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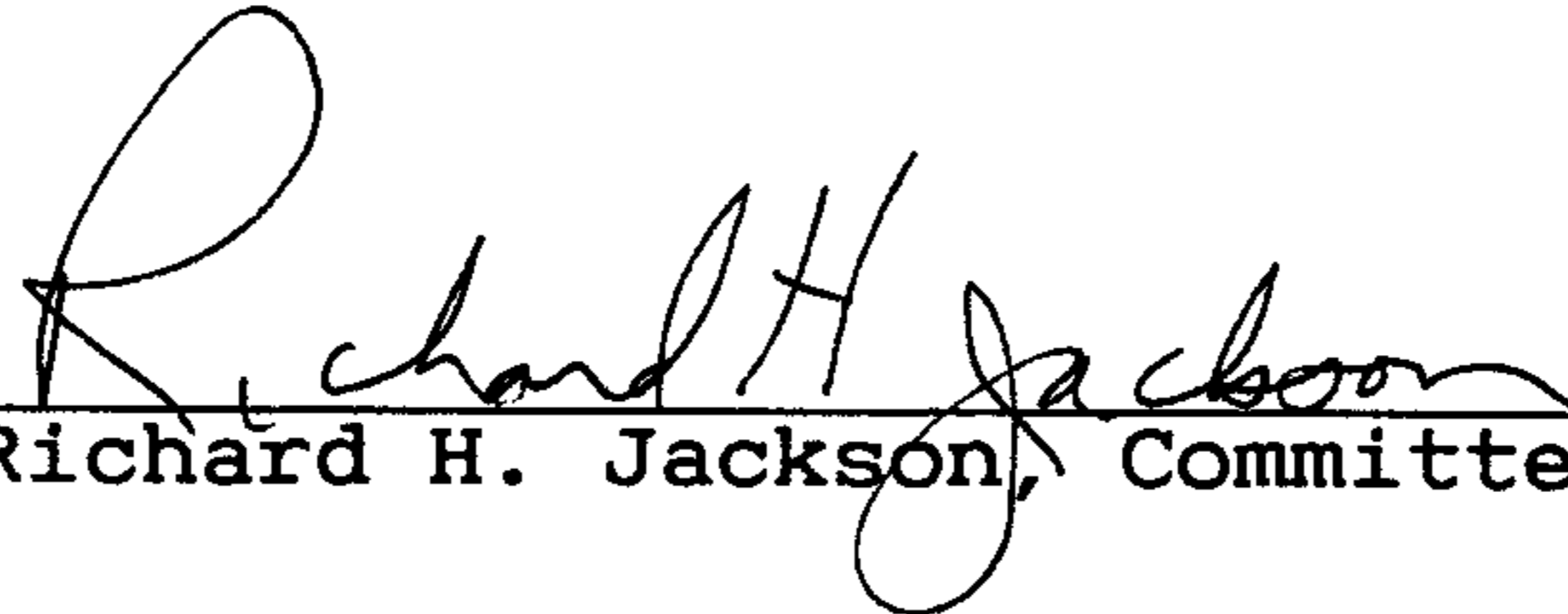
COUNTY-LEVEL LAND USE
PLANNING POLICIES AND REGULATIONS
IMPACTING THE PATTERN OF SETTLEMENT
IN UTAH COUNTY, UTAH

A Thesis
Presented to the
Department of Geography
Brigham Young University

In Partial Fulfillment
of the Requirements for the Degree
Master of Science

by
Erik A. Johnson
June 1988

This thesis, by Erik A. Johnson, is accepted in its present form by the Department of Geography of Brigham Young University as satisfying the thesis requirement for the degree of Master of Science.


Richard H. Jackson, Committee Chairman


Lloyd Hudman, Committee Member

6/3/68
Date


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Chapter 1

INTRODUCTION

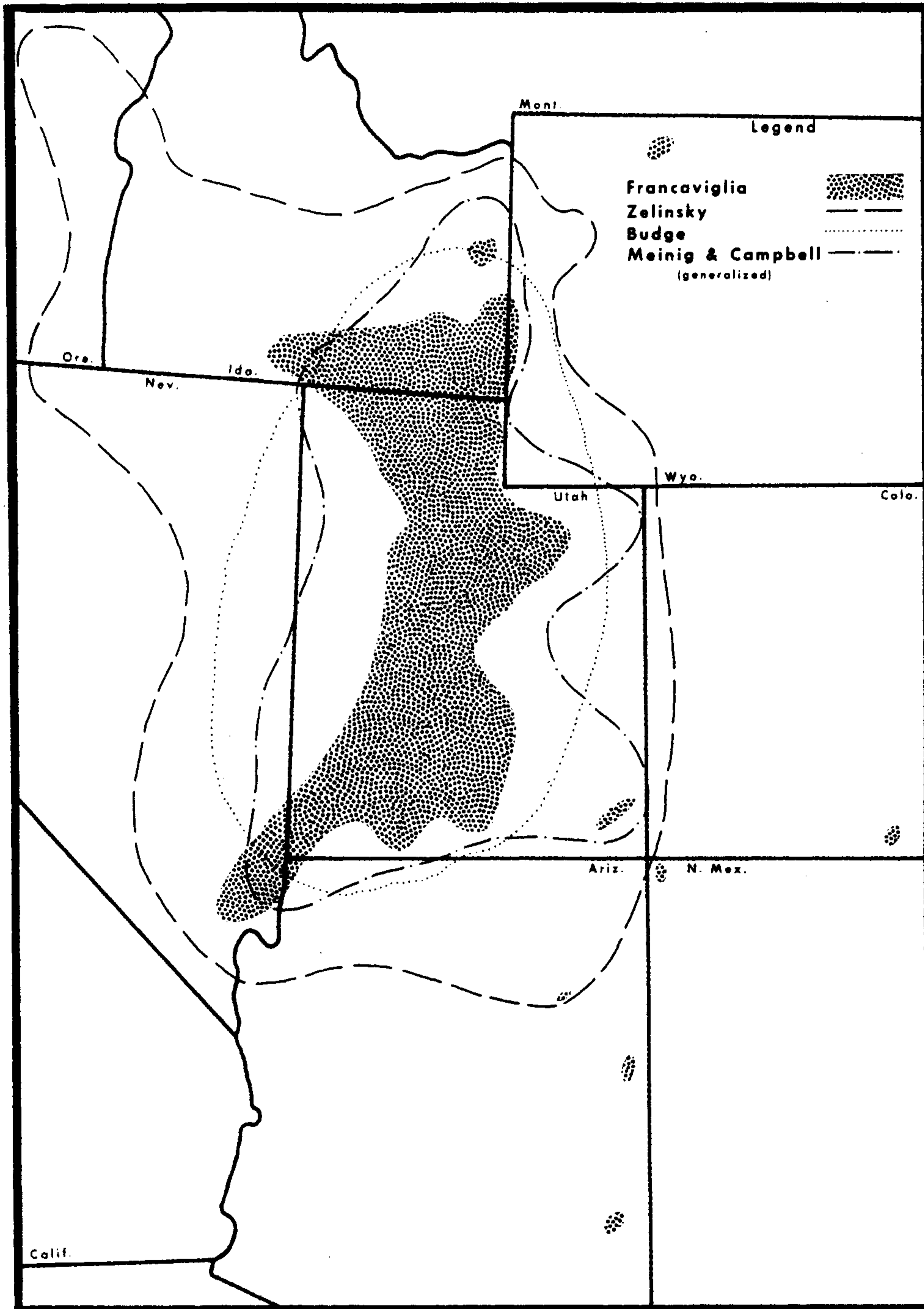
In an article entitled "A Geographer's View of America's Queerness," the late Ellsworth Huntington wrote of America's inability to recognize its own "queerness" or uniqueness. In his analysis, Huntington pointed out several common characteristics of American settlement patterns that are unique or peculiar to the United States.¹ His concept of national queerness can also be related to peculiarities among regional and local areas.

One of the more plainly identifiable occurrences of a distinctive regional settlement pattern within the United States can be found in the Mormon-colonized, grid-based communities of the mountain west, centering on Salt Lake City. According to Richard Jackson, cities and towns within this "Mormon cultural region" (See Map 1), having origins tied to 19th century Mormon settlement, can easily be distinguished from other nucleated, grid-based communities of the west by their distinctively large lots and blocks, and their consistently wide streets.²

¹ Ellsworth Huntington, "A Geographer's View of America's Queerness," Education, Vol. 52, No. 5 (January 1932): 254-257.

² Richard H Jackson, "Religion and settlement in the American West: The Mormon Example," Geographia Religionum, Band 2, 1986, 245, 262.

Map 1. Four Definitions of the Mormon Cultural Region



Source: Richard H. Jackson, "Religion and Settlement in the American West: The Mormon Example," *Geographia Religionum* (1986), 246.

Modern Utah urbanization has resulted in two clearly recognizable settlement patterns associated with the original villages of the Mormon cultural region. The first pattern is a settlement typical of American suburbia, where modern suburban growth has filled the large village lots and blocks, and then irregular subdivisions and street patterns have been added to the perimeter of the original townsites. Jackson described the second settlement pattern as a distinctive "relic" landscape of the 19th century, with villages of insufficient population to utilize the exceptionally wide streets or develop the large lots and blocks that once contained garden plots, corrals, and agricultural buildings.³

Although the usual factors that enter into modern urbanization, such as population, transportation lines, industry, commerce, etc., have been the primary reasons for the most obvious settlement pattern differentiation in the Mormon cultural region, government planning policies and regulations have also subtly contributed to the creation of identifiable variations.

Mormon-colonized regions and communities are ideally suited for comparison with one another to determine planning-related variations in settlement patterns. Their similar origins and designs provide a common beginning from which deviations can be identified and observed.

³ Ibid., 262-263.

The following chapters will analyze planning policies used by Utah County, Utah, in an effort to preserve the nuclear settlement pattern established by its early Mormon settlers. This analysis will include descriptions of individual policies used by the County to encourage nuclear settlement, and explanations as to why each policy was specifically chosen. In addition, this thesis will attempt to reveal that as a result of these planning policies, Utah County has derived a peculiar settlement pattern which distinguishes it from other counties in the State of Utah.

Terms and Definitions

In the following pages the terms "multi-nuclear" and "satellite-greenbelt" are used interchangeably. Over the years, these terms have been used repeatedly in Utah County planning documents in reference to the dominant pattern of settlement found in the County, typified by a series of urban centers surrounded by undeveloped land. The Provo/Orem area is recognized as the principal nucleus in this pattern. "Sprawl" development is regarded as the antithesis to this pattern of settlement, since it is typified by an unconsolidated or scattered pattern.

"Agricultural land", "open space", and "greenbelt" are also used interchangeably. For the purposes of this thesis these terms are specifically intended to describe the non-urban, non-canyon, valley areas of Utah County that have

historically been used for the cultivation of crops and the grazing of livestock. Utah County planning documents have generally grouped the unincorporated valley areas of the County under the classification "Agricultural Lands" or "Greenbelt", regardless of actual use.

The term "urban development", as used in this thesis, includes any type of non-agricultural development, encompassing commercial, residential and industrial structures and uses.

"Unincorporated County" refers to land in the County situated outside of the boundaries of incorporated cities.

Background Facts

Utah County is the second most populous county in the State of Utah and fourth in population density per square mile, with most of its residents located in a relatively narrow land area known as 'Utah Valley'⁴ which lies between the Wasatch Mountains and Utah Lake. Characteristics of settlement in Utah Valley typify the County's peculiarity. While Utah Valley consists of less than 25% of the County's total land area, it is home to over 90% of the County's estimated 241,000 people.⁵ In addition to a large

⁴ In spite of its frequent use, 'Utah Valley' is not yet an official place name recognized by the U.S. Geological Survey.

⁵ U.S., Department of Commerce, Bureau of the Census, 1980 Census of Population, Vol. 1, Characteristics of the Population, Ch. A, Number of Inhabitants, Pt. 46, Utah, 13-15; Ibid., 1986 Population Estimate.

population, Utah Valley also contains the bulk of the County's richest agricultural lands. Not surprisingly, the growing population in Utah Valley has created competition between agricultural and residential uses for limited land area, resulting in the expansion of municipal boundaries and the location of suburban sprawl and leapfrog development in historically agricultural zones. What is surprising, however, is the extensive amount of relatively undisturbed agricultural land that still coexists in close proximity to adjacent municipalities in Utah Valley.

A comparison of counties within the State of Utah will reveal that, of the four most urban in the State, Utah County has more fully retained its original nucleated settlement pattern. In addition, Census data indicates that Utah County has a lower per capita percentage of unincorporated population than all but one (Cache County) of the other counties in the State. This is so because, by and large, urban and suburban growth in Utah County has located within the boundaries of existing cities without corresponding growth in the adjacent unincorporated territory. This pattern of slow growth in the unincorporated area is peculiar when considered in light of the County's large and rapidly expanding population. Similar slow-growth patterns have not developed in the unincorporated areas of neighboring Salt Lake, Davis and Weber Counties, ranked first, third and fourth in population, respectively. Furthermore, there are

higher unincorporated populations in many of the sparsely populated counties of the state, even though these counties are less agriculturally-oriented than Utah County.

The unusually slow growth and low population density in the unincorporated territory of Utah County are not simply demographic flukes or happenstance occurrences, nor are they the consequence of real estate market trends. They have been intentionally accomplished through deliberate County-level planning policies designed to control non-agricultural growth in the unincorporated areas. Since the 1940s, such policies have been consistently encouraged and enlarged, beginning with the modest objective of obtaining orderly development around cities and eventually evolving into an agricultural "greenbelt" preservation program designed to accomplish the following goals: 1) to encourage agriculture; 2) to keep prime farmland in agricultural use; 3) to foster an aesthetically pleasant rural setting; 4) to perpetuate individual community identities through preservation of peripheral greenbelts; and 5) to keep property taxes low by limiting the need for government-supplied services.

Chapter 2

PHYSICAL SETTING AND HISTORICAL SETTLEMENT

Physical Setting

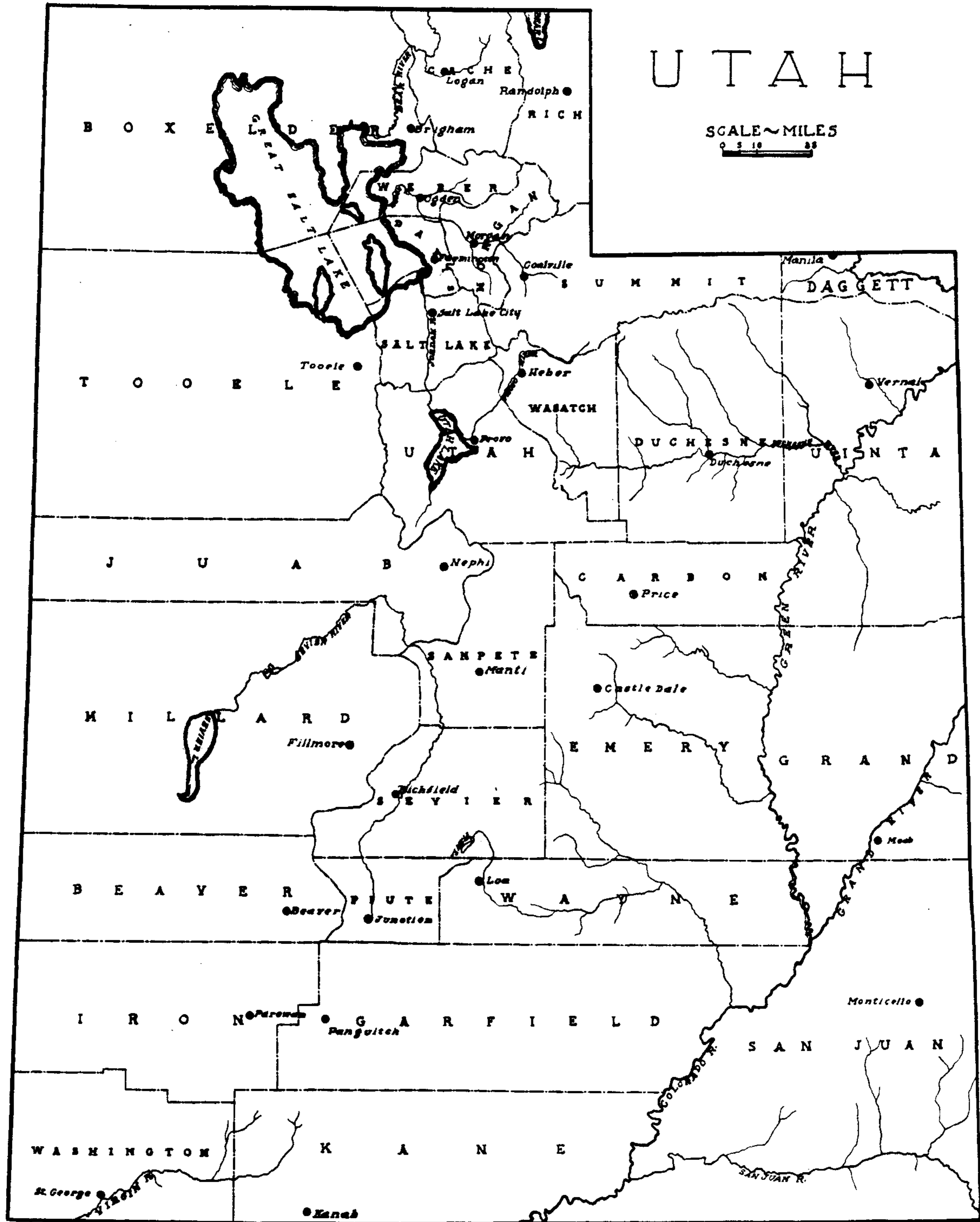
Situated in north-central Utah (See Maps 2 & 3), Utah County ranks 16th of Utah's 29 counties in area, covering approximately 1,370,000 acres or some 2,140 square miles.⁶ Included in the County's total land area is over 485,000 acres of Forest Service land, most of which is located in the mountainous eastern and southern regions of the county, and 70,000 acres under the control of the Bureau of Land Management,⁷ primarily located west of Utah Lake. Utah Lake covers approximately 89,000 acres or 140 square miles.

According to geologic history, the Wasatch Mountains, which make up the east half of the County, are seventy million years old. The valley area lying west of the mountains, on the other hand, was formerly the bed of Lake Bonneville, an enormous inland sea that dried up some 10,000 years ago. The Provo River, American Fork River, Spanish

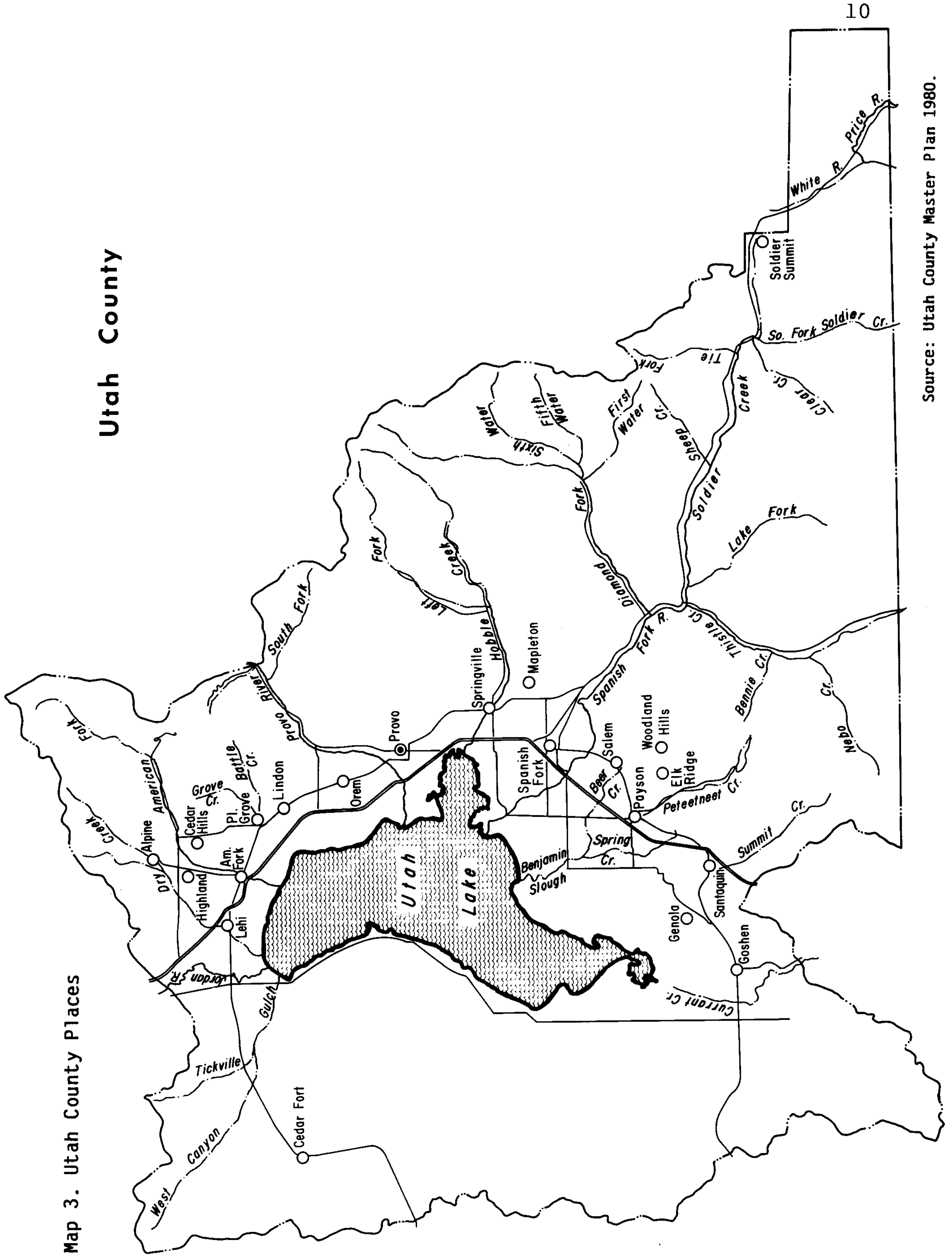
⁶ Utah Association of Counties, Utah County Government Fact Book (Salt Lake City, UT: Utah Association of Counties, 1981), 353.

⁷ Bureau of Economic and Business Research, Graduate School of Business, University of Utah, Utah! Facts (Salt Lake City, UT: BEBR, 1980) Ch. VI, 10.

Map 2. Utah Counties and County Seats



Map 3. Utah County Places



Utah County

Source: Utah County Master Plan 1980.

Fork River, and Hobble Creek system drain into Utah Lake from extensive upland areas that comprise parts of five counties.⁸

Utah County ranks second among all of Utah's counties in total population.⁹ The bulk of the County's population and physical development is located in the valley areas along the western edge of the Wasatch Mountain Range. This Range has created a natural barrier, resulting in a linear pattern of cities running north and south through the State.

Although not an officially recognized place name, the area of the County lying between Utah Lake and the Wasatch Mountains is generally referred to as Utah Valley. The valley was a prime site for Mormon settlement because of the availability of water from the mountain streams feeding Utah Lake. The relatively level ground and rich alluvial soils that the streams have deposited over the centuries have made it the most ideal location in the County for cultivation of necessary foodstuffs.

The Utah County Master Plan 1980 describes the shape of the County's modern settlement pattern as "an hourglass", with the highest concentration of its population located in the vicinity of the narrow aperture of land between Provo Bay and the Wasatch Mountains. Over 90 percent of the County's

⁸ Utah County Planning Commission, Utah County Master Plan 1980 (Provo, Utah: 1980), 6.

⁹ U.S. Department of Commerce, Bureau of the Census, July 1986 estimate.

residents live within the boundaries of the seventeen cities located on either side of the aperture (See Map 4).

Table 1. Utah County Population Estimates

City	Population
*Alpine	3,380
*American Fork	15,270
Cedar Fort	350
*Cedar Hills	710
*Elk Ridge	560
Genola	740
Goshen	660
*Highland	4,080
*Lehi	8,100
*Lindon	3,850
*Mapleton	3,230
*Orem	61,590
*Payson	9,530
*Pleasant Grove	13,200
*Provo	77,480
*Salem	2,630
*Santaquin	2,610
*Spanish Fork	10,910
*Springville	13,300
*Woodland Hills	80
Unincorporated	8,240
Total	240,500
*In Utah Valley	

Source: U.S. Department of Commerce, Bureau of the Census, July 1986 Estimate.

Historical Settlement

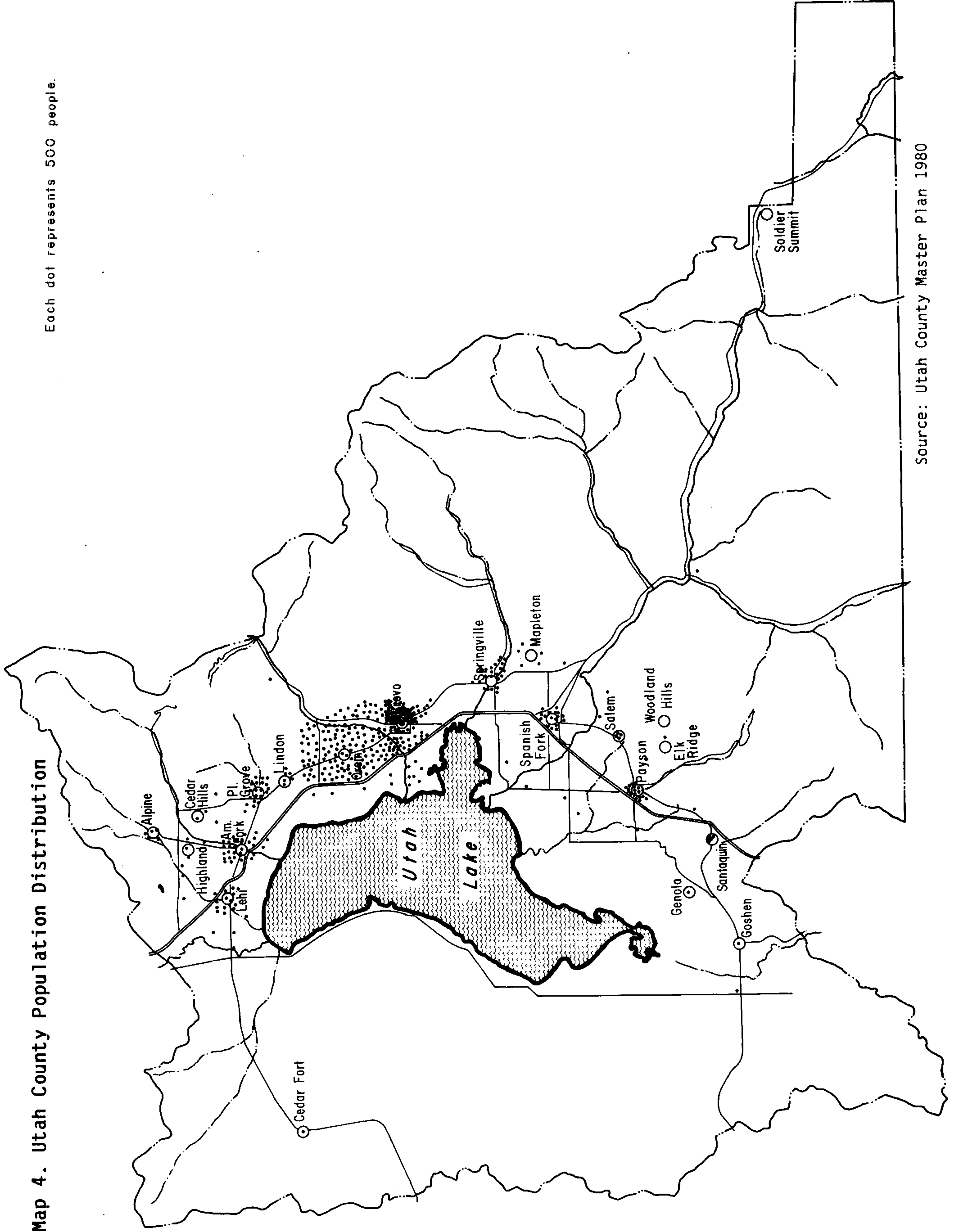
Pre-Mormon Settlement

Over the centuries, several Indian cultures resided in the area now known as Utah County. The Ute Indians, after whom the County and State were named, were making the basin a summertime home in 1776 when the first documented

Population Distribution

Map 4. Utah County Population Distribution

Each dot represents 500 people.



expedition of white men entered Utah Valley. The expedition was led by two Spanish officials from New Mexico, who were looking for a better passage to the Missions in Monterey, California. The Franciscan priests, Silvestre Velez de Escalante and Antanasio Dominguez, stayed in the valley for three days visiting with the friendly Indians and then returned to New Mexico.¹⁰ In the early 1800s many other frontiersmen visited the region.

A substantial number of people were in and traveled through Utah Valley before the Mormons entered the Great Basin. General William Henry Ashley and men of his company hunted the lakes and the streams for fur bearing animals. Jedediah S. Smith, David Jackson, and William Sublette, all as individuals or in organized companies, were in Utah Valley during the 1820-30 decade.¹¹

The most famous early visitor was Etienne Provost, the French-Canadian trapper known as "man of the mountains", who, it is believed, discovered the Provo River that bears his name.¹²

¹⁰ J. Marinus Jensen, Early History of Provo, Utah (Provo, UT: New Century Printing Co.) 1924, 17-23.

¹¹ John Clifton Moffitt, "A History of Provo, Utah," 1972(?), TMs [photocopy], 14.

¹² Ibid.

Early Mormon Settlement

In 1847 a group of Mormon pioneers led by Brigham Young reached Salt Lake Valley, having journeyed from Illinois, then considered the American frontier. Almost immediately, Mormon leaders sent out parties to look for choice settlement sites to be colonized by those who would come later.¹³

In September 1848, Presidents Young and Kimball brought into the valley of the Great Salt Lake two large companies of Saints from Winter Quarters, making the number of souls in the colony about 5,000. It was now time to put into effect President Young's plan of colonization. In March, 1849, John S. Higbee . . . was called by President Young to form a settlement on Provo River in Utah Valley, and some thirty families, numbering nearly 150 souls, set out under Higbee to found Provo City.

By the middle of May the settlers had 225 acres of land laid out and apportioned to forty families, the colony having increased in number by the arrival of other settlers from Great Salt Lake Valley.¹⁴

The Provo settlement, initially named Fort Utah, was soon followed by several other settlements in Utah Valley.

Mormon Cluster Settlement

Beginning with that very first settlement, Brigham Young instructed his people to live in clustered villages from which they could travel out to work the surrounding

¹³ Utah Association of Counties, Utah County Government Fact Book, 354.

¹⁴ Jensen, Early History of Provo, Utah, 33, 35.

farmlands. These clusters were usually located "just far enough away from the others so that all of the land in between could be effectively reached on foot and farmed."¹⁵

To add to the safety provided by the concentration of population, the earliest villages were often fortified, providing the settlers with considerably more protection from Indian attacks than could be provided by individual homesteads. Perhaps more important than answering the need for security, living close together in a community offered the pioneers an opportunity for organized education, social interaction, frequent church attendance, and many other benefits and comforts associated with town life. Brigham Young's involvement in the actual location, design, and population of new colonies was most likely the result of the teachings of the Church's founding leader, Joseph Smith, who had envisioned a "City of Zion" based on a similar plan.

As shown in Table 2, ten of Utah Valley's cities were settled in this manner between 1849 and 1855, including Lehi, Alpine, American Fork, Pleasant Grove, Provo, Springville, Spanish Fork, Payson, Salem and Santaquin.

Water-Related Settlement

Physical factors undoubtedly played a significant early role in determining the location of cities within the Mormon

¹⁵ Utah County Planning Commission, Utah County Master Plan 1980, 11.

Table 2. Incorporated Places of Utah County

Present Name (Former Name)	Settled	Incorporated
Alpine (Mountainville)	1850	1855
American Fork (Lake City)	1850	1853
Cedar Hills	1974	1977
Cedar Fort	1852	1965
Elk Ridge (Salem Hills)	1971	1976
Genola (Hardscrabble, Silver Lake, & Idlewild)	1881	1935
Goshen (Mechanicsville Sodom & Sandtown)	1857	1935
Highland	??	1977
Lehi (Evansville)	1850	1852
Lindon (Stringtown)	1856	1924
Mapleton (Union Bench)	1861	1902
Orem	1877	1919
Payson (Peteetneet)	1850	1852
Pleasant Grove (Battle Creek)	1850	1855
Provo	1849	1851
Salem (Pond Town)	1851	1886
Santaquin (Summit City)	1851	1890
Spanish Fork (St. Luke)	1850	1855
Springville	1850	1853
Woodland Hills	1970	1979

Source: Utah County Master Plan 1980, p. 7

cultural region. One vital requirement was proximity to an adequate water supply. Even before the Mormon pioneers arrived in Utah Valley it was decided by Church leaders that townsites should be located near streams where a dependable culinary water supply would be available. Evidence of this can be seen in the fact that the County's older cities generally vary in size relative to the size of the stream that passes through their respective city limits.¹⁶ Table 3 lists these cities and their associated streams.

Table 3. Stream-Related Settlements in Utah County

City	Primary Stream
Provo	Provo River
American Fork	American Fork River
Springville	Hobble Creek
Spanish Fork	Spanish Fork River
Alpine	Dry Creek
Lehi	Grove Creek
Pleasant Grove	Battle Creek
Salem	Beer Creek
Payson	Peteetneet Creek
Santaquin	Summit Creek

The Utah War

In 1857, the Mormons received news that U.S. Army troops were being sent to the Utah Territory in response to reports of a Mormon insurrection. As a precautionary measure, church leaders decided to virtually abandon the Salt Lake Valley as

¹⁶ Robert L. Layton, "An Analysis of Land Use in Twelve Communities in Utah Valley, Utah County, Utah" (Ph.D. diss., Syracuse University, 1962), 4-5.

the troops approached, and some 30,000 people from Salt Lake County and the northern part of the Territory were moved south into Utah County for a period of just over two months. During this period Provo became the Territory's chief city.¹⁷

After passing through the Salt Lake Valley on June 26, 1857, the Army continued on into Cedar Valley and established Camp Floyd, under the command of General Albert Sidney Johnston.¹⁸ General Johnston withdrew his troops in 1860, the last of them leaving in July, 1861. Following the "Utah War" President Brigham Young advised the Provo settlers to move out of the fort and build homes on selected sites in the platted part of the city.¹⁹ Each family had a quarter of a block, or more. As previously mentioned, the church leaders had a two-fold purpose in encouraging the combination of town and farm life: first, the system offered protection against Indians; and second, it provided an opportunity for a social and religious activity.²⁰

Homestead Act of 1862

Beginning in the late 1800s, the County's pattern of clustered villages surrounded by unsettled greenbelts began

¹⁷ Emma N. Huff, Memories That Live (Springville, UT: Daughters of Utah Pioneers) 1947, p. 25.

¹⁸ Jensen, Early History of Provo, Utah, 143, 146.

¹⁹ Ibid., 150, 152.

²⁰ Ibid., 152.

to deteriorate. As population grew and time passed, the threat of assault by local Indians diminished and the influence of Brigham Young in civil government waned. It became easier for the settlers to move out of town and live on their own. The Homestead Act of 1862 required settlers to live on their farmland for five years in order to obtain a patent.²¹ In spite of this legal requirement and the desire of some to be separated from the villages, a sentiment remained among most Valley residents that cluster settlement was preferable to living on isolated homesteads. Consequently, most farms again became uninhabited once the land was patented.²² Until World War II, the bulk of population growth in the County was absorbed within the grid of platted cities.²³

Transcontinental Railroad

In 1869 the first transcontinental railroad route was completed at Promontory Point, west of Ogden.²⁴ The population boom in the Territory shifted north as an almost immediate result of the completion of the railroad, and Utah

²¹ Charles H. Wride, "The Agricultural Geography of Utah County: 1849-1960" (M.S. thesis, Brigham Young University, 1976), 51.

²² Utah County Planning Commission, Utah County Master Plan 1980, 16.

²³ Layton, "An Analysis of Land Use in Twelve Communities in Utah Valley, Utah County, Utah," 84-85.

²⁴ Huff, Memories That Live, 27.

County settled back into an agrarian role. The railroad, along with a subsequently constructed line that passed through Utah Valley, greatly enhanced the value of agricultural produce in Utah County.²⁵ The completion of the railroad and the U.S. Industrial Revolution brought new opportunity for business and industry into Utah County and the Utah Territory. Despite the growing number of businesses, Utah County remained primarily agricultural in character well into the 20th Century.

Federal Reclamation Projects

For years, seasonally variable stream flows hampered the success of Utah Valley farmers. In 1905 the Strawberry Valley Water Users Association, with the assistance of the U.S. Reclamation Service, began constructing a reservoir in Wasatch County that would be partially drained into Utah Valley by way of a three-mile tunnel through the Wasatch Mountains. The Strawberry Reservoir Project, diverting water from the Colorado River drainage basin to irrigate some 42,000 acres in Strawberry and southern Utah Valley,²⁶ was completed in 1915 at a total cost of \$3.5 Million. The resulting idealized stream flows created by this Project

²⁵ Ibid.

²⁶ Wain Sutton, ed., Utah--A Centennial History, Vol. 1 (New York, NY: Lewis Historical Publishing Co., 1949), 90-91.

helped to make Utah County one of the top counties in the U.S. in value of agricultural production.

Another federal reclamation project in Wasatch County was commenced in the late 1930s. Deer Creek Reservoir, located above Provo Canyon, was constructed to give culinary water to Salt Lake City and more stable irrigation flows to northern Utah County.²⁷

Geneva Steel

During the 1940s, the economy of Utah County made a rapid shift from agriculture to industry, creating hundreds of jobs which accelerated population growth in the County.²⁸ The largest contribution to the economic shift was the wartime construction of the Geneva steel mill by the federal government. Located west of Orem on the edge of Utah Lake, the mill was constructed at a cost of \$200 million and was sold to U.S. Steel Corporation following the War in 1946. According to the Utah County Master Plan, besides covering hundreds of acres of prime farmland,

. . . the steel mill had other more subtle effects on the area's agriculture. For example . . . the economies of mechanization did not force local farmers to sell out; if their farms no longer supported a family, the farmers obtained employment at the steel mill and operated their ground after

²⁷ Huff, Memories That Live, 30; Sutton, Utah--A Centennial History, 91.

²⁸ Moffitt, A History of Provo, Utah, 137, 360.

hours. The rotating work shifts at the steel mill particularly lent themselves to the needs of a part-time farmer. Therefore, Utah County became unique in that it retained the small farm plots of the pre-mechanized period.

To make their farms less time consuming, the farmers gradually converted their lands from high-value, labor-intensive truck crops into hay, corn, pasture and other livestock feeds which could be easily managed with machinery and chemicals.²⁹

As will be discussed in Chapter 5, the steel plant also precipitated the establishment of planning policies and zoning regulations in Utah County.

Post World War II

Numerous steel-attendant industries were attracted to Utah County because of Geneva, further stimulating population growth and diminishing the economic significance of farming.³⁰ Evidence of rapid industrial and population growth could be seen in the quickly changing landscape of Utah County.

The barns and back-yard gardens of the municipalities were replaced with new houses, and the store and factory workers desiring a rural life style found no room in the city. With the prosperity of the post-war period, the non-farm resident found it possible

²⁹ Utah County Planning Commission, Utah County Master Plan 1980, 8.

³⁰ Moffitt, A History of Provo, Utah, 137, 209.

to buy a country lot and commute to work in an automobile.³¹

As happened throughout the country, the increased popularity and availability of automobiles following the War significantly changed established urban development patterns in Utah County. New roads and automobiles allowed the average American to travel great distances quickly and inexpensively, eliminating the necessity of non-farmers to live in town and increasing traffic through Utah County from outside areas.

State Street

Connecting Utah County with Salt Lake City on the north and Nephi on the south, a route known as "State Street" naturally developed as the county's primary traffic artery. Now a combination of U.S. Highways 6 and 89, and State Highway 156, the route passes through the Utah County cities of Lehi, American Fork, Pleasant Grove, Lindon, Orem, Provo, Springville, Spanish Fork, Salem, Payson, and Santaquin. Beginning as early as the 1800s commercial development was naturally drawn to the traffic of this transportation route, eventually resulting in commercial strip development extending through and beyond several cities in Utah County.

³¹ Utah County Planning Commission, Utah County Master Plan 1980, 16.

Interstate Highway 15

The automobile-oriented highway development decreased the economic emphasis on established, pedestrian-oriented, downtown commercial areas, encouraging even more highway development. During the 1950s the federal government initiated its interstate highway system. In his book Open Spaces: The Life of American Cities, August Heckscher wrote:

The interstate system was conceived as a means of moving traffic between cities. This vast construction, comprising 41,000 miles of multilane, limited-access highway, was the most costly works program ever undertaken by this country. At the beginning no one saw it as a development that would alter the shape of cities and crucially affect their spatial organization.^{3 2}

Early planning for a part of the federal interstate system running north-south through Utah began in the late 1950s. By the early 1960s construction had commenced on Interstate Highway 15 (I-15), a controlled access freeway which subsequently replaced State Street as the primary traffic artery in the County.

While the new highway might have been responsible for encouraging more travel within and through Utah County, it obviously adversely affected the extant cities because traffic was diverted from downtown commercial districts. Economically, the communities most negatively impacted by the

^{3 2} August Heckscher, Open Spaces: The Life of American Cities (New York, NY: Harper & Row, 1977), 118.

interstate were those located along State Street but not immediately adjacent to the alignment of the new freeway, such as Pleasant Grove and Salem. Almost without exception, the businesses located along the old highway experienced severe declines, although some of these areas have since rebounded as a result of increased local traffic generated by expanded populations.

In addition to indirectly destroying greenbelt areas by way of altering urban development patterns, the construction of the new highway covered an enormous amount of the County's choice farmland and permanently divided and isolated sections of previously contiguous agricultural tracts.

Freeway Related Industrial Annexations

The bulk of Utah County's estimated 240,500 residents live in an area between the Wasatch Range and Interstate Highway 15. From Lehi to Spanish Fork the interstate runs near enough to Utah Lake to pose regular water table problems for many of the properties adjacent to it, problems which were, in part, responsible for limiting early residential development in these areas.

While the actual right-of-way for the interstate was generally limited to a 300 foot strip, subsequent development has had no planned limitations. The fate of lands adjacent to the freeway has been left to a combination of factors, including economic demand and the inclination of neighboring

local governments. Starting as early as the 1960s, several cities began to annex the lands surrounding the freeway. In spite of often marshy conditions, much of this area has been zoned for industrial or commercial use in a clearly deliberate effort to increase municipal tax bases. Competition for economic growth has made commercial and industrial development a veritable plum to the cities of Utah County, which are usually happy to stake out new industrial sites in the greenbelt areas, particularly those areas adjacent to the freeway. As a result of this "fiscal zoning",³³ much of the land east of Utah Lake from American Fork to Springville has been taken out of agriculturally-oriented county control by municipal annexations. Under County control, nearly all of these lands were previously used and zoned for agricultural purposes. The municipal competition for industrial growth has resulted in an overabundance of undeveloped industrially zoned land in Utah County, within both existing municipal industrial parks and unimproved areas.³⁴

³³ Patrick J. Rohan, "State, Regional and Local Land Use Planning," chap in Zoning and Land Use Controls, Vol. 5, Ch. 33 (New York, NY: Matthew Bender, June 1985), 5.

³⁴ Utah Valley Industrial Development Commission, Utah Valley Databook (Provo, UT: UVIDA, 1986), 29.

Brigham Young University

In addition to the many new industrial jobs that were created in the County during the 1940s, the post-War baby boom and the influx of new converts to the Mormon church resulted in a period of extraordinary growth in Utah County. The expansion of Brigham Young University in Provo also powerfully impacted the County's population and settlement. Between 1950 and 1970, the University's enrollment grew from under 10,000 students to its present size of about 26,000. Concomitantly, the construction industry around Provo expanded to accommodate the increased population associated with the school's growth.³⁵

Municipal Annexations and Incorporations

Since the 1940s, numerous municipal annexations and incorporations have reduced the unincorporated area of Utah County with only rare objection by County government. In fact, the County's practice of steering growth into the cities has been so firmly entrenched that most annexations have generally been regarded as evidence of successfully applied growth-limitation policies.

As previously mentioned, the County's physical setting severely limits location of development. Utah Lake and freeway-related industrial annexations on the west and the

³⁵ Brian W. Maxfield, "Population Movements and Growth in Utah County, Utah, 1940-1980" (M.S. thesis, Brigham Young University, 1981), 64.

Wasatch Mountains on the east have forced expanding residential development to push north and south in Utah Valley, especially around Provo and Orem, the County's political and economic center. Much of this expansion has been associated with municipal annexations that have pushed into the County's greenbelt areas.^{3 6}

In addition to municipal annexations, several low-density greenbelt settlements have been created or substantially enlarged in recent years, including Highland, Cedar Hills, Manila, Lake View, Vineyard, Palmyra, Leland, Haskelville, Woodland Hills, Elk Ridge, and West Mountain.

^{3 6} The expansion of the County's municipal areas was mapped in ten-year increments by Brian Maxfield in a previously cited thesis entitled "Population Movement and Growth in Utah County, Utah 1940 to 1980."

Chapter 3

REASONS FOR GREENBELT PRESERVATION

Since just before the turn of the Century, there has been a growing national interest in the conservation of open space as a method of maintaining and improving the quality of human environment. "Open space" is a general term that potentially includes many classifications of land use. In spite of its generality, all open space land uses share one denominator; each "open space" can be characterized as a landscape, whether natural or man made.³⁷

The various uses and classifications of open space can be summarized as follows:

1. Open space for managed resource production
 - A. Lands for forestry
 - B. Lands for agriculture
 - C. Lands for mineral production
 - D. Lands for animal production
 - E. Lands for water supply
 - F. Water areas for fish and marine life production
2. Open space for preservation of natural and human resources
 - A. Water and marsh land areas for fish and wildlife habitats
 - B. Forest and woods for wildlife refuges
 - C. Geological features of note
 - D. Historic and cultural sites and places
3. Open space for health, welfare and well-being
 - A. Land to protect the quality of ground water
 - B. Open space for disposal of sewage, garbage, etc.

³⁷ The Urban Metropolitan Open Space Study, Edward A. Williams, Dir., Open Space: The Choices Before California (San Francisco, CA: Diablo Press, 1969), 17.

- C. Open areas to improve airshed quality
 - D. Areas for recreation
 - E. Areas for recreational travel
 - F. Areas to provide visual amenity
 - G. Areas to shape and guide development
4. Open space for public safety
 - A. Flood control reservoirs, flood plains, drainage channels and areas below dams
 - B. Unstable soil areas
 - C. Airport flight path zones
 - D. Fire zones
 5. Open space for corridors
 - A. Power transmission lines ways
 - B. Canals, conduit and aqueduct ways
 - C. Transportation and transit ways
 6. Open space for urban expansion
 - A. Areas for commerce, industry, housing and public service facilities^{3 8}

In his book The Challenge of the Land, Charles E. Little provided a condensed summary of the overall public benefits derived from the existence of open space:

When all is said and done, there are basically three [open space benefits]. The first is the establishment of recreational opportunity. The second is for the establishment of attractive community design, a visually pleasant landscape, and the environmental amenities this supplies. The third is for the maintenance of natural processes, or, in a word, conservation.^{3 9}

The philosophies of Ebenezer Howard and other "Garden City" pioneers of the early 20th Century identified open

^{3 8} Ibid., 18-19.

^{3 9} Charles E. Little, Challenge of the Land (Elmsford, NY: Pergamon Press, 1968), 9.

space as a limited resource in urbanizing areas and, consequently, most contemporary planning efforts now recognize the need for open space in and around urban areas as an attractive and socially important component of urban design. In 1898, Howard proposed the Garden City concept as an economically efficient and aesthetically pleasing alternative to the traditionally unguided development of western cities, hoping that his design would provide a living area void of many of the urban problems of the day. His proposal included the creation of modestly sized, relatively self-sufficient cities. These cities would be surrounded by greenbelts of publicly owned land that would be permanently committed to agriculture, preventing the incidence of urban expansion as a result of land speculation.⁴⁰ In addition to residential living areas and agricultural greenbelts, the garden city concept also allowed room within the city to provide for the commercial, industrial, and educational needs of the resident population.⁴¹

Like Howard, early Mormon leaders appreciated the idea of planned cities surrounded by agricultural greenbelts. In fact, the Mormon-settled villages in the mid 1800s, incorporated several design characteristics later found in

⁴⁰ Patrick Geddes, "The Living Environment," in The Urban Pattern, Third Edition, ed. Arthur B. Gallion and Simon Eisner (New York, NY: D. Van Nostrand Company, 1975), 99.

⁴¹ Carol Ann Christensen, The American Garden City and the New Towns Movement (Ann Arbor, MI: UMI Research Press, 1986), 74.

Howard's 1898 Garden City concept. Utah County planning leaders enthusiastically published this fact when mobilizing planning efforts in the early 1940s. Feeling that the "satellite-greenbelt" or "multi-nuclear" settlement pattern had served the County well in the past and was the wisest choice for future development, government and planning leaders immediately began working to create planning policies that would encourage future growth in the same pattern. By officially adopting the satellite-greenbelt pattern of settlement, these leaders hoped to preserve elements vital to the social well-being, aesthetic beauty, and economic security of Utah County. As stated in Chapter 1, these goals included 1) the preservation of agricultural land and open spaces, 2) protection of the farming industry, 3) conservation of rural setting, 4) maintenance of community identities, and 5) the control of government expenditures. The following pages will summarize these goals, all of which are as desirable and relevant for Utah County today as they were in the 1940s.

Preservation of Agricultural Land and Open Spaces

A large part of Utah County's land area is mountainous. With the exception of grazing, the steep slopes, shallow soils and other negative factors associated with the mountains make these areas unsuitable for most agricultural uses. Of the land that is flat enough to cultivate, large

portions are saturated with water, lacking irrigation facilities, or highly alkaline. The balance of land that is suitable for cultivation is estimated to be 140,000 acres, or about ten percent of the County's total area.

Although relatively small in size, the cultivated portion of Utah County is very productive because of the territory's rich alluvial soils, mild climate, and accessible irrigation waters (See Map 5). The quality of the County's farmland is evidenced by the fact that Utah County was a consistent entry in the top 100 U.S. counties in value of agricultural production. In some years Utah County made it into the list of the top 50 counties.⁴²

Utah County leaders have constantly kept the County's limited amount of tillable land in mind when shaping planning policies. During the 1940s and 1950s, the fundamental purpose of its new greenbelt preservation program was to protect agricultural land for farm use. In recent years the program's emphasis has been broadened to include preservation of greenbelt land for its value as open space.

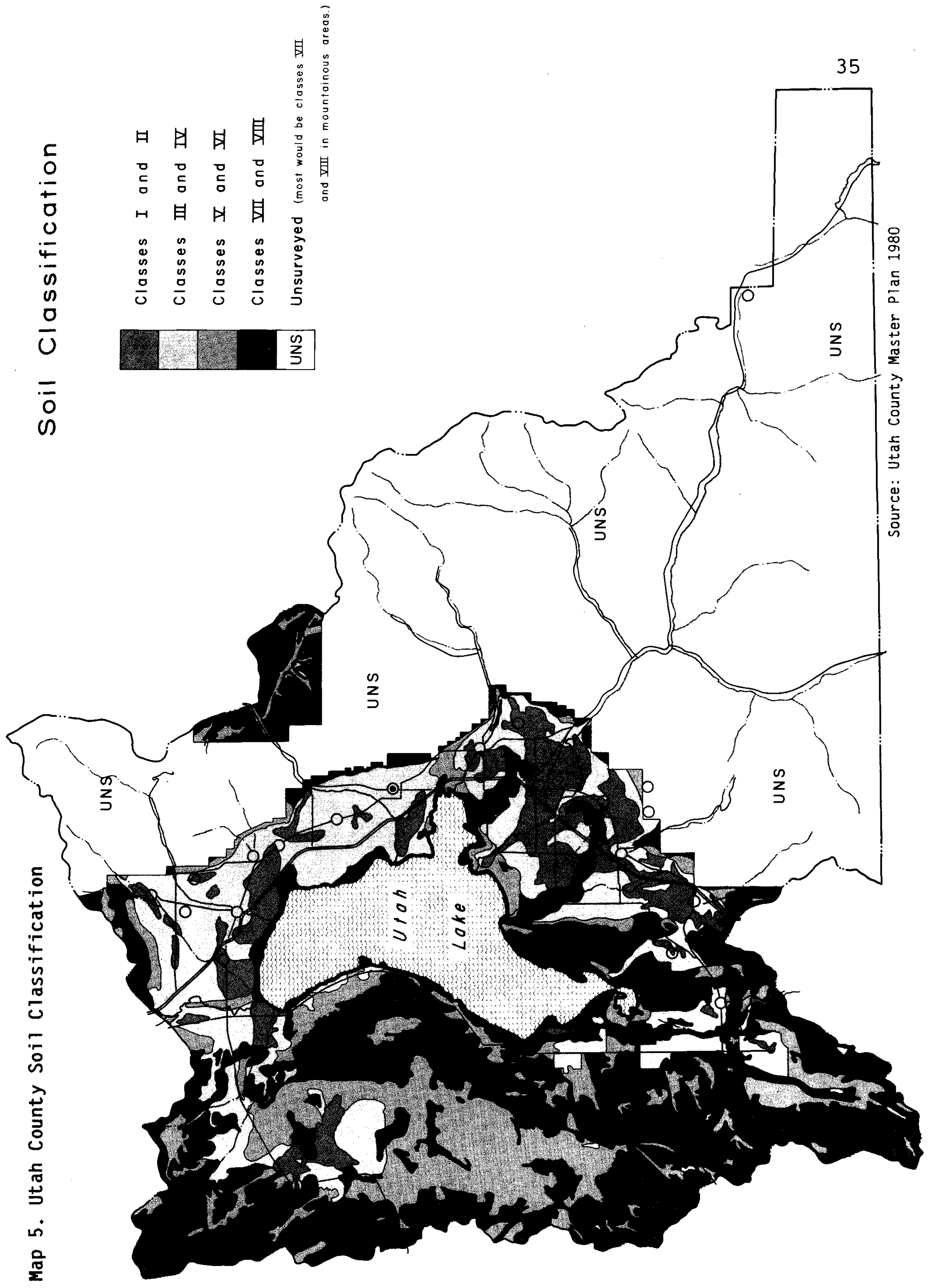
Protection of Farming Industry

From pioneer times to well into the 20th Century, farming was a central element in the lives of the majority of Utah County's residents, but the days of the most intensive

⁴² Utah County Planning Commission, Utah County Master Plan 1980, 83-84.

Map 5. Utah County Soil Classification

Soil Classification



Source: Utah County Master Plan 1980

agricultural use of land in Utah County are gone. The agricultural value of its many small farms has long since dropped from national significance in the face of decreasing emphasis on agricultural self-sufficiency, local population growth, and competition with enormous corporate farming operations.

With the exception of some varieties of fruit and the mink industry, Utah County's cumulative farm output is virtually insignificant on the national level. On the State and local level, however, agricultural production in the County is still an important component of the economy, with Utah County usually ranking first or second in the State in overall value of agricultural products.⁴³ Aside from the direct economic value of commercial agriculture, farmlands in the County also furnish local residents with the practical benefits of inexpensive fruit, grains, beef, poultry, eggs, and dairy products.

The construction of non-farm dwellings on agricultural land poses the greatest threat to the future of agriculture in Utah County. Needing only single building lots, non-farmers who locate in agricultural areas compete with farmers for land on unequal terms, since they are often willing to pay an inflated price for a small parcel of ground. This drives up the price of farmland beyond the reach of the

⁴³ Marty Owens, Utah Agricultural Statistics Service, telephone interview by author, 7 April 1988.

farmers, who usually need many acres to constitute an economically viable farming operation. The construction of non-farm homes in agricultural areas also tends to fragment farmland, limiting the ability of farmers to use modern equipment.⁴⁴

The incidence of agricultural land conversion has been likened to the urban "block-busting" phenomenon of the 1950s and 1960s, where entire neighborhoods of homeowners were frequently panicked into selling their homes for fear of dramatically reduced property values when a house on the street was sold to someone perceived as an "undesirable." Ultimately, the fear of plummeting property values would prove to be a self-fulfilling prophecy.

Similarly, when the first local farm suddenly brings a high price and starts sprouting houses, neighboring farmers wonder how long it will be until the entire area is suburban. There seems to be little point in making continual capital investments in buildings, equipment, and herds if one does not expect to continue farming long enough to amortize the debt. This becomes a self-fulfilling prophecy, too, as efficiency and profitability decline.⁴⁵

⁴⁴ Robert E. Coughlin and John C. Keene, The Protection of Farmland: A Reference Guidebook for State and Local Governments, National Agricultural Lands Study (Amherst, MA: Regional Science Research Institute, 1981), 33-34.

⁴⁵ Peter R. Brooks, "Agricultural Land Protection Efforts in New York State," in Planning 1981, Proceedings of the National Planning Conference (Chicago, IL: Planners Press, American Planning Association, 1982), 89.

A key to the success of any local farm protection program, including that in Utah County, is its ability to stimulate public confidence that farming will continue to be an important and viable activity within the community.

The Conservation of Rural Setting

To a large degree the quality of life enjoyed by Utah County residents can be attributed to its rural setting. The open spaces in the County's unincorporated areas offer a striking contrast to the dense residential development patterns of its cities, providing an attractive rural environment enjoyed by the people in both the unincorporated area and within the cities.

Unfortunately, the aesthetic value identified with agricultural land in Utah County is often the very thing which threatens the continuation of farming in the area. Non-farmers, willing to commute to their jobs in the urban centers, have flocked to agricultural areas in recent years, attracted by the open fields and rural atmosphere. As the residential density increases, the open, rural character of the landscape is largely destroyed. In addition, the new "rural" residents frequently aspire to change the surrounding environment to one that contains the same amenities enjoyed in urban neighborhoods, including the restriction of agricultural operations that attract insects or generate

noise, dust and odors.⁴⁶ The conflicts that develop between farmer and commuter historically have gone against the farmer.⁴⁷

Maintenance of Community Definition and Identity

In California's Urban Metropolitan Open Space Study, the following was observed relative to municipal definition:

Until World War II, most of our cities, towns and villages had the unique and desirable feature of being interspersed on the land, defined on their borders and held apart one from the other by open areas of natural land, estates, ranches, farms and orchards. Each city or town had a unique character of its own derived from its physical separation from its neighbors.

Because the relief of natural open land or farms was available close at hand, little thought was given to what our cities and towns would be like if these open spaces disappeared.

The post World War II release of energy, unparalleled migration and population growth caught . . . cities all over the country . . . without a knowledge of the intrinsic value of open space and therefore, without plans for its preservation.⁴⁸

⁴⁶ Berry, David, "Threats to American Cropland: Urbanization and Soil Erosion," in Beyond the Urban Fringe, ed. Rutherford H. Platt and George Macinko (Minneapolis, MN: University of Minnesota Press, 1983), 185.

⁴⁷ Larry W. Waterfield, Conflict and Crisis in Rural America (Westport, CN: Praeger Publishers, a division of Greenwood Press, 1986), 88-89.

⁴⁸ The Urban Metropolitan Open Space Study, Open Space: The Choices Before California, 13.

During the 1960s, Utah County planners and various city leaders began to emphasize maintenance of municipal boundaries as a means of retaining community definition and perpetuating local identities. The concept of keeping non-urban buffers of land between communities, to maintain a municipal "sense of place", was virtually ignored in early preservation efforts. However, city and County leaders now consider greenbelt preservation to be a desirable element of the County's planning program because it helps to accomplish that goal. Most of the cities in Utah County have not seriously promoted greenbelt preservation in the vicinity of their municipal boundaries, haphazardly annexing land for urban uses. Without the cities taking a more active supporting role, maintaining identifiable municipal boundaries will, at best, be an adjunct of the County's greenbelt preservation program.

Control of Government Costs

A relationship between greenbelt preservation and the control of government costs can best be realized in light of a few simple realities. First, as is generally the case with local governments, the majority of Utah County government revenues are collected from property taxes. While property tax is derived from property, it is spent on people. Unfortunately, there is no link which forces property tax revenues to vary at the same rate as population change.

Second, the sprawl pattern of development is the most expensive form of residential development in terms of natural resource consumption and actual economic, environmental and personal costs.⁴⁹

On their own merits, programs designed for greenbelt preservation are usually suspect and controversial, and inevitably are the subject of public debate. While the environmental, social and aesthetic merits of a greenbelt preservation program may be arguable, programs designed to limit government expenditures by curbing sprawl development, garner support on that basis alone. This has certainly been the case in Utah County, with statements relative to cost savings historically being included as a primary justification for the establishment of planning and zoning regulations designed for greenbelt preservation.

As a result of its "rural county" policy, Utah County has managed to avoid providing some government services that other, similarly populated counties have not avoided. As illustrated in Table 4, when compared to Utah County, Salt Lake, Davis and Weber Counties have substantially more services.

⁴⁹ Real Estate Research Corporation, The Costs of Sprawl (Washington, D.C.: U.S. Government Printing Office, 1974), 7; Martin J. Pasqualetti, "Energy and Land Use," in Land Use: A Spatial Approach, ed. John F. Lounsbury, Lawrence M. Sommers, and Edward A. Fernald (Dubuque, IA: Kendall/Hunt Publishing Company, 1981), 173-174.

Table 4. Four County Service Comparison

Service Provided	Utah County	Salt Lake County	Davis County	Weber County
Solid Waste Disposal	No	Yes	Yes	Yes
Garbage Pickup	No	Yes	No	No
Street Lighting	No	Yes	Yes	Yes
Fire Department	No	Yes	Yes	No
Economic Development	No	Yes	Yes	Yes
Redevelopment Agency	No	Yes	No	Yes
Golf Course	No	Yes	Yes	No

Source: Utah, Salt Lake, Davis & Weber County Auditor's Offices, 1988

To date, Utah County does not own or maintain any water or sewer systems or treatment plants, therefore all unincorporated development is required to have its own well and septic system or connect to a private or municipal system. The low population in the unincorporated County has generated a limited demand for new roads, saving taxpayer dollars that would otherwise have been spent on road construction, maintenance and repair. Other common government expenses not yet assumed by Utah County include the cost of providing and maintaining street lighting, garbage collection, library systems, cemeteries, recreational facilities, and various economic development and social assistance programs. Because the County has limited its involvement in providing many services traditionally supplied by local government, incorporations and annexations generally

do not pose a threat to the justification and funding of existing County government departments and programs.⁵⁰

While taxes within cities may vary, property tax rates in Utah County are generally lower than those in similarly populated and sized counties within the state.⁵¹

Table 5. Range & Weighted Average Tax Rates - 1986

County	Range of Tax Rates	Weighted Avg Tax Rates
Utah	.012241 - .017694	.013899
Salt Lake	.015112 - .021353	.018270
Davis	.013772 - .018136	.016592
Weber	.013473 - .016005	.016613

Source: Utah State Tax Commission, 1986

The comparative tax rate figures in Table 5 are peculiar because Utah County has a considerably larger population than Davis and Weber and is by far the largest of the four in terms of developable land area. One can surmise that a reason for this lower property tax rate is that Utah County has managed to keep government small, especially in terms of its obligation to provide municipal-type services in the unincorporated areas, and that the County has avoided having

⁵⁰ This is not the case in neighboring Salt Lake City. See: Jay Evenson and Lee Davidson, "Valley Fast Becoming Citified, but Officials Fight State Shove," Deseret News, February 13, 1988.

⁵¹ Utah State Tax Commission, R. H. Hansen, Chairman, Annual Report of the Utah State Tax Commission, July 1, 1985 to June 30, 1986 (Salt Lake City, UT: [1987]), 86.

to assume such responsibilities as a direct result of its successful application of planning policies.

Chapter 4

GOVERNMENT APPROACHES TO GREENBELT PRESERVATION

Modern planning principles come from a recognition that the bottom line in achieving open space preservation is usually the isolation of various property rights into different ownerships. While not without critics,^{5 2} public regulation policies affecting private property rights for agricultural land have steadily increased over the last three decades. According to Norman Williams and John Taylor, authors of American Planning Law,

. . . the public may need certain rights, but have no need whatsoever for others. For example, if it is desired to maintain an attractive rural scene with fields and forests, the public needs some affirmative and some negative rights . . . Speaking generally, the public rights involved in such situations fall into two categories--those involving a public right of entry on land still held privately, and those where the public enjoyment is visual and aesthetic, seen from a distance and off the premises.^{5 3}

Like most other states, Utah has no existing state-wide legislation in place that will assure the continuation of prime agricultural land or the preservation of open space,

^{5 2} Sidney Plotkin, Keep Out (Berkeley & Los Angeles, CA: University of California Press, 1987).; John Baden, ed., The Vanishing Farmland Crisis (Lawrence, KS: University Press of Kansas, 1984).

^{5 3} Norman Williams, Jr. and John M. Taylor, "Partial Compensation," chap. in American Land Planning Law, Vol. 5, (Wilmette, IL: Callaghan & Company, 1985 Revision), 534.

leaving the responsibility of deciding to impose preservation measures at local government levels. From enthusiastic support to absolute neglect, there are a variety of positions a local government can take on this subject. The challenge faced by those local governments interested in preserving agricultural land and open spaces is to develop an economical, fair and defensible program that can effectively isolate or obtain the rights deemed by the community as integral for the protection of public welfare.

According to Greg Longhini, there are essentially three approaches local governments can take in establishing a farmland preservation program:

Governments can pay farmers by purchasing development rights; they can require a third-party payment by allowing a transfer of those development rights, at a cost to the developer; or they can mandate farming through exclusive agricultural zoning districts. Although variants and combinations may exist, every local program will fit into one or be combined into one of these approaches.⁵⁴

In the American Planning Law series, Williams and Taylor specifically identified the means available to government for securing the protection of agricultural land and other open spaces:

⁵⁴Gregory Longhini, "Saving the Farm," Planning Advisory Service Memo, 83-4 (Chicago, IL: American Planning Association, April 1983), 2.

1. Public acquisition, by donation.
2. Public acquisition, as a result of foreclosure on tax-delinquent land.
3. Public acquisition, by purchase or condemnation (eminent domain).
4. Public regulation of private property rights under the police power (zoning).
5. The intermediate solution of police-power regulation combined with partial compensation, including incentive zoning, splitting the fee, adjustment of tax assessments, transfer of development rights, and various other tax and financing mechanisms.^{5 5}

As the "intermediate solution" and the statement by Longhini indicate, governments can easily customize a farmland protection program to correspond with specific community needs or conditions, and they are virtually unlimited as to the various combinations of control techniques that can be employed. The determining factors are the amount of public and political support that can be garnered and the availability and commitment of economic and human resources to make it actually work. An additional factor that has increasingly come into play has been judicial confirmation of the legal basis for establishing such programs, as illustrated by the following observations found in The Protection of Farmland, a reference guidebook published for the National Agricultural Lands Study of 1980-1981:

^{5 5} Williams and Taylor, "Policy Considerations," chap. in American Land Planning Law, Vol. 5, 396.

In recent years some state legislatures have enacted statutes that require local governments to adopt comprehensive plans. Thus, as more and more states strengthen the role of comprehensive planning in land development regulation, it becomes increasingly important that local governments prepare an agricultural land protection program based on sound ecological, economic, and demographic data, and a careful articulation of state and local agricultural policies. If they fail to do this they run the risk of having agricultural zoning declared invalid for failure to meet the requirement that it be in accordance with a comprehensive plan.

Admittedly, use of the term "program" is probably a misnomer for describing the development regulation efforts of most local governments. The mixed bag of development control mechanisms and scattergun approaches to land regulation that many of these governments employ are usually anything but the carefully planned system the word tends to imply. Utah County has been no different than most other local governments in this respect, frequently adopting disjointed regulations and procedures intended to accomplish a common objective. In spite of what has often been a lack of planning strategy, however, the land use and economic objectives behind Utah County's greenbelt preservation efforts have remained constant over the years.

Chapters 5-8 are a summary of principal mechanisms local governments may employ for agricultural open space preservation and development control and explain how each mechanism relates to Utah County's greenbelt preservation

program, i.e. zoning; public acquisition; taxes and assessments; easements and covenants.

Chapter 5

ZONING FOR GREENBELT PRESERVATION

The most common tactic used by local levels of government to control land use and physical development is zoning. Modern American zoning techniques are said to have grown out of early municipal nuisance legislation designed to protect residential neighborhoods from incompatible land uses.⁵⁶ Today most local governments rely on zoning as a means of limiting or controlling virtually every aspect of land use and development. The local use of ordinary zoning controls has generally been accepted and sustained by the judiciary as a valid extension of state police power.⁵⁷ Restrictive, preservation-oriented agricultural zoning regulations, however, present "complicating questions of constitutionality and of administration, especially since the drawing of the green-belt boundary has such substantial effects on land values."⁵⁸ In Preserving Utah's Open Space, Owen Olpin said the following regarding overly restrictive zoning regulations:

⁵⁶ Larry K. Stephenson, "Regulating the Use of Land," in Land Use: A Spatial Approach, ed. John F. Lounsbury, Lawrence M. Sommers, and Edward A. Fernald (Dubuque, IA: Kendall/Hunt Publishing Company, 1981), 135-136.

⁵⁷ Ibid., 136-138.

⁵⁸ Daniel R. Mandelker, Green Belts and Urban Growth (Madison, WI: The University of Wisconsin Press, 1962), 154.

When regulation goes too far and the impact of land ownership becomes too drastic, courts have been persuaded to hold regulatory measures unconstitutional. A number of constitutional provisions have been invoked as grounds for invalidation including due process and equal protection, but most frequently invoked is the proscription of the Fifth Amendment of the United States Constitution, "nor shall private property be taken for public use, without just compensation."⁵⁹

As with other challenges to zoning measures, the courts have usually accorded considerable deference to decisions of local legislative bodies establishing [agricultural zoning] If the restrictions serve rational police power objectives and are not shown to be arbitrary or discriminatory, the legislative judgement is almost routinely upheld. A high burden of persuasion is placed upon those who challenge the ordinances, and it seldom avails a challenger to show merely that property values are impaired.⁶⁰

According to Robert E. Coughlin in The Protection of Farmland: A Reference Guidebook for State and Local Governments, the stated purposes of agricultural zoning usually consist of one or more of the following goals:

1. Saving Farmland
2. Protecting Farm Operations
3. Reducing Public Service Costs
4. Protecting the Agricultural Economic Base
5. Saving Sensitive Lands⁶¹

⁵⁹ Owen Olpin, Preserving Utah's Open Space (Provo, UT: Despain and Despain Consulting Planners, June 1973), 10.

⁶⁰ Ibid., 21.

⁶¹ Coughlin and Keene, The Protection of Farmland: A Reference Guidebook for State and Local Governments, 107-108.

For the purposes of the National Agricultural Lands Study, a criterion was established for defining an "agricultural" zone as one meeting the following test:

1. Is the ordinance an exclusive agricultural ordinance?
2. If not, does the ordinance require a minimum lot size or a density standard of at least 20 acres?
3. If not, does the ordinance require a minimum lot size or a density standard of ten acres coupled with additional controls over capital improvements?^{6 2}

Since the early 1940s, Utah County has relied on zoning as the chief means of accomplishing its planning goals relative to the greenbelt. During these years the County's zoning regulations for agricultural lands have changed dramatically, going from what was essentially a one-acre residential zoning requirement in the 1940s and 50s, to an exclusive agricultural zone in 1976, that prohibited the construction of non-farm dwellings. Although it has been modified several times since 1976, Utah County's exclusive agricultural zone has, to date, been its most successful policy for protecting farmland and discouraging non-municipal growth.

In 1981 Utah County was the only county in the State with a zone that qualified as "agricultural" under the test criterion of the National Agricultural Lands Study and one of

^{6 2} Ibid., 146.

only seven counties in the United States having an exclusive agricultural zone that prohibited the construction of non-farm dwellings (See Table 6).⁶³

Table 6. Four County Agricultural Zone Comparison

County	Name of Most Restrictive Zone	Permit Non-Farm Dwellings?	Acreage Requirement	Recognize Non-Conforming Lots?
Utah	A-1 Agricultural	No	40	No
Salt Lake	A-20 Agricultural	Yes	20	Yes
Davis	A-5 Agricultural	Yes	5	Yes
Weber	A-3 Agricultural	Yes	2	Yes

Source: Utah, Salt Lake, Davis & Weber County Zoning Ordinances

The following is a chronology detailing the evolution of greenbelt-related zoning regulations in Utah County that have led up to today's requirements and the development of the master planning documents upon which many of these regulations were based.

A Chronology of Planning and Zoning
for Greenbelt Preservation in Utah County

Planning and Zoning Enabling Acts

The legislative basis for the adoption of local planning and zoning regulations was established by the United States Department of Commerce, which produced the Standard State

⁶³ Ibid., 122.

Zoning Enabling Act in 1924 and the Standard City Planning Enabling Act in 1928. These two acts were used as models for the development of planning and zoning enabling statutes in 47 states.⁶⁴

On March 13, 1941, the Utah State Legislature approved an act authorizing the establishment, administration, and enforcement of planning and zoning regulations for the unincorporated areas of counties within the State. This legislation was mirrored by a similar law empowering cities to regulate land use by the adoption of local planning and zoning laws. Key sections of the law as currently adopted include the following:

The boards of county commissioners of the respective counties within the state are authorized and empowered to provide for the physical development of the unincorporated territory within the county and for the zoning of all or any part of such unincorporated territory in the manner hereinafter provided.⁶⁵

It shall be a function of a county planning commission to make and adopt a master plan for the physical development of the unincorporated territory of the county . . . The master plan of a county . . . shall show the county planning commission's

⁶⁴ Brigham Young University, "Summary of Utah Law: Land Use, Zoning and Eminent Domain," Journal of Legal Studies (Provo, UT: Brigham Young University, 1979), 4.

⁶⁵ Utah. Code Annotated (The Allen Smith Company, 1953), Replacement Volume 2B, 1983 Pocket Supplement, Title 17, Ch. 27, Sec. 1, 413.

recommendations for the development for the territory covered by the plan . . . ⁶⁶

The county master plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the county which will . . . best promote the health, safety, morals, order, convenience, prosperity, or the general welfare of the inhabitants, as well as efficiency and economy in the process of development . . . ⁶⁷

Utah County Planning Commission

In June of 1941, the U.S. Government announced plans to construct a \$200,000,000 steel mill in Utah County. Many local citizens were alarmed by the announcement, fearing that noxious attendant industries and substandard housing would spring up around the site. As a direct result of these concerns, the Utah County Commission took advantage of the State's newly adopted county planning legislation and appointed the first county level planning commission in the area of the mountain west.⁶⁸ The first meeting of the Commission was held on December 30th, 1941.⁶⁹ During this meeting it was decided that the Commission members should "work on temporary regulations to control building in the

⁶⁶ Ibid., Code Annotated, Replacement Volume 2B, 1983 Pocket Supplement, Title 17, Ch. 27, Sec. 4, 117.

⁶⁷ Ibid., Code Annotated, Replacement Volume 2B, 1983 Pocket Supplement, Title 17, Ch. 27, Sec. 5, 117-118.

⁶⁸ I. Dale Despain, "Pioneers of Planning in Utah County" (Unpublished paper, Provo, UT, 1953), 5-6.

⁶⁹ Utah County Planning Commission, "Minutes," Provo, UT, 30 December 1941.

county until necessary work to adopt a comprehensive zoning ordinance could be accomplished."⁷⁰

The 1942 Zoning Ordinance

Temporary building and zoning codes were adopted on January 12, 1942, and from there the Planning Commission immediately began work on the Zoning Ordinance of Utah County, which was adopted by the Utah County Commission, along with a County zoning map, on November 16, 1942. The stated purpose of the zoning ordinance was to aid in the

. . . orderly planned use of land resources and conserve and promote the public health, safety, morals, convenience, prosperity, and general welfare of the present and future inhabitants of Utah County
 . . . ⁷¹

The ordinance consisted of eight different zoning district designations for the unincorporated area:
 Recreation-Forestry 1, including most of Provo Canyon;
 Recreation-Forestry 2, which was never assigned; Residential-Agricultural, including the bulk of unincorporated Utah Valley; Commercial, which was only added by amendment;
 Industrial 1, including Geneva, Ironton and several square miles of undeveloped agricultural land bordering Utah Lake;

⁷⁰ Utah County Planning Commission, "Minutes," Provo, UT, 19 January 1965.

⁷¹ Utah County Planning Commission, Zoning Ordinance of Utah County (Provo, UT: 1942), 1.

Industrial 2, limited to the Trojan Gunpowder plant at the mouth of Spanish Fork Canyon; Grazing, including West Mountain, Cedar Valley, Goshen Valley, and Spanish Fork Canyon; and land not subject to zoning, including most of the mountainous land in the County.

Three key elements were designed into the ordinance to bring about orderly development: 1) a building permit system based on Uniform Building Code, 2) a minimum dwelling lot requirement of one-acre, and 3) basic subdivision regulations. The one-acre requirement was included to encourage

. . . small lot home builders to buy lots within the city, where utilities were already available. When the individual buyer insisted on buying a home site outside of city limits, the one-acre rule insured sanitation and plenty of space for later street development.^{7 2}

The subdivision regulations in the ordinance, and later regulations adopted in 1946, established a minimum subdivision size of five acres and forced a developer to obtain Planning Commission approval for a project. The regulations also required a developer to provide such improvements as streets and culinary water at his own expense.

^{7 2} Despain, "Pioneers of Planning in Utah County", 7.

By adopting these regulations, the County hoped to be able to protect residential neighborhoods from conflicting land uses, institute some minimum standards for new construction, and encourage residential growth to locate in the cities where street improvements and municipal service programs were already well established. Typical of the relatively early period of municipal and county planning, the zoning ordinance was not formulated in conjunction with the stated objectives of a master plan. The ordinance apparently did, however, reasonably accomplish the fundamental purposes for which it was established. Looking back in 1953, an early county planner wrote that

. . . although often under fire within the county, [the ordinance] smothered the fires of land speculation; and had the effect of channeling population growth into existing cities, where water and sewage facilities, public amenities, schools and police and fire protection already existed or else could be provided with a minimum outlay of taxpayer dollars.^{7 3}

By attempting to "channel" population growth into the cities, those responsible for this early ordinance helped to accomplish what later would become a primary planning goal of Utah County, the preservation of agricultural lands and open spaces.

^{7 3} Ibid.

Utah County Planning Association

After completing the 1942 Zoning Ordinance, the new Commission continued on with the business of "planning" for unincorporated Utah County. Since the State legislation created autonomy for local governments from county zoning authority, the Utah County Planning Commission had no regulatory or policy formulation authority within the cities. To address problems and planning issues that crossed these political boundaries or that were of county wide interest, an organization was created consisting of representatives from all of the major taxing units in Utah County, including the cities and towns, the County, and the three school districts.^{7 4} Formed in May of 1942, the Utah County Planning Association met periodically until 1953, publishing an annual report entitled Planning in Utah County that summarized planning activities within the County and statistical data relative to urban growth. During this time the Utah County Planning Commission staff did compensated planning work for Association members, providing planning resources for several of the smaller cities in the County that otherwise would likely have done without.^{7 5}

^{7 4} Ibid., 8.

^{7 5} Utah County Planning Commission, "Minutes," Provo, UT, 19 January 1965.

Early Master Planning in Utah County

The beginnings of modern master planning for greenbelt preservation in the unincorporated county can be recognized in the organization and activities of the Utah County Planning Commission and Utah County Planning Association in the early 1940s. However, most of their early planning efforts centered on the creation of building standards and subdivision and zoning regulations that would establish a minimum quality level for development in the County.

As previously stated, the 1942 Zoning Ordinance of Utah County was not produced in conjunction with a master plan. As in most other areas in the United States, master planning developed slowly in Utah County as compared to zoning, and, in the beginning, was anything but comprehensive. The first master planning project in the unincorporated County was a plan for County roads, initially launched by the Planning Commission in 1949 and adopted in 1952.⁷⁶ Around this time the need for a land use plan was first suggested by County planners who had been cooperating with other government agencies and private organizations in an effort to produce detailed land use maps.⁷⁷ While the land use maps were used extensively by the Planning Commission for district rezonings, a master land use plan was not adopted at that

⁷⁶ Utah County Planning Commission, "Minutes," Provo, UT, 25 October 1949.

⁷⁷ Ibid.

time and the idea did not reappear in Planning Commission minutes until 1964.

The slow start for master planning in Utah County and other areas of the United States can be attributed to three factors: first, the concept of a master plan and its relationship with the zoning ordinance has not always been clearly defined; second, unlike zoning ordinances, master plans have generally not been deemed regulatory documents, but simply a land use policy guide to be interpreted in the form of a zoning ordinance; third, producing a quality master plan document is an expensive and difficult task. For these reasons many local governments have simply considered them optional when adopting zoning regulations.

Included in Section 3 of the U.S. Commerce Department's model Standard State Zoning Enabling Act was the requirement that zoning ordinances be prepared in accordance with a comprehensive plan.⁷⁸ This requirement was subsequently added to the enabling legislation of most states. Utah's County Zoning and Planning Act was unusual in that it not only called for the adoption of a "master plan for the physical development of the unincorporated territory of the county", but elaborately detailed its purposes and what its contents should be.⁷⁹

⁷⁸ Peter Wolf, Land in America, (New York, NY: Pantheon Books, 1981), 87.

⁷⁹ Utah, Code Annotated, Replacement Volume 2B, 1973, Title 17, Ch. 27, Secs. 4-6, 415-417.

While stipulations requiring the local formulation of master plans were added to most state enabling acts, little thought was given to what they actually meant or how they were to be enforced. For decades such phrases were virtually ignored as cities and counties enacted zoning ordinances without reference to stated land use objectives.⁸⁰

1956 Zoning Ordinance Revision

The 1942 Zoning Ordinance was modified by several amendments during the 40s and early 50s. In 1956 the ordinance was incorporated and published as Title 10 of the Revised Ordinances of Utah County. Significant changes from the 1942 ordinance included the addition of a third type of industrial and manufacturing district in 1952 and the division of the County's commercial district in 1953.

The Grazing District

In 1959, the ordinance sections pertaining to the Recreation-Forestry and Grazing Districts were amended and rewritten. The changes were unique from previous versions of the ordinance in that they included "General Descriptions, Objectives, and Characteristics of [the] Zone."⁸¹ This

⁸⁰ Frank S. So and others, eds., The Practice of Local Government Planning (Washington, D.C.: International City Management Association, 1979), 419.

⁸¹ Utah County Board of Commissioners, Revised Ordinances of Utah County 1956, Section 10-3-1, Provo, UT, 19 December 1958.

language appears to be early groundwork for the eventual development of a master plan for Utah County. The revision to the Grazing District stated the County's objectives in establishing the District as follows:

- 1) to encourage and promote the raising of livestock,
- 2) to promote the conservation of water, soils, minerals, and other natural resources,
- 3) to reduce the hazards from floods and fire,
- 4) to reduce the cost of governmental expenditures for police and fire protection, school bus travel, and other public services,
- 5) to allocate areas for certain uses and activities which should be located in areas removed from the more densely-settled sections of the county.^{8 2}

While the stated objectives of this new amendment included the primary goals of promoting agricultural uses and conserving natural resources, the emphasis toward protecting the "more densely-settled sections of the county" from uses permitted in the zone is evidence of the fact that greenbelt preservation was not yet an issue of significant concern to the Planning Commission.

In spite of this rather negative approach, the language of the amendment created an early opportunity for the County to discourage non-agricultural development in the Grazing District. The opportunity, however, was significantly undermined by the fact that residential dwellings and

^{8 2} Ibid., Revised Ordinances of Utah County 1956, Section 10-11-1, Provo, UT, 19 December 1958.

subdivisions were still included as permitted uses in the Grazing District, with the same one-acre minimum lot requirement.

The A-1 Agricultural District

On May 13, 1960, the Utah County Commissioners approved an amendment to the zoning ordinance that created the County's first agricultural zone. The new A-1 Agricultural District represented an almost radical step toward zoning for the preservation of agricultural land from that of earlier requirements. The amendment marked the first time that true agricultural lands were classified separately from the broad types of lands and uses included in the Residential-Agricultural and Grazing Districts. The amendment was written similar to the Recreation-Forestry and Grazing District amendments in 1959, including a statement of objectives that the District designation was created to accomplish. Unlike the objectives of the Grazing District, however, these objectives emphasized the promotion of strictly agricultural uses within the zone. The objectives were listed as follows:

- 1) to protect and encourage the continued use of agricultural land within the zone for agricultural purposes and to discourage the pre-emption of agricultural land for other uses,
- 2) to discourage non-farm dwellings, commercial and industrial uses, and any other use which tends to thwart or mitigate against the use of the land for agricultural purposes,

- 3) to reduce the cost of government expenditure for police, fire protection, school bus travel, excessive amount of roads and other public services,
- 4) to protect the economic base of the county.⁸³

The most significant aspect of the new A-1 District was a forty-acre lot requirement for one-family dwellings, limiting dwelling lot sizes to, at least, the equivalent of a modest sized farm. The intent of this requirement was clearly to discourage residential homesites and other non-agricultural uses within the A-1 District, a dramatic change from previous zoning efforts in the County that had primarily concentrated on separating conflicting uses.

The new agricultural district was instituted, first and foremost, to protect the County's agricultural economy and the land that it required. The interest in protecting agriculture was a direct response to rapid changes taking place within the County, including the construction of the new interstate freeway and affiliated development proposals, expansion of industrial and educational facilities, and increased population County-wide with an accompanying increased demand for housing. Utah County was experiencing a period of extraordinary growth that had begun with the construction of the Geneva steel manufacturing plant and was now being fueled by the post World War II baby boom and the exponential growth of the Mormon Church.

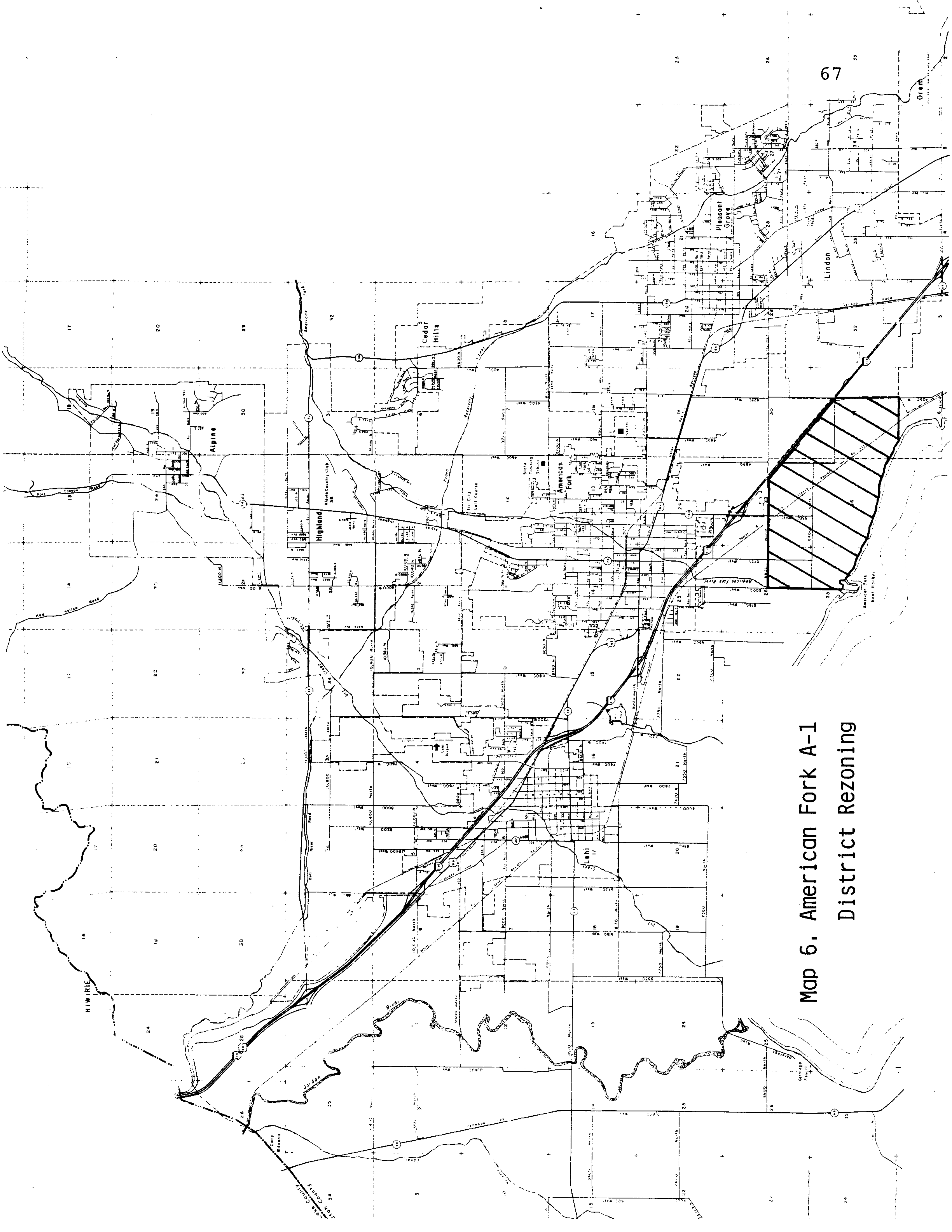
⁸³ Ibid., Revised Ordinances of Utah County 1956, Section 10-5A-1, Provo, UT, 13 May 1960.

A-1 District Rezoning

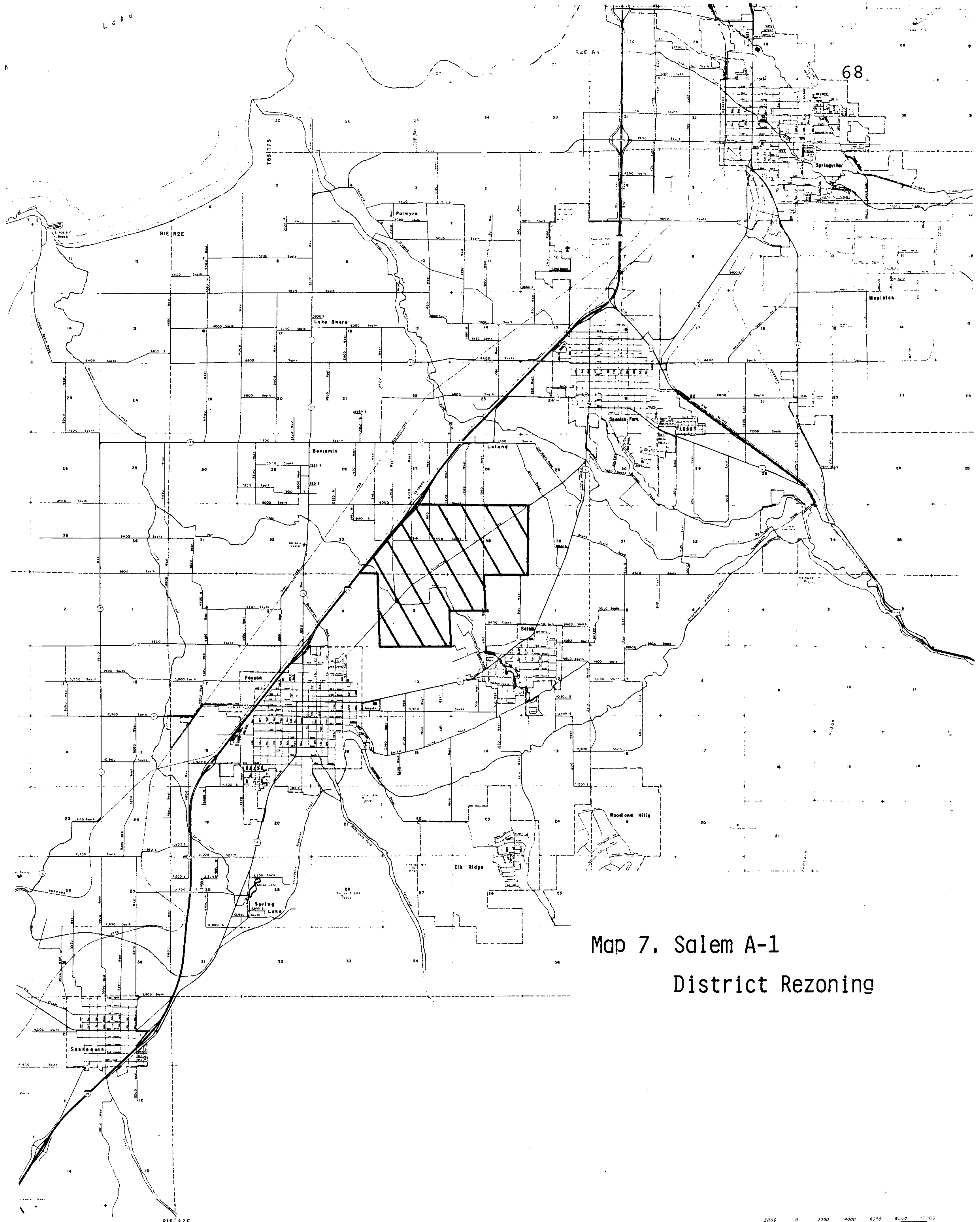
Along with the 1960 creation of the A-1 District, the first reclassification of land from another district designation to A-1 took place, with the reclassification of a tract of previously designated I-1 Industrial land located south of American Fork. The American Fork rezoning went from County Road 6800 North down to Utah Lake, between what is now County Road 6000 West and the Lindon City limits (See Map 6). The next reclassification of land to A-1 did not occur until June 25, 1965, when several square miles of land located northwest of Salem and east of I-15 were rezoned from Residential-Agricultural (See Map 7).

The limited amount of rezonings to A-1 during this period can be attributed to the forty-acre lot requirement. In spite of the protection it offered agricultural uses and the existence of many previously created nonconforming lots that still qualified for building permits, many landowners felt the forty-acre requirement was too restrictive, and most of the attempts to rezone districts to A-1 were met with resistance. County officials had initially hoped for the development of tax legislation that would coincide with the amendment so as to provide an incentive to farmland owners within the Agricultural District.⁸⁴ However the State's Farmland Assessment Act was not ratified until 1969, and, as

⁸⁴ Utah County Planning Commission, "Minutes," Provo, UT, 3 March 1960.



Map 6. American Fork A-1
District Rezoning



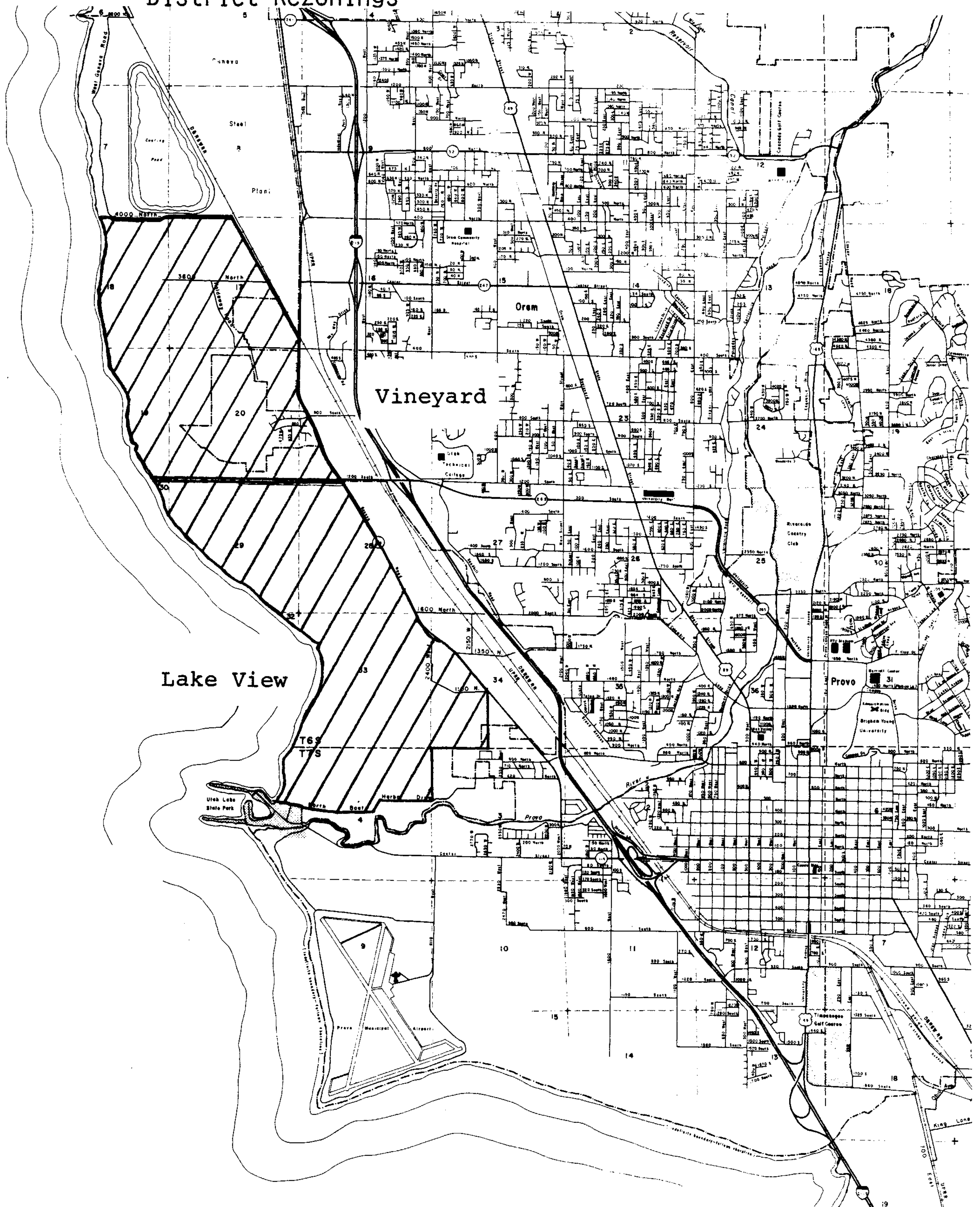
Map 7. Salem A-1
District Rezoning

discussed in Chapter 7, even then it did not prove to exclusively benefit agriculturally zoned properties. As a result of landowner hesitation to commit to the forty-acre dwelling lot requirement, the minimum was reduced to twenty acres on May 9, 1966.

The lot area requirement change was immediately followed by two large rezonings to A-1 Agricultural. The Vineyard area between Geneva Road and Utah Lake from 1200 South in Orem north to the Geneva steel plant was rezoned to Agricultural from Residential-Agricultural (See Map 8). The area west of Springville extending to Provo Bay, from what is now the north Springville exit of I-15 down to Spanish Fork was also rezoned Agricultural from Industrial and Residential-Agricultural (See Map 9). The Lake View area west of Provo was later rezoned to the Agricultural District on August 14, 1967, taking in the land between Geneva Road and Utah Lake from 1200 South in Orem down to North Boat Harbor Road just north of Center Street in Provo (See Map 8). With the exception of acreage that has since been annexed into neighboring cities, almost all of these areas originally rezoned to the Agricultural District are still in the County's Agricultural Zone.

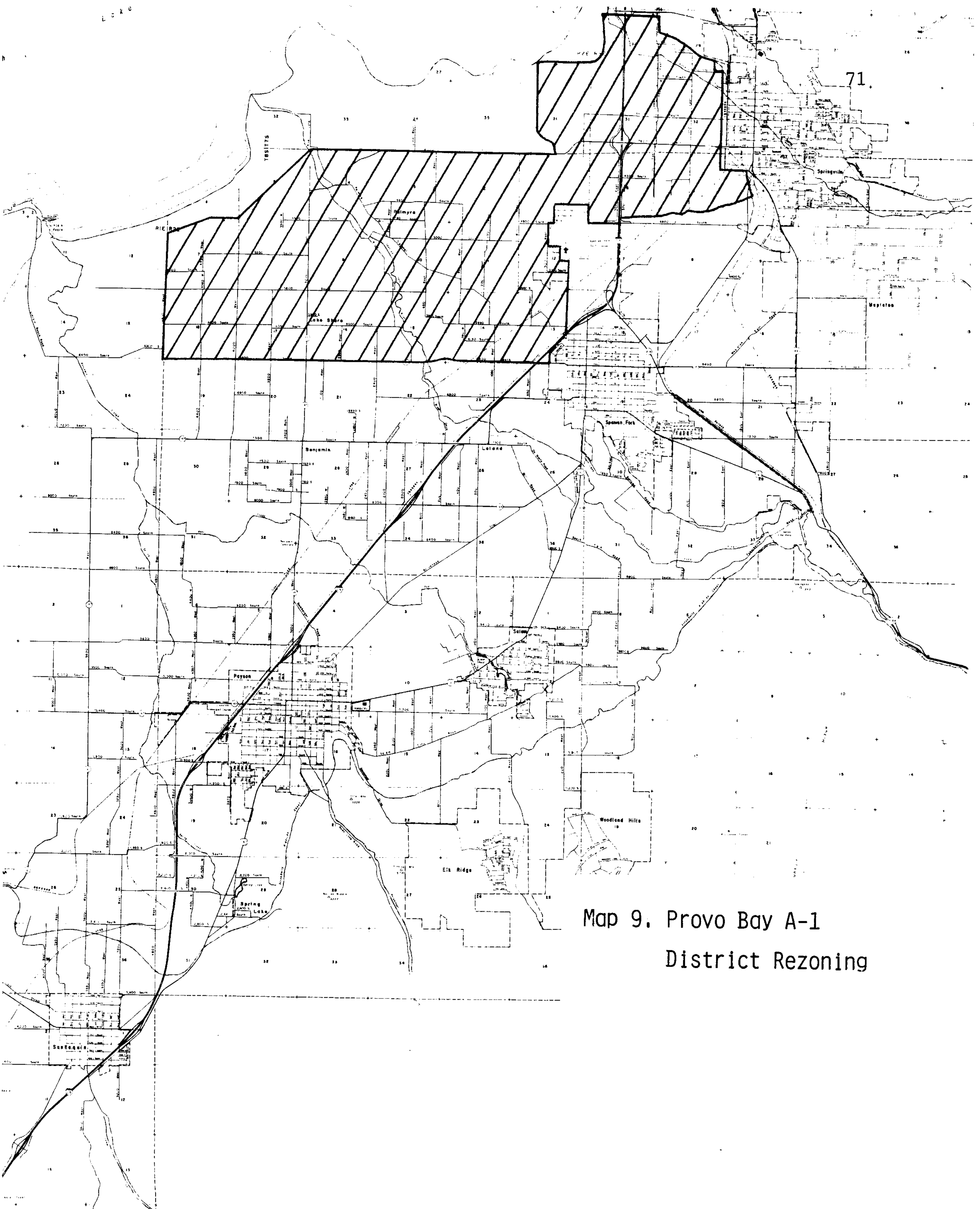
By the late 1960s the creation of the A-1 District had done little, if anything, to protect or encourage greenbelt areas around the communities of Utah County, primarily because only a fraction of the County's agricultural land had

Map 8. Vineyard & Lake View A-1 District Rezonings



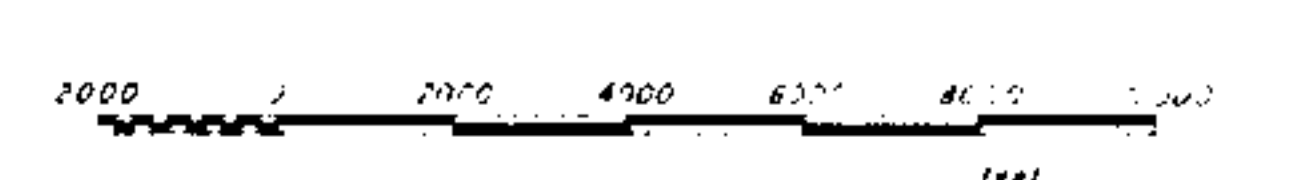
Locke

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Map 9. Provo Bay A-1
District Rezoning

MIE PCE



actually been designated A-1. This was understandable in light of the fact that the District was not specifically intended to act as a buffer between communities, but was simply a deliberate measure aimed at protecting the County's most important primary industry, agriculture. Planning Commission minutes of the time indicate that County planners actually worked to discourage farmers in the areas immediately around communities from seeking rezonings to the more restrictive A-1 District.⁸⁵

Utah County "701 Project"

Beginning in the 1950s, the incentive of grant money available from the Federal government popularized the use of comprehensive or "master" plans as a basis for guiding the formulation of local zoning regulations. The most significant enticement to produce a local master plan came through the Urban Planning Assistance Program of the Department of Housing and Urban Development, also known as the "701 Program". This program, created by the Housing Act of 1954, provided county and local governments with federal funds to help finance the compilation of planning documents. In addition to the incentive of 701 money, other government grants were often available only on the condition that they

⁸⁵ Utah County Planning Commission, "Minutes," Provo, UT, 27 January 1966.

be spent in conformance with an existing master plan.⁸⁶ Planning Commission minutes show that Utah County's first master plan originated out of these circumstances.

Mr. Despain explained that in 1962 the Highway Act was passed by Congress requiring urban counties to have a transportation plan by 1965 in order to qualify for further federal aid on roads. Congress provided in the act that Federal funds could be used on such a plan on a basis of 80% Federal, and 20% state and local. However, although a land use plan was required, funds were specifically withheld for this phase of the program because it was felt that local governments should have the responsibility of making said land use plans. Congress then gave the Housing and Home Finance Agency funds that could be used on a cooperating basis by local governments to make land use plans and also other types of plans. This authority is in legislation known as the "701 Program". The county is now in the process of preparing application for 701 funds, and funds may be available by the middle of June.⁸⁷

The County made application for 701 funds in August of 1964 and the first year's grant was received in August of 1965. County planning leaders immediately embarked on an elaborate county-wide master planning program that was to include citizens and government leaders throughout Utah County. In addition to a master plan for the unincorporated area, the project was designed to produce corresponding master plans for all of the municipalities in the County.

⁸⁶ Richard H. Jackson, Land Use in America (New York, NY: John Wiley & Sons, 1981), 42-43.

⁸⁷ Utah County Planning Commission, "Minutes," Provo, UT, 6 February 1964.

Development of these plans under the County's "701" project was divided into two phases. The first phase included the gathering of physical information, the formulation of city and county population projections, and the creation of parcel and land use maps. The second phase involved the creation of the Utah County Planning Advisory Council, consisting of nine committees with approximately 25 persons on each committee. Recommendations of the Advisory Council were to be compiled as the master plan. The first meeting was held September 29, 1966, with over 225 people in attendance.⁸⁸

In 1967 the Utah County Planning Advisory Council reported its recommendations as Utah County Planning Goals and Policies, including the following recommendations pertinent to development in the unincorporated greenbelt areas:

The satellite-greenbelt form of county development, characterized by urban uses clustered within communities, and the communities in turn surrounded by green belts of farms and open space, [is] recommended as the basic pattern of development for Utah County.⁸⁹

It is unwise and unnecessary for incorporated cities in Utah County to annex additional agricultural lands. There are enough vacant lots and land in the incorporated cities of Utah County to more than triple present population. Further annexation

⁸⁸ Utah County Planning Commission, "Minutes," 29 September 1966.

⁸⁹ Utah County Planning Commission, Utah County Planning Goals and Policies, Report of the Utah County Planning Advisory Council, (Provo, UT: 1967), 1.

disrupts and complicates existing irrigation systems, causes additional areas of weed infestations in vacant lots, increases governmental costs, and further reduces the availability of choice land for agricultural purposes.

The building of non-farm dwellings should take place on vacant lots and lands within the cities, where sewers, water lines, and other necessary public services are readily available or where such facilities can be obtained at reasonable cost.⁹⁰

While the factors that prompted the Mormon pioneers to adopt a "satellite-greenbelt" form of urban development had changed somewhat over the years, the Utah County Planning Advisory Council saw valid reasons why development should continue in the same pattern. They reasoned that it combined significant advantages and benefits to the community, usually found exclusively in smaller or larger cities, and should be retained so that the growth of cities could continue without seriously diminishing the productivity of surrounding agricultural lands.⁹¹

Utah County Master Plan

Work on compiling the County master plan and corresponding municipal master plan documents commenced immediately following publication of the Advisory Council's report. Draft copies of the County plan were first given to

⁹⁰ Ibid., 23-24.

⁹¹ Utah County Planning Commission, A Master Plan for Utah County, Utah, 1968-1985, 59.

members of the Planning Commission in May of 1968, and an official copy was submitted to the Utah County Commissioners on August 14, 1968. On May 7, 1970, nearly two years after its completion and six years after the project began, A Master Plan for Utah County 1968-1985 was officially adopted by the Planning Commission. The total cost of the document was \$53,640.00, of which \$35,760.00 had been financed by 701 funds.^{9 2}

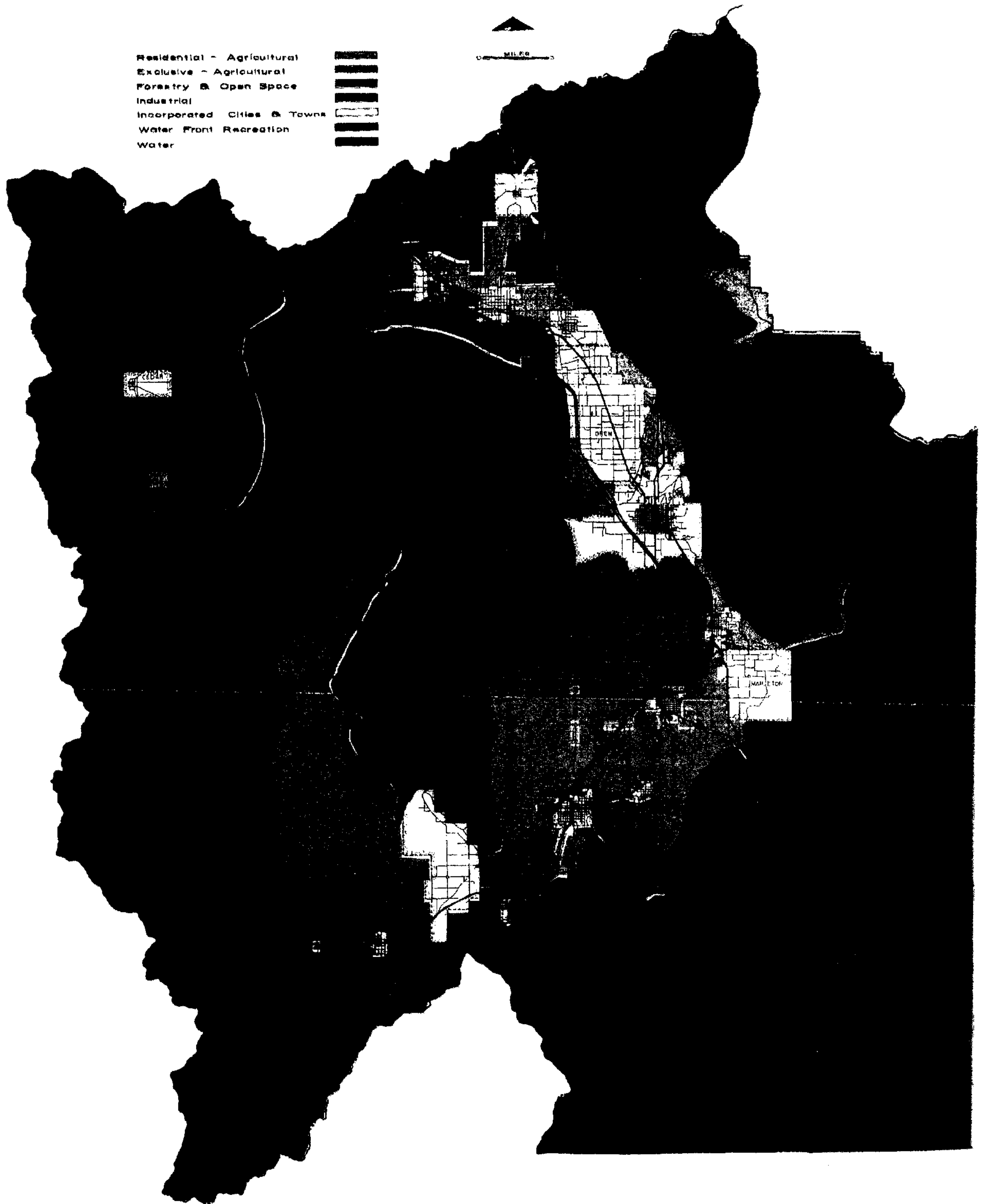
The Master Plan was developed with the assumption that most urban development would occur in municipalities or unincorporated areas where water supply was readily available. The land use element of the new Plan divided the unincorporated county into 22 separate planning districts, giving short descriptions and land use recommendations for each. Five different land use classifications were mapped on the plan for land use: Residential-Agricultural, Exclusive-Agricultural, Forestry & Open Space, Industrial, and Water Front Recreation (See Map 10). The Plan's overall recommendations for agricultural land (which had been liberally designated on the land use map) closely mirrored those found in the Planning Advisory Council's report as quoted above.

The land use element of the 1968 Master Plan divided the unincorporated areas of the County into planning districts, most of which were to be maintained exclusively as

^{9 2} Utah County Planning Commission, "Minutes," 7 August 1969.

Map 10. 1968 Utah County Land Use Plan
PLAN OF LAND USE

UTAH COUNTY, UTAH



agricultural land. Under the section titled "Future Development" it was suggested that growth should occupy vacant land within city limits where essential services are readily available.

A major problem with the Master Plan was that it took too long to develop. Between 1965 and 1970 Utah County had experienced enormous population growth without the master plan in place to guide development decisions. In addition, groundwork for the plan placed a large demand on the time of planning department employees, overshadowing the maintenance and administration of existing regulations and policies. At its completion, the 701 Master Plan Project was somewhat disappointing in that the resulting documents did not have the County-wide scope initially intended. Furthermore, the project was not followed by other cooperative planning efforts.

Beneficial consequences of the County's 701 master plan project include the fact that it facilitated the development of master plan documents for all of the communities in Utah County, many of which would not have developed plans on their own. In addition, the Plan confirmed a satellite-greenbelt form of development as an official county development policy. This Plan departed from earlier county policies that had emphasized agricultural protection and government economy in that the value of "greenbelt" areas to be maintained and preserved was not necessarily to be judged simply on the

basis of agricultural worth, but could also be recognized for their social or aesthetic significance as open space.

1970 Zoning Ordinance Revision

Work on a new zoning ordinance and zoning map began immediately after the completion of the 701 Master Plan Project. This zoning ordinance project was also to be partially funded by 701 monies. Initially the County Planning Commission hoped to create a "Unified Zoning Ordinance" that would have been implemented on a county-wide basis. The concept did not accumulate sufficient municipal support, however, and the idea was eventually abandoned.^{9 3}

On August 19, 1970, the Utah County Commissioners adopted the first five sections of the 1970 Revised Zoning Ordinance of Utah County. The new Revised Ordinance was written and organized similar to the 1959 and 1960 amendments, with written objectives and characteristics for each district (now called "zones"). Unlike the amendments, however, this was an entire revision of the Zoning Ordinance. The new Ordinance was fashioned so as to compel development to conform with the recommendations of the newly adopted Master Plan. Among other things this meant an increased lot size requirement for dwellings in all unincorporated zones that allowed residential uses.

^{9 3} Utah County Planning Commission, "Minutes," 4 June 1970.

The permitted land uses and dwelling lot requirements of the Revision's A-1 Agricultural Zone were virtually the same as those of the 1960 amendment. The Ordinance created two five-acre residential zones, the RA-1 Residential-Agricultural Zone, which included virtually all of the land that had previously been in the Residential-Agricultural District, and the A-2 Agricultural Zone, which was only assigned by rezoning petitions. While both of these zones had the same five-acre dwelling lot requirement, they varied in that the RA-1 Zone strictly limited the amount, kind, and location of farm animals, while the A-2 Zone had no such restrictions and specifically warned that primacy was to be given farm uses.⁹⁴

Relative to discouraging non-municipal growth, the most significant change brought about by the 1970 Ordinance was an increased acreage requirement for dwellings in the Grazing Zone, the largest zone by area in the County at the time. The change took the previous lot requirement of one acre up to twenty acres, matching the Agricultural Zone requirement. Up to this point a relatively small amount of land had been rezoned A-1 Agricultural. The new Grazing Zone, however, encompassed an extensive amount of acreage, including virtually all of Goshen Valley, Cedar Valley, West Mountain, and a large area south of Payson. The increased lot area

⁹⁴ Utah County Planning Commission, The 1970 Revised Zoning Ordinance of Utah County, Ch. 9 (Provo, UT: 1970), 6.

requirement in the Grazing Zone took a considerable amount of pressure off of the Agricultural Zone by making the two nearly identical. In spite of the massive amount of land within its boundaries, the new acreage requirement for the Grazing Zone most likely had only a minor impact on unincorporated growth, since most of the lands were located in remote areas of the County which were under little development pressure anyway. The Residential-Agricultural Zone, now changed to a five-acre minimum, still encompassed most of the greenbelt areas surrounding and between the County's primary cities--lands that had historically been under the most intensive agricultural use in Utah County.

Several tracts were rezoned to A-1 and A-2 in 1972 and 1973. All of these rezonings were ratified in an effort to make zones conform with planning district land use goals established in the County's new Master Plan. The most significant rezonings took place in the Spring Lake, Palmyra-Lake Shore, Manilla, and West Mountain Planning Districts.

1975 Master Plan Amendment

In early 1974 the Utah County Planning Commission hired a local consulting firm to assist in preparing a quick revision to the land use element of the Master Plan. The urgency of the revision was primarily felt because of a rapid rate of growth within the County that far exceeded previous expectations. The frenzied development taking place forced

the Planning Commission to reassess the County's adopted land use plan and development policies in order to make appropriate and needed changes to the Zoning Ordinance and Map.

The 1975 Revised Land Use Element of the Utah County Master Plan was adopted by the Planning Commission on April 22, 1975, as an official component of the Master Plan. The Revised Element included the following statements relative to unincorporated growth:

"Urban Sprawl" has been depleting the county's agricultural land, while tracts of nonproductive land have been bypassed . . . The most significant changes in the recommended implementation of the element has been to discourage urban development in the predominately agricultural areas of the county at the expense of the environment.⁹⁵

The element . . . calls for each of the urban centers to be separated from each other by a belt of cropland, grazing land, or other open space [the multi-nuclear pattern of urban development, as opposed to the radial, linear, sprawl or sheet, and core patterns].⁹⁶

This [multi-nuclear type of urban pattern] has been selected for several reasons: (a) past development in the county has already taken place in this manner, (b) the cost of providing services is less than in other patterns, (c) communities can retain their own individual identity, (d) the residents can enjoy the amenities that come from close-by open fields in contrast to the monotony of seemingly (sic) endless urban sprawl, (e) agriculture and the source of food can be preserved, (f) the watershed upon which life

⁹⁵ Utah County Planning Commission, Revised Land Use Element of the Utah County Master Plan (Provo, UT: 1975), 1, 3.

⁹⁶ Ibid., 10.

in the valley depends can be preserved, (g) residents can have cultural opportunities and commercial services that are found only in larger cities and at the same time can enjoy the social amenities which are found only in smaller communities and neighborhoods.⁹⁷

The fundamental difference between the Revised Element and the original land use element was that it provided a plan for the development of urban uses and the preservation of agricultural uses, rather than simply attempting to curtail urban sprawl. This plan for development allowed for "a limited number of bona fide new towns in the unincorporated area of the county".⁹⁸

The new land use map had four land use classifications instead of five, and the twenty-two planning districts were consolidated into twelve planning areas. The designations on the land use map included the following types of areas: Development, Industrial, Summer Home and Resort, and Greenbelt. Agricultural, range, and mountain areas were all grouped together on the land use map under the "Greenbelt" designation (See Map 11).

1976 Zoning Ordinance Revision






As evidenced by the 1975 revision of the Master Plan, interest in greenbelt preservation in Utah County steadily

⁹⁷ Ibid., 11-12.

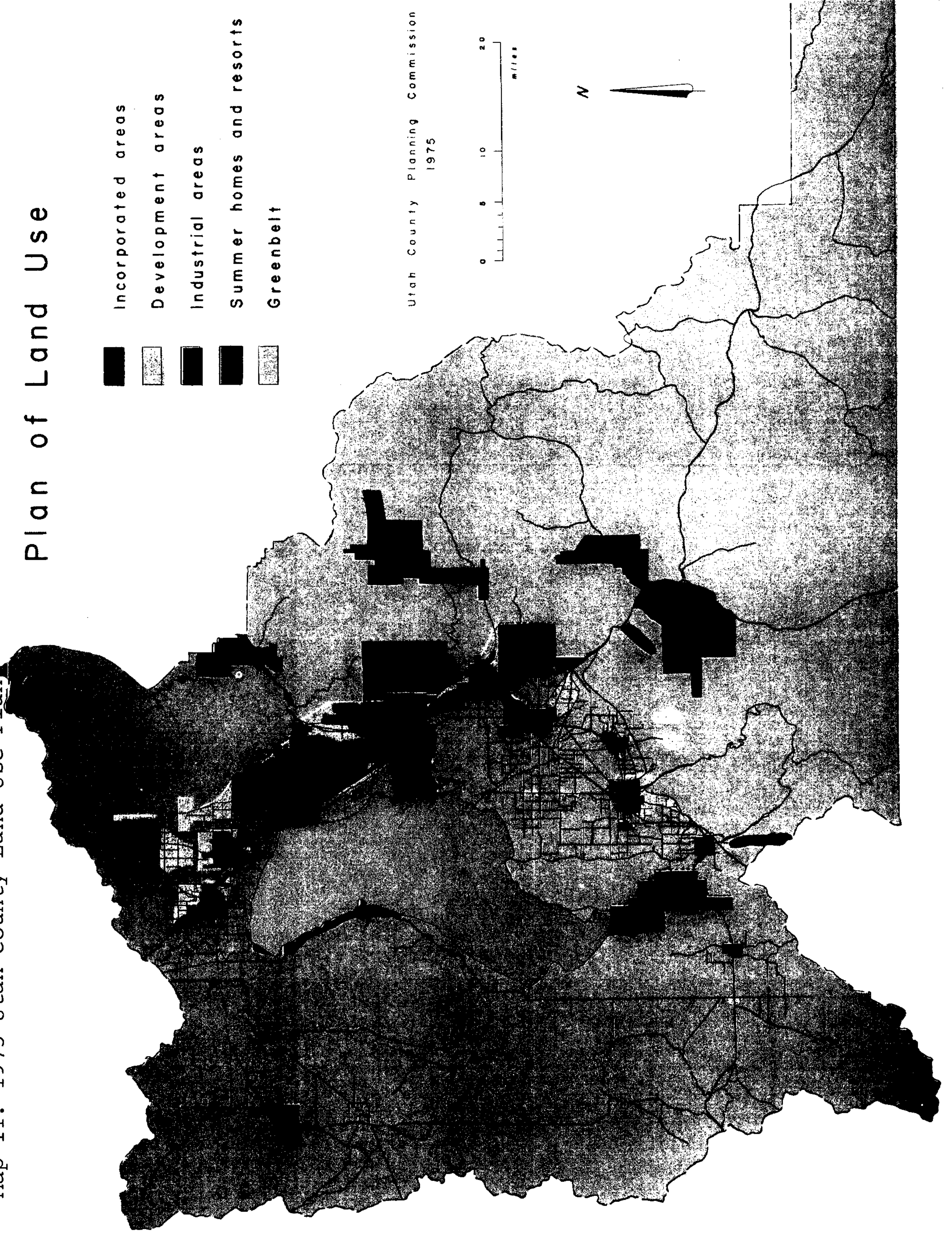
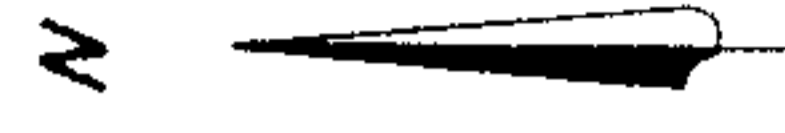
⁹⁸ Ibid., 7.

Map 11. 1975 Utah County Land Use Plan

Plan of Land Use

-  Incorporated areas
-  Development areas
-  Industrial areas
-  Summer homes and resorts
-  Greenbelt

Utah County Planning Commission
1975



increased in the 1970s. Many county residents and government officials were particularly disturbed by what they felt was an inability of the County's Zoning Ordinance to protect prime agricultural lands, the majority of which remained in the five-acre Residential-Agricultural Zone.

Interest prompted action, and work on a new zoning ordinance began immediately after the Revised Land Use Element was adopted. The 1976 Revised Zoning Ordinance of Utah County was adopted on December 22, 1976. The revision was a dramatic change from earlier ordinances, utilizing innovative zoning techniques for regulating development in agricultural and canyon areas as well as the transitional urban-rural zones around the County's established communities.

A new zoning map was adopted with the Revised Zoning Ordinance that substantially increased the area of the A-1 Agricultural Zone. Most of the new A-1 land was formerly zoned Residential-Agricultural, a zone that was eliminated by the new Ordinance. This change brought most of what is now approximately 160,000 acres into the County's Agricultural Zone. The bulk of the remaining Residential-Agricultural land was put into the RR-5 Rural Residential Zone and the TR-5 Transitional Residential Zone, both of which had five-acre dwelling lot requirements that allowed all agricultural uses permitted in the A-1 Zone. Tracts of land within municipal policy declaration areas were given the TR-5 designation.

This zone was designed to encourage municipal annexations by disallowing a density bonus for subdivision plats.

The RR-5 Zone was written for those lands outside of municipal policy declaration areas that, because of previous development, were already predominately residential in character. By filing a subdivision plat and providing required improvements, a developer could create building lots as small as 10,000 square feet in an RR-5 Zone.

Because of its restrictiveness and the vast amount of land affected by its widespread changes, the new revision of the Zoning Ordinance was met with a great deal of opposition. The following excerpts from letters sent to County officials prior to the adoption of the revision show the contrasting points of view around which the controversy centered:

This Zoning Ordinance, being the most restrictive of any county in the State of Utah, most certainly deprives the owners of their rights of property . . . Regulation for orderly growth can be accomplished through proper development requirements and building codes. But to freeze the growth of Utah County by such a restrictive Ordinance will not contribute to orderly growth, but will be counter-productive of its very intent and purpose.⁹⁹

Since the food we eat tomorrow depends on the decisions you make today concerning the use of our farm ground, I sincerely hope you will not consider any kind of zoning which might encourage even one acre of this precious land being used to build a

⁹⁹ Stanley J. Thayne to Utah County Board of Commissioners, 30 March 1976, Utah County Planning Commission, Provo, UT.

house on . . . Keep up the good work and save our farms for growing food!¹⁰⁰

In the new revision of the ordinance, one-family dwellings were no longer listed as a permitted use in the A-1 Agricultural Zone. Primary and secondary farm caretaker dwellings were added as permitted uses when associated with qualifying farm units. A grace period of three years was granted to allow land owners to build non-farm dwellings on previously existing parcels of land that had qualified for a dwelling under the requirements of the earlier version of the zoning ordinance. After the grace period, only bona fide farm caretaker dwellings could be constructed and nonconforming or grandfather lots would not be recognized as qualifying for residential building permits. Conversely, agricultural uses were liberally permitted in nearly all of the zones of the new ordinance.

The new revision of the Zoning Ordinance limited the occupancy of farm caretaker dwellings to families or individuals who earned their primary source of income from working directly on the qualifying farm unit. To qualify for farm dwellings, a proposed farm unit had to have a minimum assessed land value, a minimum assessed livestock value maintained on the farm, or a qualifying combination of land and livestock. All assessed land and livestock values were

¹⁰⁰Berta Lou Holt, to Utah County Planning Commission, 8 October 1976, Utah County Planning Commission, Provo, UT.

determined from tax records. Schedules in the ordinance specified the required assessed values needed to qualify for dwellings on a farm unit. For intensive agricultural operations that easily qualified for dwellings by livestock valuation, a minimum requirement of one acre per farm unit was established. Otherwise there was no limit to the amount of acres needed to qualify for a farm unit, only needed valuation.

The farm unit requirement was modified slightly on April 4, 1977, allowing proposed farm units of 100 acres or more to qualify for a farm caretaker dwelling regardless of assessed valuations.

As it was first adopted, the 1976 Zoning Ordinance included the NTS-1 New Townsite Zone, a zone designed to allow for the planned development of new towns, as recommended by the 1975 Revised Land Use Element. The NTS-1 New Townsite Zone would be designated only after successful landowner application. Sites to be considered for the Zone were required to be a minimum of 500 acres of primarily range or grazing lands and have physical characteristics that could satisfactorily accommodate urban development.¹⁰¹

In light of the County's rapid population growth and the Planning Commission's determination to continue to discourage unincorporated development, the ultimate need for new

¹⁰¹ Utah County Planning Commission, 1976 Revised Zoning Ordinance of Utah County (Provo, UT: 1976), 105.

townsites in Utah County seemed an impending reality. By creating the NTS-1 Zone, the Planning Commission was clearly attempting to provide some flexibility to allow for necessary growth that could not be accommodated by the greenbelt-related restrictions of the zoning ordinance. Ideally, it was hoped that the NTS-1 Zone would allow for the planned increase of acreage to be devoted to urban uses based on actual demand, rather than allowing piecemeal development of subdivisions in the unincorporated county.

The NTS-1 Zone proved to be a failure for Utah County. No new townsites were ever actually established as a result of the creation of this new Zone, but the designation was assigned to the existing subdivisions of Cedar Hills and Elk Ridge. The Zone developed a reputation for being a "catch-all" zone sought by developers because, once it was established, it limited the Planning Commission's authority to control development.¹⁰² The Zone was finally deleted from the Ordinance on April 30, 1979, when County attorneys indicated that it was a contract zone requiring agreements that the County "could not legally defend". The recommendation for deletion of the zone came after an applicant appealed to the County Commission to accept a proposed "New Townsite" without the requirement of

¹⁰² Utah County Planning Commission, "Minutes," 24 April 1979.

restrictive covenants the Planning Commission had imposed as a condition of approval.¹⁰³

1980 Master Plan Revision

On August 11, 1981, the Planning Commission adopted the Utah County Master Plan 1980, the County's presently adopted master plan. This document is primarily an updated and consolidated compilation of the several previously adopted elements of the Master Plan.¹⁰⁴ Observations and recommendations in the new Master Plan relative to agricultural areas are essentially the same as those in the 1975 Revised Land Use Element, including the following:

Agriculture, an essential, land-extensive primary industry, needs the protection of zoning as much or more than factories and warehouses need the protection of a manufacturing zone, or residential neighborhoods need the protection of a residential zone. Therefore, it is proposed that: (1) productive lands be zoned for agricultural purposes; (2) atypical, poorer lands within a generally satisfactory farming region be retained in agriculture to avoid the aforementioned farm - non-farm conflict; (3) agricultural districts be zoned to exclude non-farm residences, as well as all industries except crop cultivation and the raising of livestock; and (4) farm land be treated as productive land, not vacant land to be converted to residential, commercial, or industrial use whenever such a need arises.¹⁰⁵

¹⁰³ Ibid.

¹⁰⁴ Ibid., "Minutes," 11 August 1981.

¹⁰⁵ Utah County Planning Commission, Utah County Master Plan 1980, 147-149.

The land use map adopted with the 1980 master plan had six land use designations: Dense Residential, Rural Residential, Cabin & Resort, Manufacturing, Highway Service Commercial, and Greenbelt. The most significant difference in the new map from the 1975 version was the designation of several thousand acres of canyon land from Resort to Greenbelt (See Map 12).

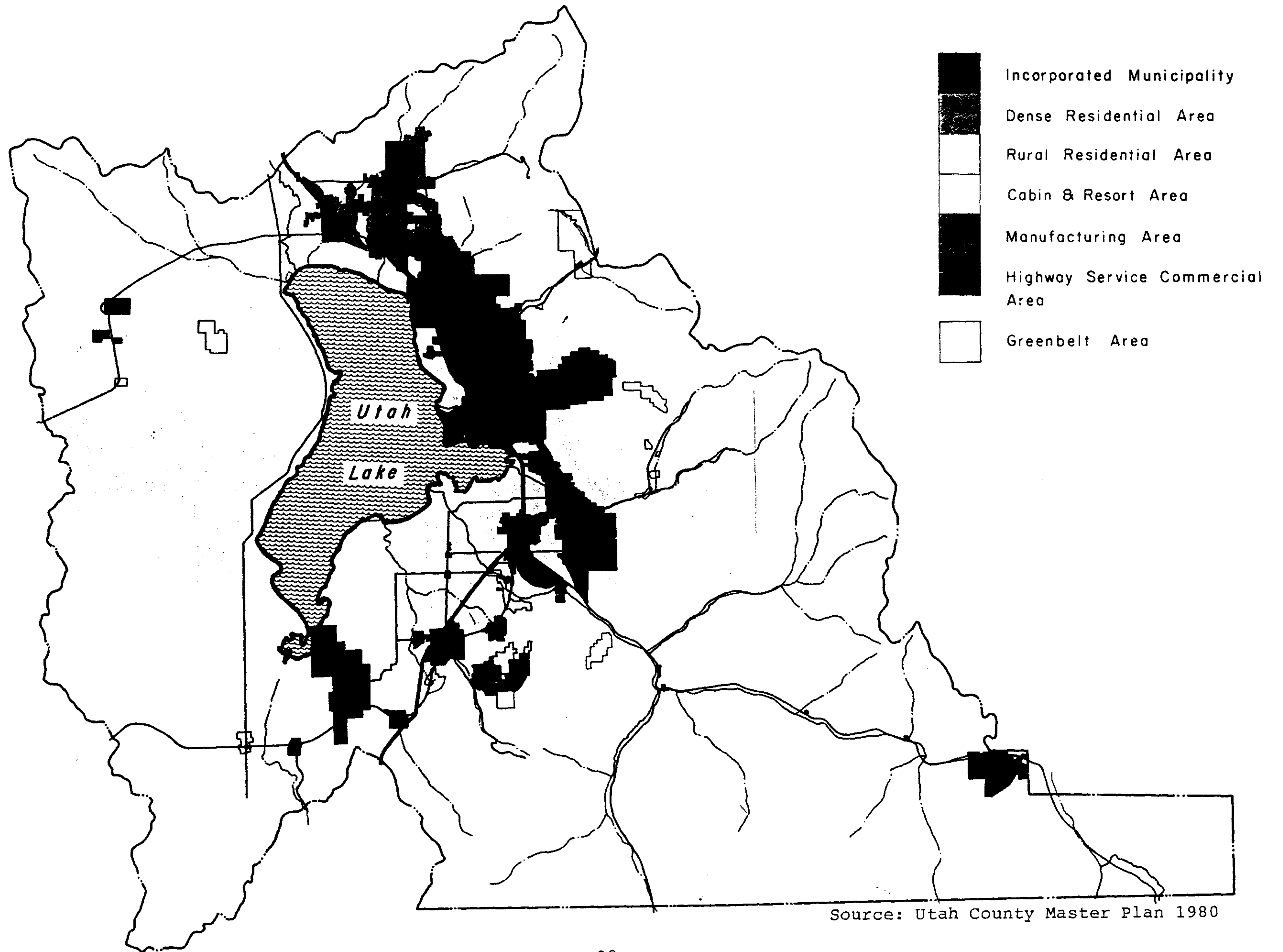
1983 Agricultural Zone Amendment

On July 6, 1983, the Utah County Commissioners approved new requirements for farm units in the A-1 Agricultural Zone. The change included a minimum requirement of forty acres, rather than one acre, to qualify for a primary farm caretaker dwelling, regardless of land or animal valuations. The forty-acre farm unit could also consist of more than one parcel, provided that all of the parcels used to qualify were within one mile of the proposed dwelling site and were located in the A-1 Zone. These changes demonstrated that protection of the open space of the greenbelt had become the County's foremost goal in the Agricultural Zone, taking precedence over qualifying for residential development solely by intensity of agricultural use.

The rules for allowing additional, secondary farm caretaker dwellings to be put on a farm unit remained essentially the same, still based on land and/or livestock value. Instead of using tax records to determine assessed

Map 12. 1980 Utah County Land Use Plan

Land Use Plan



livestock valuation, however, a schedule was developed in the Zoning Ordinance assessing per animal point values for the various types of farm animals and specifying the cumulative point values needed to qualify for each secondary dwelling. In addition, actual numbers of the various animals used to qualify for secondary dwellings were now to be verified by field inspection made by the County zoning inspector. When livestock valuation was included in the quantification for a secondary farm dwelling the dwelling was restricted to a mobile home, which could easily be removed from the farm unit if livestock numbers decreased.

To maintain the integrity of these farm units, parcels and animals used to qualify for dwellings were to be described in a notarized and recorded restrictive covenant, called a "Declaration of Farm Unit," precluding the property described from being used to qualify for other dwellings not associated with the particular farm unit.

The requirements for allowing secondary dwellings were changed specifically to make qualifying for additional farm houses directly related to the potential agricultural valuation of the land on which the farm was based, rather than on a taxable valuation that might be determined by a variety of factors. The requirement was also changed to prevent landowners from circumventing the ordinance by declaring more livestock than they actually owned. In the past, if during their assessment of the farm, County

assessors had counted less livestock than had been declared they usually did not question the applicant. It was also alleged that, in the past, some landowners temporarily borrowed livestock from other farms prior to the assessor's visit.¹⁰⁶ This loophole in the ordinance was closed because the new amendment allowed the zoning inspector to make short notice site inspections to verify livestock numbers.

1984 Zoning Ordinance Revision

The Utah County Zoning Ordinance was adopted on March 7, 1984, having very few changes from the last amended version of the 1976 Revised Zoning Ordinance. None of the 1984 changes had a significant impact on the unincorporated greenbelt areas. As it is presently adopted, the Utah County Zoning Ordinance divides the unincorporated area into nine different zoning districts and a flood plain overlay zone.

1988 Zoning Ordinance Revision

At the request of the Utah County Commissioners, the Planning Commission has initiated work to again revise the Zoning Ordinance. On August 5th, 1987, the Planning Commission selected a local engineering firm to review the Ordinance and make suggestions for revision. The Agricultural Zone has been specifically targeted as an area

¹⁰⁶ Utah County Planning Commission, "Minutes," 17 September 1974; Garth D. Smith, Utah County Planning Commission, interview by author, 14 March 1988, Provo, UT.

to be changed, with an emphasis on easing or eliminating the farm unit requirements for obtaining residential building permits.

Summary of Utah County Zoning and Planning

Utah County was first settled by the Mormon pioneers using a series of grid-based villages surrounded by agricultural greenbelts of undeveloped land. This "multi-nuclear" pattern for settlement remained relatively undisturbed until after World War II, when new industrial development and rapid population growth began to threaten the County's agricultural land and rural identity.

Since the 1940s, County government has worked to protect unincorporated greenbelt areas by discouraging non-municipal growth. First established as a means of avoiding the potential for urban problems related to the Geneva steel mill, zoning regulations became a popular means of preserving agricultural land and limiting unincorporated growth in the County.

The key factor responsible for the adoption of greenbelt preservation policies in the County has been the County's strong Planning Commission, which, in addition to being organized at an early date, played an exceptionally strong role in establishing County planning goals and maintaining consistent and clearly defined greenbelt objectives over the years.

Since 1976 Utah County has, under its direction, utilized a widespread, exclusive zone, designated A-1, to encourage farming and protect greenbelt land. It is a peculiarly restrictive and innovative example of a bona fide agricultural zone, comparable to ordinances found in far more politically liberal and agriculturally significant regions of the United States.

In recent years the involvement of the Planning Commission has declined. Elected County officials have successfully lobbied for a re-evaluation of the County's development policies, especially those relative to the greenbelt. The decision these leaders must make is whether the County should continue to actively seek to preserve the greenbelt by maintaining or escalating County involvement in greenbelt land use control, or reduce County control and let market forces more actively determine the fate of these lands.

Chapter 6

GREENBELT PRESERVATION BY PUBLIC ACQUISITION OF LAND

To counter the widespread conversion of agricultural land into urban uses, a growing number of states and counties are turning to stronger preservation measures than can be found in conventional zoning regulations. These measures include the public acquisition of land or development rights, and the assignment of transferrable development rights whereby rights from agricultural land can be committed to areas determined to be more appropriate for development.

Typical of the western United States, a large portion of the land area within the State of Utah is directly owned by the federal government.¹⁰⁷ Likewise, nearly half of the land in Utah County is government owned (See Map 13). Of this land, approximately 485,000 acres is controlled by the Forest Service, 70,000 by the Bureau of Land Management, 16,000 by the Defense Department, and 22,000 by the Department of Water and Power Resources (formerly the Bureau of Reclamation). In addition to land held by the federal government, the State of Utah has some 50,000 acres in Utah County.¹⁰⁸

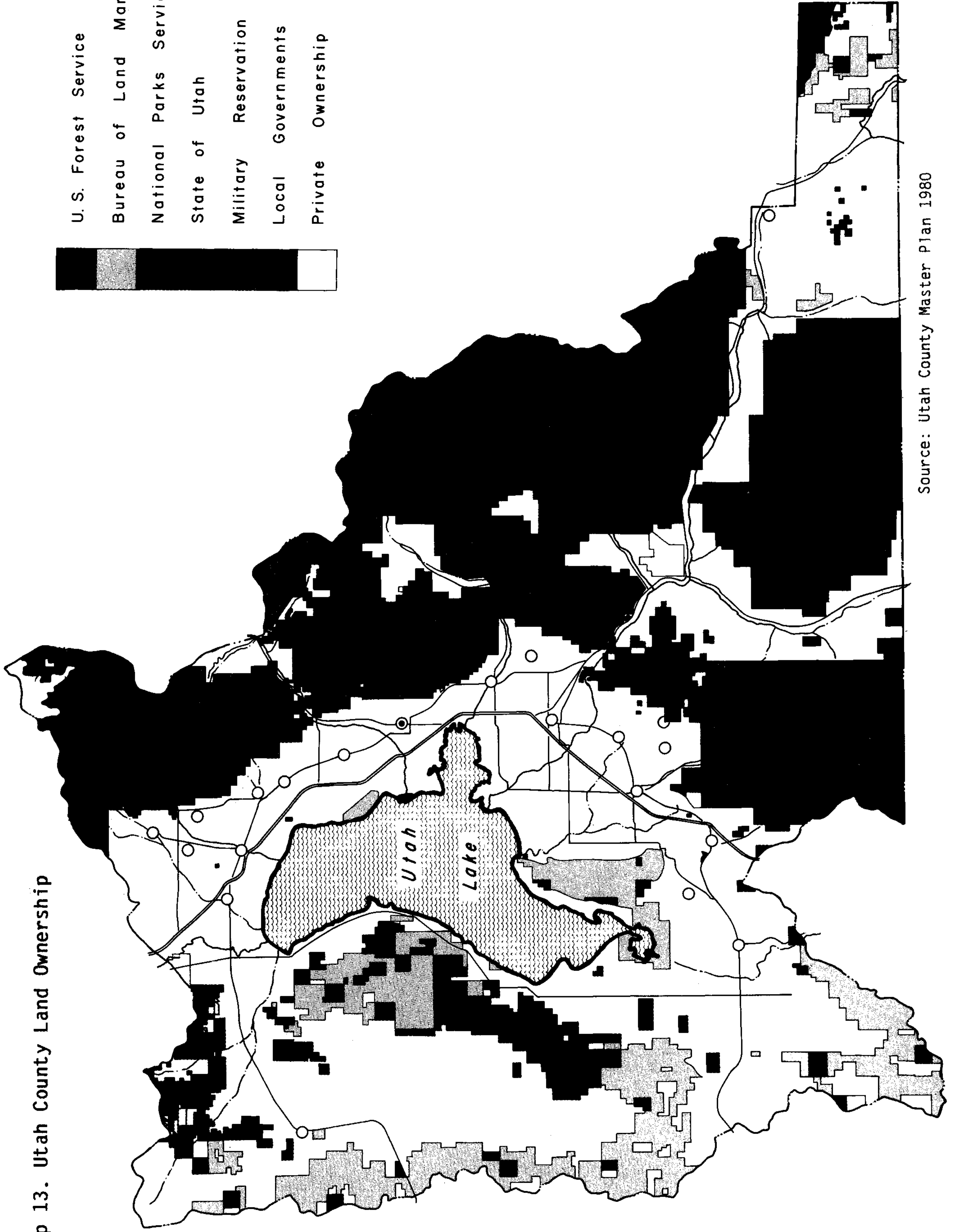
¹⁰⁷ Jackson, Land Use in America, 48.

¹⁰⁸ Bureau of Economic and Business Research, Utah! Facts, Ch. VI, 9-10.

Land Ownership



- U.S. Forest Service
- Bureau of Land Management
- National Parks Service
- State of Utah
- Military Reservation
- Local Governments
- Private Ownership



Map 13. Utah County Land Ownership

Source: Utah County Master Plan 1980

Table 7. Federal Land Ownership in Utah County

Agency	Acres
Bureau of Land Management	70,891
Forest Service	485,394
Department of Defense	16,073
Water and Power Resources	22,702

Source: Bureau of Economic & Business Research, 1980

Some comfort can be taken in knowing that the bulk of the County's government-owned lands are safe from urban sprawl. However, most are located in mountainous, or otherwise remote areas of the County, and do not include the prime greenbelt areas immediately adjacent to the cities that are most subject to market forces. Were it not for the usual expense, public acquisition of the greenbelt lands would plainly be an ideal means of insuring agricultural open space preservation, as it would grant the representative government complete control in determining the use of lands involved. To date, Utah County has not seriously considered implementing a land acquisition policy as part of its greenbelt preservation program.

The following pages will briefly summarize some of the techniques available to local governments for the outright or

development right acquisition of greenbelt land, and how each method might fare in Utah County.

Eminent Domain

Eminent domain is the power to take private property for public use.¹⁰⁹ The use of eminent domain by local government to condemn land for public purposes generally requires that the owner be paid fair market value compensation and is often the source of endless litigation and political liability for the public officials supporting its use. Consequently, eminent domain acquisition is usually used as a last resort. Aside from the political and legal risks, reliance on its use as the principal means of developing a public ownership-based greenbelt preservation program would be difficult for any local government because of the market value compensation requirement alone. The limited, prudent use of eminent domain, however, could be a legitimate means of supplementing a larger, rationally planned farmland acquisition program.

Purchase

Although such a program has never been instituted in Utah, local government programs for purchase of open space for greenbelt preservation have been established in other parts of the United States. In addition to allowing for

¹⁰⁹ Henry Campbell Black, Black's Law Dictionary, Revised Fourth Ed. (St. Paul, MN: West Publishing Co., 1975), 616.

greenbelt preservation, public purchase programs usually include land banking provisions that allow the procuring government to release land into planned development.¹¹⁰

Considering the depressed agricultural land values currently found in Utah County, public purchase of land in the greenbelt would likely prove to be a worthwhile investment at this time, if not simply for the sake of investment alone. However, the eighties are a time of public scrutiny and outrage over "unnecessary" government spending, limiting the likelihood of actually establishing a program involving outright purchase of land. This is unfortunate, since a carefully designed program could be used similar to a savings account, whereby the citizens of the county would have a physical reserve of land to show for the investment of their tax dollars.

A negative consequence of outright public purchase of greenbelt land is the loss of property tax revenues that would otherwise be realized if the land were to remain in private ownership. In Utah County this would be mitigated to a large extent by the fact that the lands most likely to be involved would be undeveloped tracts under greenbelt assessment, thereby not producing significant property tax revenues anyway. In addition, publicly owned land maintained as agricultural greenbelt would not generate new demand and

¹¹⁰ Ann L. Strong, Land Banking (Baltimore, MD: The Johns Hopkins University Press, 1979), 2.

increased expenditures for government-supplied services. Moreover, acquired land reserves could be leased for agricultural purposes or other appropriate uses to compensate for losses in property tax revenues, or perhaps even resold in select areas for planned development. While publicly acquired and owned land might even be harnessed to produce an income for local government, the fundamental public good derived from an established greenbelt acquisition program would already be realized through the guaranteed preservation of agricultural open space.

Purchase of Development Rights

A less cost-intensive but similarly effective alternative for guaranteeing greenbelt preservation is the public purchase of "development rights" associated with greenbelt parcels. Unlike outright purchase, the acquisition of development rights does not entail obtaining title to the land, but is an agreement for the purchase of any development or non-agricultural use rights the land currently has or might eventually accumulate. The costs of development rights are usually figured as the difference between the fair market price of the land, on the basis of its highest use, and its farm value. Successful programs for the public purchase of agricultural development rights have been established in various parts of the United States, often financed through

the sale of general revenue bonds designed to be retired by property tax revenues.¹¹¹

While the public acquisition of agricultural open space by outright or development right purchase would likely prove to be a worthwhile investment and an effective means of greenbelt preservation, the enormous commitment of tax dollars necessary to implement such purchase-based programs severely limits its potential use in Utah County. Two alternative methods are available that do not entail the actual dedication of public funds; the retention of tax delinquent property, and the encouragement of private land donation. These methods could eventually derive the same, albeit more slowly realized, result of direct public ownership and control of greenbelt land.

Retention of Tax-Delinquent Land

A consequence of our country's heavy dependence on property taxation is the fact that a considerable amount of private land is acquired by government because of unpaid property taxes. This land is usually resold by the government as soon as possible, primarily to get it back on property tax rolls.¹¹² Although obviously a more

¹¹¹ John Spellman, "King County's Purchase of Development Rights Program," in Protecting Farmlands, ed. Frederick R. Steiner and John E. Theilacker (Westport, CN: AVI Publishing Company, 1984), 81.

¹¹² Williams and Taylor, "Policy Considerations," chap. in American Land Planning Law, Vol. 5, 396.

conservative approach than a large-scale outright or development right purchase program, the retention of tax-delinquent land by Utah County government could be employed as a relatively cost-free way to build a reserve of publicly owned land permanently dedicated to agricultural use or open space.

Solicitation of Private Land Donation

In his book The Last Landscape, William H. Whyte identified the active encouragement of private land donation as the most overlooked and underrated method available to local government for building reserves of publicly owned open space. By neglecting to ask for land donations, governments seeking to establish ownership-based greenbelt preservation programs are overlooking a vast resource. Whyte suggested that these governments could conceivably acquire sizeable land reserves by publicly recognizing donors and offering them assurances that their gifts would remain in public ownership as open space or farmland. Land donations could also be encouraged as a source of income tax write-off for donors.

"Donation promotion" could easily be enlisted by Utah County if public acquisition of land were to be included as part of its greenbelt preservation program.

Assignment of Transferrable Development Rights

The idea of assigning transferrable development rights (TDR) to agricultural and other types of land was formulated in an attempt to create an equitable means for governments to permanently obtain land use and development rights in areas of specific interest. TDR programs are neither wholly established on police power regulation nor exclusively based on public acquisition, but are a combined use of government police power regulation and partial (market supplied) compensation. Such a combination was endorsed by Williams and Taylor as one of the "intermediate solutions" to equitably providing for the protection of agricultural open space.¹¹³ While rare, a successful TDR program can derive results very similar to the actual public purchase of development rights, without an extensive commitment of public funds.

According to Richard Roddewig and Cheryl Inghram, authors of an American Planning Association Planning Advisory Service Report entitled Transferable Development Rights Programs,

A TDR system simply takes some of the content of the bundle of rights for one piece of property and transfers or relocates it to another piece of property. Typically, this is done by shifting the future development potential from one piece of property (the sending site) to another piece of property (the receiving site). The transferred development potential may be measured in any one of a number of ways, such as floor area, dwelling units,

¹¹³ Ibid.

or parking spaces. Once the transfer has occurred, most TDR systems require a legal restriction on the sending site, prohibiting any future use of the transferred development potential, and permit the receiving site to develop with the additional floor area, dwelling units, or parking spaces to which it is now legally entitled. Some TDR programs are mandatory, in which all potential sending sites are restricted; others are voluntary and allow the marketplace to first match a buyer and seller of the TDRs before the sending site becomes burdened by a land-use restriction.¹¹⁴

TDRs, and other "intermediate solution" programs that allow for some form of financial compensation for police power restrictions, have the potential to soften the economic blow felt by landowners subject to restrictive agricultural zoning regulations like those found in Utah County.

Since 1976, Utah County's zoning ordinance has included a form of TDR by allowing residential development rights in the Critical Environmental I Zone to be transferred to increase residential densities in seasonal home developments located in the Critical Environmental II Zone. However, the program only allows for a transfer of rights between the two Zones that are restricted to mountainous areas.

In several ways Utah County's Declaration of Farm Unit covenant is designed to function like a TDR program, by allowing a collection of development rights gathered from non-contiguous parcels to be used to qualify for building

¹¹⁴ Richard J. Roddewig and Cheryl A. Inghram, "Transferable Development Rights Programs," Planning Advisory Service Report, No. 401, (Chicago, IL: American Planning Association, 1987), 2.

permits. When executed, the Declaration commits the described land to agricultural use for an indefinite period of time, regardless of where the actual building site is located. The covenant differs from a real TDR because there is no actual transfer of development rights from the greenbelt to non-agricultural zones. It also differs in that it is only executed in consequence to the application for new farm dwellings, instead of being previously assigned to land. Finally, the document is not intended to be permanent or binding beyond securing compliance with the current requirements of the zoning ordinance for the Agricultural Zone. Unlike a TDR, the removal of dwellings from the farm unit or the filing of a subdivision or municipal annexation plat can nullify the development restrictions of the Declaration.

Because of currently depressed housing and agricultural values, establishing a genuine TDR program for greenbelt preservation in Utah County would be difficult. Under these conditions, owners of agricultural land would, no doubt, complain of unreasonable competition for the sale of greenbelt development rights, in spite of the fact that they would probably be no better off trying to sell under ordinary market conditions. Current market conditions will eventually improve. In light of the County's high birth rate and the various municipal and cooperative government efforts under way to attract economic growth, the need for more residential

dwellings in Utah County is inevitable. Preferably, many of these new dwellings will be realized as redevelopment in old city blocks, where housing stocks are declining, rather than as sprawling and leapfrogging subdivisions that will destroy even more greenbelt and mountain areas. By designating the old city blocks as TDR receiving areas, and the urban fringe and agricultural property as transferring or sending areas, greenbelt preservation could be accomplished with a simultaneous revitalization of downtown residential zones.

In spite of the County's current real estate slump, there are several areas still under considerable development pressure that could immediately be harnessed by a TDR program to foster greenbelt preservation. Provo, for example, has an immediate potential for establishing a successful TDR receiving area around Brigham Young University as a result of the sustained demand for student housing. This demand has already resulted in the extensive conversion of older neighborhoods around campus into sites for high-density condominiums and apartment buildings.

Utah County Land Acquisition Outlook

Several factors severely limit the likelihood of establishing a genuine land or development rights acquisition program for greenbelt preservation in Utah County, especially one that would require a sizeable commitment of tax dollars.

Fueling an already conservative political environment in the County, substantial tax increases in recent years have heightened public awareness of government spending, resulting in clear demands for greater economy in government. The idea of a publicly financed land acquisition program would undoubtedly be seen as just so much more waste of taxpayer dollars and unnecessary government intervention into private affairs.

A meaningful greenbelt preservation program in Utah County would require a cooperative planning effort between local governments. As a result of cutbacks in Federal grants during the late 1970s and early 1980s, most local governments within the County have frozen or reduced the funding and staff once dedicated to planning and zoning functions within their communities. In addition, citizen participation in developing planning policies also appears to have decreased in proportion to these cuts. As a result, planning organizations are hard pressed to simply maintain previously established policies and programs, let alone commit their efforts to a new project of such wide scope. Furthermore, local interests and egos within the County have frustrated cooperative planning projects in the past and would most likely undermine any efforts to develop the necessary cooperation required to establish a functional greenbelt acquisition program.

Finally, without a dramatic change in the social and economic conditions enjoyed by Utah County residents, it is unlikely that sufficient support will be generated to develop a more aggressive greenbelt preservation program than currently exists in the County. Plainly stated, too few County residents perceive the preservation of farmland and other open spaces as an issue of high enough priority to warrant the adoption of stronger policies. In fact, a number of residents feel that the County's present agricultural zoning regulations are too restrictive and constitute an undue economic burden on greenbelt property owners no longer interested in farming. Any changes in the regulations that do not amount to a relaxed requirement for residential buildings in the Agricultural Zone will likely be met with resistance by these individuals, even if changes would result in greater financial compensation.

Realistically, a more aggressive approach to greenbelt preservation could only be established in Utah County if legislation were to be adopted requiring it as part of a state or regional-level planning program.¹¹⁵ An increasingly conservative and pessimistic political and economic climate has steadily eclipsed the possibility for this type of legislation since the 1970s. If grassroots support for a

¹¹⁵ Victor Moore, "The Public Control of Land Use," in Land Use Issued of the 1980s, ed. James H. Carr and Edward E. Duensing (New Brunswick, NJ: Center for Urban Policy Research, 1983), 92.

greenbelt acquisition program were ever to develop in Utah County, it would most likely occur after urbanization had already severely limited the potential to affectively accomplish the ends for which it would be established.

Chapter 7

GREENBELT PRESERVATION BY TAX POLICY

Conversion of agricultural land to urban uses has been a major concern of many Americans in recent years. Rising property taxes, brought about by development-related increases in farmland value, have significantly contributed to this conversion. Not surprisingly then, property tax reforms have been proposed and implemented to create incentives for farmers to keep their land in agricultural use.¹¹⁶

Today local governments frequently rely on their taxing authority as a non-regulatory¹¹⁷ supplement to agricultural land use control programs. In addition to the consequences of locally established taxing districts, local governments can influence land development through their administration of state-wide tax legislation.

Property Tax Service Areas

Property tax service area, special assessment district, and benefit assessment district are three common terms used

¹¹⁶Glen W. Atkinson, "Economic Policy and Land Use," in Land Use: A Spatial Approach, ed. John F. Lounsbury, Lawrence M. Sommers, and Edward A. Fernald (Dubuque, IA: Kendall/Hunt Publishing Co., 1981), 153-154.

¹¹⁷Curtis J. Berger, "Controlling Urban Growth via Tax Policy," in Land Use Issues of the 1980s, ed. James H. Carr and Edward E. Duensing (New Brunswick, NJ: Center for Urban Policy Research, 1983), 255.

to identify essentially the same thing--a legislatively defined geographic area wherein taxes are levied against all properties for part or all of the cost of particular improvements or services.¹¹⁸ Utah Code allows for the establishment of such districts in unincorporated areas:

Whenever an unincorporated area in a county requires one or more of the following extended services which are not provided on a county-wide basis: extended police protection; fire protection; culinary or irrigation water retail service; water conservation; local park, recreation or parkway facilities and services; cemeteries; public libraries; sewers, sewage and storm water treatment and disposal; flood control; garbage and refuse collection; street lighting; airports; planning and zoning; local streets and roads; curb, gutter and sidewalk construction and maintenance; mosquito abatement; health department services; hospital service, such services may be supplied by a county service area.¹¹⁹

Prior to 1976, County government-provided services in the unincorporated areas were being funded exclusively by monies taken from the County's general fund, most of which is collected through a standard County-wide property tax mill levy. This meant that municipal landowners were not only paying an additional property tax mill levy collected as revenue for the city to provide services, but were also being

¹¹⁸ James C. Brandt, "The Role of the Special Tax District in Downtown Development," in Planning 1981, Proceedings of the National Planning Conference (Chicago, IL: Planners Press, American Planning Association, 1982), 31.

¹¹⁹ Utah, Code Annotated, Replacement Volume 2B, 1983 Pocket Supplement, Title 17, Ch. 29, Sec. 3, 126-127.

levied property taxes to fund the same services provided by the County in the unincorporated areas. While most likely stemming from earlier County efforts to reduce the tax burden on farmers, this double taxation in the cities worked against the County's policy of discouraging unincorporated growth by creating a substantial tax preference for unincorporated land.

In an effort to appropriately place the obligation of paying for services and improvements on those areas using them most, it was proposed in 1976 that service areas be established for exclusive areas within the unincorporated County, based on the various designations of the County Zone Map.

Minutes of the Utah County Commission explained the proposal as follows:

. . . Attorney Richard Dalebout and Buck Rose of the Planning Department, suggested that the County take certain services such as Planning, Zoning, Police, and Fire departments from the County General Fund budget and create a new account for the service areas. This would not change the amounts for the services but would put the obligation to the people who use the service, and will demonstrate that a good-faith effort is being made by the County to solve this problem of double taxation. This action will also enable the County to lower its mill levy.¹²⁰

¹²⁰ Utah County Board of Commissioners, "Minutes," Provo, UT, 22 December 1976.

The Minutes went on to explain that the service areas would be established for four purposes:

- 1) To provide essential government services in development zones.
- 2) To tax the areas for the services they require.
- 3) To make the service area boundaries coincide with the development zone boundaries.
- 4) To allow the zones to contract with the county for the use of county equipment, or to rent the equipment in order to save money.^{1 2 1}

It was also pointed out that most of the service areas would not be within the boundaries of the agricultural zone, but in the County's development zones (residential, commercial and industrial) that made heavier demands for urban-type services.

Four unincorporated service areas based on the 1976 Zoning Map were subsequently established. The service areas exist today as shown in the following table:

Table 8. Utah County Tax Assessment Service Areas

Area #	Services Provided	Zones Assessed
6	Police & Zoning Enforcement	All Zones
7	Fire Protection	TR-5, RR-5, I-1, CE-2 & T&S-1
8	Planning & Zoning Administration	TR-5, RR-5, I-1, CE-2 & T&S-1
9	Fire Protection	A-1, CE-1, M&G-1 & I-2

Source: Utah County Assessor

A typical parcel of land located in a development zone (TR-5, RR-5, I-1, CE-2 & T&S-1) of the unincorporated county

^{1 2 1} Ibid.

might be annually taxed at \$15.02 per \$1000 taxable valuation, while if the same parcel were to be located in a non-development zone (A-1, CE-1, M&G-1 & I-2) it would be assessed at \$13.18 per \$1000 taxable valuation. Table 9 shows a locational comparison of typical tax rates in Utah County.

Table 9. Typical 1988 Tax Rates in Utah County

PLACE	SCHOOL DISTRICT	ASSESSED PER \$1000
Alpine	Alpine	\$13.86
Pleasant Grove	Alpine	\$15.22
Lehi	Alpine	\$14.89
American Fork	Alpine	\$14.55
Orem	Alpine	\$13.88
County Development Zone	Alpine	\$14.37
County Non-Development Zone	Alpine	\$12.53
Provo	Provo	\$15.07
County Development Zone	Provo	\$14.96
County Non-Development Zone	Provo	\$13.11
Springville	Nebo	\$14.58
Spanish Fork	Nebo	\$14.96
Salem	Nebo	\$15.72
Payson	Nebo	\$15.02
Santaquin	Nebo	\$15.53
County Development Zone	Nebo	\$15.02
County Non-Development Zone	Nebo	\$13.18

Source: Utah County Assessor, 1987

The County has established service districts on the premise that increasing population in the unincorporated areas would result in greater demand for government supplied, municipal-type services. While it is true that residential dwellings provide tax revenues, with few exceptions, the

taxes they are assessed generally do not cover local government costs in providing services.^{1 2 2}

Since accounting procedures do not usually distinguish between services performed for residents in the unincorporated areas and residents within cities, it is difficult to estimate the actual government dollars expended per household for services provided in the unincorporated areas.

In 1986 Utah County collected an approximate combined total of \$1,035,000^{1 2 3} in property taxes from the four service areas. As previously stated, these service areas were specifically created to make residents in the unincorporated county responsible for the costs of providing police and fire protection as well as planning and zoning enforcement and administration. Using information provided by the County auditor's office, Garth D. Smith of the Utah County Planning Commission estimated the actual cost of providing these services at \$1,196,000, leaving a 1986 shortfall of \$161,000 between service area funds collected and projected costs.^{1 2 4}

^{1 2 2} Garth D. Smith, "An Analysis of Utah County's Comprehensive Planning & Zoning Ordinance" (Unpublished Report, Utah County Planning Commission, December 1987), 17.

^{1 2 3} Utah County Auditor, Auditor's Annual Financial Report, for the year ended 31 December 1986, (Unpublished Report, Utah County Auditor, Provo, UT., 1987), 26, 38.

^{1 2 4} Smith, "An Analysis of Utah County's Comprehensive Planning & Zoning Ordinance," 16; Garth D. Smith, Utah County Planning Commission, interview by author, 14 March 1988,

In addition to police, fire, and planning and zoning services, the County also provides animal control, flood control, mosquito abatement, and street maintenance and construction in the unincorporated areas. None of these additional services are paid for by service area levies, but are chiefly subsidized through the County's general fund. Mr. Smith estimated that, including these additional services, the 1986 bill for providing government services in the unincorporated County at \$2,930,000, creating a difference of \$1,895,000 between service area funds collected and dollars expended.^{1 2 5}

An argument can be made that the expenditure of funds for flood control and road construction and maintenance should not be an exclusive burden placed on property owners in the unincorporated County. Even if adjustments were to be made separating these costs by local and County-wide interests, the unincorporated County would still be receiving a substantial subsidy for the cost of services being provided. Because the residential density is so low and the land area covered is so large, dollar for dollar, residents in the unincorporated County should receive significantly fewer services than their municipal counterparts. Because of the General Fund subsidies, however, unincorporated residents probably receive as much or more.

Provo, UT.

^{1 2 5} Ibid.

The County's zone boundary-determined service area tax rates have successfully rewarded landowners in non-development zones with lower property taxes. This has certainly helped to delay the conversion of rural land from agricultural to urban uses by reducing the tax burden on farmers in the Agricultural and Grazing Zones. Unfortunately this low tax rate is also attractive to non-farmers interested in living in the secluded, rural setting of the County's non-development zones. While these "rural urbanites" are generally unwilling to accept the responsibility of farming, much less purchase the large amounts of land necessary to initially qualify for a building permit, many have successfully located in the non-development zones by finding loopholes in the County Ordinances or by petitioning the Board of Adjustment or County Commissioners.^{1 2 6} Others have negotiated with retiring farmers for the purchase of farmhouses that are set apart from their associated lands. The balance of the farmer's land is often sold or willed into speculative hands having little interest in continuing the agricultural use. Many of these new landowners are incensed at the building limitations imposed by the County's restrictive agricultural zoning regulations and have consistently fought to relax the development standards. As a result of this development

^{1 2 6} Garth D. Smith, Utah County Planning Commission, interview by author, 14 March 1988, Provo, UT.

pressure, many of the County's rural areas are slowly turning into large-lot residential zones.

Ideally, a system of assessment should be created to bring the amount of monies collected in line with the actual cost of services being provided. This would not only be more fair to city residents and bona fide farmers than the present system, but it would help to protect the greenbelt from urban sprawl by removing the current tax advantage to non-farmers living on small lots in the unincorporated County.

Differential Farmland Assessment

The conversion of agricultural land is a complex process that can involve a variety of factors.¹²⁷ In American Planning Law, Williams and Taylor specifically identified urban growth-related property tax increases as a primary cause of the conversion of agricultural land into urban uses:

As metropolitan growth proceeds, the resulting forces tend to have a cumulative impact upon the remaining open space. As increasingly larger areas . . . are converted to urban or suburban use, the costs for municipal services inevitably rise. The resulting increases in local real property taxes tend fairly rapidly to make agricultural use uneconomic; and so even those farmers who would prefer to continue farming are almost forced to sell to developers.¹²⁸

¹²⁷ Coughlin and Keene, The Protection of Farmland: A Reference Guidebook for State and Local Governments, National Agricultural Lands Study, 16.

¹²⁸ Norman Williams, Jr. and John M. Taylor, "Preservation of Open Space," chap in American Land Planning Law, Vol. 5, Ch. 17 (Wilmette, IL: Callaghan & Company, 1985

This situation can be partially rectified by assessing agricultural lands for property tax purposes solely on the value of their agricultural use, rather than actual market value. State-level property tax assessment schemes, based on the agricultural use or value of land, have been encouraged by advocates of open space preservation since the late 1950s. In 1956 the State of Maryland enacted the first state-wide statute authorizing special assessment of farmland.¹²⁹ Since that time, nearly all other states have ratified taxation programs designed to preserve agricultural land and help keep farming as an economically viable land use.¹³⁰ There are essentially three different types of state laws allowing adjustment of property tax assessments based on actual agricultural value or use of land: preferential assessment, deferred taxation, and restrictive agreements.¹³¹

Preferential assessment laws allow for the assessment of eligible farmland on the basis of the value of its agricultural use, rather than the highest possible market value of the land. The preferential rate of assessment

Revision), 385-386.

¹²⁹ Rohan, "Agricultural Zoning," chap. in Zoning and Land Use Controls, Vol. 3, Ch. 19, 54.

¹³⁰ Richard W. Dunford, "Property Tax Relief Programs to Preserve Farmlands," in Protecting Farmlands, ed. Frederick R. Steiner and John E. Theilacker (Westport, CN: AVI Publishing Company, 1984), 186-187.

¹³¹ Owen J. Furuseth and John T. Pierce, Agricultural Land in an Urban Society (Washington, D.C.: Association of American Geographers, 1982), 44.

usually results in significantly lower property taxes for qualifying farmland.

Deferred taxation laws, the most popular of the three, are similar to preferential assessment laws but differ by including a condition requiring owners of farmland assessed below market value to pay some form of "roll-back tax" if they take the land out of agricultural use. The roll-back tax is usually equivalent to the difference between the preferential assessment and what would have been the actual market value assessment of the land had it not been assessed as farmland.

Restrictive agreement statutes, less commonly used than preferential and deferred taxation laws, generally add an additional stipulation to deferred taxation laws by requiring the owner of the farmland to sign a contract explicitly stating the rights and obligations generated by the preferential assessment of his land. The contract usually specifies a predetermined number of years that the landowner must keep his land in agricultural use, with a schedule of stiff economic or tax assessment penalties to be paid if it is converted out of agricultural use prior to the time established by the restrictive agreement.

Utah Farmland Assessment Act of 1969

During the 1960s, several states anticipated the successful preservation of agricultural lands as a result of

newly adopted farmland assessment acts. Utah County planning officials also recognized the potential value of such statutes. Speaking to the need of a differential farmland assessment, the Utah County Planning Advisory Council of 1967 included the following in their report:

One of the serious problems facing agriculture in Utah County is the continued increase in property taxes. The Constitution of the State of Utah declares that property ideally shall be assessed at 30% of the reasonable cash value. Yet taxing authorities have not adjusted assessed valuation to reflect increased market value.¹³²

To lessen the impact of the adjusted valuation, the following action should be taken:

- a. Exclusive agricultural zones, as provided by County ordinance, should be extended and enlarged to cover all agricultural areas.
- b. As an incentive for withholding the privilege of urbanizing agricultural land, assessed valuations on such lands should be adjusted to reflect lower market values resulting from such action.
- c. In the event of the inability or unwillingness of taxing authorities to adjust assessed valuations in line with the State Constitution, a Constitutional amendment should be initiated to assess property on factors other than cash value, such as use, production, location, etc.¹³³

Within two years of the Planning Advisory Council's recommendations, the Utah Legislature had ratified the Farmland Assessment Act of 1969, a deferred assessment act

¹³² Utah County Planning Commission, Utah County Planning Goals and Policies, Report of the Utah County Planning Advisory Council, 24.

¹³³ Ibid., 24-25.

that went into effect in 1972. In Preserving Utah's Open Space, Olpin examined some of the specific aims the State had in ratifying the Act and the obstacles the legislation faced prior to adoption:

The constitutional path leading to the Utah Farm Land Assessment Act was paved by an amendment to the Utah Constitution adopted in 1968. Prior to that amendment Article XIII, Section 3 of the Constitution stated:

The Legislature shall provide by law a uniform and equal rate of assessment and taxation on all tangible property in the state according to its value in money . . . so that every person and corporation shall pay a tax in proportion to the value of his, her or its tangible property . . .

This language made questionable the validity of any legislative authorization for lower assessed valuation of agricultural lands. Indeed, open space tax measures in some states have been held unconstitutional on the ground that they violated comparable constitutional provisions. This problem was eliminated in Utah by the 1968 constitutional amendment which added the following sentence to Article XIII, Section 3:

Land use for agricultural purposes may, as the Legislature prescribes, be assessed according to its value for agricultural use without regard to the value it may have for other purposes.¹³⁴

Once the constitutional amendment had been added, the Utah Legislature "promptly implemented the amendment"¹³⁵ by

¹³⁴ Olpin, Preserving Utah's Open Space, 58-59.

¹³⁵ Ibid., 59.

approving the Farmland Assessment Act of 1969. The substance of the statute currently reads as follows:

(1) For general property tax purposes . . . the value of land, not less than five contiguous acres in area, unless otherwise provided under subsection (2), which has a gross income, not including rental income, of \$1000 per year, is actively devoted to agricultural use, which has been so devoted for at least two successive years immediately preceding the tax year in issue, shall, on application of that owner, and approval thereof as hereinafter provided, be that value which such land has for agricultural use.¹³⁶

Subsection (2) is a provision granting the Utah State Tax Commission the right to waive the five-acre limitation, provided the owner makes an appeal showing proof "that [he] . . . obtains 80% or more of his income from agricultural products on an area of less than five contiguous acres."¹³⁷

Deferred Assessment Roll-back Tax

An important feature of Utah's Farmland Assessment Act, plainly included to increase the likelihood of successful preservation of agricultural uses, is the roll-back tax. As previously stated in this chapter, a roll-back tax is a penalty tax assessment imposed when agricultural land is converted to a non-agricultural use. Utah's Farmland Assessment Act roll-back tax requires an exaction from the

¹³⁶ Utah, Code Annotated, Replacement Volume 6B, 1983 Pocket Supplement, Title 59, Ch. 5, Sec. 87, 32.

¹³⁷ Ibid.

property owner of the full amount of past tax reductions realized by qualifying under the Act for a period of up to five years. Like most of the features found in the Act, the roll-back tax is common to many farmland assessment laws found in other states.¹³⁸

Preservation by Deferred Assessment

Utah's Farmland Assessment Act is a predictably typical state act in terms of establishing state-level involvement in agricultural open space preservation. As in most other states, Utah's initial objective in establishing its Farmland Assessment Act appears to have been to maintain the economic viability of farming by reducing the tax burden on agricultural land. Theoretically, the promise of a higher assessment and the retroactive imposition of roll-back taxes should also create an incentive for landowners to keep their farmland in agricultural use, subsequently curbing urban sprawl and encouraging the preservation of agricultural open spaces.¹³⁹

While not specifically stated as such, the successful preservation of agricultural open space appears to have become a significant function of Utah's Farmland Assessment Act, if not the fundamental yardstick used in measuring its

¹³⁸ Furuseth and Pierce, Agricultural Land in an Urban Society, 44.

¹³⁹ *Ibid.*, 61-62.

success.¹⁴⁰ Indeed, the roll-back tax clause of Utah's Act has certainly helped to temporarily preserve agricultural land in some areas. It is also likely that the County's longstanding emphasis on restricting unincorporated growth has resulted in a lower incidence of land division, leaving more parcels available that qualify for greenbelt assessment. Research indicates, however, that states relying on deferred assessment acts as a primary means of greenbelt preservation will ultimately be disappointed.¹⁴¹ Although such acts may provide "the appearance of open-space preservation",¹⁴² voluntary deferred taxation programs, alone, are not sufficient to preserve agricultural open space. In reality, these acts simply reward the continuation of agricultural use of land until such time as development opportunities become available, often functioning as interest free loans for landowners and developers having medium to long-term speculative interests. As Peter Wolf declared in Land in America, "Each [farmland assessment act] is a palliative to buy time, literally, through the use of an indirect subsidy."¹⁴³

¹⁴⁰ Ibid., 57.

¹⁴¹ Furuseth and Pierce, Agricultural Land in an Urban Society, 46.

¹⁴² Whyte, The Last Landscape, 102.

¹⁴³ Wolf, Land in America, 510.

"Greenbelt" Tax Assessment in Utah County

Property taxes are usually assessed relative to market value. As the name implies, market value is calculated according to a projected real market value of the property, usually based on real estate sales information gathered by the county assessor's office. With the exception of improved residential parcels, the market value of all land in Utah is multiplied at 80% to determine a taxable value, the value generally used to calculate annual property tax. The taxable value for improved residential land is figured at 60% of assessed market value.¹⁴⁴

In Utah County the deferred tax assessment provided under the Farmland Assessment Act of 1969 is called the "greenbelt" assessment. Unlike market value, which is ultimately determined by a variety of social, physical, economic and geographic factors, greenbelt value is determined solely by the agricultural potential of the land itself.¹⁴⁵

To determine the agricultural potential of lands within the State (as required by the Act), the Utah State Tax Commission, in cooperation with Utah State University and the Utah Department of Agriculture, conducted a survey of soil

¹⁴⁴ Freeman "Tony" Peck, Utah County Assessor's Office, Reappraisal Division, interview by author, 27 January 1988, Provo, UT.

¹⁴⁵ Utah, Code Annotated, Replacement Volume 6B, 1973, Title 59, Ch. 5, Sec. 101, 301-302.

and land types based on a classification system of their own design.¹⁴⁶

The classifications developed for the Farmland Assessment Act are listed in table 10 along with the respective per-acre assessed greenbelt valuations for each:

Table 10. FLAA Land Types and Assessed Values

Utah Farmland Assessment Act Schedule of Land Types and Assessed Values	
Land Classification	Assessed Value Per Acre
Irrigated Tillable	
I	\$700
O-I*	900
II	475
O-II*	800
III	325
O-III*	700
IV	225
O-IV*	600
M-IV**	120
Dry Tillable	
III	\$125
IV	70
Grazing	
I	\$25
II	15
III	10
IV	5
*O-I, O-II, O-III, and O-IV mean orchard land	
**M-IV means meadow land	

Source: Utah County Assessor

¹⁴⁶ Phyllis Nelson, Utah County Assessor's Office, Real Property Division, interview by author, 27 January 1988, Provo, UT.

In real terms, the assessed greenbelt valuation of land averages from 5% to 20% of market value. For example, a randomly selected ten-acre parcel of land in Utah County is found to have a market value of \$60,881. The land is vacant. At 80%, the taxable valuation of the parcel would be \$48,705. The tax rate for the area is figured at \$15.02 per \$1,000 taxable valuation, resulting in a potential annual tax assessment of \$731.55. The owner of the land, however, has applied and qualified for greenbelt assessment and the land is found to have a classification of "Irrigated Tillable II". Since the land has qualified for greenbelt assessment, the taxable and market values are ignored and it is assessed at a value of \$475 per acre, or \$4,750 for the entire ten-acre parcel. At \$15.02 per \$1,000 valuation, the actual annual tax assessment of the ten-acre parcel is \$71.35--a substantial savings over market value assessment.

One of the more notable flaws in the greenbelt valuation program is the fact that the soil and land classification maps developed in 1971 and 1972 have never been updated or revised, resulting in inaccuracies created by shifting agricultural land use patterns. In addition, the per-acre assessed values of the differing land classifications have not been changed since they were first assigned in 1972, therefore they do not reflect fluctuations in food prices and other agricultural market trends. Another flaw of the Act is that it was not designed to pinpoint owners of important

agricultural land as recipients of tax benefits, but, instead, it allows hobby farmers and ranchette owners to enjoy the same per-acre tax assessment as the full-time farmer.

If some of the conspicuous flaws were to be corrected and the Act properly administered, the original purpose for which it was adopted (to help keep farming economically viable) could be more fully realized. By more selectively assigning the greenbelt assessment, owners of bona fide farmland could be taxed less than they are now, and non-farmers might be less likely to move into the agricultural zone on modest sized parcels.¹⁴⁷

While not specifically designed to preserve agricultural and other open spaces, the Farmland Assessment Act has, in fact, temporarily delayed the conversion of open land into urban uses. Ironically, mismanagement of the Act has played a leading role in this temporary preservation. The State Tax Commission has given all of Utah's counties an obligation to locally administer the Farmland Assessment Act. While each of these counties has an identical obligation relative to the Act, their individual administration of the Act has not been uniform. In consequence of its greenbelt preservation emphasis, Utah County has clearly promoted the greenbelt assessment and meticulously enforced the roll-back tax

¹⁴⁷ Furuseth and Pierce, Agricultural Land in an Urban Society, 46.

provision of the Act beyond the ordinary efforts of most other counties in the State.¹⁴⁸ The County's local administration of the Act has certainly resulted in qualifying and keeping more land under greenbelt than would ordinarily be the case.

The language of the Act defines eligible land as producing a gross annual income of \$1,000 and as having "been so devoted for at least the two successive years immediately preceding the [request]."¹⁴⁹ However, applicants are not required to submit evidence verifying that this is true. The signed and recorded greenbelt tax assessment application submitted by the landowner is considered to be equivalent to a sworn statement, testifying to compliance with qualifying requirements.¹⁵⁰ Audits by the State Tax Commission have been rare, encouraging noncompliance and the submittal of fraudulent applications. The policy of accepting differential assessment applications at face value, without regularly auditing greenbelt lands to verify agricultural use, has allowed almost any parcel larger than five acres to qualify as "greenbelt". As a result, a large amount of the greenbelt assessed property in Utah County is not actually

¹⁴⁸ Phyllis Nelson, Utah County Assessor's Office, Real Property Division, interview by author, 29 March 1988, Provo, UT.

¹⁴⁹ Utah, Code Annotated, Replacement Volume 6B, 1983 Pocket Supplement, Title 59, Ch. 5, Sec. 89, 32.

¹⁵⁰ Utah, Code Annotated, Replacement Volume 6B, 1983 Pocket Supplement, Title 59, Ch. 5, Sec. 95, 34.

under agricultural use. Most of this land would be subject to considerably stronger development pressure were it being assessed at its taxable value.

Impact Fees

Impact fees, sometimes referred to as bedroom taxes, are "charges levied by local governments against new development in order to generate revenue for capital funding necessitated by the new development".¹⁵¹ These fees are usually assessed at the time a building permit is purchased, and are often calculated on the number of bedrooms or living units being constructed. The fee is only assessed one time, on the assumption that, once on the tax rolls, the additional infrastructure and government service costs generated by the development will be recovered through property tax revenues.¹⁵²

According to Eric J. Strauss and Martin L. Leitner, authors of "Financing Public Facilities with Development Excise Taxes: An Alternative to Exactions and Impact Fees," impact fees may be expressly authorized by state enabling legislation or indirectly by traditional planning and zoning enabling legislation. Strauss and Leitner also indicated

¹⁵¹ Rohan, "Builder Exactions: Dedication of Land; Payments of Fees in Lieu Thereof," chap in Zoning and Land Use Controls, Vol. 2, Ch. 9, 9.

¹⁵² Jackson, Land Use in America, 166.

that, while the imposition of impact fees have been upheld in most states,

. . . a substantial body of case law has evolved which has subjected impact fees to a number of restrictions and limitations, sometimes collectively referred to as the "reasonable relationship" or "rational nexus" test.¹⁵³

Patrick J. Rohan, author of Zoning and Land Use Controls, offered the following questions which, if affirmatively answered by a governing body, may be considered a rational nexus for impact fees and other exactions:

- 1) Does the [local government] have statutory authority to require the exaction?
- 2) Does the local ordinance authorize the imposition of the exactions?
- 3) Is the purpose sought for such exaction overbroad or unreasonably burdensome to the plaintiff under the circumstances?¹⁵⁴

Beginning January 1, 1978, Utah County began collecting an impact fee, in addition to normal building permit fees, of 1 % of the total valuation for commercial, industrial and

¹⁵³ Eric J. Strauss and Martin L. Leitner, "Financing Public Facilities with Development Excise Taxes: An Alternative to Exactions and Impact Fees," Zoning and Planning Law Report, Vol. 11, No. 3 (New York, NY: Clark Boardman Co., March 1988), 18.

¹⁵⁴ Rohan, "Builder Exactions: Dedication of Land; Payments of Fees in Lieu Thereof," chap in Zoning and Land Use Controls, Vol. 2, Ch. 9, 9.

residential construction, more than doubling its regular permit fees.

In April of 1978, an amendment to the impact fee ordinance was adopted, setting a flat fee of \$400 for new construction and allowing for the reimbursement of fees previously assessed in excess of \$400. The county's justification for imposing the impact fee was summarized in the Ordinance that created it:

The Utah County Commission has determined that increased development within the unincorporated territory of Utah County is substantially increasing the need for construction of roads, bridges and other improvements to the extent that an emergency financial impact is being placed on Utah County Government. To off-set the increase in costs for these improvements necessitated by increased growth and development, it is deemed necessary to establish an impact fee for future construction within the unincorporated county . . . This ordinance, in the opinion of the Board of County Commissioners, is necessary for the immediate preservation of the peace, health, or safety of Utah County and the inhabitants thereof . . . ¹⁵⁵

Since the fee was collected on permits issued in the entire unincorporated County, it did not specifically discourage development in the County's greenbelt areas. Overall, however, one can assume that the fee did help to discourage new construction in the unincorporated County. The imposition of the impact fee in 1977 was particularly

¹⁵⁵ Utah County Board of Commissioners, Ordinance No. 1977-22, 23 December 1977.

timely because it was assessed the entire two years prior to the January 1980 deadline for obtaining building permits on lots in the County's new Agricultural Zone that had been made nonconforming by the 1976 Revised Zoning Ordinance. This was a record high period for issuance of residential building permits in the unincorporated County. Without the fee, there probably would have been even more building permits issued.

The exaction of impact fees has been legally defended as a legitimate exercise of local taxing authority in cases where such fees have been determined to be reasonable in cost and created to serve legitimate purposes.¹⁵⁶ The "emergency financial impact" felt by Utah County, however, was not expressed in specific detail or substantiated by financial data, but was simply an assumption by the County that new development would increase the need (and cost) for infrastructure improvements and government supplied urban services. At that time, the County was already assessing additional property taxes in unincorporated service areas to offset anticipated costs, considerably weakening the argument for the impact fee. The original 1 % of valuation fee was simply a tax, hardly an equitable means of estimating correlated infrastructure demands and government cost increases. While the flat fee of \$400 was adopted as a more evenhanded approach to offsetting increased costs, the figure

¹⁵⁶ David R. Godschalk and others, Constitutional Issues of Growth Management (Chicago, IL: The ASPO Press, American Society of Planning Officials, 1977), 46.

was still arbitrarily chosen. As a result of legal concerns over the weakly defined basis for the fee, the County Commission revoked the Ordinance in 1983. The imposition of impact fees to discourage development in the unincorporated greenbelt does not appear to be a viable option for County government in the future.

Summary of Utah County Greenbelt Tax Policies

Although preferential or deferred tax policies can offset some of the economic impacts on agricultural land that are created by advancing development, on their own they are generally not capable of competing with market forces when speculative demand for farmland develops. As Furueth and Pierce stated in Agricultural Land in an Urban Society, "Urban land uses will almost always outbid agricultural uses, and tax savings are not enough to make up the difference."¹⁵⁷ While the State's Farmland Assessment Act will continue to encourage agricultural use of greenbelt land, County government should reduce its reliance on the roll-back tax for preservation of its greenbelts.

¹⁵⁷ Furueth and Pierce, Agricultural Land in an Urban Society, 46.

Chapter 8

GREENBELT PRESERVATION BY RESTRICTIVE EASEMENTS AND COVENANTS

There are numerous legal devices that can be utilized to control physical development of land. According to Owen Olpin, those devices most adapted to accomplishing open space preservation include "easements, real covenants, and equitable servitudes".¹⁵⁸

Restrictive Easements

An easement can be described as "A liberty, privilege, or advantage without profit, which the owner of one parcel of land may have in the lands of another."¹⁵⁹ In American Land Planning Law, Williams explained that there are basically two types of easements recognized under traditional law

. . . easements appurtenant and easements in gross. The normal easement is an easement appurtenant, where those lesser rights in land which are owned by somebody else are attached to the ownership of some other land in the immediate vicinity. The rights involved in the easement are then said to be appurtenant to the land held in fee nearby. In contrast, an easement in gross is not related to or based upon any other rights in real estate. Under traditional law, an easement in gross is considered a pretty poor thing; in any given situation when there is any doubt, the presumption is that an easement should be interpreted as an easement appurtenant. However, there is one serious technical shortcoming

¹⁵⁸ Olpin, Preserving Utah's Open Space, 4.

¹⁵⁹ Henry Campbell Black, Black's Law Dictionary, Revised Fourth Ed., 599.

of an easement in gross, and that is that it is not transferable; if an attempt is made to transfer these, they are thereby extinguished. In other words, an easement must either be attached to other land nearby or it is nontransferable. In establishing [an open space] program, this is no small disadvantage. It may well be that, while such rights at first are acquired by a local or state body, later on the wise thing would be to assign these to a regional agency.¹⁶⁰

Williams went on to explain that there were no advantages in using the term "easement" as part of government preservation programs, and suggested, instead, the use of a neutral term such as "rights and interests in land."¹⁶¹

Categorizing easements as essentially "affirmative" or "negative", Olpin described affirmative easements as allowing the easement holder to enter and make affirmative use of another's land, while at the same time prohibiting the landowner from burdening the land so as to interfere with the use. He described negative easements as not granting physical entry or active use of another's land, but requiring the owner of the burdened land to refrain from specific acts or uses of his land (denying building that would obstruct a view, for example).¹⁶²

While affirmative easements may serve useful purposes for private landowners, Olpin explains that they are

¹⁶⁰ Williams and Taylor, "Partial Compensation," chap. in American Land Planning Law, Vol. 5, 537-538.

¹⁶¹ Ibid.

¹⁶² Olpin, Preserving Utah's Open Space, 4-5.

. . . at best only ancillary supports to open space programs. One obvious threshold problem is the difficulty of negotiating agreements creating easements among numerous and diverse landowners.¹⁶³

Olpin also noted that the only persons entitled to enforce the easement are those having an actual interest in the land burdened, creating a variety of enforcement problems and legal questions.¹⁶⁴

Olpin did feel that there was promise in using negative "open space easements", noting that they have been successfully employed under the "Breathing Space Amendment" of the California Restricted Use Assessment System.¹⁶⁵

The State of Mississippi adopted a conservation easement act in 1986 that authorized the granting of conservation easements in real property and upheld their validity in spite of any action or transaction previously considered to be a basis for extinguishing such easements under common law. The act also allowed for enforcement of the easement by virtually any party, regardless of interest.¹⁶⁶ The validity of this law has yet to be determined in the courts. The use of government or publicly held easements on private land for

¹⁶³ Ibid., 6.

¹⁶⁴ Olpin, Preserving Utah's Open Space, 6.

¹⁶⁵ Ibid., 6, 63.

¹⁶⁶ American Planning Association, "New Legislation-- Easements," Land Use Law & Zoning Digest, Vol. 39, No. 5, May 1987, 26.

greenbelt preservation in Utah County would most likely require state legislation similar to Mississippi's, possibly including a change in assessment laws whereby easements could be obtained in exchange for differential tax assessment.

Real Covenants and Equitable Servitudes

Unlike easements, which at best grant the holder specific rights or affirmative uses of another's land, real covenants are designed to require a landowner to perform certain acts relative to their land. According to Olpin, real covenants are also superior to easements in that the "enforceability of real covenants between the original promisee and promisor [pose] few problems".¹⁶⁷ However, common law difficulties have historically been encountered relative to real covenants "in deciding when covenants should be enforceable by successors to the original promisee and against successors to the original promisor."¹⁶⁸

The rigidity of common law easements and real covenants left a number of society's legitimate needs unsatisfied. A measure of relief and flexibility was provided in 1848 by the English Court of Chancery's decision in Tulk v. Moxhay, establishing the enforceability of equitable servitudes. . . The court held that it was not necessary to determine whether the covenant would run with the land since in any event the defendant could be barred by a court of

¹⁶⁷ Olpin, Preserving Utah's Open Space, 6.

¹⁶⁸ Ibid., 6-7.

equity from using the land in a manner inconsistent with his predecessor's promise when he had notice of that promise at the time he purchased. The court concluded that it would be inequitable to allow the original purchaser to sell the land at a greater price in consideration for the fact that his buyer would be able to escape the burden he had taken upon himself. . . With the advent of the recording acts, it became possible by recording to impart constructive notice of the existence of such promises and thereby prevent anyone succeeding to interests in the burdened land from claiming absence of notice.¹⁶⁹

Real covenants and equitable servitudes are currently widely used by local and state governments to accomplish a variety of land use objectives.¹⁷⁰ While such agreements are often used to exact specific architectural or design standards, Utah County uses them primarily to publicly record a landowners voluntary forfeiture of development rights to gain compliance with adopted zoning regulations--regulations primarily designed, in part, to achieve greenbelt and other open space preservation.

Utah County is distinctive from most other counties in that it combines zoning regulations with the use of restrictive covenants, additionally limiting landowner rights for specific property uses.

Using Olpin's definition, the recorded agreements used by Utah County to secure compliance with zoning regulations are "equitable servitudes." These agreements will hereafter be

¹⁶⁹ Ibid., 7-8.

¹⁷⁰ Ibid., 8.

individually referred to by their specific instrument names and collectively under the general term of "restrictive covenants."

Declaration of Farm Unit

As previously discussed in Chapter 5, the County's exclusive agricultural zoning limits residential uses in the A-1 Zone to farm caretaker dwellings. The zoning ordinance requires that a Declaration of Farm Unit be recorded prior to issuance of any building permit for a farm caretaker dwelling. To qualify for a dwelling, a farm unit must consist of a minimum of forty acres in the Agricultural Zone, and may include noncontiguous parcels under separate ownerships. The Declaration of Farm Unit describes the physical boundaries of all parcels included within the farm unit and, in cases where livestock valuation is being used to qualify for additional, secondary farm dwellings, also describes the number and type of farm animals to be kept on the farm unit. The owners of the described property pledge to comply with the stated conditions of the covenant and applicable requirements of the county zoning ordinance.

There are currently 68 farm units in the unincorporated County's A-1 Agricultural Zone that have been described and recorded in Declaration of Farm Unit covenants, covering approximately 12,909 acres or 20.1 square miles of agriculturally zoned land (See Figure 1).

DECLARATION OF FARM UNIT

TO THE PUBLIC:

We , the undersigned owners of real and personal property in Utah County, State of Utah, which property is more particularly described as follows:

have the intent to maintain a farm unit necessary to qualify for farm caretaker dwellings under the provisions of Section 4-3-42 and 4-3-43 of the "Utah County Zoning Ordinance".

We hereby covenant and agree as follow:

1. That the above-described property shall be maintained as one unit and considered as one zoning lot, which is a bona fide farming operation qualifying for each and all farm caretaker dwellings approved, subject to the above-cited (or successor) ordinance.

2. The secondary farm caretaker dwelling mobile home will remain on the farm unit only as long as at least 1,554 mink are kept on the property described in Exhibit "A".

3. That neither we, nor any of our heirs, executors, administrators, or assigns shall allow residential use of the above-described real property, except properly approved primary and secondary farm dwellings for caretakers employed on the premises.

4. This covenant shall run with the land and shall be binding upon all persons owning or leasing the above-described real property.

5. This covenant shall terminate and be of no further force or effect at such time as: (1) the Utah County Zoning Ordinances are repealed or amended to no longer require the farm unit as set forth above; (2) portions of the property above-described become a part of an incorporated city or town; or (3) the above-described real property is rezoned to permit residential uses of the above-described property, where the owners or their successors are able to comply with the then existing zoning ordinances of Utah County.

Invalidation of any of these covenant provisions by judgment or court order shall not affect any of the other provisions, which shall remain in full force and effect.

If the owners, or their heirs, executors, administrators, agents, or assigns shall violate, or attempt to violate any of the provisions of this instrument, Utah County may enforce said agreement through the withholding of building permits, or appropriate civil proceeding including injunctive relief which may include enjoining construction, abatement, mandamus, or other appropriate civil remedies; or may institute criminal proceedings for misdemeanor violations as provided for violation of a zoning ordinance; further, any aggrieved party having a legal interest may seek similar civil relief, and where successful, such party may be awarded any court cost or attorney's fees required for enforcement.

Signed:

Agricultural Waiver

The Restrictive Covenant Precluding the Residential or Other Non-Agricultural Use of the Land, or "Agricultural Waiver" is a covenant designed by the County to allow for unplatted subdivision of land that is in agricultural use. Unlike a Declaration of Farm unit, which is required to qualify for new farm dwellings, the language of this covenant specifically waives present and future landowner's rights to use the land for non-agricultural purposes, including sites for residential or farm dwellings, until such time that the described land is either included in an approved subdivision plat or annexed into a municipality. Like the greenbelt tax assessment, this covenant is not limited to the Agricultural Zone, but can be recorded for land in any of the various county zones, provided the land is undeveloped or in a strictly agricultural use.

This covenant has been used extensively by the County to resolve subdivision violations or as a means of avoiding potential violations in cases where landholders are seeking to divide agricultural land holdings without having to meet subdivision regulations. Some 55 agricultural waivers have been recorded for land in the unincorporated area, restricting non-agricultural development of approximately 53 square miles in various zones within the county (See Figure 2).

**RESTRICTIVE COVENANT PRECLUDING THE RESIDENTIAL
OR OTHER NON-AGRICULTURAL USE OF THE LAND**

TO THE PUBLIC:

I, the undersigned owner of real property in Utah County, State of Utah, which property is located as follows (legal description):

have the intent to qualify for the exemption from filing an approved subdivision plat, which exemption is provided for in Section 17-27-27, UCA 1953 as amended, and Section 4-3-45 of the "Utah County Zoning Ordinance" of Utah County, Utah, for the division of agricultural land for agricultural purposes. I hereby covenant that neither I nor my heirs, executors, administrators, or assigns will ever allow residential or other non-agricultural use of this land without properly obtaining an approved subdivision plat as required by law.

This covenant shall run with the land and shall be binding upon all persons owning or leasing the above described property. It shall not apply (1) to those portions of the property contained in a properly approved and recorded subdivision plat; (2) those portions of the property placed into an incorporated city or town; or (3) upon repeal of the requirements for such a covenant under Section 4-3-45 or its successor statute. Further, this covenant shall hereinafter be included in any deed dealing with the above-described property, or portions thereof, in whole or by reference hereto.

Invalidation of any of these covenant provisions by judgement or court order shall not affect any of the other provisions which shall remain in full force and effect.

If the owner or owners of the above-described real property, or any portion thereof, or the owner's heirs or assigns shall violate or attempt to violate any of the covenants above set forth, Utah County, or any other person owning a portion thereof, may enjoin such transfer, sale, or use by action for injunction brought in any court of equity jurisdiction or may pursue any other remedy at law or equity. All costs and all expenses of such proceedings shall be declared by the court to constitute a lien against the real estate wrongfully deeded, sold, leased, used, or conveyed until paid. Such lien may be enforced in such manner as the court may order.

Change or amendment of these covenants may be effected only if such is in compliance with the laws and ordinances of the State of Utah and its political subdivisions. This covenant, and any changes or amendments hereto, must first be approved in writing by the Utah County Building Official before recording with the County Recorder. Any change or amendment without such approval is hereby made null and void.

Signed:

Declaration of Zoning Lot

The Declaration of Zoning Lot was developed by Utah County to deal with circumstances peculiar to unincorporated development. Most municipal development is located within recorded subdivision plats. This is not usually the case in the unincorporated territory of counties. If a subdivision is to be created, along with the associated expense of installing the required improvements, developers would rather annex their property into a city. As a result, most homes constructed in the unincorporated County are the result of individual building permit applications not linked to platted subdivisions or other large scale developments.

Those seeking to build in the unincorporated County are usually attempting to avoid the costs commonly associated with a subdivision. Hence, most of the approved applications for non-farm residential building permits in the unincorporated County are for nonconforming or "grandfather" lots, or unsubdivided building lots meeting the requirements of the zoning ordinance.

Applying for a building permit on land in the unincorporated area of the County is much like a game of chance. First, the landowner, realtor, or builder comes in to see if a specific parcel qualifies for a building permit. If the parcel is not within a platted subdivision, a County zoning administrator researches its history to determine if it does, indeed, qualify as a nonconforming or unsubdivided

lot. An applicant might receive two different answers from two different zoning administrators, depending upon the administrator's knowledge and interpretation of current and past zoning codes and his ability to research the history of the parcel in County records.

The Declaration of Zoning Lot is often used to redefine the legal zoning lot of a parcel when divisions of land have nullified its nonconforming status or resulted in the violation of subdivision or zoning laws. By using this document to define divided zoning lots, Utah County is taking on the role of a promisor by either offering the promisee the incentive of obtaining a building permit, or, in less favorable circumstances, not proceeding with legal action in response to zoning ordinance violations (See Figure 3).

Summary of Utah County Covenants

It is interesting that Utah County has employed these devices as a means of land use control and open space preservation beyond the conventional zoning techniques most often employed by local governments. Utah County's practice of using restrictive covenants as a means of defining farm units and other zoning lot boundaries produces benefits to the County similar to platting subdivisions, in that, once recorded, covenanted areas make the zoning ordinance relatively easy to administer at that location. Since the recorded covenants run with the land, they are a more

DECLARATION OF ZONING LOT

TO THE PUBLIC:

I (we), the undersigned owner(s) or real property in the unincorporated area of Utah County, State of Utah, which property consists of two or more parcels that are located as follows [legal description]:

have the intent to maintain said property as a single zoning lot which meets the requirements of the "Utah County Zoning Ordinance" or a _____ [state specific type or use of building], hereinafter termed the "Subject Building and Use".

I (we) hereby covenant and agree as follows:

1. That the above-described property shall be maintained as one unit and considered as one Zoning lot for the "Subject Building and Use";
2. That only the "Subject Building and Use" and no other buildings or uses, except those deemed by Utah County to meet its zoning and building ordinances as evidenced by a county permit granted therefore, shall be located upon the above-described property;
3. That any sale, lease, bequest, or other assignment or transfer of the above-described property shall occur for the property as a unit, and that any sale, lease, bequest, or other assignment or transfer, of only a part of the property to persons or entities other than the owners of the "Subject Building and Use" shall be a violation of this covenant, and in addition to any sanctions for such violation, shall revoke the right to maintain the "Subject Building and Use" shall be a violation of this covenant, and in addition to any sanctions for such violation, shall revoke the right to maintain the "Subject Building and Use" on the property;
4. This covenant shall hereinafter be included in any deed dealing with the above-described property, or portions thereof, in whole or by reference thereto.
5. This covenant shall run with the land and be binding upon all persons owning or leasing the above-described property until 20 year from the date of execution hereof and shall be automatically renewed for successive 10 year periods, or until such time as (a) the Utah County zoning ordinances are repealed to no longer require the above-described zoning lot' (b) the entire property as described above becomes a part of an incorporated city or town; or (c) the "Subject Building and Use" is abated or removed for the above-described property.
6. If the owners, or their heirs, executors, administrators, agents, or assigns shall violate, or attempt to violate any of the provisions of this instrument, Utah County may enforce said agreement through the withholding of building permits; appropriate civil proceeding including injunctive relief which may include enjoining construction, abatement, mandamus, or other appropriate civil remedies; or may institute criminal proceedings for misdemeanor violations as provided for violation of a zoning ordinance. Further, any aggrieved party having a legal interest may seek similar civil relief, and, where successful, the county or such other party may be awarded any court costs and attorney's fees required for enforcement.

Invalidation of any of these covenant provisions by judgement or court order shall not affect any other of the provisions, which shall remain in full force and effect.

Signed:

permanent, binding measure than conventional zoning restrictions which are 1) subject to changes in their text and, 2) subject to errors in interpretation by the zoning administrator. In addition, the promisees who file the covenant have a clearly stated, briefly worded, agreement in their possession that dictates their obligations and rights relative to the use of the covenanted land, thus reducing the potential for confusion and frustration in having to deal with an often mysterious, ever-changing zoning ordinance. Since the recorded covenant is signed by all current property owners, the document also provides the County with additional leverage for zoning enforcement beyond the general wording of the zoning ordinance.

Overall, the County's policy of using restrictive covenants to define zoning units discourages later residential infill that can take place as a result of changing zoning requirements and the vacillating quality of zoning administration. While figures cannot be collected to verify such an assumption, an argument can be made that this process insulates the covenanted areas from land speculation for single lot building permits, since the language within each of the covenants states that they are in effect until the covenanted land is annexed into a municipality or included within a recorded subdivision plat.

Chapter 9

ANALYSIS OF PECULIAR SETTLEMENT CHARACTERISTICS OF UTAH COUNTY

The preceding chapters have shown that Utah County has actively encouraged nuclear settlement and greenbelt preservation since the 1940s. It is also evident that Utah County has been more interested in accomplishing these goals than Salt Lake, Davis and Weber County, neighboring counties that have similarly large urban populations. Indeed, of the four counties, Utah County appears to have more large tracts of undeveloped land surrounding urbanized areas, initially indicating that settlement in the County has been peculiar when compared with the others.

To ascertain the effects, if any, planning policies and regulations have had on encouraging nuclear settlement in Utah County, it is necessary to more directly compare the County with its similar neighbors. Ideally, such a comparison would be based on county land use surveys, showing quantifiable changes in land use over time.

Comparison of Four County Settlement Characteristics

Without comparative land use surveys it is difficult to conclusively demonstrate that Utah County has retained its pattern of nuclear settlement more than other counties. There is, however, other evidence available that can be used to identify peculiar trends in settlement, including Census

data, building permit figures, and the incidence of municipal annexations and incorporations.

The remainder of this chapter will attempt to reveal peculiar settlement characteristics in Utah County that can be attributed to county-level land use planning policies. These pages will include figures, tables and analysis relative to settlement in Utah, Salt Lake, Davis and Weber County.

Table 11 is a compilation of Census data listing unincorporated county populations in the State of Utah as a percent of each county's total. Figure 4. shows the overall rate of population growth for Utah, Salt Lake, Davis and Weber County since 1940. Figure 5 charts the issuance of non-municipal building permits for new dwelling units, listing them as a percent of the total permits issued for new dwellings in each of the four counties. Table 12 lists the total land area and population, and the unincorporated land area and population of the four counties for two time periods, 1950 and 1986. Figure 6 charts the unincorporated land area information in Table 12, showing unincorporated land area as a percent of each county's total area. Figure 7 charts the municipal acreage increase of the four counties between 1950 and 1986, represented in total acres and percent of total county land area. Figure 8 charts the four county unincorporated population density in 1950 and 1986.

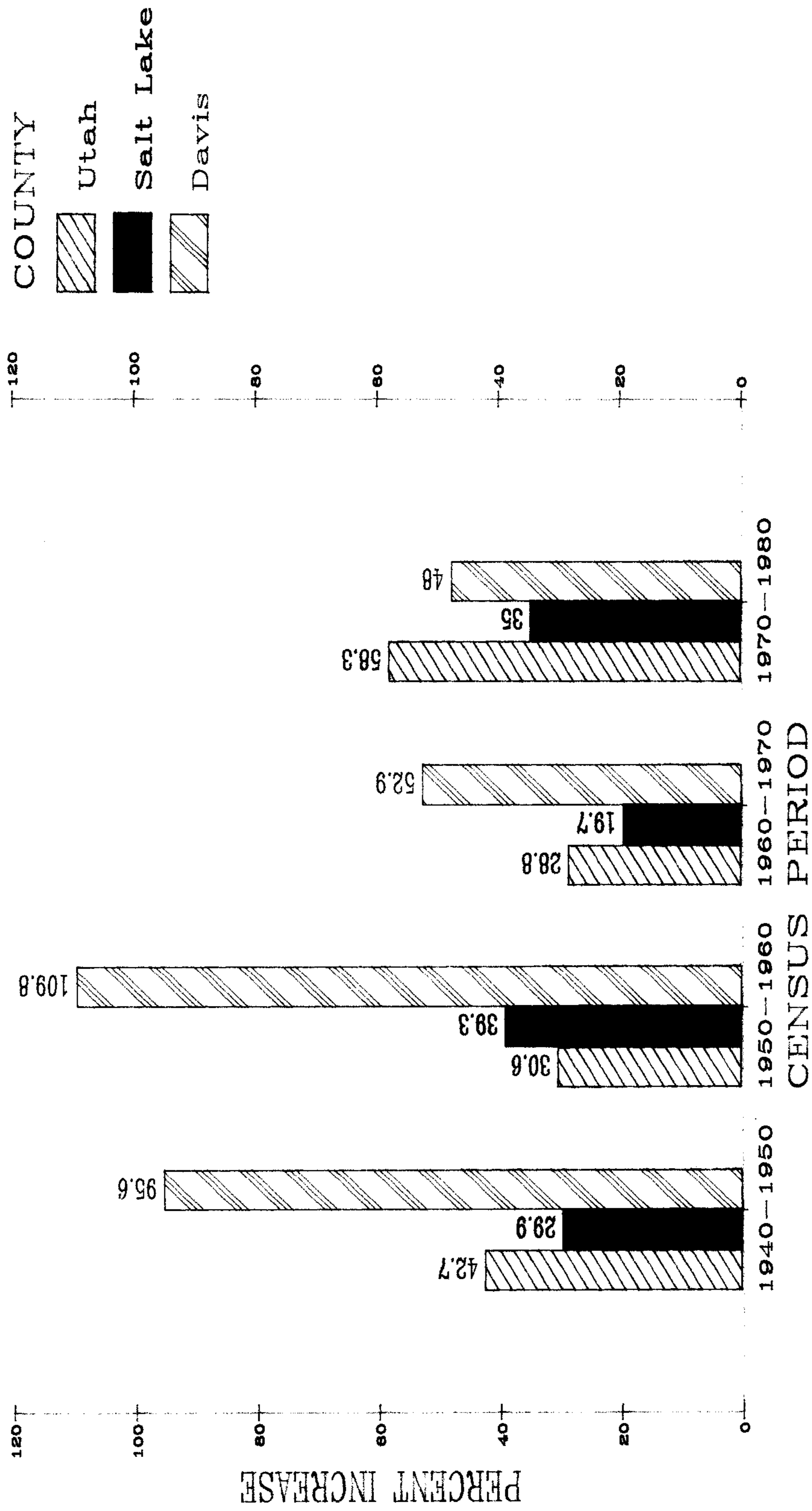
Table 11. Unincorporated County Populations in Utah

County	Total Pop. 1980	Municipal Pop. 1980	Uninc. Pop. 1980	% Uninc. 1980	% Uninc. 1970	% Uninc. 1960	% Uninc. 1950	% Uninc. 1940
Salt Lake	619066	311543	307523	49.7	50.0	39.6	23.5	19.9
Utah	218106	204560	13546	6.2	9.1	11.3	14.2	19.2
Davis	146540	134875	11665	8.0	12.4	15.9	23.7	30.7
Weber	144616	127768	16848	11.7	8.7	9.0	17.6	16.2
Cache	57176	53748	3428	6.0	6.1	7.6	8.0	9.8
Box Elder	33222	27272	5950	17.9	16.7	20.3	27.3	30.5
Washington	26065	22621	3444	13.2	14.6	10.4	14.6	18.0
Tooele	26033	20869	5164	19.8	19.5	28.3	33.4	16.7
Carbon	22179	16123	6056	27.3	37.2	40.1	44.0	39.7
Uintah	20506	17158	3348	16.3	69.1	68.4	66.1	74.3
Iron	17349	14128	3221	18.6	9.9	11.4	14.7	17.3
Sevier	14727	12568	2159	14.7	9.6	11.0	12.0	16.2
Sanpete	14620	12096	2524	17.3	8.5	10.0	15.8	14.9
Duchesne	12565	6418	6147	48.9	49.7	55.7	62.8	68.5
San Juan	12253	5047	7206	58.8	61.7	59.6	55.8	62.3
Emery	11451	9403	2048	17.9	19.4	25.2	30.3	33.0
Summit	10198	6306	3892	38.2	34.6	30.7	30.2	31.0
Millard	8970	6390	2580	28.8	26.5	28.8	27.6	33.0
Wasatch	8523	6127	2396	28.1	23.8	23.0	25.6	27.0
Grand	8241	5425	2816	34.2	27.4	25.4	33.0	47.6
Juab	5530	4944	586	10.6	9.6	10.7	13.8	17.4
Morgan	4917	1896	3021	61.4	60.2	54.2	57.8	58.7
Beaver	4378	3637	741	16.9	15.7	16.9	18.6	24.8
Kane	4024	2883	1141	28.4	15.7	10.7	11.3	46.7
Garfield	3673	2962	711	19.4	8.5	8.0	15.5	11.9
Rich	2100	1411	689	32.8	37.2	35.6	27.4	50.5
Wayne	1911	800	1111	58.1	54.7	50.6	52.3	58.7
Piute	1329	1101	228	17.2	15.7	16.9	19.1	19.9
Daggett	769	272	497	64.6	66.1	71.7	59.6	100.0
Total	1314497	1151052	163445	12.4	20.8	24.4	29.5	35.0

Source: U.S. Censuses of Population, 1950-1980

Figure 4.

FOUR COUNTY GROWTH RATES



Source: U.S. Census of Population, 1950-1980

Figure 5.

NON-MUNICIPAL BUILDING PERMITS ISSUED FOR NEW DWELLING UNITS AS PERCENT OF COUNTY TOTAL

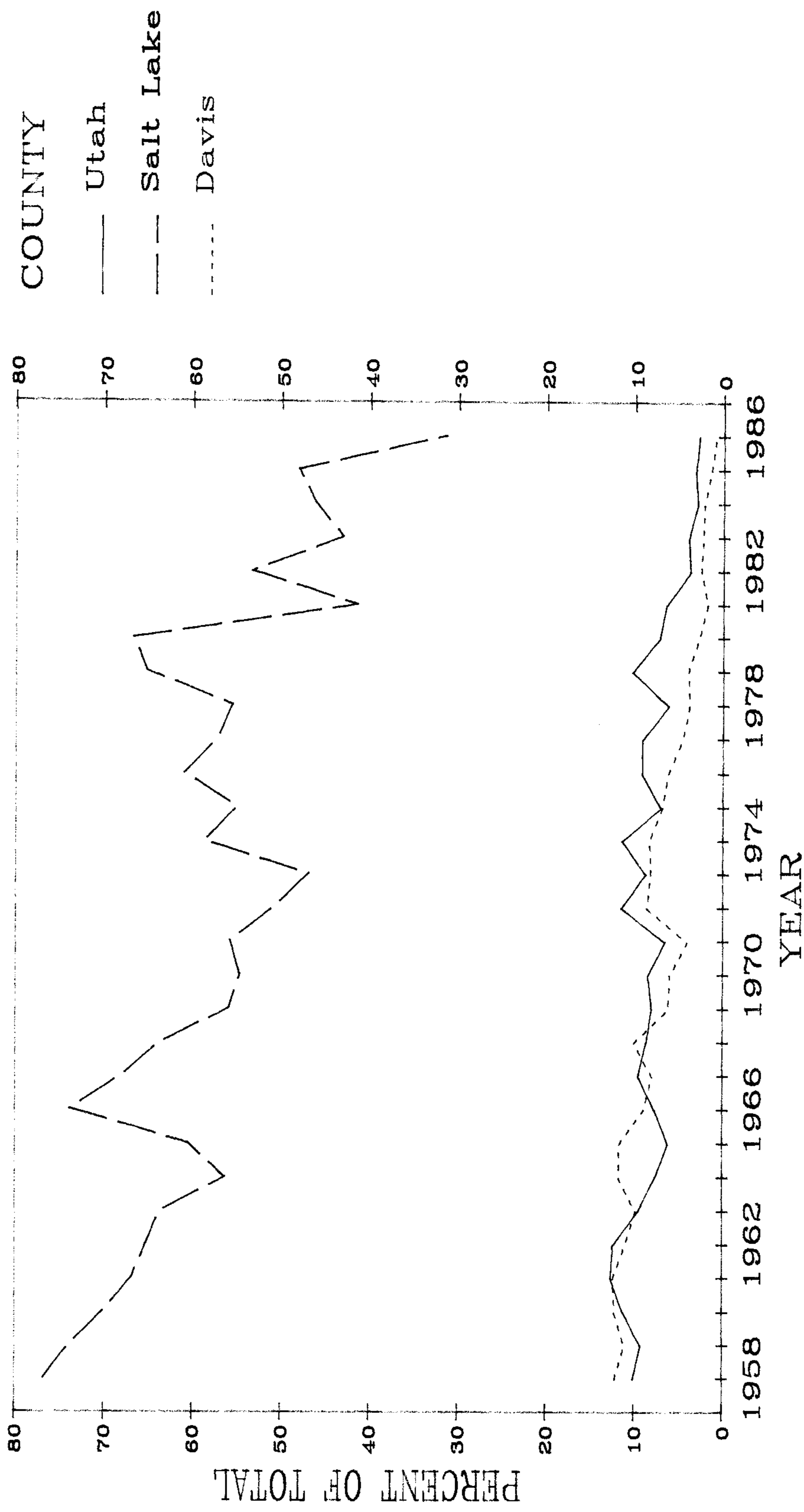


Table 12. Four County Unincorporated Land Area & Population Comparison

County	Total ¹	1950 ²		1950 ³		1986 ⁵		1986 ⁶		1986 ⁷
	Acres of Land Area	Total Population	Uninc. Population	Uninc. Population	Uninc. Land Area	Total Population	Uninc. Population	Uninc. Population	Uninc. Population	Uninc. Land Area
Utah	1290240	81912	11592	1239804	240500	8320	1192244			
Salt Lake	483840	274895	64678	416573	702500	264900	322406			
Davis	191360	30867	7328	164059	180100	12730	131097			
Weber	362240	83319	14685	340502	158800	17210	319257			

¹ Bureau of Economic & Business Research, 1983 Utah Statistical Abstract

² Census of Population: 1950

³ Census of Population: 1950

⁴ Calculated from USGS 7.5 Minute Series Quadrangles

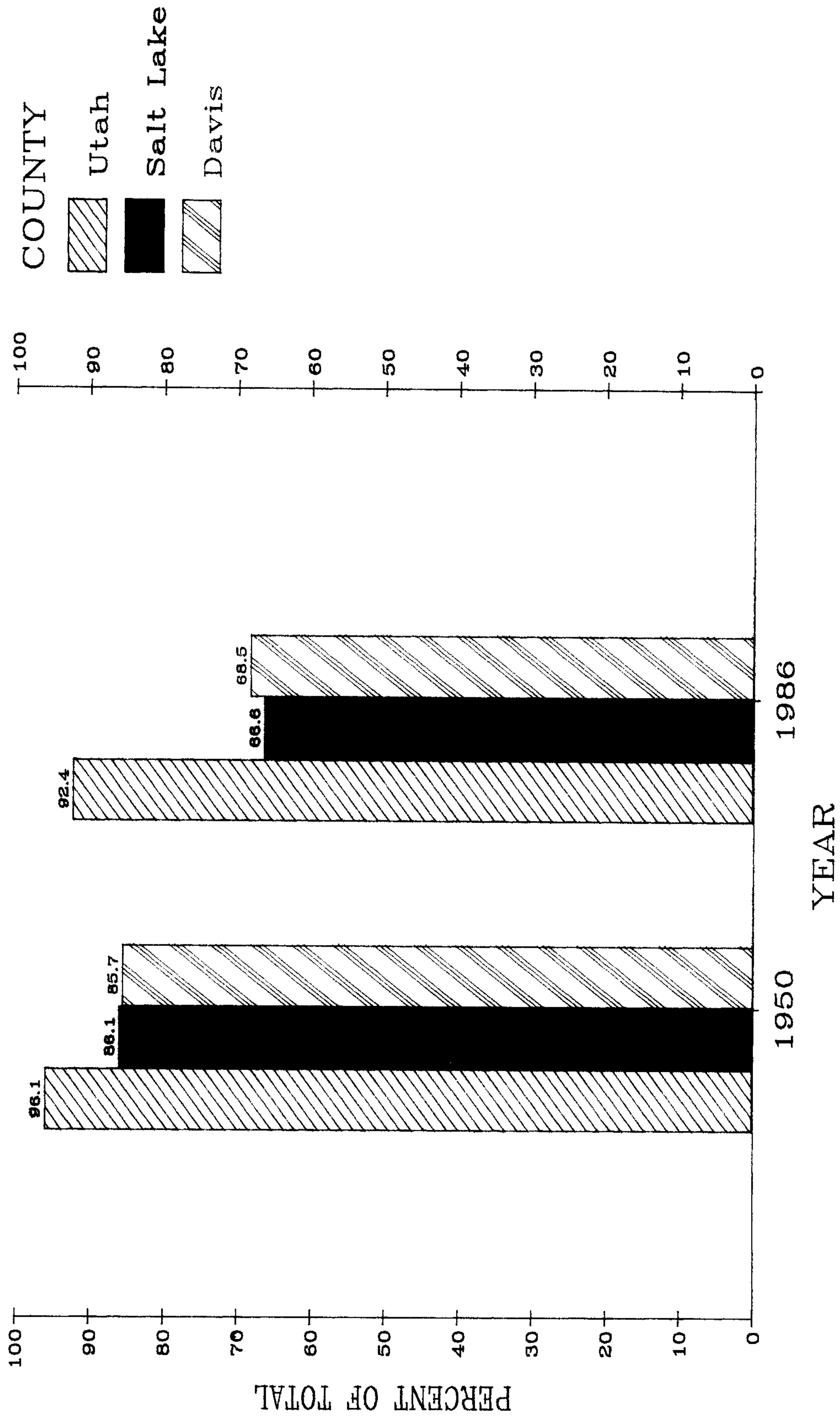
⁵ Bureau of the Census, July 1986 Estimate

⁶ Bureau of the Census, July 1986 Estimate

⁷ Calculated from UDOT General Highway Map Series

Figure 6.

UNINCORPORATED LANDS AREA OF FOUR COUNTIES AS PERCENT OF COUNTY TOTAL



Source: Calculated from USGS & UDOT maps

MUNICIPAL ACREAGE INCREASE OF FOUR COUNTIES 1950-1986

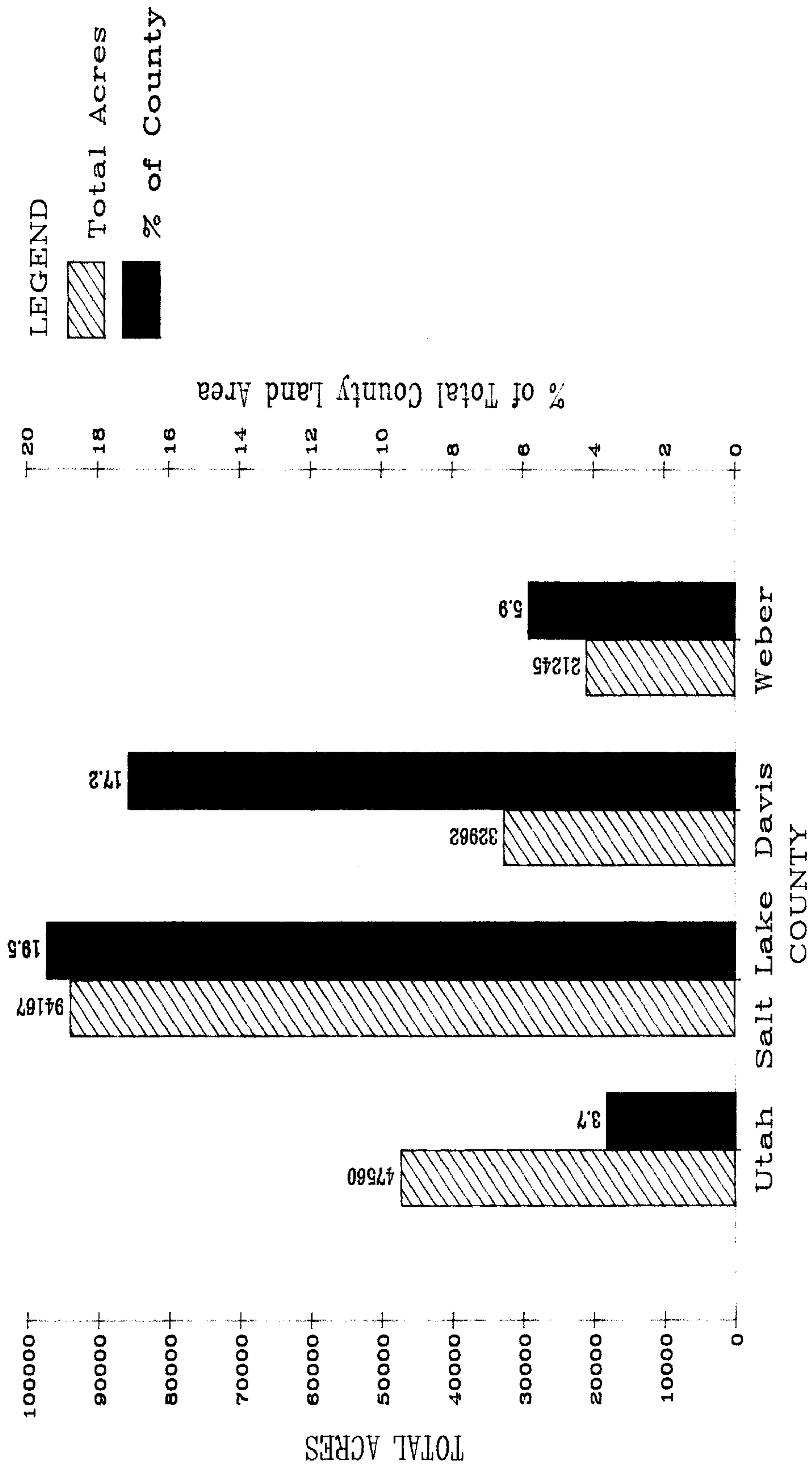
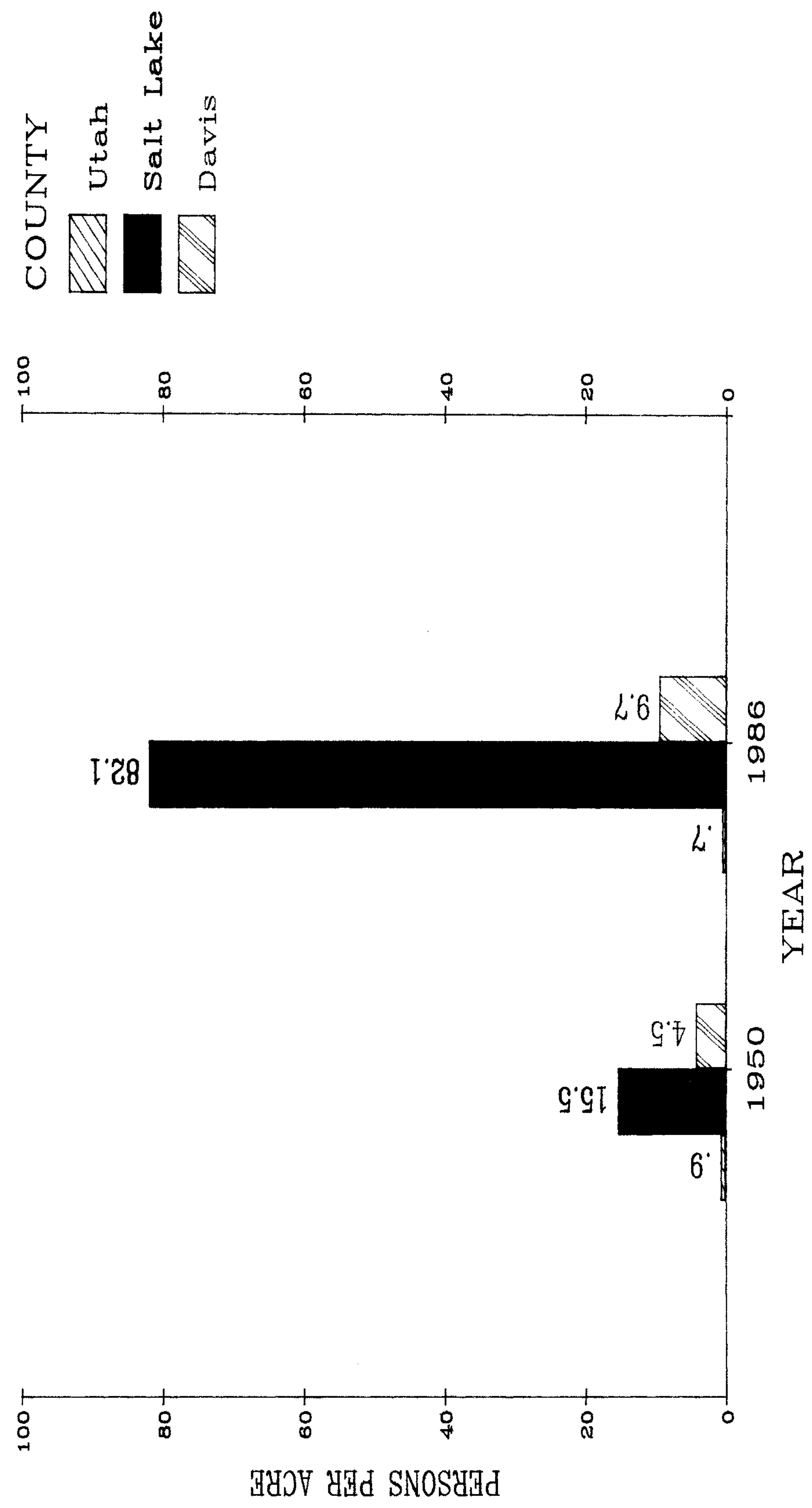


Figure 7.

Figure 8. UNINCORPORATED POPULATION DENSITY OF FOUR COUNTIES



It should be noted that city incorporations and annexations involving densely populated unincorporated regions, such as the West Valley City incorporation in 1984, and others in Salt Lake County, may skew these figures to suggest less incidence of unincorporated development than actually took place. Conversely, incorporations and annexations taking in large, sparsely populated regions, like Provo City's Heritage Mountain annexation in Utah County, may skew figures to suggest a larger conversion of land into urban use than actually took place.

Weber County

Weber County has the lowest population of the four counties and ranks third, following Salt Lake County, in unincorporated land area. Weber's population growth rate declined between the 1940s and the 1970s, eventually leveling off around 14%, the lowest of the four counties. Since the mid-1960s Weber County has regularly ranked second of the four in unincorporated building permits issued for new dwellings as a percent of its county total. Weber County is the only county of the four that experienced an increase in the percent of total population residing in unincorporated areas between the 1970 and the 1980 Census. However, Weber's unincorporated population density rose only slightly between 1950 and 1986, and a comparatively small amount of

unincorporated land was converted into municipality during this same period.

These figures indicate that demand for new residential development in unincorporated Weber County has met little resistance. It also appears that the relatively large unincorporated land area of the County has absorbed the new development without prompting a large amount of municipal annexations or incorporations.

Davis County

Of the four counties being compared, Davis County ranks third in total population and a distant fourth in land area. Census information shows that Davis' population growth rate was exceptionally high during the 1940s and 1950s, peaking at nearly 110%. Its growth rate dropped considerably in the 1960s and 1970s, but remained relatively high when compared to the other three counties. The percent of total county building permits issued for new dwellings in unincorporated Davis County has been consistently low since the late 1960s. Davis County has also steadily decreased in percentage of population residing in unincorporated areas. However, a relatively large percentage of Davis County was converted from unincorporated area into municipality between 1950 and 1986. During this same period Davis' unincorporated population density more than doubled.

These figures indicate that most of Davis County's rapid growth has been absorbed by municipalities, which have annexed and incorporated to nearly cover all of the developable land area between the foothills of the Wasatch Mountains and the Great Salt Lake.

Salt Lake County

The urban center of the State of Utah, Salt Lake County has a larger population than the combined total of Utah, Davis and Weber County, and ranks second of the four in total land area. Salt Lake County's growth rate has been the most consistent of the four counties, regularly ranking second or third since the 1940s. Since the 1950s, Salt Lake County has ranked well above the other three counties in both percent of total county population residing in unincorporated areas and in the percent of total county building permits issued. Between 1950 and 1986, Salt Lake County also led the four counties in land converted to municipality. During the same period, the unincorporated population density in Salt Lake County rose from 15.5 to over 82 persons per acre.

Utah County

Utah County has the second largest population and, by far, the largest amount of unincorporated land area of the four counties. Census figures show that Utah County experienced a dramatic rate of population growth during the

1970s. In spite of the County's relatively large population, rapid rate of growth and vast amount of undeveloped land area, the amount of new residential building permits issued for unincorporated Utah County has remained very low. Conversion of unincorporated land into municipal control has also remained low, especially in light of the County's large land area and population. As a result, the percent of population residing in Utah County's unincorporated area has regularly decreased since 1940, and is currently the second lowest in the State. Utah County is especially unusual in that, in spite of tremendous growth, its unincorporated population has actually decreased since 1950.

These figures suggest that, while Utah County's setting and population make it a prime candidate for unincorporated growth, it has largely resisted new residential development in its unincorporated area.

Chapter 10

CONCLUSION

This thesis has documented a longstanding, deliberate effort by Utah County to preserve its satellite-greenbelt settlement pattern first established by the Mormon pioneers. Population density and building permit figures suggest that the pattern of settlement in Utah County has been influenced as a result of these efforts, and that this pattern is peculiar when compared to other counties in the State.

Current Observations

As part of any good planning effort, policy makers should regularly evaluate the relevance of their community's land use plan and gauge the effectiveness of those devices employed to accomplish its stated objectives. Utah County Planning efforts have traditionally emphasized the protection of greenbelt areas. Since first becoming involved in unincorporated land use planning in the 1940s, Utah County government has employed a number of techniques designed to protect its agricultural land resources and foster efficient land use, including restrictive agricultural zoning regulations and tax incentives.

Utah County's success in preserving the greenbelt and encouraging nuclear settlement has been directly tied to the strength of its agricultural industry and planning-oriented leadership. County leaders have generally supported strong

and consistent plans and regulations designed to protect greenbelt areas. Within the development policies they have adopted, these leaders have acknowledged the benefits of consolidating urban uses within cities, where government services can be more efficiently provided. In addition, they have, for the most part, recognized farming as the best and highest use of agricultural land in the greenbelt, and generally not viewed the land as simply "farmland-waiting-to-be-something-else."¹⁷¹

To date, the most powerful greenbelt preservation technique employed by the County has been its exclusive Agricultural Zone, one of only a few exclusive agricultural zones in the nation. First adopted in 1976, the requirements of this Zone prohibit the establishment of virtually all urban uses, including the construction of non-farm dwellings. Although it has been modified on several occasions, the Agricultural Zone designation has been successfully used to curb the conversion of undeveloped greenbelt land into urban uses. Furthermore, the "Declaration of Farm Unit" requirement of the Agricultural Zone has been used to commit (by restrictive covenant) thousands of acres of farmland to remain in agricultural use.

Utah County's program for greenbelt preservation has had its share of problems and deficiencies. In spite of an overall consistency, County leaders have not always shared

¹⁷¹ Wolf, Land in America, 516.

the same vision for land use in the unincorporated areas. At times, significant elements of the greenbelt preservation program have been redirected or abandoned as a result of the individual views of elected officials. With each election, the direction of the County's development policy for the unincorporated area has been subject to modifications. These changes often compound the problems of administering and enforcing the Zoning Ordinance, already made difficult by previous changes.

County zoning regulations and policies have also been subject to abrupt change as a result of politicians' attempts to accommodate special interest groups. The potential impacts of such changes are usually not satisfactorily addressed in terms of their overall public good. An example of this is currently developing relative to the County's Agricultural Zone, which is more than adequately serving the purposes for which it was established. Complaints about over-restrictive zoning have plagued County government leaders in recent years. The majority of these complaints appear to come from non-farmers having interest in small parcels of agricultural land that, by themselves, do not qualify for residential building permits. As a result of the complaints, in 1987 the Utah County Commissioners asked the Planning Commission to make a comprehensive review of the County Zoning Ordinance and Map. The primary reason for undertaking this project has clearly been to reduce

unincorporated development requirements, especially in the County's extensive Agricultural Zone. It is important to note that the County's Master Plan for land use has not been reviewed or amended as part of this process. It appears that any changes to be made in the Master Plan will be incidental to the process of revising the County's zoning regulations, and that such changes will only be made to bring the Plan into conformance with the revised Ordinance and Map.

Recommendations for Local Policies

Utah County might benefit from a reclassification of some agriculturally zoned land that, due to urban growth, is no longer functional or economically viable to farm. Aside from their diminished capacity for agricultural use, areas that have developed a residential density and character merit residential zoning and inclusion in appropriate tax service areas. While some areas possibly warrant residential zoning as a result of existing development, the majority of the County's greenbelt land should remain under the protective zoning requirements of the Agricultural Zone. Undeveloped land that is not suitable for intensive farming, yet lies adjacent to agriculturally zoned land, should fall under similarly restrictive zoning requirements to discourage encroachment of urban uses into prime farmland.

In recent years economic, social and technological changes have reduced the relative importance of Utah County's

agricultural industry. As a result, greenbelt lands are now less likely to be under intensive agricultural use and more subject to demand for development. However, the declining emphasis on agriculture in Utah County does not automatically justify the conversion of farmland into residential or other urban-type uses.

Most of the objectives the County has had in creating restrictive, preservation-oriented zoning regulations are as applicable today as they were in the 1950s (i.e. to encourage farming, protect farmland, control government costs and preserve open space). The County's plans and maneuvers to increase development control in agricultural areas commenced both early and gradually enough to be judged as fair to present landowners, who have generally understood their land to be farmland. Furthermore, the County's goal of keeping these lands undeveloped has been popular with most County residents.

Pressures to lighten development controls in the Agricultural and other non-development zones of the County are no greater now than they were in the past. Easing zoning regulations in the greenbelt would not be a cure-all for owners of agricultural land. More likely, such changes would simply offer an inexpensive alternative to building in the recorded subdivisions of the municipalities, while at the same time permanently dividing and removing land from agricultural use, increasing the need for County government

supplied services, and contributing to the depressed housing market within the County's smaller cities.

Current conditions in Utah County do not warrant the abandonment of long established greenbelt preservation policies that have proven reasonably effective in accomplishing the public good for which they have been implemented. There is an abundance of residentially zoned land sitting vacant within the cities and unincorporated residential zones of Utah County. This land could more than adequately accommodate the need for new housing in Utah County for several years.

Reducing development requirements in the County's expansive agricultural and other non-development zones would undoubtedly result in an increase in the issuance of residential building permits in outlying areas. If sustained, this trend could significantly boost the number of residential dwellings in the unincorporated County within a few years. As indicated in Chapter 3, government expenditures usually increase commensurate with expanding residential population and development. Following this scenario, Utah County could be faced with a significant increase in demand for government services. If the tax limitation movement that is currently gaining popularity in the state eventually proves successful enough to significantly alter tax revenues, Utah County could face this

increased demand during a period of frozen or reduced tax revenues.

While County government has long emphasized preservation of the greenbelt as an important planning objective, it has done little to encourage the cities to do the same. In many areas, municipal annexations have quickly undermined years of growth management efforts by the County to preserve the greenbelt. Utah County's greenbelt areas will only be permanently maintained as open space if County and city governments cooperate in their planning efforts, using land or development rights acquisition.

Recommendations for State Policies

In addition to deficiencies in local planning and zoning policy, existing tax incentive programs favoring agriculture could also be modified to more effectively achieve the County's greenbelt objectives. State legislation should be changed to create a taxation program that not only provides a tax incentive to keep land in agricultural use, but one that commits land to remain in agriculture permanently, determined by the receipt of present benefits. Gradients should be established for preferential taxation of agricultural land based upon parcel or farm unit size. This policy would encourage landowners to consolidate fragmented tracts of land, reducing the number of parcels in the County, and subsequently reducing the amount tax dollars expended in

assessing, taxing and mapping land. This consolidation would also result in the creation of newer, more accurate parcel surveys in the County, simplifying the generation of computerized property ownership maps. Furthermore, unplatted divisions of land would be made more carefully and deliberately, reducing the incidence of division-related violations of zoning and subdivision laws.

Greenbelt tax assessment established by Utah's Farmland Assessment Act should be changed to provide tax advantages to only those lands on which bona fide agricultural operations take place. If vacant (non-agricultural) lands no longer qualified for greenbelt assessment and were instead assessed at taxable valuation, landowners would be less willing to hold onto land for speculative investment. The higher property tax would force landowners to either put the land into agricultural use or into another permitted use that justified the tax payment. An option could be provided that allowed owners of non-qualifying land to take advantage of the greenbelt assessment in exchange for relinquishing non-agricultural development rights. In this way agriculture would be rewarded, property tax revenues would be increased, and open space preservation would be maintained and possibly enhanced.

Summary

New urban development is necessary within any region experiencing population growth, including Utah County. However, development in the County does not have to be at the expense of greenbelt areas and other significant land resources. Protection of these lands can be provided while still allowing for necessary development to meet population needs. If changes are to be made affecting the historically agricultural areas of the County, the potential adverse impacts of such changes need to be thoroughly addressed and accounted for.

More and more, the survival of greenbelt areas in Utah County will depend on the strength of the local farming industry and the development and administration of growth management policies. If these areas are to be successfully maintained for future generations, farming must remain an economically viable use of land in the greenbelt, and growth must be managed to provide locations for urban development that do not threaten farm uses.¹⁷²

County government has independently made a considerable effort to preserve greenbelt land and foster nucleated development, acting in the interest of both municipal and unincorporated Utah County. County leaders have generally been thoughtful and realistic in addressing the scope of the

¹⁷² Coughlin and Keene, ed., The Protection of Farmland, 281.

issues involved in their stated land use policies. However, the agencies charged with administering and enforcing the County's development policies have not always been sufficiently equipped with control mechanisms and political and financial backing necessary to achieve the stated goals of these policies. In addition, County planning policies have generally stopped short at municipal boundaries. Without cooperative planning among local government agencies, County efforts to encourage nuclear settlement and preserve agricultural open space will ultimately fail.

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COUNTY-LEVEL LAND USE
PLANNING POLICIES AND REGULATIONS
IMPACTING THE PATTERN OF SETTLEMENT
IN UTAH COUNTY, UTAH

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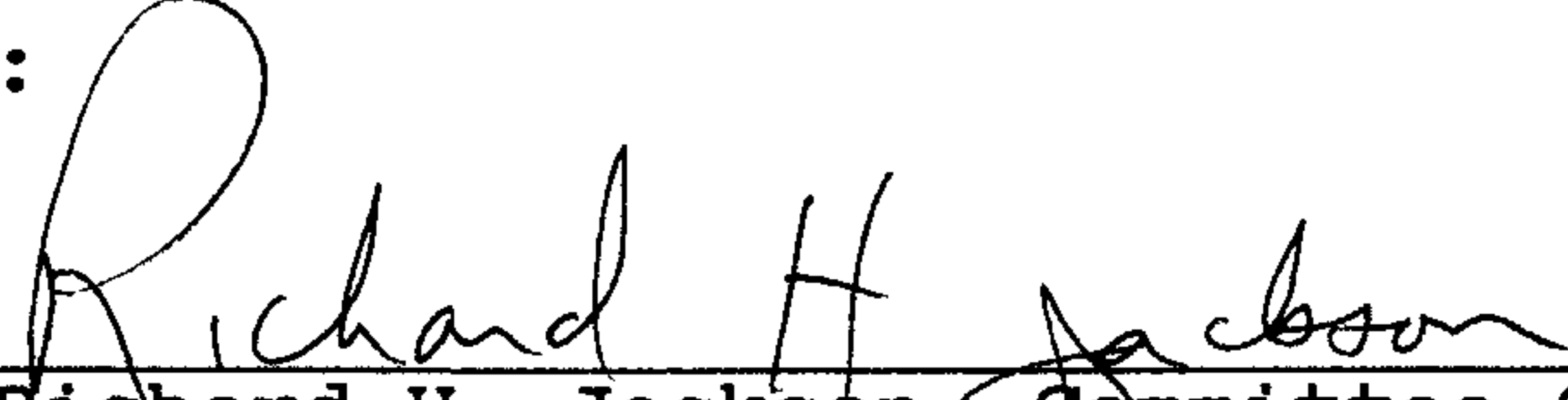
ABSTRACT

Utah County has the second largest county population in the State of Utah and ranks 16th out of 29 in total land area. Over 90% of the County's quarter of a million residents live in the area known as Utah Valley, a relatively narrow strip of land situated between the Wasatch Mountains and Utah Lake. In addition to a large population, most of which was realized during the 1970s, Utah Valley also contains the bulk of the County's important agricultural land. Not surprisingly, the expanding population in Utah Valley has created competition between agricultural and urban uses for limited land area. What is surprising, however, is the extensive amount of relatively undisturbed agricultural land in Utah County that, in spite of rapid urban growth, remains in close proximity to adjacent municipalities.

Most of the urban and suburban growth in Utah County has located within the boundaries of existing cities, with little corresponding growth taking place in adjacent unincorporated areas. Research reveals that, of the four most urban counties in the State, Utah County has more fully retained the nuclear pattern of settlement established by the Mormon pioneers who settled the region. Compared with all of the counties in the State, Utah County has the second lowest percent of population living in unincorporated areas. In fact, the unincorporated population in Utah County has actually declined since 1950, in spite of only a normal amount of land falling under city annexations and incorporations.

These peculiar characteristics have developed in Utah County as a result of deliberately chosen County-level planning policies designed to protect "greenbelt" land and discourage residential expansion into unincorporated zones.

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