

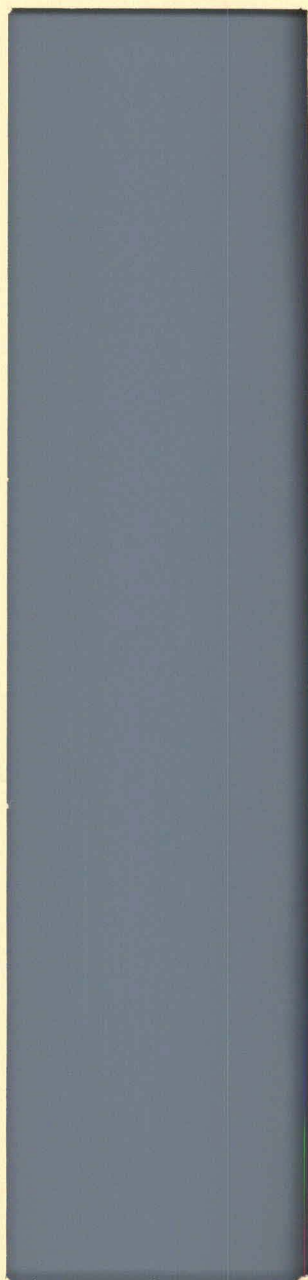
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THE LEGISLATIVE ENVIRONMENTAL ADVISORY GROUP

IOWA
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THE INSTITUTE OF URBAN AND REGIONAL RESEARCH, UNIVERSITY OF IOWA



AN EXAMINATION OF THE EFFECTIVENESS OF COUNTY
ZONING TO PRESERVE PRIME AGRICULTURAL
LAND IN IOWA

Jerry Knox

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THE LEGISLATIVE ENVIRONMENTAL ADVISORY GROUP

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Mr. Knox is an Associate Professor in the Department of
Community and Regional Planning, Iowa State University.

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PREFACE

The Ford Foundation Program in Policy Analysis for State Environmental Management is providing support for land use research in Iowa. This program is designed to increase involvement of college and university researchers in public policy research.

In Iowa, the Legislative Environmental Advisory Group (LEAG), consisting of legislators, university faculty and representatives from state agencies and local government associations, was formed to: 1) foster dialogue between policy-makers and researchers, 2) solicit and fund college and university-based research projects related to land use in Iowa, and 3) transmit research results and technical analyses to all members of the Iowa General Assembly.

Under the direction of LEAG, the Institute of Urban and Regional Research, University of Iowa, solicited research proposals and, as a result of this solicitation, six research projects were completed in 1978. The purpose of these projects is to provide background information and technical analyses to better understand the effects of existing or proposed policies. Project reports are now available for distribution and are listed on the back page of this report.

Kenneth J. Dueker, Director
Institute of Urban and
Regional Research

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EXECUTIVE SUMMARY

The Problem

The preservation of prime agricultural land has been frequently discussed in Iowa over the past several years. The Iowa 2000 and Century III programs have helped lead discussions on this and other topics of import to Iowa's future, and the recently-passed H.F. 210, Land Preservation Law, represents official recognition by the State Legislature of the need to preserve agricultural lands.

A primary pressure for converting agricultural land to other uses is nonfarm, predominantly residential, growth in the unincorporated rural portions of Iowa. This pattern of exurban development also threatens the rural character of the unincorporated areas in addition to consuming valuable farm land.

Two Iowa counties, Black Hawk and Story, have attempted to deal directly with the preservation of prime agricultural land through the use of county zoning. Available data from these two counties, as well as from other sources, were examined to assess the results of agricultural land preservation efforts.

FINDINGS AND CONCLUSIONS

1. County zoning, particularly the 35-acre approach as used in Black Hawk and Story counties, can be quite successful in preserving high quality soil by guiding nonfarm growth into areas with less productive soils. It is less successful in areas adjacent to growing urban centers where development pressures are strong.
2. Unilateral annexation erodes the county's ability to preserve farmland, since cities can annex land without regard to county policies.

3. The one-acre minimum lot size in the nonproductive agricultural lands fosters a dispersed rural nonfarm population which carries with it a high cost of providing services. If the intent is to both preserve high quality soil and guide growth and development into incorporated areas, a minimum single family lot size of five acres is suggested for the agricultural zone. If the intent is only to preserve high quality agricultural land, a two-acre minimum is suggested.
4. In areas of the county where the county's land use policies indicate rural subdivisions are appropriate, subdivision standards can be used to ensure that improvements such as storm drainage, common water systems, street improvements, and the like, are all provided by the subdivider prior to sale. In addition to precluding the expense of upgrading inadequate facilities at a later date, subdivision standards will also discourage subdividers from moving into the unincorporated areas solely to escape city subdivision standards.
5. Iowa tax policies, especially the preferential assessment of agricultural land, has encouraged land speculation and leap-frog or sprawl development.
6. A partial explanation for the ambitious annexation policies of Iowa cities is the desire to control land use patterns in areas immediately adjacent to the corporate limits.
7. The two mile extraterritorial subdivision powers of cities and the counties' zoning powers indicate the need for cooperation and coordination concerning land use and development.
8. The recently approved (November 1978) county home rule amendment to the Iowa constitution should clarify the right of counties to regulate subdivisions in unincorporated areas.
9. Where growth pressures spill over county lines, joint county-county approaches are necessary to avoid one county thwarting another county's land use and development policies.

10. The exemption of agriculture from county zoning weakens the ability of the county to reduce or preclude conflict among land uses in rural areas. Feedlot-rural subdivision conflicts are prime examples of this, since feedlots are agricultural, hence exempt from control of county zoning.
11. A substantial amount of agricultural land (430,185 acres in 1970) is located within Iowa cities.
12. Regional planning agencies (or councils of government) can play an important role in developing and administering county zoning. The Iowa Northern Regional Council of Governments (INRCOG), for example, helped local counties develop the 35 acre zoning concept, and at least one county has a contract with INRCOG for administration of the county zoning and subdivision regulations.

RECOMMENDATIONS

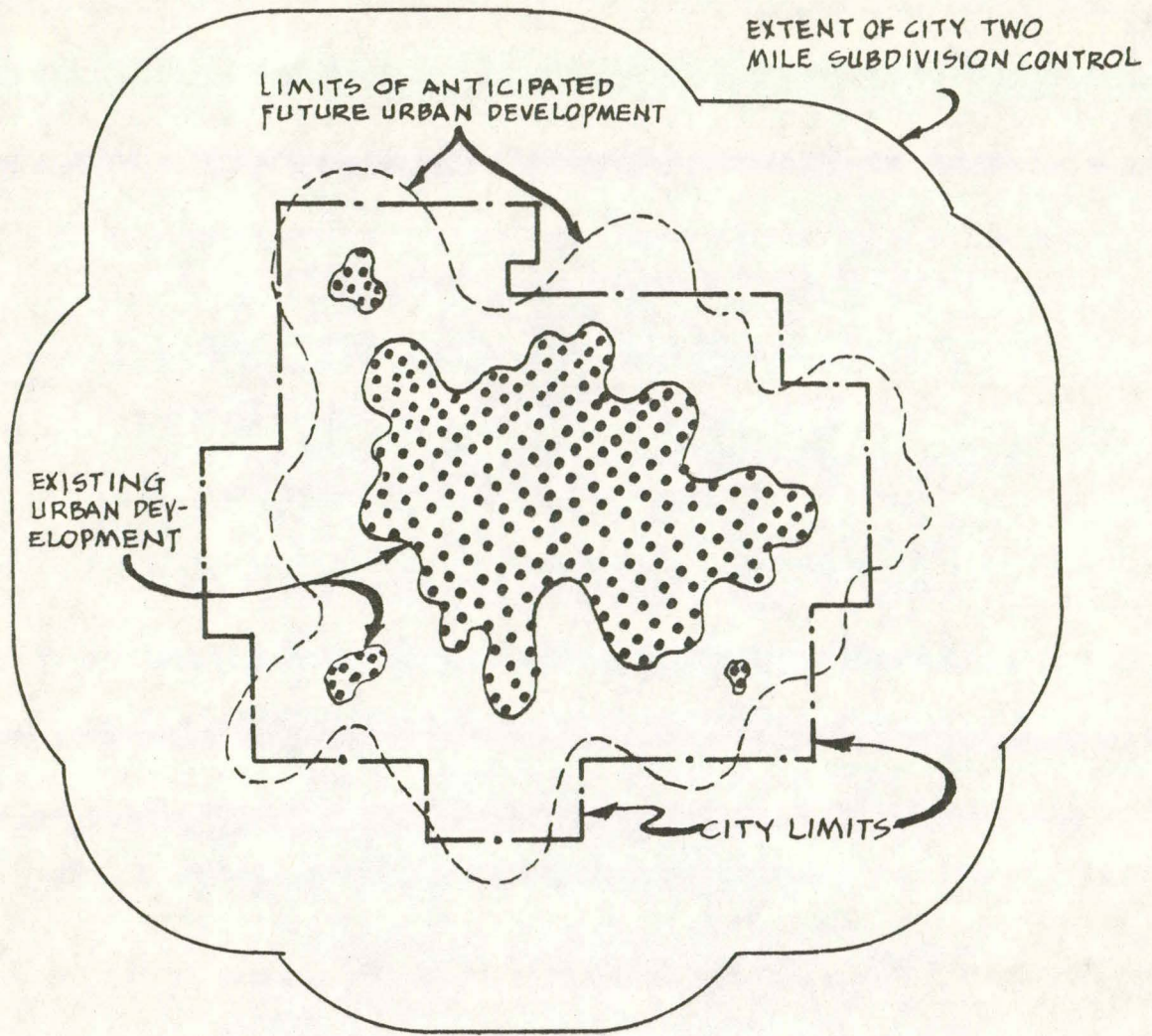
Assumptions. The following recommendations are based upon three general assumptions regarding land use policy in Iowa.

1. It is assumed that a set of statewide land use policies will be the culmination of the studies now being undertaken by the Temporary State Land Preservation Commission. These will be recommended to the Legislature for consideration and adoption.
2. The primary implementation of these land use policies will be accomplished at the local level through the application of city and county zoning and subdivision regulations.
3. Some form of countywide input to the development and implementation of land use policies at the local level will be afforded via a mechanism patterned after the 99 county temporary land preservation policy commissions.

Recommendations:

1. Evaluate and perhaps strengthen the current Iowa tax recapture clause applied to agricultural lands converted to urban uses. Under this approach, land that has had the benefit of being assessed as agricultural would pay back taxes based upon assessment for the highest and best economic use of the land when land use changes occur from agricultural to some other uses.
2. The preservation of high quality agricultural land should be an explicit policy used by the City Development Board when reviewing annexation proposals.
3. Comprehensive land use policies should be required of all Iowa counties. Based upon these comprehensive policies, counties should then be required to develop, adopt, and administer zoning and subdivision controls.
4. Rescind the exemption of agriculture from land use and building controls (358A2 of the Iowa Code).
4. (Alternate) As an alternative to rescinding 358A.2, the agricultural exemption should be tailored so that uses that need to be controlled, particularly feedlots, can be subject to local land use policy controls.
5. Require a comprehensive annexation program before (and as a basis for) any major annexation. The concept of the urban expansion area might be used. The urban expansion area is a delineation of the most likely area for future community growth.

The accompanying sketch is a graphic portrayal of the sort of study proposed. Land now used for urban purposes, land proposed for urban expansion in the foreseeable future, land within the urban area which will probably not be developed for urban uses until the proposed urban expansion area is used, and land that should not be utilized for urban uses (prime agricultural land, floodplains, etc.) should all be identified based upon the comprehensive annexation program. This overall program would then serve as the basis for individual annexation proposals.



6. Promote city-county cooperation and coordination concerning land use development and growth policies by creating permanent bodies similar to the temporary county land preservation policy commissions created to help provide input to the development of state land use policies.
6. (Alternate) An alternate recommendation will be to use the State's regional planning bodies to help address city-county land use policy issues and programs.

An Examination of the Effectiveness of County Zoning
to Preserve Prime Agricultural Land in Iowa

The Problem

The preservation of prime agricultural land has been frequently discussed in Iowa over the past several years. The Iowa 2000 and Century III programs have helped lead discussions on this and other topics of import to Iowa's future, and the recently-passed H.F. 210, Land Preservation Law, represents official recognition by the State Legislature of the need to preserve agricultural lands.

A primary pressure for converting agricultural land to other uses is nonfarm, predominantly residential, growth in the unincorporated rural portions of Iowa. This pattern of exurban development also threatens the rural character of the unincorporated areas in addition to consuming valuable farm land. According to the U.S. Census, the rural nonfarm component of the state population grew from 621,764 in 1960 to 695,284 in 1970, an increase of 63,520 people. The total population of the State increased by only 67,831 people in the same period, from 2,757,537 in 1960 to 2,825,368 in 1970. Although census data for the period since 1970 are not available, it is probable that this trend has continued to the present. Estimates made by Fisher in this report series indicate the rural nonfarm component living in unincorporated areas has grown steadily since 1960.¹

The following table presents current and projected population for Iowa for the year 2000.

Table 1
Population Figures for Iowa

<u>Source</u>	<u>Population</u>
1970 Census	2,825,368
1976 Census estimate	2,874,105
Iowa 2000, current trends alt.	3,102,760
Iowa 2000, greater growth alt.	3,473,776
Office for Planning and Programming:2000	3,203,015

¹See report by Peter S. Fisher

As these data show, the state population increased by 48,737 between 1970 and 1976, and it is anticipated to increase by an additional 228,000 to 600,000 before the turn of the century. State and local policies on land use will have an effect upon where the additional people live.

Two Iowa counties, Black Hawk and Story, have attempted to deal directly with the preservation of prime agricultural land through the use of county zoning. Although the efforts of these two counties have been widely recognized, to date no systematic review of their effectiveness has been completed. This report will examine available data from these two counties, as well as from other sources, in order to assess the results of agricultural land preservation efforts.

Black Hawk and Story Counties

In an attempt to respond to the threat that nonfarm rural growth represents to valuable agricultural land, Black Hawk County adopted a zoning approach devised and pioneered by the Iowa Northland Regional Council of Governments (INRCOG). Story County implemented a similar ordinance based upon the Black Hawk County experience.

Black Hawk and Story Counties use a similar approach in their attempts to preserve high quality agricultural land. (It should be noted that land that is well-suited for agricultural uses is almost invariably well-suited for urban uses as well.) Both counties use several key steps, including:

1. Definition of a farm.
2. Use of corn suitability ratings (CSR) as an index of productivity.
3. Minimum lot sizes for rural nonfarm residences.

How do the ordinances work? Iowa statutes specifically exempt agriculture from county zoning. Because of this exemption, both counties defined a "farm" as an area of 35 acres or more. This definition is crucial, since it is the basis for regulating nonfarm uses on less than

35 acre sites. (The 35 acre figure was derived by using the standard "quarter of a quarter" or 40 acres, and subtracting out five acres to represent county road rights-of-way.)

The corn suitability rating (CSR) provides an index for ranking the suitability for row-crop production in Iowa. The CSR reflects a number of factors, including predicted yields for commonly grown crops, natural fertility, natural drainage, and farm management practices. Corn suitability ratings range from a low of five to a high of 100, with ratings of 100 reserved for those soils - a) that are located in areas of most favorable weather conditions for Iowa, b) that have high yield potential, and c) that can be continuously row-cropped. (A detailed description of the CSR system including methodology and CSR estimates for various soil types, may be found in Special Report Number 66, "Productivity Levels of Some Iowa Soils", April, 1977, published by the Agriculture and Home Economics Experiment Station and Cooperative Extension Service, Iowa State University.)

The minimum lot size for rural nonfarm residences was set at three acres in Black Hawk County and at one acre in Story County. This governs the minimum lot size upon which rural non-farm single family residences can be built in areas of productive soil.

The regulations were applied as follows:

In Black Hawk County, a rural non-farm single family residence could be built on a three* acre parcel if 75 percent or more of the parcel has a CSR of 69 or less. If these conditions are not met, the minimum parcel size is raised to 35 acres, the legal definition of a farm.

In Story County, a rural nonfarm single family residence can be built on a one acre parcel if 50 percent or more of the parcel has a CSR of 61 or less. As in Black Hawk County, a 35 acre parcel is required if those conditions are not met.

*A change to one acre is being considered.

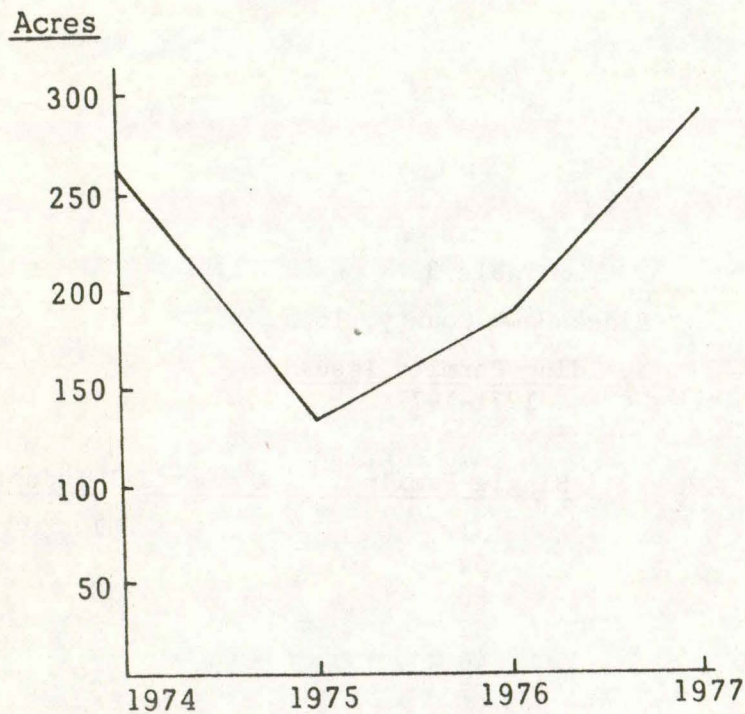
By defining a farm as 35 acres and requiring a minimum lot size of 35 acres on prime agricultural land within the agricultural district, both Black Hawk and Story Counties exempt 35 acre and larger land transactions from county subdivision controls. The 35 acre figure is an operational definition of the 40 acre agricultural exemption to subdivisions granted in 409.1 of the Iowa Code, which pertains to cities. As mentioned previously, the 35 acre tract is actually a 40 acre, or quarter of a quarter section, minus a five acre allowance for peripheral county roads.

For land transactions involving small lots (one acre in Story County; three acres in Black Hawk County), the subdivision platting process must be followed. It is not necessary to file a plat to divide land into 35 acre or larger "farms". (Of course, any land transaction of under 35 acres would require a plat, if three or more parcels result. Such transactions are probably inconsequential due to their infrequent incidence.)

The Black Hawk County Experience

The Black Hawk County zoning ordinance was amended to incorporate the 35 acre zoning concept in October of 1973. As a consequence, 1974 was the first full year of operation under the new approach. The following series of tables summarizes relevant zoning, platting, and building activity in the unincorporated portions of the county from 1971 through 1977.

Figure 1
Black Hawk County, Iowa
Zoning Activity, 1974-1977



Source: Annual Report, 1977, Black Hawk County Zoning Commission
Black Hawk County, Iowa

Note: Comparable data for years prior to 1974 is not available.

Table 2
 Black Hawk County, Iowa
 Subdivision Activity
 1971-1977

<u>Year</u>	<u>Final Plats</u>	<u>Total Lots</u>
1971	2	92
1972	-	-
1973	0	0
1974	3	107
1975	2	42
1976	0	0
1977	3	36

Source: Annual Reports, 1971-1977, Black Hawk County Zoning Commission, Black Hawk County, Iowa

Table 3
 Black Hawk County, Iowa
Building Permits Issued
 1971-1977

<u>Year</u>	<u>Single Family</u>	<u>Commercial-Industrial</u>
1971	51	1
1972	52	2
1973	66	3
1974	62	2
1975	46	7
1976	77	3
1977	90	-

Source: Annual Reports, 1971-1977, Black Hawk County Zoning Commission, Black Hawk County, Iowa

Figure 1 reveals that zoning activity fluctuated over the 1974-77 period, dropping in 1975 and 1976, but surpassing the 1974 figures in 1977. Subdivision activity fluctuated more markedly, as Table 2 shows. In fact, more platting activity occurred in 1974, after enactment of the 35 acre zoning provisions. Building permit activity dropped slightly in 1974, somewhat more in 1975, but recovered in 1976 and 1977.

Even though Black Hawk County records are quite complete, it is difficult to draw hard conclusions regarding the impact of the 35 acre zoning approach from the data. Building permit data, for example, appears to be more closely attuned to national economic trends than to the County's attempt to preserve agricultural land.

Two other factors must be considered in assessing the Black Hawk County experience. Local officials indicate that using soils data as a factor in zoning has permitted nonagricultural uses to be guided onto less productive soil. Qualitative benefits have evidently been derived from the 35 acre approach.

County zoning has a limited sphere of influence. This is quite evident from examining land use data from Cedar Falls and Waterloo, the two major urban centers within Black Hawk County. In both cities, less than half of the total incorporated areas are used for urban purposes. In Cedar Falls, only 44 percent of the total city land area is devoted to urban use, while only 43 percent of Waterloo is in urban use. There are 10,270 acres in Cedar Falls, and 18,162 acres in Waterloo that are potentially available for urban development. Even if developed at moderate densities (say 3,000 people per square mile), this would accommodate over 130,000 additional people in the urbanized area. The presence of this large amount of land situated within the incorporated area and available for conversion to urban use reduces the pressure for the development of unincorporated land.

Other counties in the INRCOG region have adopted the basic 35 acre zoning approach. In addition to Black Hawk, Bremer, Buchanan,

Butler, and Grundy Counties have also adopted the same basic zoning ordinance. The availability of expertise at INRCOG plus the positive publicity given the initial Black Hawk County effort help to account for the acceptance of this approach by other counties.

Conclusions from Black Hawk County. Several conclusions can be drawn from examining the Black Hawk County experience. First, county zoning can be used to help guide rural nonfarm uses onto less productive soils. Secondly, city annexation policies can materially impact a program to preserve high quality agricultural land. A county cannot unilaterally institute a program to preserve farmland from urban uses. Finally, the regional planning agency can play an important role in developing and administering county zoning. This is particularly important in small, predominantly rural, counties.

The Story County Experience

The new Story County zoning ordinance using the 35 acre zoning concept was adopted in June, 1977. The relative newness of the ordinance and the fact that the county did not have a full-time zoning administrator prior to adoption of the new ordinance (hence records are incomplete) limits the examination of the experience in Story County. The data that were available are summarized in Tables 4 and 5.

Although Table 4 only reflects activity since the enactment of the new zoning ordinance, county officials do not believe that the amount of subdivision activity has been affected by the ordinance. The table does indicate that approximately 80 percent of the land platted for development in the 1977-78 period was classified as "nonprime", i.e., the CSR was 61 or less.

Table 5 does not indicate any impact on building permits issued as a result of the new zoning approach. This reinforces the local officials' views regarding the impact of the 35 acre zoning. As with Black Hawk County, national economic trends appear to have had more bearing upon residential construction activity than the county zoning ordinance.

Conclusions from Story County. Although the 35 acre approach does not appear to have made any impact upon the rate of development (nor was it intended to do so), the data available do seem to indicate that growth has been guided onto the poorer land, in terms of agricultural productivity. However, the minimum lot size of only one acre for the less productive lands zoned A-1 does little to deter rural nonfarm growth.

Table 4
 Subdivision Activity, Story County
 August, 1977 - August, 1978

<u>Subdivision Name</u>	<u>Acres</u>	<u>Lots</u>	<u>% Nonprime *Land</u>
Matheason	10	7	70
Hickory Hills	31	20	60
Squaw Valley South	26	18	90
Tullamore Glen	58	46	85
Finch's Third	6	4	95
Forrest Park	35	40	90
Wilderness Addition	<u>3</u>	<u>2</u>	<u>55</u>
Totals	169	137	80-82

Source: Story County Planning and Zoning Department
 Story County, Iowa

*Nonprime land is land with a CSR or 61 or less

Table 5
 Building Permits Issued
 Story County, 1958-1978

<u>Year</u>	<u>Total Permits</u>	<u>Residential Permits</u>
1978	119	73
1977	108	77
1976	100	74
1975	56	40
1974	68	34
1972-73	143	87
1970-71	94	65
1968-69	104	49
1966-67	84	39
1964-65	155	66
1962-63	98	66
1960-61	80	57
1958-59	62	37

Source: Story County Planning and Zoning Department
 Story County, Iowa

Tax Policies and Urban Agricultural Land. Based upon data from Gibson and Timmons¹, Cedar Falls and Waterloo are by no means unique in the amount of agricultural and non-urban land within incorporated areas. According to the Gibson and Timmons study, 43 percent of the incorporated land within Iowa is devoted to agriculture. An additional 7.5 percent of the incorporated land is represented by platted but undeveloped lots, so that just over half of the land within cities in Iowa is still available for urban expansion. In 1960, a total of 367,130 acres of incorporated land was devoted to agriculture. This increased by 63,065 acres to a total of 430,185 in 1970.

Agricultural land in Iowa receives preferential tax treatment. Agricultural land is assessed according to current use value and net earning capacity, not on the so called "highest and best" use Iowa is one of 11 states to use this approach.² A brief review of what other states have done to help prevent abuses of preferred assessment practices may provide some perspective for the Iowa situation.

In an attempt to limit the speculation that preferential assessment encourages, 25 states have enacted deferred tax laws. This approach uses preferential assessment, but the assessor also records the assessment that would be applied if no preferential assessment were available. If the use changes over a specified period of time (usually three years), the additional taxes are due.³

The 1977 Session of the Iowa General Assembly passed a tax recapture provision to be imposed on residential and agricultural properties that change in use. The determination and calculation of

¹Gibson, James A., and John F. Timmons, "Land Use Inventory and Projection Model with Applications to Iowa and Its Subregions, CARD Report 82, Center for Agriculture and Rural Development, Iowa State University, Ames, Iowa. October, 1978.

²Hady, Thomas F., "Differential Assessment Program for Agricultural Land", in LAND USE: TOUGH CHOICES IN TODAY'S WORLD, Special Publication Number 22, Soil Conservation Society of America, Ankeny, Iowa, 1977.

³Ibid.

the additional tax liability does not become effective until the 1979 assessment for agricultural and residential properties that changed in use in 1978 and were subsequently reclassified for assessment purposes in 1979. Thus, it is too early to evaluate the impacts of this provision on the conversion of agricultural land to other uses.

Restrictive agreements, used by 11 states, represent another approach to reduce the impact of speculation. Under this approach, a landowner and the county government agree to specific land uses (principally agriculture) for a specified period of time. In exchange for the agreement, the tax assessment is based upon the specified uses, not upon the "highest and best" value. A ten year agreement is typical, as are stiff penalties for violating the use restrictions.¹

It is extremely difficult to assess the actual impact of preferential assessment of agricultural land. Any estimates are necessarily tenuous. Nonetheless, some risk is justified, since the preferential assessment is quite obviously a factor that cannot be ignored. Two examples at extreme ends of the spectrum will be examined to help provide some insights as to the difference between assessments based upon use and productivity and assessments based upon highest and best use.

Case 1. An 18 acre parcel of agricultural land within the city limits was valued at \$12,660 for tax purposes in 1976. It was subdivided in 1976 into two parcels, 9.84 acres and 8.24 acres, and a major commercial complex was built upon the smaller parcel. The 1977 assessed value of the land was \$6,890 for the larger parcel, which is still classified as agricultural, while the smaller commercial property was valued at \$603,740 (land only). The difference: about \$700 per acre for the agricultural land and over \$73,000 per acre for the commercial land.

Case 2. Agricultural land located adjacent to a city was valued at \$3,00 per acre as agricultural land. It was sold for development as a single family residential subdivision for \$5,000, a differential of 1 to 1.67.

¹Ibid.

"The Costs of Sprawl"² discusses the "factor of five" rule:

"Rural land beyond the urban fringe is valued according to its farming, grazing, mining, forestry, recreation, or scenic capabilities. As such, costs range from \$100 to \$1,000 per acre (with exceptions, especially in the northeast where prices can go above \$1,000). Similar lands near or at the urban fringe command prices several times greater, with a factor of five being quite common. Upon improvement and servicing, land costs multiply further, again frequently by a factor of five.

Example: rural land, \$800 per acre at urban fringe, \$4,000 per acre improved and serviced, \$20,000 per acre (including cost of improvements incurred by seller).

"While this factor of five rule is very imprecise, it does indicate real approximate magnitudes commonly occurring."

Vermont's Capital Gains Tax

The State of Vermont has utilized a capital gains tax approach to attempt to reduce and control the inflation in the value of rural land. Vermont has been a popular location for second homes and vacation homes of much of the New York-Boston metropolitan area, and this pressure has resulted in driving land prices up and in land speculation.

Vermont lawmakers responded to the situation by placing a heavy tax on capital gains resulting only from the sale of land (not improvements). The tax is highest for short-term, high profit transactions, as the following table shows.

²Real Estate Research Corporation, "The Costs of Sprawl" prepared for the Council on Environmental Quality, the Department of Housing and Urban Development, and the Environmental Protection Agency, Supt. of Documents, April, 1974. P. 189.

CAPITAL GAINS TAX*

Vermont

Length of Time Owner	% Increase in Land Value		
	0-99% % Tax	100-199% % Tax	Over 200% % Tax
Less than 1 year	30	45	60
1 yr-less than 2 years	25	37.5	50
2 yrs-less than 3 years	20	30	40
3 yrs-less than 4 years	15	22.5	30
4 yrs-less than 5 years	10	15	20
5 yrs-less than 6 years	5	7.5	10

The longer a piece of property is retained before selling, the lower the capital gains. Property held over six years pays no state capital gains tax. The time clause is designed to favor Vermont landowners. In addition, up to one acre for the landowner's permanent residence is exempt from the provisions of the tax. This, too, favors the Vermont resident.

Under the Vermont scheme, a property bought for \$10,000 and sold for \$18,000 just 15 months later, for example, would pay a capital gains tax of \$2000 to the State. This tax disincentive is a clear deterrent to land speculation.

*Robert G. Healy, LAND USE AND THE STATES, Resources for the Future, John Hopkins University Press, Baltimore, 1976. pp. 57-58.

Preserving Agricultural Land through Zoning: Other Experiences

An examination of the approaches used in other states to preserve agricultural land may identify some additional options for application in Iowa. However, two key factors must be kept in mind in reference to Iowa. First, Iowa has a tremendous amount of high quality agricultural land. For this reason, the definition of "prime" agricultural land is a relative definition and a highly localized one.

Secondly, Iowa law specifically exempts farms from the provisions of county zoning. This may affect the application of some approaches.

Quarter/Quarter Zoning¹ Under the quarter/quarter zoning approach, each landowner is entitled to one residential lot per 40 acres of farmland. Further, the lot usually must conform to a one-acre minimum, and the landowner is encouraged to use less productive soil as the site for development. In addition, it is typically stipulated that such lots have frontage on existing public roads, so that new roads do not have to be provided and maintained.

Quarter/Quarter with TDR² This hybrid approach uses the basic quarter/quarter concept and permits the transfer of development rights (TDR). This encourages cluster development. In addition, a bonus provision is used to guide residential development onto less productive land. (A landowner with 240 acres, for example, could develop a cluster of six lots in one area of his holdings.) This approach requires the level to be subdivided, and it is the responsibility of the subdivider to obtain an agreement signed by all property owners relinquishing all future rights to further subdivision. When building permits are issued, they are cross-listed in the County Recorder's office so that title searches will convey the zoning arrangement to new owners.

¹Toner, William, "Saving Farms and Farmlands: A Community Guide", Report No. 333, Planning Advisory Service, American Society of Planning Officials, Chicago, Ill. 1978

²Ibid.

Sliding Scale¹ This approach is designed to help preserve large land holdings. Each landowner is entitled to a certain number of lots, and the number is inversely proportional to the parcel size. For example, it would be possible to develop more of a 20 acre parcel than a 160 acre one. The 160 acre parcel is deemed more valuable to the continuing existence and health of agriculture, while the smaller parcel is seen as less critical to the future of agriculture.

Large Lot² This approach uses a large minimum lot size to discourage nonfarm rural residences. Typically, the minimum lot size is a function of the amount of land necessary to have a viable farming operation. In application, this has varied from as little as ten acres in truck farming areas to as high as 320 acres in a ranching area. Presumably a figure in the 160 acre range would be suitable for Iowa application.

Prohibition of Nonagricultural Uses. This approach is at the same time the simplest and the most difficult (politically). Using this approach, nonfarm uses, including nonfarm dwellings are prohibited in the agricultural district. This is an inflexible system, and for that reason is seldom used.

Poweshiek County Approach. Poweshiek County uses the basic large lot approach pioneered in Iowa by Black Hawk County. However, two changes from the basic formula are noteworthy.

Poweshiek defines a farm as 70 acres. This, in effect, is the minimum lot size in areas with high quality soil that are zoned for agricultural use. On poorer soils, a 40,000 square foot (roughly one acre) lot is permitted.

¹Ibid.

²Ibid.

In addition to the substantial increase in the definition of a farm, Powesheik County uses the USDA definitions of soil productivity rather than the Corn Suitability Ratings used elsewhere. The 70 acre definition of farm applies to land ranked as Class I to Class IV. Where land zoned for agricultural use is Class V or poorer, a 40,000 square foot lot is permitted.

Depending upon specific circumstances, there does not appear to be any major advantage in using the Class I-IV definition rather than the CSR approach. The trade-off appears to be that the CSR approach requires additional development of soils data and is therefore a bit more difficult to use initially. However, the CSR also offers more flexibility in that the definition of high quality or prime soil can be adjusted, therefore allowing it to conform more closely to anticipated growth trends. The Class I-IV approach is not as fine-grained so is less flexible. For example, a county may wish to protect 90 percent of its agricultural land, based upon anticipated growth. Because the USDA land capability system has fewer divisions among soil classes, it might be impossible to approximate the 90 percent cut-off desired. The CSR data is finer-grained, so it should be possible to come much closer to the desired 90 percent figure.

County Home Rule

In the November 7, 1978, general election, Iowa voters approved home rule for Iowa counties. In essence, home rule reverses "Dillon's Rule". Dillon's Rule stipulated that all powers not specifically granted by the State to local governments (cities and counties) are denied them. Under county home rule, Iowa voters have stated that counties may exercise powers unless specifically denied such powers by state legislation. All existing statutes pertaining to county powers and duties still apply. County home rule applies to those things unsaid in the Iowa Code.

County subdivision powers have always been nebulous in Iowa. The legality of county requirements pertaining to subdivision improvements (such as surfaced streets, sewer systems, etc.) has been debated. Since such powers are not specifically mentioned in the State statutes, honest differences of opinion regarding subdivisions in the unincorporated portions of counties have arisen. Some counties have adopted and enforced subdivision improvement standards, while other counties have been reluctant to do so. Uncertainty prevailed. County home rule makes the question of subdivision improvements and improvement standards a local option: Each county may decide for itself whether or not to require subdivision improvement standards.

Findings and Conclusions

Because of the interrelationship of county zoning with a variety of other factors, and in the hope of being more useful, the scope of the findings and conclusions has been broadened to deal with factors other than county zoning.

1. County zoning, including the 35 acre approach as used in Iowa, can be quite successful in preserving high quality soil by guiding nonfarm growth into areas with less productive soils.
2. It is less successful in areas adjacent to growing urban centers where development pressures are strong.
3. Unilateral annexation erodes the county's ability to preserve farmland, since cities can annex land without regard to county policies.

4. The one acre minimum lot size in the nonproductive agriculture land fosters a dispersed rural nonfarm population which carries with it a high cost of providing services. The minimum lot size for the agricultural district must be chosen with care if the intent is to encourage urban locations for urban uses. If the intent is to both preserve high quality soil and guide growth and development into incorporated areas, a minimum single family lot size of five acres is suggested for the agricultural zone. If the intent is only to preserve high quality agricultural land, a two acre minimum is suggested. The two acre minimum should provide adequate space for a septic tank drainage field, plus additional space for a second drainage field when the first one can no longer be used. For counties which are experiencing or anticipating substantial growth in the unincorporated areas, it is strongly recommended that the five acre minimum be utilized to encourage development to occur within municipalities, where services can be more readily supplied.
5. In areas of the county where the county's land use policies indicate rural subdivisions are appropriate, subdivision standards can be used to ensure that improvements, such as storm drainage, common water systems, street improvements, and the like, are all provided by the subdivider prior to sale. In addition to precluding the expense of upgrading inadequate and underdesigned facilities at a later date, subdivision standards will also discourage subdividers from moving into the unincorporated areas solely to escape city subdivision standards. (It should be noted that a number of medium to large subdivisions of moderate density scattered over the rural area would result in cost increases for county services shared by all county taxpayers).¹
6. Iowa tax policies, especially the preferential assessment of agricultural land, encourage land speculation and leap-frog or sprawl development.
7. A partial explanation for the ambitious annexation policies of Iowa cities is the desire to control land use patterns in areas immediately adjacent to the corporate limits.

¹See Peter S. Fisher report in this series.

8. The two mile extraterritorial subdivision powers of cities and the counties' zoning powers indicate the need for cooperation and coordination concerning land use and development. A formal mechanism for such cooperation is lacking. (The recent experience with the 99 county temporary land preservation policy commissions indicate the rural and urban interests can and do cooperate when a vehicle for cooperation is provided.)
9. The recently-approved (November, 1978) county home rule amendment to the Iowa constitution should clarify the right of counties to regulate subdivisions in unincorporated areas.
10. Where growth pressures spill over county lines, joint county-county approaches are necessary to avoid one county thwarting another county's land use and development policies.
11. The exemption of agriculture from county zoning weakens the ability of the county to reduce or preclude conflict among land uses in rural areas. Feedlot-rural subdivision conflicts are prime examples of this since feedlots are agricultural, hence exempt from control of county zoning.
12. A substantial amount of agricultural land (430,185 acres in 1970) is located within Iowa cities. Based upon past trends, this could increase.
13. Regional planning agencies (or councils of government) can play an important role in developing and administering county zoning. The Iowa Northern Regional Council of Governments has been instrumental in pioneering the Black Hawk County zoning approach, and at least one county has a contract with INRCOG for administration of the county zoning and subdivision regulations.

RECOMMENDATIONS

Land use policy is complex. It is difficult to examine one aspect of land use policy in isolation. Quite literally, everything is connected with everything else. Although this report was intended primarily to examine the utility of county zoning, specifically the 35 acre approach, in preserving agricultural land, the linkages with other land use policies, such as the tax system, have served to broaden the thrust of this report. This is particularly evident in the recommendations section. It is difficult to treat land use policy recommendations singly. One recommendation often implies another. As a consequence, the suggestions offered here are best treated as a package, not as unrelated individual suggestions.

Assumptions. The following recommendations are based upon three general assumptions regarding land use policy in Iowa:

1. It is assumed that a set of statewide land use policies will be the culmination of the studies now being undertaken by the Temporary State Land Preservation Commission. These will be recommended to the Legislature for consideration and adoption.
2. The primary implementation of these land use policies will be accomplished at the local level through the application of city and county zoning and subdivision regulations.
3. Some form of countywide input to the development and implementation of land use policies at the local level will be afforded via a mechanism patterned after the 99 county temporary land preservation policy commissions.

These recommendations are designed to provide counties and cities with more control over local land uses and land use policies.

Recommendations:

1. Evaluate and perhaps strengthen the current Iowa tax recapture clause applied to agricultural lands converted to urban uses. Under this approach, land that has had the benefit of being assessed as agricultural would pay back taxes based upon assessment for the highest and best economic use of the land when land use changes occur from agricultural to some other use.

A ten year deferment instead of the present five year one may be warranted. In addition procedures could be instituted to require that the seller inform the buyer that the land may be subject to tax recapture or to require that the party who was responsible for the use conversion be the party required to pay the tax penalty. Some consideration of using the Vermont capital gains tax, discussed on pages 13-14 of this report may also be appropriate. Vermont taxes profits from land transactions based upon the length of time property has been held and the percentage of profit made. The higher the profit and the shorter the time period, the higher the tax. Speculative profits are taxed at an extremely high rate - up to 60 percent - in an effort to reduce land speculation.

2. The preservation of high quality agricultural land should be an explicit policy used by the City Development Board when reviewing proposals for involuntary annexations. (Voluntary annexations do not come under the Board's purview.) This would help prevent build-up of agricultural land within city limits. Although the preservation of prime agricultural land should not be the only factor considered, it is definitely a statewide concern and deserves to be conscientiously considered. To help amplify general guidelines, the following priority scheme is suggested when considering conversion of agricultural land to some other use:
 - a. Nonprime urban land should be converted to nonagricultural land first.
 - b. Prime agricultural land located within incorporated areas should receive second priority.

- c. Nonprime unincorporated land should be converted to non-agricultural uses as a third priority.
- d. Conversion of prime agricultural land in the unincorporated portions of the state should have the lowest priority.

Although these guidelines would necessarily be adjusted to meet specific circumstances, they should provide some direction for the City Development Board in attempting to prevent further annexation and conversion of prime agricultural land.

- 3. Comprehensive land use policies should be required of all Iowa counties. Based upon these comprehensive policies, counties should then be required to develop, adopt, and administer zoning and subdivision regulations.

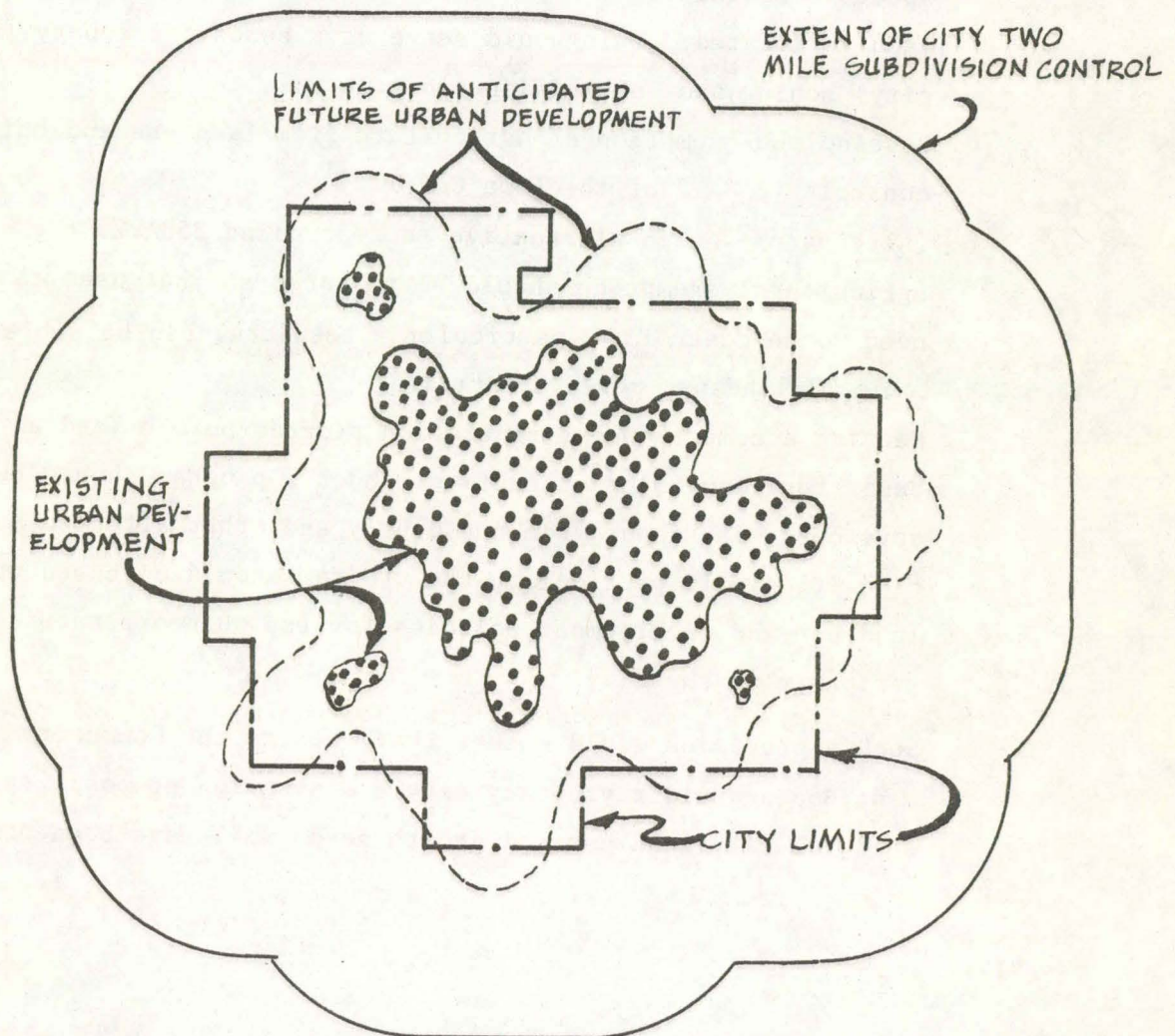
The land use policies should address local intentions concerning land use and development. For example, a county policy to preserve prime agricultural land would be further supported by a specific definition of "prime" and a delineation of where such land is located. This would serve as a basis for county (and city) zoning and subdivision controls.

- 4. Rescind the exemption of agriculture from land use and building controls (358A.2 of the Iowa Code).
- 4. (Alternate) As an alternative to rescinding 358A.2, the agricultural exemption should be tailored so that uses that need to be controlled, particularly feedlots, can be subject to local land use policy controls.
- 5. Require a comprehensive annexation program before (and as a basis for) any major annexation. Such a program should be developed with input from the county and other affected municipalities. In particular, the program should be based upon land use and development policies for the unincorporated periphery of the city.

Such a provision would ensure that, before the Community Development Board would review any city's annexation proposal, a total study of city land use and growth needs will have been provided.

Such a study might use the concept of the urban expansion area followed by the City of Ames. The urban expansion area is a delineation of the most likely area for future community growth, based upon a study of such factors as land use patterns, population projections, existing utility systems, and the location of prime agricultural land.

The accompanying sketch is a graphic portrayal of the sort of study proposed. Land now used for urban purposes, land proposed for urban expansion in the foreseeable future, land within the urban area which will probably not be developed for urban uses until the proposed urban expansion area is used, and land that should not be utilized for urban uses (prime agricultural land, floodplains etc.) should all be identified as a basis for the comprehensive annexation program. This overall program would then serve as the basis for individual annexation proposals. The urban expansion study would have to be restudied and updated periodically.



A countywide organization similar to the 99 temporary county commissions should be allowed to review the study. A recognized urban expansion area could also serve as the basis for joint city-county land use policies and implementation strategies. Due to the fact that cities have extraterritorial subdivision powers and counties have zoning powers up to the corporation boundaries, some basis for policy coordination would serve both units.

6. Promote city-county cooperation and coordination concerning land use development and growth policies by creating permanent bodies similar to the temporary county land preservation policy commissions created to help provide input to the development of state land use policies.

The process initiated by the Land Preservation Law (H.F. 210) resulted in bringing county and city elected officials together to discuss issues and concerns of common interest. This provision of a forum and the discussions that ensued may have been two of the more significant outcomes of the Land Preservation Law. The language of the home rule amendment to the Iowa Constitution seems also to anticipate some form of city-county cooperation since it specifically states: "The general assembly may provide for the creation and dissolution of joint county-municipal corporation governments." Although such joint corporations would have powers broader than those relating only to land use policies, land use would nonetheless be a prime candidate for inclusion in such a joint government. Although further development of home rule legislation may provide for city-county cooperation in some counties, some other vehicle for coordination such as the permanent body suggested above, will undoubtedly still be necessary in many counties where the home rule options are not exercised. In addition, many TLPPC's final reports specifically mentioned the need for a continuation of the temporary commission.

6. (Alternate) An alternate recommendation will be to use the State's regional planning bodies to help address city-county land use policy issues and programs. This would have the added advantage of permitting county-county issues to be addressed.

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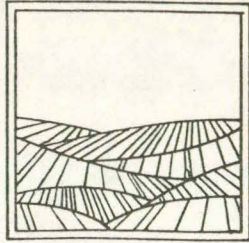
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