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Agenda Item No.  
January 12, 1993

TO: Honorable Mayor and City Council  
Attention: John P. Thompson, City Manager

FROM: Michael R. Palombo, Economic Development Manager

SUBJECT: RESOLUTION ADOPTING DEVELOPMENT IMPACT FEES FOR OPEN SPACE PRESERVATION AND IMPLEMENTATION STRATEGIES FOR OPEN SPACE PRESERVATION

**DISCUSSION**

Staff is recommending that the City Council adopt a series of actions that are designed to work together to preserve open space in the City of Vacaville. These proposed actions include:

- a. Adopt a Development Impact Fee to help finance acquisition of and access to Open Space.
- b. Review and amend the General Plan to provide a clear understanding of what and where Urban Open Space is and identify those characteristics that are to be preserved and what level of development is appropriate.
- c. Review and amend the zoning ordinance to clearly define specific characteristics to be preserved for each area and identify what types and levels of development are consistent with preservation of Urban Open Space.
- d. Create a Hillside Development Ordinance that contains revised and more flexible development standards that will allow financially feasible, limited development on certain hillside parcels.
- e. Encourage the County of Solano to adopt the same development standards as the City, within our Sphere of Influence.

A discussion of the proposed Open Space Development Impact Fee can be found in the attached memorandums dated December 8, 1992 (RESOLUTION ADOPTING DEVELOPMENT IMPACT FEES FOR OPEN SPACE) and December 1, 1992 (OPEN SPACE PRESERVATION STRATEGY). To adopt the Open Space Development Impact Fee, the City Council must adopt recommendations 1 and 2 (see below).

The remaining approaches that Staff is recommending to be implemented (items b through e above) are discussed in the attached memo dated December 1, 1992 (OPEN SPACE PRESERVATION STRATEGY). Staff is requesting that City Council direct them to implement the methods identified in items b through e above, by approving recommendation 3 below.

## RECOMMENDATION

1. By simple motion, that the City Council approve Environmental Assessment REA-28-92 (Open Space Development Impact Fee) with the following findings A-D:
  - A. That the reaffirmation of EIR-2-90 for the resolution adopting the Open Space Development Impact Fee reflects the independent judgment of the City of Vacaville (Section 21082.1(c)(2), CEQA)
  - B. That, pursuant to Section 151.52 of the CEQA Guidelines, no new effects could occur or new mitigation measures are required for the resolution adopting the Open Space Development Impact Fee.
  - C. That the resolution adopting the Open Space Development Impact Fee which was deemed "project" under CEQA, was activity within the scope of the General Plan revision approved in August, 1990, and was covered by the Proposed General Plan EIR (EIR-2-90). Therefore, no environmental document is required. (Pursuant to Section 15168(c)(2), CEQA Guidelines).
  - D. The following significant impacts related to the build-out of the General Plan are unavoidable, as identified in the Proposed General Plan EIR (EIR-2-90):
    - Development in accord with the General Plan will result in increased volumes on Interstate 80.
    - Implementation of the General Plan is expected to result in increased vehicle emissions.
    - Implementation of the General Plan will result in development of some existing open space and agricultural areas.
    - Development in accord with the General Plan will result in a change in the visual character of the community.
    - Development in accord with the General Plan will result in conversion of some land currently functioning as habitat to urban uses.
    - Development in accord with the General Plan will result in generation of additional noise.

In regard to the above significant impacts, the City Council found that specific economic, social, environmental, land use, and other benefits related to the project outweighed the negative aspects.

2. By simple motion, that the City Council approve the subject resolution amending and adopting Development Impact Fees for Open Space impact purposes.

3. By simple motion, that the City Council direct staff to implement the recommendations described in b through e above.

*Greenbelt only  
ex'd*

Agenda Item No. 8c  
July 28, 1992

TO: Honorable Mayor and City Council  
Attn: John P. Thompson

FROM: David J. Van Kirk, Assistant City Manager

SUBJECT: **RESOLUTION ADOPTING DEVELOPMENT IMPACT FEES FOR OPEN SPACE AND GREENBELT PRESERVATION PURPOSES**

**Discussion**

The specific purpose of the Open Space and Greenbelt Development Impact Fee is to ensure financing for a system of Open Space and Greenbelts for the City of Vacaville. Development Impact Fees will not provide sufficient revenues to preserve all of the open space and buffer areas identified in the General Plan. Consequently, other means of preserving open space will have to be used in conjunction with the fees in order to meet the objectives of the Vacaville General Plan. The fee is an equitable distribution of costs between the existing City and new development in Vacaville. There are two separate components of the fee, one for Open Space and the other for Greenbelt Preservation.

The attached resolution summarizes the fees for single-family and multi-family residential development. Detailed information on how the fees were developed is in the fee study report. The Environmental Assessment on this proposed fee is covered in Item 8a, the enabling ordinance.

**Recommendation**

By simple motion, that City Council approve the subject resolution.

**RESOLUTION NO. 1992-**

**RESOLUTION ADOPTING DEVELOPMENT IMPACT FEES FOR  
OPEN SPACE AND GREENBELT PRESERVATION PURPOSES**

**WHEREAS**, the City Council of the City of Vacaville has determined that development impact fees for Open Space and Greenbelt Preservation are necessary to serve the demands for such areas that are reasonably related to new development; and

**WHEREAS**, a study has been prepared in accordance with the provisions of Government Code Section 66,000 et. seq. and Chapter 11 of the Vacaville Municipal Code, which study has analyzed the preservation of Open Space and Greenbelt Buffer areas proposed to serve the demand from new development over planning period contemplated by the Vacaville General Plan and appropriate development forecasts as stated in said study; and

**WHEREAS**, said Open Space and Greenbelt study proposes a fee to meet the demands for preservation of Open Space and Greenbelt areas.

**NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**

1. The Open Space and Greenbelt study dated July 28, 1992, is incorporated herein as though set forth in full, and the provisions and findings contained therein are adopted by the City Council.
2. The City Council hereby adopts the Open Space and Greenbelt Development Impact Fee applicable in the City of Vacaville as set forth below. Said fee shall become effective 60 days from the date of this resolution and shall be administered in accordance with the provisions of Chapter 11 of the Vacaville Municipal Code:

Summary of Open Space and Greenbelt Development Impact Fee

<u>Residential</u>	<u>Greenbelt Preservation</u>	<u>Open Space Preservation</u>	<u>Total</u>
Single Family	\$138.00	\$357.00	\$495.00
Multi Family	\$ 95.00	\$246.00	\$341.00

3. Commencing January 1, 1993 and thereafter, the fee adopted or amended hereby shall be automatically adjusted to reflect annual changes in the Engineering News Record Index in accordance with the provisions of section 11.01.060 (B) of the Vacaville Municipal Code. Other than such automatic adjustment, the Open Space and Greenbelt Development Impact Fee shall not be changed, revised or amended except by action of the Vacaville City Council.

I HEREBY CERTIFY that the foregoing resolution was introduced and passed at a regular meeting of the City Council of the City of Vacaville, held on the 28th day of July, 1992, by the following vote:

AYES:

NOES:

ABSENT:

ATTEST:

Kathleen M. Andronico, City Clerk

TO: Honorable Mayor and City Council  
Attn: John P. Thompson

FROM: Michael R. Palombo, Economic Development Manager

SUBJECT: **RESOLUTION ADOPTING DEVELOPMENT IMPACT FEES FOR OPEN SPACE PRESERVATION PURPOSES**

**Discussion**

Staff is recommending that the City Council adopt a Development Impact Fee as one element of an overall program designed to preserve open space in the City of Vacaville. The proposed fee (\$357 per single-family home and \$246 per multi-family unit) will apply only to residential development. The Open Space Fee will be collected at the time building permits are issued. The money raised would be used to cover a portion of the capital costs of acquiring property rights to some of the open space areas designated in the General Plan and also provide for improvements such as fencing.

State law permits local governments to charge new development fees to offset the impact of that growth upon existing services. State law also requires that there must be some connection or nexus between the impact caused by the development and the services which the fees provide. Impact fees may not be used to support a higher level of service than that enjoyed by the existing community. The proposed Open Space Development Impact Fee, like the previously approved Park and Recreation Fee, has been calculated to maintain the existing ratio of open space acreage per resident through the next 17 years of population growth.

Attachment "A" shows how the fee was determined. The proposed fee could be increased by raising the estimated cost of property, or reduced by lowering the ratio of future open space per resident.

The fee will be used as one method of several to help preserve the ridgelines and hillsides that are designated in the General Plan as Urban Open Space. The General Plan designates three main areas of Urban Open Space in Vacaville. These areas include the Cement Hill Ridge bounded by Alamo Drive, Lower Lagoon Valley, I-80, and the California Medical Facility; the Pleasants Valley ridge sited between Alamo Drive, Pleasants Valley Road, I-80, and Foothill Drive; and a section of the English Hills defined by Browns Valley Road, Gibson Canyon Road, Alta Mira Drive, and Cantelow Road. Nearly all of these ridgelines and hillsides are immediately adjacent to existing built-up portions of Vacaville and are within the City's Sphere of Influence. Many of these areas are currently located within the jurisdiction of Solano County (see Attachment "B").

The proposed Open Space Fee represents slightly less than one-quarter of 1% of the cost of a \$165,000 single-family home. Under the terms of a typical 30 year mortgage, the proposed Open Space Fee would add about \$3.00 to each month's installment payment (i.e. \$1 for principal and \$2 for interest). Consequently, the impact of this single fee on the affordability of new homes is slight. Since the fee is applied only to new homes, it has no affect at all on the price when existing homes are resold.

The proposed Open Space Fee is expected to generate between \$185,000 and \$370,000 annually, depending upon the number and type of residential units built in a particular year. This level of funding, given the number of acres that need to be preserved (see Attachment "C") will not be enough to permit the City to purchase more than a small fraction of the areas designated as Urban Open Space. Much of the "preservation" will be accomplished by other means such as transferring development rights from unusable areas to those that may be developed. Even though purchases will account for only a small portion of the open space area, it is essential to have an ongoing source of funding available to complete the acquisition of properties to which public access is necessary or development undermines the open space character.

Currently the City has slightly over \$700,000 on hand that has been designated previously for open space uses. In addition, approximately \$200,000 of Proposition 70 bond money is being held by the State of California for use in Vacaville. The purchase of a single large parcel could consume all of these existing financial resources. Should the fee not be enacted, the only sources of funds for the acquisition of properties will be either General Fund appropriations or grants. Considering the current status of State, Federal, and City budgets, it is not likely that future grants or General Fund appropriations will be available for open space purposes.

A detailed fee study report, adequate to meet the legal requirements for adopting an Open Space Development Impact Fee, has been prepared. The Environmental Assessment for this proposed fee was included in the enabling ordinance passed at the City Council meeting on July 28, 1992. For your information, I am also providing a discussion of "Open Space Preservation Strategy" and "Review of Open Space Preservation and Acquisition Techniques."

The Open Space Development Impact Fees were within the scope of the General Plan and its environmental impacts were adequately assessed in the Proposed Vacaville General Plan EIR (EIR-2-90). Therefore, pursuant to Section 15168(c)(2) of the California Administrative Code (CEQA Guidelines), no further environmental assessment is required. The Proposed General Plan EIR identified significant, unavoidable impacts related to the build-out of the General Plan, of which this project is a part. Pursuant to CEQA, a Statement of Overriding Consideration was adopted by the City Council that found benefits of the General Plan outweighed the negative aspects of build-out. That statement will be adopted for this project as well.

An initial study and environmental assessment report for this Development Impact Fee are available for inspection in the advanced Planning Division office. They provide an in-depth analysis of the environmental determination that recommended reaffirmation of EIR-2-90 for this project. As noted in the environmental assessment report, individual improvement projects will receive site specific environmental review when they are proposed for construction.

**IMPACT FEE  
OPEN SPACE PRESERVATION AND  
CAPITAL DEVELOPMENT COSTS**

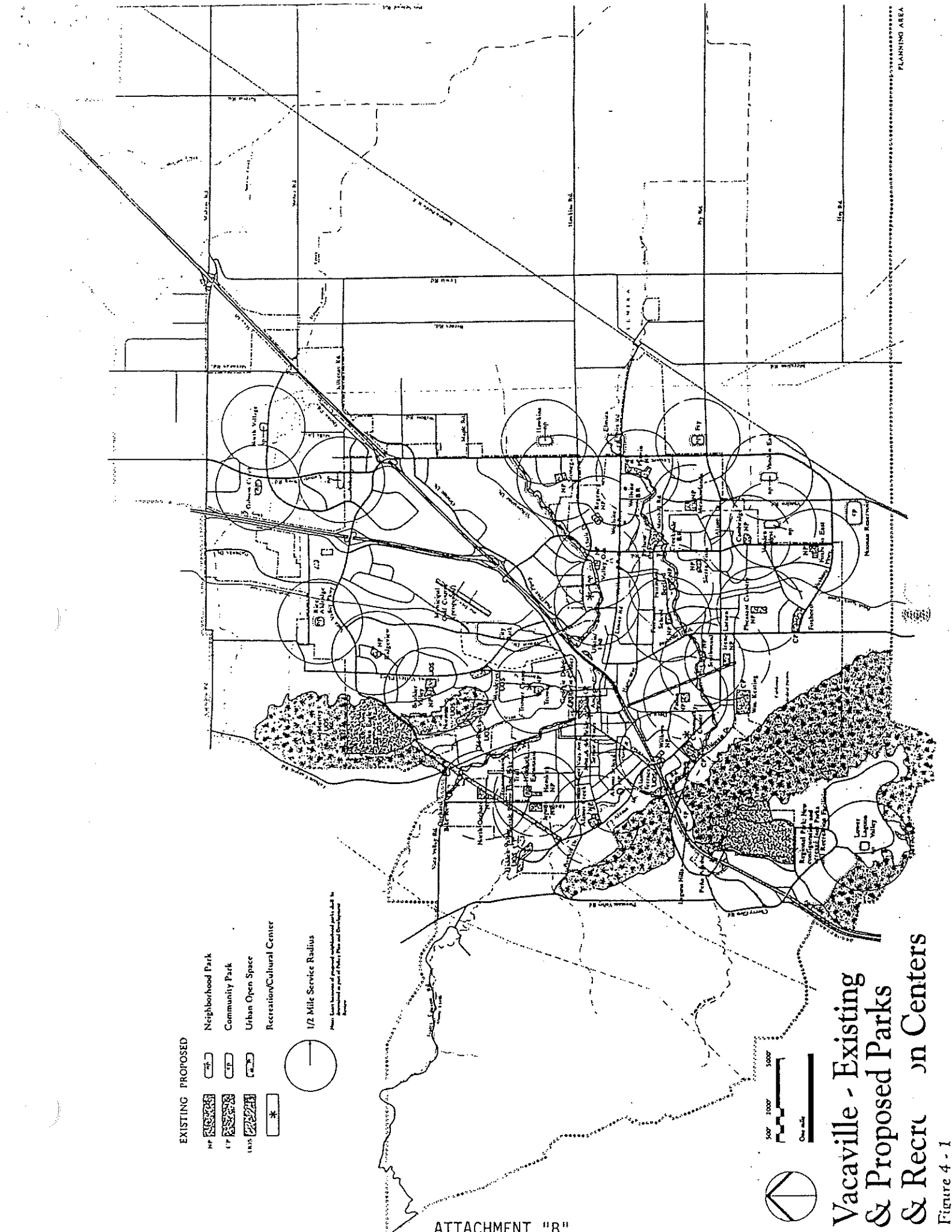
12-8-92

Current Standard ac/capita	930 ac. - 68,448 = *0.0135869
Current Standard x Proposed Population Growth to 2010 Build-out	0.0135869 x 45,088 = 612.06 ac.
Total Proposed Open Space Acres to be Preserved	702.49 acres
Total Acreage that could be Preserved with Impact Fees	612.00 acres
Estimated Total Land Cost	\$5,752,800
Capital Development Cost .Fence	<u>\$150,000</u>
Subtotal	\$5,902,800
Less - Cash on Hand	<u>\$ 630,000</u>
Total Preservation and Capital Costs Attributable to Impact Fee	\$5,272,800
Total EDU**	14,784
SF Fee (11,548) 1 EDU	\$ 357
Multi Family (4,704) .69 EDU	\$ 246

\* (1992 population)

\*\* 11,548 single-family + (4,704 multi x .69)

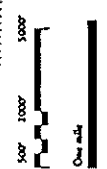




**EXISTING PROPOSED**

- NR Neighborhood Park
- CP Community Park
- UOS Urban Open Space
- RC Recreation/Cultural Center
- 1/2 Mile Service Radius

From: Exact location of proposed neighborhood parks shall be determined as part of Park, Plan and Design Review.



# Vacaville - Existing & Proposed Parks & Recreation Centers

Figure 4 - 1

OPEN SPACE PRESERVATION PROPERTIES  
1992-2010

#	AP#	Owner	Full/Partial Acres	Preservation/Area	Jurisdiction
1	105-200-140	Hoover	10 acres	Partial 0-5 ac	Solano
2	105-200-150	Hoover	25 acres	Partial 0-20 ac	Solano
3	123-040-060	Young	44.96 acres	Partial 0-30 ac	Solano
4	123-040-070	Stocking	94.58 acres	Partial 75 ac	Solano
5	129-040-020	Metro	61.28 acres	Full 61.28 ac	Solano
6	126-010-060	Creswell	18.61 acres	Full 18.61 ac	Solano
7	126-010-120	Creswell	74.67 acres	Full 74.67 ac	Solano
8	126-030-040	Neal	98.1 acres	Full 98.1 ac	Solano
9	126-040-010	Neal	31.11 acres	Full 31.11 ac	Solano
10	126-040-040	Tate Ranch	38.96 acres	Full 38.96 ac	Solano
11	127-060-010	Faquiryan	28.79 acres	Partial 25 ac	Vacaville
12	127-060-030	F.Gonzales	20 acres	Full 20 ac	Vacaville
13	127-060-050	C.Gonzales	20.20 acres	Full 20.20 ac	Vacaville
14	127-060-060	C.Gonzales	20.17 acres	Full 20.17 ac	Vacaville
15	127-060-070	C.Gonzales	42.44 acres	Full 42.44 ac Partial 38 ac	Vacaville
16	127-080-040	Packer	3.25 acres	Partial 1 ac	Vacaville
17	127-080-280	Quinn	20.02 acres	Partial 6 ac	Vacaville
18	127-100-090	Goyal	7.7 acres	Partial 3 ac	Vacaville
19	127-100-100	Goyal	10.37 acres	Partial 5 ac	Vacaville
20	127-130-010	Gurries	16.61 acres	Partial 5 ac	Vacaville
21	128-060-030	C.Gonzales	20.56 acres	Full 20.56 ac	Vacaville
22	128-060-040	C.Gonzales	20.30 acres	Full 20.30 ac	Vacaville
23	128-060-050	C.Gonzales	20.30 acres	Full 20.30 ac	Vacaville
24	128-060-060	C.Gonzales	25.54 acres	Full 25.54 ac	Vacaville
25	128-060-090	Graves	35.29 acres	Partial 15 ac	Vacaville
26	128-060-100	Graves	0.53 acres	Partial 0.25 ac	Vacaville
<b>Total</b>			<b>809.34 acres</b>	<b>702.49± acres</b>	

DATE: December 1, 1992  
TO: Development Team  
FROM: Michael R. Palombo, Economic Development Manager  
**SUBJECT: OPEN SPACE PRESERVATION STRATEGY**

The General Plan Diagram for the City of Vacaville designates ridgelines, hillsides, riparian corridors and agricultural lands in and around the community as Open Space. The General Plan envisions conserving much of that Open Space area from the encroachment of urban development to retain those properties' natural characteristics, to continue the viability of agriculture, to retain their outdoor recreational values, and to protect the public health and safety. The purpose of this report is to present a strategy or plan to preserve the unique characteristics of some of these properties.

This report will focus its attention on that limited area designated in the General Plan as Urban Open Space. Urban Open Space consists of those ridgelines and hillsides that are immediately adjacent to the built up portions of the community. The General Plan has designated three main areas of Urban Open Space in Vacaville. These areas include the Cement Hill Ridge, bounded by Alamo Drive, Lower Lagoon Valley, I-80 and California Medical Facility; the Pleasants Valley ridge between Alamo Drive, Pleasants Valley Road, I-80 and Foothill Drive, and a section of the English Hills defined by Browns Valley Road, Gibson Canyon Road, Alta Mira Drive and Cantelow Road.

Virtually all of these ridgelines and hillsides are immediately adjacent to developed portions of the community, however, much of this area is under the jurisdiction of Solano County, not the City of Vacaville. The ownership pattern is fragmented with some areas already subdivided into 2-1/2 acre lots, while most of the area remains in 20 or 100 acre parcels. Currently the properties are either in agricultural uses or developed with single-family homes. Despite the lack of available infrastructure and difficult topography, the proximity of the properties to urban development and their unique rural character cause them to be targets for development.

Currently some of the properties are protected from development by their inclusion in the Williamson Act. The Williamson Act only provides protection against development of agricultural property for the short term. Properties may be removed from the Williamson Act by local legislative action or by allowing the contract to expire over a 10-year period.

Listed below are a series of suggested actions that collectively will help implement the preservation of urban open space.

## **1. FUNDING**

Currently, the City of Vacaville has available approximately \$700,000 allocated toward Open Space Acquisition and slightly over \$200,000 remaining available from Proposition 70 Bond proceeds. These funds are adequate to purchase no more than three properties. Currently, Vacaville, has no reliable source of generating funding for an ongoing Open Space acquisition program. Even assuming that most Urban Open Space will be acquired through the development process, several significant areas probably cannot be obtained with this technique because they lack an area suitable for development. Most other acquisition techniques require at least some funding to work. The proposed Open Space Development Impact Fee is absolutely essential to having

any real possibility of preserving the bulk of approximately 700 acres that has been targeted. The proposed fee will generate an estimated \$5.2 million dollars over the next 17 years. If the City Council is unwilling to adopt the fee, the entire Open Space program should be reevaluated.

## **2. COMPRESS THE URBAN OPEN SPACE DESIGNATION TO THE MINIMUM AREA NECESSARY TO ACCOMPLISH THE TASK**

The City has already taken this first step in developing a realistic program of preservation by deleting a large number of properties from consideration as Urban Open Space that were too remote (area between the PG&E transmission line and Cantelow Road), too fragmented (the small lots between Gibson Canyon Road and the top of the ridgeline), or outside of the possibility of annexation (the west side of the Pleasants Valley ridge) from the City's Sphere of Influence as part of adopting its Comprehensive Annexation Plan. This step has reduced the number of parcels to be considered for preservation from hundreds to twenty-six (see attached). Of these, 16 are in the City and 10 in the County.

## **3. CREATE CLEAR GUIDELINES AND SUPPORTIVE REGULATIONS**

There is a great deal of confusion over what is Urban Open Space and how it should be preserved. This problem is the most basic impediment to creating a plan for preservation. The General Plan and Zoning Ordinance need to be amended in regard to Urban Open Space to clearly define what characteristics should be preserved in each area, levels and types of development which are appropriate, the degree of public access necessary, and which development standards will be applied for properties so designated. In order to be effective, the Urban Open Space property owners should be made part of the process of updating the General Plan and Zoning Ordinance. The revised determination must then be balanced against the resources available to implement the plan, in order to determine whether the proposal is financially feasible.

For example, preservation as Urban Open Space may allow one property to be developed with several residential units because in that circumstance the intensity of the development and the topography of the site do not adversely affect either the natural visual characteristics of the site or public health and safety. Another parcel, due to a need for public access, might be denied development and be purchased (the Norman acquisition is an example of this approach). Still others may be constrained by their physical characteristics (extreme slope) even though no public access is proposed.

In these areas, special development standards for residential construction in hillside areas should be considered. Current development requirements are premised on construction of a relatively large number of units in flat areas that may be served from existing infrastructure. In hillside areas, levels of development permitted by existing zoning are much less intense due to minimum lot size requirements of 20 or 40 acres. Infrastructure, especially water, may only be economically provided through non-standard methods. Provided that these problems can be reasonably addressed to protect the health and safety of its citizens, the City should approve the modified approach for hillside areas. Some properties may be precluded from all development, thereby eliminating the possibility of trading off development in one area for open space dedication in another, for example, given limited funding, trading off development for Open Space may be one of the sole ways to achieve preservation of portions of the ridgeline. Staff is currently developing a draft Hillside Development Ordinance.

#### **4. SEEK COUNTY COOPERATION IN ADOPTING SAME DEVELOPMENT STANDARDS/FORCE ANNEXATION**

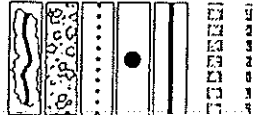
Ten of the twenty-six properties designated as Urban Open Space are within the City of Vacaville's Sphere of Influence but under the jurisdiction of Solano County and the Rural Fire District for all development purposes. Thus, regardless of the City General Plan, those properties are beyond Vacaville's land use jurisdiction. The development requirements for residential construction in the County area are significantly less rigorous than those of the City. For those areas that will remain forever in County jurisdiction, the different standards are not an issue. However, in areas that will be annexed, most structures, and more importantly, the supporting infrastructure (roads, water systems, etc.) will be substandard when they enter the City, adding to our costs and increasing service demands.

To resolve this problem, the City must either be willing and able to process annexations (even if over the protests of the property owners) or reach an agreement with the County to utilize the same development requirements as the City, within the Sphere of Influence. Reaching an agreement with the County will not be easy, but it is the best approach at this time. In order to approach the County, the City should first complete a comprehensive Hillside Development Ordinance. Once this is accomplished, the City should seek to coordinate with the County to achieve a common set of standards.

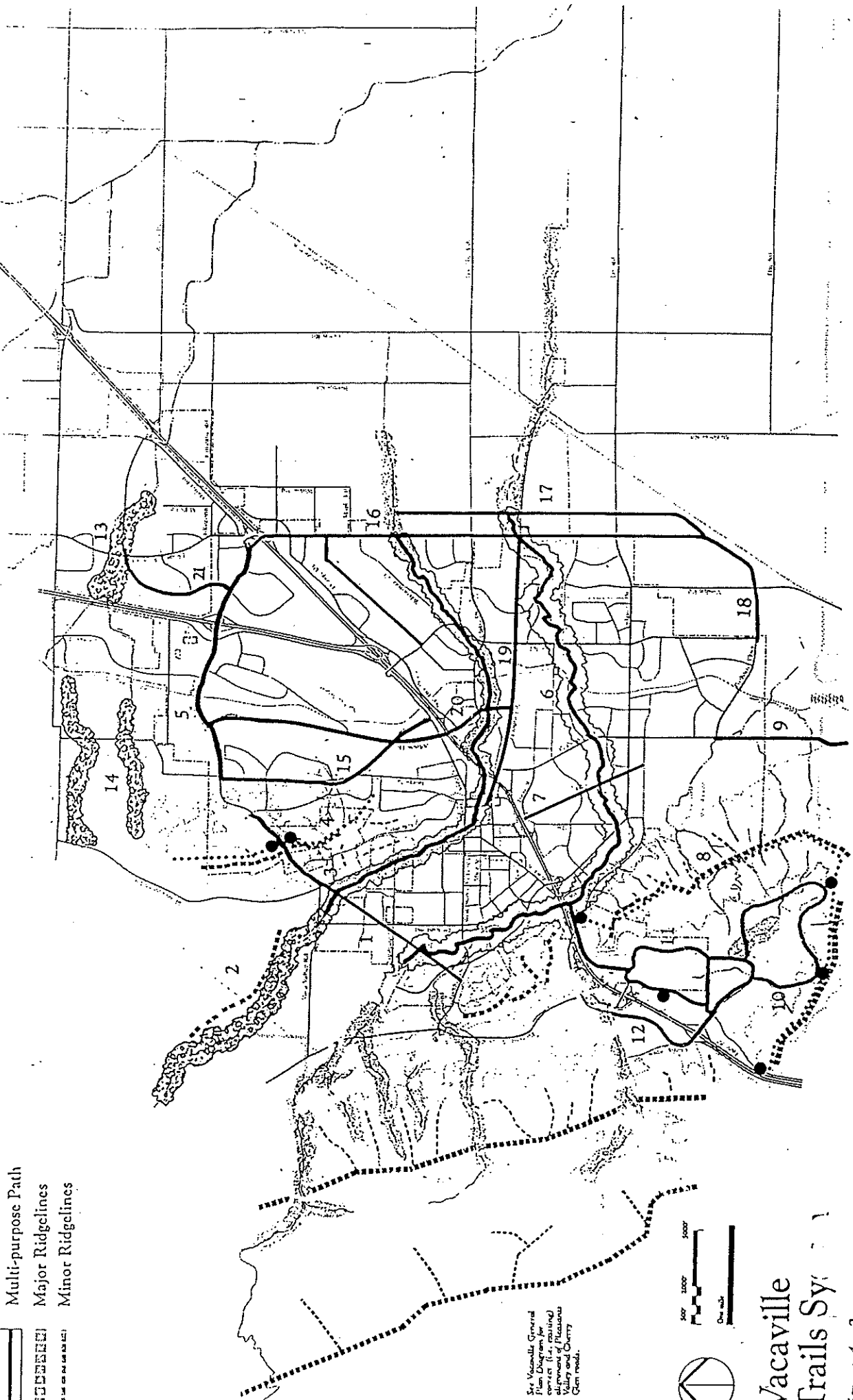
#### **5. RECOMMENDATIONS**

The recommendations for implementing an Open Space Program include:

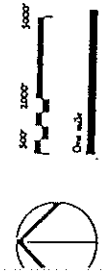
- A. Adopt Open Space Development Impact Fee.
- B. Amend the Zoning Ordinance and clarify that development consistent with the Open Space/Agriculture characteristics is allowed, subject to "C" below.
- C. Create and adopt a comprehensive Hillside Development Ordinance that allows revised development standards that applies less "urban" development standards to these areas, so long as health and safety concerns are addressed.
- D. Encourage County to adopt same development standards as City in Sphere of Influence area.
- E. Review and amend the General Plan in order to provide a clear description of what Urban Open Space is and identify what characteristics are to be preserved and what level and type of development is appropriate.



Creekway  
 Riparian Preserve  
 Hiking/Equestrian Path  
 Trailhead  
 Multi-purpose Path  
 Major Ridgelines  
 Minor Ridgelines



See Vacaville General  
 Plan Diagram for  
 service (i.e., routing)  
 Williamson & Pleasant  
 Grant roads.



Vacaville  
 Trails System  
 Figure 4 - 2

PROPOSED  
OPEN SPACE PRESERVATION PROPERTIES  
1992-2010

#	AP#	Owner	Full/Partial Acres	Preservation/Area	Jurisdiction
1	105-200-140	Hoover	10 acres	Partial 0-5 ac	Solano
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<b>Total</b>			809.34 acres	702.49± acres	

DATE: December 1, 1992  
TO: D-TEAM MEMBERS  
FROM: MIKE PALOMBO, Economic Development Manager  
SUBJECT: REVIEW OF OPEN SPACE PRESERVATION AND ACQUISITION  
TECHNIQUES

The City of Vacaville's General Plan identifies certain specific hillsides, ridgelines and other areas for preservation as "Open Space". The purpose of this paper is to define, examine, and evaluate the various techniques which are available to achieve the goal of preserving those specified properties as "Open Space".

The General Plan calls for preserving "Open Space" for a wide variety of values such as a retaining "natural" visual resources, preserving unique and/or typical examples of biological habitats and landforms, retaining agricultural resources, providing recreational opportunities, and protecting the public from hazards (fires, floods, landslides etc.) Since the goals are extremely diverse, no single technique is likely to be feasible and effective for the entire range of values. Consequently, research into preservation techniques was expanded beyond just those few traditional methods that result in public ownership, unrestricted access, or that preclude all development. The goal was to evaluate a series of methods and describing the strengths and weaknesses of each in order to select those techniques best suited to support an effective and efficient "Open Space" program for the City of Vacaville that will conserve all the "values" identified in the General Plan.

## I. PRESERVATION TECHNIQUES

Open Space and Buffer areas may be preserved by a variety of means. These methods include:

### A. FEE PURCHASE

**Description:** State law authorizes cities to purchase property for a wide variety of uses, including Open Space. Due to the large areas proposed for preservation and sometimes high land costs placed upon property, Vacaville cannot afford to acquire all the land that it has identified in its General Plan as Open Space. Certain parcels, because of reasons such as their physical characteristics, lack of development potential, location, visibility, or need for use by the public, must be purchased in fee (all rights), because there is no other alternative way to compensate the land owner. In these special situations, acquisition often is the only alternative reasonable option. Consequently, a selectively applied program of acquisition is essential to every Open Space program.

**Advantages:** Acquisition typically gives the City total control over how a property is to be used. For properties which are programmed to be used by the public for activities such as hiking, trail biking or trail heads, purchase of the parcel or portions of it may be required.

Acquisition also eliminates complaints from the existing property owners that their land is being taken from them without compensation.



**Disadvantages:** The purchase of property requires that the buyer and seller agree on a price. This is frequently a very difficult task. Open Space near the City limits is often viewed by the public agency as having agricultural value, while the owner sees it as subdividable, prime land suitable for significant residential development. These different views result in very different estimates of value.

Ownership also conveys responsibilities such as increased liability and additional costs associated with maintenance and operation of the property.

Another problem is that the probable sources of funds to purchase Open Space properties are limited and not capable of providing adequate revenues to acquire more than just a few parcels.

**Recommendation:** Establish a selective and limited acquisition program.

## **B. CONSERVATION EASEMENTS**

**Description:** Land ownership is often described as consisting of a bundle of rights, such as the right to construct buildings, the right to subdivide, the right to limit access, the right to harvest resources, etc. When landowners sell their property in fee (see above), they are selling the entire bundle of rights. When they sell or grant those dedication conservation easements, they are selling only selected rights from the bundle and retaining the rest of the rights for themselves. A conservation easement is merely a legal agreement that is recorded between the property owner and another party such as the City of Vacaville that enumerates which rights have been purchased or dedicated.

**Advantages:** The great advantage of a conservation easement to the seller is that it allows him or her to receive the benefits of their development potential without having to actually develop some or all of the property. This is a particularly attractive alternative to those persons who desire to continue using the land for uses, such as agriculture, that are compatible with Open Space activities. In effect, they can have their cake and eat it too.

**Disadvantages:** The cost of acquiring development rights often approaches that of purchasing the property outright. Therefore, the problems of having adequate financial resources is only slightly reduced.

Another problem is that conservation easements do not normally allow public access to the property, limiting the Open Space to passive activities such as natural view areas.

**Recommendation:** Include conservation easements as an option in Open Space/Buffer preservation program. Utilize when existing landowner is a willing participant, cost of purchase is acceptable, and proposed public use is passive.

## **C. TRANSFER OF DEVELOPMENT RIGHTS**

**Discussion:** A Transfer of Development Rights (TDR) program is a mechanism that allows development rights to be separated from the land itself so that they may be bought and sold. The land to be preserved is designated as a "sending area" and through an action of the local government is assigned a development potential that may be equal to or greater than the pre-existing land use regulations would permit. These development rights can be sold, traded or transferred by the landowner and used by the purchaser or recipient to increase the development density permitted in a "receiving area" located outside the area to be preserved.

Allowing owners of the land in the sending area to sell these rights creates a way to compensate them for the opportunity value lost because they were unable to develop their property, or sell it to those that would, because of land use restrictions. In return for creating the mechanism that allows the transfer and thus the compensation, the public agency preserves the Open Space characteristics of the property at no direct cost to itself. Typically, the value of development rights is determined by the market. The development rights purchased by developers allows them to build at increased levels of density without going through the time consuming and uncertain process of amending the land use regulations on their property.

There are a variety of variations in TDR programs. Some of these allow only the public agency to purchase the "development rights" and bank them for later resale. In most TDR programs, however, public agencies act primarily as a facilitator, providing support to the private market so that it will function smoothly..

In the right circumstances, where the price that sellers are willing to accept matches what the buyers are willing to pay for the increased density, a TDR program works for all the parties. The buyer gains the additional development potential, the seller receives the greater value associated with land suitable for urban levels of development, and the public agency preserves Open Space.

According to a report prepared for the City of San Jose, in order for a TDR system to be feasible, the requirements of potential sellers and buyers must be the same. These requirements include the following:

1. There must be sufficient demand for development credits so that they will be saleable. The level of demand will be influenced by a number of factors, including the perceived marketability of higher density units, the size of the receiving area, and the availability of alternative means of increasing density.
2. Buyers must be interested in obtaining development credit at the same time sellers are interested in disposing of them.
3. The seller's minimum asking price for a development credit must be no higher than the buyer's maximum bid price.

**Advantages:** The primary advantage of a TDR program is that property is preserved for a particular purpose, such as maintaining its undeveloped nature of agricultural character in a way that minimizes or eliminates the need to use public funds, while at the same time fully compensating the land owner. TDR has proven to be particularly effective in Montgomery County Maryland in the preservation of land for agricultural purposes. By relocating the land's development potential to other sites, it does not price out lower value uses such as agriculture.

**Disadvantages:** The primary disadvantage of some TDR programs for preserving Open Space is that the ownership of the property is not always transferred to the public agency but may remain with the original land owner. If the purpose of the program is primarily visual, then ownership is not a necessity for the public agency, so long as the remaining land uses permitted are compatible with those characteristics that need to be preserved. For example, not all forms of agriculture may be appropriate for all Open Space activities. In addition, where the public expects to have access to the property, TDR programs that do not acquire title would not be adequate.

A second major problem is establishing the market for the development rights. Currently, the City of Vacaville defines density in a series of ranges. In the past, developers have sought to build at the maximum, which is often near the carrying capacity of the land. They have secured these higher levels of density through the normal development process. In order to establish a market, it will be necessary for the City to restrict development to somewhere within the range (perhaps at mid range) and only allow landowners to exceed that density through participation in a TDR program. Given the history of land use decisions in the community and the number of approved subdivisions, imposing such restrictions will be politically difficult and perhaps financially infeasible.

**Recommendation:** The TDR program is particularly promising for remote sending areas that are not yet threatened by urban development and where agricultural uses are compatible with the character of preservation desired. In such locations, the price of land is more reflective of lower values associated with agriculture rather than of residential uses. The only such areas that have been identified for preservation around Vacaville are those found in the later phases of the Fairfield/Vacaville Buffer and in the suggested Vacaville/Dixon Community Separator. Consequently, the proposed Buffers are one major area on which to focus a TDR program.

According to the literature, a TDR program is less likely to be of great use to preserve potential areas that are immediately adjacent to urban development. This is because of the relatively high value expectations of the landowners for such property. Despite this, a TDR program should be included as one of the available techniques to help preserve certain properties. In such areas, the existing Agricultural zoning with 20 acre lot minimums will assist in defining value.

#### **D. LAND USE REGULATION**

The most basic step local governments can take to protect Open Space is to establish a comprehensive set of policies and plans that place Open Space preservation in the context of overall conservation and development goals. This can be done through the General Plan and zoning regulations.

The City of Vacaville adopted a new General Plan in 1990. That Plan attempted to strike a balance between the need for development and the need to address other policies including public safety, protection of agricultural activities and view properties by establishing a specific urban service zone to service development and placing prime agricultural lands, hillsides, and scenic ridges and buffers outside of that area. The properties that are designated Open Space are identified in the General Plan land use map. In addition, the General Plan also identified a number of policies that control or regulate under what conditions development may occur. An example of this is the prohibition against developing slopes or ridges that exceed 25% slope.

The strength of the General Plan comes from the State law requirement that any action by the City to acquire, dispose, or to regulate land uses must be consistent with the General Plan. Consequently, all of the City's land use regulations must either be in conformance with the General Plan or be amended to be consistent. Part of the work program associated with the General Plan calls for the updating of a variety of land use regulations, including those related to land designated Open Space.

While a General Plan is important for laying out the future vision of the community, the Plan must be supported and implemented by appropriate laws and regulations such as those found in the zoning ordinance. Zoning is the process of dividing a city into discrete land use districts for the purpose of regulating the use of private land. In addition, zoning ordinances usually include development standards, such as maximum density, parking requirements and set-backs for each land use. Zoning is derived from the police power of the state to ensure community health, safety, and welfare. By its very nature, zoning creates expectations of economic return by endowing a property with greater or lesser value development potential than that of its neighbors.

Currently, most of the property identified as Open Space is zoned for Agricultural uses, with a 20-acre minimum lot size (A-20). This zoning permits both low intensity residential uses and also farming activities.

**Advantages:** Land use regulations serve two functions. They designate the public policy for the community and document how particular areas should be developed. In addition, the development requirements or limitations help to define the future use of the property and hence its value. The definition of value is the critical issue for landowners and the public to resolve.

**Disadvantages:** While land use regulations can control how a property is developed or used, it does not confer the right of the public to use or enter on a piece of property. In addition, because all uses cannot be excluded, land use regulations may not be able to achieve all of the characteristics desired by the public.

While zoning must be consistent with the General Plan, it is frequently the focus of attempts by various groups to amend its provisions to meet their own needs through the political process.

Land use regulations adopted by the City only apply within its jurisdiction. Since a number of properties designated as Open Space are located in the County, the City's regulations do not directly apply.

**Recommendation:** Continue effort to amend the zoning ordinance to bring it into conformance with the General Plan. It would be very helpful to create one or more districts that were specifically tailored to the Open Space and Buffer areas. These districts should permit development compatible with the physical characteristics of the land and the desire to preserve certain features for Open Space and Buffer purposes. Currently, such zoning districts do not exist.

The City should also seek to work out with the County some common regulatory approach to those properties that have been designated for preservation but that have not yet been annexed. A resolution to this problem will go a long way toward establishing the "value" and the level of development a property owner can anticipate.

One last area that should be studied and resolved is the development of specific development standards that are designed to address areas where existing City standards (utilities, fire, etc.) preclude development. A set of hillside standards would help in allowing development to occur consistent with public health, safety and welfare.

## II. REVENUE SOURCES

Methods for obtaining revenue for Open Space preservation purposes are as follows:

### A. GENERAL FUND

**Description:** The General Fund is that part of the City's budget that pays for general operations such as Police and Fire that are not financed from some Special Revenue Fund whose resources are limited by law to very specific purposes. General Fund revenues may be used for any purpose, including acquisitions, capital costs and maintenance and operations. In the current budget, approximately 38% of the City's operating revenues accrue to the General Fund. Major sources of revenue for the General Fund are property taxes and sales tax receipts.

**Advantages:** The General Fund, because of the few limits on how it is used, its size and varied sources, is an ideal source of funding for Open Space acquisitions, capital development costs, and ongoing trail maintenance. Since the General Fund is collected on a citywide basis, it is a very "fair" way to spread the costs of acquiring and maintaining an amenity that is of benefit to the entire community.

**Disadvantages:** General Fund resources are currently inadequate to meet the revenue needs of existing operations. In order to add a program such as Open Space, it will be necessary to reduce or eliminate some other activity. The General Fund for example is the primary source for funding public safety services. The competition among ongoing services for General Fund resources is extreme and should be worse in the future. In addition, while specific revenues such as sales taxes are expected to outgrow inflation, overall the future availability of General Fund revenues is expected to diminish due in part to adverse budget decisions by the State of California.

**Recommendation:** Acquisition and capital costs, beyond the \$1,000,000 appropriated in the last fiscal year should not be taken from the General Fund. Operation and Maintenance costs associated with City owned Open Space are likely to be absorbed by the General Fund since there are few other viable sources of funding for this cost.

### B. LOCAL TAX INCREASE

**Description:** The City Council has the authority to institute a special tax that is collected from landowners in the community. Such a tax increase would require a 2/3 positive vote of by the citizens of Vacaville. The proceeds from a tax increase could be used for all phases of an Open Space program, including acquisition, capital, and operation and maintenance.

**Advantages:** A tax increase would spread the costs equitably over all of the citizens of the City. Because of the large number of taxpayers, a relatively small increase per unit of value would generate a considerable cash flow annually. That cash flow could either be used to support a pay-as-you-go approach or bonded against for immediate capital.

**Disadvantages:** In order to bring about a special tax increase, the Citizens of Vacaville would have to vote by a two-to-one margin to approve the imposition of the tax. Recent polls indicate that at this time, only one person in three would support a new tax for the purpose of implementing the Open Space program.

**Recommendation:** Set aside this method of financing until such time that securing enough voter support is possible.

### C. BOND SALE PROCEEDS

The City has the legal authority to issue debt in the form of Mello-Roos Assessment District or General Obligation Bonds. The purchasers of the Bonds are lending money to the City in expectation of being paid back with tax-exempt dollars at a negotiated rate of interest over a predetermined period of years. Typically, the source of repayment of these Bonds would most likely be from additional assessments levied on property value or a fixed surcharge levied against parcels. Once the Bond proceeds have been secured, they are typically used for acquisition and capital costs.

**Advantages:** By borrowing against future revenue, a Bond issue is able to generate substantial capital immediately. This would allow the acquisition/capital improvement portion of the Open Space program to proceed earlier than other methods of financing. Assuming that land prices and construction costs will continue to escalate, the earlier the purchase/construction, the lower the cost. In addition, the public can use the amenities much sooner. At this time, interest rates are favorable.

**Disadvantages:** The sale of Bonds is dependent upon a reliable repayment source. The most likely revenue source would be some type of "new" assessment or tax. At this time the general public is not expected to support taxing itself for Open Space. In addition, in order to sell Bonds, it might well be necessary to pledge the General Fund to guarantee repayment to the Bondholders.

It is possible to have voter-approved taxes for very small areas (i.e. Mello-Roos and Special Assessment Districts) that become the source of repayment for a Bond sale. These small districts are collected together and Bonds are issued once a minimum threshold size is reached.

The City of Fairfield currently requires all areas annexing to it to form a Mello-Roos District for the purpose of supporting their Open Space program. The disadvantage to this approach is that it applies only to newly developed areas and, therefore, the revenue stream is much smaller than would be available from a citywide application.

**Recommendation:** A citywide Bond issue is not feasible at this time. An evaluation of Fairfield use of Mello-Roos Districts should be conducted.

### D. DEVELOPMENT IMPACT FEES

**Discussion:** California Government Code Section 66000 et. seq. allows a city to impose impact mitigation fees upon new development within its jurisdiction. The fees are collected, by the City, at the time of construction to fund a defined list of public improvements which are needed to address impacts from growth. New development cannot be charged beyond the moneys needed to construct facilities equal to those that service the areas already existing, unless the city can demonstrate how the present level of service will be upgraded.

To develop a legally defensible fee, the City's General Plan was reviewed to identify those areas designated for preservation as either urban Open Space or community separators. During the preparation of the required development impact fee study, those properties that were designated for preservation and those that the City already controlled were identified. It was determined that the areas to be preserved were greater than new development could be legally held responsible. A per capita amount of both the Community Separator and Open Space was calculated, and from that it was determined that 217 and 702 additional acres were needed respectively to maintain the existing standard in the future.