



DEPARTMENT OF CONSERVATION

DIVISION OF LAND RESOURCE PROTECTION

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May 12, 2015

The Honorable
Mayor Ashley Swearingin
City of Fresno
2600 Fresno Street, Room 2075
Fresno, CA 93721

Dear Mayor Swearingin:

CITY OF FRESNO, AGRICULTURAL LAND CONVERSION AND PLANNING OPPORTUNITIES

Thank you for your request for clarification regarding the Department of Conservation's (Department) comments on the environmental documents for the recently adopted City of Fresno (City) 2035 General Plan and the planning opportunities provided under the Sustainable Agricultural Lands Conservation Program (SALCP). The Department monitors farmland conversion on a statewide basis and administers the California Land Conservation Act (LCA) and other agricultural land conservation programs.

The Department submitted comments on the City's Notice of Preparation (December 12, 2012) and Draft Master EIR (October 21, 2014) for the 2035 General Plan (both attached) which provided recommendations regarding administration of the LCA and mitigation for the impacts of agricultural conversion. Questions have subsequently arisen about the letters' recommendation to consider a mechanism to provide partial mitigation for the loss of agricultural land that includes the use of permanent conservation easements.

The City adopted Resource Conservation and Resilience Objective RC-9, which included three implementing policies, when the 2035 General Plan was adopted on December 11, 2014. RC-9-a would work to establish a cooperative research and planning effort with other local jurisdictions, to address regional concerns regarding agricultural land resource conservation. RC-9-c would establish a Farmland Preservation Program, either in coordination with regional partners or independently, that would require developers to provide permanent protection of Important Farmland¹ in proportion to the amounts converted to urban use, via conservation easements. The City is now moving toward implementation of these and related policies which recognize the importance of agriculture to the region's economy, as a source of local food

¹ Prime Farmland, Farmland of Statewide Importance, and Unique Farmland, as defined under Government Code Section 65570.

production, and as open space². These policies are meant to work in concert with those that focus growth on infill development and revitalization³.

City staff submitted an application for a Sustainable Agricultural Land Strategy Grant to the SALCP in accordance with the March 20, 2015 due date. If the City's application for grant funds from the SALCP were successful, it would provide an opportunity to move forward on implementation of policy RC-9-a. The funds would be used to form a public advisory group, led by an expert consultant hired by the City, which will guide the public process to draft the Farmland Preservation Program. As quoted from the SALCP application:

"The City recognizes that growth and development don't occur in a vacuum and that our actions have a region-wide impact. We want to work with our neighbors to develop a program that can harmonize with existing programs and provide more opportunities to implement conservation efforts within our area, so that our impact can be positive rather than deleterious."

Department Recommendations and Legal Requirements

When a resolution supporting the City's commitment to proceed with the SALCP grant came before the City Council on April 9, 2015, it was tabled so as to continue discussion of agricultural land mitigation and planning at a workshop to be held on May 14, 2015. The Department has been contacted by phone and email from a number of stakeholders for additional information.

The primary question raised regarding mitigation is whether the State requires the City to have a farmland mitigation policy as part of its General Plan. A strict technical interpretation to this question is no. However, as stated in the Department's comment letters, if the impacts are not addressed at the General Plan level, each project that has farmland conversion impacts coming forward will need to address mitigation during the CEQA process. This has the potential to cause confusion and risk as proposals for mitigation will vary, and could be interpreted as not being an equal process by applicants.

Related to the question about requirements for a farmland mitigation policy is what actions might occur if the City did not adopt such a policy. The Department was also asked if it would take action against the City for failure to approve a mitigation policy in the General Plan. The Department's perspective is that it is much more productive and effective to focus efforts on collaboration with local governments, through the types of planning processes the City is engaged in. However, the Department's perspectives would not provide assurance to the City as CEQA litigation could be filed by many parties, including those who may sense that overarching policies regarding support for agriculture and farmland are being applied unevenly. There are a series of recent rulings that have upheld agricultural land mitigation policies and programs in California, including those that require the placement of conservation easements on similar properties to those being lost to conversion.

² Resource Conservation objectives RC-2 and RC-3, and Healthy Communities objective HC-5.

³ Infill and revitalization objectives are located primarily in the Urban Form, Land Use, and Design chapter of the 2035 General Plan, but are also discussed in the Resource Conservation and Healthy Communities chapters.

Status of the SALCP Planning Grant Application

The current status of the City's Sustainable Agricultural Land Strategy Grant application has also been questioned. Although a resolution by the City Council is needed prior to the award of grant funds, the SALCP Guidelines and application form⁴ recognize that timing of grant submittals and local government governing board meetings may be problematic:

"The resolution may be submitted subsequent to the application, if the board meeting schedule prevents the applicant from obtaining a signed resolution before the filing deadline. Submit the draft resolution with the application package and indicate the board meeting date when the resolution will be adopted".

All of the Sustainable Agricultural Land Strategy Grant applications, including the City of Fresno's application, are under review by a technical advisory committee at this time. Those projects which best meet the eligibility and selection criteria, and fall within the available funding threshold, will be recommended for approval to the Strategic Growth Council, at what is expected to be its June 30, 2015 meeting.

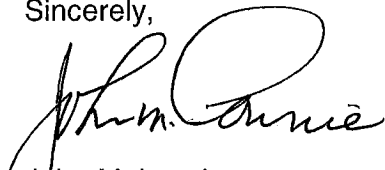
Farmland Preservation Program

The Department appreciates the commitments the City has made to address complex economic, environmental, and land use issues through its 2035 General Plan. Farmland conservation is one of many important considerations in the City's sustainability planning efforts. Agricultural conservation easements serve not only as a way to address farmland conversion, but as a means for agricultural landowners to fund operational improvements, purchase additional land, or conduct estate planning that will enable farm properties to stay in the family.

The 2035 General Plan also recognizes that this sustainability is integrally related to land use decisions in other nearby jurisdictions and that the City is seeking opportunities to work collaboratively with them, whether through an SALCP grant or other means. The Department remains available to provide technical assistance as the City and its neighbors consider agricultural land conservation in the years ahead.

Thank you again for the opportunity to provide clarifying information.

Sincerely,



John M. Lowrie,
Assistant Director

Enclosures

⁴ Page 16 of the SALCP Guidelines and page 11 of the Sustainable Agricultural Land Strategy Grant Application Form.