



## Legislation Details (With Text)

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**On agenda:** 12/5/2022      **Final action:**

**Title:** Presentation of, and direction regarding a series of options for the City Council's consideration ahead of a future adoption of an Agricultural Preservation Ordinance to implement the City's Agricultural Mitigation Program as outlined in General Plan Land Use Policy LU-P-34.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Agricultural Preservation Ordinance

Date	Ver.	Action By	Action	Result
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### Agenda Item Wording:

Presentation of, and direction regarding a series of options for the City Council's consideration ahead of a future adoption of an Agricultural Preservation Ordinance to implement the City's Agricultural Mitigation Program as outlined in General Plan Land Use Policy LU-P-34.

Deadline for Action: 12/5/2022

**Submitting Department:** Community Development

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### Department Recommendation:

This work session item is being conducted to introduce and receive direction on several options prior to staff and the consultant preparing a draft Agricultural Preservation Ordinance for both City Council and public review. The options are briefly below summarized below and provided in the PowerPoint presentation.

### Summary:

The City of Visalia has directed staff to implement an Agricultural Mitigation Program, as outlined in General Plan Policy LU-P-34. The Agricultural Mitigation Program would be implemented through adoption of an Agricultural Preservation Ordinance, which would direct how the program would be implemented by City staff. The adoption of the Agricultural Preservation Ordinance (APO) is a necessary step for projects in the Tier II and Tier III growth boundaries to move forward. While the policy language is prescriptive with relation to some of the program requirements, such as ensuring a 1:1 ratio of converted land to conserved land, there are still program parameters that require additional direction to ensure the Agricultural Preservation Ordinance meets the intent of the policy, including the potential to prepare a study to document the calculation of an in-lieu fee for the APO to

serve as the basis for the City to adopt an in-lieu fee that can provide projects an alternative to securing and dedicating agricultural conservation easements on their own.

**Purpose of Tonight’s Meeting:**

As stated above, the purpose of the work session is for the staff and consultant to present the City Council with options and for the City Council to provide direction as to the preparation of the agricultural preservation program. Following the work session, the consultant will prepare an administrative draft of the ordinance for staff and public review.

In preparing options for the program for the City Council’s consideration, the consultant took a three-part approach: analysis of General Plan policy LU-P-34, interviews with local governments and land trusts, and review of options for the program’s form and adoption. The attached power point and presentation to Council will highlight the details of this three-part approach.

In addition, the policy as defined in the general plan provides both narrow parameters and more broad parameters for creation of the ordinance. These parameters are identified to guide the available options for the ordinance. Options that are provided in the presentation for City Council’s direction are briefly summarized below:

1. Confirm Farmland Designation of Property: Prime farmland and farmland of statewide importance are designated and mapped by the California Department of Conservation’s Farmland Mapping and Monitoring Program (FMMP).

**Option 1:** Rely only on the most recent version of FMMP maps.

**Option 2:** Use the most recent version of the FMMP maps but allow for an individual site assessment process (by the applicant) to confirm FMMP designation.

**Staff Recommendation: Option 2**

This provides the applicant with the option to also do a site assessment to confirm the FMMP designation rather than only relying on FMMP data sets which are not updated and published frequently.

2. Exemption for Size of Project: The policy does not expressly call for an exemption based on the size of the project. However, such an exemption for small properties could be considered.

**Option 1:** No exemption based on the size of the project.

**Option 2:** Projects of one acre or less are exempt.

**Option 3:** Projects of five acres or less are exempt.

**Staff Recommendation: Option 3**

Projects of five acres or less should be exempt from the agricultural conservation easement policy. Under the California Environmental Quality Act (CEQA) projects five acres or less can be exempt from any further CEQA review based on the Class 32 In-fill exemption. Staff’s recommendation to include a five-acre exemption would be in conformance with this threshold.

3. Exemption for Affordable Housing Projects: The policy specifically exempts certain uses (e.g., agricultural processing, agricultural buffers, and public facilities). The city may consider a specific exemption for affordable housing.

**Option 1:** No exemption for affordable housing projects.

**Option 2:** Exemption for certain affordable housing projects.

**Option 3:** Exemption for all affordable housing projects.

**Staff Recommendation: Option 3**

Staff's recommendation to exempt all affordable housing projects is in conformance with the States housing mandates to limit and reduce barriers to affordable housing developments.

4. Exemption for Portion of the Project: The policy includes exemptions for certain uses as noted above but does not address the scope of the exemptions for such uses when a part of a larger project.

**Option 1:** For the exemption to apply, the exempted use must be the whole of the project.

**Option 2:** The exemption applies to the area of the exempted use.

**Staff Recommendation: Option 2**

Staff recommends that Option 2 be applied for all projects subject to the Agricultural Preservation Ordinance. This would establish mitigation on the acreage to be developed with the proposed use but would not encumber projects that include dedicated acreage towards useable open space.

5. Location of Easements: Policy states Southern San Joaquin Valley but does provide a specific set of counties that make up this geographical area.

**Option 1:** Counties of Tulare and Kern.

**Option 2:** Counties of Tulare, Kern, and Kings.

**Option 3:** Counties of Tulare, Kern, Kings, Fresno, and Madera.

**Staff Recommendation: Option 3**

Staff recommends Option 3 as it provides a larger area for actual acquisition of an easement. In addition, the Southern San Joaquin Valley Information Center, which is part of the California Historical Resources Information System and located at California State University, Bakersfield, defines these five counties as the Southern San Joaquin Valley.

6. Qualifying Criteria: Adequate Water Supply: The policy requires that the farmland preserved demonstrate adequate water supply. There are different methods of demonstrating adequate water supply.

**Option 1:** Use the FMMP mapping designation as a proxy for demonstrating adequate water supply.

**Option 2:** In addition to referencing the FMMP mapping designation, verify that the property has at least one source of water.

**Staff Recommendation: Option 2**

Based on research conducted, Option 2 provides the additional verification of the property having a secure water source rather than only relying on the FMMP mapping designation. This option will also ensure this step is completed when working with a land trust to secure an easement.

7. City Involvement: Easement Acquisition and Maintenance: How much involvement does the city have in easement acquisition and maintenance.

**Option 1:** The City is not a party to the easement, but the City must approve the form of the easement.

**Option 2:** The City is a third-party beneficiary to the easement, so that the City may enforce the easement's terms, and City must approve the form of the easement.

**Option 3:** The City is a co-holder of the easement along with the qualified entity.

**Staff Recommendation: Option 1**

This option limits the liability to the City but provides assurances that the City approves the form of the easement in compliance with Agricultural Preservation Ordinance.

8. Legislative Fee or Ad Hoc Fee: The purpose of the in-lieu fee would provide a developer with an option of potentially paying a fee, in-lieu of acquiring an easement. However, the policy identifies a preference of easements over payment of an in-lieu fee.

**Option 1:** Formulate and adopt a legislative fee for all projects.

**Option 2:** Determine an ad hoc fee on a case-by-case basis.

**Staff Recommendation: Option 2**

This option provides flexibility due to unforeseen factors that may vary from case to case.

9. City Involvement: In-lieu Fee Collection and Expenditure: If an in-lieu fee option is available, any fees collected towards the purchase of easements could be purchased by a qualified entity or directly by the City.

**Option 1:** The City remits the fees to a qualified entity to acquire an easement.

**Option 2:** The City either remits the fees to a qualified entity to acquire an easement or directly acquires the easement.

**Staff Recommendation: Option 1**

This option provides the City the ability to ensure that a qualified entity is tasked with acquiring easements in compliance with Agricultural Preservation Ordinance.

**Next Steps:**

The consultant and staff will take the direction received during the work session meeting and will prepare an Administrative Draft Agricultural Preservation Ordinance for review and consideration by City staff and the public. The draft Agricultural Preservation Ordinance will be made available for a 30-day public review period during which time the consultant and staff will facilitate a workshop with the City Council to respond to questions raised during the public review period and to focus on consensus building prior to final adoption.

**Fiscal Impact:**

On September 19, 2022, the City Council authorized the City Manager to award a contract to Provost & Pritchard Consulting Group of Visalia, CA for the preparation of Agricultural Preservation Ordinance in amount of not to exceed \$150,000. Staff is also seeking if the allocated SB 2 Planning Grant monies can be used for the preparation of this ordinance.

**Prior Council Action:**

On August 18, 2022, the City Council adopted Resolution No. 2022-50 which rescinded the adoption of Resolution No. 2021-44, which approved General Plan Amendment No. 2021-01, a request to by the City of Visalia to amend language to General Plan Land Use Policy LU-P-34 by removing the requirement for properties converting farmland within Growth Tiers II and III to enter into an Agricultural Mitigation Program (AMP).

The adoption of the resolution to rescind the adoption of Resolution No. 2021-44 was based on the ruling of the Superior Court of the State of California, County of Tulare, which invalidated the City of Visalia's approval to General Plan Amendment (GPA) No. 2021-01 and the related certification of an addendum to a previously certified environmental impact report (EIR).

**Other:** None.

**Alternatives:** None.

**Recommended Motion (and Alternative Motions if expected):**

I move to direct staff and the consultant to begin drafting the Agricultural Preservation Ordinance based on the City Council's desired options as identified in the staff report and during the work session presentation.

**Environmental Assessment Status:**

No environmental assessment required at this time. The adoption of an AMO will require CEQA documentation to be completed by City staff.

**CEQA Review:**

Not at this time. The adoption of the APO will require CEQA documentation to be completed by City staff.

**Attachments:**

1. Visalia Agricultural Preservation Ordinance PowerPoint