

## **Appendix J**

### **Land Protection Tools**

#### **LAND PROTECTION TOOLS**

##### **Fee Title Purchase**

Land can be purchased outright by a public agency or land trust in order to permanently preserve the property. Fee title purchase is most effective when the land can be best protected and managed by such ownership. Examples of land types most suitable for fee title purchase and ownership include areas with significant natural resources, recreation lands, and property that is strategically located.

##### **Conservation Easements**

A conservation easement is a legal agreement between a landowner and a land trust or public agency that permanently limits uses of the land in order to protect its conservation values. It allows a landowner to continue to own and use his or her land and to sell it or pass it on to heirs. A conservation easement may apply to just a portion of the property, and need not require public access. When a landowner sells or donates a conservation easement to a land trust or public agency, he or she gives up some of the rights associated with the land. For example, a landowner might give up the right to build additional structures, while retaining the right to grow crops. Future owners are also bound by the easement's terms. The land trust or public agency is responsible for making sure the easement's terms are followed. Conservation easements are financially beneficial to the landowner and can provide cash and/or federal, state and property tax benefits. Conservation easements are used frequently in the conservation of rangeland and agricultural properties where the landowner is able to continue ranching or agricultural operations but development of the property is limited or restricted by the terms of the easement.

##### **Zoning Compatible with Conservation and Agriculture**

Land protection can also be achieved by enacting new zoning regulations or amending existing zoning to promote land use activities that are compatible with BRBNA conservation goals. Zoning can address the preservation of agricultural land, and ensure that resource values are not compromised by a pattern of dispersed rural or exurban development. Generally zoning compatible with conservation and agriculture includes large minimum lot sizes and limits the number of units on those lots. Some counties have also implemented growth management ordinances requiring all zoning changes on unincorporated lands to be approved by a vote of the people. Other conservation-oriented planning and zoning tools include requirements for clustering and transfer of development rights programs whereby the development rights on a given parcel are transferred from that parcel to a higher density designated receiving area.

<b>Land Protection Strategy</b>	<b>Effectiveness for Biodiversity and Natural and Cultural Resource Conservation</b>	<b>Effectiveness for Trails and Recreation Conservation</b>	<b>Effectiveness for Working Landscape Conservation</b>
<b>Fee Title Purchase</b>	Most effective strategy	Most effective strategy	Moderately effective
<b>Conservation Easements</b>	Moderately effective	Least effective	Most effective strategy
<b>Ag/Conservation Zoning</b>	Moderately effective	Least effective	Moderately effective

### **Combination Strategies**

The following strategies involve some combination of fee title and conservation easement purchase and are noted here as they provide alternative methods of land conservation that may be more appropriate in certain situations.

#### *Bargain Sale*

In a bargain sale, a landowner sells property to a land trust or public agency for less than its fair market value. This not only makes it more affordable for the land conservation entity, but offers several benefits to the landowner: it provides cash, avoids some capital gains tax, and entitles the landowner to a charitable income tax deduction based on the difference between the land's fair market value and its sale price. Following the bargain sale, the conservation organization can retain title to the land (most effective for recreational uses and resource conservation); retain title and lease the property to a conservation-minded tenant (most effective for agriculture and certain natural resource purposes); or resell the land with a conservation easement (most effective for ranching/agricultural uses).

#### *Purchase and Leaseback*

A landowner can sell a property to a land trust or public agency and then lease back the property based upon the terms of a joint agreement. This mechanism allows the seller to realize income generated by the sale of the property, while still being able to use the property, generally for agricultural purposes.

#### *Conservation Buyer Programs (Fee Title Purchase and Resale with Conservation Easement)*

A land trust or public agency can purchase a property with critical conservation values in fee. The land trust can then place an easement over the property to protect natural features and/or agricultural uses and then resell the property with the easement to a "conservation buyer" – an entity or individual dedicated to the conservation of the land and supportive of the conservation easement. This is an effective strategy where lands are threatened and a landowner does not want to donate or sell an easement.

### **REGULATORY TOOLS**

There are a number of regulatory tools that can be put in place by County government that can preserve and protect agricultural lands and natural resources. The one caveat about regulatory tools is that unlike the land protection tools described above, they are not permanent. A Board of Supervisors or other governing body can change many of these regulations as local sentiment changes. Regulatory tools include:

### **Agricultural Zoning**

Agricultural zoning generally consists of large lots and limits activities not related to agriculture and agricultural operations. In many agricultural communities there are also right-to-farm ordinances that provide protection to agricultural operations, allowing them to conduct their business as they have in the past.

### **Watershed Zoning**

Watershed zoning is similar to agricultural zoning in that minimum lot sizes are large. However, in this case, land use activities are restricted for the purposes of protecting water quality and quantity.

### **Cluster Development Provisions**

Zoning codes can also include provisions for landowners to cluster their development in a portion of the property, keeping the remainder for agriculture or open space uses. In many cases, conservation easements are placed over the undeveloped portion of the property to protect the land in perpetuity.

### **Hillside Ordinances**

Some communities have passed hillside development ordinances, which range from highly restrictive ordinances that prohibit development on ridgetops or above a certain elevation line, to less restrictive ordinances that prohibit development on slopes greater than a certain percentage. Some ordinances limit the amount of grading that can occur on hillsides to reduce erosion.