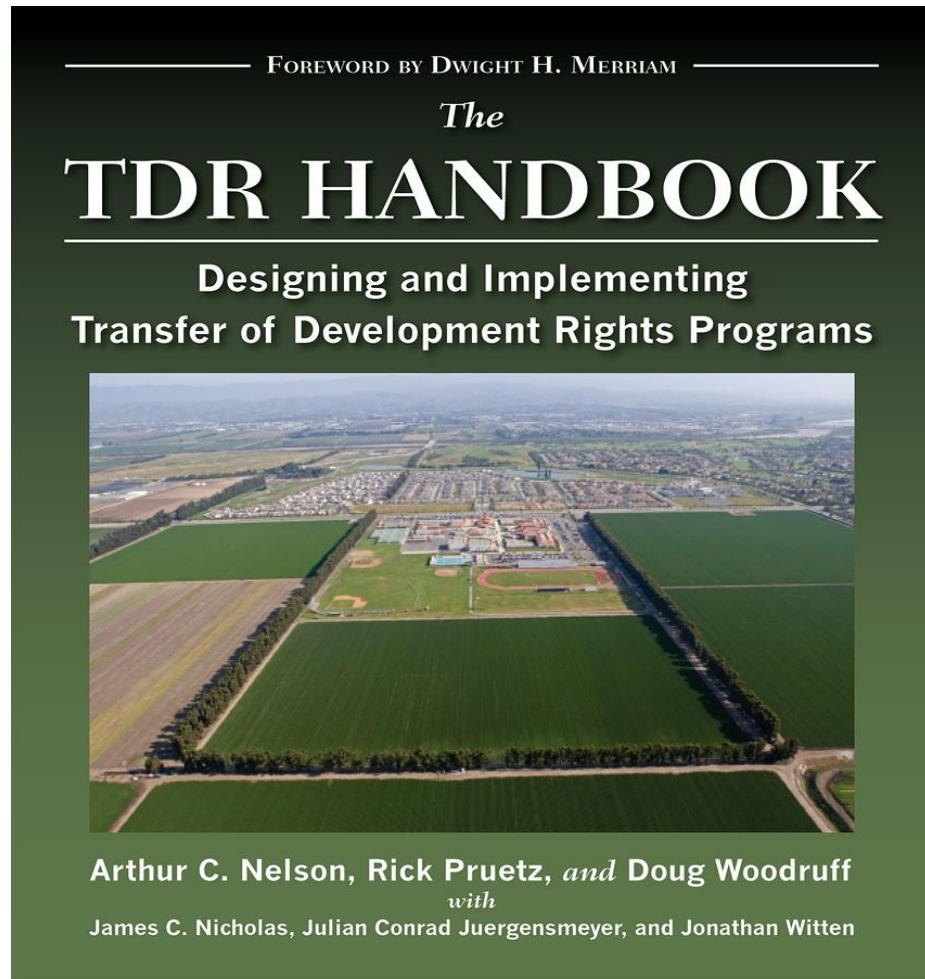


Hopefully we learned a bit about a few helpful tools to hang onto that community character

- Transfer of Development Rights
- Land Trusts and Conservation Easements
- Purchase of Development Rights
- Overlays
- Clusters
- Flexible Agricultural Zones



Good Resources



- [Utah Open Lands](https://www.utahopenlands.org/)
<https://www.utahopenlands.org/>
- Utah Open Lands works with landowners and partners across the state of Utah - helping individuals, families, municipalities, and organizations realize their conservation hopes.
- [National Land Trust Alliance](https://landtrustalliance.org/land-trusts) -
<https://landtrustalliance.org/land-trusts>

Questions, Suggestions, Thoughts?

