

Attachment B

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MONTEREY COUNTY POLICY BACKGROUND

The County of Monterey (County) elected to include an Agriculture Element as part of the 2010 General Plan, which governs the inland unincorporated County because agriculture is the largest industry in the County, contributing significantly to the County's economy. The agricultural industry of Monterey County is a significant contributor of diverse agricultural products, which allows Monterey County to provide a relative abundance of nutrition for export and Monterey County residents. Agricultural land provides important climate and environmental benefits and facilitates groundwater recharge and water quality improvement projects.

Goal AG-1 of the 2010 General Plan Agricultural Element is to preserve, protect, and enhance farmland to maintain the productivity and viability of the County's agricultural industry. Loss of farmland to development is irreparable and can negatively impact the region's economy. Population growth in Monterey County is predicted to continue, and Monterey County has a severe housing shortage, especially affordable housing units. While additional housing and commercial developments will be required to support the increased population, there is time to facilitate both growth and the continued success of the agricultural industry, which will likely continue to provide income for a significant part of Monterey County's population.

Agricultural Element Policy AG-1.12 specifically requires that the County prepare, adopt, and implement a policy that requires that projects involving a change of land use designation resulting in the loss of Important Farmland¹ mitigate the loss of acreage. AG-1.12 will be implemented as part of an Agricultural Conservation Mitigation Program (Program) being developed by the County. Agricultural Element Policy AG-1.12 further states:

"The program may include ratios, payment of fees, or some other mechanisms. Mitigation mechanisms established through this program shall be based upon a graduated value of the Important Farmland, with mitigation for loss of prime land having the highest agricultural value. The County shall support private, non-profit land trusts and conservation organizations to promote the policies of this General Plan, facilitate the implementation of the program, and to receive, by voluntary donation or purchase, development rights on any lands to be preserved as part of this program's implementation strategy."

"The acreage within a project...that is to be utilized for inclusionary housing shall not be subject to this mitigation policy."

MAPPING TOOL AND SALC GRANT

As a part of Program development, staff created a mapping tool that details existing agricultural conservation easements and Williamson Act parcels in the County. The completed mapping tool also shows State of CA Department of Conservation Important Farmland categories and jurisdiction boundaries in the County. The completed mapping tool allows staff and the public to see where agricultural land may be threatened by development and ensures that staff and the public are aware of parcels that may be eligible for future agricultural conservation easements.

¹ Important Farmland as mapped by the California Department of Conservation Farmland Mapping and Monitoring Program. Important Farmland categories include Prime Farmland; Farmland of Statewide Importance; Unique Farmland; and Farmland of Local Importance.

The mapping application will help inform future policy development discussions and give the public and staff a sense of where future development pressures may occur and where effective mitigation opportunities may be available. The mapping tool will also be used in the implementation phase to identify priority areas for mitigation receiving sites and identify sites that are potential candidates for groundwater quantity and water quality improvement projects that may be eligible for reduced mitigation ratios. The mapping tool can be found online using this link:

<https://maps.co.monterey.ca.us/portal/apps/webappviewer/index.html?id=2210e74f59684b7db87cf19293707956>.

This mapping tool was developed with the financial and technical assistance the Sustainable Agricultural Lands Conservation Program (SALC) provided. The County was awarded a State of California Department of Conservation SALC Program grant to fund the development of the Program. This grant provided the County with funding for staff time when the grant agreement was approved in 2020. The grant also provided the County access to the Department of Conservation's technical assistance and knowledge of agriculture and the agricultural industry in the State of California. The grant expired in June 2023, but the Department of Conservation has continued providing technical support as the Program progresses.

OUTREACH

Staff began the public outreach process in May 2022 by conducting a series of public and targeted-stakeholder outreach meetings and summarizes outreach efforts below. Staff considered all feedback received throughout the public/stakeholder outreach process. However, not all feedback received to date has risen to a level for inclusion in the proposed ordinance.

Public Meetings

Staff conducted three public meetings in July 2022 focused on engaging agricultural landowners, leaseholders, and the public. Staff conducted one meeting in North County, one meeting in South County, and one hybrid meeting in Salinas. Staff conducted these meetings to inform the public and agricultural interests in the County of the development of the Program and to receive feedback from agricultural interests and the public. Two of the meetings (South County and Salinas) offered Spanish translation to ensure broad participation.

Jurisdiction and Agency

Staff conducted and continues to meet with local jurisdictions within Monterey County and public agencies. Staff has held multiple meetings with the Cities of Greenfield, Gonzales, King City, Salinas, and Soledad to discuss the status of the County's proposed agricultural mitigation ordinance and coordination for a potential Salinas Valley-wide agricultural mitigation program.

Staff met individually with the Local Agency Formation Commission (LAFCO) to understand the annexation process and LAFCO policies and practices regarding agricultural mitigation for annexations. LAFCO also participated in the meetings with the Salinas Valley cities.

Staff and the Salinas Valley cities continue to meet regularly, with LAFCO's participation, to continue the dialogue around the development of agricultural mitigation regulations and best practices that could be applied across each jurisdiction in the Salinas Valley to provide clear and

consistent standards. These discussions are occurring parallel to the County's proposed ordinance as the annexation and sphere of influence amendment process are separate legal processes regulated by the Cortese–Knox–Hertzberg Local Government Reorganization Act of 2000.

Staff met with representatives of the United States Department of Agriculture (USDA) and the Natural Resources Conservation Service (NRCS), California Department of Conservation, California Department of Food and Agriculture, and the Resource Conservation District of Monterey County for their subject matter expertise to inform the development of the proposed ordinance.

Organizations

Staff held multiple meetings with agriculture industry associations, including the Grower-Shipper Association and the Monterey County Farm Bureau. Staff held outreach meetings with the four conservation land trusts known to be operating in Monterey County: Ag Land Trust, Big Sur Land Trust, Elkhorn Slough Foundation, and the Land Trust of Santa Cruz County. Local conservation land trusts assisted the County by providing their existing agricultural conservation easements for inclusion in the mapping tool and for their subject matter expertise to inform the development of the proposed ordinance. The Ag Land Trust additionally participated as a member of the Subcommittee.

Staff met with the Building Industry Association of the Bay Area and local builders in Monterey County to understand how the agricultural mitigation ordinance could protect farmland from development while limiting the impact on housing and affordable housing construction in and near already developed areas of the unincorporated County.

Staff met with the Monterey County Center for Community Advocacy and Communities Organized for Relational Power in Action to inform them of the development of the agricultural mitigation policy and understand if their organizations would be interested in following the policy's development. Neither organization identified a strong nexus between their organization's goals and mission and the agricultural mitigation policy being developed.

Staff met with the various water quality/quantity organizations in Monterey County, including Salinas Valley Basin Groundwater Sustainability Agency, Central Coast Water Quality Preservation, Inc., Greater Monterey Regional Water Management Group, and Central Coast Wetlands Group to better understand local groundwater concerns and water quality and quantity improvement projects. Staff specifically met with the Central Coast Regional Water Quality Control Board to understand the Irrigated Lands Program and its relationship to water quality improvement projects.

Committees and Commissions

Staff presented to the Agricultural Advisory Committee (AAC), Ad Hoc Subcommittee of the Agricultural Advisory Committee (Subcommittee), and the Planning Commission (Commission).

May 25, 2022 – AAC – Staff conducted a workshop and presented the proposed ordinance.

July 28, 2022 – AAC – Staff conducted a workshop and presented the proposed ordinance.

August 25, 2022 – AAC – Staff conducted a workshop and presented the proposed ordinance.

October 26, 2022 – Commission – Staff conducted a workshop and presented the proposed ordinance.

January 26, 2023 – AAC – Staff presented the Commission’s recommendations and presented the proposed ordinance.

February 13, 2023 – Subcommittee – Staff conducted a workshop and presented the proposed ordinance to the Subcommittee.

March 27, 2023 – Subcommittee – Staff presented and presented the proposed ordinance to the Subcommittee.

April 10, 2023 – Subcommittee – Staff presented and presented the proposed ordinance to the Subcommittee.

April 24, 2023 – Subcommittee – Staff presented and presented the proposed ordinance to the Subcommittee.

May 8, 2023 – Subcommittee – Staff presented and presented the proposed ordinance to the Subcommittee.

June 12, 2023 – Subcommittee – Staff presented and presented the proposed ordinance to the Subcommittee.

August 14, 2023 – Subcommittee – Staff presented the proposed ordinance to the Subcommittee, and the Subcommittee unanimously recommended that Staff bring forward a revised proposed ordinance to the AAC for consideration.

September 28, 2023 – AAC – Staff presented the proposed ordinance to the AAC, and the AAC unanimously recommended that Staff bring forward a revised proposed ordinance to the Commission for consideration. Staff returned to the AAC to provide an informational update on the suggested revisions made by the AAC on November 16, 2023.

November 8, 2023 – Commission – Staff presented the ordinance to the Commission, and the Commission recommended that Staff bring forward an ordinance, after a review of two sections, to the Board for adoption.

POLICY DISCUSSION

The proposed ordinance establishes the mitigation requirements for converting agricultural land (Farmland, Permanent Grazing, and Rural Grazing) to non-agricultural use for three types of activities: 1) the redesignation of land from an agricultural designation to any other designation; and 2) projects requiring use or administrative permits where agricultural land is converted to non-agricultural use, and 3) projects where agricultural land is converted to non-agricultural use that require a variance where the maximum building site coverage is exceeded. Throughout the outreach process, staff heard that there are situations where exemptions for specific types of development may be appropriate. The 2010 General Plan required that staff exempt Inclusionary (Chapter 18.40) and Affordable Housing (Section 21.06.005) from the mitigation requirements in the proposed ordinance. Other exemptions added during the outreach and Subcommittee process were exemptions for Agricultural Employee Housing (Section 21.06.014), Agricultural Processing Plant (Section 21.06.020), Agricultural Support Service (Section 21.06.030), and groundwater quantity and water quality improvement projects.

The proposed ordinance establishes a Farmland Mitigation Plan, which states the minimum requirements that applicants must provide to the County upon application submission and before the application is considered by the Appropriate Authority. This Farmland Mitigation Plan (Section 21.92.040) was developed to ensure that applicants know what is required of them to meet their mitigation requirements and that County staff have sufficient information from the applicant to ensure that all requirements of the proposed ordinance are satisfied.

The proposed ordinance establishes mitigation ratios that are tiered based on the type of farmland being converted. The type of farmland categories are based on the State of California Department of Conservation Farmland Mapping and Monitoring Program Important Farmland categories. Other models were considered, and it was determined that the comprehensiveness and consistency of this model afforded staff the ability to utilize a state-maintained system widely utilized throughout the State for agricultural mitigation ordinances. The State's Farmland Mapping and Monitoring Program has four categories of farmland: Prime Farmland, Farmland of Statewide Importance, Unique Farmland, and Farmland of Local Importance (Monterey County currently does not have any Farmland of Local Importance). The proposed ordinance combined these four categories into two categories: Prime Farmland, which encompasses Prime Farmland, and Statewide, Unique, and Local Farmland, which encompasses Farmland of Statewide Importance, Unique Farmland, and Farmland of Local Importance.

The Subcommittee had significant discussions around the mitigation ratios, and on August 14th, the Subcommittee voted 4-2 to accept the base mitigation ratios as presented in the proposed ordinance (see Table 1). The AAC unanimously supported the proposed ordinance with the proposed base mitigation ratios.

Table 1 illustrates the base mitigation ratio depending on the location and the farmland classification category of the farmland being converted on an acre for acre basis.

Table 1

Location:	Farmland Category:	Base Mitigation Ratio:
Outside of Community Areas, Rural Centers, and Affordable Housing Overlays (CARCAHOs)	Prime	2:1
	Statewide, Unique, Local	1.75:1
Inside of Community Areas, Rural Centers, and Affordable Housing Overlays (CARCAHOs)	Prime	1.5:1
	Statewide, Unique, Local	1.25:1

The proposed ordinance establishes minimum requirements for land being protected as mitigation for development (mitigation land), including that it be located within the County, be designated as substantially equivalent farmland classification category or better, and be in an agricultural zone. Additional requirements are that the land must have a water supply (Section 21.92.020.Y of the proposed ordinance) and that it be of adequate size, configuration, and location to be viable for continued agricultural production.

The proposed ordinance prioritizes mitigation land that is protected in strategic locations to prevent hopscotch development and sprawl, as well as on high-value multi-benefit sites in which development could be particularly detrimental to groundwater recharge and water quality. The proposed ordinance allows applicants to reduce their required base mitigation ratio if they obtain a conservation easement or deed restriction on mitigation land in an area identified as a priority area for mitigation. There were four specific priority areas identified: high potential groundwater recharge areas, water quality improvement projects, along the exterior boundary of CARCAHOs, and the exterior boundary of permanent growth boundaries and permanent agricultural edges as identified in Board of Supervisors approved City and County Memorandum of Agreements and Memorandum of Understandings. The maximum reduction to applicants' mitigation ratio for each category is up to a maximum of 0.125 off of their base mitigation ratio.

Protecting farmland with a conservation easement or deed restriction is recognized as a best practice, so the proposed ordinance requires that applicants make two good faith efforts to protect land with one of these options. The proposed ordinance recognizes that, in some cases, it may not be feasible to protect farmland with a conservation easement or deed restriction. To ensure flexibility, after two good faith efforts, applicants can pay in-lieu fees based on the full appraised fair market value to satisfy their mitigation requirements. In addition, applicants are allowed to use alternative mitigation to satisfy some of their mitigation requirements. The proposed ordinance requires the AAC to review and recommend the proposed mitigation to ensure that all in-lieu fees and alternative mitigation are evaluated.

The proposed ordinance includes minimum requirements for all three categories of mitigation that are allowable: easement or deed restriction, in-lieu fees, and alternative and complementary

mitigation. Easements or deed restrictions have requirements for minimum terms that must be in the easement or deed restriction, minimum requirements for the land being protected with the easement or deed restriction, and a requirement that the Qualifying Conservation Entity hold the easement or deed restriction.

The proposed ordinance requires that the Qualifying Conservation Entity be a non-profit that is operating locally, their primary purpose is conserving and maintaining agricultural land in production, and that they have an annual monitoring and reporting program. The proposed ordinance also requires that applicants pay in-lieu fees to the Qualifying Conservation Entity, which enables the Qualifying Conservation Entity to locate and protect agricultural land with a conservation easement or deed restriction.

Staff heard concerns during public outreach and from members of the AAC that if any Qualifying Conservation Entity is unwilling to hold a conservation easement or deed restriction, the County of Monterey should be willing to hold the conservation easement or deed restriction as a last resort. Staff discussed this option internally and when meeting with other jurisdictions. For a jurisdiction to successfully hold the conservation easement and deed restriction, there needs to be a plan in place for the jurisdiction to monitor and ensure compliance with the conservation easements or deed restriction requirements. Other jurisdictions that hold agricultural conservation easements/deed restrictions found this very challenging. In Monterey County, there are multiple land trusts working actively to protect agricultural lands and open space that are well qualified to hold conservation easements or deed restrictions. Staff did not include this as an option in the proposed ordinance for those reasons.

The proposed ordinance requires that for applicants paying in-lieu fees, the development rights of the land being converted must be appraised at fair market value within 90 days from the date the application is considered by the Appropriate Authority, that the fee is paid to the Qualifying Conservation Entity, and that the AAC must review and recommend all in-lieu fees. There was significant discussion about the importance of ensuring the appraisal was appropriate and accurate. Therefore, staff added language to the proposed ordinance to ensure that the AAC reviews all appraisals that are a part of proposed in-lieu fees or alternative and complementary mitigation and can recommend that the applicant obtain another appraisal if the original appraisal seems inappropriate. The proposed ordinance allows alternative and complementary mitigation up to 5% of the applicant's required mitigation amount; if higher than 5%, the applicant must provide additional proof to the AAC and Appropriate Authority that the alternative and complementary mitigation is equally as protective as a conservation easements or deed restriction. The AAC must review and recommend all alternative and complementary mitigation.

The proposed ordinance requires that for projects that change land use designation, the mitigation must occur within twenty-four months of approval of the zoning change or before the commencement of use, whichever occurs first. For projects that are required to mitigate because of an administrative permit, use permit, and/or variance where maximum building site coverage is exceeded, the mitigation must occur prior to or concurrent with the recordation of a parcel or

final map or prior to the issuance of the first construction permit, whichever occurs first. If a project requires both a land use designation change and must obtain an administrative permit, use permit, and/or variance where maximum building site coverage is exceeded, the applicant must comply with the mitigation requirement that occurs first.

In addition to developing the proposed ordinance to mitigate the loss of agricultural land due to development in the unincorporated inland area of the County, another important component of the Program envisioned by AG-1.12 is for the County to work in consultation with the cities to mitigate the loss of Important Farmland resulting from annexation. AG-1.12 further notes that until such time as the program [related to annexations] has been established, the County shall consult and cooperate with the cities so that projects shall mitigate the loss of Important Farmland on an individual basis as much as is feasible as determined by the Board. To this end, the County has agreements with four of the five Salinas Valley cities for working cooperatively on issues of planning, growth, and development (including agricultural mitigation): City of Salinas (2010; Addendum 2019); City of Greenfield (2013); City of Gonzales (2014); City of Soledad (2016). Staff held multiple meetings with the Salinas Valley Cities and Local Agency Formation Commission (LAFCO) as it developed its proposed ordinance. Staff continues to meet with the Salinas Valley Cities and LAFCO to discuss coordination for a potential Salinas Valley-wide agricultural mitigation program. This discussion is occurring on a parallel track to the County's proposed ordinance as, ultimately, annexations and sphere of influence changes are governed through the LAFCO process and regulated by the Cortese–Knox–Hertzberg Local Government Reorganization Act of 2000.

STAFF RESPONSE TO THE PLANNING COMMISSION RECOMMENDATION

The below details staff's research and response to the Planning Commission's recommendation that staff review the mitigation process and definition of "Good Faith Effort" and that staff review and consider additional language to strengthen the protection of the mitigation land's Water Supply and ensure that poorer quality mitigation land cannot be used to satisfy an applicant's mitigation requirements.

Good Faith Effort

The Planning Commission wanted to ensure that the mitigation process was clearly laid out and that "Good Faith Effort" was clearly defined. The Commissioners requested staff ensure that the definition of Good Faith Effort supported the mechanics of the mitigation process. Further, some Commissioners expressed concern that the definition of Good Faith Effort was muddled and did not clearly state the requirements for the applicant, the recipient landowner, and the Qualifying Conservation Entity.

Staff conducted an internal review of the language in the proposed ordinance and agreed that additional clarity could be added to the mitigation process to clarify the requirements applicants must go through to satisfy the requirements of a Good Faith Effort. Staff revised the proposed ordinance to clearly detail how applicants can meet the requirements of a Good Faith Effort. The Good Faith Effort definition has been revised to provide additional clarity to applicants, HCD

staff, and the Appropriate Authority as to what constitutes a Good Faith Effort. This additional clarity gives the Appropriate Authority clear requirements to consider when reviewing Good Faith Effort documentation provided by the applicant.

Additional clarity was provided to clearly state that the applicant must have the Qualifying Conservation Entity hold the conservation easement or deed restriction. Staff wants to note that if multiple Qualifying Conservation Entities are unwilling to hold the proposed conservation easement or deed restriction on the applicant's proposed Mitigation Land, that could be indicative that the proposed mitigation land is not an appropriate site due to site-specific qualities that may impair the Mitigation Land. This would be taken into consideration by the Appropriate Authority when considering the application. Staff would also like to note that this is separate from the concern that there are no Qualifying Conservation Entities operating in a particular area of Monterey County. Currently, Monterey County is served by at least four Qualifying Conservation Entities: the Ag Land Trust, Big Sur Land Trust, Elkhorn Slough Foundation, and the Land Trust of Santa Cruz County.

Revisions were made in a few other sections of the proposed ordinance to clearly state that the applicant is the entity that is required to provide documentation to the Appropriate Authority. The Qualifying Conservation Entity is holding the conservation easement or deed restriction or administering the in-lieu fees pursuant to the requirements of Section 21.92.090. This clarifies the distinction between the Qualifying Conservation Entity and the applicant.

Finally, staff would like to note that many of the discussions around both clarifying the mitigation process and water supply of the agricultural operation were related to concerns from a specific agricultural mitigation example in Monterey County. These issues arose, and there were concerns that the property being proposed for mitigation was not substantially equivalent to the land being lost to conversion and development. Further, there were concerns that the property being proposed for mitigation did not have sufficient water supply for the continued agricultural operations, which could make the site not an appropriate site for mitigation.

Water Supply of Agricultural Operation

There was concern expressed by members of the public and by members of the Planning Commission that the proposed ordinance should prevent poorer quality lands with compromised water from being utilized as mitigation land. The intent of the proposed ordinance is that farmland be protected with a conservation easement or deed restriction that is substantially equivalent to the farmland that is being lost to development or conversion. This concern has surfaced throughout the proposed ordinance's development and hearing process. Staff has consulted with various water agencies in Monterey County and discussed this issue at the Ad Hoc Subcommittee of the Agricultural Advisory Committee. Based on these discussions, the collective parties felt the language in the proposed ordinance was the most appropriate. As this issue was raised again at the Planning Commission and via public comments, the Planning Commission requested that staff look into the issue once again to see if some further refinement could be made.

Staff reviewed the requirements for mitigation land and water supply in the proposed ordinance and made minor edits to clarify further the intent, which is to ensure that the lands being protected via a conservation easement or deed restriction are substantially equivalent to the land that is being lost to development or conversion.

Staff ultimately made two edits to the proposed ordinance to further clarify and reinforce the intent of protecting the water supply on the mitigation land. The first edit that staff made to the proposed ordinance is to Section 21.92.050.A.5 (Mitigation Land). Staff added the word “continued” to the language that details the requirements of the mitigation land water supply. This clarifies that the water supply on the mitigation land should be available for the continued agricultural operations to reinforce further that the intent of the proposed ordinance is to promote the long-term protection of agricultural land in Monterey County. The second edit that staff made to the proposed ordinance is to Section 21.92.070.A.5.b (Methods of Mitigation – Farmland Conservation Easements or Farmland Deed Restrictions). Staff added two words, “and retain,” to ensure the protection and retention of the existing water supply on the mitigation land.

As this discussion came up again at the Planning Commission, staff wanted to inform the Board of some additional alternatives with pros and cons for each alternative that could be added to strengthen the requirements of mitigation land. Staff would not recommend changes; however, should the Board direct staff, here are some options for consideration.

1. Be of substantially equivalent class of soil, based on the California Revised Storie Index or NRCS soil survey maps.
 - Pro:
 - There is an existing source of quantifiable data that is updated and maintained by the United States Department of Agriculture Natural Resources Conservation Service (Geographical Information Systems (GIS) data).
 - Utilizing soil class as an additional criterion for mitigation land would allow for a more granular analysis to be conducted within existing FMMP Important Farmland categories that are maintained by the California Department of Conservation.
 - This would allow the Appropriate Authority to differentiate between FMMP Important Farmland categories in a more granular way by reviewing soil classes.
 - Con:
 - This would require that the Appropriate Authority make a determination on the comparability of the soil class of the land being converted or developed and the mitigation land.
 - This would add additional complexity to the analysis of mitigation land that the Ad Hoc Subcommittee of the Agricultural Advisory Committee and the Agricultural Advisory Committee recommended against using

more detailed farmland analysis data above and beyond the FMMP Important Farmland category data.

2. Be of substantially equivalent existing use to the farmland being lost to conversion or development.

○ Pro:

- Require that the applicant provide information detailing the current use of the mitigation land and the land being converted to development.
- This would allow the Appropriate Authority to differentiate between FMMP Important Farmland categories in a more granular way by reviewing current irrigation and cropping patterns. This could also allow the Appropriate Authority to review the current agricultural use of the mitigation land.
- This could address the scenario where you have two types of Prime Farmland. For example, where the mitigation land is being used to cultivate wine grapes while the farmland being converted to development is being used for lettuce production with multiple crops every year.

○ Con:

- Requirement that the applicant provide historic cropping patterns and current irrigation data for the land being converted and the mitigation land.
- The Appropriate Authority would need to make a determination on the substantial equivalence of use between the proposed mitigation land and the land being converted or developed.

3. Have substantially equivalent agricultural production to the farmland being lost to conversion or development.

○ Pro:

- This would allow the Appropriate Authority to differentiate between FMMP Important Farmland categories in a more granular way by reviewing agricultural production data.
- Historic agricultural production data would likely be available from the applicant.
- This could address the specific scenario where you have two types of Prime Farmland. For example, where the mitigation land is being used to cultivate wine grapes while the farmland being converted to development is being used for lettuce production with multiple crops every year.

○ Con:

- Requirement that the applicant provide historic agricultural production data for the land being converted and the mitigation land.
- The Appropriate Authority would need to make a determination on the substantial equivalence of agricultural production between the proposed mitigation land and the land being converted or developed.

4. Have a water supply substantially equivalent to the farmland being lost to conversion or development.
 - Pro:
 - Requiring a similar water supply could allow for agricultural land that is of similar FMMP Important Farmland categories to be differentiated.
 - This could address the scenario where you have two types of Prime Farmland with similar soil types and climatological characteristics but with substantially different water supplies.
 - Historic water supply data would likely be available.
 - Con:
 - Requirement that the applicant provide water supply data for the mitigation land and the land being converted to development.
 - The Agricultural Commissioner’s Office, the Ad Hoc Subcommittee of the Agricultural Advisory Committee, and the Agricultural Advisory Committee recommend not creating additional requirements for water supply in the proposed ordinance.
 - This would add additional complexity to the analysis of mitigation land that the Ad Hoc Subcommittee of the Agricultural Advisory Committee and the Agricultural Advisory Committee recommended against more detailed analysis of water supply.
 - This would require that the applicant provide historic water supply data for the land being converted and the mitigation land. Ultimately, this would require that the Appropriate Authority make a determination that the mitigation land has a substantially equivalent water supply to the land being converted to development.

REVISIONS TO THE PROPOSED ORDINANCE REFLECTING PLANNING COMMISSION’S RECOMMENDATIONS AND SUBSEQUENT INTERNAL/LEGAL REVIEW

This section details changes made to the proposed ordinance considered at the Planning Commission meeting on November 8, 2023, reflecting a staff review of the proposed ordinance recommended by the Planning Commission and additional minor modifications deemed necessary upon staff and County Counsel subsequent review.

- The Definitions (Section 21.92.020) and Applicability (Section 21.92.030) sections were reordered to have the Definitions section come before the Applicability section.
- The Farmland Mitigation Plan (Section 21.92.040) was moved to a higher section of the proposed ordinance to make it clear what applicants are required to submit as a part of compliance with Chapter 21.92.
- Section 21.92.020.N – This section defined Good Faith Effort, which has been modified to respond to Planning Commission comments. Staff updated the definition to more clearly detail how applicants can satisfy the requirements of a Good Faith Effort.

- Section 21.92.020.T – This section defined Qualifying Conservation Entity; after an internal review, it was determined for clarity that requirements that were previously embedded in Section 21.92.090 were more appropriate to include in the definition of Qualifying Conservation Entity.
- Section 21.92.040.B.1 – This section was revised after an internal review to more clearly state that the Qualifying Conservation Entity is holding the mitigation land and administering the in-lieu fees.
- Section 21.92.050.A.5 – This section was revised in response to Planning Commission and public comments to strengthen further the protections on the mitigation land related to water supply.
- Section 21.92.060.C.1-2 & 21.92.060.D.1-2 – A sentence was added at the end of each mitigation ratio statement to clarify further what the mitigation ratio means in plain language.
- Section 21.92.070 (Methods of Mitigation) – This Section was rewritten to include the mitigation process that was previously a separate section of the ordinance that the Planning Commission approved. This change was made in response to the Planning Commission and public comments to clarify further that the mitigation methods and mitigation process are clear.
- Section 21.92.070.A.5.b – This section was revised in response to Planning Commission and public comments to strengthen further the protections in the conservation easement or deed restriction related to water supply.
- Section 21.92.070.A.7 – This section was revised after an internal review to clearly state that the applicant is required to provide documentation that they have satisfied the mitigation requirements in the proposed ordinance to the Appropriate Authority.
- Section 21.92.070.B.2.b – This section was revised after an internal review to clarify at what stage applicants must have the appraisal completed to ensure the appraisal is completed within the appropriate timeframe.
- Section 21.92.070.B.5 – This former section was deleted after an internal review to clarify that applicants must complete two Good Faith Efforts before they are allowed to pay in-lieu fees. The prior section created confusion as it stated that the applicant could utilize in-lieu fees to satisfy some or all of their total mitigation without first completing two Good Faith Efforts, as is required by the mitigation process.
- Section 21.92.070.C.2 – This section was clarified after an internal review to clearly state the appraisal process as it relates to Alternative and Complementary Mitigation and how the value of the Alternative and Complementary Mitigation will be measured.
- Section 21.92.070.C.3 – This section was revised after an internal review to clarify at what stage applicants must have the appraisal completed to ensure the appraisal is completed within the appropriate timeframe.
- Section 21.92.090.A – This section was clarified after an internal review to clearly state that the Appropriate Authority shall make a determination about the proposed Qualifying Conservation Entity.

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