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September 14, 2016 (Agenda)

September 14, 2016
 Agenda Item 8

Contra Costa Local Agency Formation Commission
 651 Pine Street, Sixth Floor
 Martinez, CA 94553

LAFCO Agricultural & Open Space Preservation Policy

Dear Commissioners:

This report from LAFCO’s Policies & Procedures Committee (“Committee”) transmits the revised draft LAFCO Agricultural & Open Space Preservation Policy (AOSPP) – Version 1 (applicant proposed mitigation) – Attachments 1a (clean) and 1b (tracked), and Version 2 (required mitigation) – Attachment 2. The LAFCO Executive Officer worked closely with the Committee on the issues discussed below and concurs with the Committee’s recommendations.

BACKGROUND

Development of a LAFCO AOSPP was identified years ago as part of the Commission’s ongoing efforts to update its Policies & Procedures. The discussion was elevated in March 2015, at which time the Committee presented a report to the Commission that included a summary of relevant LAFCO statutes and a collection of LAFCO policies and procedures representing 18 different LAFCOs from around the State.

In July 2015, LAFCO hosted an Agriculture & Open Space Preservation Workshop to engage stakeholders in a conversation as to whether or not LAFCO should develop an AOSPP, and if so, what the policy should address. There was broad support for a LAFCO AOSPP.

Since July 2015, there has been extensive outreach, and throughout the process, LAFCO has received valuable input from agriculture, building, environmental, legal, farming, local government and other interest groups, along with members of the general public (for a full chronology of the AOSPP progression, please refer to the July 13, 2016 Committee report). The Committee and LAFCO staff sincerely thank all those who participated in the evolution of the draft policy and provided thoughtful comments.

DISCUSSION

At the July 13, 2016 LAFCO meeting, the Commission received a revised draft AOSPP reflecting both the Commission's guidance and comments, as well as comments from the stakeholders, during and following the March 2016 LAFCO meeting. In response to the policy presented in July, LAFCO received dozens of written comments and heard from 13 speakers at the July meeting. Many of the commenters requested that stronger mitigation measures be required in LAFCO's policy.

While the Commission agreed that the draft policy presented in July was more robust, the Commission requested further clarifications and refinement of the policy. In addition, the Commission asked that the Committee also prepare an alternative version of the policy to include required mitigation.

Since the July LAFCO meeting, the Committee has had further discussions with building, environmental and farming representatives. Also, on September 1st, Commissioners Blubaugh, Skaredoff and Tatzin, along with Tomi Riley, Chief of Staff for Supervisor Mary N. Piepho, and the LAFCO Executive Officer received a tour of Frog Hollow Farms.

The revised policies – both Version 1 (applicant proposed mitigation) and Version 2 (required mitigation) - reflect the Commission's prior comments and direction, and many of the comments received from interested parties.

Revisions to Version 1 include the following:

- Revised Policy 5 in response to the development community's concerns.
- Added clarification regarding the meaning of "right to farm" based on Contra Costa County's right to farm ordinance.
- Provided clarification to the land use inventory. Many public agencies prepare land use inventories in accordance with their Housing Element and economic development strategic plans.
- Provided clarification regarding buffers.
- Expanded the language regarding comparable mitigation examples (e.g., habitat conservation plan or other similar plans).
- Added Guideline 7 relating to timing and fulfillment of mitigation.

LAFCO received comments requesting that the "Observations" at the end of the policy be removed or retained. The Committee recommends retaining these as they provide valuable ideas and perspective.

LAFCO also received comments regarding LAFCO's relationship to urban limit lines and urban growth boundaries. The Commission's policies relating to these growth boundaries include the following provision: "*The Commission will generally favor adopted plans that are supportive of the Commission's responsibility to discourage urban sprawl, preserve open space and prime agricultural lands, provide for efficient public services and encourage the orderly formation and development of local agencies.*" The LAFCO AOSPP is not intended to change these policies.

In addition, pursuant to the Commission's direction, the Committee prepared an alternative LAFCO AOSPP (Version 2) which provides for required mitigation. The tracked changes in Version 2 reflect the differences between Version 1 and Version 2.

Finally, in an effort to provide further clarification on key issues, and respond to a number of recurrent questions and misperceptions, the Committee prepared a Frequently Asked Questions (FAQ) – Attachment 3. The FAQ, as currently written, primarily coincides with Version 1 of the AOSPP. Should the Commission adopt Version 2, some additional questions and modified answers will be needed.

POLICY AND OTHER ISSUES

A. Agriculture Enterprise

In reviewing the City of Brentwood's *Agricultural Enterprise Program and Agricultural Mitigation Fee*, and in visiting Frog Hollow Farm and experiencing that approach to farming, the Committee concludes that efforts to enhance agriculture enterprise are necessary, albeit LAFCO's potential role in this endeavor is limited. The LAFCO policy supports agriculture enterprise, and encourages economically viable agriculture-based businesses that will keep agriculture production high.

Other possible components of LAFCO's effort to support agriculture enterprise might include revisions to LAFCO's out of agency service policy to allow for municipal services to support agriculture business. If the Commission wants to consider this addition, the Committee recommends that the Commission provide direction to modify LAFCO's out of agency service policy, rather than make further revisions to the AOSPP for this purpose.

LAFCO encourages the County and municipalities to review their General Plans and other policies in terms of supporting and enhancing agriculture enterprise.

B. LAFCO's Authority

On August 31, 2016, LAFCO received a letter from Kristina Lawson, attorney with Manatt Phelps & Phillips expressing a number of concerns (included in Attachment 4). In her letter, Ms. Lawson implies that LAFCO's draft AOSPP exceeds the scope of LAFCO's authority under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH).

As we have previously stated, LAFCO is *required to establish written policies and procedures and exercise its powers pursuant to the CKH in a manner consistent with those policies and procedures* (Gov. Code section 56300). The proposed AOSPP is one of numerous policies contained in the Contra Costa LAFCO Commissioner Handbook.

The CKH grants LAFCO broad authority to carry out its statutory responsibilities to encourage the orderly formation of cities and special districts, discourage urban sprawl, and preserve agricultural and open space lands.

LAFCO has the authority to approve, with or without conditions, or deny an application. LAFCO has broad discretion to deny an application, including for the absence of, or inadequate mitigating measures included in an application to LAFCO. LAFCO also has authority to impose a range of terms and conditions when approving an application pursuant to Gov. Code §§56885.5, 56886-56890.

C. CEQA and LAFCO's PROPOSED AOSPP

In her August 16th letter, Ms. Lawson indicates that LAFCO's draft AOSPP constitutes a project subject to review under the California Environmental Quality Act (CEQA). Ms. Lawson notes that Santa Clara LAFCO prepared an initial study in conjunction with its agricultural mitigation policies.

Prior to developing the draft AOSPP, the LAFCO Policy Committee reviewed agriculture and open space preservation policies covering 18 other LAFCOs. Of those LAFCOs with the most substantial policies (e.g., Monterey, San Luis Obispo, Santa Clara, Stanislaus, Yolo), only Santa Clara prepared an Initial Study/Negative Declaration. Monterey, San Luis Obispo, Stanislaus and Yolo LAFCOs found their policies exempt from CEQA.

It has been determined that Contra Costa LAFCO's draft AOSPP (Versions 1 and 2) is not a project under CEQA.

RECOMMENDATIONS:

Approve desired version of the LAFCO AOSPP. If Version 2 (required mitigation) is desired, provide direction regarding Guideline 3b 1(a), (b) and (c) and the Commission's preferred ranges/ratios.

Respectfully submitted,

Sharon Burke and Don Tatzin

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Attachment 1a – Version 1 - Clean Revised Draft LAFCO AOSPP

Attachment 1b – Version 1 - Tracked Revised Draft LAFCO AOSPP

Attachment 2 – Version 2

Attachment 3 – Frequently Asked Questions

Attachment 4 - Comments to Draft LAFCO Agricultural & Open Space Preservation Policy

4.1 DRAFT AGRICULTURAL AND OPEN SPACE PRESERVATION POLICY – VERSION 1

PREFACE

LAFCO's enabling and guiding legislation, the Cortese Knox Hertzberg (CKH) Act, begins with the following statement.

“The Legislature finds and declares that it is the policy of the state to encourage orderly growth and development which are essential to the social, fiscal, and economic well-being of the state. The Legislature recognizes that the logical formation and determination of local agency boundaries is an important factor in promoting orderly development and in balancing that development with sometimes competing state interests of discouraging urban sprawl, preserving open-space and prime agricultural lands, and efficiently extending government services.” (§56001)

Beginning in the late 1800s, farmers and ranchers made Contra Costa County an important source of agricultural products. Much of the County has good soils, a mild climate, and adequate water. Western and central Contra Costa were used for agriculture well into the twentieth century. John Muir farmed and ranched approximately 2,600 acres in what is now Martinez, Concord, and the Alhambra Valley. While the County's population was increasing, by current standards, the County's population was small. The 1910 census recorded 31,764 residents, less than the 2015 population of Pleasant Hill.

Development, which began in earnest after World War II, transformed Contra Costa County. As urban and suburban development occurred, Contra Costa County experienced significant reduction in the amount and economic importance of agricultural lands. Simultaneously, critical open space habitat for sensitive species declined. By 2010, the Census reported that Contra Costa had 1,049,025 people, representing 3,300% growth since 1910. Contra Costa County's 2040 population is forecast to be 1,338,400.

As a result of population and job growth, agricultural land was converted to houses, schools, commercial centers, job centers, and transportation corridors. In 2015, there were about 30,000 acres of active agricultural land in Contra Costa County, excluding rangeland and pastureland, most of it located in the eastern portion of the County. There are approximately 175,000 acres of rangeland and pastureland in the County.¹

Agriculture in Contra Costa County is worth approximately \$128.5 million (farm production) in 2015 and is an important economic sector. The value of agricultural production has risen in recent years.² However, some worry that Contra Costa's agricultural industry may approach a tipping point beyond which agriculture becomes less viable due to a lack of labor, suppliers, and processors located nearby.³

The pressure on agricultural land also extends to wildlife and riparian areas. In some cases, conversion of these lands through development disrupts an ecosystem that used to depend on the now developed land as a travel route, or a seasonal or permanent source of food and water.

The County and some cities are active in efforts to preserve agricultural and open space lands. For example, in the 1970s, the County created a County Agricultural Core to the east and south of Brentwood. The City of Brentwood has an agricultural mitigation program that collected more than \$12 million in

¹ 2015 Crop and Livestock Report, Contra Costa County Agricultural Commissioner

² 2008-2015 Crop and Livestock Reports, Contra Costa County Agricultural Commissioner

³ Sustaining our Agricultural Bounty: An Assessment of the Current State of Farming and Ranching in the San Francisco Bay Area – A white paper by the American Farmland Trust, Greenbelt Alliance and Sustainable Agriculture Education (SAGE), January 2011

mitigation fees and through conservation organizations, and acquired the development rights over approximately 1,000 acres of agricultural lands. In 2006, the voters adopted Urban Limit Lines (ULLs) for the County and each municipality, and these actions helped protect undeveloped land outside the ULLs. Furthermore, the County adopted the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (ECCCHCP/NCCP) that protects sensitive habitat for plants and animals in East Contra Costa.

LAFCO embraces its objectives of encouraging orderly growth and development while discouraging urban sprawl, efficiently extending government services, and preserving open space and prime agricultural lands. Through the review and approval or denial process of boundary changes and other applications, LAFCO has considerable authority to provide for the preservation of open space and agricultural land, and impose terms and conditions. (§§56885 -56890).

While LAFCO has authority to achieve the objectives of the CKH Act, there are things that LAFCO cannot do, for example, directly regulate land use.⁴ Therefore, successful preservation of prime agricultural, agricultural and open space lands and of agriculture as a business requires that both applicants and other agencies also lead. At the end of this policy are observations about other opportunities facing residents, advocacy organizations, and governmental agencies that could also strengthen and preserve agriculture and open space lands.

AUTHORITY OF LAFCO

LAFCO's authority derives from the CKH Act. Among the purposes of LAFCO are to encourage planned, orderly, and efficient urban development while at the same time giving appropriate consideration to the preservation of prime agricultural, agricultural and open space lands (§56300). The CKH Act includes provisions that grant LAFCO the authority to consider and provide for the preservation of open space and agricultural lands. Among these provisions is §56377 which describes the intent of the legislation with regard to agricultural lands:

“56377. In reviewing and approving or disapproving proposals which could reasonably be expected to induce, facilitate, or lead to the conversion of existing open space lands to uses other than open space uses, the commission shall consider all of the following policies and priorities:

- (a) Development or use of land for other than open space uses shall be guided away from existing prime agricultural lands in open space use toward areas containing non-prime agricultural lands, unless that action would not promote the planned, orderly, efficient development of an area.
- (b) Development of existing vacant or non-prime agricultural lands for urban uses within the existing jurisdiction of a local agency or within the SOI of a local agency should be encouraged before any proposal is approved that would allow for or lead to the development of existing open space lands for non-open space uses that are outside of the existing jurisdiction of the local agency or outside of the existing SOI of the local agency.”

LAFCO is specifically charged in some instances with protecting open space and agricultural land. For example, an island annexation may not be approved if the island consists of prime agricultural land [§56375.3(b)(5)]. LAFCO may not approve a change to an SOI where the affected territory is subject to a Williamson Act contract or farmland security zone unless certain conditions exist (§§56426 and 56426.5).

⁴ “A commission shall not impose any conditions that would directly regulate land use density or intensity, property development, or subdivision requirements” [§§56375(6), 56886].

When making a decision, LAFCO must consider whether an application and its effects conform to both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities in Sections 56377 and 56668(d). Finally, LAFCO must consider the effect of an application on maintaining the physical and economic integrity of agricultural lands [§56668 (e)].

An application for a change of organization, reorganization, the establishment of or change to a sphere of influence (SOI), the extension of extraterritorial services, and other LAFCO actions as contained in the CKH Act will be evaluated in accordance with LAFCO's adopted Agricultural and Open Space Preservation Policy.

PURPOSE OF THE POLICY

The purpose of this policy is threefold: 1) to provide guidance to the applicant on how to assess the impacts on prime agricultural, agricultural and open space lands of applications submitted to LAFCO, and enable the applicant to explain how the applicant intends to mitigate those impacts; 2) to provide a framework for LAFCO to evaluate and process in a consistent manner, applications before LAFCO that involve or impact prime agricultural, agricultural and/or open space lands; and 3) to explain to the public how LAFCO will evaluate and assess applications that affect prime agricultural, agricultural and/or open space lands.

DEFINITIONS

Several terms are important in understanding LAFCO's responsibility and authority to preserve prime agricultural, agricultural and open space lands. These terms and definitions are found below and are applicable throughout these policies. The CKH Act contains the following definitions for agricultural land, prime agricultural land and open space:

56016. "Agricultural lands" means land currently used for the purpose of producing an agricultural commodity for commercial purposes, land left fallow under a crop rotational program, or land enrolled in an agricultural subsidy or set-aside program.

56064. "Prime agricultural land" means an area of land, whether a single parcel or contiguous parcels, that has not been developed for a use other than an agricultural use and that meets any of the following qualifications:

- (a) Land that qualifies, if irrigated, for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not land is actually irrigated, provided that irrigation is feasible.
- (b) Land that qualifies for rating 80 through 100 Storie Index Rating.
- (c) Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Range and Pasture Handbook, Revision 1, December 2003.
- (d) Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre.
- (e) Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four hundred dollars (\$400) per acre for three of the previous five calendar years.

56059. "Open space" means any parcel or area of land or water which is substantially unimproved and devoted to an open-space use, as defined in Section 65560.

65560. (a) "Local open-space plan" is the open-space element of a county or city general plan adopted by the board or council, either as the local open-space plan or as the interim local open-space plan adopted pursuant to Section 65563.

(b) "Open-space land" is any parcel or area of land or water that is essentially unimproved and devoted to an open-space use as defined in this section, and that is designated on a local, regional, or state open-space plan as any of the following:

(1) Open space for the preservation of natural resources including, but not limited to, areas required for the preservation of plant and animal life, including habitat for fish and wildlife species; areas required for ecologic and other scientific study purposes; rivers, streams, bays, and estuaries; and coastal beaches, lakeshores, banks of rivers and streams, greenways, as defined in Section 816.52 of the Civil Code, and watershed lands.

(2) Open space used for the managed production of resources, including, but not limited to, forest lands, rangeland, agricultural lands, and areas of economic importance for the production of food or fiber; areas required for recharge of groundwater basins; bays, estuaries, marshes, rivers, and streams that are important for the management of commercial fisheries; and areas containing major mineral deposits, including those in short supply.

(3) Open space for outdoor recreation, including, but not limited to, areas of outstanding scenic, historic, and cultural value; areas particularly suited for park and recreation purposes, including access to lakeshores, beaches, and rivers and streams; and areas that serve as links between major recreation and open-space reservations, including utility easements, banks of rivers and streams, trails, greenways, and scenic highway corridors.

(4) Open space for public health and safety, including, but not limited to, areas that require special management or regulation because of hazardous or special conditions such as earthquake fault zones, unstable soil areas, flood plains, watersheds, areas presenting high fire risks, areas required for the protection of water quality and water reservoirs, and areas required for the protection and enhancement of air quality.

(5) Open space in support of the mission of military installations that comprises areas adjacent to military installations, military training routes, and underlying restricted airspace that can provide additional buffer zones to military activities and complement the resource values of the military lands.

(6) Open space for the protection of places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code (i.e., Native American Historical, Cultural and Sacred Sites).

GOALS, POLICIES AND GUIDELINES

The following Goals, Policies, and Guidelines are consistent with the legislative direction provided in the CKH Act. The Goals are intended to be the outcome LAFCO wants to achieve. The Policies provide direction with regard to how those Goals should be achieved by providing specific guidance for decision makers and proponents. Guidelines give stakeholders procedures and practical tips regarding what information LAFCO commissioners and staff need to evaluate an application that affects prime agricultural, agricultural and/or open space lands.

GOALS

Agriculture and open space are vital and essential to Contra Costa County's economy and environment. Accordingly, boundary changes for urban development should be proposed, evaluated, and approved in a manner that is consistent with the continuing growth and vitality of agriculture within the county. Open space lands provide the region with invaluable public benefits for all who visit, live and work in Contra Costa County. The following goals will help guide LAFCO's decisions regarding prime agricultural, agricultural and open space lands.

Goal 1. Minimize the conversion of prime agricultural land and open space land to other land uses while balancing the need to ensure orderly growth and development and the efficient provision of services.⁵

Goal 2. Encourage cities, the county, special districts, property owners and other stakeholders to work together to preserve prime agricultural, agricultural and open space lands.

Goal 3. Incorporate agricultural and open space land preservation into long range planning consistent with principles of smart growth at the state, county, and municipal levels.

Goal 4. Strengthen and support the agricultural sector of the economy.

Goal 5. Fully consider the impacts an application will have on existing prime agricultural, agricultural and open space lands.

Goal 6. Preserve areas that sustain agriculture in Contra Costa County.

POLICIES

It is the policy of Contra Costa LAFCO that, consistent with the CKH Act, an application for a change in organization, reorganization, for the establishment of or change to an SOI, the extension of extraterritorial services, and other LAFCO actions as contained in the CKH Act (“applications”), shall provide for planned, well-ordered, efficient urban development patterns with appropriate consideration to preserving open space, agricultural and prime agricultural lands within those patterns. LAFCO’s Agricultural and Open Space Preservation Policy provides for a mitigation hierarchy which 1) encourages avoidance of impacts to prime agricultural, agricultural and open space lands, 2) minimizes impacts to these lands, and 3) mitigates impacts that cannot be avoided while pursuing orderly growth and development.

The following policies support the goals stated above and will be used by Contra Costa LAFCO when considering an application that involves prime agricultural, agricultural and/or open space lands:

Policy 1. The Commission encourages local agencies to adopt policies that result in efficient, coterminous and logical growth patterns within their General Plan, Specific Plans and SOI areas, and that encourage preservation of prime agricultural, agricultural and open space lands in a manner that is consistent with LAFCO’s policy.

Policy 2. Vacant land within urban areas should be developed before prime agricultural, agricultural and/or open space land is annexed for non-agricultural and non-open space purposes.⁶

Policy 3. Land substantially surrounded by existing jurisdictional boundaries (e.g., islands) should be annexed before other lands.

Policy 4. Where feasible, and consistent with LAFCO policies, non-prime agricultural land should be annexed before prime agricultural land.

⁵ *In minimizing the conversion of open space land, the Commission may give lower priority to rangeland per 65560.b.2.*

⁶ *The Commission recognizes there may be instances in which vacant land is planned to be used in a manner that is important to the orderly and efficient long-term development of the county and land use agency and that differs from the proposed use of the area in an application to LAFCO. LAFCO will consider such situations on a case-by-case basis.*

Policy 5. While annexation of prime agricultural lands, agricultural lands and open space lands is not prohibited, in general, urban development should be discouraged in these areas. For example, agricultural land should not be annexed for non-agricultural or non-open space purposes when feasible alternatives exist that allow for orderly and efficient growth. Large lot rural development that places pressure on a jurisdiction to provide services, and causes agricultural areas to be infeasible for farming or agricultural business, is discouraged.

Policy 6. The continued productivity and sustainability of agricultural land surrounding existing communities should be promoted by preventing the premature conversion of agricultural land to other uses and, to the extent feasible, minimizing conflicts between agricultural and other land uses. Buffers and/or local right to farm ordinances should be established to promote this policy. Contra Costa County has a Right to Farm ordinance which requires notification of purchases and users of property adjacent to or near agricultural operations of the inherent potential problems associated with such purchase or residential use.

Policy 7. Development near agricultural land should minimize adverse impacts to agricultural operations.

Policy 8. Development near open space should minimize adverse impacts to open space uses.

Policy 9. The Commission will consider feasible mitigation (found in the following guidelines) if an application would result in the loss of prime agricultural, agricultural and/or open space lands.

Policy 10. Any mitigations that are conditions of LAFCO's approval of an application should occur close to the location of the impact and within Contra Costa County.

GUIDELINES

These Guidelines are intended to provide further direction regarding the application of LAFCO's Goals and Policies; to advise and assist the public, agencies, property owners, farmers, ranchers and other stakeholders with regard to LAFCO's expectations in reviewing an application that involves prime agricultural, agricultural and/or open space lands; and to provide sample mitigation measures.

Guideline 1. Applications submitted to LAFCO involving prime agricultural, agricultural and/or open space lands shall include an Agricultural and Open Space Impact Assessment. At a minimum the following shall be addressed as part of the assessment:

- a. An application must discuss how it balances the State's interest in preserving prime agricultural and/or open space lands against the need for orderly development (§56001).
- b. An application must discuss its effect on maintaining the physical and economic integrity of agricultural lands [§56668 (e)].
- c. An application must discuss whether it could reasonably be expected to induce, facilitate, or lead to the conversion of existing open space land to uses other than open space uses (§56377).
- d. An application must describe whether, and if so, how it guides development away from prime agricultural, agricultural and/or open space lands.
- e. An application must describe whether, and if so, how it facilitates development of existing vacant or non-agricultural and/or non-open space lands for urban uses within the existing boundary or SOI of a local agency.

- f. An application must discuss what measures it contains that will preserve the physical and economic integrity of adjacent prime agricultural, agricultural and/or open space land uses.

Guideline 2. If an application involves a loss of prime agricultural, agricultural and/or open space lands, property owners, cities and towns, the county, special districts, and other agricultural and open space conservation agencies should work together as early in the process as possible to either modify the application to avoid impacts or to adequately mitigate the impacts.

Guideline 3. The following factors should be considered for an annexation of prime agricultural, agricultural and/or open space lands:

- a. The applicant should reference and include a land use inventory that indicates the amount of available land within the subject jurisdiction for the proposed land use. The land use inventory may be one that has been prepared by the applicable land use agency.
- b. The applicant should provide an evaluation of the effectiveness of measures proposed by the applicant to mitigate the loss of prime agricultural, agricultural and/or open space lands, and to preserve adjoining lands for prime agricultural, agricultural and/or open space use to prevent their premature conversion to other uses. Examples of such measures include, but are not limited to:
 1. Acquisition or dedication of prime agricultural and agricultural land (e.g., substitution ratio of at least 1:1 for the prime agricultural land annexed), development rights, bringing qualified land into an open space plan, open space and agricultural conservation easements to permanently protect adjacent or other prime agricultural, agricultural and/or open space lands within the county. Any land previously protected should not be used as the mitigation for any other project.
 2. Participation in other local development programs that direct development towards urban areas in the county (such as transfer or purchase of development credits).
 3. Payment to local government agencies and/or recognized non-profit organizations working in Contra Costa County for the purpose of preserving prime agricultural, agricultural and/or open space lands; payment should be sufficient to fully fund the acquisition, dedication, restoration and maintenance of land which is of equal or better quality.
 4. Establishment of buffers of at least 300 feet to protect adjacent prime agricultural, agricultural and/or open space lands from the effects of development. Such buffers may be permanent, temporary, or rolling, and may take many forms (e.g., easements, dedications, appropriate zoning, streets, parks, etc.).
 5. Where applicable, compliance with the provisions of the ECCCHCP/NCCP or a similar plan enacted by the County, cities or another regional, state or federal permitting agency.
 6. Other measures agreed to by the applicant and the land use jurisdiction that meet the intent of replacing prime agricultural and agricultural lands at a minimum 1:1 ratio.
 7. Participation in an advanced mitigation plan for prime agricultural, agricultural and/or open space lands.
 8. Participation in measures to promote and/or enhance the viability of prime agricultural and agricultural lands and the agricultural industry in Contra Costa County.

Guideline 4. Detachment of prime agricultural, agricultural and/or open space lands should be encouraged if consistent with the SOI for that agency.

Guideline 5. Annexation for land uses in conflict with an existing agricultural preserve contract shall be prohibited, unless the Commission finds that it meets all the following criteria:

- a. The area is within the annexing agency's SOI.
- b. The Commission makes findings required by Gov. Code Section 56856.5.
- c. The parcel is included in an approved city specific plan.
- d. The soil is not categorized as prime agricultural land.
- e. Mitigation for the loss of agricultural land has been secured in the form of agricultural easements to the satisfaction of the annexing agency and the county.
- f. There is a pending, or approved, cancellation for the property that has been reviewed by the local jurisdictions and the Department of Conservation.
- g. The Williamson Act contract on the property has been non-renewed and final approval of the non-renewal has been granted.

Guideline 6. Property owners of prime agricultural and agricultural lands adjacent to land that is the subject of a LAFCO application shall be notified when an application is submitted to LAFCO.

Guideline 7. Regarding the timing and fulfillment of mitigation, if the mitigation measure is not in place prior to LAFCO's approval, the responsible entity (e.g., government agency, recognized non-profit organization) should provide LAFCO with information as to how the entity will ensure that the mitigation is provided at the appropriate time. Following LAFCO's approval, the responsible entity should provide LAFCO with an annual update on the status of agricultural mitigation fulfillment until the mitigation commitment is fulfilled.

OBSERVATIONS

LAFCO identified other actions that are not within its purview but that if followed could reduce the impacts of new development on prime agricultural, agricultural, and open space lands. These are provided here so that applicants, other governmental agencies, advocacy organizations, and the public might consider them.

Observation 1. LAFCO will evaluate all applications that are submitted and complete. However, LAFCO notes that over a period the impact of new applications is likely to be reduced if applicants adopt a hierarchy that gives preference to those projects that have no impacts on prime agricultural, agricultural and/or open space lands, followed by those that minimize impacts, and lastly those that require mitigation of their impacts.

Observation 2. Undeveloped prime agricultural, agricultural and open space lands exist primarily in east Contra Costa County, as does much of the remaining open space; however, most of the historical conversion of this land occurred elsewhere in the county. In order to preserve the remaining land, a countywide effort involving funding may be appropriate.

Observation 3. Any jurisdiction that contains prime agricultural, agricultural and/or open space land can periodically review whether its land use and other regulations strike the proper balance between discouraging development and conversion of prime agricultural, agricultural and open space lands with encouraging economically viable agriculture-based businesses that will keep agriculture production high.

Sept 7, 2016

4.1 DRAFT AGRICULTURAL AND OPEN SPACE PRESERVATION POLICY – VERSION 1

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PREFACE

LAFCO's enabling and guiding legislation, the Cortese Knox Hertzberg (CKH) Act, begins with the following statement.

“The Legislature finds and declares that it is the policy of the state to encourage orderly growth and development which are essential to the social, fiscal, and economic well-being of the state. The Legislature recognizes that the logical formation and determination of local agency boundaries is an important factor in promoting orderly development and in balancing that development with sometimes competing state interests of discouraging urban sprawl, preserving open-space and prime agricultural lands, and efficiently extending government services.” (§56001)

Beginning in the late 1800s, farmers and ranchers made Contra Costa County an important source of agricultural products. Much of the County has good soils, a mild climate, and adequate water. Western and central Contra Costa ~~was~~ used for agriculture well into the twentieth century. John Muir farmed and ranched approximately 2,600 acres in what is now Martinez, Concord, and the Alhambra Valley. While the County's population was increasing, by current standards, the County's population was small. The 1910 census recorded 31,764 residents, less than the 2015 population of Pleasant Hill.

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Agriculture in Contra Costa County is worth approximately \$128.5 million (farm production) in 2015 and is an important economic sector. The value of agricultural production has risen in recent years.² However, some worry that Contra Costa's agricultural industry may approach a tipping point beyond which agriculture becomes less viable due to a lack of labor, suppliers, and processors located nearby.³

The pressure on agricultural land also extends to wildlife and riparian areas. In some cases, conversion of these lands through development disrupts an ecosystem that used to depend on the now developed land as a travel route, or a seasonal or permanent source of food and water.

The County and some cities are active in efforts to preserve agricultural and open space lands. For example, in the 1970s, the County created a County Agricultural Core to the east and south of Brentwood.

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The City of Brentwood has an agricultural mitigation program that collected more than \$12 million in mitigation fees and through conservation organizations, and acquired the development rights over approximately 1,000 acres of agricultural lands. In 2006, the voters adopted Urban Limit Lines (ULLs) for the County and each municipality, and these actions helped protect undeveloped land outside the ULLs. Furthermore, the County adopted the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (ECCCCHCP/NCCP) that protects sensitive habitat for plants and animals in East Contra Costa.

LAFCO embraces its objectives of encouraging orderly growth and development while discouraging urban sprawl, efficiently extending government services, and preserving open space and prime agricultural lands. Through the review and approval or denial process of boundary changes and other applications, LAFCO has considerable authority to provide for the preservation of open space and agricultural land, and impose terms and conditions. (§§56885 -56890).

While LAFCO has authority to achieve the objectives of the CKH Act, there are things that LAFCO cannot do, for example, directly regulate land use.⁴ Therefore, successful preservation of prime agricultural, agricultural and open space lands and of agriculture as a business requires that both applicants and other agencies also lead. At the end of this policy are observations about other opportunities facing residents, advocacy organizations, and governmental agencies that could also strengthen and preserve agriculture and open space lands.

AUTHORITY OF LAFCO

LAFCO's authority derives from the CKH Act. Among the purposes of LAFCO are to encourage planned, orderly, and efficient urban development while at the same time giving appropriate consideration to the preservation of prime agricultural, agricultural and open space lands discouraging urban sprawl and preserving open space and agricultural lands (§56300). The CKH Act includes provisions that grant LAFCO the authority to consider and provide for the preservation of open space and agricultural lands. Among these provisions is §56377 which describes the intent of the legislation with regard to agricultural lands:

“56377. In reviewing and approving or disapproving proposals which could reasonably be expected to induce, facilitate, or lead to the conversion of existing open space lands to uses other than open space uses, the commission shall consider all of the following policies and priorities:

- (a) Development or use of land for other than open space uses shall be guided away from existing prime agricultural lands in open space use toward areas containing non-prime agricultural lands, unless that action would not promote the planned, orderly, efficient development of an area.
- (b) Development of existing vacant or non-prime agricultural lands for urban uses within the existing jurisdiction of a local agency or within the SOI of a local agency should be encouraged before any proposal is approved that would allow for or lead to the development of existing open space lands for non-open space uses that are outside of the existing jurisdiction of the local agency or outside of the existing SOI of the local agency.”

LAFCO is specifically charged in some instances with protecting open space and agricultural land. For example, an island annexation may not be approved if the island consists of prime agricultural land [§56375.3(b)(5)]. LAFCO may not approve a change to an SOI where the affected territory is subject to a Williamson Act contract or farmland security zone unless certain conditions exist (§§56426 and 56426.5).

⁴ “A commission shall not impose any conditions that would directly regulate land use density or intensity, property development, or subdivision requirements” [§§56375(6), 56886].

~~Contra Costa LAFCO encourages planned, orderly, and efficient urban development while at the same time giving appropriate consideration to the preservation of prime agricultural, agricultural and open space lands (§56300).~~

When making a decision, LAFCO must consider whether an application and its effects conform to both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities in Sections 56377 and 56668(d). Finally, LAFCO must consider the effect of an application on maintaining the physical and economic integrity of agricultural lands [§56668 (e)].

An application for a change of organization, reorganization, the establishment of or change to a sphere of influence (SOI), the extension of extraterritorial services, and other LAFCO actions as contained in the CKH Act will be evaluated in accordance with LAFCO's adopted [Agricultural and Open Space policy on the Preservation Policy of Open Space and Agricultural Land](#).

PURPOSE OF THE POLICY

The purpose of this policy is threefold: 1) to provide guidance to the applicant on how to assess the impacts on prime agricultural, agricultural and open space lands of applications submitted to LAFCO, and [enable the applicant](#) to explain how the applicant intends to mitigate those impacts; 2) to provide a framework for LAFCO to evaluate and process in a consistent manner, applications before LAFCO that involve or impact prime agricultural, agricultural and/or open space lands; and 3) to explain to the public how LAFCO will evaluate and assess applications that affect prime agricultural, agricultural and/or open space lands.

DEFINITIONS

Several terms are important in understanding LAFCO's responsibility and authority to preserve prime agricultural, agricultural and open space lands. These terms and definitions are found below and are applicable throughout these policies. The CKH Act contains the following definitions for agricultural land, prime agricultural land and open space:

56016. "Agricultural lands" means land currently used for the purpose of producing an agricultural commodity for commercial purposes, land left fallow under a crop rotational program, or land enrolled in an agricultural subsidy or set-aside program.

56064. "Prime agricultural land" means an area of land, whether a single parcel or contiguous parcels, that has not been developed for a use other than an agricultural use and that meets any of the following qualifications:

- (a) Land that qualifies, if irrigated, for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not land is actually irrigated, provided that irrigation is feasible.
- (b) Land that qualifies for rating 80 through 100 Storie Index Rating.
- (c) Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Range and Pasture Handbook, Revision 1, December 2003.
- (d) Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre.

(e) Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four hundred dollars (\$400) per acre for three of the previous five calendar years.

56059. "Open space" means any parcel or area of land or water which is substantially unimproved and devoted to an open-space use, as defined in Section 65560.

65560. (a) "Local open-space plan" is the open-space element of a county or city general plan adopted by the board or council, either as the local open-space plan or as the interim local open-space plan adopted pursuant to Section 65563.

(b) "Open-space land" is any parcel or area of land or water that is essentially unimproved and devoted to an open-space use as defined in this section, and that is designated on a local, regional, or state open-space plan as any of the following:

(1) Open space for the preservation of natural resources including, but not limited to, areas required for the preservation of plant and animal life, including habitat for fish and wildlife species; areas required for ecologic and other scientific study purposes; rivers, streams, bays, and estuaries; and coastal beaches, lakeshores, banks of rivers and streams, greenways, as defined in Section 816.52 of the Civil Code, and watershed lands.

(2) Open space used for the managed production of resources, including, but not limited to, forest lands, rangeland, agricultural lands, and areas of economic importance for the production of food or fiber; areas required for recharge of groundwater basins; bays, estuaries, marshes, rivers, and streams that are important for the management of commercial fisheries; and areas containing major mineral deposits, including those in short supply.

(3) Open space for outdoor recreation, including, but not limited to, areas of outstanding scenic, historic, and cultural value; areas particularly suited for park and recreation purposes, including access to lakeshores, beaches, and rivers and streams; and areas that serve as links between major recreation and open-space reservations, including utility easements, banks of rivers and streams, trails, greenways, and scenic highway corridors.

(4) Open space for public health and safety, including, but not limited to, areas that require special management or regulation because of hazardous or special conditions such as earthquake fault zones, unstable soil areas, flood plains, watersheds, areas presenting high fire risks, areas required for the protection of water quality and water reservoirs, and areas required for the protection and enhancement of air quality.

(5) Open space in support of the mission of military installations that comprises areas adjacent to military installations, military training routes, and underlying restricted airspace that can provide additional buffer zones to military activities and complement the resource values of the military lands.

(6) Open space for the protection of places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code (i.e., Native American Historical, Cultural and Sacred Sites).

GOALS, POLICIES AND GUIDELINES

The following Goals, Policies, and Guidelines are consistent with the legislative direction provided in the CKH Act. The Goals are intended to be the outcome LAFCO wants to achieve. The Policies provide direction with regard to how those Goals should be achieved by providing specific guidance for decision makers and proponents. Guidelines give stakeholders procedures and practical tips regarding what information LAFCO commissioners and staff need to evaluate an application that affects prime agricultural, agricultural and/or open space lands.

GOALS

Agriculture and open space are vital and essential to Contra Costa County's economy and environment. Accordingly, boundary changes for urban development should be proposed, evaluated, and approved in a manner that is consistent with the continuing growth and vitality of agriculture within the county. Open space lands provide the region with invaluable public benefits for all who visit, live and work in Contra

Costa County. The following goals will help guide LAFCO's decisions regarding prime agricultural, agricultural and open space lands.

Goal 1. Minimize the conversion of prime agricultural land [and open space land](#) to other land uses while balancing the need to ensure orderly growth and development and the efficient provision of services.⁵

Goal 2. Encourage cities, the county, special districts, property owners and other stakeholders to work together to preserve prime agricultural, agricultural and open space lands.

Goal 3. Incorporate agricultural [and open space](#) land preservation into long range planning consistent with principles of smart growth at the state, county, and municipal levels.

Goal 4. Strengthen and support the agricultural sector of the economy.

Goal 5. Fully consider the impacts an application will have on existing prime agricultural, agricultural and open space lands.

Goal 6. Preserve areas that sustain agriculture in Contra Costa County.

POLICIES

It is the policy of Contra Costa LAFCO that, consistent with the CKH Act, an application for a change in organization, reorganization, for the establishment of or change to an SOI, the extension of extraterritorial services, and other LAFCO actions as contained in the CKH Act ("applications"), shall provide for planned, well-ordered, efficient urban development patterns with appropriate consideration to preserving open space, agricultural and prime agricultural lands within those patterns. LAFCO's Agricultural and Open Space Preservation Policy provides for a mitigation hierarchy which 1) encourages avoidance of impacts to prime agricultural, agricultural and open space lands, 2) minimizes impacts to these lands, and 3) mitigates impacts that cannot be avoided while pursuing orderly growth and development.

The following policies support the goals stated above and will be used by Contra Costa LAFCO when considering an application that involves prime agricultural, agricultural and/or open space lands:

Policy 1. The Commission encourages local agencies to adopt policies that result in efficient, coterminous and logical growth patterns within their General Plan, Specific Plans and SOI areas, and that encourage preservation of prime agricultural, agricultural and open space lands in a manner that is consistent with LAFCO's policy.

Policy 2. Vacant land within urban areas should be developed before prime agricultural, agricultural and/or open space land is annexed for non-agricultural and non-open space purposes.⁶

Policy 3. Land substantially surrounded by existing jurisdictional boundaries (e.g., islands) should be annexed before other lands.

⁵ In minimizing the conversion of open space land, the Commission may give lower priority to rangeland per 65560.b.2.

⁶ The Commission recognizes there may be instances in which vacant land is planned to be used in a manner that is important to the orderly and efficient long-term development of the county and land-use agency and [that differs from the proposed use of the area in an application to LAFCO](#). LAFCO will consider such situations on a case-by-case basis.

Policy 4. Where feasible, and consistent with LAFCO policies, non-prime agricultural land should be annexed before prime agricultural land.

Policy 5. While annexation of prime agricultural lands, agricultural lands and open space lands is not prohibited. In general, urban development should be discouraged in these areas ~~agricultural areas~~. For example, agricultural land should not be annexed for non-agricultural or non-open space purposes when feasible alternatives exist that allow for orderly and efficient growth. Large lot rural development that places pressure on a jurisdiction to provide services, and causes agricultural areas to be infeasible for farming or agricultural business, is discouraged.

Policy 6. The continued productivity and sustainability of agricultural land surrounding existing communities should be promoted by preventing the premature conversion of agricultural land to other uses and, to the extent feasible, minimizing conflicts between agricultural and other land uses. Buffers and/or local right to farm ordinances should be established to promote this policy. Contra Costa County has a Right to Farm ordinance which requires notification of purchases and users of property adjacent to or near agricultural operations of the inherent potential problems associates with such purchase or residential use.

Policy 7. Development near agricultural land should minimize adverse impacts to agricultural operations.

Policy 8. Development near open space should minimize adverse impacts to open space uses.

Policy 9. The Commission will consider feasible mitigation (found in the following guidelines) if an application would result in the loss of prime agricultural, agricultural and/or open space lands.

Policy 10. Any mitigations that are conditions of LAFCO's approval of an application should occur close to the location of the impact and within Contra Costa County.

GUIDELINES

These Guidelines are intended to provide further direction regarding the application of LAFCO's Goals and Policies; to advise and assist the public, agencies, property owners, farmers, ranchers and other stakeholders with regard to LAFCO's expectations in reviewing an application that involves prime agricultural, agricultural and/or open space lands; and to provide sample mitigation measures ~~to address such lands~~.

Guideline 1. Applications submitted to LAFCO involving prime agricultural, agricultural and/or open space lands shall include an Agricultural and Open Space Impact Assessment. At a minimum the following shall be addressed as part of the assessment:

- a. An application must discuss how it balances the State's interest in preserving prime agricultural, ~~agricultural~~ and/or open space lands against the need for orderly development (§56001).
- b. An application must discuss its effect on maintaining the physical and economic integrity of agricultural lands [§56668 (e)].
- c. An application must discuss whether it could reasonably be expected to induce, facilitate, or lead to the conversion of existing open space land to uses other than open space uses (§56377).
- d. An application must describe whether, and if so, how it guides development away from prime agricultural, agricultural and/or open space lands.

- e. An application must describe whether, and if so, how it facilitates development of existing vacant or non-agricultural and/or non-open space lands for urban uses within the existing boundary or SOI of a local agency.
- f. An application must discuss what measures it contains that will preserve the physical and economic integrity of adjacent prime agricultural, agricultural and/or open space land uses.

Guideline 2. If an application involves a loss of prime agricultural, agricultural and/or open space lands, property owners, cities and towns, the county, special districts, and other agricultural and open space conservation agencies should work together as early in the process as possible to either modify the application to avoid impacts or to adequately mitigate the impacts.

Guideline 3. The following factors should be considered for an annexation of prime agricultural, agricultural and/or open space lands:

- a. The applicant should ~~provide reference and include~~ a land use inventory that indicates the amount of available land within the subject jurisdiction for the proposed land use. The land use inventory may be one that has been prepared by the applicable land use agency.
- b. The applicant should provide an evaluation of the effectiveness of measures proposed by the applicant to mitigate the loss of prime agricultural, agricultural and/or open space lands, and to preserve adjoining lands for prime agricultural, agricultural and/or open space use to prevent their premature conversion to other uses. Examples of such measures include, but are not limited to:
 1. Acquisition or dedication of prime agricultural and agricultural land (e.g., substitution ratio of at least 1:1 for the prime agricultural land annexed), development rights, bringing qualified land into an open space plan, open space and agricultural conservation easements to permanently protect adjacent or other prime agricultural, agricultural and/or open space lands within the county. Any land previously protected should not be used as the mitigation for any other project.
 2. Participation in other local development programs that direct development towards urban areas in the county (such as transfer or purchase of development credits).
 3. Payment to local government agencies and/or recognized non-profit organizations working in Contra Costa County for the purpose of preserving prime agricultural, agricultural and/or open space lands; payment should be sufficient to fully fund the acquisition, dedication, restoration and maintenance of land which is of equal or better quality.
 4. Establishment of buffers of at least 300 feet to protect adjacent prime agricultural, agricultural and/or open space lands from the effects of development. Such buffers may be permanent, temporary, or rolling, and may take many forms (e.g., easements, dedications, appropriate zoning, streets, parks, etc.).
 5. Where applicable, compliance with the provisions of the ECCCHCP/NCCP or a similar plan enacted by the County, cities or another regional, state or federal permitting agency.
 6. Other measures agreed to by the applicant and the land use jurisdiction that meet the intent of replacing prime agricultural and agricultural lands at a minimum 1:1 ratio.
 7. Participation in an advanced mitigation plan for prime agricultural, agricultural and/or open space lands.
 8. Participation in measures to promote and/or enhance the viability of prime agricultural and agricultural lands and the agricultural industry in Contra Costa County.

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Guideline 4. Detachment of prime agricultural, agricultural and/or open space lands should be encouraged if consistent with the SOI for that agency.

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Guideline 5. Annexation for land uses in conflict with an existing agricultural preserve contract shall be prohibited, unless the Commission finds that it meets all the following criteria:

- a. The area is within the annexing agency's SOI.
- b. The Commission makes findings required by Gov. Code Section 56856.5.
- c. The parcel is included in an approved city specific plan.
- d. The soil is not categorized as prime agricultural land.
- e. Mitigation for the loss of agricultural land has been secured in the form of agricultural easements to the satisfaction of the annexing agency and the county.
- f. There is a pending, or approved, cancellation for the property that has been reviewed by the local jurisdictions and the Department of Conservation.
- g. The Williamson Act contract on the property has been non-renewed and final approval of the non-renewal has been granted.

Guideline 6. Property owners of prime agricultural and agricultural lands adjacent to land that is the subject of a LAFCO application shall be notified when an application is submitted to LAFCO.

Guideline 7. Regarding the timing and fulfillment of mitigation, if the mitigation measure is not in place prior to LAFCO's approval, the responsible entity (e.g., government agency, recognized non-profit organization) should provide LAFCO with information as to how the entity will ensure that the mitigation is provided at the appropriate time. Following LAFCO's approval, the responsible entity should provide LAFCO with an annual update on the status of agricultural mitigation fulfillment until the mitigation commitment is fulfilled.

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ADDITIONAL OBSERVATIONS

LAFCO identified other actions that are not within its purview but that if followed could reduce the impacts of new development on prime agricultural, agricultural, and open space lands. These are provided here so that applicants, other governmental agencies, advocacy organizations, and the public might consider them.

Observation 1. LAFCO will evaluate all applications that are submitted and complete. However, LAFCO notes that over a period the impact of new applications is likely to be reduced if applicants adopt a hierarchy that gives preference to those projects that have no impacts on prime agricultural, agricultural and/or open space lands, followed by those that minimize impacts, and lastly those that require mitigation of their impacts.

Observation 2. Undeveloped prime agricultural, agricultural and open space lands exist primarily in east Contra Costa County, as does much of the remaining open space; however, most of the historical conversion of this land occurred elsewhere in the county. In order to preserve the remaining land, a countywide effort involving funding may be appropriate.

Observation 3. Any jurisdiction that contains prime agricultural, agricultural and/or open space land can periodically review whether its land use and other regulations strike the proper balance between

discouraging development and conversion of prime agricultural, agricultural and open space lands with encouraging economically viable agriculture-based businesses that will keep agriculture production high.

[Sept 7, August 10, July 6, 2016](#)

DRAFT

4.1 DRAFT AGRICULTURAL AND OPEN SPACE PRESERVATION POLICY – VERSION 2

PREFACE

LAFCO’s enabling and guiding legislation, the Cortese Knox Hertzberg (CKH) Act, begins with the following statement.

“The Legislature finds and declares that it is the policy of the state to encourage orderly growth and development which are essential to the social, fiscal, and economic well-being of the state. The Legislature recognizes that the logical formation and determination of local agency boundaries is an important factor in promoting orderly development and in balancing that development with sometimes competing state interests of discouraging urban sprawl, preserving open-space and prime agricultural lands, and efficiently extending government services.” (§56001)

Beginning in the late 1800s, farmers and ranchers made Contra Costa County an important source of agricultural products. Much of the County has good soils, a mild climate, and adequate water. Western and central Contra Costa were used for agriculture well into the twentieth century. John Muir farmed and ranched approximately 2,600 acres in what is now Martinez, Concord, and the Alhambra Valley. While the County’s population was increasing, by current standards, the County’s population was small. The 1910 census recorded 31,764 residents, less than the 2015 population of Pleasant Hill.

Development, which began in earnest after World War II, transformed Contra Costa County. As urban and suburban development occurred, Contra Costa County experienced significant reduction in the amount and economic importance of agricultural lands. Simultaneously, critical open space habitat for sensitive species declined. By 2010, the Census reported that Contra Costa had 1,049,025 people, representing 3,300% growth since 1910. Contra Costa County’s 2040 population is forecast to be 1,338,400.

As a result of population and job growth, agricultural land was converted to houses, schools, commercial centers, job centers, and transportation corridors. In 2015, there were about 30,000 acres of active agricultural land in Contra Costa County, excluding rangeland and pastureland, most of it located in the eastern portion of the County. There are approximately 175,000 acres of rangeland and pastureland in the County.¹

Agriculture in Contra Costa County is worth approximately \$128.5 million (farm production) in 2015 and is an important economic sector. The value of agricultural production has risen in recent years.² However, some worry that Contra Costa’s agricultural industry may approach a tipping point beyond which agriculture becomes less viable due to a lack of labor, suppliers, and processors located nearby.³

The pressure on agricultural land also extends to wildlife and riparian areas. In some cases, conversion of these lands through development disrupts an ecosystem that used to depend on the now developed land as a travel route, or a seasonal or permanent source of food and water.

The County and some cities are active in efforts to preserve agricultural and open space lands. For example, in the 1970s, the County created a County Agricultural Core to the east and south of Brentwood.

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The City of Brentwood has an agricultural mitigation program that collected more than \$12 million in mitigation fees and through conservation organizations, and acquired the development rights over approximately 1,000 acres of agricultural lands. In 2006, the voters adopted Urban Limit Lines (ULLs) for the County and each municipality, and these actions helped protect undeveloped land outside the ULLs. Furthermore, the County adopted the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (ECCCHCP/NCCP) that protects sensitive habitat for plants and animals in East Contra Costa.

LAFCO embraces its objectives of encouraging orderly growth and development while discouraging urban sprawl, efficiently extending government services, and preserving open space and prime agricultural lands. Through the review and approval or denial process of boundary changes and other applications, LAFCO has considerable authority to provide for the preservation of open space and agricultural land, and impose terms and conditions. (§§56885 -56890).

While LAFCO has authority to achieve the objectives of the CKH Act, there are things that LAFCO cannot do, for example, directly regulate land use.⁴ Therefore, successful preservation of prime agricultural, agricultural and open space lands and of agriculture as a business requires that both applicants and other agencies also lead. At the end of this policy are observations about other opportunities facing residents, advocacy organizations, and governmental agencies that could also strengthen and preserve agriculture and open space lands.

AUTHORITY OF LAFCO

LAFCO's authority derives from the CKH Act. Among the purposes of LAFCO are to encourage planned, orderly, and efficient urban development while at the same time giving appropriate consideration to the preservation of prime agricultural, agricultural and open space lands (§56300). The CKH Act includes provisions that grant LAFCO the authority to consider and provide for the preservation of open space and agricultural lands. Among these provisions is §56377 which describes the intent of the legislation with regard to agricultural lands:

“56377. In reviewing and approving or disapproving proposals which could reasonably be expected to induce, facilitate, or lead to the conversion of existing open space lands to uses other than open space uses, the commission shall consider all of the following policies and priorities:

(a) Development or use of land for other than open space uses shall be guided away from existing prime agricultural lands in open space use toward areas containing non-prime agricultural lands, unless that action would not promote the planned, orderly, efficient development of an area.

(b) Development of existing vacant or non-prime agricultural lands for urban uses within the existing jurisdiction of a local agency or within the SOI of a local agency should be encouraged before any proposal is approved that would allow for or lead to the development of existing open space lands for non-open space uses that are outside of the existing jurisdiction of the local agency or outside of the existing SOI of the local agency.”

LAFCO is specifically charged in some instances with protecting open space and agricultural land. For example, an island annexation may not be approved if the island consists of prime agricultural land [§56375.3(b)(5)]. LAFCO may not approve a change to an SOI where the affected territory is subject to a Williamson Act contract or farmland security zone unless certain conditions exist (§§56426 and 56426.5).

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When making a decision, LAFCO must consider whether an application and its effects conform to both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities in Sections 56377 and 56668(d). Finally, LAFCO must consider the effect of an application on maintaining the physical and economic integrity of agricultural lands [§56668 (e)].

An application for a change of organization, reorganization, the establishment of or change to a sphere of influence (SOI), the extension of extraterritorial services, and other LAFCO actions as contained in the CKH Act will be evaluated in accordance with LAFCO's adopted Agricultural and Open Space Preservation Policy.

PURPOSE OF THE POLICY

The purpose of this policy is threefold: 1) to provide guidance to the applicant on how to assess the impacts on prime agricultural, agricultural and open space lands of applications submitted to LAFCO, and enable the applicant to explain how the applicant intends to [meet or exceed the mitigation provisions outlined in this policy](#) ~~those impacts~~; 2) to provide a framework for LAFCO to evaluate and process in a consistent manner, applications before LAFCO that involve or impact prime agricultural, agricultural and/or open space lands; and 3) to explain to the public how LAFCO will evaluate and assess applications that affect prime agricultural, agricultural and/or open space lands.

DEFINITIONS

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(b) "Open-space land" is any parcel or area of land or water that is essentially unimproved and devoted to an open-space use as defined in this section, and that is designated on a local, regional, or state open-space plan as any of the following:

(1) Open space for the preservation of natural resources including, but not limited to, areas required for the preservation of plant and animal life, including habitat for fish and wildlife species; areas required for ecologic and other scientific study purposes; rivers, streams, bays, and estuaries; and coastal beaches, lakeshores, banks of rivers and streams, greenways, as defined in Section 816.52 of the Civil Code, and watershed lands.

(2) Open space used for the managed production of resources, including, but not limited to, forest lands, rangeland, agricultural lands, and areas of economic importance for the production of food or fiber; areas required for recharge of groundwater basins; bays, estuaries, marshes, rivers, and streams that are important for the management of commercial fisheries; and areas containing major mineral deposits, including those in short supply.

(3) Open space for outdoor recreation, including, but not limited to, areas of outstanding scenic, historic, and cultural value; areas particularly suited for park and recreation purposes, including access to lakeshores, beaches, and rivers and streams; and areas that serve as links between major recreation and open-space reservations, including utility easements, banks of rivers and streams, trails, greenways, and scenic highway corridors.

(4) Open space for public health and safety, including, but not limited to, areas that require special management or regulation because of hazardous or special conditions such as earthquake fault zones, unstable soil areas, flood plains, watersheds, areas presenting high fire risks, areas required for the protection of water quality and water reservoirs, and areas required for the protection and enhancement of air quality.

(5) Open space in support of the mission of military installations that comprises areas adjacent to military installations, military training routes, and underlying restricted airspace that can provide additional buffer zones to military activities and complement the resource values of the military lands.

(6) Open space for the protection of places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code (i.e., Native American Historical, Cultural and Sacred Sites).

GOALS, POLICIES AND GUIDELINES

The following Goals, Policies, and Guidelines are consistent with the legislative direction provided in the CKH Act. The Goals are intended to be the outcome LAFCO wants to achieve. The Policies provide direction with regard to how those Goals should be achieved by providing specific guidance for decision makers and proponents. Guidelines give stakeholders procedures and practical tips regarding what information LAFCO commissioners and staff need to evaluate an application that affects prime agricultural, agricultural and/or open space lands.

GOALS

Agriculture and open space are vital and essential to Contra Costa County's economy and environment. Accordingly, boundary changes for urban development should be proposed, evaluated, and approved in a manner that is consistent with the continuing growth and vitality of agriculture within the county. Open space lands provide the region with invaluable public benefits for all who visit, live and work in Contra Costa County. The following goals will help guide LAFCO's decisions regarding prime agricultural, agricultural and open space lands.

Goal 1. Minimize the conversion of prime agricultural land and open space land to other land uses while balancing the need to ensure orderly growth and development and the efficient provision of services.⁵

Goal 2. Encourage cities, the county, special districts, property owners and other stakeholders to work together to preserve prime agricultural, agricultural and open space lands.

Goal 3. Incorporate agricultural land [and open space](#) preservation into long range planning consistent with principles of smart growth at the state, county, and municipal levels.

Goal 4. Strengthen and support the agricultural sector of the economy.

Goal 5. Fully consider the impacts an application will have on existing prime agricultural, agricultural and open space lands.

Goal 6. Preserve areas that sustain agriculture in Contra Costa County.

Goal 7. [Mitigate the impacts that will result from a LAFCO approval that will lead to the conversion of prime agricultural, agricultural, and open space lands to at least the degree specified in the Agricultural and Open Space Preservation Policy.](#)

POLICIES

It is the policy of Contra Costa LAFCO that, consistent with the CKH Act, an application for a change in organization, reorganization, for the establishment of or change to an SOI, the extension of extraterritorial services, and other LAFCO actions as contained in the CKH Act (“applications”), shall provide for planned, well-ordered, efficient urban development patterns with appropriate consideration to preserving open space, agricultural and prime agricultural lands within those patterns. LAFCO’s Agricultural and Open Space Preservation Policy provides for a mitigation hierarchy which 1) encourages avoidance of impacts to prime agricultural, agricultural and open space lands, 2) minimizes impacts to these lands, and 3) mitigates impacts that cannot be avoided while pursuing orderly growth and development.

The following policies support the goals stated above and will be used by Contra Costa LAFCO when considering an application that involves prime agricultural, agricultural and/or open space lands:

Policy 1. The Commission encourages local agencies to adopt policies that result in efficient, coterminous and logical growth patterns within their General Plan, Specific Plans and SOI areas, and that encourage preservation of prime agricultural, agricultural and open space lands in a manner that is consistent with LAFCO’s policy.

Policy 2. Vacant land within urban areas should be developed before prime agricultural, agricultural and/or open space land is annexed for non-agricultural and non-open space purposes.⁶

Policy 3. Land substantially surrounded by existing jurisdictional boundaries (e.g., islands) should be annexed before other lands.

⁵ *In minimizing the conversion of open space land, the Commission may give lower priority to rangeland per 65560.b.2.*

⁶ *The Commission recognizes there may be instances in which vacant land is planned to be used in a manner that is important to the orderly and efficient long-term development of the county and land use agency and that differs from the proposed use of the area in an application to LAFCO. LAFCO will consider such situations on a case-by-case basis.*

Policy 4. Where feasible, and consistent with LAFCO policies, non-prime agricultural land should be annexed before prime agricultural land.

Policy 5. While annexation of prime agricultural lands, agricultural lands and open space lands is not prohibited, in general, urban development should be discouraged in these areas. For example, agricultural land should not be annexed for non-agricultural or non-open space purposes when feasible alternatives exist that allow for orderly and efficient growth. Large lot rural development that places pressure on a jurisdiction to provide services, and causes agricultural areas to be infeasible for farming or agricultural business, is discouraged.

Policy 6. The continued productivity and sustainability of agricultural land surrounding existing communities should be promoted by preventing the premature conversion of agricultural land to other uses and, to the extent feasible, minimizing conflicts between agricultural and other land uses. Buffers and/or local right to farm ordinances should be established to promote this policy. Contra Costa County has a Right to Farm ordinance which requires notification of purchases and users of property adjacent to or near agricultural operations of the inherent potential problems associated with such purchase or residential use.

Policy 7. Development near agricultural land should minimize adverse impacts to agricultural operations.

Policy 8. Development near open space should minimize adverse impacts to open space uses.

Policy 9. The Commission will ~~consider feasible~~ require at least minimum mitigations (found in the following guidelines) if an application would result in the loss of prime agricultural, agricultural and/or open space lands.

Policy 10. Any mitigations that are conditions of LAFCO's approval of an application should occur close to the location of the impact and within Contra Costa County.

GUIDELINES

These Guidelines are intended to provide further direction regarding the application of LAFCO's Goals and Policies; to advise and assist the public, agencies, property owners, farmers, ranchers and other stakeholders with regard to LAFCO's expectations in reviewing an application that involves prime agricultural, agricultural and/or open space lands; and to provide sample minimum mitigation measures.

Guideline 1. Applications submitted to LAFCO involving prime agricultural, agricultural and/or open space lands shall include an Agricultural and Open Space Impact Assessment. At a minimum the following shall be addressed as part of the assessment:

- a. An application must discuss how it balances the State's interest in preserving prime agricultural and/or open space lands against the need for orderly development (§56001).
- b. An application must discuss its effect on maintaining the physical and economic integrity of agricultural lands [§56668 (e)].
- c. An application must discuss whether it could reasonably be expected to induce, facilitate, or lead to the conversion of existing open space land to uses other than open space uses (§56377).
- d. An application must describe whether, and if so, how it guides development away from prime agricultural, agricultural and/or open space lands.

- e. An application must describe whether, and if so, how it facilitates development of existing vacant or non-agricultural and/or non-open space lands for urban uses within the existing boundary or SOI of a local agency.
- f. An application must discuss what measures it contains that will preserve the physical and economic integrity of adjacent prime agricultural, agricultural and/or open space land uses.

Guideline 2. If an application involves a loss of prime agricultural, agricultural and/or open space lands, property owners, cities and towns, the county, special districts, and other agricultural and open space conservation agencies should work together as early in the process as possible to either modify the application to avoid impacts or to adequately mitigate the impacts.

Guideline 3. The following factors should be considered for an annexation of prime agricultural, agricultural and/or open space lands:

- a. The applicant should reference and include a land use inventory that indicates the amount of available land within the subject jurisdiction for the proposed land use. The land use inventory may be one that has been prepared by the applicable land use agency.
- b. The applicant should explain how it will meet the minimum mitigation provisions of this policy. These provisions include provide an evaluation of the effectiveness of measures proposed by the applicant to mitigate the loss of prime agricultural, agricultural and/or open space lands, and to preserve adjoining lands for prime agricultural, agricultural and/or open space use to prevent their premature conversion to other uses. Examples of such measures include, but are not limited to:
 - 1. For every acre of prime agricultural, agricultural, and open space land that will be converted to another use as a result of an application before LAFCO, comparable land within Contra Costa County should be protected in the following ratios.
 - (a) Prime agricultural land – [2-3] acres protected for every acre converted
 - (b) Non-prime agricultural land – [1-2] acres protected for every acre converted
 - (c) Open space land – [1-3] acres protected for every acre converted, with rangeland that does not meet another definition of open space land requiring the least protection
 - (d) Land may be protected through acquisition for permanent use as agricultural or open space uses, acquiring development rights that permanently preclude other uses, bringing qualified land into an open space plan, open space and agricultural conservation easements to permanently protect adjacent or other prime agricultural, agricultural and/or open space lands within the county. Any land previously protected should not be used as the mitigation for any other project.
 - (e) Land may be protected directly by the applicant or a fee may be paid to local government agencies and/or recognized non-profit organizations working in Contra Costa County for the purpose of preserving prime agricultural, agricultural and/or open space lands; payment must be sufficient to fully fund the acquisition, dedication, restoration and maintenance of land which is of equal or better quality.
 - 1-2. Applications that propose to convert prime agricultural and agricultural lands to other uses should include provisions to maintain at least a 300’ buffer between the new uses and any adjacent prime agricultural and agricultural lands. Such buffers may be permanent, temporary, or rolling, and may take many forms (e.g., easements, dedications, appropriate zoning, streets, parks, etc.).
 - 2-3. Applications that propose to convert prime agricultural and agricultural lands to other uses and are adjacent to prime agricultural and agricultural lands shall adopt a “Right to Farm” agreement that

shall be included in the title of the land and in any subdivision thereof. Contra Costa County has a Right to Farm ordinance which requires notification of purchases and users of property adjacent to or near agricultural operations of the inherent potential problems associates with such purchase or residential use.

- 3.4. Applications may receive partial or full credit against these requirements for other mitigations included in the application that result in a similar or greater benefit. These credits may, for example, arise from meeting the requirements of local agricultural and open space mitigation policies, complying with the provisions of the ECCCHCP/NCCP or a similar plan enacted by the County, cities or another regional, state or federal permitting agency, or other comparable actions approved by LAFCO.
5. Applications may receive partial or full credit against the requirements listed above for other mitigations proposed by the applicant. To receive any credit, the applicant must provide an evaluation of the effectiveness of measures proposed by the applicant to mitigate the loss of prime agricultural, agricultural and/or open space lands, and to preserve adjoining lands for prime agricultural, agricultural and/or open space use to prevent their premature conversion to other uses. Examples of such measures include, but are not limited to:
 4. Acquisition or dedication of prime agricultural and agricultural land (e.g., substitution ratio of at least 1:1 for the prime agricultural land annexed), development rights, bringing qualified land into an open space plan, open space and agricultural conservation easements to permanently protect adjacent or other prime agricultural, agricultural and/or open space lands within the county. Any land previously protected should not be used as the mitigation for any other project.
 - a. Participation in other local development programs that direct development towards urban areas in the county (such as transfer or purchase of development credits).
 5. Payment to local government agencies and/or recognized non-profit organizations working in Contra Costa County for the purpose of preserving prime agricultural, agricultural and/or open space lands; payment should be sufficient to fully fund the acquisition, dedication, restoration and maintenance of land which is of equal or better quality.
 6. Establishment of buffers of at least 300 feet to protect adjacent prime agricultural, agricultural and/or open space lands from the effects of development. Such buffers may be permanent, temporary, or rolling, and may take many forms (e.g., easements, dedications, appropriate zoning, streets, parks, etc.).
 7. Where applicable, compliance with the provisions of the ECCCHCP/NCCP or a similar plan enacted by the County, cities or another regional, state or federal permitting agency.
 - 8.6. b. Other measures agreed to by the applicant and the land use jurisdiction that meet the intent of replacing prime agricultural and agricultural lands at at the minimum 4:1 ratios listed above.
 - 9.7. c. Participation in an advanced mitigation plan for prime agricultural, agricultural and/or open space lands.
 - 10.8. d. Participation in measures to promote and/or enhance the viability of prime agricultural and agricultural lands and the agricultural industry in Contra Costa County.

Guideline 4. Detachment of prime agricultural, agricultural and/or open space lands should be encouraged if consistent with the SOI for that agency.

Guideline 5. Annexation for land uses in conflict with an existing agricultural preserve contract shall be prohibited, unless the Commission finds that it meets all the following criteria:

- a. The area is within the annexing agency's SOI.
- b. The Commission makes findings required by Gov. Code Section 56856.5.
- c. The parcel is included in an approved city specific plan.
- d. The soil is not categorized as prime agricultural land.
- e. Mitigation for the loss of agricultural land has been secured in the form of agricultural easements to the satisfaction of the annexing agency and the county.
- f. There is a pending, or approved, cancellation for the property that has been reviewed by the local jurisdictions and the Department of Conservation.
- g. The Williamson Act contract on the property has been non-renewed and final approval of the non-renewal has been granted.

Guideline 6. Property owners of prime agricultural and agricultural lands adjacent to land that is the subject of a LAFCO application shall be notified when an application is submitted to LAFCO.

Guideline 7. Regarding the timing and fulfillment of mitigation, if the mitigation measure is not in place prior to LAFCO's approval, the responsible entity (e.g., government agency, recognized non-profit organization) should provide LAFCO with information as to how the entity will ensure that the mitigation is provided at the appropriate time. Following LAFCO's approval, the responsible entity should provide LAFCO with an annual update on the status of agricultural mitigation fulfillment until the mitigation commitment is fulfilled.

OBSERVATIONS

LAFCO identified other actions that are not within its purview but that if followed could reduce the impacts of new development on prime agricultural, agricultural, and open space lands. These are provided here so that applicants, other governmental agencies, advocacy organizations, and the public might consider them.

Observation 1. LAFCO will evaluate all applications that are submitted and complete. However, LAFCO notes that over a period the impact of new applications is likely to be reduced if applicants adopt a hierarchy that gives preference to those projects that have no impacts on prime agricultural, agricultural and/or open space lands, followed by those that minimize impacts, and lastly those that require mitigation of their impacts.

Observation 2. Undeveloped prime agricultural, agricultural and open space lands exist primarily in east Contra Costa County, as does much of the remaining open space; however, most of the historical conversion of this land occurred elsewhere in the county. In order to preserve the remaining land, a countywide effort involving funding may be appropriate.

Observation 3. Any jurisdiction that contains prime agricultural, agricultural and/or open space land can periodically review whether its land use and other regulations strike the proper balance between discouraging development and conversion of prime agricultural, agricultural and open space lands with encouraging economically viable agriculture-based businesses that will keep agriculture production high.

Frequently Asked Questions

Contra Costa Local Agency Formation Commission

Agricultural & Open Space Preservation Policy

The questions and answers below pertain to the Contra Costa Local Agency Formation Commission (LAFCO) and the Commission's Agricultural & Open Space Preservation Policy (AOSPP).

What is a Local Agency Formation Commission (LAFCO)?

LAFCO is an independent regulatory agency that receives its powers directly from the California State Legislature. LAFCO regulates the boundaries of cities and most special districts under its jurisdiction, encourages orderly boundaries, ensures the efficient delivery of services, discourages urban sprawl, and preserves agricultural lands and open space.

What Does LAFCO Do?

LAFCO is responsible for reviewing proposed jurisdictional boundary changes including annexations and detachments to/from cities and special districts, incorporation of new cities, formation of new special districts, and the consolidation, merger, and dissolution of existing special districts. LAFCO is also responsible for reviewing extraterritorial service agreements between local governmental agencies and establishing and reviewing spheres of influence (SOIs) for cities and special districts. LAFCO has authority to approve a proposal, with or without conditions, or deny a proposal.

Who Runs LAFCO?

Contra Costa LAFCO is composed of seven regular commissioners: two members from the County Board of Supervisors; two members who represent cities in the county; two members who represent independent special districts in the county, and one public member. There are also four alternate commissioners, one from each of the above categories. LAFCO staff consists of an Executive Officer, LAFCO Clerk, legal counsel and various support services provided under contracts.

Why Does LAFCO Have an AOSPP?

One of LAFCO's responsibilities is to protect agricultural lands and open space. Agriculture and open space are vital to Contra Costa County and offer environmental, economic, quality of life and other benefits.

Does LAFCO's AOSPP Prioritize the Preservation of Agricultural and Open Space Lands Over Orderly Growth and Development?

No. LAFCO is charged with balancing sometimes competing state interests of orderly development with discouraging urban sprawl, preserving open space and agricultural land, and efficiently extending government services. The AOSPP focuses primarily on the preservation of agricultural and open space lands. Contra Costa LAFCO has a multitude of other policies and procedures that deal with orderly growth and development, the extension of services, and numerous other issues.

What is the Purpose of LAFCO's AOSPP?

The purpose of LAFCO's AOSPP is to 1) provide guidance to an applicant on how to assess the impacts on agricultural and/or open space lands of applications submitted to LAFCO, and to explain

how the applicant intends to mitigate those impacts; 2) provide a framework for LAFCO to evaluate, and process in a consistent manner, applications before LAFCO that involve or impact and/or open space lands; and 3) explain to the public how LAFCO will evaluate and assess applications that affect agricultural and/or open space lands.

What Will I Find in LAFCO's AOSPP?

LAFCO's AOSPP contains Goals, Policies and Guidelines. The *Goals* support the importance of agriculture and open space lands in Contra Costa County, and help guide LAFCO's decisions regarding boundary changes and the preservation of agricultural and open space lands. The *Policies* provide for a mitigation hierarchy which 1) encourages avoidance of impacts to prime agricultural, agricultural and open space lands, 2) minimizes impacts to these lands, and 3) mitigates impacts that cannot be avoided while pursuing orderly growth and development. The *Guidelines* provide further direction regarding the application of LAFCO's Goals and Policies; advise and assist the public, agencies, property owners, farmers, ranchers and other stakeholders with regard to LAFCO's expectations in reviewing an application that involves agricultural and/or open space lands; and provides sample mitigation measures to address such lands. In addition, the AOSPP contains some general observations as "food for thought." Nothing in LAFCO's AOSPP is construed to automatically disqualify an application.

Can LAFCO stop me from selling my agricultural land to a developer?

No. LAFCO has no direct land use authority and has no role in who owns land. LAFCO's AOSPP encourages mitigation that will result from a LAFCO approval that will lead to the conversion of prime agricultural, agricultural, and open space lands to at least the degree specified in the AOSPP.

Can LAFCO's AOSPP force me to put a conservation easement on my property?

No. LAFCO's policy will require that a LAFCO application that will convert agricultural and/or open space land to an urban use mitigate for the loss of land (e.g., paying a fee, purchasing a conservation easement from a willing farmer or rancher, otherwise supporting agriculture business, etc.).

Do agricultural conservation easements allow public access on my land?

Public access may be allowed but is not a required component of an agricultural conservation easement. An agricultural conservation easement is an agreement between a willing farmer or rancher and a land trust. Farmers and ranchers can negotiate various easement terms, including whether to allow public access. Most agricultural conservation easements do not allow public access.

Do agricultural conservation easements restrict the way that farmers can farm?

The property owner and the land trust negotiate the terms of the easements. Current agricultural easements in East Contra Costa County provide farmers with broad discretion in how they farm their land.

LAFCO's AOSPP Requires a Land Use Inventory. Where Can I Find This Information?

LAFCO's AOSPP requests that the applicant reference and include a land use inventory that indicates the amount of available land within the subject jurisdiction *for the proposed land use*. The land use inventory may be one that has been prepared by the applicable land use agency. The County and cities are required to prepare a Housing Element, which includes a "Sites Inventory and Analysis." In

addition, many counties and cities maintain GIS data layers which include an inventory of vacant parcels.

LAFCO Requires an Agricultural and Open Space Impact Assessment as Part of an Application to LAFCO. What if the Applicant Fails to Complete, or Partially Completes the Assessment?

Depending on the nature of the proposal, the application may be deemed incomplete until the needed information is provided. LAFCO staff is available for pre-application meetings and to assist with applications. There is no fee for these services.

What If My Application to LAFCO Will Convert Agricultural or Open Space Land to a Non-Agricultural or Non-Open Space use – Can LAFCO Impose Mitigation Measures?

LAFCO can impose terms and conditions on any proposal, including, but not limited to, those measures identified in the AOSPP.

What if the Application to LAFCO Will Convert Agricultural or Open Space Land to a Non-Agricultural or Non-Open Space use, and the Applicant Has Already Paid an Agricultural Mitigation Fee (e.g., City of Brentwood) and/or Paid into a Comparable Conservation Program (e.g., East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan)? Will LAFCO Take This Into Consideration? Can LAFCO Impose Additional Measures?

Yes. These types of measures are recognized and included among LAFCO's list of sample mitigation measures and LAFCO can consider these as mitigation. Yes, LAFCO can impose additional mitigation measures if it believes that the proposed measures do not adequately mitigate the impacts to agricultural and/or open space lands.

What if Only a Portion of My Project Area Impacts Agricultural or Open Space Land?

LAFCO considers each application on its own merits. When reviewing an application, LAFCO must consider at least 16 different factors, one of which is "the effect of the proposal on maintaining the physical and economic integrity of agricultural lands..." No one factor is determinative. The AOSPP will apply only to the portion of the project area that consists of prime agricultural, agricultural, or open space land.

What if the Project Area is Currently Designated for an Agricultural or Open Space Use (by the County), and the Annexing City has Pre-Zoned the Project Area for a Non-Agricultural or Open Space Use – Can LAFCO Deny the City's Request to Annex the Property?

Yes. LAFCO has broad discretion to approve, with or without conditions, or deny a proposal. The applicability of the AOSPP to a parcel is determined by several factors and zoning is only one of these factors.

What if the Project Area is Currently Designated for an Agricultural or Open Space Use, and is Within a Voter Approved Urban Limit Line – Can LAFCO Deny the Request to Annex the Property?

Yes. LAFCO has broad discretion to approve, with or without conditions, or deny a proposal. LAFCO consider the location of a parcel vis-a-vis urban limit lines and urban growth boundaries as a factor in its deliberations.

**Comments to Draft LAFCO
Agricultural Open Space Preservation Policy
Received On and Since July 13, 2016**

Commenter	Format	Received
Cecchini & Cecchini	Letter	7/13/16
Chad Godoy, Contra Costa County Agricultural Commissioner	Letter	7/13/16
Jeff Wiedemann, Rancher	Email	7/13/16
Save Mt. Diablo Members	Emails	7/13/16
Donna Gerber, Greenbelt Alliance Board Member	Memo	8/17/16
Manatt, Phelps & Phillips, LLC	Letter	8/31/16
Walnut Creek Open Space Foundation	Letter	8/31/16
Jim Blickenstaff, Chair, Mt. Diablo Group/Sierra Club	Email	9/6/16
July and August Support Emails	Emails	7/13 - 8/22/16

Cecchini & Cecchini
PO Box 1150
Discovery Bay, CA 94548
(925) 437-5003

Dear Contra Costa County LAFCO Members,

I am writing this letter in support for a farmland preservation policy only if it has a component to also preserve farmers and not just the land they work on. Land can only be considered "farmland" if there are farmers able to work it. According to the USDA the average age of a farmer in 2013 was 58 and only 5% of those farmers were under 35. Being a farmer is a difficult profession naturally and has become even more difficult with the anti-agtourism and anti-value-added policies that our federal, state & county governments have implemented.

Not all farmers are profitable and many barely make a living. Contra Costa County is highlighted by a minute group of successful farmers, however this part-to-whole analogy cannot and should not be used to show evidence of profitable farmers since this is not a true sample of farmers in the area. The more correct view is that the majority of the farmers in the area are barely making a living.

My farm has had personal hardships ever since our federal government adopted NAFTA, allowing Mexico to import asparagus into our market at below US growers' costs. According to the California Asparagus Commission, after implementation of NAFTA, the acreage in CA declined from 40,000 acres in 2000 to 7,000 acres as of 2016. Cecchini & Cecchini has deteriorated from a 1,200 acre asparagus farm in 2010 to a current all time low of 20 acres in which we are trying to direct market. This trend can be seen across the farming industry just spend 15 minutes on Google to find out.

US consumers will only pay so much for food. Cheaper imports become attractive as US farmers cost rise. These rising costs are due to availability & cost of water, a skilled reliable work force, regulations and fees and the high cost of equipment & land to farm are all issues a farmer faces and will face in the future. Most consumers are not knowledgeable enough to know if their cucumber came from a farm 50 miles away or 1000s of miles away. The modern consumer believes all fruits and all vegetables grow everywhere all year. Educating the consumer is part of the solution and should be considered in the efforts of a "farmer" or farmland preservation plan.

Farmland preservation people please ask yourself this question: Why are you preserving farmland? Is it because you do not want houses built on it or because you hope to have public access to the land? Maybe it is because you feel like you are doing us farmers a favor? Your answer must be parallel to a farmers need otherwise it should no longer be referred to as "farmland preservation plan" and instead possibly "land imprisonment plan."

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How will the farmers continue to be successful? The rigid constraints of current land easements leave much room for future farmers to have the freedom to be able to adapt to new market or crop shifts. For example if a farmer sells an easement in perpetuity then 20 years later a shift occurs in the ag industry and because of the restrictive policies of the past easement the next generation of farmers are now unable to restructure their farm. How will that farmer be supported to keep her farmland? The one time financial gain from a farmland trust has already been used up. The one time financial gain is part of the solution but again it is only part of the solution.

A little history of farming in Contra Costa County: In the late 1800's most of the land was used to grow wheat. In the early part of the 1900's East County became a large fruit growing area with many large packing facilities. In the 1930's Contra Costa island land farmers started growing asparagus. There was about 5,000 acres of asparagus in the county. In the 1940's the Brentwood area began growing celery, lettuce, and then later in the 1970's cabbage. Where did all of these crops go?? In West County near Richmond there used to be many flower and plant growers/business. Today only one currently stands. The point of showing this history is to show how the agriculture industry changes drastically every 10 to 20 years. Will your policies address the need for flexibility and creativity for agriculture enterprise?

The final part of the problem/solution id like to address is meetings and farmer input, not to be confused with participation. There are many groups such as Sustainable Contra Costa County and Contra Costa County Food System Alliances that state a mission to "save agriculture". How many farmers helped to develop their policies? Their members or employees work for organizations that pay them to go to meetings and join groups to get their organization's views heard. Farmer's do not have the ability to go to a meeting in Pleasant Hill in the middle of the day and are most certainly not paid to do so. In the middle of the day, if the sun is shining, most farmers are indeed farming... Furthermore said organizations then send these employees to LAFCO initiatives to explain their highly biased plan how a policy on agriculture should be adopted. None or very few farmers have been involved in this process.

Contra Costa Co, California & the USA needs to have programs that are not mired in red tape, high fees and regulation to help farmers to be quick to change as the markets change. We need programs to introduce young people into jobs in agriculture. Contra Costa County farmers need many different opportunities such as Ag Tourism, value added products, small wineries, farm bakeries, and many things I haven't even thought of at this time.

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Before LAFCO adopts a farm policy:

1. The farmland policy should be county wide not only in East County
2. LAFCO should meet with farmers in their respective areas of the county.
3. LAFCO members should ask farmers what policies are needed to help farmland and businesses.
4. Remember that farmland is not open space. It is privately owned land that a family is trying to make a living on and should not be trespassed on unless invited.
5. It is important that LAFCO and people who live in farming areas of the county understand that farmers & farm labor are working everyday. Farmers don't take off weekends during the growing & harvesting season.

Sincerely,
Barbara Cecchini,
Owner/Operator Cecchini & Cecchini
Campus Director
First Generation Farmers
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First Generation Farmers
Founder & Executive Director
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Contra Costa County



Chad Godoy

Agricultural Commissioner
Director of Weights and Measures

Dear LAFCO,

July 13, 2016

As the Agricultural Commissioner for Contra Costa County, LAFCO is making one of the most important policies for the future of agriculture. I continue to have concern for the far reaching and future implications of this policy on our agriculture community. While I understand the need for the county to continue to grow, add housing and jobs those should not come at the expense of threatening our agricultural economy. The current Agriculture-Open Space Policy (AOSP) doesn't go far enough to protect prime agricultural lands in Contra Costa County.

As I read through the comments on AOSP there is concern that a 1:1 ratio for mitigating the loss of prime agricultural land doesn't go far enough and it was suggested 3:1 ratio would be better. I agree but still caution LAFCO to adopt any ratio for mitigating the loss prime agricultural land. The reason is that simple any adopted mitigation would obligate the loss of that amount of prime agricultural land in the county. So if a 3:1 ratio is adopt then AOSP will allow up to 33% of the available agricultural land to potentially be developed. A future loss of 33% of prime agricultural lands would devastate our agricultural economy. For our agricultural operations to remain viable and continue to prosper LAFCO needs to develop some other metric to protect prime agriculture lands.

As stated from our Farm Bureau there also needs to be further protections for prime agricultural lands surrounded by urban sprawl to continue their farming operations. These farming operation face considerable pressure from their urban neighbors who may not understand some of the farming practices.

I still am concerned that the AOSP allows the possibility to mitigate the loss of prime agricultural land outside our county, or may allow for the loss of prime agricultural land to become the mitigation factor for open space as stated in Policy 10. Policy 10 needs to be strengthened or further clarified that the mitigations shall be in Contra Costa County.

Thank you Contra Costa LAFCO for addressing the loss of agricultural and open space lands and your endeavor to create a policy to give future LAFCO members and the public guidance on this issue.

Chad Godoy
Contra Costa Agricultural Commissioner

From: Jeff Wiedemann <jeffrey.wiedemann@gmail.com>
Date: July 13, 2016 at 3:24:03 PM PDT
To: Mary Piepho <Mary.Piepho@bos.cccounty.us>, Kopchik John <jkopc@cd.cccounty.us>
Cc: Wiedemann Nancy <nancy@wiedemannranch.com>, Wiedemann Jeff <jeff@wiedemannranch.com>, Clayton Wiedemann <clayton.wiedemann@gmail.com>, Wiedemann Christian <christian.wiedemann@gmail.com>
Subject: Fwd: July 2016 Contra Costa LAFCO Meeting 07-13-2016

Hi Mary

Thanks for sending this our way. The LAFCO Policy doesn't look too ominous. I'm a little disappointed that the Cattlemen's Assn and Farm Bureau were not more involved (contacted?).

Out of the whole Policy, I like **ADDITIONAL OBSERVATIONS 2 & 3.**

Observation 2 ...a countywide effort involving funding may be appropriate. That the County and cities should go out of their way to assess fees for Ag Land preservation seems unlikely. Yes, this has been done for the protection of habitat (open space) but there is a totally different propaganda machine at work there. It makes sense but hard to implement (realistic?)

Observation 3 ...encouraging economically viable agriculture-based businesses that will keep agriculture production high. Again, (and again and again,...) the protection of ag lands MUST INCLUDE the protection of ag producers. Again, the City, County, Regional, State and Federal regulations that are heaped upon rural property owners are smothering us. Look at CoCoCounty's forthcoming "runoff mitigation" regulations, look at forthcoming regulation of groundwater and constant restrictions on our land use (lowered equity values), and on and on.

Either get this stuff off our backs or call it what it really is: The preservation of OPEN SPACE. Look at your own definitions:

Open Space - Undeveloped land where nothing happens.

Agricultural Lands - Undeveloped land where something is happening.

We can pretend it's the same thing, but It's not even close to the same thing. So good luck. I know you are trying to find a balance. Again, thanks for keeping us in the loop.

Jeff

----- Forwarded message -----

From: Mary Piepho <Mary.Piepho@bos.cccounty.us>
Date: Tue, Jul 12, 2016 at 2:57 PM
Subject: FW: July 2016 Contra Costa LAFCO Meeting 07-13-2016
To: Christian Wiedemann <christian.wiedemann@gmail.com>
Cc: John Kopchik <John.Kopchik@dcd.cccounty.us>, Tomi Riley <Tomi.Riley@bos.cccounty.us>

Christian, I wanted to make sure you were aware of the proposed Ag and Open Space policy being considered for adoption tomorrow by Lafco. There remain some concerns from the Building Association representatives, some environmental organizations are in support, not sure about your interests. Please let me know if you have any thoughts or concerns. Or, feel free to attend tomorrow's meeting. M

Linda Young
Dirk Sikkema
100 Saint Germain Ln
Pleasant Hill, CA 94523

Received into the record at the
7/13/16 LAFCO Meeting

July 8, 2016

LAFCO
651 Pine Street
6th Floor
Martinez, CA 94553

RE: draft LAFCO Agricultural and Open Space Preservation Policy

Dear LAFCO Commissioners and Staff:

We are writing in support of the draft LAFCO Agricultural and Open Space Preservation Policy (Policy). We appreciate the work all of you have put into the Policy but think that it should be strengthened by requiring a mitigation ratio of at least 1:1 for annexations affecting open space and agricultural land.

This modest change is in agreement with what many other LAFCOs across the state have done, and would help to mitigate the effects of development that has already greatly reduced the amount of agricultural land in Contra Costa and across the Bay Area. I ask you to support the draft Policy and incorporate the modest change of a 1:1 mitigation requirement.

Thank you.

Linda Young

Dirk Sikkema

From: countyourblessingsjason@aol.com [mailto:countyourblessingsjason@aol.com]

Sent: Thursday, July 07, 2016 7:45 AM

To: smdinfo

Subject: LAFCO

Received into the record at the
7/13/16 LAFCO Meeting

Dear,

City/Town Managers and City/Town Planning Directors

Special District General Managers

County Administrator and Director, Department of Conservation & Development

My name is Jason Leffingwell and I am writing you in support of the draft LAFCO Agricultural and Open Space Preservation Policy (Policy). We appreciate the work that LAFCO commissioners and staff have put into the Policy, and think that it should be strengthened by requiring a mitigation ratio of at least 1:1 for annexations affecting open space and agricultural land. This modest change is in agreement with what many other LAFCOs across the state have done, and would help to mitigate the effects of development that has already greatly reduced the amount of agricultural land in Contra Costa and across the Bay Area. I ask you to support the draft Policy and incorporate the modest change of a 1:1 mitigation requirement. Thank you.

Regards,

Jason Leffingwell,

Let your smile change the world, Don't let the world change your smile :)

From: john kiefer [mailto:jhkiefer@comcast.net]
Sent: Thursday, July 07, 2016 8:24 AM
To: Juan Pablo Galvan
Subject: I want to tell CC LAFCO to preserve open space!

Received into the record at the
7/13/16 LAFCO Meeting

Dear LAFCO Commission,

I am writing you in support of the draft LAFCO Agricultural and Open Space Preservation Policy. We appreciate the work that LAFCO commissioners and staff have put into the Policy, and think that it should be strengthened by requiring a mitigation ratio of at least 1:1 for annexations affecting open space and agricultural land. This modest change is in agreement with what many other LAFCOs across the state have done, and would help to mitigate the effects of development that has already greatly reduced the amount of agricultural land in Contra Costa and across the Bay Area. I ask you to support the draft Policy and incorporate the modest change of a 1:1 mitigation requirement. Thank you.

Regards,
john kiefer
3441 Blackhawk Rd. Lafayette

August 17, 2016

TO: LAFCO Sub Committee Commissioners Don Tatzin and Sharon Burke
FROM: Donna Gerber, Former Contra Costa County Supervisor District 3 (including San Ramon Valley and Far East County, Brentwood etc.)

First, I very much appreciate your work to meet LAFCO's mission of preventing sprawl development and protecting agricultural and open space land. I hope you will take all the time you need; it's important to get it right, and the California Legislature has given LAFCO the authority to do so.

For the 6 years I served on the Board of Supervisors, I experienced first hand what an uphill battle this is due to powerful vested interests. I also observed that city and county leaders often do not have the best information to inform their decisions. I commend your tenacity and careful consideration of these matters.

This memo reiterates my July 13, 3 minute, comments to the LAFCO Commission, provides additional detail and also electronic copies of documents presented in hard copy. I hope this will assist your sub-committee as you produce a new draft policy.

As historical context, in 2000 I partnered with then County Supervisor Joe Canciamilla, to lead the Board of Supervisors to tighten the County ULL protecting @ 14,000 agricultural acres from unjustifiable, sprawl development. (Coincidentally AB 2838 Cortese, Knox, Hertzberg passed in 2000 and provided LAFCOs additional power and responsibility to prevent sprawl development and loss of agriculture and open space lands). Also in 2000, I led the effort to empower my constituents near Pleasant Hill BART station to shape and support a compact, transit oriented, mixed use transit village that was approved in 2002. So I know both sides of the equation, prevention of sprawl through protection of agricultural land and approval of more sustainable, infill development that allows the public to benefit from a full range of housing and lifestyles.

It is no secret that Contra Costa County is historically the Bay area poster child for rampant suburban sprawl with loss of agricultural and open space land and changing highways and freeways into sewers of traffic congestion. The tightening of the ULL in 2000 coupled with the great recession of 2007 significantly slowed that legacy; but the floodgates are about to open again. For example: the County is processing Tassajara Parks, an urban development on agricultural land outside the ULL in San Ramon (and I note on your agenda under "pending applications" that LAFCO has an application for the expansion of water and sewer boundaries to enable this development); and

Brentwood is actively planning to develop over 2,000 acres outside the ULL and SOI with primarily low density housing.

In contrast, voters have demonstrated overwhelming support for limiting sprawl and protecting agriculture and open space land and this is demonstrated by their pressure for and continuous votes for ULL's since 1990 through 2010.

Also in contrast, unlike City Council members or County Supervisors; as LAFCO Commissioners; you are specifically charged under AB 2838 section 56325.1 to represent the County in a regional manner; **“all commission members shall exercise their independent judgment on behalf of the interests of residents, property owners and the public as a whole in furthering the purposes of this division”**. AB 2838 also strengthened LAFCO's to consider ULL's, densities, infill opportunities and regional growth goals.

So what are regional consequences of sprawl and loss of agriculture? Suburban sprawl is not only bad for farming and open space and the quality of life issues such as traffic gridlock and poor air quality; sprawl development requires expensive infrastructure and despite developer fees, sprawl development does not pay for itself. Very few Contra Costa city councils nor the Board of Supervisors have had good information on the economic implications of their land use decisions. Suburban infrastructure costs more and takes longer to pay back than compact infrastructure and does not generate the tax base to fully support municipal and county services. This has led to often out of balance fees on some development while encouraging the building industry to “buy” their approvals with one time community amenities.

At the hearing I provided 2 articles that offer a smart financial analysis that would inform the County, cities and the public regarding the financial implications of sprawling into agricultural lands. One is an analysis and specific data for a suburban county in Florida and the second is the same analysis method applied to a Northern California city (Santa Rosa). The documents are attached electronically here.

In suburban, Sarasota County, FL; this tax revenue analysis shows that mixed use, main street development produces \$1.2 million per acre in annual property tax compared to a single family suburban house of \$3600 per acre or a Walmart with \$8400 per acre. The comparison is also true on the public investment side. Residential, suburban units on 30 acres requires 42 years to pay back cost of infrastructure vs. 3 years for downtown, compact development. And this data comparison also holds true when comparing sales tax generation if done on a “per acre” basis.

Importantly, LAFCO's role in preventing sprawl and loss of agricultural land not only protects the quality of our food, our quality of life and farming economics....it can also inform and incentivize economic development toward compact, more sustainable development inside the suburban cities AND toward the more compact, more transit oriented and sustainable cities in the County. Development will occur inside cities if it can't go out on agricultural land. It doesn't get much more "orderly" than that. The fact that suburban sprawl is the most expensive development model for municipalities coupled with the fact that it does not pay for itself; should be of concern for LAFCO's required focus on regional planning.

Therefore, I urge you to modify the proposed policy in two very concrete ways. LAFCO can achieve its' mission through abiding by the voter approved ULL and by requiring the data that compares the economic consequences of converting agricultural land to urban uses vs. the alternative, compact model of development. These two changes will also make the policy specific and concrete for applicants.

1. As you are permitted under CKH and as many organizations have proposed to you in their documented comments, your policy must require that all jurisdictions abide by all voter approved ULLs and LAFCO must reject applications that lead to urban development outside the voter approved ULLs.
2. Also as permitted under CKH; and under Guideline 1 or 3 of your draft policy; LAFCO requires applicants proposing annexations beyond city or county boundaries to provide a Tax Revenue Analysis showing a revenue profile of the jurisdiction with property tax and sales tax profiles on a "per acre" basis (consistent with the examples I've provided). Consistent with your draft policy, this analysis could be part of an applicant assessment of non agricultural options for urban development. All city or county applications must include this analysis.

Finally, (and this is in addition to my public comments) regarding any mitigation for conversion of agricultural and open space land; I would respectfully suggest, a 2:1 or 3:1 ratio of mitigation should there be an annexation application approved that annexes agricultural land inside the ULL. Annexation applications outside voter approved ULL's should be rejected as a matter of policy.

Again, thank you for your efforts on this very important and very timely matter. I am available regarding any questions you may have.

Study: Santa Rosa land-use policy overlooks tax potential

GARY QUACKENBUSH

BUSINESS JOURNAL STAFF REPORTER | January 21, 2016

Received into the record at the
7/13/16 LAFCO Meeting

Order Article Reprint

SANTA ROSA — Sonoma County's largest city has several square miles of parking lots that provide little in the way of critically needed municipal revenue, one example of how the city's land-use policies are leaving a lot of money in the ground by not maximizing property and sales taxes per acre, according to an urban designer who unveiled details of a city-backed pilot study.

"What our study shows is the inherently higher per-acre value of inner-city, mixed-use buildings that can produce more revenue in the form of property and retail sales taxes per acre than those located away from city center," said Joseph Minicozzi, president of Asheville, N.C.-based Urban3. He was speaking to a standing-room-only audience on the second night of three public workshops held in the Bike Monkey store, 121 Fifth St., on Jan. 20.

The total assessed value of property downtown is \$18.3 billion, almost one-fourth of the \$72.8 billion value of all Sonoma County property, the study found. The city and newly formed local smart-growth advocacy group Urban Community Partnership (urbancommunitypartnership.org) brought in Urban3 and Minnesota-based Strong Towns to analyze ways to encourage higher-density development and redevelopment in Sonoma County's urban areas.

"We also found that 16 percent of the land (6 square miles) within the city is devoted to parking lots, with a much lower taxable base, that could become higher tax revenue sources if developed," Minicozzi said.

At the same time, Santa Rosa represents only 2 percent of the Sonoma County footprint, while making up 32 percent of the county's tax production. Some 38 percent of County

land is taxable, while 15 percent is nontaxable.

“Downtown, 36 percent of the land is taxable, but with mixed-use development and current C-10 (ten story) zoning, new and repurposed property would represent an even greater assessed tax base, and supply much-needed revenue for the city and county for ongoing and unfunded liabilities, without an increase in taxes or fees,” Minicozzi said.

Urban 3 is a private consulting firm specializing in land value economics, property and retail tax analysis and community design.

“We seek to empower our clients with the ability to promote development patterns that secure a community’s fiscal condition while reinforcing a stronger sense of place,” Minicozzi said. “As our company name acknowledges, cities and towns are a ‘cubed’ three-dimensional representation of space. This space, created by the built environment, is the basis of urban design. We strive to provide a deeper understanding of this environment by measuring data, visualizing results; and digging deeper into the effect of policies on the built environment.”

The true value of existing inner city property exceeds that of new developments just blocks away, Minicozzi said. In real estate as with development, valuation is all about location. The results of this study were revealed to city officials and staff members at a three-hour meeting earlier in the week. Dollar figures and economic data referenced in this analysis were provided by the city and county and reflect current property assessments.

“As an urban planning consultant, I always look at the opportunities associated with a property based on options and a cost-benefit analysis,” Minicozzi added. “If a more valuable urban core area is under built, based on its potential, property and sales taxes will not be adequate, leading to lower revenue for the city. Impact and permit fees don’t cover the long-term costs associated with upkeep and maintenance of streets as well as fire/police services, costs associated with fire hydrants along with other ongoing expenses.”

Those interested in encouraging economic growth should build on a foundation of understanding the tax implications of differing choices, Minicozzi said. One effective tool

he uses for determining comparative economic worth is assessed value per acre. He compared valuations for several Santa Rosa-area big-box stores, shopping malls and corporate campuses:

- Wal-Mart, Rohnert Park, \$803,805/acre
- Wal-Mart, Windsor, \$1,393,000/acre
- Keysight Technologies, Santa Rosa, \$1,448,893/acre
- Medtronic, Santa Rosa, \$1,613,920/acre
- Costco Wholesale, Santa Rosa, \$1,619,631/acre
- Target, Santa Rosa, \$1,757,294/acre
- Coddington Mall, Santa Rosa, \$2,237,000/acre
- Santa Rosa Plaza Mall, \$4,268,000/acre

“Note: the higher the value, the closer a property is to the city center,” Minicozzi said. “Now compare the values per acre of these large retailers on dozens of acres each with the assessed value of single-lot properties in or near downtown Santa Rosa that occupy only a fraction of an acre.”

- 442 Eighth St., two stories, \$4,689,640/acre
- 526 B St., three stories, \$8,522,750/acre
- 553 Fifth St., three stories, \$10,973,000/acre
- 520 Mendocino Ave., three stories, \$12,683,300/acre
- B Street townhouses, two stories, \$7,407,090/acre
- Empire Building (built in 1910, now for sale), four stories, \$3,900,000/acre
- Rosenberg Building (subsidized housing), six stories, \$26,316,095/acre

In the Urban3 analysis, the Railroad Square Historic District west of Highway 101, indicates that this area has the second-highest valuation following downtown Santa Rosa. In the

case of the Hotel La Rose, the building was originally constructed in 1907 and later refurbished. Here are a few notable valuation examples:

- Terraces, three stories, \$17,349,200/acre
- Charles Schwab, four stories, \$17,683,300/acre
- Hotel LaRose, three stories, \$14,000,000/acre

Another way at looking at growth potential is examining retail sales taxes paid and tax totals per acre. Minicozzi gave some local examples:

- Plaza Mall, \$1.72 million total retail tax, \$54,000 retail tax/acre
- Santa Rosa Marketplace, \$3.05 million, \$51,000
- Coddington Mall, \$1.36 million, \$22,000
- Railroad District, \$234,000, \$45,000
- Downtown historic core, \$630,000, \$52,000

“The Railroad Square results show the potential of developing property close to a passenger train right of way to provide housing and local services for those commuting by rail ...,” Minicozzi said.

The third and final public workshop was Jan. 21 at Bike Monkey. It will feature Charles Marohn, president of Strong Towns, talking about the value-added implications of development close to transportation corridors.

Received into the record at the 7/13/16 LAFCO Meeting

Sarasota's SMART Growth Dividend

Doing the numbers proves that compact, centrally located, mixed use development yields the most property taxes.

By Peter Katz

SARASOTA COUNTY, like many other Florida counties, saw a huge wave of suburban development in the boom years from 1995 to 2007. During that time, more than 31,000 acres of land within the county and its incorporated municipalities came under development. Responding to state growth management policies and seeking to discourage future sprawl, county officials enacted an urban services boundary in 1997. Its purpose was to channel future growth into areas where the county was planning to provide urban services and infrastructure. A citizen-led initiative in 2008 strengthened the growth limit, requiring a unanimous vote of the county commission to enlarge the land area within it.

While the boundary now constrains the county's supply of developable land, the three home-rule cities in the county—Venice, North Port, and Sarasota—can still annex into unincorporated county lands inside the urban services boundary. Given such limits on its supply of developable land, and possible losses due to annexation, Sarasota County is concerned that *future* property tax revenues could be squeezed. The county's *current* revenue has already taken a major hit in the post-boom economy.

The shortfall results mostly from lower property assessments tied to falling real estate prices, coupled with and exacerbated by a slowdown of population growth. A further impact on local revenue collections is the loss of fee income due to a downturn in new construction: Residential permitting activity in Sarasota County has gone from more than 2,300 newly platted lots in 2005 to under 90 in 2009. Commercial development has followed a similar pattern: There were 110 projects in 2005 and fewer than 30 in 2009.

With such threats to its future revenue base, county staffers have started to rethink their approach to community building. "We

need a better understanding of where our revenues are coming from," said Sarasota County Administrator Jim Ley last year. With regard to creating new sources of revenue, he added, "we need to start thinking more like a city."

Responding to Ley's directive, county planners came up with an idea. When researching new approaches for a comprehensive plan update, they found a unique tax revenue analysis of the Asheville, North Carolina, area. The analysis, prepared by Joe Minicozzi of Public Interest Projects, included a "revenue profile" that compared tax revenues generated by a range of building types in different locations around the city.

What made that analysis different from more conventional studies was that the figures were calculated on a *per acre* basis rather

than the more typical *per lot, per unit, or per household* basis. Although unusual, this approach clearly showed a much greater return from some types of development—mostly close-in, mixed use properties, both old and new—over more conventional, single-use suburban offerings.

Seeing the dramatic results for Asheville, Sarasota County staff asked Public Interest Projects to compile a similar profile for the Sarasota region. That work is the primary focus of this article.

The data highlighted in the profile is straightforward—it's the amount of county property tax paid by the owners of each of the profiled properties (information that is readily obtainable from the local tax assessor). The taxes are then divided into the land area occupied by each property to obtain a *tax per acre* figure. The complete revenue profile thus provides an apples-to-apples comparison of the property tax yield for each development type.

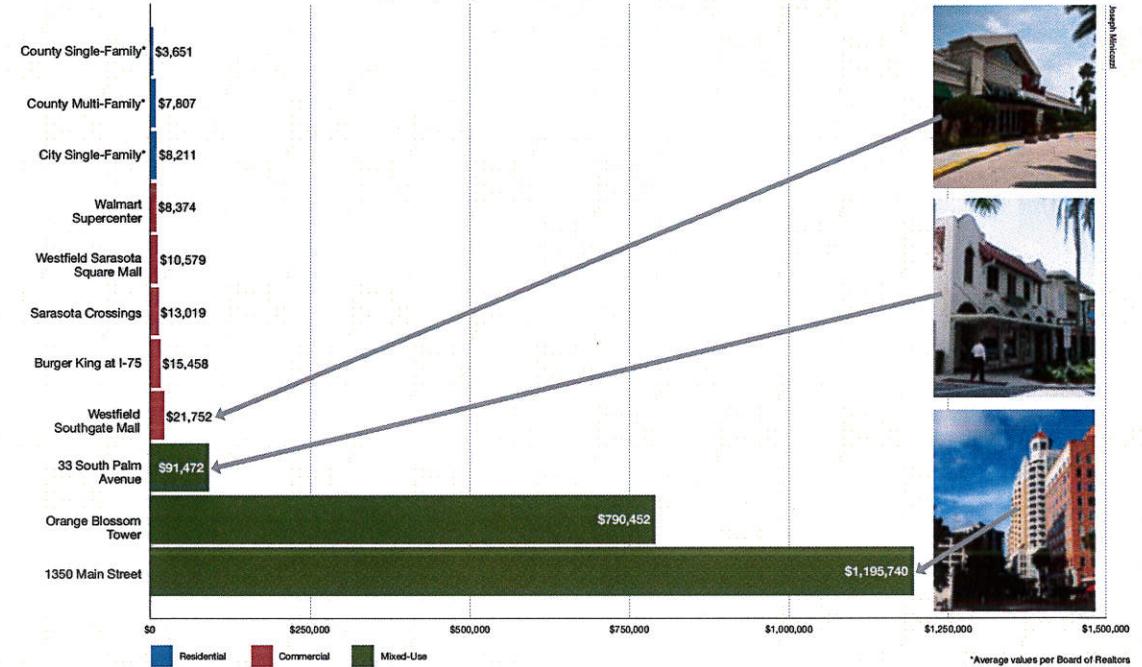
While the revenue analysis may be straightforward, the cost analysis is not. That is because municipal services are provided, charged for, and accessed in ways that differ greatly from place to place.

Still, common sense suggests that some of the biggest public costs will be lower in downtown areas. Funding public schools is generally cheaper there because, in most U.S. regions, families with children tend to live in more suburban areas. Among families who do live downtown, many will opt to place their children in private schools. Water use, too, is likely to be lower in more urban areas because yards are relatively small if they exist at all.

The county's revenue profile

Looking at the top bar of Sarasota's revenue profile (in the graphic above), one sees that owners of single-family homes in the unin-

Sarasota County Property Tax Revenue Profile: 2008 Tax Yield per Acre



corporated county pay, on average, almost \$3,700 per acre a year in property taxes. Multifamily developments (such as apartments or condominiums) are typically assessed at more than double that amount, yielding about \$7,800 in property taxes on a per acre basis. Within the city of Sarasota, single-family home owners annually pay \$8,211 per acre, on average, in county taxes alone.

Looking at commercial development (the red bars in the graphic), one sees that the county's new 21-acre Walmart Supercenter annually pays only \$163 more in property taxes per year, on a per acre basis, than the average single-family home in the city of Sarasota. Walmart's tax bill of \$8,374 per acre seems low, especially given the controversy that such big-box projects generate when they come before reviewing bodies.

Southgate, an established shopping mall anchored by Macy's, Dillards, and Saks Fifth Avenue, suggests a different story. The 32-acre property, which is located within the city of Sarasota, brings in

more than two and one-half times the tax revenue of the big box center, or \$21,752 per acre. The difference can be attributed to a more central location, a better standard of construction, and the higher merchandise price point set by upscale anchor merchants (the latter translating into higher rents per square foot, and thus higher property valuations).

A first-tier regional shopping center like Southgate may be the best revenue generator that many counties can ever hope to attain. That is why local governments try so hard to woo prestigious national merchants like Macy's or Nordstrom (the ultimate prize). But it's an achievable goal only if the locality has the demographic makeup to attract such merchants.

Mixed use: changing the game

Mixed use properties (shown in the green bars at the bottom of the profile) perform dramatically better even than Southgate, the strongest mall in the county, when it comes to generating property tax revenue.

Take these examples, all of them located at or near one intersection in downtown Sarasota, just a few blocks in from the bay:

- 33 South Palm Avenue, a two-story building dating from the 1920s, was originally part of a larger hotel complex. Its first floor is a retail store; the second floor is zoned for offices. The structure currently generates more than \$90,000 in county property taxes per year, calculated on a per acre basis.

- The 10-story Orange Blossom Tower was built in 1926 as the American National Bank Building. In the 1930s, it was converted to a hotel and later became a retirement residence. Today, the structure houses condominiums, second-floor offices, and ground floor retail. It brings in nearly \$800,000 in county property taxes per acre.

- 1350 Main Street generates more taxes than any other building in the profile. Its arched ground floor houses a bank and other retail uses; condominiums occupy the upper floors. Although some units have water views, the building's principal attraction

What the Numbers Show

Our firm has created a computer model that shows that capital invested in high-density projects can produce a higher rate of return than lower density projects, including the big box stores that so many communities may mistakenly covet. The key is to look at municipal revenues generated per acre by a variety of land uses, including single-family housing, a typical suburban mall, and a more complex mixed use property.

Our 2008 study of Buncombe County, North Carolina, broke down the county property tax yield of Asheville-area properties on a per acre basis. We found that the average acre of single-family housing in the county contributed about \$1,236 in property tax while the average acre of housing within the Asheville city limits contributed \$1,716. The findings for downtown Asheville were far more dramatic: An average six-story mixed use project yielded \$250,125 per acre. That's about 31 times the property tax yield of the Asheville Mall, which is also within the city limits but produced just \$7,995 in county taxes per acre. Even after big box retail taxes were added to the study, the combined big box property and retail tax yields a total of about \$51,000 per acre.

Results were similar in Sarasota, where we found that 3.4 acres of mixed use downtown development yielded 8.3 times more annual county property taxes than a suburban 30.6-acre, 357-unit garden-style apartment project. Further, the multifamily residential public infrastructure costs downtown were only 57 percent of the suburban project, while the revenues were 830 percent greater. A difference of \$1.9 million a year versus \$239,000 a year. And it took the urban project just three years to pay for the infrastructure versus the 42 years for the suburban project.

In sum, the urban form consumed less land, cost less to provide public infrastructure, and had a higher tax return.

Joe Minicozzi, AICP

Minicozzi is the New Projects Director at Public Interest Projects in Asheville, North Carolina.

2007 Annual County Tax Yield Per Acre: Asheville, North Carolina

County residential	— \$1,236*
City residential	— \$1,716*
City commercial	— \$2,406*
1-2 story office buildings	— \$7,059
Asheville Mall	— \$7,995
4-story apartments	— \$18,109
4-story mixed-use condos	— \$44,887
6-story mixed-use condos	— \$250,125

*Average values as per Board of Realtors



Photo courtesy of Sarasota County

Houses in the city of Sarasota generate, on average, \$8,211 per acre per year in county property taxes. The new Walmart Supercenter in the unincorporated county (above, right) generates just \$163 more. This specific house, in a close-in Sarasota neighborhood, pays \$35,067. That amount is more than four times what the Supercenter pays annually per acre in property taxes.

is the vibrant nearby street life that emerged after streetscape improvements were made in the early 1990s.

Although the building occupies just over two-thirds of an acre, it generated nearly \$1.01 million in combined city and county taxes in 2008. Extrapolating this earning power to a full-acre site, the same kind of building would generate \$1.2 million in county taxes alone. On a per acre basis, 1350 Main brings in 142 times more revenue than the new Walmart Supercenter. It would take both that development and Southgate, together occupying 55 acres, to match the property tax contribution of 1350 Main, which sits on just 0.68 of an acre.

Takeaway

The most obvious lesson from Sarasota's revenue profile is that compact mixed use developments in urbanized areas generate property tax revenue at a much higher rate than do single-use developments in more suburban locations.

Skeptics are sure to ask: What about sales taxes? It's true that a large, high-volume retailer can make a significant financial contribution to a town or city. That's why so much effort is made to lure a productive retailer across municipal boundaries and why local governments focus so much on fiscal zoning. But at the regional scale, this becomes a zero-sum game. Consider: Sarasota County's total retail sales bring in

\$60 million to \$70 million a year in sales tax revenue. Barring a huge influx of wealthy residents who decide to make most or all of their purchases locally, that number is unlikely to change.

If enhancing revenue is the goal, municipalities are far better off with compact development that generates higher property taxes. A grouping of 70 buildings like 1350 Main Street (a gridded cluster measuring seven rows wide by 10 deep) would bring in as much revenue as all of the sales tax currently collected in the entire county.

A quick calculation suggests that such a cluster could easily fit in an area of about 100 acres, including the land needed for streets, alleys, and a small public square or two. (By comparison, Sarasota's existing downtown is about 700 acres.) True, a large volume of new construction in a confined area is unlikely to happen in Sarasota County, or even the city of Sarasota. Nor is it being recommended here. But the notion provides a useful point of comparison between two important revenue sources—sales tax and property tax—that are available to local government.

With a new generation of smart growth development showing that greater density can be packaged in a physical form that is compelling to a wide range of citizens, and the fiscal information that can be gleaned from a community's revenue profile, long-time opponents of infill development may

now be persuaded to consider a different, and potentially more cost-effective, approach to community building. With enough citizen buy-in, compact, walkable "smart growth districts" could be infinitely replicable, even in a suburban county such as Sarasota. Enabling them would be a far more viable strategy for increasing the county's revenue base than trying to squeeze more sales tax dollars from existing local residents, many of whom now live on fixed incomes.

Such compact development would also mean a more rapid payback on public investment. Comparing the return from a two- and three-story garden apartment complex near Interstate 75 (357 housing units on just over 30 acres) with 1350 Main Street and two other adjacent downtown buildings (a total of 197 units on 1.9 acres), one sees that residential units in the suburban development will take 42 years to pay back the county's infrastructure outlay, versus just three years for units in the downtown building. (Revenue from the commercial portions of the downtown properties was excluded to keep this an apples-to-apples comparison.)

The rapid payback is due to the fact that taller, more compact buildings require less of the horizontal infrastructure (roads, water, and sewer lines) that government typically pays for. Vertical infrastructure (elevators, stair towers, conduit, and structural steel), by contrast, are paid for by the



builder or developer. Thus, the more that government can induce the private sector to spend on a given parcel of land, the more it stands to gain long-term, when the development is complete and higher property taxes begin to flow in.

Indeed, governments have always encouraged such private sector investment with expenditures and actions of their own, ranging from the subdivision of land into salable parcels to the provision of public improvements such as streets, parks, and utilities. Citing earlier development models that may have been more economically viable, County Administrator Jim Ley remarked: "Observation points out just how far we've traveled from the basic understanding about what it takes to build a financially sustainable community—that denser urban centers produce the community wealth that sustains the less dense areas."

As municipalities become more proactive in evaluating competing development models and driving toward the models that best meet their objectives in multiple realms—quality of life, quality of place, and economic sustainability—one can expect that tools such as the revenue profile will become an increasingly important part of the community decision-making process.

Peter Katz is Sarasota County's director of Smart Growth/Urban Planning. He is the author of *The New Urbanism: Toward an Architecture of Community* (McGraw-Hill, 1993).

August 31, 2016

BY E-MAIL DIST3@BOS.CCCOUNTY.US

Chair Mary Piepho and
Members of the Contra Costa County
Local Agency Formation Commission
651 Pine Street, 6th Floor
Martinez, CA 94553

Re: Additional Comments Regarding Proposed Agricultural and Open Space Preservation Policy

Dear Chair Piepho and Members of Contra Costa County LAFCO:

As you know, this office has previously provided written comments to LAFCO regarding the draft Agricultural and Open Space Policy (“Draft Policy”) via letters dated April 7, 2016, June 20, 2016, and July 12, 2016, and previously appeared before you at your meeting on July 13, 2016. As we have previously stated, while revisions have been made to the draft policy since it was first introduced, the Draft Policy remains inconsistent with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Gov. Code, §§ 56000 *et seq.*) and the California Environmental Quality Act (“CEQA”; Pub. Resources Code, §§ 21000 *et seq.*). The issues we previously have described are summarized as follows:

- The Draft Policy exceeds the scope of LAFCO’s granted authority under the Cortese-Knox-Hertzberg Act in its broad focus on all agricultural lands and direct regulation of land use;
- The Draft Policy establishes requirements such as the requirement for an Agricultural and Open Space Impact Assessment, that conflict with CEQA’s mandatory environmental review requirements;
- Draft Policy 5 improperly prioritizes the preservation of agricultural and open space lands over all other land uses;
- Draft Guideline 3(a)’s mandate that an applicant must provide a land use inventory of a jurisdiction that indicates the amount of available land within a jurisdiction for the proposed land use is impractical, unreasonable and lacks any lawful connection or nexus to an individual project;

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- Draft Guideline 5 is inconsistent with and preempted by Government Code Section 56856.5 of the Cortese-Knox-Hertzberg Act; and
- The “Additional Observations” serve no apparent purpose, create confusion, and should be deleted in their entirety.

In addition to the foregoing issues, which are detailed in our prior correspondence, unless the Draft Policy is revised in a manner that ensures that it does not create new substantive mandates that conflict with the Cortese-Knox-Hertzberg Act or existing policies, it will effectively determine whether growth will occur in unincorporated areas that are agricultural and as a result, may have a foreseeable impact on the environment. Consequently, pursuant to CEQA, LAFCO must undertake and complete environmental review of the Draft Policy itself, prior to its adoption.

1. The Draft Policy Constitutes a Project for Purposes of CEQA. In its current form, the Draft Policy constitutes a project subject to environmental review under CEQA. In pertinent part, CEQA Guidelines Section 15378(a)(1) defines “project” to mean, “the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and that is...[a]n activity directly undertaken by any public agency including but not limited to public works construction and related activities clearing or grading of land, improvements to existing public structures, enactment and amendment of zoning ordinances, and the adoption and amendment of local General Plans or elements thereof pursuant to Government Code Sections 65100-65700.”

2. The Draft Policy Does Not Fall Within CEQA’s Exclusion for Ministerial Policy Making. Section 15378(b) goes on to expressly exclude from the meaning of “project” five types of activities, including ministerial policymaking: “[c]ontinuing administrative or maintenance activities, such as purchases for supplies, personnel-related actions, general policy and procedure making (except as they are applied to specific instances covered above)” and “[o]rganizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.

Under existing case law, the Draft Policy, in its current form, does not fall within CEQA’s exclusion for ministerial policymaking because it goes beyond implementing existing legislation or policies and has a potential impact on the environment. (*See City of Livermore v. Local Agency Formation Commission* (1986) 184 Cal.App.3d 531 [interpreting the definition of “project” under CEQA and holding that sphere of influence guidelines adopted by Alameda County LAFCO constituted a project requiring an EIR] distinguished by *Northwood Homes v. Town of Moraga* (1989) 216 Cal. App. 3d 1197, 1207, “in marked contrast to the LAFCO

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guidelines considered in *City of Livermore*, the MOSO guidelines were designed to implement the land use policy decisions already reflected in MOSO".])

The facts in *City of Livermore* involved revisions to the LAFCO's 1973 guidelines entitled: "Spheres of Influence: Policies, Guidelines, Criteria & Procedures of Alameda County," which contained information to help guide LAFCO in its later determinations of particular spheres of influence for local governmental agencies. (*Id.* at 536.) In 1983, LAFCO attempted to adopt revisions that deleted the statement, "Existing and future urban development areas belong in cities" and added language that future incorporation of urban development outside an existing sphere of influence would be based on a county plan rather than a city plan. LAFCO characterized the revisions as an incorporation of the actual policies and procedures that had evolved since 1973. It adopted a negative declaration for purposes of CEQA and adopted the revised guidelines. (*Id.* at 535-536.)

The City subsequently filed suit and the court held that LAFCO had to prepare an EIR to analyze the environmental impact of the revisions and to show that the revisions complied with the Knox-Nisbet Act. In holding that the guidelines were not excluded from CEQA's definition of a "project" pursuant to Guidelines Section 15378(b)(2), the court reasoned, "[t]he policymaking performed by LAFCO when it revises guidelines is far different than and distinguishable from the ministerial policymaking referred to in this CEQA guideline." (*Id.* at 539.) The court further explained that the guidelines revisions at issue were analogous to the amendment of a general plan. (*Id.*) Although the guidelines did not themselves directly affect any specific development, they would influence LAFCO decisions about development plans and future growth of cities and service areas:

The guidelines play a part in determining whether growth will occur in unincorporated areas and whether agricultural land will be preserved or developed. They may change the focus of urban development by promoting county plans over city plans. These potential effects will certainly impact the environment. It is true that the precise effects are difficult to assess at this stage, but it is because impact is so easily foreseen that the revisions must be considered a project under CEQA.

(*Id.* at 538.) The court pointed out that just as general plans "embody fundamental land use decisions that guide the future growth and development of cities and counties" and the adoption or amendment of general plans have a potential for resulting in ultimate physical changes in the environment, the revised guidelines at issue would also influence the future growth and development of cities by potentially promoting urbanization outside existing cities, "perhaps having an even greater impact than the amendment of one general plan." (*Id.*) The court further

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determined that preparation of an EIR was required, finding that substantial evidence did not support LAFCO's conclusion that a fair argument could not be made that the project may have a significant environmental impact. (*Id.* at 541.)

Similarly, here the Draft Policy will go beyond implementing or providing guidance to implement existing policies or provisions of the Cortese-Knox-Hertzberg Act by essentially determining whether growth will occur in unincorporated areas and whether agricultural land will be preserved or developed. The stated purposes of the Draft Policy are to: (1) provide guidance to the applicant on how to assess the impacts on prime agricultural, agricultural and open space lands of applications submitted to LAFCO, and to explain how the applicant intends to mitigate those impacts; (2) provide a framework for LAFCO to evaluate and process in a consistent manner, applications before LAFCO that involve or impact prime agricultural, agricultural and/or open space lands; and (3) explain to the public how LAFCO will evaluate and assess applications that affect prime agricultural, agricultural and/or open space lands.

Although the stated purposes and many of the proposed goals, policies and guidelines arguably constitute ministerial policymaking, there are a number of provisions that create new county-wide mandates that will determine where urbanization will occur. More specifically, the Draft Policy has the effect of prioritizing land uses, elevating agricultural and open space preservation above other land uses, and to the extent that it would prevent urban development in agricultural areas, it would have long term impacts on land use and future growth and population distribution in the region. Based on the reasoning in *City of Livermore*, the proposed policy does not fall within the exclusion from the definition of "project" for general policy and procedure-making.

We understand that to date LAFCO has taken the position that no CEQA compliance whatsoever is necessary or required. This position is contrary not only to the caselaw described in detail above, but also to the positions of other LAFCOs throughout the state. In adopting policies similar to the Draft Policy, other LAFCOs have properly conducted CEQA review. For reference, you may wish to review the staff report and supporting documentation prepared in connection with Santa Clara County LAFCO's consideration of an Agricultural Mitigation Policy on April 4, 2007. In that matter, Santa Clara County LAFCO properly determined the adoption of the proposed policy to be subject to CEQA and prepared a comprehensive initial study to evaluate the potentially significant impacts of the proposed action.

In light of the above, at a minimum LAFCO must conduct an initial study to determine whether adoption of the Draft Policy will have any potentially significant impacts on the environment. Only after such time as a proper environmental review under CEQA has been completed may the Draft Policy be scheduled for adoption by LAFCO.

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3. Revisions to the Draft Policy Are Required to Avoid CEQA Review and Preparation of an EIR. Under the Cortese-Knox-Hertzberg Act, LAFCO is to consider the conformity of a proposal and its anticipated effects with adopted commission policies on providing planned, orderly, efficient patterns or urban development, and the policies and priorities set forth in Section 56377 of the act. (Gov. Code Sec. 56668(d).) Given that a proposal must conform to adopted commission policies, to the extent that any such policies conflict with or substantively supplement existing local land use planning, their adoption is not merely ministerial or procedural policymaking.

As currently drafted, the Draft Policy contains numerous provisions that purport to mandate new standards and requirements that are akin to a general plan amendment. They would effectively shift land use planning from reliance on city plans to reliance on LAFCO's new policy in determining urbanization. In order to avoid CEQA review (and avoid running afoul of the Act's prohibition against directly regulating land use), these provisions, and the Draft Policy as whole, must be revised to clarify that it is an advisory policy, which may serve as the basis to make recommendations and provide guidance, and does not establish new mandates that require LAFCO's denial of proposals that cannot fully conform.

As an example of the Draft Policy extending beyond implementation of existing legislation or policy, Guideline 1 requires an applicant to submit an "Agricultural and Open Space Impact Assessment" that "at a minimum" addresses as one of six topics, "how it guides development away from prime agricultural, agricultural and/or open space lands." This requirement modifies the factors prescribed in Section 56377 of the Act, which states that in reviewing and approving or disapproving proposals, the commission shall consider specified policies and priorities including the following factor: "Development or use of land for other than open-space uses shall be guided away from existing prime agricultural lands in open-space use toward areas containing nonprime agricultural lands, unless that action would not promote the planned, orderly, efficient development of an area." (Emphasis added.) By broadening the focus of the requirement to include non-prime agricultural land and narrowing or eliminating any consideration of how the proposal may nonetheless promote the planned, orderly, efficient development of an area, the Draft Policy drastically alters the existing requirements.

*

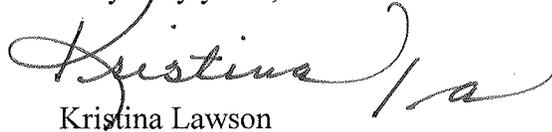
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We appreciate your continued consideration of our comments and look forward to discussing this matter with you further at LAFCO's next meeting.

Very truly yours,



Kristina Lawson

KXL:KXL

cc: Lou Ann Texeira, Contra Costa County LAFCO (via email LouAnn.Teixeira@lafco.cccounty.us)
Louis Parsons
Jeanne Pavao



PO Box 309, Walnut Creek, CA 94597

www.wcosf.org

August 25, 2016

Hon. Mary Piepho, Chair
Contra Costa LAFCO
651 Pine Street, 6th Floor
Martinez, CA 94553

Dear Commissioners:

Our Walnut Creek Open Space Foundation supports Walnut Creek's Open Space through land acquisition, through habitat restoration projects and through education to help residents understand and enjoy our Open Space areas. We are concerned that loss of agricultural lands will make it more difficult to preserve and maintain public open space like Walnut Creek's Open Space, East Bay Regional Parks, Mount Diablo State Park and land owned and managed by land trusts such as Save Mount Diablo and John Muir Land Trust. We believe that requiring mitigation for the loss of ranch or farm land will be an effective tool to minimize loss of agricultural land and to keep farming and ranching in Contra Costa County.

Our County is home to a million people but it retains a large amount of undeveloped land in public and private ownership. Most residents can visit publicly owned open space areas within a few miles of where they live. Residents can also visit farmers' markets to buy locally grown produce and visit farms themselves to collect pick-it-yourself produce. Life in Contra Costa County is richer for the mix of urban and suburban living with easy access to nature and to the sources of their food.

While residents do not have access to privately owned farms and ranches, those lands contribute directly to the health of public open space. They extend and connect public lands to make larger and more viable units that can support more diversity of plant and animal life.

Grazing is an important tool for managing public open space to manage the risk of wildfires and to control weeds. Using grazing as a management tool requires that we have ranchers living and working in the area. The viability of ranching depends on the existence of privately owned ranch land. It also depends on retaining an adequate pool of skilled labor such as cowboys and support services. Losses of ranch land and of ranchers living in the county will make managing publicly owned open space more difficult.

Farm lands also contribute to the diversity of life in the area. Insects, birds and mammals all make use of farm land and that helps ranch land and public open space retain diverse animal life.

Our Walnut Creek Open Space Foundation feels that action is needed to combat further loss of farm and ranch lands in our county. We believe that a requirement for mitigation for the loss of farm and

ranch lands will help preserve a viable level of farming and ranching activity. We urge LAFCO to enact a requirement for mitigation at the ratio of 3 to 1.

Sincerely,

A handwritten signature in black ink, appearing to read 'Katrina Nagle', with a stylized, cursive script.

Katrina Nagle
President, Walnut Creek Open Space Foundation

Jim Blickenstaff
Chair, Mt. Diablo Group/Sierra Club
(The Greenbelt Alliance letter referenced here was part of the July agenda packet.)

From: Jim Blickenstaff [<mailto:jpblick@comcast.net>]
Sent: Monday, September 05, 2016 6:16 PM
To: Lou Ann Texeira
Cc: sharon.anderson@cc.county.us; 'Joel Devalcourt'; 'Ellison Folk'; District5; 'Jim Blickenstaff'
Subject: LAFCO Hearing, Sept., 14th: Updating and Strengthening Ag and Open Space Policy.

Sept. 5, 2016

Re: Enacting Policies to prevent sprawl, and preserve agriculture and open space.

Dear Lou Ann –

Please be so kind as to see all LAFCO members, and alternates, receive this message, prior to the Sept., 14th hearing on the matter. As well as, make it part of the Sept. 14th public record.

I wanted to re-affirm the Mt. Diablo Sierra Club's support for Greenbelt Alliance's position on strong agricultural and open space protections – as expressed in their comprehensive June 20, 2016 letter to LAFCO.

Weaker, past, LAFCO policies on preservation have had the effect of encouraging a destructive sprawl dynamic. That threat is still there. It is past time to change the direction of the County; and take real steps to block sprawl, and give long term protections for agriculture and open space.

Clear, unambiguous, legally enforceable, rules and constraints on further destruction of ag and open space; will demonstrate the critical next step, needed to turn away from policies that have actually facilitated sprawl.

The criteria set forth by the Greenbelt Alliance give an excellent foundation toward accomplishing a preservation/anti-sprawl future in Contra Costa County.

Let's break forever from past policies that have led to sprawl; "dumb-growth;" and the loss of 1,000's of acres of prime ag land, vital habitat, and open space. The Road-Map is there, thanks in large part to Greenbelt Alliance, I implore LAFCO to follow it to a smarter, brighter, greener future.

Thanks to all members for consideration of this most serious matter.

Jim Blickenstaff
Chair, Mt. Diablo Group / Sierra Club.

July 13, 2016

I am writing to urge the Contra Costa LAFCo to adopt strong policies in support of local agriculture.

Farming and ranching contributes so much to the Bay Area food culture, economy, and environment. But Contra Costa County is losing agricultural land at alarming rates, partly due to the incentive for farmers and ranchers to sell their land to sprawl developers.

Please consider adopting a policy that does the following:

1. Prohibits the annexation of actively farmed land
2. Mitigates every acre of farmland and rangeland lost to development
3. Uses mitigation funds to permanently preserve agricultural land

These policies are critical for the success of agriculture in Contra Costa. Adopting them will protect our agricultural land and help local farmers and ranchers thrive.

Sincerely,

Received from:

First Name	Last Name	Residence	Received
Teresa	Castle	Concord	7/13/16
Lynda	Deschambault	Moraga	7/13/16
Lael	Gerhart	Berkeley	7/13/16
Lukasz	Lysakowski	Berkeley	7/13/16
Cathy	Mack	Cupertino	7/13/16

August (various dates), 2016

I am writing to urge the Contra Costa LAFCo to adopt strong policies in support of local agriculture.

Farming and ranching contributes so much to the Bay Area food culture, economy, and environment. But Contra Costa County is losing agricultural land at alarming rates, partly due to the incentive for farmers and ranchers to sell their land to sprawl developers.

Please consider adopting a policy that does the following:

1. Mitigates at a three-to-one ratio each acre of farmland lost to development
2. Uses mitigation funds to permanently preserve agricultural land

These policies are critical to the success of agriculture in Contra Costa County. Adopting them will protect our agricultural land and help local farmers and ranchers thrive.

Sincerely,

Received from:

First Name	Last Name	Residence	Received
Nancy	Boyce	San Rafael	8/12/16
Jeannie	Clements	Fremont	8/12/16
Kermit	Cuff	Mountain View	8/12/16
Richard	Fairfield	Santa Rosa	8/12/16
Jean	King	Livermore	8/12/16
Robert	Oxenburgh	Alamo	8/12/16
Carl	Stein	San Francisco	8/12/16
Stephen	Weitz	Oakland	8/12/16
Paula	Zerzan	Sonoma	8/12/16
Thomas	Carlino	San Jose	8/13/16
Gita	Dev	Woodside	8/13/16
Lukasz	Martinelli	Santa Cruz	8/13/16
Tess	Oliver	Point Richmond	8/13/16
Stefanie	Heinz	Cupertino	8/15/16
Judith	Smith	Oakland	8/16/16
Kerstin	Goldsmith	San Pablo	8/22/16