Yolo LAFCo’s Role in Ag Preservation and Mitigation

Christine Crawford, AICP
Yolo LAFCo Executive Officer
Yolo Ag Fun Facts

• Yolo County’s General Plan polices have directed urbanization to cities since 1958:
  “The highest and best use of land within Yolo County is one that combines minimum urbanization with the preservation of productive farm resources and open space amenities.”

• 3 of 4 Yolo cities have adopted growth control measures/urban limit lines

• 95% of Yolo’s population lives on 10% of the land

• 2/3 of all land is under Williamson Act contract

• Yolo loses more productive ag land to habitat mitigation than it does to urbanization
Yolo’s Ag Policy - Setting the Trend

1994  LAFCo Adopts 1:1 Ag Mitigation

1995  Yolo County Adopts 1:1 Ag Mitigation

1995  City of Davis Adopts Ag Mitigation (now 2:1)

West Sacramento General Plan policies also require 1:1 mitigation
Evaluation Criteria

• Yolo evaluates proposals by following criteria:
  – Vacant land developed before ag land
  – Non-prime annexed before prime
  – Land more surrounded by existing city should be annexed before ag land
  – Require ag buffers/minimize urban-ag conflicts
Policy Standards

• Annexation of Prime Ag Land shall not be approved unless:
  – There is insufficient marketable, viable, less prime land available
  – Mitigation for loss of ag land and preservation of adjoining lands to prevent premature conversion (i.e. conservation easements, buffers, etc.)

• Annexation of Ag Preserve land prohibited (except in very narrowly defined cases)
Ag Mitigation

- Annexation of Prime Ag land shall not be approved unless 1:1 mitigation
  - < 20 acres = in lieu fees
  - > 20 acres = conservation easement
- Land must be reasonably equivalent per Average Storie Index and LESA model
- Ag Easements cannot be “stacked”
- Preference for easements held by local non-profit land trust
Ag Mitigation (cont.)

• Policy prefers Lead Agency have mitigation in place before proposal gets to LAFCo

• Policy has some “wiggle room” if it’s a public project (at Commission’s discretion)

• Mitigation not required project < 5 acres if:
  – Scores if the 4th tier of LESA
  – Infill
  – Has not been actively farmed in last 20 years
What’s Missing from Yolo’s Policy?

• CEQA Thresholds of Significance
• 1:1 or 2:1 mitigation does NOT necessarily mitigate loss of ag land to less than significant level under CEQA
• So are all loses significant and unavoidable?
• Are EIRs required for any ag loss?
  – Agency thresholds seems to vary between 10-20 acres
  – Yolo LAFCo should probably define a threshold
Support for Ag Mitigation in State Law
(aka Local policy is effective but don’t give up hope if you don’t have one – there is ample state law to hang your hat on to advocate for ag preservation)

• CKH Section 56377 “Development SHALL be guided away from existing prime ag lands”

• CEQA Section 15041 “responsible agency may require changes to a project” (i.e. mitigation) to lessen or avoid environmental effects

• CEQA requires mitigation to the greatest extent feasible regardless of lead agency adopting EIR Statement of Overriding Considerations
Other Creative Ways to Mitigate Loss of Ag Land

• Farmworker Housing

• 500’ (ideally) buffers designed with little/no human activity (i.e. non-public open space or even parking lots)
  – To avoid dust, noise and pesticide drift
  – Make your local Ag Commissioner’s job easier

• Community Gardens

• “Right to Farm” Ordinances

• Others?
Other Strategies to Protect Ag Resources

• Ag Buffers
• Greenbelts
• Clustered Housing
• Pass Through Agreements
  (between cities and County for redevelopment $ but still honored)
• Williamson Act Contracts
• Urban Growth Boundaries
• Smart Growth
Yolo’s “Take Home” Messages

• You don’t necessarily need a local policy to be an ag preservation champion!

• There’s enough teeth in state law (CKH and CEQA) to require lead agencies to apply mitigation anyway

• 1:1 (or even 2:1) conservation easements do NOT create new ag land, therefore proposal may still result in a loss/impact under CEQA

• An agency’s EIR is not a “free pass” to avoid mitigation
Questions?

Office - (530) 666-6048

www.yololafco.org

Thank you!
Stanislaus LAFCO’s Agricultural Preservation Policy

Sara Lytle-Pinhey, Assistant Executive Officer
Stanislaus LAFCO

CALAFCO U - August 11, 2014
Setting

• Unincorporated Areas:
  – Measure E: requires vote of the people for change from agricultural to residential zoning
  – County Ag Element requires 1:1 mitigation for conversion of ag to residential designations

• Cities (via the Mayors’ Group):
  – Attempted to adopt urban growth boundaries
Policy Development

• Commission was in agreement regarding the following:
  – Applicants needed to better address the loss of agricultural lands in their proposals (beyond a “Statement of Overriding Considerations”)
  – A written policy should be adopted to communicate these expectations
Policy Development

• Seeking inspiration: Commission looked at its existing policies, other LAFCOs, & legislative authority

• Commission could not agree on a single method or strategy for ag preservation

• Early interest in a “Plan for Services” concept
Final Product

• Policy requires applicants to prepare a “Plan for Agricultural Preservation”
  – Plan shall include:
    • Detailed analysis of direct/indirect impacts to ag lands
    • Vacant land inventory & absorption study
    • Method or strategy proposed to minimize the loss of ag lands.

(See Section A of the Policy for entire list.)
Menu of Ag Pres. Strategies

• The Commission encourages the use of one or more of the following strategies:
  – For SOIs: removal of ag lands in ex. SOI order to offset an SOI expansion
  – 1:1 mitigation (may select to do 1:1 for residential only)
  – Voter-approved urban growth boundary
Commission’s Determinations

- Insufficient alternative land is available & growth has been directed away from prime land where possible
- For SOIs--additional territory will not exceed the 10 & 20-year timeframes
- For Annexations--that development is imminent
Commission’s Determinations

• Loss of ag lands has been minimized based on the selected ag preservation strategy

• Proposal will result in planned, orderly, and efficient use of land & services

• For proposals using ag mitigation lands--minimum criteria must be met
### In Practice

<table>
<thead>
<tr>
<th>Modesto Example:</th>
<th>Patterson Example:</th>
</tr>
</thead>
<tbody>
<tr>
<td>▪ 84-acre residential development</td>
<td>▪ 1,119-acre SOI expansion &amp; annexation proposal</td>
</tr>
<tr>
<td>▪ Within City’s SOI</td>
<td>▪ For 13.47 million sf of industrial / commercial uses</td>
</tr>
<tr>
<td>▪ Majority considered prime farmland</td>
<td>▪ Majority considered prime farmland</td>
</tr>
<tr>
<td>▪ Item continued for revised Plan for Ag Preservation</td>
<td></td>
</tr>
<tr>
<td>▪ Approved w/ revised Plan including 1:1 mitigation</td>
<td>▪ Approved (without one of the preferred strategies)</td>
</tr>
</tbody>
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Latest Ag Pres. Efforts

• **City of Hughson** - 2:1 mitigation req. for conversion of ag to residential use

• **City of Newman** - Urban Growth Boundary will go to voters in Nov. 2014

• **City of Modesto** - Group collecting signatures for “Stamp Out Sprawl” initiative (urban limit & residential limit)

• **City of Oakdale** - Two specific plans using 1:1 mitigation for residential

• **Ag pres. policies being incorporated into General Plan Updates**
Policy Development Tips

• Create “defensible space” with the policy language
  – Identify sources (e.g. CKH, existing policies, other “tested” language)
  – Maintain internal consistency

(See “Staff’s Notes” handout)
Policy Development Tips

• Include determinations that directly tie to State law & LAFCO’s purpose

• Tell the complete “story” in the Commission’s actions and resolution
Policy Development Tips

• Stanislaus Policy as a Model
  – Info required in the Plan for Ag Preservation assists Commission with making determinations
  – Policy language can be strengthened ("encourages" vs. "requires")
  – Menu can be altered to meet an individual LAFCO’s preferred method(s) of ag preservation
Contact Us:

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lafco@stancounty.com
Agriculture is a vital and essential part of the Stanislaus County economy and environment. Accordingly, boundary changes for urban development should only be proposed, evaluated, and approved in a manner which, to the fullest extent feasible, is consistent with the continuing growth and vitality of agriculture within the County.

LAFCO’s mission is to discourage urban sprawl, preserve open space and prime agricultural lands, promote the efficient provision of government services and encourage the orderly formation of local agencies. Additionally, Government Code Section 56668(e) requires LAFCO to consider “the effect of the proposal on maintaining the physical and economic integrity of agricultural lands.”

Consistent with the legislative intent of LAFCO, the goals of this policy are as follows:

- Guide development away from agricultural lands where possible and encourage efficient development of existing vacant lands and infill properties within an agency’s boundaries prior to conversion of additional agricultural lands.
- Fully consider the impacts a proposal will have on existing agricultural lands.
- Minimize the conversion of agricultural land to other uses.
- Promote preservation of agricultural lands for continued agricultural uses while balancing the need for planned, orderly development and the efficient provision of services.

The Commission encourages local agencies to identify the loss of agricultural land as early in their processes as possible, and to work with applicants to initiate and execute plans to minimize that loss, as soon as feasible. Agencies may also adopt their own agricultural preservation policies, consistent with this Policy, in order to better meet their own local circumstances and processes.

The Commission shall consider this Agricultural Preservation Policy, in addition to its existing goals and policies, as an evaluation standard for review of those proposals that could reasonably be expected to induce, facilitate, or lead to the conversion of agricultural land.

A. Plan for Agricultural Preservation Requirement

Upon application for a sphere of influence expansion or annexation to a city or special district (“agency”) providing one or more urban services (i.e., potable water, sewer services) that includes agricultural lands, a Plan for Agricultural Preservation must be provided with the application to LAFCO. The purpose of a Plan for Agricultural Preservation is to assist the Commission in determining how a proposal meets the stated goals of this Policy.

The Plan for Agricultural Preservation shall include: a detailed analysis of direct and indirect impacts to agricultural resources on the site and surrounding area, including a detailed description of the agricultural resources affected and information regarding Williamson Act Lands; a vacant land inventory and absorption study evaluating lands within the existing boundaries of the jurisdiction that could be developed for the same or
similar uses; existing and proposed densities (persons per acre); relevant County and City General Plan policies and specific plans; consistency with regional planning efforts (e.g. the San Joaquin Valley Blueprint and the Sustainable Communities Strategy); and an analysis of mitigation measures that could offset impacts to agricultural resources. The Plan for Agricultural Preservation should be consistent with documentation prepared by the Lead Agency in accordance with the California Environmental Quality Act (CEQA).

The Plan for Agricultural Preservation shall specify the method or strategy proposed to minimize the loss of agricultural lands. The Commission encourages the use of one or more of the following strategies:

1. Removal of agricultural lands from the existing sphere of influence in order to offset, in whole or in part, a proposed sphere of influence expansion or redirection.

2. An adopted policy or condition requiring agricultural mitigation at a ratio of at least 1:1. This can be achieved by acquisition and dedication of agricultural land, development rights and/or conservation easements to permanently protect agricultural land, or payment of in-lieu fees to an established, qualified, mitigation program to fully fund the acquisition and maintenance of such agricultural land, development rights or easements.
   a. In recognition of existing County policies applicable to agricultural land conversions in the unincorporated areas, as well as the goals of individual agencies to promote employment growth to meet the stated needs of their communities, an agency may select to utilize a minimum of 1:1 mitigation for conversions to residential uses.
   b. Agricultural mitigation easements or offsets shall not be required for any annexations of land for commercial or industrial development.

3. A voter-approved urban growth boundary designed to limit the extent to which urban development can occur during a specified time period.

B. Commission Evaluation of a Plan for Agricultural Preservation

1. The Commission may consider approval of a proposal that contains agricultural land when it determines that there is sufficient evidence within the Plan for Agricultural Preservation that demonstrates all of the following:
   a. Insufficient alternative land is available within the existing sphere of influence or boundaries of the agency and, where possible, growth has been directed away from prime agricultural lands towards soils of lesser quality.
   b. For sphere of influence proposals, that the additional territory will not exceed the twenty year period for probable growth and development (or ten years within a proposed primary area of influence). For annexation proposals, that the development is imminent for all or a substantial portion of the proposal area.
   c. The loss of agricultural lands has been minimized based on the selected agricultural preservation strategy. For the purposes of making the determination in this section, the term “minimize” shall mean to allocate no more agricultural land to non-agricultural uses than what is reasonably needed to accommodate the amount and types of development anticipated to occur.
d. The proposal will result in planned, orderly, and efficient use of land and services. This can be demonstrated through mechanisms such as:

i. Use of compact urban growth patterns and the efficient use of land that result in a reduced impact to agricultural lands measured by an increase over the current average density within the agency’s boundaries (e.g. persons per acre) by the proposed average density of the proposal area.

ii. Use of adopted general plan policies, specific or master plans and project phasing that promote planned, orderly, and efficient development.

2. For those proposals utilizing agricultural mitigation lands or in-lieu fees, the Commission may approve a proposal only if it also determines all of the following:

a. The mitigation lands must be of equal or better soil quality, have a dependable and sustainable supply of irrigation water, and be located within Stanislaus County.

b. An adopted ordinance or resolution has been submitted by the agency confirming that mitigation has occurred, or requires the applicant to have the mitigation measure in place before the issuance of a grading permit, building permit, or final map approval for the site, whichever comes first.

c. The agricultural conservation entity is a city or a public or non-profit agency that: has the legal and technical ability to hold and administer agricultural preservation easements and in-lieu fees for the purposes of conserving and maintaining lands in agricultural production; and has adopted written standards, policies and practices (such as the Land Trust Alliance’s “Standards and Practices”) and is operating in compliance with those standards.

d. The agricultural mitigation land is not already effectively encumbered by a conservation easement of any nature.

C. Exceptions

The following applications are considered exempt from the requirement for a Plan for Agricultural Preservation and its implementation, unless determined otherwise by the Commission:

1. Proposals consisting solely of the inclusion of lands owned by a city or special district and currently used by that agency for public uses.

2. Proposals which have been shown to have no significant impact to agricultural lands, including, but not limited to:

   a. Proposals consisting solely of lands which are substantially developed with urban uses.

   b. Proposals brought forth for the purpose of providing irrigation water to agricultural lands.
DEFINITIONS

Agricultural Conservation Easement: An easement over agricultural land for the purpose of restricting its use to agriculture. The interest granted pursuant to an agricultural conservation easement is an interest in land which is less than fee simple. Agricultural conservation easements acquired shall be established in perpetuity (or shall be permanently protected from future development via enforceable deed restriction).

Agricultural Lands: Land currently used for the purpose of producing an agricultural commodity for commercial purposes, land left fallow under crop rotational program, or land enrolled in an agricultural subsidy or set-aside program (Government Code Section 56016). As used in this section, “agricultural lands” also includes those lands defined in Government Code Section 56064 as “prime agricultural land” and those lands identified as “prime farmland”, “farmland of statewide importance”, and “unique farmland” as part of the California Department of Conservation’s Farmland Mapping and Monitoring Program.

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(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 the land is actually irrigated, provided that irrigation is feasible.

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(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 (Government Code Section 56064).

Sphere of Influence: A plan for the probable physical boundaries and service area of a local agency, as determined by the commission (Government Code Section 56076). The area around a local agency within which territory is eligible for annexation and the extension of urban services within a twenty year period.
AGRICULTURAL PRESERVATION POLICY
Adopted September 26, 2012

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The Plan for Agricultural Preservation shall include: a detailed analysis of direct and indirect impacts to agricultural resources on the site and surrounding area, including a detailed description of the agricultural resources affected and information regarding Williamson Act Lands; a vacant land inventory and absorption study evaluating lands within the existing boundaries of the jurisdiction that could be developed for the same or
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2. An adopted policy or condition requiring agricultural mitigation at a ratio of at least 1:1. This can be achieved by acquisition and dedication of agricultural land development rights and/or conservation easements to permanently protect agricultural land, or payment of in-lieu fees to an established, qualified, mitigation program to fully fund the acquisition and maintenance of such agricultural land development rights or easements.

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The following applications are considered exempt from the requirement for a Plan for Agricultural Preservation and its implementation, unless determined otherwise by the Commission:

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(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 (Government Code Section 56064).

Sphere of Influence: A plan for the probable physical boundaries and service area of a local agency, as determined by the commission (Government Code Section 56076). The area around a local agency within which territory is eligible for annexation and the extension of urban services within a twenty year period.
City of San Luis Obispo
Madonna – Gap Annexation
January 21, 2010

We helped save 19 acres of Prime Ag Land!
Acreage and Location:
- 31 acres located in southeast part of City
  - Substantially Surrounded by the City
  - Adjacent to Costco and Home Depot
  - On Los Osos Valley Road

Sphere of Influence:
- Area is within the City’s Sphere of Influence
- SOI was updated in 2006
Figure 1:
Annexation 74 to City of San Luis Obispo
7-R-05 Madonna/Gap

- Proposal Site
- City Limits
- Major Roads
- Roads

Legend:
- Red: Proposal Site
- Green: City Limits
- Blue: Major Roads
- Black: Roads
Dalidio Property and Madonna-Gap Property
ANNEXATION NO. 74 - CITY OF SAN LUIS OBISPO (Madonna-Gap Annexation)

- Project Approved by the City
- General Plan Amendment, Certified EIR, and Annexation
- Prezoned:
  - 16.7 acres Commercial Retail,
  - 2.3 acres dedicated to road right of way
  - 11.9 dedicated to the City as Open Space
LAFCO Agricultural Policy 12:

- The Commission shall approve annexations of prime agricultural land only if mitigation that equates to a substitution ratio of at least 1:1 for the prime land is agreed to by the applicant (proponent) and the jurisdiction with land use authority.

- Acquisition and agricultural conservation easements

- Payment of in-lieu fees to qualified program/organization

- Other Measures that meet the 1:1 replacement ratio
Applicant has dedicated 11.9 acres of Prime Agricultural Land to the City.

Applicant has also agreed to place an easement on another 7 acres of prime agricultural land.

Total of 19 acres of prime agricultural land is preserved meeting the 1:1 ratio.
Prime Agricultural Land Preserved

11.9 acres on site dedicated to the City

7.1 acres to the south will be preserved through a conservation easement
Condition of Approval:

Prior to filing with the State Board of Equalization, the proponent shall submit to LAFCO documentation, to be reviewed and approved by the Executive Officer and LAFCO Counsel, establishing that a minimum of one acre for each acre of prime agricultural land being converted by the project has been permanently preserved. The documentation shall show that a minimum of 19 acres of prime agricultural land will be preserved as required by LAFCO’s Adopted Agricultural Policies.
Documentation

- Review of easement documents for both sites
- Grant Deed for property to be transferred to the City and used for agricultural purposes
- Easements placed on the property on the 7-acre site by the property owner
- Recordation of easements on the property-done through county

Outcome: 19 acres of prime ag land preserved
- City has set up a Community farm
The policies in this section are designed to assist LAFCO in making decisions that achieve the Goals stated in the previous section. A policy is a statement that guides decision making by indicating a clear direction on the part of LAFCO. The following policies support the goals stated above and shall be used by San Luis Obispo LAFCO when considering a proposal that would involve agricultural resources:

1. Vacant land within urban areas should be developed before agricultural land is annexed for non-agricultural purposes.

2. Land substantially surrounded by existing jurisdictional boundaries should be annexed before other lands.

3. In general, urban development should be discouraged in agricultural areas. For example, agricultural land should not be annexed for non-agricultural purposes when feasible alternatives exist. Large lot rural development that places pressure on a jurisdiction to provide services and causes agricultural areas to be infeasible for farming should be discouraged.

4. The Memorandum of Agreement between a city and the County should be used and amended as needed to address the impacts on and conversion of Agricultural Lands on the fringe of a city.

5. 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 should be established to promote this policy.

6. Development near agricultural land should not adversely affect the sustainability or constrain the lawful, responsible practices of the agricultural operations.

7. In considering the completeness and appropriateness of any proposal, the Executive Officer and this Commission may require proponents and other interested parties to provide such information and analysis as, in their judgment, will assist in an informed and reasoned evaluation of the proposal in accordance with these policies.
8. No change of organization, as defined by Government Code 56021, shall be approved unless it is consistent with the Spheres of Influence of all affected agencies.

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

10. The Commission will consider feasible mitigation (found in the following guidelines) if a proposal would result in the loss of agricultural land.

11. The Commission encourages local agencies to adopt policies that result in efficient, coterminous and logical growth patterns within their General Plan and Sphere of Influence areas and that encourage protection of prime agricultural land in a manner that is consistent with this Policy.

12. The Commission shall approve annexations of prime agricultural land only if mitigation that equates to a substitution ratio of at least 1:1 for the prime land annexed is agreed to by the applicant (proponent), the jurisdiction with land use authority. The 1:1 substitution ratio may be met by implementing various measures:

   a. Acquisition and dedication of farmland, development rights, and/or agricultural conservation easements to permanently protect farmlands with similar characteristics within the County Planning Area.

   b. Payment of in-lieu fees to an established, qualified, mitigation/conservation program or organization sufficient to fully fund the acquisition and dedication activities stated above in 12a.

   c. Other measures agreed to by the applicant and the land use jurisdiction that meet the intent of replacing prime agricultural land at a 1:1 ratio.

13. Property owners of agricultural lands adjacent to a LAFCO proposal shall be notified when an application is submitted to LAFCO.