



City of Morgan Hill

City Council Staff Report

File #: 14-383, Agenda Date: 11/5/2014, Version: 1

CITY COUNCIL STAFF REPORT MEETING DATE: NOVEMBER 5, 2014

See pg. 544-545
for mitigation fee estimates

PREPARED BY: Andrew Crabtree, Community Development Director
APPROVED BY: City Manager

AGRICULTURAL LANDS PRESERVATION PROGRAM AND SOUTHEAST QUADRANT LAND USE PLAN

RECOMMENDATION(S):

1. Adopt a Resolution to certify the Southeast Quadrant Land Use Plan Environmental Impact Report (EIR), make certain findings related to that EIR, set forth a Statement of Overriding Considerations, and adopt a related Mitigation Monitoring and Reporting Program; and
2. Adopt a Resolution to Establish the Agricultural Lands Preservation Program (City Council Policy 14-01); and
3. In connection with an Ordinance to amend the Zoning Code to implement the Agricultural Lands Preservation Program (Zoning Amendment ZA14-11):
 - a. Waive the first and second reading of the Ordinance; and
 - b. Introduce the Ordinance by title; and
4. Adopt a Resolution to amend the General Plan text (GPA14-09) to establish the Agriculture and Sports/Recreation/Leisure General Plan designations; and
5. In connection with an Ordinance to amend the Zoning Code to establish a Sports/Recreation/Leisure Zoning District:
 - a. Waive the first and second reading of the Ordinance; and
 - b. Introduce the Ordinance by title; and
6. Adopt a Resolution to amend the General Plan land use diagram (GPA14-08) to establish an Urban Limit Line (ULL) and to expand the Urban Growth Boundary (UGB) within the Southeast Quadrant; and
7. Adopt a Resolution to amend the General Plan land use diagram as proposed through GPA 08-02 Tennant-Roman Catholic Bishop of San Jose, GPA 08-03 Fisher-Granum Partners, GPA 08-04 Tennant-Puliafico, GPA 08-05 Condit-Craiker, and GPA 14-10 SEQ-City of Morgan Hill, and a modified version of GPA 08-12 Maple-Chiala.
8. Direct staff to continue discussions with the Chiala family and Santa Clara County to advance the Chiala's agricultural preservation efforts in a manner that may include a property clustering program and a Transfer of Development Rights (TDR) system that could be incorporated into proposed changes to the City's Residential Development Control System in 2016 as part of the General Plan Update process.

COUNCIL PRIORITIES SUPPORTED:

Ongoing Priorities Protecting
the Environment Maintaining
Fiscal Responsibility Supporting
Youth

Annual Priorities
Stimulate Economic Development

NARRATIVE:

Introduction

One of the City Council's 2014 Focus Areas is to approve and implement an Agricultural Lands Preservation Program and Southeast Quadrant Land Use Plan. The purpose of this report is to advance this Focus Area after many years of planning.

Furthermore, it is important to note that upon City Council direction in July 2014 related to these ongoing efforts, the City Manager, Assistant City Manager for Community Development, and Community Development Director met several times with the Executive Officer and Project Manager for LAFCO, two planning managers from Santa Clara County Planning, and the Executive Director of the Open Space Authority (OSA) to better understand each agency's interests in these plans and if the City's existing plans could be revised in a mutually beneficial manner. During the course of these conversations, County staff expressed concerns with the proposed annexation of land intended for non-urban use (e.g., agricultural conservation) and the annexation of land outside of the City's USA. LAFCO staff expressed concerns that the City is proposing annexing too much land when vacant land remains within the City limits, that the Project would convert too much farmland to non-agricultural use, and that proposing to annex lands in the eastern part of the area while not providing public services was problematic. Additionally, OSA representatives expressed that they would like to participate in implementation of the Agricultural Lands Preservation Program and so are generally supportive of the City's adoption of such a program, but would like to see it delayed in order to incorporate a TDR program.

At the City Council's October 3, 2014 mid-year workshop, City staff provided an update on the discussions with these partner agencies. At that time, staff informed that Council that as a result of the partner agency conversations and their voiced concerns, it would be recommending revisions to the plan as it stood in July 2014. Most significantly, a modification to the proposed Urban Growth Boundary (UGB) is being recommended to address issues raised by partner agencies and to bolster the City's commitment to preserve agricultural land. This specifically means that for GPA 08-12 Maple-Chiala the City would need to facilitate a process with the County and Chiala family to advance the family's agriculture preservation goals because those lands would remain within the County's jurisdiction. City staff is committed to doing so and is prepared to begin immediately.

As also reported to the Council in October, these proposed changes do not go as far as our partner agencies would like. With that being said, City staff continues to communicate our willingness to work with the County, LAFCO, and OSA to capitalize on the opportunity presented by the Chiala family's proposal, to create a TDR program, and to further other approaches that enhance agriculture preservation. Staff has also communicated to our partner agencies that we

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plan to present to the Planning Commission and Council the revised Agricultural Lands Preservation Program and the Southeast Quadrant Land Use Plan as described in detail below.

Agricultural Lands Preservation Program and the Southeast Quadrant Land Use Plan

Adoption of the Agricultural Lands Preservation Program and the Southeast Quadrant Land Use Plan (collectively, the "Project," which is further described below) would be consistent with the City's General Plan by implementing four major City objectives:

- 1) Preserve agricultural lands within the Morgan Hill Sphere of Influence (SOI);
- 2) Develop Sports / Recreation / Leisure (SRL) uses within the City's Southeast Quadrant (SEQ);
- 3) Establish an appropriate Urban Limit Line (ULL) and Urban Growth Boundary (UGB) within the SEQ; and
- 4) Provide for construction of a private high school within Morgan Hill to support the community's existing, projected ongoing growth.

The Project consists of several components including a proposed City Council Agricultural Lands Preservation Policy, and privately initiated and City initiated amendments to the General Plan text, General Plan land use diagram, Zoning text, Zoning diagram, Urban Service Area (USA) boundary and City Limits line. The SEQ area encompasses approximately 1,290 acres and is generally bounded by Condit Road and Highway 101 to the west, San Pedro Avenue to the north, Carey Avenue to the east, and Maple Avenue to the south. In accordance with the requirements of the California Environmental Quality Act (CEQA), an Environmental Impact (EIR) has been prepared to analyze and disclose the environmental impacts for the Project.

The proposed EIR, Council Policy, General Plan amendments and amendments to the text of the Zoning Ordinance have been scheduled for consideration by the City Council at the November 5, 2014 Council meeting. These Project components are further described in Attachment #1 and the staff recommended General Plan land use diagram is illustrated in Attachment #2. The Draft EIR is available on the City's website at: <http://www.morgan-hill.ca.gov/index.aspx?nid=965>. An addendum (Attachment #3) has been prepared to address the current staff and Planning Commission recommendations which result in recommended modifications to the Project. A Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Plan (MMRP), both of which are required pursuant to the provisions of CEQA if the Project is approved by Council, are provided for Council consideration as exhibits to the EIR Findings Resolution. Proposed amendments to the zoning diagram, amendment to the USA and annexations may be brought to the City Council for consideration at a future meeting depending upon the Council's actions on November 5.

Analysis

The following analysis collectively discusses the consistency of the Project components with the objectives identified above.

1) Agricultural Preservation

The City's General Plan includes several policies that address the preservation or promotion of agricultural activity within Morgan Hill's SOI including the following:

Agriculture Policy 3a: Support programs and techniques, including conservation easements and purchase of development rights to encourage the retention of agricultural activities and to

minimize conflicts in the transition from agriculture to urban uses.

Agriculture Policy 3g: Continue to support the long-term maintenance of agricultural land uses and agriculture as an economic enterprise in South County, since it contributes to the local economy, helps to delineate urban boundaries, and is a productive use for land which is not immediately planned for urban development.

Agriculture Action 3.1: Use a variety of techniques to protect agricultural land, including land use regulation, urban development policy, conservation easements (with matching grant funds from appropriate agencies, where possible), and transfer or purchase of development rights.

The proposed Agricultural Lands Preservation Program (Attachment #3) and accompanying Zoning Code amendment would directly implement these General Plan Policies and Actions by identifying a priority Agricultural Lands Preservation Area and by establishing a Policy Framework for the ongoing preservation of agricultural lands through conservation easements. As previously discussed with City Council, the Program was drafted based upon the recommendations of an agricultural lands preservation expert and a land use economist hired to act as consultants to the City. Specific details of the Program were further edited to reflect input from the OSA and through several meetings by the Planning Commission. Following the Council's direction in July, City staff met with counterparts from the County, LAFCO and the Open Space Authority to further discuss details of the Program as well as the overall approach proposed by the City.

OSA staff has strongly encouraged the City to include a Transfer of Development Rights (TDR) system within the Program and to delay adoption of the Program until the TDR system is in place. City staff agrees that it could be helpful to include TDR in the Program and that this would be consistent with the General Plan. However, staff has concluded that in order to develop a TDR program with adequate economic incentive to insure its implementation, it will be necessary to modify the City's Residential Development Control System (RDSCS), which cannot be accomplished prior to 2016. Because the proposed Program as currently drafted would be compatible with a TDR system and would enable the City to begin preservation of agricultural lands in the near future, staff recommends that the Program be adopted and that the City consider developing a TDR system for agricultural lands to incorporate into proposed changes to the RDSCS in 2016.

As part of the Project, Staff and the Planning Commission are recommending that the City adopt a new "Agriculture" General Plan land use designation (GPA 14-09) that would be applied to a majority of the SEQ lands (GPA 14-10) and which would serve to implement the General Plan policies listed above. As initially proposed for the Project, these lands would have maintained their current designation of "Rural County" or been amended to be "Open Space". The new Agriculture designation allows similar uses as would the Open Space designation (e.g., low density residential, low intensity recreation, habitat), as well as active agriculture, and is therefore compatible with other components of the Project. At the same time, the Agriculture designation would more clearly support ongoing agricultural activity and communicate the City's commitment to agricultural preservation within the SEQ. Therefore, staff and the Planning Commission recommend that the Maple-Chiala General Plan amendment application (GPA 08-12) also be designated as Agriculture along with much of the SEQ area.

2) Sports / Recreation / Leisure (SRL)

The Project includes a proposed General Plan text amendment (GPA 14-09) and a Zoning amendment (ZA 14-09) to establish a new "Sports / Recreation / Leisure" district. Three privately

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initiated General Plan land use diagram amendment applications (GPA 08-03: Fisher-Granum; GPA 08-04: Tennant-Puliafico; and GPA 08-05: Condit-Craiker) would change the designation for three specific sites on the western side of the SEQ. The City has initiated a fourth Amendment (GPA 14-10: SEQ-City of Morgan Hill) that would change adjoining parcels to SRL in order to create a cohesive SRL district.

The proposed establishment of a Sports / Recreation / Leisure area along the western edge of the SEQ would directly implement the General Plan policy:

Economic Development Policy 3c. Encourage location of tourist and recreation oriented commercial development along the freeway.

The City Council also previously provided direction to staff to include an SRL area within the SEQ land use plan. Designation of this SRL area will allow the City to further expand its regionally significant recreational facilities, potentially expand on agricultural tourism, and support the City's economic development goals.

The Planning Commission debated the proposed configuration of the SRL area, focusing in particular on the Puliafico property. While the Commission considered designating the eastern half of lands covered by GPA 08-04 as Agriculture rather than SRL, the Commission ultimately determined, in agreement with the staff recommendation (see Planning Commission report for September 23, 2014), that all of this property should be designated SRL in order to provide a uniquely large site to accommodate specific SRL uses which would not fit on other available SRL properties and to use the SRL Zoning designation to further limit the development of the site to maintain an adequately open character compatible with adjacent agricultural activity.

3) Urban Limit Line (ULL) and Urban Growth Boundary (UGB)

The project includes delineation of an Urban Limit Line and expansion of the City's Urban Growth Boundary within the SEQ (GPA 14-08). The City's General Plan directs that the City should use the UGB to identify lands planned for urban development within the timeframe of the General Plan and use the ULL to signify the City's ultimate potential urban expansion. The General Plan includes the following policies particularly relevant to the placement of the UGB and ULL within the SEQ:

Community Development Policy 2c: Consider land within or adjacent to the city as available for urban development only when it is included within the Urban Service Area and Urban Growth Boundary and can be developed in a manner that will be cost-effective to the City.

Community Development Policy 3d: Establish and maintain an Urban Limit Line (ULL) around the City to serve as a longer term version of the Urban Growth Boundary and define the inner limits of potential Greenbelt areas.

Community Development Policy 3e: The Urban Limit Line should be continuous around the City and located outside of or coterminous with the city limits and Urban Growth Boundary. Greenbelt areas should be located outside of the ULL.

Community Development Action 3.4: Expand UGB for land uses which have less than a 20 year supply within the UGB.

Community Development Goal 5: Preservation of agricultural and open space uses on unincorporated lands outside the UGB.

Greenbelt Policy 2j: Locate the Greenbelt outside of the Urban Limit Line, where practical.

Community Development Action 5.3: Work with Santa Clara County to reach consensual agreement regarding the expansion of the city's urban area and permanent preservation of greenbelts in unincorporated areas surrounding the city."

Implementation of the City's vision for an SRL district within the SEQ will require that the City annex the SRL lands so that they may be developed under the City's land use jurisdiction. The County's land use regulations would allow limited development of SRL uses, including potentially the City's proposed softball complex, but would prevent the majority of the SRL development envisioned by the City for the SEQ. Amending the City's General Plan to include the entire SRL area within the UGB and ULL will allow the City to move forward an application to LAFCO to expand the City's Urban Service Area (USA) boundary to include the SRL lands and plan for their development as a regional "tourist and recreation oriented commercial development".

One of the privately initiated General Plan Amendments (GPA 08-12 Maple-Chiala), and the associated annexation request, are predicated upon the City including a significant portion of the eastern edge of the SEQ within the City's ULL and UGB in addition to the SRL areas. The Chiala family has made this request to the City so that they could move forward a planned development zoning under the City's land use authority that would shift existing development rights for up to 38 residences now spread across their properties to a concentrated area at the northeast corner of the SEQ, thereby allowing the majority of their lands to be preserved for agricultural use. Under this proposal, the 38 residences would be developed on lots 2-5 acres in size and the remainder of the Chiala properties, including an important agricultural processing facility and some of the better farmland within the SEQ would be preserved. This proposal is intended to significantly advance the City's goals for agricultural preservation within the SEQ by reserving a significant amount of land exclusively for agricultural uses, by preserving the agricultural processing facility, and by providing a site for an agricultural education facility. The Chiala family is also proposing to develop recreational uses on a portion of their site, consistent with the Open Space or Agriculture designation, but in a form that may not be supported by the County.

While the County's zoning code allows new development through 'clustering' on hillside lands, it does not currently allow for such clustering of agricultural lands as proposed by the Chiala family. The Chiala family is proposing that future residential development on their land would be served through private utilities and so an expansion of the USA would not be necessary. Annexation would however be necessary in order for the City to administer the proposed planned development zoning. The Project includes proposed text amendments to General Plan Community Development Policy 3e and Policy 20b, to General Plan Open Space Policy 2o and to Regional Coordination Policy 1m (see attached Resolution) that would support this proposal by clarifying that the City may extend its UGB and City Limits to include lands for agricultural preservation outside of the USA.

The Chiala component of the Project has been a point of conversation and is not supported by LAFCO and County staff, as well as by the Greenbelt Alliance and Committee for Green Foothills. In July, the City Council directed staff to meet with counterparts from the County, LAFCO and the OSA to address their concerns and, if possible, to develop a mutually agreeable approach to agricultural preservation in the SEQ. As part of these discussions, staff concluded that it would be best to work with the County to implement the Chiala proposal rather than to attempt to annex the Chiala property into Morgan Hill. Staff presented this to the partner agencies as a significant change in the City's

approach, but did not receive concurrence from the group that they could support the Project as a result of the change.

The City has continued to engage with County planning staff to discuss how the Chiala proposal can be implemented without annexation into Morgan Hill. While the City will continue to develop a TDR program for preservation of agricultural lands, a TDR program will be dependent upon housing market conditions and the participation of outside developers and will likely be implemented gradually over a period of time. For these reasons, the TDR program may not be an adequate substitute for the proposed clustering on the Chiala property, which would be implemented comprehensively and quickly. As an alternative, the County could develop a clustering policy for agricultural lands that would allow the proposal to be implemented within the County or the County could agree to enter into a mutual planning agreement with Morgan Hill where the City has the authority to administer the necessary land use entitlements. While there isn't a specific timeframe for the City-County discussions of these approaches, County staff have communicated that they are internally reviewing these options.

After considerable discussion of the proposed ULL and UGB changes, the Planning Commission decided to recommend that the UGB be drawn as proposed by staff to include the SRL properties, but not to include the Chiala lands. The Commission also however decided to recommend that the entire SEQ area be included within the ULL (Attachment #4). They made this recommendation with the intent that it would communicate to LAFCO an acceptable compromise, but also keep open the possibility of pursuing the annexation of the Chiala lands as an alternative solution. Commissioner Mueller expressed concern that this was counter to the intent of the ULL as defined in our General Plan (Community Development Policy 3.d above) which states that the greenbelt should be outside of the ULL, and would thereby imply that we were no longer attempting to maintain a greenbelt along the southern edge of the SEQ.

Staff continues to recommend that both the UGB and ULL be drawn to include only the SRL properties (Attachment #5) because this would be most consistent with the City's current General Plan policies that state that agricultural should occur outside of the City, would demonstrate the City's commitment to agriculture preservation, and it would be consistent with the revised proposal as discussed with the County, LAFCO and the OSA. Furthermore and as previously mentioned, staff believes that there is an opportunity to work with County staff to accomplish the clustering of existing development rights as envisioned by the Chiala family so that this opportunity to preserve agriculture lands is not lost.

4) South County Catholic High School

The Project includes the proposed designation of a site within the SEQ as Public Facility to allow for a near-term development of a private high school. The City's General Plan encourages the City to work with both public and private schools to construct schools that will support our City's growth.

Community Engagement Community Development Policy 19b: Encourage the Morgan Hill Unified School District, Gavilan College and private schools to develop a strategic plan for and construct schools to coincide with the planned future growth of the city.

Adoption of the proposed General Plan Amendment (GPA 08-02: Tennant-Roman Catholic Bishop of San Jose) would help to implement this General Plan policy by allowing for the development of a proposed private high school. The high school component of the Project was analyzed at a project level within the Project EIR. Because the site has good access to Highway 101 and would

be located a considerable distance from existing private Catholic high schools to the north in San Jose and to the south in Monterey, it is anticipated to attract a significant number of local students who would otherwise be travelling longer distances for school.

Community Engagement

The proposed Project has been developed through a multi-year planning process formally dating to 2006, but which was initiated as a result of the City's prior General Plan update in 2001. Throughout this process, the City has worked closely with local property owners to develop details of the Project, the City Council has provided strategic direction on key issues and the Planning Commission has provided considerable input to refine Project details. The process has involved several publicly noticed hearings by both Planning Commission and City Council.

A community meeting was held in June of this year for residents of the subdivision along Hill Road. Approximately 20 community members were in attendance. One family, Mr. and Mrs. Neal, are particularly opposed to the possible annexation of their property which would need to occur if the City moves forward with annexation of the Chiala properties as proposed. Other residents were concerned that annexation would not bring them much benefit and could disturb the use of their properties as currently allowed in the County. The Planning Commission recommended that, if these properties are annexed, the City zone them so as to allow the same uses as the County currently allows. Staff and the Planning Commission are however recommending that the City not move forward with proposed annexation of the Hill Road and Chiala properties.

Numerous letters of public correspondence have been submitted over the course of public hearings held for the Project and these are included with the respective staff reports. One letter (Attachment #6) directed to the Council for the current hearing was received in time for this staff report from an SEQ property owner's representative. The letter requests that one of the properties currently proposed to have an Agriculture designation and to remain in the County instead be brought into the City in order to facilitate its future development for commercial uses, including preservation of a portion of the site for agriculture. Expanding the UGB to include the site would allow the City to consider its possible annexation at an upcoming meeting.

Council Priorities

As noted, the Project would advance the City Council's Ongoing Priorities for Protecting the Environment, Fiscal Responsibility, and Supporting Youth by promoting the preservation of agricultural lands and open space, providing mitigation for loss of agricultural lands, allowing development of a Sports / Recreation / Leisure area which contributes to the City's economic development, while also, along with the proposed high school, provide increased opportunities for our youth.

The Project would advance the City Council's Annual Priority to Stimulate Economic Development by allowing development of a Sports / Recreation / Leisure area. The Project is one of the City Council's identified Focus Areas for 2014.

Alternative

The City Council could consider the following alternative to staff's recommendation:

Alternative: Adopt a UGB that includes the Chiala Properties

Pro: Including the Chiala properties within the UGB would allow the City in the future to submit an

annexation request for these properties to LAFCO for consideration, thereby maintaining the possibility of reviewing the proposed residential clustering and agricultural preservation through the City's land use regulatory process.

Con: Expansion of the UGB to include lands intended to remain in agricultural use would be inconsistent with the City's current General Plan and historic practices, and would be in conflict with the stated positions of LAFCO and County Planning staff.

Reason for not recommending: Moving forward with a plan intended to address concerns raised by LAFCO and County staff demonstrates that the City is attempting to work with other agency stakeholders and that the City is sincere in its efforts to preserve agricultural lands. As importantly, City staff is also committed to working with the Chiala family to advance their goals in collaboration with the County and other partner agencies so that this opportunity can be realized.

Next Steps

Based upon the City Council's actions, staff will schedule proposed rezoning, USA expansion and/or annexation requests for consideration before the Planning Commission and City Council. These would potentially be followed by applications to LAFCO and processing of development permits that would allow construction of a new private high school, Sports / Recreation / Leisure and/or new residential cluster development within the SEQ.

Staff will also continue working with the Chiala family and the County, LAFCO, and OSA to advance the family's agricultural preservation goals.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

Most recently, components of the Project were considered by the Planning Commission at their regular meetings of May 13, 2014, May 27, 2014, June 10, 2014, June 24, 2014, August 12, 2014, August 26, 2014, September 9, 2014, September 23, 2014 and October 14, 2014. The Planning Commission recommendation and discussion identified in this staff report are the result of these meetings. The City Council also received an update of the Project at its meeting of July 2, 2014. Staff reports for each of these meetings are attached. The Planning Commission also conducted a study session on the Project on February 25, 2014. Questions raised at that study session are addressed in the staff report for the May 13, 2014 Commission meeting.

Since 2007, the SEQ project has been defined through input and direction provided by both the Planning Commission and City Council on multiple occasions. Notable direction on the Project was provided to staff at the following meetings:

- February 21, 2007 City Council - direction to revise Residential Development Control System (RDCS) to support the preservation of open space and agriculture within the SEQ.
- November 7, 2007 City Council - suggestion to use Residential Development Control System (RDCS) process as a funding source for agricultural mitigation.
- February 20, 2008 City Council - direction to continue with SEQ work program as proposed with an emphasis on development of sports/recreation/leisure uses within the SEQ and identification of a priority agricultural conservation area within the SEQ.

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- April 22, 2008 Planning Commission - discussion of sports/recreation/leisure as a land use focus for the SEQ.
- April 30, 2008 City Council - direction for City staff to work cooperatively with private property owners to develop a single project and to include an analysis of the long-term feasibility of agriculture within the project.
- October 7, 2009 City Council - acceptance of the project definition to include the proposed land use plan and agricultural preservation program.
- April 7, 2010 City Council - further definition of the proposed land use plan, including direction to continue to explore the proposed agricultural preservation program as a feasible strategy

FISCAL AND RESOURCE IMPACT:

Ongoing staff work on the Project is being funded through the City's Long Range Planning fund. Additional costs, such as consultant fees and noticing, are shared between the City's Long Range Planning fund and the private applicants participating in the Project.

CEQA (California Environmental Quality Act):

Choose an item.

Environmental clearance for this Project is provided through an Environmental Impact Report (EIR) prepared in accordance with the California Environmental Quality Act (CEQA) to evaluate the potential environmental impacts associated with the adoption of a Citywide Agriculture Preservation Program and Southeast Quadrant Land Use Plan (State Clearinghouse No. 2010102010). This document is prepared in conformance with CEQA (California Public Resources Code, Section 21000, et seq.) and the CEQA Guidelines (California Code of Regulations, Title 14, Section 15000, et seq.), and City of Morgan Hill rules and regulations. Certification of this EIR is required for Council to approve elements of the Project and is agendized for Council consideration and action.

LINKS/ATTACHMENTS:

1. Description of Project Components
2. Map of proposed General Plan land use designations
3. Draft Agricultural Lands Preservation Program (CP14-01)
4. Planning Commission recommendation for UGB and ULL Boundaries
5. Staff recommendation for UGB and ULL Boundaries
6. Correspondence from Bruch Tichinin
7. Planning Commission staff report for May 13, 2014
8. Planning Commission staff report for May 27, 2014
9. Planning Commission staff report for June 10, 2014
10. Planning Commission staff report for June 24, 2014
11. Planning Commission staff report for August 12, 2014
12. Planning Commission staff report for August 26, 2014
13. Planning Commission staff report for September 9, 2014
14. Planning Commission staff report for September 23, 2014
15. Planning Commission staff report for October 14, 2014
16. Resolution for EIR

17. [Draft EIR](#)
18. EIR Resolution Exhibit A: Addendum
19. EIR Resolution Exhibit B: Statement of Overriding Considerations
20. EIR Resolution Exhibit C: MMRP
21. Resolution Council Policy CP14-01 (Agricultural Lands Preservation Program)
22. CP14-01 Resolution Exhibit A: Program
23. Ordinance Zoning Amendment ZA14-11 (Agricultural Preservation)
24. Resolution General Plan Amendment GPA 14-09 (SRL and Agriculture Districts)
25. Ordinance Zoning Amendment ZA14-09 (SRL District)
26. ZA 14-09 Ordinance Exhibit A: SRL District
27. Resolution General Plan Amendment GPA 14-08 (ULL and UGB)
28. GPA 14-08 Resolution Exhibit A: ULL and UGB
29. Resolution General Plan Land Use Diagram amendments GPA 08-03, GPA 08-03, GPA 08-04, GPA 08-05, GPA 08-12, and GPA 14-10
30. Land Use Diagram Amendments Resolution Exhibit A

Agricultural Lands Preservation Program and SEQ Land Use Plan – Attachment #1 Project Description
November 5, 2014

The City and local property owners have worked together to develop a Citywide Agricultural Lands Preservation Program and related, proposed General Plan Amendments, Zoning Amendments, and boundary adjustments within an area referred to as the Southeast Quadrant (SEQ). The SEQ area encompasses approximately 1,290 acres and is generally bounded by Condit Road and Highway 101 to the west, San Pedro Avenue to the north, Carey Avenue to the east, and Maple Avenue to the south.

The City Council is specifically being asked to consider the following components of the Project at the November 5, 2015 Council meeting:

- a) An Environmental Impact Report (EIR) – The EIR is intended to serve as an informational document for the public agency decision makers and the public regarding the proposed project. The proposed project consists of five program-level components—collectively referred to as the SEQ Area Project—and one project-level component (the South County Catholic High School). More information is available on the City of Morgan Hill website at: <http://www.morgan-hill.ca.gov/index.aspx?nid=965>

the Planning Commission recommends the UGB per staff recommendation, but that the ULL include the entire SEQ area. To be consistent with the privately initiated General Plan Amendment GPA 08-12: Maple-Chiala, an additional area on the east side of the SEQ would also need to be within the UGB and ULL.

- f) **Public Facility Land Use (GPA 08-12: Tennant-Roman Catholic Bishop of San Jose)** – A privately initiated request to amend the General Plan land use designation from Rural County to Public Facility on the approximately 39 acre site located in the north east quadrant of the intersection of Murphy Avenue and Tennant Avenue.
- g) **Sports / Recreation / Leisure Land Use** – A combination of three privately initiated and one City initiated General Plan Amendment that in combination would establish a cohesive Sports / Recreation / Leisure district along the east side of Highway 101. This includes the following specific applications:

GPA 08-03 Fisher-Granum Partners: A request to amend the General Plan land use designation from Rural County to Sports/Recreation/Leisure to allow future development of sports, recreation and leisure uses on a 26-acre site located on the south side of Tennant Avenue, north of Fisher Ave., and west of Murphy Avenue, adjacent to the east side of Highway 101.

GPA 08-04 Tennant-Puliafico: request to amend the General Plan land use designation from Rural County to Sports/Recreation/Leisure to allow future development of sports, recreation and leisure uses on a 38-acre site located along the south side of Tennant Avenue, east of Murphy Avenue.

GPA 08-05 Condit-Craiker: A request to amend the General Plan land use designation from Rural County to Sports/Recreation/Leisure to allow future development of sports, recreation and leisure uses on a 4-acre site located immediately south of the City of Morgan Hill Aquatics Center at the northeastern corner of Condit Road and Tennant Avenue.

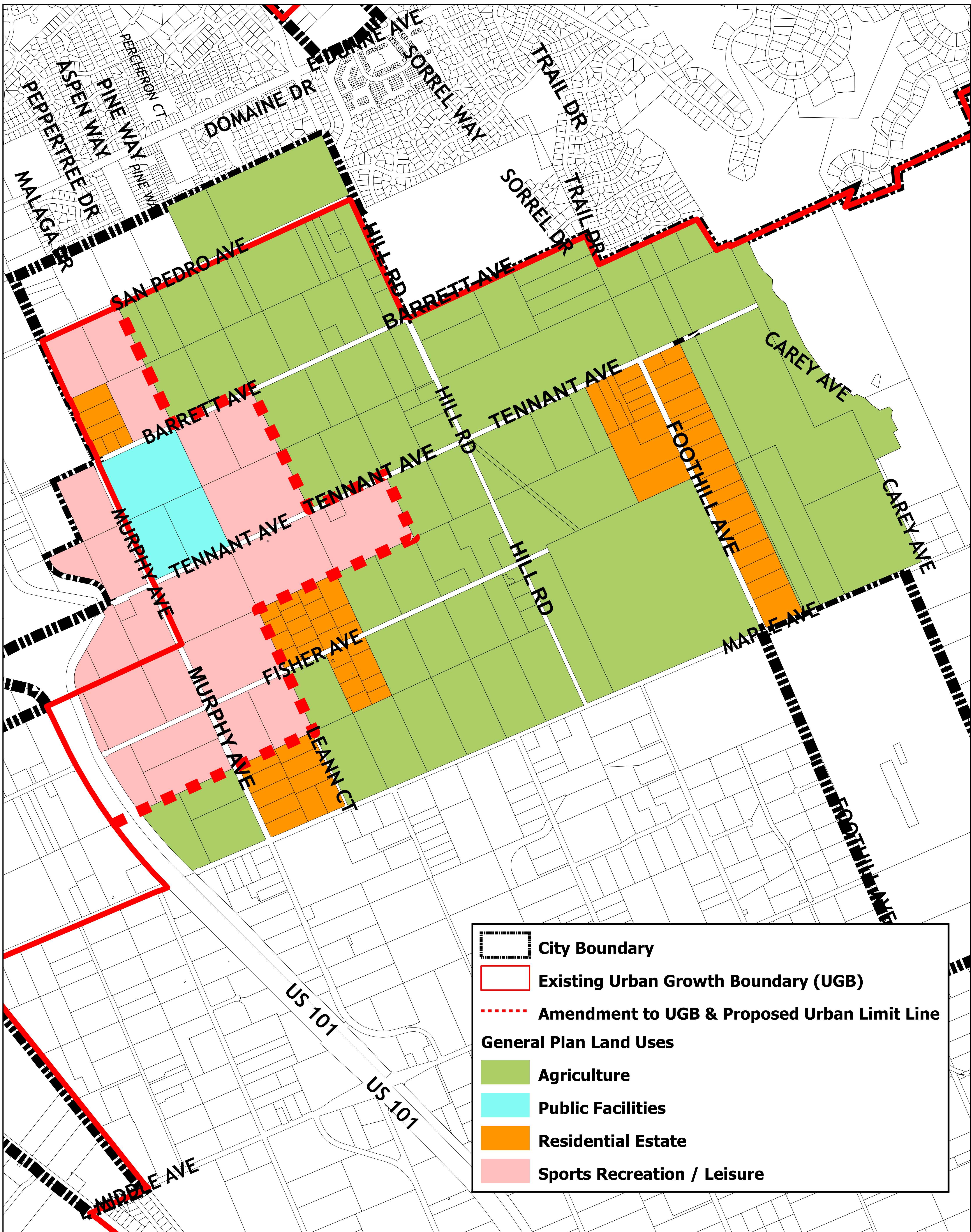
GPA 14-10 SEQ-City of Morgan Hill: A request to amend the land use designation from Rural County to Sports/Recreation/Leisure on an approximately 203 acre area bound by the south side of San Pedro Ave, east of Hill Rd., west of Highway 101 and north of Maple Avenue.

- h) **Agriculture or Open Space Lands and Residential Estate Land Uses** – City staff and the Planning Commission recommend that the eastern portion of the SEQ area be designated as Agriculture with the exception of three existing residential subdivisions, which are proposed to be designated as Residential Estate consistent with their existing land use:

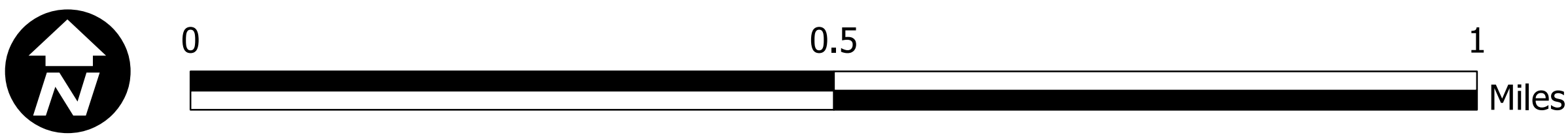
GPA 14-10 SEQ-City of Morgan Hill: A request to amend the land use designation from Rural County to Agriculture on an approximately 512 acre area generally extending southward from San Pedro Avenue to Maple Avenue and along both sides of Hill Road and eastward of Foothill Avenue. Also to amend the land use designation from Open Space to Agriculture on an approximately 40 acre site located North of San Pedro Avenue and west of Hill Road and to amend the land use designation from Rural County to Residential Estate on two areas totaling 127 acres generally south of Tennant Avenue, east of Murphy Avenue, north of Maple Avenue and west of Hill Road.

As an alternative, the City has received a privately initiated request to amend the General Plan land use diagram to Open Space along the eastern edge of the SEQ. This request has not been recommended by staff or the Planning Commission.

GPA 08-12 Maple-Chiala: request to amend the land use designation from Rural County to Open Space on sites totaling approximately 316 acres bound by the north side of Maple Ave., east of Hill Road., west of Carey Avenue/Carey Lane and south of Barrett Avenue.



	City Boundary
	Existing Urban Growth Boundary (UGB)
	Amendment to UGB & Proposed Urban Limit Line
General Plan Land Uses	
	Agriculture
	Public Facilities
	Residential Estate
	Sports Recreation / Leisure



Southeast Quadrant Project Proposed Amendment to UGB & ULL



City of Morgan Hill

Agricultural Lands Preservation Program

Draft: August 12, 2014

Purpose

The City of Morgan Hill has determined that small-scale agriculture is viable in the Morgan Hill Sphere of Influence (SOI) if land use tools are used effectively to protect an adequate agricultural land use supply. Establishing land use policies and an implementation program to preserve agricultural lands will help to preserve open space, provide access to locally grown foods, promote sustainable food production, contribute to a unique cultural environment within Morgan Hill, and address regional land use planning policy objectives. To be effective for Morgan Hill, the agricultural preservation program will need to focus upon the use of agricultural land use easements supported by agricultural preservation land use policies.

The Morgan Hill Agricultural Lands Preservation Program is intended to promote continued and viable agricultural activities in and around Morgan Hill through a comprehensive set of land use policies and implementation activities that together accomplish the following:

1. Preserve open space agricultural lands and agricultural activity within the Morgan Hill Sphere of Influence.
2. Promote the viability of small-scale agriculture through the preservation of agricultural land and the implementation of supporting General Plan policies.
3. Identify the combination of tools, techniques, mechanisms, and funding sources that form the best agricultural/open space land preservation program for the City of Morgan Hill.
4. Establish CEQA mitigation procedures to mitigate the loss of agricultural lands.
5. Focus land preservation in the City's Southeast Quadrant (SEQ) area, but also encourage preservation efforts throughout the City's SOI.

Definitions

Agricultural Land

For “Agricultural Land” that requires off-setting preservation/mitigation under this Agricultural Lands Preservation Program, Agricultural Land is defined as land that is depicted on the 2010 map of the Farmland Mapping and Monitoring Program (FMMP) of the California Department of Conservation as Prime Farmland, Farmland of Statewide Importance, Unique Farmland, and Farmland of Local Importance and that has not been subsequently developed for non-Agricultural Use prior to the adoption of this Program or subsequently developed per the provisions of this Program. Lands identified as Grazing Land are not subject to the offsetting preservation/mitigation requirements set forth in this Policy. The FMMP classifications reflect a finding by the California Department of Conservation of agricultural quality, which is based on a combination of soil quality as measured by the soil surveys of the United States Department of Agriculture (USDA) Natural Resource Conservation Service, together with recent agricultural-usage history.

Agricultural and grazing land definitions, as defined by the Department of Conservation mapping classifications include:

1. **Prime Farmland.** Prime farmland is land with “the best combination of physical and chemical features able to sustain long term agricultural production. This land has the soil quality, growing season, and moisture supply needed to produce sustained high yields. Land must have been used for irrigated agricultural production at some time during the four years prior to the mapping date.”
2. **Unique Farmland.** Unique farmland is “farmland similar to prime farmland but with minor shortcomings, such as greater slopes or less ability to store soil moisture. Land must have been used for irrigated agricultural production at some time during the four years prior to the mapping date.”
3. **Farmland of Statewide Importance.** Farmland of statewide importance is “farmland of lesser quality soils used for the production of the state’s leading agricultural crops. This land is usually irrigated, but may include non-irrigated orchards or vineyards as found in some climatic zones in California. Land must have been cropped at some time during the four years prior to the mapping date.”
4. **Farmland of Local Importance.** Farmland of local importance is farmland identified as “land of importance to the local agricultural economy as determined by each county’s board of supervisors and a local advisory committee.”
5. **Grazing Land.** Grazing land, defined as “land on which the existing vegetation is suited to the grazing of livestock” is not included in this study’s use of the term Agricultural Land and is not considered as core to the proposed preservation program.

Agricultural Conservation Easement

An Agricultural Conservation Easement is a specific type of easement whose purpose is to enable the encumbered property to remain in productive Agricultural Use by preventing any use or activity that would diminish or impair the agriculturally productive capacity. Therefore, the terms of an agricultural-conservation easement restrict the use of the encumbered property to agriculture, while prohibiting

development, subdivision, and commercial use of the property other than as agriculture. Agricultural conservation easements are perpetual, running with the land so that their terms are binding on all future fee-title owners of the property.

Agricultural Mitigation Land

Agricultural Land (as defined above) that is encumbered by an Agricultural Conservation Easement or other farmland conservation mechanism acceptable to the City. If the Agricultural Land is also being used to meet Open Agricultural Land preservation goals, the easement or other mechanism must ensure that at least 90% of any property being used as Agricultural Mitigation Land remain as open space free of structures or other impervious surfaces so that it retains its value as Agricultural Land under the FMMP criteria. Uses allowed on Agricultural Mitigation Land shall be consistent with the Agricultural Use described below and pertaining land use regulations, and as further defined in the applicable Agricultural Conservation Easement or other farmland conservation mechanism.

Agricultural Priority Area

The Agricultural Priority Area is an area within the City's Southeast Quadrant (SEQ) that has been identified as the City's first priority for the acquisition of agricultural land conservation easements. This area was selected because it is the area within the Morgan Hill SOI where agriculture is considered to be the most viable over the long term. Conservation within this area will also contribute toward the City's goals of creating an open space buffer along its southern edge. Designating the Agricultural Priority Area provides stability for ongoing agricultural operations and supports new uses necessary to support a viable local agriculture industry. The Agricultural Priority Area is also intended to retain in open space uses any lands that are not being actively farmed until agricultural activities resume on those lands.

Agricultural Use

Agricultural Use is defined as the use of the land for agricultural purposes, including crops, or crop trees, including floriculture, horticulture, viticulture, crops grown within greenhouses or other buildings, vineyards, crop harvesting, raising of animals (including apiaries, aviaries, dairying, pasturage, and fish farms), and grazing, and including necessary accessory uses for packing, processing, treating or storing of produce, and consistent with the governing jurisdiction's pertaining land use regulations. Qualifying Agricultural Use activities may include:

1. **Agricultural Processing:** Processing facilities for the handling, processing, packing, packaging, storing and shipping of agricultural commodities grown primarily in Santa Clara County. Does not include processing of meat, poultry, or animal products (butcheries), nor timber or wood processing. Does not include routine harvesting and handling activities incidental to agriculture.
2. **Agriculturally Related Entertainment & Commercial Uses:** Visitor-oriented services, sales and attractions with an agricultural theme that are conducted in conjunction with on-site Agricultural Uses. Such uses include but are not limited to food and retail sales, tasting rooms, reception facilities, outdoor entertainment areas.
3. **Agricultural Research:** Establishments for experimental greenhouse and field growing of agricultural commodities, landscaping and seeds, including experimental use of herbicides, pesticides and other agricultural practices. Agricultural research excludes experiments involving livestock and other animals.

4. Dairy: Establishments where cows or goats are maintained for the production of milk or other dairy products for commercial distribution or sale.
5. Feed Lot: Establishments primarily engaged in the fattening of livestock in a confined area.
6. Field Research: Research activities, field studies and educational activities (e.g., student field research) that are dependent on a natural, open setting. Examples include biological, geological or atmospheric studies.
7. Mushroom Farm: Establishments primarily used for the cultivation and subsequent distribution and sale of mushrooms.
8. Nursery: an area where agricultural products are grown for transplanting, for use of stock for building and grafting, or for sale on the premises. Nurseries may include sale and cultivation of ornamental trees, shrubs, and plants, and incidental sale or rental of garden and landscape materials and equipment.
9. Poultry and Egg Farms: Establishments where fowl are raised or kept in confined areas or facilities for the purpose of commercial distribution or sale of birds or eggs.
10. Wildlife Refuge: undeveloped land kept as natural habitat for the purpose of supporting a species or multiple species of wildlife.
11. Wineries: Facilities for the production of wine from fruit or fruit juices through fermentation that are subject to Type 02 licenses by the California Department of Alcoholic Beverage Control. Wineries shall be entitled to all uses and activities provided under the Type 02 license. Wineries may also include related storage, blending and bottling activities, as well as administrative offices, marketing, tours, public tasting, wholesale and retail sales of wine, and ancillary distilling of wine to produce brandy or similar distilled spirits. Wineries may include outdoor areas for picnics, gatherings and other activities incidental to wine-tasting. Incidental sale of marketing products and accessories related to the winery's brand identity, wine drinking, food pairing, local agriculture and local history is also permitted.
12. Ancillary Uses: Uses conducted subordinate to the primary Agricultural Use being conducted upon a property and which do not occupy in total more than 10% of the property, including:
 - a) Direct sales of locally produced agricultural products.
 - b) One dwelling of persons regularly employed on the premises for farming or domestic duties;
 - c) Ancillary private garages and other structures for parking and storage of equipment, private stables, and other accessory buildings;
 - d) Quarters, accommodations or areas for transient labor, such as labor cabins or camps.

Agricultural Preservation In-lieu Fee

A fee paid to the City of Morgan Hill which will be credited to the City's Open Space Fund or other City fund created for the purpose of acquiring Agricultural Mitigation Land or transferred to a Qualifying

Entity and used by either agency solely for the purpose of acquiring Agricultural Conservation Easements. The Program provides for an in-lieu fee in order to allow the utilization of funding from multiple sources and to maximize the City's ability to preserve open space Agricultural Lands within the Agricultural Priority Area.

Agricultural Lands Preservation Program Surcharge Fee

A fee paid to the City of Morgan Hill which will be credited to the City's Open Space Fund or other City fund created for the purpose of acquiring Agricultural Mitigation Land or transferred to a Qualifying Entity and used by either agency for the purpose of administering the Agricultural Lands Preservation Program and/or to cover ongoing management and monitoring of the easements. The Surcharge fee is either incorporated into the overall In-lieu Fee for projects that make use of this option, or charged directly to projects which independently establish an Agricultural Conservation Easement.

Open Agricultural Land

Open Agricultural Land is defined as Agricultural Land that is at least 90% free of buildings, structures or other impervious surface and therefore available for planting of outdoor crops, grazing, or other Agricultural Use. The City may make use of open space funding sources to acquire Agricultural Conservation Easements where that Easement specifies that the encumbered property be maintained as Open Agricultural Land. Because an Open Agricultural Land Conservation Easement would potentially reduce the economic potential for future agricultural uses, it would normally be more expensive to acquire than a standard Agricultural Conservation Easement. The City may however determine that at some locations an Open Agricultural Land Conservation Easement would better implement the City's land use objectives by preserving open space as well as agricultural activity.

Qualifying Entity

A government or nonprofit entity operating in Morgan Hill and/or the surrounding portions of Santa Clara County for the purpose of conserving and protecting land in its natural, rural or agricultural condition. The City favors the use of a local government or non-profit agricultural conservation entity, a statewide government or non-profit agricultural conservation entity or entities, or the regional branch of a nationally recognized non-profit agricultural conservation entity as the easement holder. The Qualifying Entity should have appropriate representation and/or participation from the farming community. The City will consider the following criteria when considering the non-profit agricultural conservation entity for these purposes, and when monitoring the performance of Qualifying Entities over time:

1. Whether the entity is based locally, is statewide, or is a regional branch of a national organization whose principal purpose is holding and administering Agricultural Conservation Easements for the purposes of conserving and maintaining lands in agricultural production;
2. Whether the entity has a long-term proven and established record for holding and administering easements for the purposes of conserving and maintaining lands in agricultural production;
3. Whether the entity has a history of holding and administering easements in Santa Clara County for the foregoing purposes;
4. Whether the entity has adopted the Land Trust Alliance's "Standards and Practices" and is operating in compliance with those Standards and Practices; and
5. Any other information that the City of Morgan Hill finds relevant under the circumstances.

Policies

The City will implement the Program in accordance with the following policies:

1. **Agricultural Conservation Easements.** To achieve the Agricultural Lands Preservation Program objectives, activities converting Agricultural Land, such as new private or public development projects, are required to offset the conversion by directly preserving Agricultural Mitigation Land in perpetuity. Agricultural lands will be preserved through the recordation of permanent Agricultural Conservation Easements, which may be directly established by the land developer, obtained by the City or a Non-profit as an intermediary, or established through a developer-initiated transfer of development rights recorded within a development agreement. This offsetting preservation will serve as mitigation to satisfy the requirements for agricultural mitigation under the California Environmental Quality Act (CEQA) as well as to support the continuation of agriculture in and around the City of Morgan Hill consistent with community preferences and City policies.
2. **Alternate Mitigation.** The primary means of mitigation under this program are the direct recordation of conservation easements or the payment of in lieu fees which will be applied toward conservation easements. As an alternative, agricultural mitigation through Planned Development Zoning and/or a Development Agreement is allowed only if it will result in equal or greater agricultural benefit than would result from standard mitigation requirements. At a minimum, such alternative mitigation shall still be required to achieve a ratio of 1:1, but may allow flexibility with respect to timing and location. Also, an Agricultural Conservation Easement shall be recorded over the Agricultural Mitigation Lands subject to the Planned Development Zoning and/or Development Agreement
3. **Applicability.** All new development/activities under the jurisdiction of the City of Morgan Hill, including both private development and public development projects that directly result in the conversion of at least one acre of Agricultural Land (as defined above) will be required to mitigate loss of Agricultural Land per the provisions of this Policy. This includes projects within the existing City boundaries as well as projects that propose annexation into Morgan Hill. Projects which have received discretionary land use approval prior to the adoption of this Policy, including completion of the CEQA process, are not subject to this Policy unless specifically required as mitigation or a condition of project approval.
4. **Mitigation Ratio.** A minimum of one (1) acre of Agricultural Land (**1:1 mitigation ratio**) shall be preserved for each acre of Agricultural Land changed to a non-agricultural use. The required acreage of area to be protected through an Agricultural Conservation Easement or agricultural preservation in-lieu fee will depend on the measurement of affected area as defined below.
5. **“Stay Ahead” Provision.** Conservation easements will be established at least at a 1:1 mitigation ratio in advance of the development of Agricultural Lands. Development occurs with either the issuance of Grading Permit or Building Permits that would result in the loss of Agricultural Land. To meet this provision the City may utilize existing open space funding to establish Agricultural Conservation Easements, or individual projects may establish such easements in advance of development activity.

- 6. Measurement of Affected Area.** Consistent with the Santa Clara Valley HCP/NCCP plan, the areas subject to agricultural mitigation requirements will be the developed footprint for properties with a General Plan land use designation of Open Space, Public Facilities, or SRL. These land use designations allow for and typically include a large portion of land reserved for “open space/open fields” that in the future could be put back into Agricultural Use. Areas proposed to be so reserved must have an aggregated area of at least 10 acres in size to qualify for exclusion from the developed footprint calculation. For the remaining land use designations of residential, commercial, and industrial, the entire site will be used for calculating the required mitigation. Disturbed footprint will include irrigated fields for proposed sports fields or facilities.
- 7. Mitigation Mechanism.** Conversion of Agricultural Land will require off-setting acquisition and/or dedication of Agricultural Conservation Easements over approved Agricultural Mitigation Land, or payment to the City of the Agricultural Preservation In-lieu Fee, to support agricultural preservation. In addition to land acquisition/dedication, or payment of the Agricultural Preservation In-lieu Fee, in either case developers are also required to pay an Agricultural Lands Preservation Program Surcharge Fee (on a per acre basis) to cover administrative costs and ongoing management and monitoring of the easements.
- 8. Eligible Mitigation Lands.** In order to meet the goals of this Program, lands proposed to be used as agricultural mitigation shall conform to the above definitions for Agricultural Mitigation Land and/or Open Agricultural Land and shall meet the following criteria:
- a) Agricultural conservation easements resulting from this program shall be acquired from willing sellers only;
 - b) The property is of adequate size, configuration and location to be viable for continued Agricultural Use;
 - c) The land shall have access to an adequate water supply to maintain the purposes of the easement, i.e., to irrigate farmland if the converted farmland is irrigated or capable of irrigation. The water supply shall be sufficient to support ongoing Agricultural Uses, and the water rights on the Agricultural Mitigation Land shall be protected in the Agricultural Conservation Easement;
 - d) Other considerations for appropriate conserved Agricultural Lands include: soil type, parcel size, existing irrigation supplies, strong agricultural production history, proximity to agricultural infrastructure, proximity to the first point of processing, uses on surrounding lands, and proximity to urban areas now and into the foreseeable future;
 - e) The mitigation land shall be located within Santa Clara County; and
 - f) The mitigation land may not overlap with land being acquired as habitat mitigation by the Santa Clara Valley Habitat Agency.
- 9. Ineligible Mitigation Lands.** A property is ineligible to serve as agricultural mitigation if any of the circumstances below apply:
- a) The property is currently encumbered by a conservation, flood, or other type of easement or deed restriction that legally or practicably prevents converting the property to a nonagricultural use; or

- b) The property is currently under public ownership and will remain so in the future, except to the extent it is included within a mitigation bank that may subsequently be established by the City or other public agency; or
- c) The property is subject to conditions that practicably prevent utilizing the property for a viable Agricultural Use.

10. **Agricultural Priority Area.** The Agricultural Priority Area within Morgan Hill's Southeast Quadrant, shown on the figure below, is the City's first priority geographic area for conservation. The Agricultural Priority Area encompasses approximately 650 acres of land. The City should use all available tools, including clustering of existing development rights within the SEQ, transfer of development rights (TDR) programs, collaborative land use planning with the County, partnering with local open space conservation agencies, and the use of available grant funding to achieve conservation within this area. Within the Agricultural Priority Area the City should focus on obtaining conservation easements first on land outside of the City's land use control, specifically focusing upon the sub-area located along the southern edge of the City's Sphere of Influence.
11. **Secondary Conservation Areas.** If it is not possible to obtain conservation easements within the Agricultural Priority Area, the City should obtain conservation easements within other areas within the Morgan Hill Sphere of Influence as the next priority. The City may also identify lands intended for conservation within these areas.
12. **Alternative Conservation Areas.** Only when conservation opportunities are not available within the Sphere of Influence will the City consider easements at other locations within the County. Dedications outside the SOI are less desirable and must be inside Santa Clara County as described under 'Eligible Mitigation Lands' above. Developers may independently establish an Agricultural Conservation Easement on Eligible Mitigation Lands within the County. In such cases, the developer will be required to pay all acquisition costs, the costs of establishing the easement, and the Agricultural Lands Preservation Program Surcharge Fee .
13. **Agricultural Sustainability.** Prioritize acquisition of easements on land that is most viable for long-term agricultural use considering factors such as soil type, water supply and location. Promote agricultural uses within easement areas including the development of high-value crops which are compatible with an urban edge condition while also economically sustainable over the long-term.
14. **Responsibility for Easement Acquisition.** The City's preference is that developers pay the Agricultural Preservation In-lieu Fee so that conservation efforts will be focused within the Agricultural Priority Area and make use of funds from multiple sources. In such cases, the City of Morgan Hill will either take on responsibility for acquiring the easement or transfer the In-lieu Fee and accompanying responsibility to a Qualifying Entity. However the City will need to be a party to easements obtained by the Qualifying Entity.
15. **Minimum Easement Size.** The minimum land area for an Agricultural Conservation Easement is 10 acres on a single parcel or on multiple adjoining parcels so that the easement area is contiguous. Developments providing less than 10 acres of agricultural mitigation land are thus required to pay the Agricultural Preservation In-lieu Fee on a per acre basis except that acquisition of Agricultural Conservation Easements of less than 10 acres may be allowed when

located immediately adjacent to an existing Agricultural Conservation Easement area that when combined, exceeds 10 acres in size.

16. **Management and Monitoring Fee.** As with other agricultural mitigation/preservation programs, a number of responsibilities will come with holding the Agricultural Conservation Easements, including their management and monitoring. The developer will be required to pay a one-time per acre fee (Agricultural Lands Preservation Program Surcharge Fee) to cover the average cost of these activities along with administration of the program including any administrative costs of the Qualifying Entity. The City will establish the Surcharge Fee and monitor it periodically.
17. **Implementing Entity.** The City will hold the easements and collect management and monitoring fees until an alternative implementing entity (Qualifying Entity), such as a nonprofit conservation organization or agricultural consultant, has been identified.
18. **Mitigation Timing and Implementation.** Agricultural mitigation will be required prior to the acceptance of a final parcel or subdivision map or prior to issuance of a building permit or grading permit that results in physical development involving the conversion of Agricultural Lands, whichever occurs first.
19. **Planned Developments / Development Agreements.** Developers may provide agricultural mitigation through a planned development project that consolidates existing development rights onto a portion of the property so that the remaining undeveloped portion is then reserved for agricultural use. Such an approach may be used within the SEQ or within other areas of the City's SOI in which Agricultural Lands are present. Such a project must be governed by a development agreement. This method of mitigation will only be considered if it results in an equal or greater agricultural benefit as would have resulted from the mitigation measures described above. Factors that may be considered include, but are not limited to: (1) the number, size, and location of permissible clustered home sites; (2) the amount of land dedicated for agricultural conservation; (3) the location of agricultural land in relation to the Agricultural Priority Area and contiguity with existing and already conserved agricultural land; and (4) commitments to actively farm agricultural land within the development agreement area. The developer will be required to enter into a development agreement with the City specifying the terms of the agreement and the extraordinary benefits accruing to the City.
20. **Funding for Easements.** Given the City's policy objective of agricultural land preservation within the Morgan Hill Sphere of Influence and within the Southeast Quadrant in particular, it is anticipated that the City will need to use multiple funding sources to support the acquisition of easements within the desired area. In addition to use of money obtain through grants and other contributions, the City will use open space funds collected through administration of its Residential Development Control System (RDSCS) to supplement the acquisition of conservation easements.
21. **Clustering of Development.** The City may work with land owners or developers through the land use entitlement process to preserve agricultural lands by allowing a clustering of existing development rights onto a portion of a site so that a large portion of the site may be preserved for agricultural use. The City should allow such alternate methods of agricultural mitigation through Planned Development Zoning and/or a Development Agreement so that it will result in equal or greater agricultural benefit than would result from standard mitigation requirements.

At a minimum, mitigation shall still be required at a ratio of 1:1, but may allow flexibility with respect to timing and location. Also, an Agricultural Conservation Easement shall be recorded over the Agricultural Mitigation Lands subject to the Planned Development Zoning and/or Development Agreement.

22. **Educational Center.** Work with local property owners, non-profits, or other agencies to develop an agricultural educational center within the SEQ.

Agricultural Priority Area Map

Implementation

Agricultural Conservation Easement Program

acquired using Open Space funds must insure that the covered lands be protected as Open Agricultural Land.

13. It is the City's goal to acquire Agricultural Conservation Easements in the immediate future utilizing available Open Space Funds. Where possible, the City of Morgan Hill will partner with conservation entities for the acquisition of easement lands.
14. The following minimum requirements shall be incorporated into all Agricultural Conservation Easements or other instruments recorded to satisfy the requirements of the Agricultural Lands Preservation Program. Nothing in this section is intended to prevent the inclusion of requirements that require a higher level of performance from the parties to a conservation easement or other instrument to ensure that the goals of the Agricultural Lands Preservation Program are achieved:
 - a) It is the intent of the City to transfer most, if not all, of the easements that are received from this program to a Qualifying Entity, as defined above, for the purpose of monitoring compliance with easement terms and taking any necessary enforcement and related actions.
 - b) All Agricultural Conservation Easements, or other farmland conservation mechanisms, shall be implemented through a legal instrument acceptable to City Council and the Qualifying Entity that will receive the easement, and signed by all owners with an interest in the mitigation land.
 - c) The instrument shall prohibit any uses or activities which substantially impair or diminish the agricultural productivity of the mitigation land or that are otherwise inconsistent with the conservation purposes of this Agricultural Lands Preservation Program. The instrument shall protect the existing water rights and retain them with the Agricultural Mitigation Land; however, the instrument shall not preclude the limited transfer of water rights on a temporary basis (i.e., not to exceed two years in any ten-year period) to other Agricultural Uses within Santa Clara County, so long as sufficient water remains available to continue Agricultural Use of the mitigation land.
 - d) The instrument shall prohibit the presence of a residence, except an existing residence or construction of a comparable replacement for such a home or construction of a single new home of 3,000 square feet or less on a site that does not already include a residence provided that such residence is not located where it would interfere with agricultural activities. (Alternatively, a portion of the subject property of up to 1.5 acres in area may be excluded from the Agricultural Conservation Easement and developed with a single new home provided that no other home is located on the property).
 - e) Instruments that convey an interest in the mitigation land to a Qualifying Entity, shall name the City as a third party beneficiary with full enforcement rights.
 - f) Interests in Agricultural Mitigation Land shall be held in trust by a Qualifying Entity and/or the City in perpetuity. Except as provided below (g), the Qualifying Entity or the City shall not sell, lease, or convey any interest in Agricultural Mitigation Land which it acquires.

- g) The Agricultural Conservation Easement, or other conservation mechanism recorded pursuant to the Agricultural Lands Preservation Program, can only be terminated by judicial proceedings. Termination shall not be effective until the proceeds from the sale of the public's interest in the Agricultural Mitigation Land is received and used or otherwise dedicated to acquire interests in other Agricultural Mitigation Land in Santa Clara County, as approved by the City and as provided for in this Program.
 - h) If any Qualifying Entity owning an interest in Agricultural Mitigation Land ceases to exist, the duty to hold, administer, monitor and enforce the interest shall pass to the City or other Qualifying Entity as acceptable and approved by the City.
 - i) The City may at its discretion terminate a relationship with a Qualifying Entity if that entity no longer satisfies the intent of this Program.
15. Utilize the City's Transfer Development Credit (TDC) program for agricultural preservation (Open Agriculture Land) in addition to the current goal of hillside preservation. The revenue comes from RDCS TDC In-Lieu fee paid by residential developers who do not purchase a TDC from a property owner.
16. Add Points to the Residential Development Control System (RDCS) scoring criteria that would be awarded to Projects that commit to support the Agriculture Preservation Program by paying a fee that could be used to pay for the residential development rights (TDR) or agriculture preservation easements for agricultural uses that could not meet the 90 percent open space requirement.

Clustering and Transfer of Development Rights

In addition to the preservation of Agricultural Land through Agricultural Conservation Easements and/or the clustering or transfer of development rights, a broader policy framework is important to support the Program's objectives. In particular, strengthening land use policies that define supporting land uses, limiting speculation associated with the conversion of Agricultural Land, and allowing for agriculture-supporting infrastructure will play an important role in the implementation of the Agricultural Lands Preservation Program. Accordingly, goals, policies, and actions that address the following objectives should be maintained within the General Plan:

- Continue Agricultural Land uses and production in and around the City of Morgan Hill to promote the City's identity and agricultural heritage.

- Support the development of urban agriculture, and the preservation of the existing Agricultural Lands within or adjacent to Morgan Hill to increase the supply of locally-grown, healthful foods.
- Strengthen the link between the community and local farms and farmers.
- Leverage Agricultural Lands to create and maintain a unique community character, provide open space, link to the region's history, support local agri-tourism, contribute to the local economy, and add to the quality of life.
- Identify potential sites within a centralized urban area of the City appropriate and suited for a community garden.

ATTACHMENT A – Background Information

The City engaged a consultant team to analyze the viability of agricultural activities in and around Morgan Hill and to make policy recommendations for how the City of Morgan Hill could best accomplish its goals of preserving viable agricultural lands. The consultant team, Economic & Planning Systems, Inc. and House Agricultural Consultants, submitted a report in December 2011 that provides background analysis and preliminary recommendations, much of which is incorporated into this Policy. Key findings from this Report are presented within the following Background information.

Agricultural Lands within Morgan Hill

FMMP Classification	City Limits	Unincorporated Areas within SOI	Grand Total
Prime Farmland	320	1,116	1,436
Farmland of Statewide Importance	18	187	205
Farmland of Local Importance	153	184	337
Unique Farmland	25	152	177
Grazing Land	1,284	6,455	7,739
Grand Total	1,800	8,094	9,894

Long-term Viability of Agricultural Lands

A simple definition of *agricultural viability* is: agriculture that is economically feasible to maintain and continue. To be viable agricultural activity:

- Land continues to be farmed, returning a net profit, on a multi-year basis.
- Natural resources are stewarded for the long term.

- Agricultural operations are supported by the local community.

This definition makes no distinction as to the type or scale of viable agriculture, which may change along with national and international economic trends. Farmers can be either full-time or part-time. It does, however, exclude hobby farming, meaning farming that does not return a profit. “Supported by the local community” means that agricultural activities are accepted as part of the commerce of the area by the residents of the area, that housing is available to farm laborers and small farmers, that agriculture is integrated into the policies and regulations of the City, and that trade and commerce between the farming enterprises and the residents flourishes, through such means as local sales, including on-site direct sales, and farmers' markets.

Based on data provided by the United States Department of Agriculture (USDA) Economic Research Service (ERS) in 2008, approximately 43 percent of farmers nationally indicate that farming is their major occupation, while 42 percent state that work other than farming is their major occupation; 15 percent do not consider themselves to be in the workforce. In 2008, 88 percent of all farm household income nationally came from non-farm sources. USDA ERS data indicate a long-term trend toward increasing non-farm income and decreasing farm income among United States farmers.

According to a study by the University of California (UC) Davis Small Farm Center, an annual gross income level of approximately \$25,000 per farm business is a threshold for sustainability. A majority of California farm businesses grossing more than \$25,000 annually are profitable, based on data from the 2007 USDA Census of Agriculture. There is no implication that “a living” can be made if a farm grosses \$25,000. The study does imply, however, that since a profit can be expected in this situation, it is likely that small farming will continue to be an occupation, if perhaps only a part time one. Since small farming is profitable in a majority of cases if the gross revenues exceed \$25,000, it is implied that the small acreages in the Morgan Hill area will continue to be farmed.

Examples of small-scale agriculture are:

- Nursery and flowers.
- Farms emphasizing local sales and marketing.
- Community farms and education centers.

There are national trends supporting small farming:

- Urban peoples’ interest in health, open space, and community encourages small farming.
- “Buy local” makes economic, social, and ecological sense.
- There is strong interest by college-age persons in farming.
- There is strong interest by government and nonprofits in small farms.
- Small organic farms have, for the most part, enjoyed economic success in recent years.

The Report indicated that while large-scale agriculture (agriculture generally conducted on 600+ acre farms with minimum lots of at least 40 acres and general separation from urban uses) is not viable in the Morgan Hill area, the outlook for small-scale agriculture is good.

The Report identified key threats to agricultural viability in the Morgan Hill SOI as:

1. High land market values difficult for strictly agricultural producers to afford.
2. Urban proximity conflicts with many farming operations.
3. The incompatibility of small parcel size with large-scale agribusiness.

Policy Context

Agricultural mitigation requirements, whether through land dedications or mitigation fees, result in additional cost to any development that converts agricultural land. In combination with other agricultural land preservation policies, these mitigation requirements increase the costs to new development and could create feasibility challenges. Under a typical agricultural mitigation program, a project found to result in the loss of agricultural land must mitigate the loss through the preservation of agricultural land elsewhere. Preserving land for agriculture means acquiring land in fee title or purchasing a conservation easement that restricts uses on the property. The cost burden of the agricultural preservation required will primarily depend on the non-agricultural value component of the land being preserved.

Land sales for agricultural land in Santa Clara County and around Gilroy steadily averaged between \$15,000 and \$45,000 per acre based on a review of transactions and listings between 2006 and 2009.

Higher agricultural land values in and around Morgan Hill relative to other Santa Clara County areas indicate the greater development pressures in the Morgan Hill SOI than the other agricultural areas in the County. In addition, Morgan Hill's agricultural parcels tend to be smaller in size compared with other County locations.

A market analysis included within the 2011 Report estimated that the cost to preserve agricultural land through fee simple purchases would range from \$50,000 to \$80,000 per acre in Morgan Hill and that the unit cost of agricultural land preservation through easement acquisition would range from \$30,000 to \$48,000 per acre within Morgan Hill's SOI and from \$9,000 to \$27,000 per acre for land outside of the City's SOI. A quick survey of agricultural mitigation programs around the state indicated that most programs result in costs of less than \$30,000 per acre. The actual land costs that individual applicants will face could vary considerably depending on market conditions at the time of land purchase; the availability of willing sellers; and the size, location, and condition of land being preserved, etc. In addition, ongoing costs are incurred to manage and monitor the agricultural conservation easements.

Agricultural Mitigation Costs for Typical Projects:

- **Preservation inside Morgan Hill SOI.** With mitigation required to take place within the Morgan Hill SOI, the mitigation cost associated with acquiring an easement was estimated to be \$30,000 to \$48,000 per acre. For a residential subdivision development with an average density of 5 units per gross acre, this would represent an additional development cost of between \$6,000 and \$9,600 per unit. For a nonresidential development with a floor-area-ratio of 0.3, this would represent an additional development cost of between \$2.30 and \$3.60 per building square foot.
- **Preservation in Santa Clara County.** With mitigation allowed to occur anywhere in Santa Clara County, the mitigation cost associated with acquiring an easement was estimated to be \$9,000 to \$27,000 per acre. For a residential subdivision development with an average density of 5 units per gross acre, this would represent an additional development cost of between \$1,800 and \$5,400 per acre. For a nonresidential development with a floor-area-ratio of 0.3, this would represent an additional development cost of between \$0.70 and \$2.05 per building square foot.

ATTACHMENT B – Nexus Study

**The Nexus Study supporting adoption of the Agricultural Preservation In-lieu fee is available at:
<http://www.morgan-hill.ca.gov/DocumentCenter/View/12622>**

Attachment C-1

Attachment C-2