



AGRICULTURAL MITIGATION PROGRAM & FEASIBILITY STUDY

Planning Commission Workshop No. 1

November 9, 2020 at 6 PM

WORKSHOP AGENDA

- 1 • Project Information & Background
- 2 • Summary of Deliverables & Observations
- 3 • Next Steps



PROJECT INTRODUCTION

- The City has initiated the establishment of an **Agricultural Mitigation Program (AMP)**.
- If established, the AMP would require conservation of farmland outside the City in exchange for developing farmland into urban uses inside the City.
- The City has chosen to prepare a **Feasibility Study** to confirm the applicability of an AMP for Visalia.

FEASIBILITY STUDY OBJECTIVES

- Have there been any changes that would affect the ability of the City to implement an AMP?
- What is the anticipated impact to housing costs?
- What options are available to the City to move forward with development in Tier II?

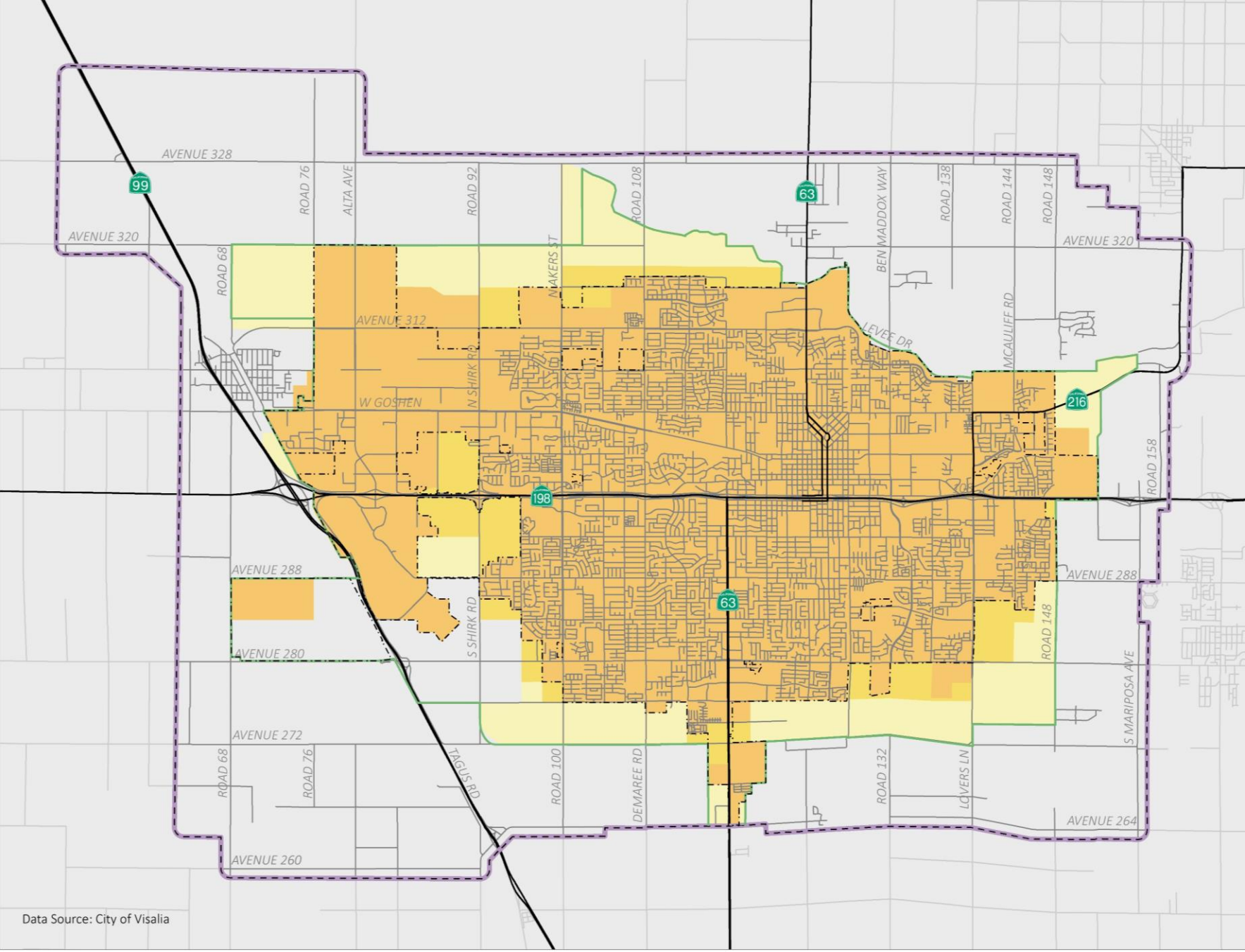
PROJECT TIMELINE

PHASE I: FEASIBILITY STUDY

PHASE II: AMP



VISALIA GENERAL PLAN



Urban Growth Development Tiers

-  Tier 1
-  Tier 2
-  Tier 3

Data Source: City of Visalia

CRITERIA FOR TIER II RESIDENTIAL DEVELOPMENT

- Permits for 5,850 housing units have been issued in Tier I (LU-P-21).

Criteria not met

AND

- An agricultural mitigation program has been established (LU-P-34).

Criteria not met

DELIVERABLES & OBSERVATIONS

1

• Regulatory Framework

- Housing Legislation
- Sustainable Growth Management Act (SGMA)
- Case Law

2

• Farmland Preservation Best Practices & Established Programs Summary

- Farmland Preservation Best Practices
- Housing Costs
- Established Programs Summary

3

• Data Collection & Mapping

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REGULATORY FRAMEWORK

ATTACHMENT 1

Housing Legislation
Case Law

SENATE BILL 330

Key Considerations

- Implemented restrictions on growth management policies.
- Restricts the ability of cities to impose a moratorium or growth restriction on housing developments.

Observations

- The City may not be able to restrict residential development in Tier II from occurring once the permits issued criteria (for 5,850 housing units in Tier I) is met **even if an agricultural mitigation program has not yet been established.**

Further analysis: *What is the remaining residential development capacity in Tier I?*

KING & GARDINER FARMS V KERN COUNTY

In 2015, Kern County approved an ordinance to streamline the permitting process for new oil and gas wells and certified an Environmental Impact Report (EIR) in accordance with CEQA.

King & Gardiner Farms, LLC sued the County of Kern.

- The suit alleged that the EIR contained multiple CEQA violations.
- The courts agreed that the EIR inadequately analyzed impacts to rangeland and impacts from a road paving mitigation measure.

KING & GARDINER FARMS V KERN COUNTY

The court decision was appealed and considered by the 5th District Court of Appeals holding that:

- Additional CEQA claims (violations) were determined to have merit, including how the EIR mitigated the loss of farmland. Mitigation identified include:
 - Agricultural conservation easements
 - Restoration of agricultural lands
 - Purchasing credits in a mitigation bank
 - Participation in any agricultural land mitigation program adopted by the County

KING & GARDINER FARMS V KERN COUNTY

Agricultural conservation easements

Easements do not actually mitigate for loss they only prevent future conversion of land already in production.

Purchasing credits in a mitigation bank

There was not sufficient evidence related to the efficacy of mitigation banks and that they might operate in the same manner as conservation easements.

BIA OF CENTRAL CAL V STANISLAUS COUNTY

In 2007, Stanislaus County adopted a Farmland Mitigation Program (FMP) as part of their General Plan and a set of guidelines for implementation of the FMP.

The BIA facially challenged the FMP. The trial court ruled in the favor of BIA, finding that:

- The FMP conflicted with State law that prohibits requiring a developer to grant a conservation easement as a condition of a land use approval.
- There was no reasonable relationship between the adverse effects of residential development and the requirement for an easement.
- The FMP requirements were not within the County's police power.

BIA OF CENTRAL CAL V STANISLAUS COUNTY

The trial court decision was appealed and considered by the 5th District Court of Appeals holding that:

- Although State law prohibits requiring a developer to grant a conservation easement in conjunction with a land use approval, the FMP requires that the developer *acquires* an easement, not that it grants one.
- The Court determined via narrative that there was, in fact, a reasonable relationship.
- Since there existed a reasonable relationship, the County did not exceed its police power in adopting the FMP.

CASE LAW

Observations

- Under CEQA, the establishment of agricultural conservation easements is not adequate mitigation for the loss of farmland.
- Outside the context of CEQA, jurisdictions can require developers to acquire or obtain conservation easements under an established program.

Further analysis: What limitations, if any, are there on establishing conservation programs that are not providing mitigation?



BEST PRACTICES

ATTACHMENT 2

Housing Costs

HOUSING COSTS

Challenges

- Market influences
- Aggregated data is for existing homes
- Limited use of conservation programs

HOUSING COSTS



HOUSING COSTS

Observations

- Cost burden will likely be higher for projects that:
 - Convert higher amounts of farmland.
 - Have lower densities.
- Direct purchase requirements and in-lieu fees based on appraised value will reduce predictability of housing development costs.

Further analysis: How many acres of residential land by type (e.g., very low-, low-, medium-, high-density) overlays Prime or Farmland of Statewide Importance?



NEXT STEPS

NEXT STEPS

Feasibility Study

- Summarize key observations and include further analysis
- Identify options for the City to move forward with implementation and/or amendment to the General Plan Policy LU-P-34
- Study is anticipated for public review release in early December

PC Workshop No. 2

- During the public review period in December

STAY INFORMED

Visit the Website:

https://www.visalia.city/depts/community_development/planning/agricultural_mitigation_program.asp

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See us in the lobby to sign up to receive email notifications or ask questions.

