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Michigan's Farmland Preservation Program: An Assessment

Diane Katz

**An Examination of the Effectiveness of Michigan's Principal
Farmland Preservation Program, and Recommendations for Reform**



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Executive Summary

A month after taking office, Gov. Jennifer Granholm appointed a 26-member Land Use Leadership Council to promote smart growth in Michigan. Four of her immediate predecessors likewise launched land-use initiatives. But as much as the governor intends to accomplish, the greater achievement would be to dismantle the ineffective programs and detrimental policies already in place.

Among them is the state's principal farmland preservation program, which the land-use council is proposing to expand, and which is the subject of this study. Based on an examination of program data as well as consultations with experts and a review of the academic literature, we conclude that the program has failed to achieve its fundamental policy objectives.

Under the preservation program, tax credits totaling nearly \$800 million have been granted to owners of 45 percent of farmland statewide in return for maintaining agricultural production and resisting development. But according to our analysis, the bulk of credits granted between 1982 and 2001 have been applied to farmland distant from development pressures.

Simply put, these preservation tax credits have had little effect on stemming the conversion of farmland to other uses. Instead, the program mostly benefits the farmers already least likely to develop their land.

Moreover, the state awards tax credits without distinguishing the relative environmental values of farmland or whether the farmland is likely to be developed.

Additionally, more of these conservation covenants have expired than have been renewed in the past six years. The enrollment incentives offered by the state are insufficient.

Land preservation tax credits have had little effect on stemming the conversion of farmland to other uses.

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This program failure casts doubt on the notion that government can improve the environment effectively through so-called market-based mechanisms.

If policy-makers remain convinced that state action is justified, better results could be achieved by allowing private trusts to assume responsibility for the program. Hundreds of private trusts now operate across the nation. Most are better equipped than state workers to assess the environmental value of various properties and to oversee covenant compliance.

In conducting the study, the following questions were posed:

1. What is the extent of development in Michigan?
2. What values underlie our land-use patterns?
3. What state preservation initiatives are currently in place?
4. Has the state's farmland preservation program achieved its goals?
5. To the extent state farmland preservation programs are favored, how can they be improved?

Each question is addressed in subsequent sections of this report.

No assessment of the farmland preservation program has been undertaken by the Michigan Department of Agriculture, which administers the program, or by any other state agency. Further research is needed to likewise determine whether other state land-use initiatives are beneficial.

I. Introduction

Two centuries ago, President Thomas Jefferson doubled the land area of the United States by acquiring from French Emperor Napoleon Bonaparte some 825,000 square miles of strategic territory extending west of the Mississippi River to the Continental Divide. Now regarded as the “best land bargain ever made,”¹ the Louisiana Purchase was not without critics. Nor in the years since has debate over the role of government in land matters lessened.

The dispute in Jefferson's day centered on whether the U. S. Constitution authorized the president to purchase land. The Federalists, in particular, insisted not, and warned that the fledgling nation could ill afford so massive an expansion. Today, the federal and state governments combined own 40 percent of the American landscape, an inventory of 704 million acres, or 25 percent more territory than the Louisiana Purchase.² And, in an intriguing twist of history, some citizens are now more concerned about a lack of open space rather than too much of it.

This concern is manifest in the multitude of land-use controls enacted throughout the country. Michigan is no exception. Democratic Gov. Jennifer Granholm convened a Land Use Leadership Council barely a month after taking office – with the blessing of the Legislature's Republican leaders. At the local level, farmland and open space preservation initiatives are increasingly common, in addition to a variety of programs already administered by the state Departments of Agriculture and Natural Resources.

But good intentions do not necessarily translate into sound policy. Real-world experience must be taken into account. This study is offered in the spirit of informing Michigan citizens, their representatives and state policy-makers as they confront land-use issues.

The governor's Land Use Leadership Council, for example, is proposing an expansion of Michigan's principal farmland preservation program as well as more centralized land-use planning. Under the preservation program, tax credits totaling nearly \$800 million have been granted to owners of 45 percent of farmland statewide in return for maintaining agricultural production and resisting development.

The program has failed to fulfill the goals established by its architects, according to our analysis. The bulk of credits have been applied to farmland distant from development pressures. Simply put, these preservation tax credits have had little effect on stemming the conversion of farmland to other uses. Instead, the program mostly benefits the farmers least likely to develop their land. These results cast doubt on the notion that government can improve the environment effectively through so-called market-based mechanisms.

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2. What values underlie our land-use patterns?
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5. To the extent farmland preservation programs are favored, how can they be improved?

Each question is addressed in subsequent sections of this report.

No assessment of the farmland preservation initiative has been undertaken by the Michigan Department of Agriculture, which administers the program, or by any other state agency. However, officials of both the Departments of Agriculture and Treasury did provide some of the data used in our analysis. Further research is needed to likewise determine whether other government land-use initiatives are beneficial.

The preservation impulse is understandable. Michigan features 3,000 miles of Great Lakes shoreline, 11,500 inland lakes and millions of woodland acres teeming with flora and fauna – a soothing complement to the state's industrial ego. Indeed, more boats are registered in Michigan than in any state in the nation, while hunters jam the highways heading north every autumn weekend.

The state's natural bounty notwithstanding, most of us experience daily more asphalt than aspen. Of course, compared to the gritty city life of our grandfathers, ours is a veritable Garden of Eden. For all the complaints about traffic congestion, strip malls and new subdivisions, less than 10 percent of Michigan land actually is urbanized,³ leaving nearly 34 million acres largely undeveloped. Only 6 percent of the land area of the continental United States, in fact, has been paved for roads and highways, or cleared for military, residential or commercial uses.⁴

The expansion of government into so many aspects of American life may mislead some into thinking that environmental transformation, justified or not, simply requires additional regulation. Indeed, legislators have introduced no fewer than 98 bills on environmental matters in the past six months, according to a search of the legislative tracking website MichiganVotes.org.

When government attempts to manipulate land use through programs such as farmland preservation tax credits, a host of unintended consequences result. Myriad factors drive the supply of and the demand for land – factors that change with lightning speed compared to the sluggish tick of the bureaucratic clock. Government-run programs are further complicated by the compromises inherent in the political process.

Moreover, private property rights – a fundamental human right in a free society – are undermined when the state attempts to dominate the landscape. Or as economist Terry L. Anderson notes, “Governmental control ... means political control.”⁵

Special interests drive policies that increasingly treat land as a public good, thereby encroaching on landowners’ control of their own property. In decades past, the common law effectively prohibited a property owner from imposing a nuisance on his neighbors. Today, instead, dozens of federal, state and local regulations curtail the property rights that the Founders regarded as essential to thwart tyranny and thus preserve liberty.

There is no shortage of evidence that government, no matter how well-intentioned the policy, is a far less effective environmental steward than are individuals who have a personal stake in their own property.

“Control of resources by politics and bureaucracies does not bring the same pressures and personal incentives to innovate, to conserve resources, and to avoid damage downwind and downstream that private ownership and market decisions do,” according to Richard L. Stroup, former director of policy analysis for the U.S. Department of the Interior. “Political and bureaucratic decisions tend to be less efficient, more wasteful, and thus less environmentally friendly.”⁶

A well-ordered approach to public policy does not assume that more governmental control is the solution. It is far better to consider how best to harness the power of private property rights to enhance environmental quality. This becomes particularly important in light of Michigan’s budget constraints and the state’s inability to adequately maintain its huge land inventory.

This goal is in accord with the Clinton administration’s Council on Environmental Quality, which concluded: “Shifting economic priorities, government deficits, and greater demands for a lessening of the tax burden on the private sector all suggest that the policies of recent decades, of primary reliance upon the public sector to protect and preserve the country’s natural resources, will no longer be sufficient to the task. We will have to rely heavily upon private landowners and organizations to play a greater and greater role in protecting these resources.”⁷

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By every measure, Michigan remains largely a rural state.

II. Development in Michigan

“We lose 10 acres of farmland an hour to development.”

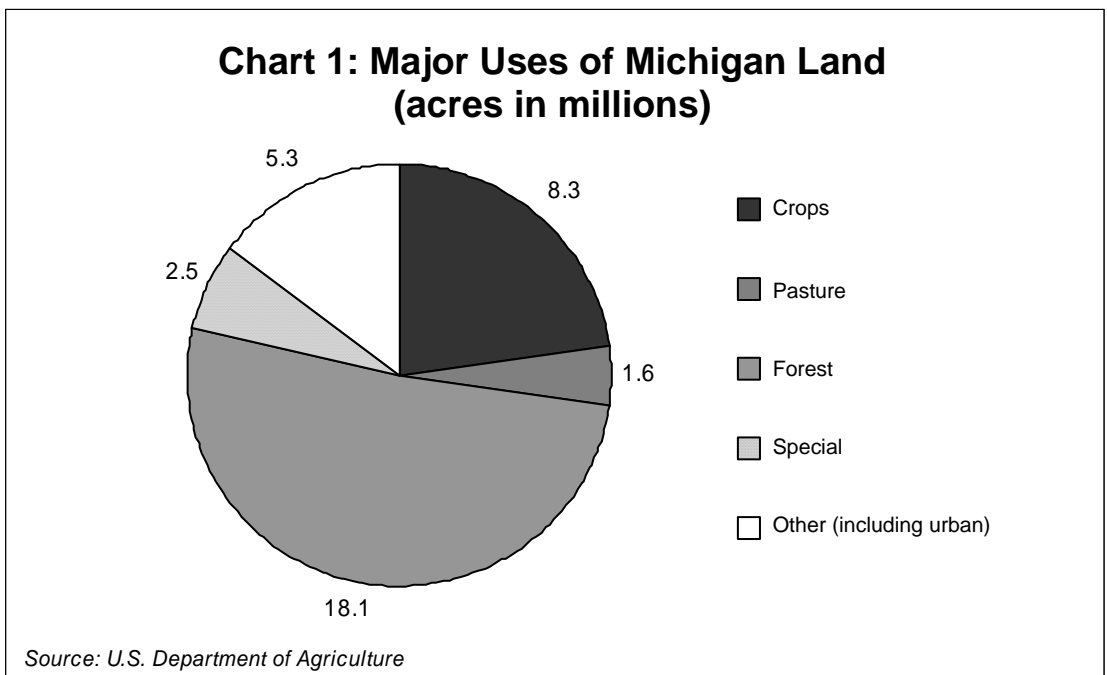
— Gov. Jennifer Granholm

“The sprawl issue is more acute in the ‘90s than it was in the ‘80s.”

— Gov. John Engler

Alarm over land use is rooted in the popular misconception that forestland and farmland are fast disappearing as residential and commercial development overtake the landscape. In this section, we present the facts about land use in Michigan.

By every measure, Michigan remains largely a rural state. More than 18 million of Michigan's 36 million acres is forestland,⁸ a share that has actually grown by 2 million acres in the past 20 years. The amount of urbanized area (as defined by the



Half of Michigan's total land area of 36 million acres is forestland. Less than 10 percent of the state is urbanized.

U.S. Census Bureau⁹) comprises less than 10 percent of the state.

Even assuming a doubling of urbanized area over the next two decades, the Michigan Association of Home Builders has calculated that Michigan would still feature more non-urbanized land than 16 states, including Pennsylvania, Ohio, Tennessee, Virginia, New Jersey and Massachusetts.

The current rate of development across the state is actually slower than in decades past. In the seven-county Southeast region of Michigan, for example, the number of housing permits – a standard proxy for development – peaked more than 30

Chart 2: Housing Trends in Southeast Michigan*



*Data cover the counties of Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw and Wayne.
 Source: Southeast Michigan Council of Governments

Housing development in Southeast Michigan peaked three decades ago and has actually slowed in recent years.

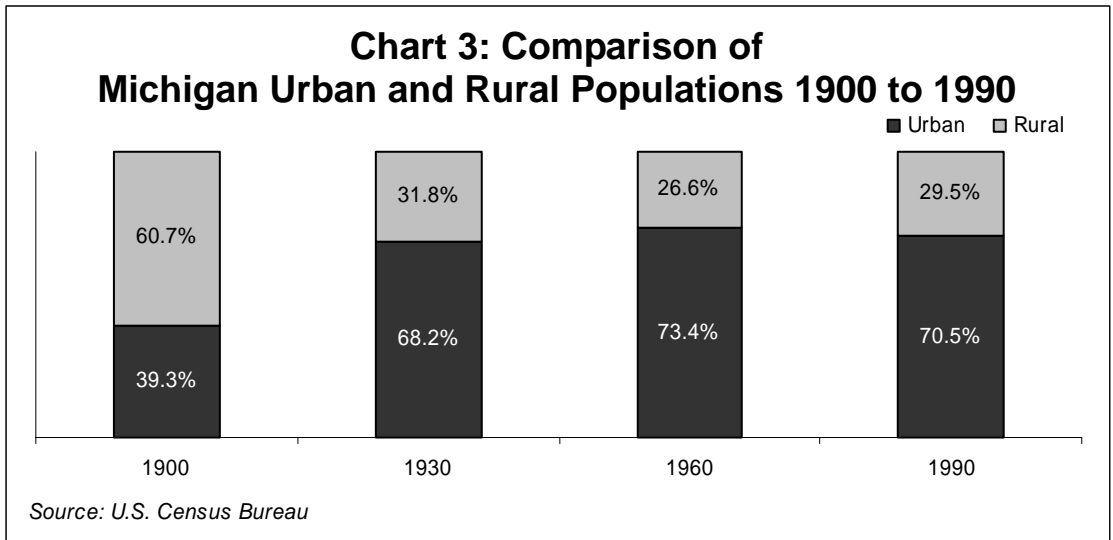
years ago. In 1971, there were 41,228 new permits issued compared to 20,424 in 2001. When taking demolitions into account, a net total of 36,706 units were permitted in 1971 compared to 14,409 in 2001.¹⁰

The most significant residential shift actually occurred between 1900 and 1930, when the proportion of Michigan residents in rural communities dropped by half. The ratio of city dwellers to rural residents has changed only slightly in the years since.

Metropolitan areas (as defined by the U.S. Census Bureau¹¹) now comprise 27.8 percent of the state, and two-thirds of the land even in these areas remains largely undeveloped. Yet Michigan's population has grown from 2.4 million in 1900 to 9.9 million in 2000.

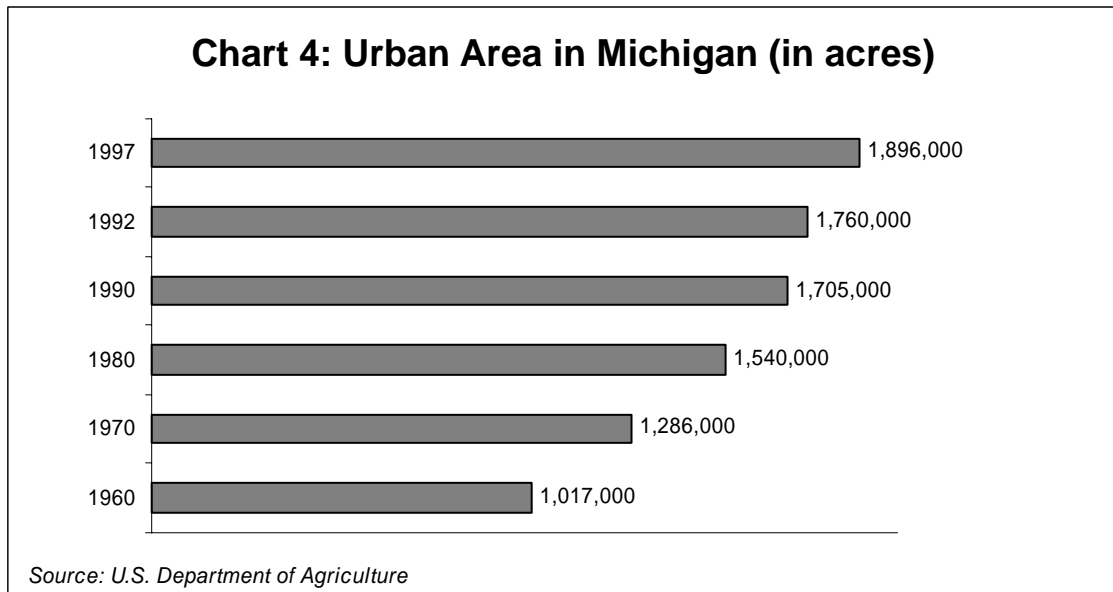
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Our perceptions of uncontrolled growth and the loss of open space appear to stem more from the cumulative impact of two centuries of development rather than from any modern surge of "sprawl."



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The rate of urbanization in Michigan has slowed in recent years.

There are fewer farms in Michigan today. In 1920, for example, there were 196,447 farms totaling about 19 million acres of land, compared to 46,027 farms with a land area of 10.4 million acres in 1997.¹² The average size of Michigan farms has increased from less than 100 acres to more than 200 acres.

The largest decline actually occurred between 1940 and 1970, with the conversion of 106,000 farms and more than 6 million acres. This post-war transformation was fueled, in part, by rising incomes and automobility, as well as by tax incentives for home ownership and by subsidized highway and sewer construction. Concurrently, a "green revolution" in agriculture and global trade reduced demand for cropland and pasture.

The rate of farmland loss has since slowed considerably. From 1990 to 1997, for example, 2,000 Michigan farms totaling 300,000 acres were converted to forest and park lands as well as to housing. In most instances, farmers idle the least productive cropland, which reduces the environmental impact of herbicides, fertilizers and other intensive treatments.

Conventional wisdom holds that most farmland is lost to residential and commercial development. In fact, 75 percent of farmland is converted to forestland or parks, wildlife areas or hunting preserves, while only 25 percent of the conversions involve development.

Even with 45 percent less land devoted to crops today as in the 1920s, agricultural yields have reached record highs. Farmers are growing far more food on much less land. In 1925, for example, farmers harvested 13 bushels of soybeans per acre, on average, compared to 36 bushels per acre in 2000. The yield of corn for feed grain likewise increased, from 39 bushels per acre in 1925 to 130 bushels per acre in 1999. Michigan dairy farmers, meanwhile, averaged 4,990 pounds of milk per cow annually in 1925 compared to 19,017 pounds per cow per year by 2000.¹³

Nor are continued farmland conversions likely to impact the food supply. According to the Economic Research Service of the U.S. Department of Agriculture: "Urbanization and the increase in rural residences do not threaten the U.S. cropland base or the level of agricultural production at present or in the near term. Urbanization rates of increase are relatively small and other land (such as forest, pasture, and range) can be shifted into crop production."¹⁴

The single largest landholder in Michigan is government, which controls 28 percent of all property in the state. The Michigan Department of Natural Resources (DNR) controls 4.5 million acres, or 12 percent of the total land area. This sizable inventory ranks Michigan as 7th nationwide in the percentage of state-controlled land. The DNR also manages surface or mineral rights on 5.9 million acres of land as well as the mineral rights to 24 million acres of Great Lakes bottomlands.

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It is the unparalleled power of the state to ignore debt and, at the same time, increase spending.

Chart 5: DNR Administered Lands

Program	Acres
State Forest Lands	3,866,266
State Wildlife Areas	300,300
State Park & Recreation Areas	259,969
Water Access Sites	27,961
Other Department Land	17,697

Source: Michigan Department of Natural Resources

In addition to DNR lands, The Michigan Department of Transportation controls 180,000 acres, and the Department of Military Affairs manages another 155,000 acres.

The federal government controls 3.1 million acres, or 8 percent of the total state land area, while local units of government control 114,000 acres, largely for recreation.

There are significant economic consequences to such large government land inventories. Unlike private property owners who have to pay property taxes, the DNR remits a heavily discounted “payment in lieu of taxes” (PILT) to counties and local governments. The amount of this annual payment is based on how the agency obtained the land.

By statute, all lands purchased, gifted or tax-reverted to the state prior to 1933 are assessed at a nominal \$2 an acre. Those acquired after 1933 are assessed as agricultural land by the State Tax Commission – regardless of location or use. The DNR’s lands are also exempt from all special assessments, as well as from 18 of the 24 mills of school taxes.

Numerous counties in which large blocks of state land are located depend heavily on these PILT payments, discounted though they are. Thus, legislators and local officials were stunned in June by the agency’s announcement that it did not intend to pay the \$150 million owed to locals for state-controlled lands.

Any private landowner unable to pay his or her taxes would be forced either to sell the property or face forfeiture. But in spite of the shortfall, DNR officials actually authorized at least \$16 million worth of *new* land acquisitions. It is the unparalleled power of the state to ignore debt and, at the same time, increase spending.

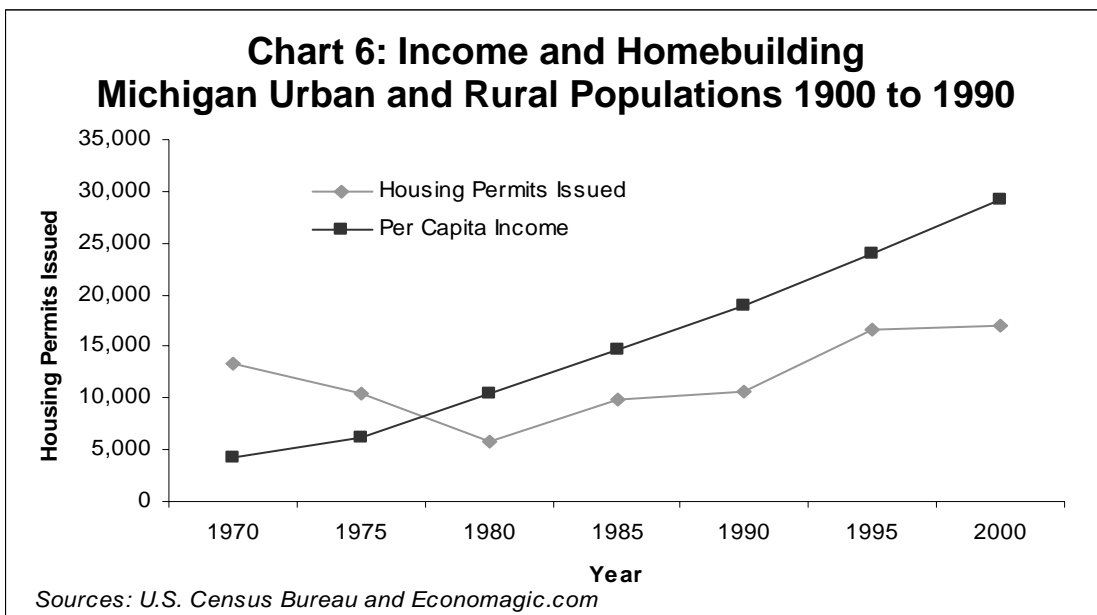
The Legislature subsequently appropriated additional funds to cover the debt. But the PILT crisis demonstrates one of the risks inherent in government land control.

III. Values Underlying Land-Use Patterns

Every American generation has built anew, extending through ingenuity and innovation all the achievements successively inherited. This accumulation of material and intangible wealth has made environmental improvement all the more possible.¹⁵ Subsistence societies simply cannot afford to protect natural resources or to indulge in outdoor leisures.

Our collective wealth makes possible our desire for open space. And suburbanization is one realization of that desire. Indeed, 80 percent of Americans surveyed in 1991 expressed a preference for low-density, single-family homes if given the choice.¹⁶

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Rising incomes spur residential development. The vast majority of Americans prefer single-family homes on large lots.

Compared to the tenements and flats of yesteryear, single-family homes with private yards represent a huge leap in progress. This is hardly a new phenomenon. Upward mobility has been the societal course since the Industrial Revolution. Our unsurpassed technological progress – both economic and agricultural – has allowed us to venture beyond the city in search of clearer air, cleaner water, greener land, safer streets, and better schools.

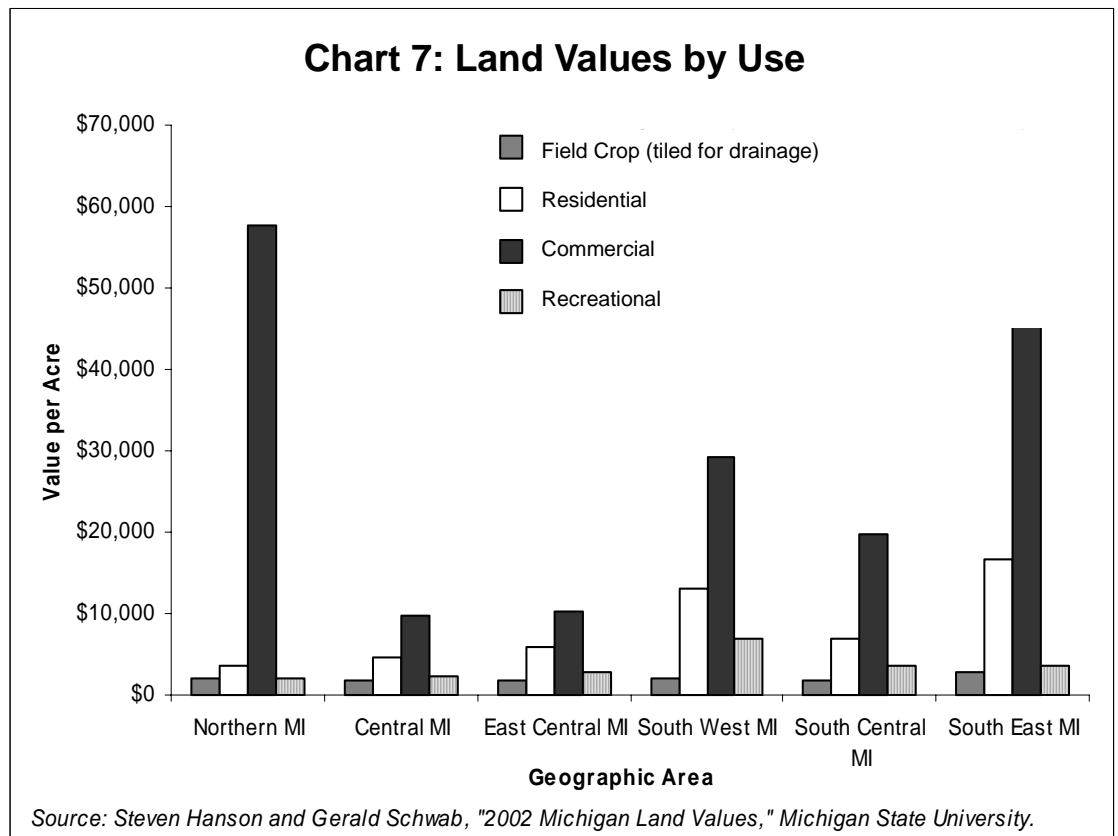
Urban population densities fell at a greater rate in Canada, Western Europe, Asia and Australia than in the United States.

Urban policy specialist Wendell Cox disputes the notion popularized by former Vice President Al Gore that suburban life lacks “livability.” Says Cox: “Genuine livability is evidenced by the choices people make. People buy cars because they satisfy both their needs and desires, and they buy houses in the suburbs for virtually the same reasons. They make these choices because they are more livable than the alternatives.”¹⁷

Suburbanization also enhances American prosperity. More than 40 percent of family wealth is in home equity, and the percentage runs even higher among lower middle-income families.

Nor is suburbanization unique to the United States. According to Cox: “From the 1960s to the 1990s, urban population densities fell at a greater rate in Canada, Western Europe, Asia and Australia than in the United States. In fact, virtually all urban population growth in Europe has been in suburban areas.”¹⁸

Property prices reflect, in part, the public’s preference for the suburban lifestyle. Michigan State University researchers Steven D. Hanson and Gerald Schwab found that even where cropland values are highest – \$2,000 per acre in Southeast



Much higher value is placed on land for development than on land for agricultural use.

Michigan – the value of this same land for residential development is exponentially higher – an average of \$16,700 per acre – and \$47,943 per acre for commercial development.

Lawmakers and policy-makers would do well to recognize that property prices are an important gauge of the public's land-use preferences.

IV. Current State Initiatives

Attempts to control land use in Michigan date to 1921, when the Legislature first authorized zoning by cities and villages.¹⁹ Township authority for zoning was added in 1929, and county authority in 1931.

Planning authority for cities, villages and townships was enacted in 1931, followed by regional and county authority in 1945. But the 1960s and 1970s proved to be the heyday of land-use regulation, a period when 25 state laws regulating development were enacted.

Various governors have attempted statewide planning with little success. The first State Planning Commission was created in 1933, but disbanded in 1945. Gov. William Milliken, a co-chair of Gov. Granholm's land-use council, appointed a special commission on land use in 1975, but its charge to develop a state land-use plan went unfulfilled. His successor, Gov. James Blanchard, issued an executive order in 1986 requiring state agencies to assess the effect on farmland of administrative actions. A commission appointed by Gov. John Engler identified the lack of coordinated land use planning as the state's highest environmental risk.

For all of Lansing's efforts to centralize land-use control, local units of government are understandably reluctant to cede their zoning and planning powers. And rightfully so. A diversity of policies provides citizens with a wider variety of options than does any centralized system, such as that being proposed by Gov. Granholm's land-use council.

The state's Subdivision control Act of 1967 has exerted significant influence on development patterns. The Act dictates platting requirements to ensure that land is suitable for building, including requirements for adequate drainage; proper ingress and egress to lots and parcels; proper surveying and accurate legal descriptions; and easements for utilities. The statute largely exempts from the platting requirements parcels created by a land division of 10 acres or less. Critics contend this exemption fuels land consumption. But the Legislature has resisted demands to rewrite the Act.

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More direct government attempts to preserve farmland and open space debuted in the 1970s, and have been expanded in recent years. The major initiatives are outlined below.

The Farmland and Open Space Protection Act of 1974 (PA 116)

Public Act 116 was designed to slow the conversion of farmland by offering tax credits to farmers in return for a 10-year restrictive covenant not to develop their property. The credit is applied to the amount of property tax that exceeds 3.5 percent of household income. Alternatively, property owners may receive a credit toward the Single Business Tax equal to the amount by which the property tax exceeds 3.5 percent of adjusted business income. Enrollees in the program are also exempt from special assessments. The restrictive covenant may be renewed in seven-year increments. Failure to renew the covenant requires repayment of all tax credits received, but no penalty is assessed.

The Act also authorizes the Department of Agriculture to purchase permanent conservation easements using the tax receipts recaptured from the repayment of tax credits in cases of nonrenewals.

Some 60,000 covenants have been negotiated prohibiting development on 4.3 million acres of agricultural land, which constitutes 45 percent of farmland statewide. A total of \$30 million in recaptured credits has been collected, with which the state has purchased 50 permanent conservation easements encompassing 12,000 acres.

Agricultural Preservation Fund

The Legislature in 2000 created the Agricultural Preservation Fund to provide matching grants to local governments for the purchase of development rights. The program is funded from the repayment of tax credits by farmers who terminate their conservation covenants with the state.

Transfer of Development Rights (TDR)

TDR programs allow developers to exceed local housing density restrictions on one site by retiring development rights on a second site. A TDR treats development as a fungible commodity.

Agricultural Processing Renaissance Zones

Under this program, eligible agricultural processing facilities are granted tax breaks for establishing facilities within designated zones. Nine such zones have been established statewide

Conservation Reserve Enhancement Program (CREP)

Jointly funded by the state and federal governments, the CREP program provides cost-sharing grants to farmers who institute conservation practices. The program is limited to cropland and pasture.

Forest Reserve Program

This program reduces the tax burden on forestland. Commercial forests enrolled in the reserve program are only taxed \$1.10 per acre; private forests are taxed at \$1 per acre, plus a stumpage fee equal to 5 percent of the value of timber cut.

In an attempt to augment state preservation efforts, Congress in 1976 authorized the tax deductibility of conservation easement donations. Eligibility is restricted to permanent easements that provide recreational or education access, or a "scenic" amenity to the public. The Taxpayer Relief Act of 1997 also allows a deduction from the estate tax equal to the value of a qualified conservation easement that has been granted by the decedent or a family member.

V. Assessment of Farmland Preservation Program

There is little empirical evidence that preservation tax credits and similar government initiatives actually slow the rate of agricultural conversions or preserve open space.²⁰ Factors contributing to this apparent policy failure include insufficient incentives and overly restrictive eligibility or perpetuity requirements. Each of these shortcomings could be ameliorated through greater reliance on private property rights and market forces.

Were Michigan's preservation initiatives truly effective, it is doubtful there would continue to be such political clamor for action. A 1986 study by researcher Sandra Hoffman found that P.A.116 failed to attract enrollment of farmland near urban areas.²¹ Concluded Hoffman: "It is difficult to say that P.A. 116 has been successful at slowing the conversion of Michigan farmlands and open space."

Our analysis of more recent data spanning 1982 through 2001 also found that the majority of tax credits have been distributed to areas where development pressures are low, meaning that the \$800 million in credits have not preserved farmland as intended.

The greatest development pressures exist in 17 Michigan counties classified as "collar communities" by the U.S. Census Bureau. These are suburban counties adjacent to central cities. They include: Allegan; Bay; Berrien; Clinton; Eaton; Jackson; Lapeer; Lenawee; Livingston; Macomb; Midland; Monroe; Muskegon; Oakland; Ottawa; St. Clair and Van Buren.

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Our accounting of the state's farmland preservation program yielded 10 major findings:

- Between 1982 and 2001, only 28.5 percent of all tax credits awarded annually went to farms in high-growth counties. (See Appendix A)
- Some 54 percent of these credits were allocated to farms in counties classified as "rural" by the U. S. Census Bureau, and thus distant from development pressure. (See Appendix A)
- 17.5 percent of credits were applied to farmland in "central city counties" where development pressure is low. (See Appendix A)
- Five of the 17 high-growth counties – Livingston, Macomb, Midland, Oakland and St. Clair – had zero enrollments in the farmland preservation program in 1997, 1998 and 1999.
- Five of the six counties with the highest levels of program participation – Huron, Tuscola, Saginaw, Sanilac and Gratiot – are located in low-growth areas as defined by the Census Bureau.
- Huron County, which accounted for 8.5 percent of the tax credits overall – the largest number statewide – contains only 2.5 percent of the state's farmland. Still, the credits did not prevent 10.6 percent of that county's farmland from being converted to other uses between 1992 and 1997.
- More covenants have expired than have been renewed in the past six years. (See Appendix B)
- The Michigan Department of Agriculture does not monitor whether program participants are abiding by the covenant or maintaining the environmental integrity of the enrolled properties.
- The Michigan Department of Treasury only estimates the number of credits issued annually, although the total value of credits is calculated.
- The average price paid by the state to purchase permanent conservation easements – \$3,260 per acre – far exceeds the national average of \$1,789 per acre.²² Both the lowest and highest prices paid in Michigan – \$1,939 per acre and \$6,493 – were for farmland situated in the same county (Grand Traverse).

A variety of factors likely contribute to these program failures. Farmers with significant off-farm income – about half of all Michigan farmers – do not typically qualify for the tax credits. Also, the \$5,000 cap on the maximum allowable tax credit

is insufficient incentive to participate given the market value of property in rapidly developing counties. Moreover, because the covenants are not permanent, participants do not qualify for federal tax relief, further reducing the incentive to enroll.

Marginal improvement in the program might be achieved were the Legislature to increase the tax credits or restrict program enrollment to high-growth counties. But that's politically unlikely given the widespread participation in the program. With tens of thousands of farmers currently benefiting from the credits, tighter eligibility standards would likely meet heavy resistance from the farm lobby.

A compelling case can be made that the tax code should not favor open land over developed land. Indeed, the Michigan Constitution calls for equity in taxing property at its highest and best use value. To the extent open space is valued, investors can be relied upon to supply it – in the absence of government interference.

But if policy-makers remain convinced that state intervention is justified, better results could be achieved by allowing private trusts to assume responsibility for the easement program.

Hundreds of private trusts now operate across the nation. Most are better equipped than state workers to assess the environmental value of various properties and oversee covenant compliance. As it now stands, the state awards tax credits without distinguishing the relative environmental values of farmland or whether the farmland is likely to be converted.

Private trusts would also likely be better positioned to customize covenants to attract landowners whose properties would maximize conservation goals. Steven J. Eagle, a professor of Law at George Mason University, notes that such flexibility would enhance program results.

“(T)he goals that conservation easements are to be consensual in nature and custom-tailored to individual circumstances and desires largely are vitiated in those states in which government (or government and one land trust) has a monopoly on holder status,” says Eagle. “In such a jurisdiction one could expect the full panoply of bureaucratic regulations and a ‘one-size-fits-all’ approach, resulting in fewer landowners entering into conservation easements than otherwise would be the case. The more freely non-profit (and for-profit) organizations are allowed to act as easement holders, the more likely landowners would be to participate.”²³

Relying on private organizations to achieve public policy objectives is a time-tested approach. The state awards millions of dollars in tax credits annually for private donations to thousands of charities serving the public interest. The tax credits serve as tacit recognition of the inability of the state to provide the multitude of services that citizens, generally speaking, consider worthy of support.

***To the extent
open space is
valued, investors
can be relied upon
to supply it.***

So long as government holds a virtual monopoly on open space, parks and wilderness areas, there is little chance that private property owners will forgo the value to be derived from development in favor of investing in open space.

Some legislative action would be necessary to authorize private trusts to assume responsibility for the farmland preservation program. But major improvements would likely result, including greater accountability and effectiveness.

Nurturing more of a private market in outdoor recreation and other open-space amenities is also important to advancing conservation. But so long as government holds a virtual monopoly on open space, parks and wilderness areas, there is little chance that private property owners will forgo the value to be derived from development in favor of investing in open space. Given the state's inability to sustain its current land inventory, it is reasonable to suggest that the Department of Natural Resources reduce its holdings and allow competition in outdoor recreation, including hunting, camping and other open-space enjoyments to take hold.

VI. Recommendations

1. Reconsider whether farmland preservation is a necessity compared to other environmental priorities in Michigan.
2. Enact legislation authorizing private land trusts to take over administration of P.A. 116 programs from the state.
3. Enact legislation to allow private trusts administering the farmland preservation program to incorporate eligibility criteria that distinguish properties according to relative risk of conversion and according to environmental value.
4. Establish through legislation a scale of tax credits that accounts for variations in preservation value.
5. Enact legislation to allow covenant conditions to be individually customized.
6. Enact legislation to allow private trusts to institute penalties for early program withdrawal, to reduce exploitation of tax credits by land speculators.
7. Reduce the state's land inventory to encourage a more robust market in outdoor recreation.
8. Require through legislation that state agencies analyze whether existing farmland preservation programs are fulfilling objectives before additional funds for administration are authorized.

Appendix A

Michigan Farms and Distribution of Tax Credits

Central City Counties

	# of Farms	% of State Total	# of Tax Credits ²⁴	% of State Total
Calhoun	1,085	2.4	5,070	2.3
Genesee	796	1.7	2,772	1.3
Ingham	827	1.8	4,897	2.3
Kalamazoo	696	1.5	2,769	1.3
Kent	1,136	2.5	4,011	1.9
Saginaw	1,163	2.5	13,344	6.2
Washtenaw	1,030	2.2	4,334	2.0
Wayne	303	0.6	632	0.3

Collar Counties

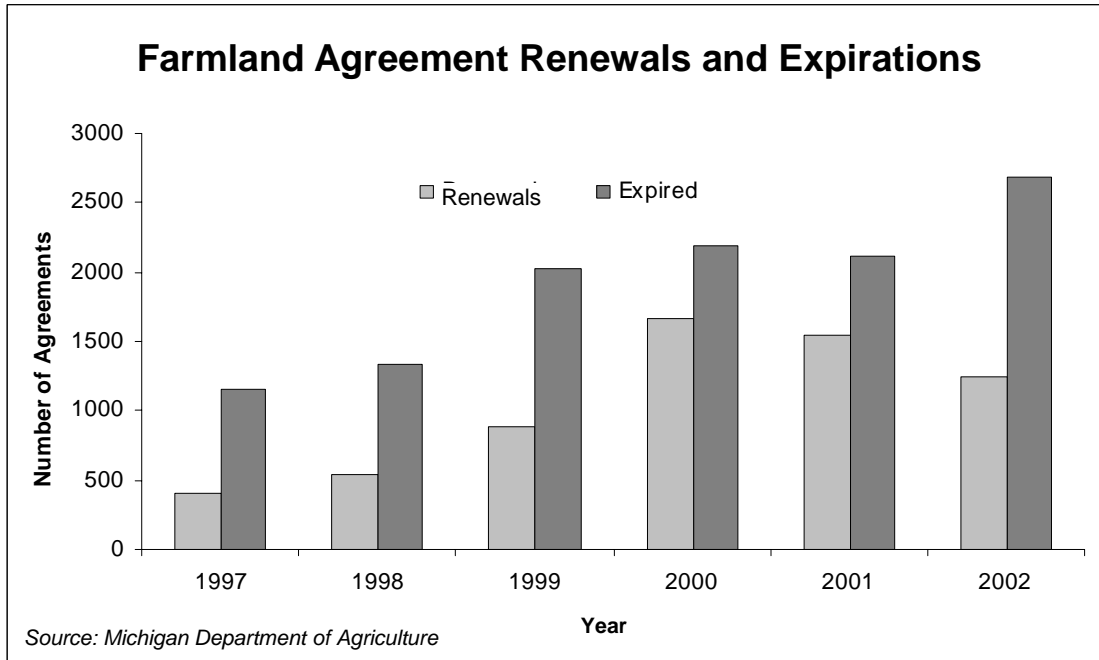
Allegan	1,337	2.9	3,656	1.7
Bay	730	1.6	7,514	3.5
Berrien	1,182	2.6	2,634	1.2
Clinton	1,123	2.4	6,198	2.9
Eaton	1,062	2.3	3,631	1.7
Jackson	987	2.1	2,628	1.2
Lapeer	1,020	2.2	2,292	1.1
Lenawee	1,317	2.9	11,781	5.5
Livingston	637	1.4	1,232	0.6
Macomb	523	1.2	622	0.3
Midland	418	0.9	1,532	0.7
Monroe	1,058	2.3	4,784	2.2
Muskegon	410	0.9	1,910	0.9
Oakland	544	1.2	897	0.4
Ottawa	1,292	2.8	6,103	2.8
St. Clair	940	2.0	1,224	0.6
Van Buren	1,059	2.3	2,653	1.2

Rural Counties

Alcona	207	0.4	173	0.08
Alger	60	0.1	152	0.07
Alpena	412	0.9	181	0.08
Antrim	261	0.6	427	0.2
Arenac	325	0.7	1,911	0.9
Baraga	54	0.1	151	0.07
Barry	881	1.9	1,610	0.7
Benzie	140	0.3	152	0.07
Branch	980	2.1	4,324	2.0
Cass	700	1.5	3,294	1.5
Charlevoix	188	0.4	244	0.1
Cheboygan	210	0.5	187	0.1
Chippewa	319	0.7	620	0.3
Clare	350	0.8	781	0.4

	# of Farms	% of State Total	# of Tax Credits ²⁴	% of State Total
Crawford	27	0.05	152	0.07
Delta	253	0.5	414	0.2
Dickenson	116	0.2	179	0.1
Emmet	207	0.4	163	0.07
Gladwin	424	0.9	1,178	0.5
Gogebic	48	0.1	150	0.07
Grand Traverse	413	0.9	981	0.5
Gratiot	873	1.9	10,346	4.8
Hillsdale	1,236	2.7	4,860	2.2
Houghton	128	0.3	150	0.07
Huron	1,184	2.6	18,342	8.5
Ionia	1,004	2.2	4,362	2.0
Iosco	238	0.5	406	0.2
Iron	86	0.2	170	0.1
Isabella	911	2.0	3,012	1.4
Kalkaska	139	0.3	153	0.07
Keweenaw	5	0.01	150	0.07
Lake	126	0.3	189	0.1
Leelanau	369	0.8	465	0.2
Luce	31	0.06	151	0.07
Mackinac	72	0.2	154	0.07
Manistee	284	0.6	180	0.1
Marquette	108	0.2	153	0.07
Mason	413	0.9	1,860	0.9
Mecosta	597	1.3	825	0.4
Menominee	348	0.8	1,181	0.5
Missaukee	335	0.7	1,771	0.8
Montcalm	954	2.0	7,086	3.28
Montmorency	103	0.2	167	0.08
Newaygo	670	1.5	1,846	0.9
Oceana	573	1.2	2,010	0.9
Ogemaw	261	0.6	902	0.4
Ontonagon	92	0.2	158	0.07
Osceola	496	1.0	1,646	0.8
Oscoda	80	0.2	166	0.08
Otsego	139	0.3	155	0.07
Presque Isle	296	0.6	189	0.08
Roscommon	36	0.07	154	0.07
St. Joseph	791	1.7	3,995	1.8
Sanilac	1,448	3.1	11,022	5.1
Schoolcraft	45	0.09	156	0.07
Shiawassee	915	2.0	5,858	2.7
Tuscola	1,140	2.5	14,681	6.8
Wexford	251	0.5	***	***

Appendix B



More landowners are withdrawing from Michigan's farmland preservation program than are enrolling, reflecting insufficient incentives.

Endnotes

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- ³ U.S. Department of Agriculture, National Resources Inventory, 1997.
- ⁴ Ibid.
- ⁵ Anderson, Terry L. and Leal, Donald R., "Free Market Environmentalism," (New York: Palgrave), pg. 4.
- ⁶ Stroup, Richard L., "Eco-nomics," (Washington, D.C.: The Cato Institute), pg. 74.
- ⁷ "Fifteenth Annual Report of the Council on Environmental Quality," (Washington, D.C.), pg. 364.
- ⁸ U.S. Department of Agriculture, Economic Research Service, "Major Uses of Land in the U.S. (Washington, D.C.), 1997.
- ⁹ An area with a population density of more than 1,000 people per square mile and connected to a city, township or village with a population of at least 2,500 people.
- ¹⁰ Southeast Michigan Council of Governments.
- ¹¹ Areas with either a minimum population of 50,000 or an urbanized area plus a total metropolitan area of at least 100,000.
- ¹² Michigan Agricultural Statistical Service.
- ¹³ U.S. Department of Agriculture, National Agricultural Statistical Service.
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- ²¹ Hoffman, S.A., "Farmland and Open Space Preservation in Michigan: An Empirical Analysis," (Ann Arbor, Mich.: University of Michigan Journal of Law Reform), 1986.
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²³ Eagle, S.J., “Conservation Easements and Private Land Stewardship,” (Washington, D.C.: The Center for Private Conservation), 1998.

²⁴ Tax credit totals may exceed the number of farms because property owners have re-enrolled in the program over multiple years, and because the Department of Treasury routinely rounds up to the nearest 50 the number of credits awarded in each county each year.

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