



City of San Leandro

Meeting Date: September 17, 2018

Staff Report

File Number: 18-439

Agenda Section: CONSENT CALENDAR

Agenda Number: 8.E.

TO: City Council

FROM: Jeff Kay
City Manager

BY: Tom Liao
Community Development Director

FINANCE REVIEW: Not Applicable

TITLE: Staff Report for a City of San Leandro City Council Resolution Consenting to the Establishment of an Urban Agricultural Incentive Zone in the Ashland Area of Unincorporated Alameda County (that is within the City's Sphere of Influence)

SUMMARY AND RECOMMENDATIONS

Alameda County is considering adoption of an ordinance to create Urban Agriculture Incentive Zones (UAIZ) in the unincorporated area. One of the zones includes the unincorporated community of Ashland, which lies in the City of San Leandro's sphere of influence. State law requires that a county cannot establish an UAIZ within any portion of the spheres of influence of a city unless the legislative body of the City approves it.

Staff recommends that the City Council approve the resolution consenting to the County's establishment of an Urban Agricultural Incentive Zone that includes the Ashland area in unincorporated Alameda County, which is within the City of San Leandro's sphere of influence.

BACKGROUND

State Assembly Bill (AB) 551, which was approved in 2013, authorizes cities and counties to designate Urban Agriculture Incentive Zones within their jurisdictions and to enter into contracts with the owners of vacant property within the designated zones. In exchange for agreeing to limit the use of the property to agriculture for the five-year contract term, the property owner would benefit from a reduction in property taxes on the parcel. The purpose of the program is to support urban agriculture by increasing the amount of land available for agricultural activities and to provide stability for urban farmers by ensuring that land will be committed to agriculture for a period of years.

In 2017, the State passed AB 465, which extends authorization for counties and landowners to enter into contracts from 2019 to 2029. In addition, AB 465 would allow a combination of

contiguous parcels to qualify for a contract.

Analysis

To implement AB 551 and AB 465, Alameda County is preparing to adopt an ordinance establishing one or more Urban Agriculture Incentive Zones and regulations for administration of contracts in late 2018.

Based on the outcomes from a series of community meetings beginning in 2014, the County determined the need to establish two Urban Agriculture Incentive Zones. Zone 1 would include the communities of Ashland, Cherryland, and San Lorenzo. Zone 2 would include the portion of Fairview that is located within the County's Urban Growth Boundary. Tonight, the City Council will only consider Zone 1, which includes Ashland. At community meetings held in May and June 2017, Cherryland and Fairview residents continued to support the inclusion of their communities in the program. The San Lorenzo Village Homes Association Board expressed reservations about including San Lorenzo Village in the program due to conflicts with the Association's CC&Rs, which prohibit agricultural uses on vacant residential properties, and concerns about safety and potential nuisances from agricultural uses. To respond to the Board's concerns, Alameda County staff will recommend that Zone 1 should be amended to include only those portions of San Lorenzo that are outside of the boundaries of the Village Homes Association.

Alameda County Planning staff reviewed aerial photos of unincorporated area vacant parcels adjacent to the San Leandro city limits and did not find any that would meet the contract requirements under State law. Therefore, County staff determined that the impact of any new agricultural activities that might result from the County's proposed ordinance on property within San Leandro city limits would be minimal.

Under the proposed ordinance, agricultural uses would be allowed in the urban area only where such uses are already permitted by zoning. The County Zoning Ordinance allows "field crops, orchards and gardens" as primary uses in all residential zones so the owner of a parcel in a residential zoning district would be eligible to enter into a contract if all other requirements are met. Agriculture-related uses are not permitted in commercial zoning districts, so owners of parcels in commercial zoning districts would not be eligible to enter into contracts.

The proposed ordinance also includes rules and regulations for the implementation and administration of the Urban Agriculture Incentive Zones and the related contracts. AB 551 dictates some contract requirements; initial contract term must be at least five years, the property under contract must be at least one-tenth of an acre but not more than three acres, and the entire property must be dedicated to commercial or non-commercial agricultural use. In addition to the state mandated requirements, the draft ordinance creates application and contract approval processes; and includes site inspection requirements.

If an unincorporated area lies within the sphere of influence of a city, AB 551 requires that the County obtain the consent of the city before an Urban Agriculture Incentive Zone can be established in that area. Therefore, the County must obtain the consent of the San Leandro City Council before the Ashland community can be included in an Urban Agriculture Incentive Zone (the consent of the Hayward City Council would be required before the communities of Cherryland

and Fairview can be included in an Urban Agriculture Incentive Zone).

Applicable General Plan Policies

Per Chapter 3, Land Use, 2035 General Plan:

- Policy LU-11.4 - Sphere of Influence: recognize Alameda County as governing agency for land use matters in the unincorporated San Leandro sphere of influence.

Environmental Review

This City Council action does not require an environmental review because the proposed UAIZ areas in unincorporated Alameda County fall under the jurisdiction of the County.

Legal Analysis

The City Attorney's Office reviewed and approved this staff report and prepared the related resolution.

Fiscal Impacts

There are no fiscal impacts to the City as proposed UAIZ areas occur in unincorporated Alameda County.

ATTACHMENT(S)

Attachment(s) to Staff Report

- Draft Alameda County Ordinance for Urban Agricultural Zones

Attachment(s) to Related Legislative Files

- None

PREPARED BY: Tom Liao, Community Development Director

ORDINANCE 2018-_____

AN ORDINANCE ADDING CHAPTER ___ TO TITLE ___ OF THE GENERAL ORDINANCE CODE OF THE COUNTY OF ALAMEDA REGARDING URBAN AGRICULTURE INCENTIVE ZONES

The Board of Supervisors of the County of Alameda ordains as follows:

SECTION I

Chapter ___ is added to Title ___ of the General Ordinance Code of the County of Alameda to read as follows:

CHAPTER ___. Authorization for Urban Agriculture Contracts in County Urban Agriculture Incentive Zones.

___ - Purpose.

This ordinance establishes and regulates urban agriculture incentive zones within the county consistent with the Urban Agriculture Incentive Zones Act, which allows a county to enter into contracts with landowners wishing to use their vacant, unimproved, or blighted lands for small-scale agricultural use in exchange for the lands being taxed at an agricultural rate.

___ - Definitions.

Whenever the following terms are used in this Chapter only, they shall have the following meanings:

“Agricultural use” means farming in all its branches including, but not limited to, the cultivation and tillage of the soil, the production, cultivation, growing, and harvesting of any agricultural or horticultural products, the raising of livestock, bees, fur-bearing animals, dairy-producing animals, and poultry, agricultural education, the sale of produce through field retail stands or farms stands as defined by Article 5 (commencing with Section 47030) of Chapter 10.5 of Division 17 of the Food and Agricultural Code, and any practices performed by a farmer or on a farm as an incident to or in conjunction with farming operations. For purposes of this chapter, the term “agricultural use” does not include timber production.

“Eligible urban agriculture incentive zone property” means a privately owned lot or parcel that is not exempt from property taxation and:

- (1) is located within an established urban agriculture incentive zone;
- (2) is located within a zoning district where one or more agricultural uses as defined in this Chapter are principally or conditionally permitted uses;
- (3) is at least 0.10 acres and not more than three acres in size;
- (4) does not include any dwellings as defined in Section 17.04.010 of the County General Code; and
- (5) includes only structures that are accessory to the principal agricultural use, including, but not limited to toolsheds, greenhouses, produce stands, or instructional space, consistent with Sections 17.52.180 – 17.52.400 of the County General Code.

____.____ – Designation of County “Urban Agriculture Incentive Zones.”

- A. There are two Urban Agriculture Incentive Zones within the County, which zones shall be as shown on maps of the County kept on file with the Clerk of the Board of Supervisors and are generally described as follows:
 - (1) Urban Agriculture Incentive Zone 1 shall include the entirety of the unincorporated communities of Ashland, Cherryland, and portions of San Lorenzo.
 - (2) Urban Agriculture Incentive Zone 2 shall include that portion of the unincorporated community of Fairview, as delineated in the Fairview Area Specific Plan, that is located within the Urban Growth Boundary, as established by Measure D, Save Agriculture and Open Space Lands Initiative, 2000; and shall not include the Five Canyons Planned Development.

____.____ – Authorization and Requirements for Urban Agriculture Contracts within County Urban Agriculture Incentive Zones

- A. The Board of Supervisors may enter into contracts with owners of an eligible urban agriculture incentive zone property to restrict the use of the property subject to the contract to uses consistent with urban agriculture.
- B. The County shall impose a fee upon contracting property owners for the reasonable costs of implementing and administering contracts.
- C. Any contract entered into pursuant to this chapter shall include, but not be limited to, all of the following provisions:
 - (1) the initial term of the contract shall be at least five years;
 - (2) the property subject to the contract shall be at least 0.10 of an acre (4,356 square feet), and not more than three acres (130,680 square feet) in size;
 - (3) the entire property subject to the contract shall be dedicated to permitted commercial or noncommercial agricultural use in accordance with California Government Code Sections 51040 et seq, the County Government Code, and the contract;
 - (4) agricultural activity shall commence on the property within 30 days of the recordation of the contract;
 - (5) the property owner shall report in writing to the Planning Department any cessation of agricultural use for any reason, including but not limited to the loss of a tenant who was conducting agricultural uses on the property, within two weeks of the cessation of activity and the property owner must resume agricultural activity within 60 days of any such cessation;
 - (6) dwellings shall be prohibited on the property subject to the contract for the entire term of the contract;
 - (7) water for the agricultural activity on the property shall be provided by a metered water service connection or approved water well; and shall be used in accordance with a County approved water conservation plan that includes best practices for water conservation;
 - (8) the property owner shall allow periodic inspections of the property under contract by the County Assessor, the Public Works Agency, the Community Development Agency, and the State Board of Equalization as may be necessary for tax assessment purposes or to determine the property owner's compliance with the contract and state and local law;

- (9) the contract shall be binding upon, and shall inure to the benefit of, all successors in interest to the property owner;
- (10) if a landowner cancels a contract, the county shall assess a cancellation fee pursuant to Section _____;
- (11) the Board of Supervisors may cancel the contract, or seek enforcement of the contract in accordance with the cancellation provisions of Section _____; and
- (12) The property owner shall provide indemnification of the County for, and agreement to hold the County harmless from, any claims arising from any use of the property.

D. A contract entered into pursuant to this chapter shall not prohibit the use of structures that support agricultural activity, including, but not limited to, toolsheds, greenhouses, produce stands, and instructional space consistent with Sections 17.52.180 – 17.52.400 of the County General Code.

E. In accordance with the intent of this ordinance to benefit the public through the promotion of urban agriculture and improved accessibility to fresh locally grown produce, a contract entered into pursuant to this chapter shall require that the site be periodically open to members of the public other than the property owner or operator and their immediate families through any of the following:

- (1) agricultural education or outreach on site such as classes, workshops, or visits by school groups;
- (2) periodic distribution of agricultural products such as produce, flowers, eggs, or honey produced on site, via donation or sales; or
- (3) the site is managed as a community garden that has hours when the site is open to the general public.

F. The Planning Department shall maintain a standard form "Urban Agriculture Incentive Zones Contract" containing all required provisions specified by this chapter and state law.

G. Property subject to a contract entered into pursuant to this chapter shall be assessed pursuant to Section 422.7 of the Revenue and Taxation Code during the term of the contract.

____.____ – Application for a Contract

A. An owner, or an authorized agent of the owner, of an eligible urban agriculture incentive zone property may apply for an urban agriculture incentive zone contract. The application for a contract shall be submitted to the Planning Director on forms provided by the Planning Director. The application shall include, at a minimum:

- (1) the address and location of the property;
- (2) evidence that the property is an eligible urban agriculture incentive zone property as defined in Subsection _____;
- (3) a description of the intended agricultural use of the property including current and proposed site plans and a development schedule for the property; and
- (4) the name of the party or organization who will carry out the agricultural activities if different from the property owner

B. The annual deadline to submit an application for a contract to the Planning Director is October 2.

- C. The Planning Director shall make a determination as to whether the property is an eligible urban agriculture incentive zone property and whether the planned or existing agricultural activities conform to the requirements of this chapter. The Planning Director shall prepare and make recommendations on the contents of the contract for consideration by the Board of Supervisors.
- D. The Board of Supervisors shall, in public hearing, resolve to approve, approve with conditions, or deny the proposed contract. Should the Board of Supervisors fail to act on the proposed contract within one year of its receipt of the proposal, the proposal shall be deemed denied.
- E. As required by the County General Ordinance Code, the property owner shall also apply for and obtain any necessary permits or other approvals required to conduct the proposed agricultural uses on the property prior to execution of any approved contract. Nothing in this Chapter shall be construed as limiting the application or requirements of any and all applicable provisions of federal law, state law, and the County General Ordinance Code.

____.____.____ – **Site Inspection**

- A. Within 90 days of Contract approval the Planning Director shall conduct a site inspection to verify the property owner's conformance to the terms of the contract.
- B. During each subsequent year in which the contract is in force, the Planning Director shall conduct an annual site inspection to verify the property owner's conformance to the terms of the contract.
- C. The Planning Director's determination of conformance with the Contract shall be based on the criteria outlined in Section _____ as well as:
 - (1) evidence of plant cultivation as demonstrated by: active soil management, weeding, pruning, and other active farming and gardening techniques; and/or evidence of animal husbandry demonstrated by active bee hives, chicken coops, or other animal husbandry practices; and
 - (2) any specific requirements of the contract.

____.____.____ – **Contract Cancellation**

- A. The Board of Supervisors may cancel the contract upon finding that a property owner is in breach of one or more terms of the contract or upon failure of one or more of the conditions of the contract. The Assessor and the property owner will be notified of the County's cancellation of the contract.
- B. A property owner may cancel a contract entered into pursuant to this chapter at any time by submitting written notice to the Planning Director. Upon cancellation of the contract prior to the expiration of its term, the property owner shall record a notice of cancellation of the contract against the property.
- C. If the contract is cancelled by the County or property owner prior to the expiration of its term, the property owner shall pay to the County a cancellation fee equal to the cumulative value of the tax benefit received during the duration of the contract plus interest, as

determined by the Assessor. The Board of Supervisors may waive payment of all or a portion of the fee, if the Board determines that the cancellation was caused by extenuating circumstances despite the good faith effort by the property owner.

SECTION II

This ordinance shall take effect and be in force thirty (30) days from and after the date of passage and before the expiration of fifteen (15) days after its passage it shall be published once with the names of the members voting for and against the same in the Inter-City Express, a newspaper published in the County of Alameda.

Adopted by the Board of Supervisors of the County of Alameda, State of California,
_____, 2018 by the following called vote:

AYES:
NOES:
EXCUSED:

WILMA CHAN
President of the Board of Supervisors
County of Alameda, State of California

ATTEST: ANIKA CAMPBELL-BELTON,
Clerk of the Board of Supervisors, County of Alameda

By _____

Approved as to Form:
DONNA ZIEGLER, County Counsel

By _____
HEATHER LITTLEJOHN
Deputy County Counsel



City of San Leandro

Meeting Date: September 17, 2018

Resolution - Council

File Number: 18-440 **Agenda Section:** CONSENT CALENDAR

Agenda Number:

TO: City Council

FROM: Jeff Kay
City Manager

BY: Tom Liao
Community Development Director

FINANCE REVIEW: Not Applicable

TITLE: RESOLUTION of The City Of San Leandro City Council to Consent to Alameda County Establishing an Urban Agriculture Incentive Zone in the Ashland Area of Unincorporated Alameda County

WHEREAS, California Government Code section 51042 authorizes a county to establish an Urban Agriculture Incentive Zone within its boundaries; and

WHEREAS, a county may enter into an enforceable contract with the owner of vacant, unimproved, or blighted land within an Urban Agriculture Incentive Zone for the purpose of establishing a small-scale agriculture use; and

WHEREAS, in exchange for agreeing to use his or her property for an agricultural use for at least five years, the property owner would receive a reduction in property taxes during that period of time; and

WHEREAS, Alameda County is currently creating Urban Agriculture Incentive Zones in unincorporated areas of the County; and

WHEREAS, one of the proposed Urban Agriculture Incentive Zones is located in the Ashland Area of unincorporated Alameda County, as further depicted in Exhibit A to this Resolution, attached hereto and incorporated herein; and

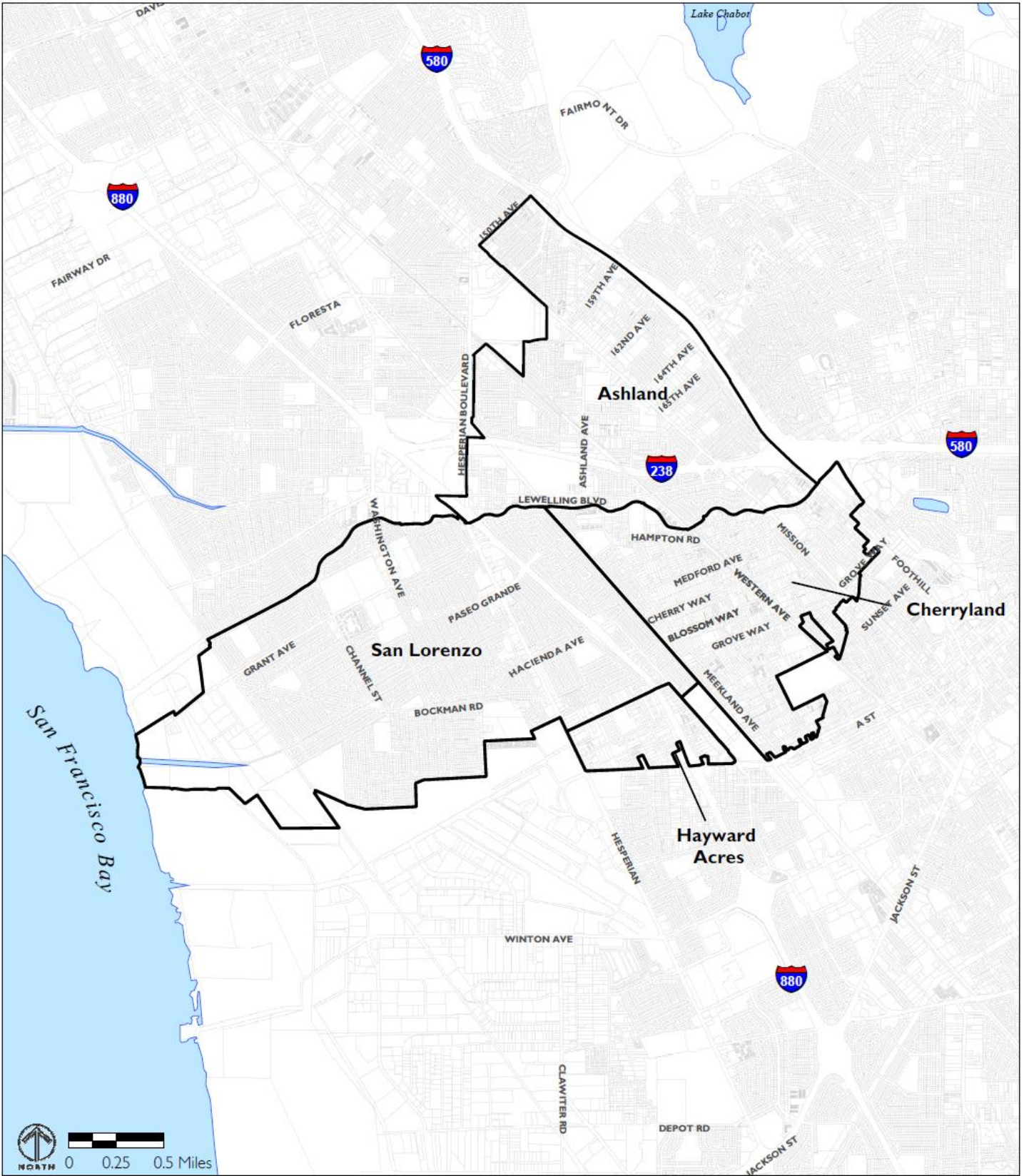
WHEREAS, because the Ashland Area is within the City of San Leandro's Sphere of Influence, Alameda County may not establish an Urban Agriculture Incentive Zone in the Ashland Area unless the City Council consents; and

WHEREAS, the City Council reviewed the Urban Agriculture Incentive Zone proposed for the Ashland Area, and considered possible impacts on the City created by the establishment of such a zone; and

WHEREAS, by this resolution the City Council consents to Alameda County establishing an Urban Agriculture Incentive Zone in the Ashland Area, which is within the City of San Leandro's sphere of influence.

NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF SAN LEANDRO HEREBY RESOLVE AS FOLLOWS:

1. The above recitals are true and correct, and are incorporated into this Resolution by this reference.
2. The City Council, as the governing body for the City of San Leandro, consents to Alameda County establishing an Urban Agriculture Incentive Zone in the Ashland Area of unincorporated Alameda County, as further depicted in Exhibit A to this resolution, attached hereto and incorporated herein.
3. The City Manager is authorized to execute any and all documents, in such form as approved by the City Attorney, and to take such actions, as are necessary to effectuate the intent and purpose of this Resolution.



Source: Alameda County Community Development Agency

 Study Area Boundary

FIGURE 1-2

PLANNING AREA