

Farmland Preservation: Lessons from Orange County

For years, state and local governments have experimented with a variety of growth management tools to maintain the economic viability of farming and to control spreading urbanization, public works projects, and other consumers of rural land. Orange County, North Carolina, is now in the process of instituting a Farm Preservation Program. This article describes the origin and nature of this program, evaluates its potential effectiveness at preserving farmland in Orange County, and makes suggestions for other North Carolina communities.

FARMLAND DECLINE IN ORANGE COUNTY

The land in Orange County has been actively farmed since before the American Revolution. Except for urban development in and around the towns of Chapel Hill, Carrboro, and Hillsborough, Orange County remains predominantly agricultural. Its rural residents are proud of their lifestyle, characterized by the family farm and small crossroads communities.

Despite declines in farm acreage, agriculture continues to be an important economic activity in Orange County. In 1977, cropland and pasture occupied over 23% of the county's land area (OCATF, 1980). In 1978, income from the sale of farm products and government payments to farms totaled \$23.6 million, or roughly \$300 for each citizen of the county (OCATF, 1980). More than half of this income came from two commodities: milk and tobacco. Tobacco income averaged \$2,500 per acre. Orange County ranked fifth in milk sales among the state's one hundred counties (OCATF, 1980).

Orange County's farm acreage has been declining and its population has been growing at faster rates than in North Carolina as a whole. Since 1950, the county population has grown 133%, from 34,435 to 77,055 in 1980 (see Table 1). Over the same thirty years, the state population has grown 45%, from 4,061,929 to 5,874,429. County farm acreage has fallen nearly 60%, from 179,073 acres in 1950 to 87,344 acres in 1978. In the decade 1964 to 1974 alone, total land in farms declined by 33.3% percent in Orange County and by 21.8% throughout the state (OCATF, 1980).

As the county's population increases, more land must be developed for residential, commercial and industrial uses. In such an environment, the landowner who chooses to remain in

agriculture faces strong market pressures for more intensive development, an increase in taxes as a result of the increased market value of his/her property and an increase in public services demanded by the growing population. It also becomes more difficult and more expensive to expand farm operations by purchasing or renting additional land. The above factors combine to create strong incentives for converting agricultural land to other uses. Table 2 shows total and percentage declines in farm acreage in each township from 1955 to 1977. The three townships with the greatest losses (Chapel Hill, Eno, and Little River) were among the four townships with the fastest population growth rates from 1960 to 1980.

In addition to private sector development, public works projects can be significant consumers of agricultural land. Within the period from 1955 to 1977, Interstate 85 was constructed across central Orange County (Eno, Hillsborough, and Cheeks Townships). In addition to the land directly consumed for highway construction, I-85 has undoubtedly increased development pressure in these townships by reducing commuting times to Durham and Burlington. From 1955 to 1977, total cropland and pasture acreage in these three townships declined by 26.1%, while it declined by 19.1% in the other five townships (OCATF, 1980).

THE FARM PRESERVATION PROGRAM

In response to these trends, the projected continuation of county population growth, and other concerns of Orange County citizens, the Board of County Commissioners established an Agricultural Task Force in May 1979. The Task Force, consisting of 27 full-time farmers and farm wives, was assigned four responsibilities (OCATF, 1980):

1. to consider the desirability of the County taking measures to preserve prime and/or unique agricultural lands and, if desirable, review techniques through which this might be accomplished;
2. to consider impacts of public works

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projects, such as roads, road construction, reservoirs, etc., on farming activities;

3. to consider impacts of farming on environmental quality, e.g., water, air, creation of nuisances;
4. to compile data on agricultural lands in Orange County, such as the rate at which farmland is being converted to non-farm use, and economic yield as a function of crop and soil type.

TABLE 1: Population and "Land in Farms"
Data for Orange County, 1950 - 1980

YEAR	POPULATION	LAND IN FARMS(ACRES)
1950	34,435	179,073
1954		165,902
1959		149,968
1960	42,970	
1964		131,555
1969		110,741
1970	57,567	
1974		87,812
1978		87,344
1980	77,055	

Source: U.S. Census of Population and U.S. Census of Agriculture

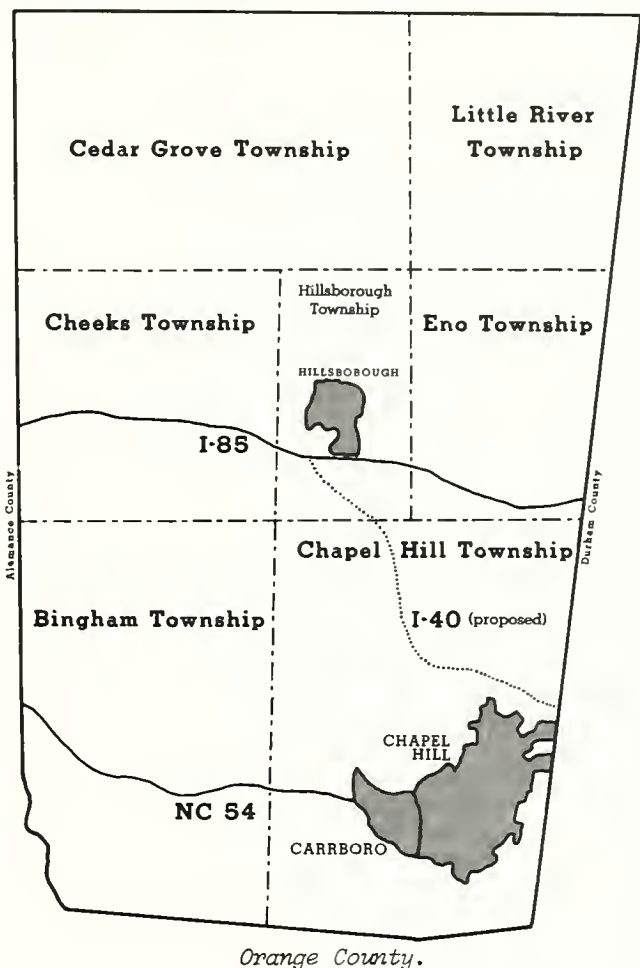
TABLE 2: County Farmland Change,
by Township, 1955 - 1977

TOWNSHIP	Changes in "Cropland" and "Pasture"	
	ACRES	PERCENT
Chapel Hill	-5,531	-47.2%
Little River	-3,418	-32.0%
Eno	-2,406	-37.0%
Cheeks	-1,796	-18.1%
Bingham	-1,454	-1.6%
Hillsborough	-1,008	-27.8%
Cedar Grove	-165	-0.9%
ENTIRE COUNTY	-15,769	-21.1%

Source: OCATF 1980, Table 4-8 (from N.C. Crop and Livestock Reporting Service data)

After considering the problems facing agriculture in Orange County, the Task Force adopted the following four policy objectives "to provide a basis for county agricultural preservation and rural land use planning policies" (OCATF, 1980):

1. the problem of increasing tax burdens on agriculture should be alleviated;
2. the occurrence of complaints and nuisance suits against farm operations should be minimized;
3. the negative impacts of proposed public projects on farming operations and on prime farmland should be minimized;



4. relocation of farming operations due to non-farm development pressures should be minimized.

The Task Force's Farm Preservation Program, developed with the assistance of the Planning Department, seeks to alleviate the economic pressures and the physical development pressures facing the county's farmers and stimulating the conversion of farmland to other uses. To meet these objectives, the Task Force developed an incentive-based program which relies on the voluntary participation of individual farmowners. The program, as recently adopted by the Board of County Commissioners, consists of the following elements:

I. Four Classes of Participation

Class A: Farms enrolled in the N.C. Farm Preferential Taxation Program (assessment at use value).

Benefits: Use value assessment.

Class B: Farms enrolled in the N.C. Farm Preferential Taxation Program and covered by a twenty-year development

rights agreement with the county (prohibiting non-farm development on all but three lots meeting minimum Orange County zoning and subdivision standards).

Benefits: Use value assessment.

Class C: Farms enrolled in the N.C. Farm Preferential Taxation Program, and covered by a ten-year development rights agreement similar to that for Class B.

Benefits: 90% use value assessment.

Class D: Identical to Class C except that the development rights agreement is for twenty years and assessment is at 80% of use value. In addition, no property tax will be assessed on new farm structures on Class D farms.

Benefits: 80% use value assessment.

Additional benefits accruing to all classes:

- a. No assessment or fee for water and sewer extensions as long as no use is made of the extension by the farmowner.
- b. Disclosure statement required for all land transfers on tracts within 600 feet of a farm (informing purchasers about the preferred and pre-existing nature of the existing agricultural use).

II. Voluntary Agricultural Districts

Formation: Signed agreement among participating farmowners to sustain agriculture within the district. Must consist of at least 640 contiguous acres of land enrolled in Classes A, B, C and D.

Benefits: Each district entitled to appoint one voting member to the Agricultural Advisory Board.

III. Agricultural Advisory Board

To be composed of one member from each voluntary agricultural district plus nine other farm people appointed by the Board of County Commissioners. Tasks include the following:

- a. Review major private developments potentially affecting agriculture (as determined by the Planning Board), with

reports and recommendations forwarded to the County Planning Board and to the Board of County Commissioners.

- b. Review and approve agreements forming voluntary agricultural districts.

- c. Hold mandatory public hearings on the agricultural impact of the use of eminent domain on farmland, with results and comments forwarded to the governing body of the agency proposing use of eminent domain, to the N.C. Secretary of Agriculture, and to the Board of County Commissioners.

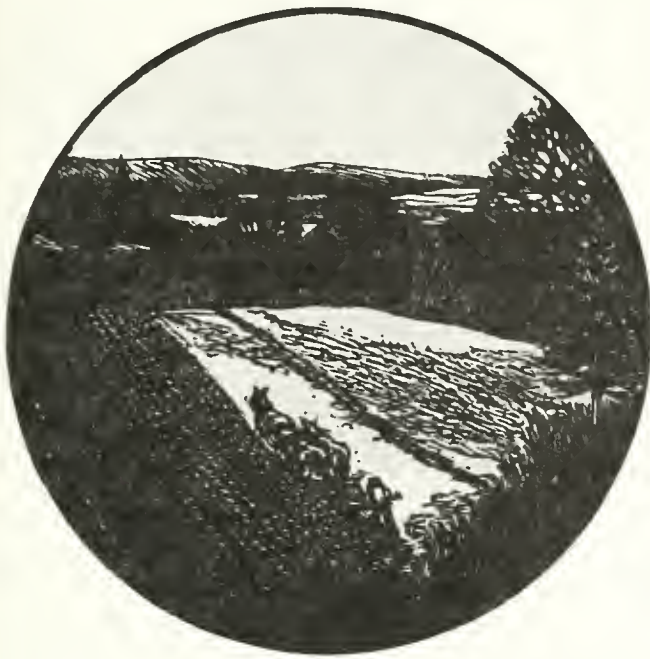
- d. Periodically review the Farm Preservation Program and recommend necessary changes to the Board of County Commissioners.

Will the Program Discourage Farmland Conversion?

All four classes of participation in the Program include preferential taxation to reduce the tax burden of Orange County farmers and thus discourage the conversion of farmland to non-agricultural uses. North Carolina's Farm Preferential Taxation Program (G.S. 105-277.2ff) was enacted by the General Assembly in 1973. Preferential taxation programs assess participating farms at use value rather than at market value, creating a savings for the farmowner. To be eligible for use value assessment in North Carolina, a farm must be at least ten acres large and have generated from the sale of farm products an average gross annual income of \$1,000 for the preceding three years. Participation is voluntary; a farmowner must apply annually to the county tax supervisor for acceptance into the program. If the farm is otherwise eligible, counties may not condition acceptance on the signing of a restrictive agreement.

PREFERENTIAL TAXATION ONLY DELAYS
CONVERSION IN THE FACE OF URBANIZATION;
IT IS NOT A PERMANENT SOLUTION.

The state's Farm Preferential Taxation Program is administered by county governments as part of their regular property tax procedures. Once the county tax supervisor accepts a property into the program, the land is assessed and taxed at use value. At the same time, the tax supervisor assesses the property's full market value in order to keep a record for the calculation of deferred taxes. These assessments can change when each county undergoes a complete revaluation (every eight years). If the landowner sells the farm for any use or converts it to a non-agricultural use, deferred taxes for the preceding three years are due with 6% interest. If the landowner fails to notify the



tax supervisor of a change in ownership or land use, an additional penalty of 10% is levied on the deferred taxes.

The Orange County program proposes the assessment of Class C and Class D farms at even lower values (90% and 80% of use value, respectively). This below-use-value assessment will be granted in return for development rights agreements which will keep the land in agriculture for ten or twenty years. This additional savings is a give-away to Orange County farm-owners; there is no penalty for breaking the development rights agreement other than the regular three-year roll-back.

While the county may enter development rights agreements with landowners under North Carolina law, it currently may not assess property at less than use value. This would require new enabling legislation from the State General Assembly. In addition to the below-use-value assessment, the Task Force has proposed eliminating property tax assessments of new farm structures on Class D lands and exempting participating farmowners from assessments or fees for water and sewer extensions as long as the farmer does not tap into the extension. Orange County is in the process of introducing these ideas to the state legislature. Given the uncertainty of the General Assembly's reaction (even though the state agricultural lobby is very strong), Orange County might be better off relying on measures currently within its power.

In designing the Program, the Agricultural Task Force apparently gave little consideration to the effects that reduced valuation would have on the county's tax base. The property tax is the backbone of local government revenue in the United States. Agriculture is an important

class of property within Orange County. A reduction in farm property taxes will either reduce county revenues or increase the tax bills of non-farm residents (Hady and Sibold, 1974).

The proposed Orange County Farm Preservation Program should meet its objective of alleviating tax burdens on farmers. The savings will be greater for farmers at the urban fringe or in other areas experiencing strong development pressures; it is here that the larger difference occurs between market value and use value. The savings will be less for farmers in areas experiencing weaker development pressures.

However, differential assessments and roll-back taxes do not constitute a strong incentive to keep land in agriculture when the land faces strong development pressure (RSRI, 1976). Preferential taxation only delays conversion in the face of urbanization; it is not a permanent solution. Farmland on the urban fringe can frequently fetch a price for non-farm development which outweighs any tax savings accruing from preferential taxation. Rising taxes are only one reason for farmers deciding to sell their land. A farmer may decide to retire and sell some of his/her land to residential developers as a source of retirement income. As land is handed down within one family, some offspring may not want to farm it, preferring to sell the land to developers. In order to preserve agricultural land, other development guidance measures must be used, either alone or in conjunction with preferential taxation programs.

Control over private sector development is an essential component of any farm preservation program. After considering a variety of growth management tools, the Agricultural Task Force chose not to include mandatory land use restrictions in the Farm Preservation Program. The only measures which control private development are voluntary. The proposed Farm Preservation Program includes provisions for the formation of voluntary agricultural districts; these are not zoning districts.

THE PROPOSED ORANGE COUNTY FARM PRESERVATION
PROGRAM SHOULD MEET ITS OBJECTIVE OF
ALLEVIATING TAX BURDENS ON FARMERS.

Agricultural zoning can be either exclusive or cumulative. Agriculture, farm structures, and related farm residences are the only permitted uses under exclusive agricultural zoning. North Carolina law does not enable local government to use exclusive agricultural zoning. Exclusive zoning can be very effective at preserving farmland; however, it so restricts property uses that 'taking' challenges would be unavoidable. State law does allow cumulative agricultural zoning, which provides for agricul-

ture and non-farm residential development in an attempt to limit non-farm growth to uses 'compatible' with agriculture. Agricultural-residential (A-R) zones are commonly used by North Carolina counties. These zones provide landowners with alternative uses of their land (usually low-density residential development), reduce their concerns over the restriction of property rights, and avoid 'taking' challenges. A farmowner is still allowed to realize capital gains from the sale of land for non-farm development. The Agricultural Task Force chose not to include minimum lot sizes or other zoning provisions in the Farm Preservation Program because of the farming community's general opposition to land use planning regulations.

The use of a transferable development rights (TDR) program would achieve the same ends as agricultural zoning while allowing restricted landowners to be compensated by the market for development rights. While this option is very attractive, the Agricultural Task Force chose not to pursue it because (1) it was not clear how development rights initially would be distributed, and (2) public acceptance of such an esoteric program was uncertain given current attitudes toward land use restriction in rural Orange County (OCATF, 1980).

The purchase of development easements by



the county would be the most effective way to preserve farmland; it would preserve farmland indefinitely and fully compensate the landowner for restriction of the property's use. However, the high costs of such a program to the County government rendered it unattractive to the Task Force.

The measures presented in the Farm Preservation Program will be marginally effective at controlling non-farm development on agricultural land. Restrained by a conservative political atmosphere, the Program relies entirely on voluntary measures with weak incentives for participation. Participation in a voluntary agricultural district will yield the opportunity to elect a member of the Agricultural Advisory Board, which will have only review and comment power over private development. Enrolling as a Class C or Class D unit in a long-term development rights agreement with the County will provide property tax assessment at 90% or 80% of use value, if the Legislature provides the necessary authority. Many farmowners will not consider these benefits strong enough for them to participate in the program. Despite their pride in the rural lifestyle and their desire to keep agriculture viable, farmowners in Orange County do not necessarily want to limit their options of selling or developing their land.

In addition to the formation of voluntary agricultural districts and the voluntary development rights agreements, the only other mechanism in the Farm Preservation Program for controlling non-farm development is the Agricultural Advisory Board's power to review and comment on major private developments. The Planning Board and the County Commissioners will consider these comments in their decision to approve or disapprove a new development. However, they cannot disapprove the proposed development as long as it meets applicable requirements of the county's zoning and subdivision regulations.

HOWEVER, THE COUNTY'S EXISTING ZONING AND SUBDIVISION REGULATIONS DO LITTLE TO CONTROL SCATTERED NON-FARM RESIDENTIAL DEVELOPMENT.

Non-farm growth can be most effectively controlled by the integration of farmland preservation policies into Orange County's Comprehensive Land Use Plan and its joint planning agreements with the Orange Water and Sewer Authority (OWASA) and the towns of Chapel Hill and Carrboro. All of these documents currently contain provisions encouraging non-farm development (public and private) to locate in existing activity nodes rather than spreading throughout the county. However, the county's existing zoning and subdivision regulations do little to control scattered non-farm residential development. The county's Land Use Plan and joint

planning agreements, in conjunction with the new Agricultural Advisory Board's review and comment power, will inhibit large-scale and high-density development from locating outside of existing towns and designated "transition" areas. They will likely have a much lesser impact on low-density residential development, which will continue to be a significant consumer of agricultural land.

ORANGE COUNTY'S EXPERIENCES PROVIDE VALUABLE
LESSONS FOR OTHER NORTH CAROLINA COMMUNITIES
ENGAGING IN FARM PRESERVATION EFFORTS.

Will the Program Minimize the Impact
of Public Works Projects?

In addition to controlling private development, local government must also exert control over the location of public works projects in its efforts to preserve farmland. The impact of Interstate 85's construction on the county's farm acreage was outlined earlier in the article. The proposed extension of Interstate 40 through Chapel Hill and Hillsborough Townships will undoubtedly increase their already high rates of farmland loss. Some loss will occur directly from the use of eminent domain to purchase land for highway construction. Perhaps more important will be the increased population growth and development pressure brought to the county by the decrease in commuting times to Durham and Research Triangle Park. Similar concerns have been expressed by the Task Force concerning proposals to widen I-85 and to construct a new by-pass of N.C. 54 in Chapel Hill and Bingham Townships (OCATF, 1980).

Two proposed reservoirs, Cane Creek (in Bingham Township) and Seven Mile (in Cheeks and Cedar Grove Townships), will also reduce the amount of available farmland. Land for the reservoirs will be purchased or condemned by eminent domain. The increased water supply may create an additional stimulus for further growth and further farmland conversion in the county. Since it is farther along in development than Seven Mile Reservoir, the Cane Creek project has generated heated debate within Orange County, pitting farmers against OWASA.

The Agricultural Task Force has included provisions in the Farm Preservation Program which attempt to avoid future conflicts between farming and public projects. One responsibility of the proposed Agricultural Advisory Board is to hold mandatory public hearings on the agricultural impacts of using eminent domain on participating farms, and to forward recommendations to the Board of County Commissioners, the N.C. Secretary of Agriculture, and the body governing the agency proposing the use of eminent domain. The Task Force has also proposed asking the General Assembly to grant the N.C.

Secretary of Agriculture veto power over the use of eminent domain on participating farms.

The formation of an Agricultural Advisory Board will help strengthen the voice of farmers in reviewing public projects and will strengthen the chance for due consideration of their concerns in county-level decision making. While the Agricultural Advisory Board will have no decision powers, its recommendations could be useful and influential in guiding development in Orange County.

LESSONS FOR OTHER COMMUNITIES

Farm preservation is both a land use management issue and an economic development issue. Any program to maintain agriculture as a viable part of the local economy and social structure must look at the full range of problems facing the agricultural sector and the full range of solutions within the power of local government. Orange County's Farm Preservation Program is innovative and broad-ranging, but it falls short in controlling the development pressures facing farmers. Orange County's experiences provide valuable lessons for other North Carolina communities engaging in farm preservation efforts.

COMBINE LAND USE CONTROLS WITH ECONOMIC AND
POLITICAL INCENTIVES FOR PARTICIPATION.

Get good data on trends in the agricultural sector. Rely on the U.S. Censuses of Population and Agriculture, the N.C. Crop and Livestock Reporting Service, and other state and local agricultural agencies. Determine if land is being converted to non-farm uses or is being left fallow. Determine the causes of farmland conversion and farm failure.

Get farmers involved in identifying the concerns of the agricultural sector and strategies for addressing them. Despite their typical opposition to strict development controls, farmers realize the need for action. No farm preservation program will survive without their support.

Be creative. Explore non-traditional development management strategies. Combine land use controls with economic and political incentives for participation.

Don't give something for nothing. Strong commitments are essential. Penalties for withdrawal from a program are just as important as incentives for participation. Assess the potential impact of economic incentives on local fiscal capacity.

Rely as much as possible on existing local powers to control public and private develop-

ment. Orange County is now drafting new local legislation and proposing new state legislation. While current state enabling legislation limits what a local government can do, pressing for new state legislation is a risky investment of local resources.

Integrate farm preservation policies into the community's other planning efforts (comprehensive land use plans, capital improvement plans, etc.).

Pursue alternative farm management and marketing strategies. Preferential taxation is not the only means to relieve the economic burdens of farmers.

Even though the problems facing farmers are linked to regional and national economic trends, local governments need to counteract the political and economic forces constraining effective farm preservation. The task is necessary if North Carolina is to retain its rural character and agricultural economy.

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