

Upper Elk River Valley
Protecting the Land and
Sustaining Community

American Farmland Trust



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A plan for the protection of the working, rural landscape of the Upper Elk River Valley,
Colorado and report on the status of land protection efforts.

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1 Regional Perspective: Protecting Landscape and Sustaining Communities in the West

From the Flathead and Gallatin valleys of Montana south along the Rockies to Taos and Santa Fe, N. M., population growth and landscape change are accelerating. These areas offer what people on the East and West coasts are losing — beautiful scenery, small to medium sized communities without urban problems and a strong sense of community. These larger national and regional forces are contributing to the changing character of the Upper Elk River Valley and other special places throughout the West.

While change is a constant that has affected most communities in the West over its relatively short history of settlement, the scale and pace of change has accelerated. The impacts of rapid population growth in western rural communities are all too familiar: escalating real estate values and costs of housing, unsightly strip and sprawl development, increases in the cost of services as quality declines, loss of productive agricultural land, declines in traditional industries such as forestry and ranching and a loss of small town character and neighborliness.

Most western communities are poorly equipped to deal with these changes. A strong spirit of independence and rugged individualism bred of frontier days, along with a staunch property rights attitude, have often impeded the development of cooperative solutions to these issues. Change comes gradually, until almost without our knowing it, that special character and landscape is gone. Special places attract the very forces of change that overwhelm their unique qualities. While the western landscape is awesome, powerful and vast, it is also fragile. It is open, semi-arid and visually sensitive. Change and scars are long-lasting, as evidenced by the fact that the routes of the

overland stage coach in many places are as visible today as the day that the stages stopped running.

Land protection is only one piece of a larger puzzle. Ultimately, these issues relate to the kinds of communities and neighborhoods we build and maintain. Can we create a community that ensures not only the productivity and openness of the landscape but recreates the values of neighborliness, caring and responsibility? Unlike the old days when it was possible to move on to the next frontier, we are running out of alternatives.

This plan is a step toward protecting a special place and creating the community that can provide for stewardship of these special resources. The late Wallace Stegner challenged us, as stewards of the hopeful West, to create "a society to match the scenery." This experiment is as old as America and, in the context of the changes facing us, just as important as the writing of the Bill of Rights or the signing of the Declaration of Independence.



2 Purpose of the Plan

In the spring of 1992, a number of landowners in Colorado's Upper Elk River Valley began to discuss their common concerns regarding future growth and development in the valley. They desired to protect the open and productive working landscape that gives the valley its special character. Many of the landowners have worked hard to create land-based enterprises — sheep and cattle ranches, outfitters or guest ranches — that would be jeopardized if any one of the large properties were to be sold for subdivision.

They recognized that the fact that the valley had not been subdivided like other valleys in Routt County and throughout Colorado was probably more a matter of luck than the result of any forethought or effective planning. The situation was fragile; a change in ownership of any one large property could have negative impacts on their

parceling of productive lands into suburban homesites and "ranchettes." They desired to understand more creative options that



might be available to influence the destiny of this special landscape so it did not fall victim to a pattern of rural or suburban sprawl. Rather than think about

picking up and moving on when pressures became intolerable, they preferred to work to protect the special place they call home. They sought protection strategies that would be flexibly tailored to meet financial, family and conservation objectives while minimizing the potential for haphazard development or the splitting up of large properties.



operations or enjoyment of the valley. One has only to look to the north of the valley, at the hundreds of small lots that were created as part of the defunct Steamboat Lake Filing, to realize what could happen.

Collectively, the landowners knew they had the ability to influence events and limit the

As a result of these discussions, several of the landowners began looking for a partner to assist them in developing and implementing a plan to protect the valley. After careful review of the alternatives, they identified American Farmland Trust as the entity most appropriate to assist their activities. AFT, a national nonprofit land conservation organization, specializes in working with landowners to protect farm and ranch land throughout the country. AFT has helped to protect numerous ranches in Colorado and was excited about the prospect of assisting the landowners with this valleywide effort. This plan has been produced by AFT and is the result of a collaboration with many of the landowners.

It has been two years since initial conversations led to commencing the planning and protection effort. This project is a work in progress; it is not finished and will take a

number, if not many, years to complete. However, significant progress has been made, and two of the valley's nine large properties have been permanently protected with conservation easements granted to



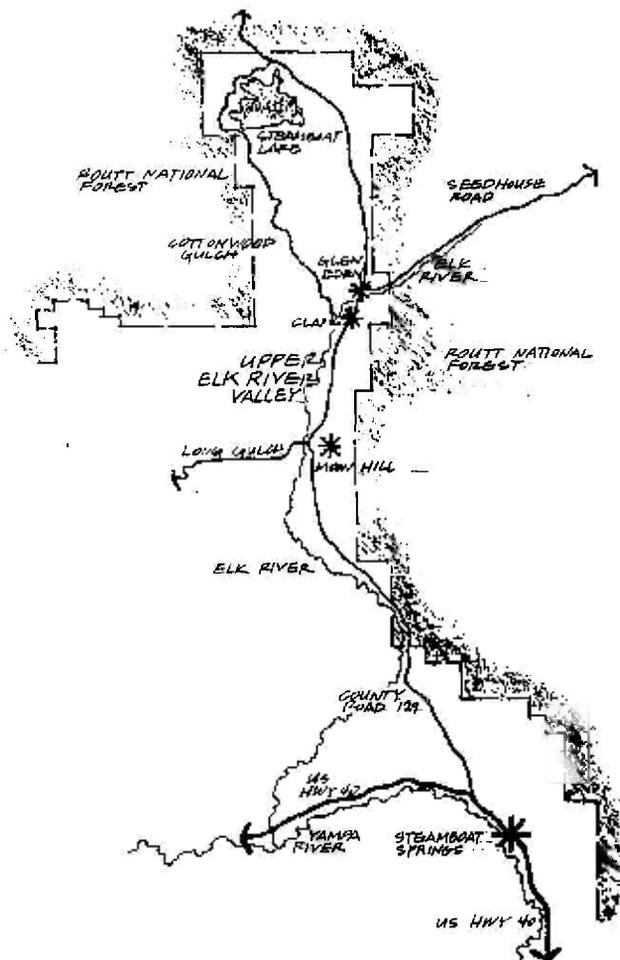
AFT. At this time, with the initial concept having been demonstrated, AFT would like to share what has been learned and accomplished with the broader Clark community and people throughout Routt County. AFT seeks to refine these preliminary concepts and actions through greater community interaction. The intent of this document is to help begin to develop a shared community vision and agenda for the Upper Elk River Valley through the involvement of other residents of the community and county. For its part, AFT will continue to work with those ranchers and landowners who desire to take voluntary actions to protect the futures for their families and their agricultural operations.

3 Upper Elk River Valley — A Special Place

The Upper Elk River Valley, running from south to north, is located approximately 18 miles northwest of Steamboat Springs along Routt County Route 129. The valley is the gateway to the Mount Zirkel

Wilderness Area, which is well known for its natural beauty, wildlife and passive recreational opportunities. Steamboat Lake and Hahn's Peak are approximately nine miles further north along Route 129. The U.S. Forest Service estimates that Steamboat Lake and nearby Pearl Lake together attract 300,000 visitors annually, most of whom travel through the valley.

The Upper Elk River Valley is entered from the south after rounding Moon Hill, where the landscape opens up again to reveal a broad agricultural valley bisected by the Elk River. The Elk River drains the Mount Zirkel Wilderness Area and Steamboat Lake. While the land on the valley floor and sideslopes is owned privately, the upper valley is bordered on the east and west by the Routt National Forest. This peninsula of private land bordered by the



National Forest consists primarily of nine large landholdings. In addition, there are occasional BLM and State Land Board school sections in the valley, most of which are incorporated into adjacent ranch operations. Unlike many other Routt County valleys, most of the private land has remained in large ownership and is actively ranched.

The rich, irrigated meadow soils in the valley are as productive as any hay lands in Routt County. If it were not for the short growing season and cool climate, these lands would be capable of producing a greater diversity of crops.

The valley hosts three commercial cattle operations, a part time cattle operation, a large sheep ranch and a guest ranch that raises both horses and cattle. Most of these operations use valley lands and additional leased lands from the Forest Service, BLM and/or the State Land Board for grazing.

The topography of the valley exhibits three distinct characteristics, which are illustrated on the accompanying map. The valley bottom lands are characterized by the richest and most productive agricultural soils. These areas are open hay lands except for the more heavily vegetated river and drainage corridors containing cottonwoods and willows and occasional hedgerows separating fields. Above these lands there are a series of benches on both sides of the valley that are primarily open grazing lands with mixed stands of scrub oak and aspen. Above the benches are steeper lands that contain denser stands of aspen, fir and pine.

Round Mountain, which rises on the east side of the road at mid-valley, is a distinctive landmark. Mountains frame many of the views from the valley. Views down valley are toward the Flat Tops Wilderness, Elk Mountain and the Sleeping Giant; to the east they include the high peaks in the Zirkel Wilderness Area; to the West they include Sand Mountain; and to the north is the distinctive conical shape of Hahn's Peak.



Valley Topography

Unlike many areas within a 20-mile radius of mountain communities such as Steamboat, Telluride, Crested Butte, Aspen and Vail, the Upper Elk River Valley has experienced little subdivision and second home development. There has been little of the 35-acre subdivisions that have characterized development in the rest of rural Routt County. The primary residential buildings are located along county roads, near the Clark store in the unincorporated village of Clark and at the Glen Eden resort and cabin condominium development.

The Clark store has existed in five different locations under many different owners. As



it did in the 1920's, it houses the post office and provides goods to both nearby residents and the traveling public. One of the original store sites still

stands on the west side of County Road 129 just south of the bridge over the Elk River. Although Clark is unincorporated, the store serves as the community meeting and gathering place, just as it has for 70 years.

Much of the architecture of the older buildings is characteristic of the historic ranching or mining vernacular. One of the most historic buildings is the Brown Ranch farmhouse on the west side of Route 129, south of Clark, which is a log structure with distinctive roof gables.

4 Population and Trends

While it is hard to obtain exact numbers on how many people inhabit the Upper Elk River Valley, informed estimates can be made. The above chart identifies census data for the Clark zip code from the 1990 Census. The Clark zip code includes the

Population of the Clark Zip Code	
1980	393 people
1990	455 people
Number of Households	
1990	184 households
Average Household Size	
1990	2.47 persons
Per capita Income	
1990	\$25,244
Median Age	
1990	33.8 years
Number of Housing Units	
1990	411 units
Percent of Housing Units Owner Occupied	
1990	71.3 %
Percent of Housing Units Built by Time-Period	
1980 - 1990	30.1 %
1970 - 1979	28.1 %
before 1970	41.8 %

area north of Steamboat Springs up to Steamboat Lake. Thus it includes both the Lower and Upper Elk River Valleys, an area more than twice as large as the valley itself.

These figures indicate the overall population is small. During the 1980's it grew at a modest annual rate of 1.6 percent. The 1993 Sourcebook of Zip Code Demographics estimates that the annual rate of growth will increase to 4.3%, over twice the annual rate in the 1980's. These figures are for permanent population, and it is estimated that the seasonal population jumps by about three times in the summer. As the figures show, almost a third of all housing units were constructed during the 1980's.



5 Historical Timeline for Clark, Colorado*

1861	Creation of Colorado Territory from portions of Kansas, Nebraska, and Utah Territories.	1934	Taylor Grazing Act marks end of free, open range
1862	Discovery of gold at Hahn's Peak	1941	REA electricity reaches Clark
1862	Homestead Act enacted by Congress	1943	New Clark store built and post office relocates
1876	Colorado statehood declared	1960	Clark store burns, Post Office moves across street
1877	Routt County appears on map for first time	1961	New road across Rabbit Ears Pass completed
1878	Hahn's Peak chosen as county seat	1961	Clark School closed
1878	Clark's first "road ranch" (Glen Eden) built	1963	Mt. Werner Ski Area opens in Steamboat
1881	Keller family becomes Clark's first permanent settlers	1965	Re-exploration for zinc, copper and silver begins. Lasts 5 - 10 years.
1881	First Clark schoolhouse built	1968	Steamboat Lake filled
1885	First burial in Clark Cemetery	1969	Elk River Grazing Association formed
1889	First big cattle drives begin from Clark to Wolcott	1971	Elk River Citizens Association formed
1889	Hannah Clark appointed first postmaster	1972	Clark Store and Post Office moves to present location
1908	Moffat Railroad completed from Denver to Steamboat	1974	Clark Volunteer fire department created
1912	County seat moves from Hahn's Peak to Steamboat	1978	Railroad stops hauling cattle from Steamboat
1913	Clark Post Office moves to eastside of County Road 129	1979	Home Ranch guest ranch opens
1914	New Clark schoolhouse built	1989	Clark celebrates its Centennial
1918	Clark store and post office burns, moves to Glen Eden	1992	Stranahan family places easement on 700-acre Whitmer ranch
1919	Rocky Mountain Timber Co. floats logs in Elk River to mill at Steamboat railhead	1993	Fetcher family places conservation easement on 1,250 acre-ranch
1920	U.S. Highway 40 completed		
1929	March 2, heaviest snowfall on record - 36 inches in 24 hrs.		

* This historical timeline is taken from Harriet Freiberger's 1989 article on Clark in Steamboat Magazine entitled "100 Years of Solitude" and incorporates information provided by Bill May.

6 Valley Vision Statement The Compact

As representatives of AFT met over the past two years with various landowners, a number of recurring themes were expressed. AFT developed a statement of guiding principles that embraces these core concepts. The following is the current version of this vision statement, which has become known as the Upper Elk River Valley Compact. The sentiments expressed in the Compact are endorsed by a number of the landowners who participated in the discussion.

This statement is a picture of what a number of landowners and residents told AFT are the important ingredients for the future of the valley. It is an initial statement that has the potential to bring people together to identify common ground for the future direction of the valley. Its aim is to ensure that the valley will continue to be a special place for future generations. It is acknowledged that changes will take place and that the community can help to shape that process positively.



Large Private Land Ownership in Valley

Upper Elk River Valley Compact

The following is a statement of principles shared by a group of landowners within the Upper Elk River Valley near Clark, Colorado. This agricultural valley is located approximately 18 miles northwest of Steamboat Springs at the gateway to the Mt. Zirkel Wilderness Area. This valley is traversed from south to north by Routt County Route 129 and is located to the north of Moon Hill between Routt National Forest ownership on the east and west, and south of the point where the valley narrows and the road begins to climb up to Hahn's Peak beyond Seedhouse Road.

We believe that the valley is a special place in terms of people, landscape and culture. As landowners, we share a commitment to protect the special scenic, rural and working character of this valley as well as to enhance its agricultural viability. We wish to pass on to future generations a valley that possesses the special qualities we enjoy today.

In order to do this, we believe cooperative action between landowners is essential. As responsible members of this community, we prefer to create a future that responds to our shared objectives rather than be bystanders in a process that will inevitably lead to an erosion of the special character of the valley. Though our conservation motivations and economic circumstances are as varied as the family and personal reasons that brought us to the valley, we share a common set of principles that should shape future actions and decisions within the valley.

Planning Principles

We believe that maintaining the special rural character of the valley revolves around two key variables: protecting the open and productive landscape from development and encouraging a responsible and diverse community that can provide for the stewardship of the valley's natural and agricultural resources.

We support the continuation of productive rural land uses within the valley. These consist principally of ranching, agriculture and "low impact" recreational uses. These uses should be compatible with preserving agricultural viability and should be coordinated through cooperative planning and communication to minimize their potential for conflict.

Rather than traditional patterns of suburban or large-lot development, we support the concept of "protective development" within the valley that guides new development away from the best of the valley's agricultural and forest lands, allows for limited residential development that has minimal visual impact and offers landowners the ability to sell some land for residences without negatively affecting agricultural and "low impact" recreational operations.

We believe that the valley is a rural community that has service and affordable housing needs that should be addressed at an appropriate level within the valley to reduce commuting and encourage a greater sense of community among residents. These needs, particularly the need for affordable housing for those who work in the valley, should be addressed through the phased creation of a small and compact affordable housing settlement in the vicinity of Clark. Such locally oriented housing can provide for efficient and cost-effective servicing, minimize the impact on county services that scattered development would create and provide a quality residential alternative for valley residents.

The enhancement of the agricultural viability of the valley is an overall objective of the landowners. With this in mind, the landowners will explore ways of cooperating with regard to land usage and management, farm equipment use, diversifying agricultural products and utilization of human resources. Over time, these activities should create a special image and competitive advantage for the valley.

Implementation Principles

We believe methods that permanently protect the open and agricultural nature of the valley should be explored by each of the landowners to see if they can be flexibly tailored to meet the economic and conservation needs and requirements of each of the landowning families. We encourage techniques such as voluntarily donated conservation easements granted to a qualified land conservation or land trust organization.

We believe in the power of voluntary and cooperative action in carrying out a collective vision for the valley, as well as cooperative governmental policy and approaches.

In the event that we find it necessary to dispose of our properties, we will endeavor to work with our neighbors to locate buyers that share our conservation and agricultural objectives. We deplore the indiscriminate parceling of lands into 35-acre parcels that is occurring on ranch lands throughout Routt County. This practice is destroying productive agricultural lands, ruining our special Western landscape and scenic qualities, and creating an inefficient and costly pattern of rural sprawl.

We believe that in addition to our individual actions, we need effective interaction with the local community, the county and state and federal land management agencies to ensure that the land protection and agricultural objectives of the valley are taken into account when decisions are made that affect the future of the valley.

We will consult with our neighbors and seek the cooperation of our elected officials in carrying out our plans. We encourage local officials to enforce and support the principles articulated in this document.

7 Valley Protection Strategy

The primary strategy developed to meet the valley vision is a conservation-based development strategy or a "protective development" strategy. While "protective" and "development" may appear to be a contradiction in terms, this concept is at the heart of the valley protection strategy.

Limited or protective development of the Upper Elk River Valley is a means to protect permanently the open and productive character of the valley that serves as the basis for its economic viability. Unlike many other scenic valleys in Colorado, this valley contains a combination of healthy ranching and guest ranching enterprises set in a rela-

this project has the potential to result in a valley-wide protection system.

The concept of protective development encompasses three principal components:

- 1) Protection of productive agricultural and scenic lands through the use of conservation easements.
- 2) The identification of a number of reserved homesites to address family economic and estate planning objectives.
- 3) The creation of a compact housing settlement at Clark to provide affordable housing opportunities to residents who work in and maintain the valley.



tively unspoiled valley that serves as the gateway to a pristine wilderness area. Because the landholdings are relatively large and the valley is bounded on the east and west by federally owned land, there is the potential to protect its special working agricultural character through mutual cooperation among the principal landowners. Unlike other conservation efforts, which often result in the protection of an island of protected land in a sea of unprotected land,



The following sections discuss the conservation and development components of the protective development concept.

Conservation

The primary conservation objective of this plan is the protection of the agricultural land in the valley. The most productive lands in the valley are the irrigated lands along the broad valley floor. The lands of secondary importance are the grazing lands on the benches and slopes adjacent to the valley floor. These lands are depicted on the landscape character map. New development should minimize disruption of



these lands and the agricultural activities necessary to use them productively.

The other conservation objectives include protection of the scenic and wildlife qualities of the valley. The scenic values include the undeveloped character of the valley as well as the pattern of open and productive agricultural fields adjacent to forest land, with more distant mountain views. The principal public viewing areas are the county roads, primarily County Road 129 and the Cottonwood Creek Road, which is the back road to Steamboat Lake.

The wildlife habitat areas in the valley are found primarily along the riparian corridor of the Elk River and forested lands adjacent to agricultural lands. The conservation program aims to protect these primary wildlife habitat areas and migration corridors that connect habitat areas.

The level of conservation action that is required to meet the agricultural, visual and wildlife protection objectives is far greater than can be achieved through traditional zoning techniques in a rural county. For example, large-lot zoning, which typically promotes a pattern of 10-, 20- or 35-acre development, is exactly the kind of pattern that is destroying landscape values in Routt County. The 35-acre pattern of development is visually disruptive, consumes a great deal of productive agricultural land and is often fenced, impeding wildlife movement. Typically, a large lot is too large for the homeowner to maintain properly and too small to graze animals efficiently. Often a 35-acre lot ends up as one acre of homesite and 34 acres of weeds that may severely affect the management of an adjacent agricultural operation. In addition, zoning is an impermanent protection technique because it is subject to changing political pressures and conditions.

Many of the landowners in the valley desire to protect the valley from the 35-acre pattern of subdivision and create incentives for private protection of the valley rather than a punitive or inappropriate set of regulations. After examining a variety of potential options to encourage voluntary conservation actions, several landowners identified the conservation easement as the preferred protection technique. The benefits of conservation easements as a land



protection technique are discussed in Chapter 8.

Development

The development program that responds to the conservation objectives consists of two separate but complementary approaches. These are the limited or reserved development sites and the concept of a small and compact affordable housing settlement.

Limited Development

A property with high visual, natural or agricultural values may be developed in ways that protect these conservation values. This "protective" or limited development allows for the sensitive development of a portion of the property in exchange for the protection of the remainder. The reserved development sites are located so as not to



interfere with wildlife habitat, scenic or agricultural values.

The value of the limited development sites can be enhanced by the permanent protection of lands adjacent to them, such as land adjacent to a national park might be enhanced. The permanent protection can be accomplished through the donation of a conservation easement which provides the landowner with certain tax benefits which will be discussed in the implementation section. Limited development permits the

landowner to protect the conservation values of a property while achieving economic objectives through the creation and sale of a few strategically located homesites.

The process of creating the limited development plan requires an understanding of the resource values of the property. For example, areas that contain important agricultural soils, wildlife habitat or offer special views should be identified and mapped. The reserved lots should be located so that they do not intrude into these areas. In addition, it is important in agricultural areas that roads and lots be designed so as to avoid negative impacts on agricultural operations such as the use of machinery, spraying or grazing.

The characteristics of desirable homesites include: set back and off the most productive agricultural lands, located on gently sloping sites affording good views of the valley and adjacent mountains, generally facing south for environmental aspect and exposure, set in the landscape and vegetation so as to minimize visibility and off ridges and exposed areas where development would stand out.

In order that development fit the landscape to the maximum extent possible, the selection of building envelopes where all built improvements should be located is recommended. A building envelope could be a half-acre to two-acre area within a 5-, 10- or 35-acre lot and would be designed to locate the improvements to minimize their visibility and impact on the surrounding agricultural operation. Only the building envelope would be allowed to be fenced, permitting the remainder of the lot to remain in ranching use.

In addition to careful selection of the location of the building envelope, added precautions can be taken by using a set of design guidelines for all improvements. Such guidelines might encourage the use of dark natural colors that blend with surroundings, promote the use of natural



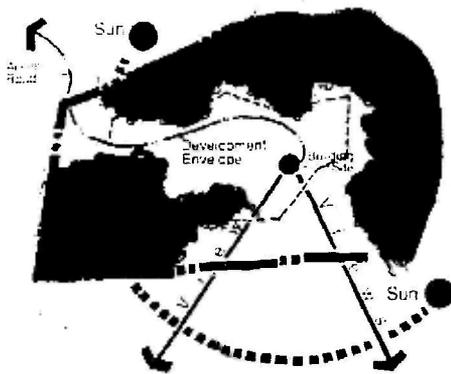
Legend

- | | | | |
|-------------------------------------------------------------------------------------|--------------------------------------------------------------|-------------------------------------------------------------------------------------|---------------------------|
|  | Large Land Ownership - Conservation/Agricultural Bottom Land |  | Forest Service Boundary |
|  | Large Land Ownership - Conservation/Limited Development |  | State Land Board |
| | |  | Bureau of Land Management |

Concept Plan

materials, prohibit reflective surfaces, define an appropriate architectural vernacular (i.e. ranching, western, log, etc.), and limit the size and scale of structures.

Ideally, the building envelopes should be located in fairly close proximity to one another so the impact of the development is in one or two locations on a property. The key is to locate homesites in close enough proximity to minimize infrastructure costs such as roads and electric utility service while keeping them sufficiently separated to make them as invisible to each other as possible. This will maximize the sense of



Building Envelope

privacy and relationship to nature. Roads to service the homesites should be narrow rural lanes at the minimum width necessary to accommodate emergency vehicles and located to minimize adverse impacts on agricultural operations. Narrow, gravel surface roads can minimize impact on the landscape by fitting the terrain and avoiding unsightly road cuts.

The value of the reserved lots can be enhanced through the creation of a trails system for homeowners that provides pedestrian and horse access to the special features of the valley including the Elk River corridor, scenic vistas and the adjacent National Forest. Eventually, a system of interconnected trails could be developed that allows access to the special features of the valley without creating negative impacts for agricultural operations. The legitimate needs of the ranchers to manage their lands must be recognized. This sys-

tem should evolve only if ranchers voluntarily agree to permit this access and users demonstrate responsibility for preventing litter, managing gates and respecting the agricultural operation. Such a system could help educate the community and homeowners about the every day issues of ranching life and promote a greater community-wide sense of stewardship among all residents.

Affordable Housing Settlement

A component of this plan is the creation of a small number of affordable housing sites in a compact location to provide housing opportunities for those who work in the valley and have limited options to purchase housing. The conservation actions to preserve the agricultural system in the valley will limit the availability of affordable housing sites within the valley. In order to create a mix of housing and encourage a diverse community with a range of opportunities, a small number of housing sites for those who work in the valley should be made available. Several workers commute to jobs in the valley because of the shortage and high cost of housing in the valley.

This approach will provide those who work in the valley with an opportunity that currently does not exist, allow them to become full-time members of the community and create equity through home ownership. In character, this new housing should appear not as a development, but as the logical extension of already built areas such as the Clark store and the Glen Eden development. The possible connection to the Clark store is desirable because the store has traditionally served as the community meeting place and could continue to provide convenient shopping in an efficient fashion to residents.

Relating new housing to existing development is more cost-effective to service, provides a sense of community and, if properly planned, provides an attractive alternative to scattered rural sites. There are three

principal options for the location of the affordable housing settlement and they are all located between the Clark store and Glen Eden. These options include: 1) adjacent to and behind the Clark store, 2) in the field between the Clark store and Glen Eden and 3) directly adjacent to Glen Eden. All of these options have advantages and disadvantages that should be evaluated.

The new housing area should be compatible with the rural landscape and provide a sense of community, neighborliness, pride and identity. This compact housing settlement should provide for cost-effective services, minimize the impact on county services that scattered development would create and offer a quality residential alternative at affordable prices for valley residents.

The character of the housing should be such that it resembles a small rural, western settlement that grew over time. It should

be compact and non-suburban in character and layout. A set of design guidelines should be developed to ensure the compatibility of all structures and emphasize its rural and agrarian roots. The first phase of the village would consist of two to five single-family houses based on demand from workers employed in the valley who wish to take advantage of this opportunity. It is likely that no more than five homes would be required in the first five to ten years. However, to make the project feasible, permission for the construction of ten homes would be sought. Actual construction would occur only as the need arose.

Lots would vary in size from one-fourth to three-fourths of an acre. Houses would generally be in the 1,200- to 2,000- square-foot range and 1 1/2 to two stories in height. A common access road would be defined to prevent a proliferation of access points off county roads to serve each lot. The lots would be located to maximize



Potential Affordable Housing Sites Behind Clark Store

views and proximity to open land or natural features. Over a long period of time, a small settlement of houses that relate to each other and the landscape could evolve.

A community horse barn and pasture could be located in association with the settlement and maintain the open and productive use of the fields as well as enhance the connection to rural lifestyle. Community gardens are an option for some of the open lands surrounding the new homes.

The housing cost would be kept low through a combination of techniques. First of all, if the concept is approved by the county, the land may be made available at below market value through the participation of some of the landowners. Second, a builder with demonstrated affordable housing experience could be selected to produce the structures. Third, the project could employ the concept of permanent affordability to ensure that when the homes are resold, they will remain affordable and not appreciate more than a set amount. This amount could be set at the rate of inflation or the consumer price index, as has been done in similar projects. In addition, safeguards should be identified to ensure that the housing is made available only for those who work and live in the valley.

8 Implementing the Vision — Options for Cooperative Action

Translating the vision for the Upper Elk River Valley into reality will require more than neighborly good will or action on the part of a few landowners. The proposed land protection system requires cooperative action by many individuals and entities using a variety of techniques to reach desired objectives. The key to the success of this land protection system is the development of a partnership for the cooperative pursuit of the vision through the application of a flexible menu of options. The following sections discuss actions identified by AFT that the landowners, the community, Routt County and state and federal governmental agencies can take in order to accomplish the objectives of the valley vision to create a land protection system.

A. Landowner Actions

There are a variety of actions landowners can initiate to protect their properties voluntarily and cooperatively. The landowners who have taken actions to voluntarily restrict their properties desire to demonstrate their good-faith efforts to create an effective partnership with other owners and with government. The discussion below highlights the two most important conservation techniques identified by AFT in discussions with the landowners. Because these issues are personal and confidential to each family, the objective here is to identify these techniques generally and discuss their applicability to the valley.

Conservation Easements and Limited Development

There is only one conservation technique that protects land in perpetuity — the conservation easement. Until recently, easements have not been extensively used to protect land in the West. Unlike other techniques, they are very flexible instruments that can be tailored to a

landowners financial, family and conservation objectives. When combined with very sensitive limited development, conservation easements can become a powerful tool to protect land and generate economic return.

Conservation easements have become more popular in the agricultural community because they can help to limit estate tax liability for people who wish to keep land in the family. Estate taxes have risen in Colorado up to a combined federal and state level of more than 55 percent of the value of the property. Many large landowners have seen their property values appreciate rapidly, which means that unless they have done some very sophisticated planning, the estate tax may make it problematic or impossible to pass the farm or ranch to the next generation. These estate tax benefits will be discussed shortly.

With a conservation easement, landowners voluntarily agree to give up certain development rights to their properties which have conservation values. The property restrictions are recorded along with the property deed and remain in the chain of title restricting future landowners. Landowners may restrict the future development as much or little as they wish. For example, the owner of a 1,750-acre ranch may have the right to create fifty 35-acre parcels. As an alternative, the family may decide to reserve only four building lots on the property in sensitive locations that may be sold to meet financial needs or given to family members. As a result, the landowner voluntarily gives up the right to develop 45 homesites on the property.

In return for granting the easement, the landowner receives a number of tax benefits. First, when a conservation easement is given to a qualified conservation entity, it is treated like a charitable contribution to a charity, such as the YMCA or Boy Scouts of America. In most cases, this value can amount to 30 to 80 percent of the value of the property. The value of the conservation easement or development rights is the difference between the "before" and "after" values of the property, which are determined by an appraisal. For example, in the above example, if the value of the 1,750-acre ranch was \$1,000 per acre (\$1,750,000) and the restricted value was the agricultural value of \$400 per acre (\$700,000) plus the value of the four additional



homesites of \$100,000 per homesite (\$400,000), the difference between the before and after values would be \$650,000 (\$1,750,000 minus \$1,100,000).

With appreciated property, a land owner can take a deduction of up to 30 percent of adjusted gross income in the year of the gift and carry it forward for another five years in order to use up the full value of the

foregone development rights. Many farmers and ranchers who are land rich but do not have significant annual income may not be able to use up the entire value of the easement gift as a charitable donation.

One of the benefits of the reserved homesites is that they may appreciate more rapidly than other types of real estate. This is because the reserved lots are adjacent to permanently protected land that tends to enhance those values because many people wishing to purchase rural property wish to buy property where there is certainty that views and adjacent uses are protected.

The tax benefit that may be more important to ranchers is the estate tax benefit that flows from a reduction in property value through the grant of a conservation easement. As discussed earlier, with rapidly increasing land values and the high rates of estate taxation, the grant of a conservation easement can be one of the few ways to reduce the value of the property and lower estate tax liability. The IRS allows an individual a \$600,000 exemption from estate taxation, but above that amount the value of a property is taxed on a sliding scale starting at 40 percent and going above 55 percent for combined state and federal estate taxation. With many large properties that have appreciated rapidly, it is not hard to exceed the exemption level. The few reserved lots that may be created through the easement can also assist in paying any estate tax liability and may assist in minimizing capital gains tax as well.

A conservation easement is granted to a qualified nonprofit entity or a governmental entity. This grantee organization has two responsibilities. First, to monitor the property

regularly to ensure that there are no violations of the terms of the easement. Second, if there is a violation, to notify the owner, and if the owner refuses to remedy the situation, to request a court injunction against the activity. The nonprofit entity usually requests an endowment contribution from the landowner at the time the easement is granted to cover the costs of monitoring and enforcement, which are a perpetual liability to the land trust.

The landowners who have granted conservation easements have selected AFT as the preferred land trust to accept easements. This is primarily because of AFT's experience with and understanding of agriculture. While AFT is a national organization



based in Washington, D.C., it has a representative in Colorado who has been working with landowners. Other land trusts such as The Nature Conservancy may become partners in some of these projects depending upon the desires of the landowners. In addition, AFT is interested in working with local organizations that may eventually assume the monitoring responsibility. A local organization knowledgeable about local conditions and clos-

er to the land and people might make more sense in the future. As a result, AFT is exploring a partnership with the recently formed Yampa Valley Land Trust. This may lead eventually to the local group providing stewardship for the properties on which AFT has taken easements.

The land trust's responsibilities do not extend to the management of the property. The landowner retains full control over the management of the property and public. No public access is granted through the easement unless the landowner desires to continue or create such access. The land stays on the local tax rolls and, because it is permanently restricted, the easement generally stabilizes property taxes.

Since the beginning of the land protection process, two easements have been placed on two of the large properties by the Fetcher family and by the Stranahan family, part owners of the Home Ranch. These properties are now permanently protected except for several reserved lots. Both the 700-acre Whitmer Ranch owned by the Stranahans and the 1,250-acre Fetcher Ranch have four reserved homesites. Discussions are proceeding with other owners to explore the applicability of this technique to their family situations.

Each family has different tax, financial, family and conservation objectives that must be carefully considered in determining whether conservation easements are appropriate for their situation. In addition, there are many options for tailoring the transaction to family circumstances, such as granting an easement in a will or working with a land trust that might acquire the development rights. This is a voluntary program, and

each family is free to determine the mix of conservation and development it feels is appropriate for its circumstances.

Conservation Buyers

The special rural, scenic and agricultural characteristics of the Upper Elk River Valley are increasingly attractive to potential property owners as population increases and our land-



scapes become more developed. Many of these people are attracted by the goal of assisting in the protection of the valley and being part of this special community. In other parts of the country, such as Montana and Jackson Hole, Wyoming, active conservation buyer programs have been developed to match conservation-oriented buyers to special properties that are threatened with suburban or ranchette-type development. In most cases, the new buyers placed conservation easements on these properties after they were purchased.

Several of the owners of the large properties in the Upper Elk River Valley have agreed that if they find it necessary to dispose of a portion or all of their properties, they will

work with their neighbors to locate buyers who share their mutual conservation and agricultural objectives. This in no way is meant to dictate to whom a property may be sold or on what terms. If lands are going to change hands, the primary purpose of the conservation buyer program is to attract new owners who share objectives compatible with the valley vision. A key element of this effort is maintaining open communication among landowners so no one is surprised by a "for sale" sign. By giving the owners the opportunity to locate conservation-minded buyers, inappropriate development and subdivision can be avoided. In the event that a property does come on the market, the other owners, AFT and other conservation organizations will work to locate qualified conservation buyers.

B. COMMUNITY INITIATIVES

This plan has come a long way in a relatively short period of time. It has been the product of AFT's work with the large landowners, who are only one segment of the valley's population. As a result, the rest of the Clark and Upper Elk River Valley community should be invited to participate in and add their thoughts to these initial concepts and understand the significant actions that have been taken by several landowners. It is only through the active engagement of the community that a true vision and implementation program can emerge. As a result, AFT recommends that several community meetings be held to solicit the active engagement of the rest of the community to develop a more comprehensive vision. This may lead to a process that creates a sub-area plan, such as the South Steamboat Plan. We believe that the program suggested for the county to pursue can lead to a true public-private partnership to accomplish mutual goals without creating a burdensome regulatory process.

C. COUNTY INITIATIVES

The county role in supporting this concept plan involves the encouragement and approval of the affordable housing settlement plan and a number of initiatives necessary to encourage agricultural operations in the county. The affordable housing concept will require soliciting comment from the community as well as flexibility in the application of development standards that might reduce its affordability. The land conservation actions taken on the ranch lands have a direct link to the need to create affordable housing to accommodate the housing of the local population.

Many farmers and ranchers in Routt



County believe that it is only a matter of time until ranching lands are converted to development. This attitude is fueled by high land values relative to potential agricultural income that can be generated by the land and the active real estate market for 35-acre tracts. The county can play a role with landowners in supporting agriculture and relieving pressures on agricultural enterprise. AFT strongly supports the county's initiative in developing a County Open Space Plan and offers the following suggestions for specific county actions to

support agriculture.

Near-Term Options

The following actions are geared toward improving the climate for farming and ranching in the county through a flexible menu of voluntary options.

1. **Pass a County-Wide Right-To-Farm Law**

A county-wide right-to-farm ordinance would strengthen current state law by providing specific county protection for agricultural enterprises from nuisance suits and complaints relating to odors and farm activities and practices. Such a law should give constructive notice to potential residential landowners that agricultural activities and practices will continue and may cause inconveniences or discomfort in the form of odors, hours of operation, spraying and transporting equipment on roads. The county could examine a recent ordinance that was passed in Monterey County, California and a proposed ordinance for Flathead County, Montana.

2. **Enable the Formation of Agricultural Districts**

Agricultural districts (not zoning) have been established in many farming and ranching areas around the country as an effective way to protect these lands and provide incentives to farmers to remain in agriculture. The county could provide incentives for the formation of agricultural districts, such as maintaining current-use assessments, additional nuisance protection and protections against county actions and policies (such as condemnations or road improvements) that might promote inappropriate development in agricultural districts. In return,

farmers in the designated district would agree to forego subdivision or development of their property for a period of years.

3. **Establish an Agricultural Lands Protection Committee**

An Agricultural Lands Protection Committee could be established to promote the agricultural and land protection agenda in the county. Its duties might include serving as the liaison between the agricultural community and the county, advising the county commissioners regarding county actions and policies that affect agriculture and the implementation of a right-to-farm ordinance, agricultural districting and other land protection initiatives. The committee could be comprised of representation from throughout the county and consist of five to seven members, with a majority coming from the commercial agricultural sector (i.e. deriving 50 percent or more of income from agriculture).

This effort could dovetail with recent attempts by the agricultural and environmental communities and the U.S. Department of Interior to resolve agricultural and land management issues by promoting local land management committees. This process appears to be working in Gunnison County. One of the purposes of this committee might be to explore how this process might be implemented in Routt County so there would be a productive mix of ranching, recreational and environmental representation.

4. **Encourage Conservation Easements and Limited Development**

The county could encourage the voluntary and permanent conservation of farm lands through conservation

easements by offering the same incentives as those provided to farmers creating agricultural districts. The conservation easements can be flexibly tailored to the needs of the farm family by permitting a number of reserved lots to be retained by the farm. The review of the reserved lots should be an expedited minor subdivision procedure, which encourages this type of activity and could entail a reduction in county standards for services such as road widths which should remain narrow to reflect the minimal use and rural character of the limited development. This option would require coordination between the land trusts operating in Routt County, ranchers and the county.

5. Rural Cluster Incentive

To encourage more compact development and reduce the amount of agricultural land that farmers have to sell when they dispose of a lot for development, a cluster incentive should be created for rural planning areas. To encourage clustering, a small bonus might be applied as an inducement. For example, for every development right that is clustered on a smaller one- or two- acre lot, an additional lot might be allowed. This provision should be very beneficial to farmers who previously had to sell larger acreage for homesites by allowing them to concentrate the impact of new residential construction in relatively small areas with minimal impact on farm operations.

Residential uses should be encouraged on more marginal resource lands and those that are closer to public services. In exchange for the cluster option, the county might require the placement of a conservation easement on the remaining open land on the property to ensure

that it is not further subdivided at a later date.

6. Permit Density Transfers to Adjacent Properties

As a way of encouraging more compact and cost-effective development in rural areas, the county could permit the transfer of development rights from one property to another, which might accommodate development more appropriately. This voluntary option could encourage cooperation among adjacent properties to create compact development on one of the properties. The transfers might enjoy the same bonus as cluster development and require that a conservation easement be placed on the remaining open lands to ensure non-development.

Longer Term Actions: Purchase of Development Rights

If the county is to achieve the long-term protection of agricultural land base, it must do more than encourage voluntary actions on the part of landowners. The key to protecting important agricultural resources is providing compensation to landowners for the loss of development value if land is kept open permanently. Purchase of Development Rights is a technique that has been utilized in many states and counties on the East and West coasts, particularly in areas undergoing rapid farmland conversion. Under a PDR program, the county would purchase the development rights on priority farmlands in order to keep them in agriculture. The program would be voluntary, providing ranchers with an option to obtain the equity from their properties by selling development rights and remaining in farming as opposed to outright sale for development. Experience has shown that the value of development rights varies from 30 to 80 percent of the fair market value of the property, depending on the develop-

ment threat.

With a PDR system, the farmer is able to receive the equity or development value from the property, keep the farm in agriculture, pass it on to the next generation and make capital improvements in the farm operation or fund retirement with the proceeds. When the development rights are purchased, the land is permanently restricted by an easement held by the county.

The key issue in the development of a PDR program is identifying a politically acceptable funding source. Other jurisdictions have utilized property tax, sales tax and real estate transfer taxes to fund PDR programs. With the passage of Amendment One, the establishment of such a program would require voter approval. The option



of using a real estate transfer tax, however, has been eliminated by Amendment One. Experience has shown that if people believe public funds are being creatively and effectively leveraged to protect what is special about the rural landscape, they will be more inclined to support a PDR program. The more specific in terms of the benefits, costs and types of lands that would be protected, the more likely it is that such a program would be accepted.

D. STATE

Colorado has a myriad of laws and programs that affect the viability of agriculture. AFT hopes a constructive partnership can

be developed with those agencies and programs in recognition of the significant effort several landowners have taken through this planning effort and conservation actions with regard to ensuring an agricultural future for the valley. In addition, there are three programs we feel should be particularly linked to this effort:

1. Great Outdoors Colorado Trust Fund (GOCO)

GOCO has just begun to fund grants for parks, recreation and open space purchases and projects. Agriculture is a major component of the state's open space system. We encourage the GOCO Board of Directors to assist those community efforts aimed at protecting agricultural resources that are threatened, such as those in this valley. This assistance could best be provided through the purchase of development rights on threatened farmland where ranchers for financial reasons are unable to donate conservation easements. Areas and communities such as the Upper Elk River Valley, which have taken significant private action, could greatly benefit from a strategic investment of GOCO funds to assist in protecting key properties.

2. State Land Board Lands

The Colorado State Land Board administers the state school sections around the state for the benefit of the public school system. There are state school sections in this valley as there are in many agricultural areas in Colorado. AFT encourages the land board to take a cooperative posture in areas like the Upper Elk River Valley so their leasing policies support the viability of ranching operations and the landowner's conservation efforts. Some state lands may be enhanced for development by the protection of adjacent private

lands. If the land board were to sell or exchange these lands for development or promote activities which are in conflict with agriculture, private landowners will be reluctant to voluntarily protect their lands in the future.

3. Repeal Senate Bill 35

Many of the landowners in this valley strongly support the repeal of Senate Bill 35, which is in part responsible for the indiscriminate parceling of agricultural lands into 35-acre parcels. Counties such as Routt should have the option to establish their own minimum acre sizes based on their objectives and the nature of their landscape. AFT believes that support for legislative efforts to change this law should continue.

E. U.S. FOREST SERVICE/BLM

The attitude and policies of the U.S. Forest Service and Bureau of Land Management will be extremely important to the success of this agricultural land protection effort. Many of the ranches in the valley lease adjacent federal lands owned by these agencies. The policies of these agencies have a major impact on the viability of ranching, and the following two areas are particularly important in this valley:

1. Land Trades

The efforts being undertaken by a number of the landowners in this valley to protect their lands could be undermined if the forest service or the BLM were to promote land exchanges of their lands to private parties. The purpose of these exchanges would be to maximize the values on these lands so they most likely would be sold to subdividers. As stated earlier, the actions of several of the landowners in

granting conservation easements by limiting future development may enhance the development value of these federal lands. The landowners hope that these federal agencies will understand the significant resource management benefits that the private land protection is providing their properties through non-development. AFT would like the federal agencies to specifically acknowledge the conservation efforts in area management plans and support these efforts.



2. Management Policies

The management policies of the federal lands have a dramatic impact on the viability of the agricultural operations that lease them. AFT recognizes that there have been abuses by private lessees of federal lands, but believes that ranchers in this valley have been responsible stewards of these lands. With the permanent commitment of land in the valley to agriculture, there is a heightened need for the understanding of the importance of these lands to the continuing viability of the agricultural

operations that depend on them. Everything from lease rates to public access to water rights and predator



management should be addressed with a new understanding of the commitment of a number of the valley landowners to conserving their lands. There is a particular need to balance agricultural and recreational objectives and recognize the impacts that poorly planned recreational access may have on grazing operations. AFT hopes that the federal agencies will endorse this plan and strive to work cooperatively with the ranching community.

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