

URBAN FARMING

“Highest and best use” is a term that describes the maximum benefit of a given asset. During my lifetime, economists, planners and municipal leaders have taught that the “highest and best use” of farmland is to cover it with buildings. That thinking appears to be changing in many areas.

One specific example comes from Salt Lake County where agricultural acreage has decreased 34% in the last 15 years. In 2010, the Salt Lake County Council unanimously supported potential future legislation to amend Utah’s “greenbelt” laws by reducing the required five acre minimum to parcels as small as two acres. The 2011 Utah Legislature considered amending the “greenbelt” laws but took no action. It is anticipated that this request for reduced acreage will surface again for consideration during the 2012 session.

One wonders why county officials would favor such a proposal because they will collect less property tax on land used for agricultural purposes. Salt Lake County officials list several reasons for reducing the acreage requirement to qualify for “greenbelt” status. First, they are seeing the benefits of productive open spaces where fruits and vegetables can be grown locally. They are anxious to preserve their rich local heritage of agriculture, and see the benefits of producing food where it is actually consumed. County leaders are also lauding the benefits that come from being close to the soil and learning an increased degree of self reliance. They believe they can encourage a stronger work ethic, especially among youth, if there is increased opportunity to produce what they eat. Current legislation actually forces owners of open space to develop the land if acreage is less than the required five acres. Once land is covered with concrete or asphalt, it seldom comes back into production.

The Utah Farmland Assessment Act (FAA), commonly referred to as “Greenbelt” was passed in 1969. The purpose of this act is to allow qualifying land to be assessed and taxed at significantly lower rates, reflective of productivity. Voters approved this constitutional amendment to encourage retention of land in agriculture and to protect productive farm lands. This method of assessment is extremely helpful, especially to agricultural operations in close proximity to urban areas.

Current legislation allows private farmland to qualify for assessment and taxation under FAA if the land is at least five contiguous acres and is actively devoted to agricultural production. There must also be a reasonable expectation of a profit if the land is managed according to best management practices. Guidelines indicate that land must have been devoted to agricultural use for at least two successive years immediately preceding the tax year in which application is made, and meet the average annual production requirements within a given county. Land adjacent to farmhouses, such as landscaped yards, cannot be included in FAA designation.

The difference in taxes that are paid under “greenbelt” as compared to non-greenbelt provides an incentive to abuse the law. As such, considerable effort is expended to make sure only eligible lands are assessed at “greenbelt” rates. When land becomes ineligible for farmland assessment, the owner becomes subject to a five year roll back tax. The rollback tax is the difference between taxes paid while in “greenbelt” and taxes which would have been paid had the property been assessed at market value. The tax rate and market value for each of the years in question is applied to determine the tax amount.

With four exceptions, proposed legislation from Salt Lake County would be very similar to current “greenbelt” requirements. First, acreage requirements would be lowered to a minimum of two acres. Second, “urban farming” would be limited to land located in or around populated cities and in a county of the first class. Third, “urban farming” does not include the grazing of animals, production of animal feed, beehives, or dryland farming. Finally, landowners would need to pay a 10-year rollback tax if and when their land is no longer used for agricultural purposes.

Some of our urban friends are suggesting that productive agricultural land may have a higher and better use than developed land. It will be interesting to watch as this proposal moves forward.