



AGRICULTURAL MITIGATION PROGRAM & FEASIBILITY STUDY

Planning Commission Workshop No. 2
January 11, 2021 at 6 PM

WORKSHOP AGENDA

- 1 • Project Background
- 2 • Feasibility Study
- 3 • Project Timeline & Next Steps



A photograph of an orange orchard with many ripe oranges hanging from the trees. The background is slightly blurred, focusing on the fruit in the foreground.

PROJECT BACKGROUND

GENERAL PLAN POLICY LU-P-34

Work with Tulare County and other state and regional agencies, neighboring cities, and private land trust entities to prevent urban development of agricultural land outside of the current growth boundaries and to promote the use of agricultural preserves, where they will promote orderly development and preservation of farming operations within Tulare County. Conduct additional investigation of the efficacy of agricultural conservation easements by engaging local, regional, and state agencies and stakeholders in order to further analyze their ongoing efforts and programs that attempt to mitigate impacts from the conversion of agricultural lands through the use of agricultural conservation easements. Support regional efforts to prevent urban development of agricultural lands, specifically at the county level. Tulare County's General Plan 2030 Update Policy contains two policies (AG-1.6 Conservation Easements and AG-1.18 Farmland Trust and Funding Sources) that discuss establishing and implementing an Agricultural Conservation Easement Program (ACEP). The City supports the implementation of these measures by the County, in which the City may then participate. Such a regional program could include a fee to assist and support agricultural uses and would be most feasibly and strategically developed on a countywide or other regional basis.

In addition to supporting regional efforts to prevent urban development of agricultural lands, the City shall create and adopt a mitigation program to address conversion of Prime Farmland and Farmland of Statewide Importance in Tiers II and III. This mitigation program shall require a 1:1 ratio of agricultural land preserved to agricultural land converted and require agricultural land preserved to be equivalent to agricultural land converted. The mitigation program shall also require that the agricultural land preserved demonstrate adequate water supply and agricultural zoning, and shall be located outside the City UDB, and within the southern San Joaquin Valley. The mitigation program shall, to the extent feasible and practicable, be integrated with the agricultural easement programs adopted by the County and nearby cities. The City's mitigation program shall allow mitigation to be provided by purchase of conservation easement or payment of fee but shall indicate a preference for purchase of easements. The mitigation program shall require easements to be held by a qualifying entity, such as a local land trust, and require the submission of annual monitoring reports to the City. The mitigation program shall specifically allow exemptions for conversion of agricultural lands in Tier I, or conversion of agricultural lands for agricultural processing uses, agricultural buffers, public facilities, and roadways.

GENERAL PLAN POLICY LU-P-34 (Part 1)

States that the City will:

- Work with Tulare County and other agencies to prevent urban development of agricultural land outside of the current growth boundaries and promote the use of agricultural preserves.
- Conduct additional investigation of the efficacy of agricultural conservation easements by analyzing ongoing efforts and programs that attempt to mitigate impacts from the conversion of agricultural lands through the use of agricultural conservation easements.

GENERAL PLAN POLICY LU-P-34 (Part 2)

Provides direction for the City to establish an AMP including the following program components:

- Applies to all projects located in Tier II and Tier III converting Prime Farmland or Farmland of Statewide Importance, with some exceptions.
- Requires a 1:1 ratio of conserved to converted farmland.
- Requires purchase of a conservation easement or payment of an in-lieu fee.

GENERAL PLAN POLICY LU-P-34 (Part 2)

- Farmland to be conserved shall:
 - Be equivalent to the agricultural lands converted
 - Demonstrate adequate water supply
 - Be zoned for agricultural uses
 - Be located outside the City's Urban Development Boundary but within the southern San Joaquin Valley

PROJECT INTRODUCTION

The City has initiated the establishment of an AMP. The process has been structured around two separate phases:

- Phase 1 is the development of a Feasibility Study to present the City of Visalia with alternatives for implementing or revising General Plan Policy LU-P-34 to align with City policy objectives for agricultural land.
- Phase 2 is the implementation phase. The City Council will direct staff to either prepare an AMP or pursue one of the alternatives identified in the Feasibility Study.

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?



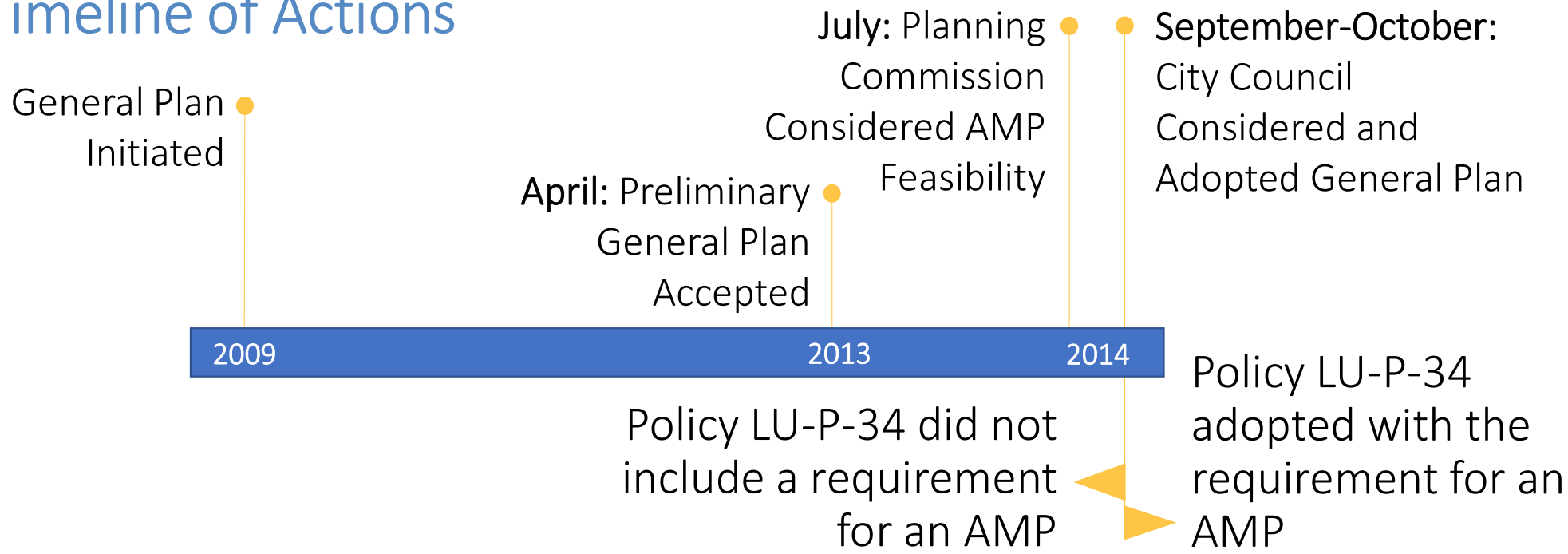
FEASIBILITY STUDY

FEASIBILITY STUDY

- 1 • Policy Background
- 2 • Conservation Strategies
- 3 • Key Considerations
- 4 • Alternatives for Consideration

1 POLICY BACKGROUND

Timeline of Actions



“Conduct additional investigation of the efficacy of agricultural conservation easements”

1 POLICY BACKGROUND

AMP Feasibility Analysis (July 2014)

Reason 1: There was evidence suggesting that a local City-wide AMP may result in a patchwork of easements not contiguous enough to sustain economic viability or that the easements could frustrate orderly development in the future.

Reason 2: That an AMP could only provide a speculative mitigation benefit due to the variability in the cost of conservation easements compared to the in-lieu fees that would be established, thereby rendering the effectiveness of such a program questionable.

1 POLICY BACKGROUND

AMP Feasibility Analysis (July 2014)

Reason 3: That the cost of purchasing easements would be cost-prohibitive to development.

Reason 4: That economic realities tend to guide the purchase of agricultural easements towards properties not subject to development pressures in the first place, thereby again rendering the mitigation benefits speculative at best.

2 CONSERVATION STRATEGIES

Conservation Easements

- A voluntary, legally binding agreement
- Limits certain types of uses or prevents development from taking place on a piece of property now and in the future
- Recorded in the chain of title of the property and it 'runs with the land' so that the restrictions also apply to future owners of that land

PROCURING AN EASEMENT

SUITABLE LAND

- Acceptable location and zoning
- Equivalent agricultural quality
- Water availability

WILLING LANDOWNER

- Willingness to sell a permanent easement on land
- Agreed compensation

REMOVING AN EASEMENT

- Prove land is no longer effective for farming
- Approved for termination in court
- May require replacement mitigation

2 CONSERVATION STRATEGIES

Other Preservation Mechanisms

Right-to-Farm Ordinance

Growth Management Strategies and
Related Policies

LAFCo Policies and Procedures

Land Conservation Act (Williamson Act)
Program

2 CONSERVATION STRATEGIES

Other Preservation Mechanisms

Right-to-Farm Ordinance

Growth Management Strategies and Related Policies

LAFCo Policies and Procedures

Land Conservation Act (Williamson Act) Program

Key Features

- Protects agricultural uses from nearby non-agricultural uses
- Codifies that agricultural uses are not a 'nuisance'
- A notice is recorded on encroaching non-ag use properties
- Particularly relevant for areas of new growth

2 CONSERVATION STRATEGIES

Other Preservation Mechanisms

Right-to-Farm Ordinance

Growth Management Strategies and Related Policies

LAFCo Policies and Procedures

Land Conservation Act (Williamson Act) Program

Key Policies

- Policies to provide support to ag operations in and around the City
- Maintain 20-acre minimum parcels within the Planning Area
- Promote infill development
- Adopt the County’s Right-to-Farm Ordinance
- Adopt an Urban Agriculture Ordinance

2 CONSERVATION STRATEGIES

Other Preservation Mechanisms

Right-to-Farm Ordinance

Growth Management Strategies and Related Policies

LAFCo Policies and Procedures

Land Conservation Act (Williamson Act) Program

Key Policies

- LAFCo approves annexation requests for the City of Visalia
- Consistency with land use plans and policies (e.g., growth management strategy)
- Requires a Plan for Services
- Considers the effect on the integrity of agricultural land

2 CONSERVATION STRATEGIES

Other Preservation Mechanisms

Right-to-Farm Ordinance

Growth Management Strategies and Related Policies

LAFCo Policies and Procedures

Land Conservation Act (Williamson Act) Program

Key Features

- Restrict use of land to agricultural and open space uses
- 10-year rolling contracts
- Reduced property tax assessments
- Counties receive subvention payments for a portion of the reduced taxes
- Tulare County just lifted a 9-year moratorium on their WAC program

3 KEY CONSIDERATIONS

Consistency with State Housing Legislation (SB 330)

Restricts the ability of cities to impose a moratorium or growth restriction on housing developments.

Concern Restricting residential development in Tier II until an agricultural mitigation program could be implemented, even after reaching the identified permit threshold, may conflict with the intent of the bill.

Observation 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.

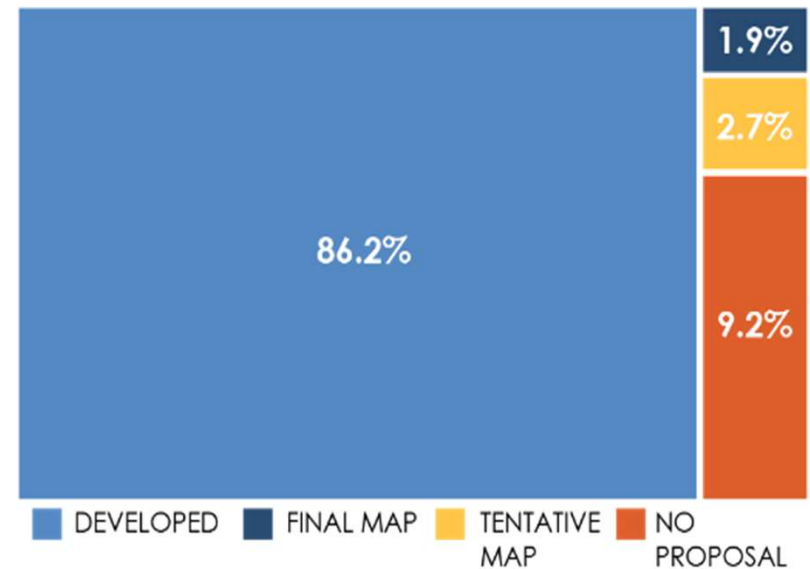
Question: What is the remaining residential development capacity in Tier I?

3 KEY CONSIDERATIONS

Consistency with State Housing Legislation (SB 330)

10,460 acres designated residential Tier I.

- 86.2% is developed (9,016 acres)
- 13.8% is undeveloped (1,444 acres)
 - 1.9% has a final map approved (203 acres)
 - 2.7% had a tentative map in process (283 acres)
 - 9.2% is vacant (957 acres)



Outcome: Based on an analysis of residential development capacity in Tier I, this consideration was not relevant to the AMP.

3 KEY CONSIDERATIONS

Agricultural Conservation Easement Limitations (Case Law)

Recent case law has determined that agricultural conservation easements are not effective mitigation for the loss of agricultural lands under CEQA.

Concern If agricultural conservation easements are no longer effective mitigation under CEQA, then is the City still able to establish an AMP.

Observation Outside the context of CEQA, the City can move forward with establishing an AMP as a policy directive. The courts noted that the ruling did not specifically address how a program could or should be applied to a specific project.

Question: Are there any limitations in how the AMP can be implemented in Visalia based on previous case law?

Outcome: *No subsequent cases have been heard to clarify program limitations. Legal counsel will need to be engaged throughout development of an AMP.*

3 KEY CONSIDERATIONS

Sustainable Groundwater Management Act (SGMA)

Recent legislation aimed at achieving a water balance for basins by 2040. Required preparation of GSPs to identify policies, programs, and projects to accomplish this.

Concern A conflict between the objectives of SGMA, as implemented through the adopted GSPs, and the establishment of permanent agricultural easements.

Observation Farmland enrolled in on-farm recharge or fallowing programs may not be well-suited for a permanent agricultural conservation easement; thereby limiting available land for conservation easements.

Question: Will the GSPs policies, programs, or project limit the availability of land for agricultural easements?

3 KEY CONSIDERATIONS

Sustainable Groundwater Management Act (SGMA)

- The acreages identified for GSP program enrollment (e.g., on-farm recharge and fallowing) is minimal at this time.
- Program participation is typically temporary and would likely not impact a property's long-term viability for agricultural use.
- The first GSPs have recently been adopted (2019 and 2020).
- Limited understanding of how the various programs, projects, and policies of the GSPs will be implemented and enforced.

Outcome: Because the GSPs have only just begun to be implemented, it is difficult to understand its implications on farmland productivity and preservation.

3 KEY CONSIDERATIONS

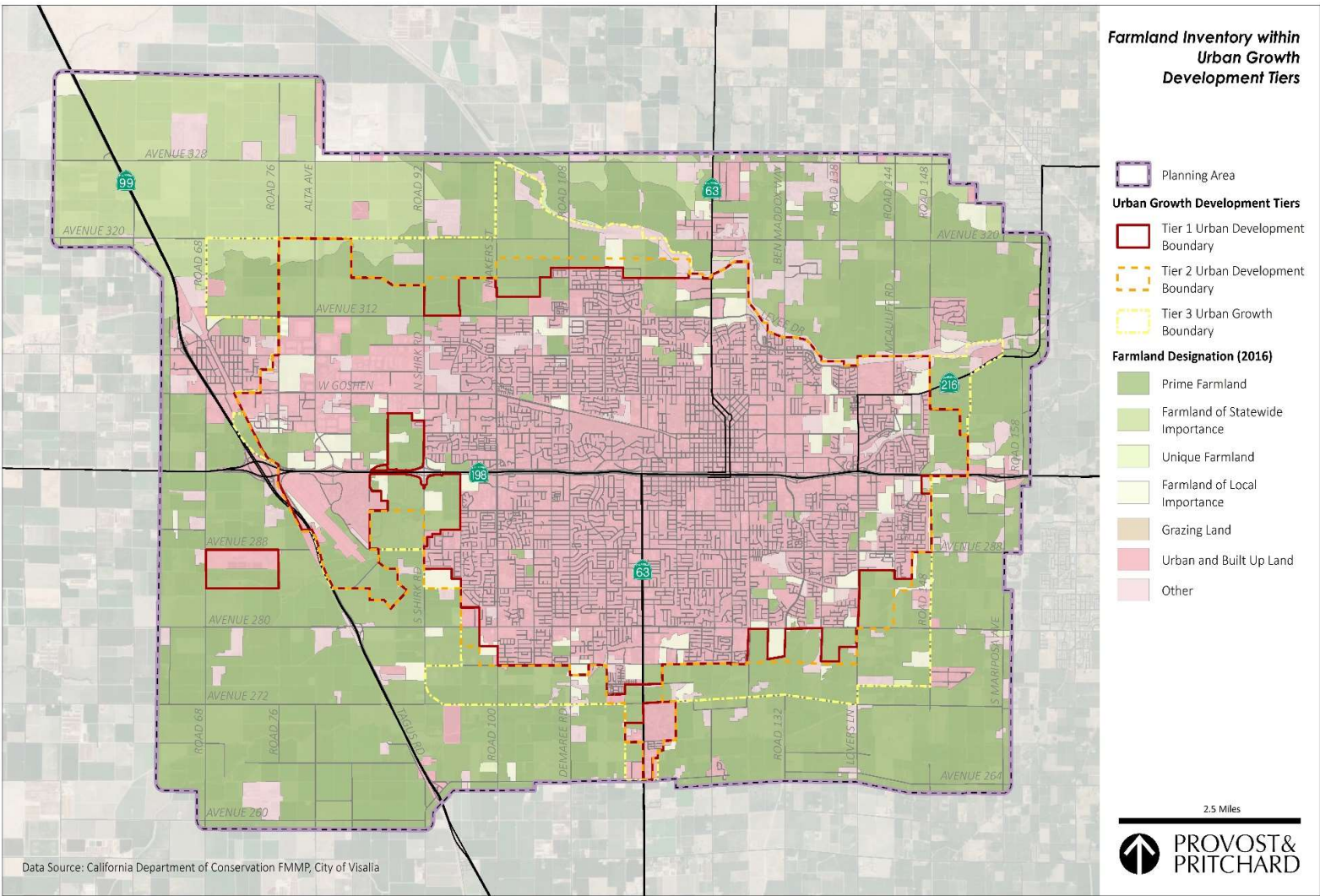
Impact on Home Pricing

Establishment of an AMP will require either direct purchase of a conservation easement or payment of an in-lieu fee.

Concern The increased costs of project development would have an impact on home pricing.

Observation Cost burden will likely be higher for projects that convert higher amounts of farmland and have lower densities.

Question: How much land would be subject to an AMP?



7,544 total acres in Tier II and Tier III

83 percent (6,257 acres) of all land in Tier II and Tier III would require conserved land.

85 percent (4,339 acres) of all residential land in Tier II and Tier III would require conserved land.

3 KEY CONSIDERATIONS

Impact on Home Pricing

- 40-acre residential project
- 85% of the property would require conservation at 1:1
- \$19,711 per acre of agricultural land
- An average easement price equal to 35 percent of the cost of agricultural land per acre.

Land Use Designation	Average Per Unit Cost Burden*
Very Low Density Residential	\$2,932.01
Low Density Residential	\$1,466.01
Medium Density Residential	\$586.40
High Density Residential	\$355.40

* Cost is based on a hypothetical project – not intended to represent actual cost.

Outcome: There will be an additional cost for a majority of projects in Tier II and Tier III.

4 ALTERNATIVES FOR CONSIDERATION

Alternative 1: Implement Policy LU-P-34 as Adopted

Proceed with the establishment of an AMP as it is currently identified in Policy LU-P-34.

- Applies to all projects located in Tier II and Tier III converting Prime Farmland or Farmland of Statewide Importance, with some exceptions.
- Requires a 1:1 ratio of conserved to converted farmland.
- Requires purchase of a conservation easement or payment of an in-lieu fee.
- Farmland to be conserved shall be equivalent, demonstrate adequate water supply, be zoned for agricultural uses, be located within the southern SJV.

4 ALTERNATIVES FOR CONSIDERATION

Alternative 1: Implement Policy LU-P-34 as Adopted

Anticipated Actions Required

- Establishment of an AMP, requiring City Council action.
- No amendment is required to the General Plan.
- No revision to the General Plan EIR is required.

Estimated Timeline

6 months

4 ALTERNATIVES FOR CONSIDERATION

Alternative 2: Implement Policy LU-P-34 with Modifications

Proceed with the establishment of an AMP as it is currently identified in Policy LU-P-34 with modifications. Examples may include:

- Expand the types of projects exempt from the AMP.
 - Projects converting less than 5 acres of Prime Farmland or Farmland of Statewide Importance
 - Projects proposing at least 10% of units as affordable
 - Projects that integrate urban agricultural uses into the project design
- Include allowances for collected in-lieu fees to be used for preservation activities other than easement acquisition.

4 ALTERNATIVES FOR CONSIDERATION

Alternative 2: Implement Policy LU-P-34 with Modifications

Anticipated Actions Required

- Establishment of a modified AMP, requiring City Council action.
- Potential amendment required to the General Plan, depending on the scope of modifications determined during establishment of the AMP.
- Potential revisions to the General Plan EIR, depending on the scope of modifications determined during the establishment of the AMP.

Estimated Timeline

6 to 9 months

4 ALTERNATIVES FOR CONSIDERATION

Alternative 3: Delay Establishment of the AMP to Tier III

Proceed with the establishment of an AMP as it is currently identified in Policy LU-P-34 except that all projects located in Tier II would be exempt.

Delaying implementation of the AMP may afford additional time to understand the implications of:

- How implementation of SGMA and the related GSPs will impact farmland productivity and availability of land for agricultural conservation easements.
- How the recent Appellate Court opinion that agricultural conservations easements do not act as effective mitigation will be applied in practice.

4 ALTERNATIVES FOR CONSIDERATION

Alternative 3: Delay Establishment of the AMP to Tier III

Anticipated Actions Required

- Establishment of a modified AMP, requiring City Council action.
- Amendment required to the General Plan to revise Policy LU-P-34.
- Revisions to the General Plan EIR.

Estimated Timeline

6 to 8 months

4 ALTERNATIVES FOR CONSIDERATION

Alternative 4: Remove Policy LU-P-34

Remove the requirement for an AMP. This may include removing Policy LU-P-34 in its entirety or stripping out the specific requirements related to the establishment of an AMP.

Related General Plan policies would still be required for implementation, including adoption of:

- A Right-to-Farm Ordinance
- An Urban Agriculture Ordinance

4 ALTERNATIVES FOR CONSIDERATION

Alternative 4: Remove Policy LU-P-34

Anticipated Actions Required

- Amendment required to the General Plan to remove or revise Policy LU-P-34.
- A comprehensive review of the City's growth management strategy and related policies would also be conducted to determine if additional policies should be considered during the amendment process.
- Revisions to the General Plan EIR.

Estimated Timeline

6 to 8 months

4 ALTERNATIVES FOR CONSIDERATION

	Alternative 1: Implement Policy LU-P-34 as Adopted	Alternative 2: Implement Policy LU-P-34 with Modifications	Alternative 3: Delay Establishment of the AMP to Tier III	Alternative 4: Remove Policy LU-P-34
General Plan Amendment	Not Required	Potential	Required	Required
EIR Revision	Not Required	Potential (Addendum)	Required (Addendum)	Required (Addendum)
Estimated Timeline	6 months	6 to 9 months	6 to 8 months	6 to 8 months



PROJECT TIMELINE & NEXT STEPS

PROJECT TIMELINE

PHASE I: FEASIBILITY STUDY

PHASE II: AMP



NEXT STEPS

30-day public review and comment period is now open.

Submit comments in writing no later than January 29, 2021 to Brandon Smith, Senior Planner at:

brandon.smith@visalia.city

(559) 713-4636

City Council Hearing for Action
Scheduled for February 16, 2021

