

Public Review Draft

Morgan Hill Agricultural Policies and Implementation Program

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City of Morgan Hill

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and

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Table of Contents

1.	EXECUTIVE SUMMARY	1
	Summary of Findings	1
	Background.....	2
	Organization of Report.....	7
2.	TECHNICAL FINDINGS	9
	Viability of Small-Scale Agriculture	9
	Financial Feasibility of Agricultural Mitigation	11
3.	CITY-PROPOSED AGRICULTURAL PRESERVATION TOOLS.....	19
	Agricultural Mitigation.....	19
	Planned Development/Development Agreements	22
	Funding for Conservation	22
4.	RECOMMENDED GENERAL PLAN POLICIES AND ACTIONS	24
	Goals	24
	Policies and Actions	24

APPENDICES

APPENDIX A – Study Background

APPENDIX B – Agricultural Conservation Easements

List of Tables

Table 1. Acreage Distribution of Agricultural and Grazing Land.....	5
Table 2. Summary of Generalized Land Values.....	11
Table 3. Summary of Mitigation Program Estimated Land Costs	13
Table 4. Selection of Development Fees in Morgan Hill for Residential Development Involving Conversion of Agricultural Lands	14
Table 5. Mitigation Ratios, Land Preserved to Land Developed, by Use Designation	19

List of Figures

Figure 1. Map of SEQ Area	4
Figure 2. Land Classifications in Morgan Hill Sphere of Influence	6
Figure 3. California Gross Farm Income	9
Figure 4. New Homes and Resale Homes, Median Prices, 1998-2009*	15
Figure 5. Proposed Agricultural Priority Area.....	21

1. EXECUTIVE SUMMARY

The City of Morgan Hill is developing policies and taking actions to support continued agricultural activities in and around Morgan Hill. This report provides two distinct but related components. The first component includes a description of the technical work conducted by the Consulting Team during the 2009/2010 period to help to inform the City's program and policy decisions. Based on the technical analysis and a number of meetings between the Consulting Team and City staff over the 2010/2011 period, a recommended approach for the City's Agricultural Program was developed.

The technical analysis was designed to answer the following questions:

- Is agriculture viable within the Morgan Hill Sphere of Influence (SOI) over the long term?
- From a development feasibility perspective, is there a viable approach to mitigate the loss of agricultural lands, given that the City's preservation focus is the Southeast Quadrant (SEQ)?

The discussions between City staff and the Consulting Team on program options and approaches were designed to answer the following questions:

- What combination of tools, techniques, and mechanisms would form the best agricultural preservation program for the City of Morgan Hill?
- What new General Plan policies and actions should be put in place to implement the City's preferred agricultural preservation tools and mechanisms and ensure support for further agricultural preservation efforts?

Summary of Findings

This section presents the key findings of this report.

1. *Small-scale agriculture is viable in the Morgan Hill SOI if land can be preserved for agricultural use.*

Farming continues to be a challenging enterprise, made increasingly so as urbanization abuts farmland. For many landowners on the urban edge, the speculative urban value of the land and/or its value as rural-residential estates creates an economic incentive to sell/convert agricultural land for other uses. This report finds, however, that if agricultural land within the Morgan Hill SOI can be preserved through agricultural conservation easements, small-scale farmers could be expected to farm the land. **Chapter 2** provides the technical support for this conclusion.

2. *Agricultural mitigation requirements combined with a preservation focus in the SOI increase costs on new development and could create development feasibility challenges.*

The combined preference of the City to direct mitigation into its SOI and of Local Agency Formation Commission (LAFCo) to establish a 1:1 mitigation ratio (one acre preserved for every one agricultural acre lost to other uses) would result in an additional cost to

development that involves the conversion of agricultural land and may make some developments infeasible in the short to medium term. While the current lack of development is primarily an issue of diminished demand, as recovery occurs, additions to development costs could delay some developments and make others infeasible. To balance the importance of agricultural preservation along with the City's development goals, a refined agricultural mitigation approach should be considered. This approach includes a mitigation ratio of 0.5:1 if agricultural land is preserved inside the SOI but also provides, under certain circumstances, opportunities to mitigate at a 2:1 ratio elsewhere in Santa Clara County. For lands within the Sports-Recreation-Leisure (SRL) Subdistrict B zone, a mitigation ratio of 1:1 is also proposed if agricultural land is preserved inside the SOI. **Chapter 2** provides the technical support for this conclusion.

3. *The City's approach to agricultural land preservation focuses on implementation tools and mechanisms, in addition to policy direction, to support the ongoing viability of agriculture in the Morgan Hill SOI.*

The City is evaluating proposed General Plan land use designations for the SEQ that would complement the rural character of the area and support continued agricultural activity. The proposed land use designations and annexation boundary are, in many ways, the most important City decision concerning the potential for agricultural land preservation. The proposed SEQ area plan will identify areas intended to remain in the unincorporated County as well as an Agricultural Priority Area where the City intends to focus its preservation efforts. The City is proposing to pursue in-perpetuity agricultural preservation of this Priority Area and of other appropriate agricultural lands within the SOI, with agricultural conservations easements through a combination of: (1) a new agricultural mitigation program; (2) planned development zoning/development agreements; and (3) the use of other funding for direct easement acquisitions, as available. **Chapter 3** describes the recommended tools and **Chapter 4** describes the associated additions to General Plan goals, policies, and actions.

Background

Overarching Considerations

Several overarching issues were identified as important to the development of an agricultural program for the City of Morgan Hill, including:

- **County and LAFCo Policies and Coordination.** For lands proposed to be annexed into the City of Morgan Hill, the successful preservation of agriculture in and around Morgan Hill will require collaboration and coordination with both the County and LAFCo. The County has a long history of developing policies to support the continued agricultural use of lands in the unincorporated County through the use of large-lot agricultural zoning, as well as other efforts, such as a clustering program that allows development on only a small portion of the overall land area. Santa Clara LAFCo has also developed a series of policies regarding agricultural mitigation and will play a critical role in the evolution of the Morgan Hill SOI in its review of boundary adjustment applications. It is important to note, though, that the City of Morgan Hill currently has the authority to enter into development agreements with property owners outside the Morgan Hill city limits for the purposes of preserving agricultural lands.

- **Southeast Quadrant.** The SEQ of the City is of particular importance as the last major, contiguous area of agricultural land in the Morgan Hill SOI and due to its potential as a permanent “greenbelt” between Morgan Hill and the neighboring rural residential area of San Martin.¹ See **Figure 1** for map of SEQ area.
- **Scale and Cost.** The City’s agricultural preservation program must recognize its unique circumstances, including: (1) the relatively small area in agricultural use in the Morgan Hill SOI; (2) the relatively high value of land relative to its potential for agricultural income due to rural-residential demand and speculative influences; and (3) the uncertainty in locating willing sellers of land for preservation purposes.
- **Other Goals.** The City of Morgan Hill has several other goals for its undeveloped land within its SOI in addition to agricultural preservation. Such goals include the establishment of a greenbelt, and the development of SRL amenities and uses of public benefit within the SEQ, including a new high school and appropriate and consistent uses around the freeway interchange. All these goals must be considered together in developing new City policies.

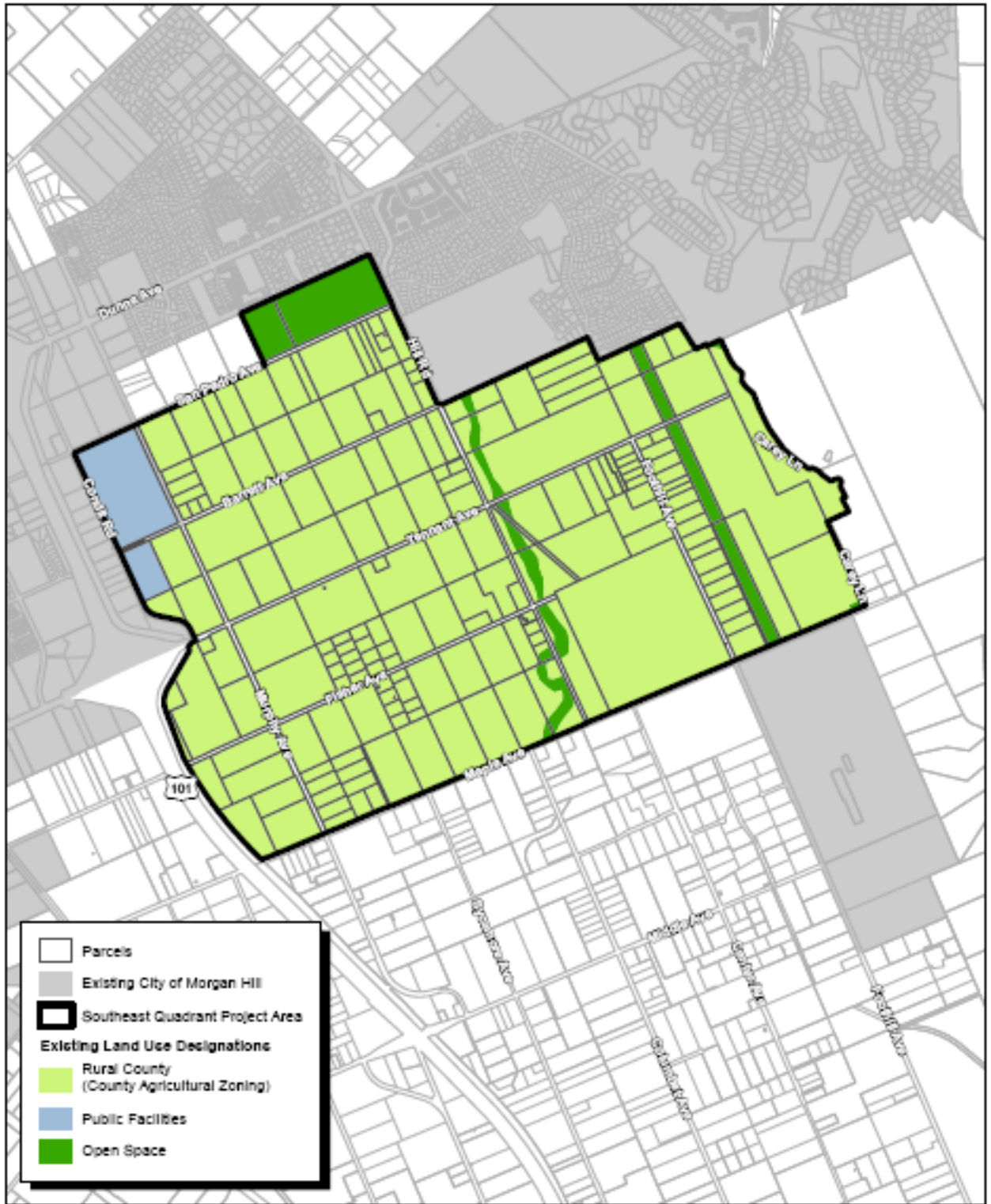
Agricultural Land Definition and Focus

The term “agricultural land” used in this report—and the focus of the proposed agricultural preservation program—refers to any land within the Morgan Hill SOI that is not subject to the City’s Hillside Ordinance and is depicted on the current maps of the Farmland Mapping and Monitoring Program (FMMP) of the California Department of Conservation as non-grazing farmland. 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 (descriptions from the FMMP’s web site), 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.”

¹ Most of the SEQ is not currently within the city limits or urban services boundary, but it could be annexed or partially annexed in the future. The SEQ is located east of Highway 101, west of Carey Avenue, south of San Pedro Avenue, and north of Maple Avenue.

Figure 1. Map of SEQ Area



Source: City of Morgan Hill (2010).

Source: City of Morgan Hill Notice of Preparation, Southeast Quadrant General Plan Amendment and Agricultural Mitigation and Preservation Program

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 nonirrigated 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.

Figure 2 shows the distribution of FMMP land classifications within the Morgan Hill SOI, including agricultural and grazing lands as well as urban and other lands.

Table 1 shows the corresponding estimated acreages by land type in **Figure 2** based on GIS analysis. The Morgan Hill SOI includes approximately 10,000 acres of agricultural and grazing land, of which about 2,500 acres are irrigated or irrigable agricultural land uses, which are the focus of this report’s agricultural preservation program (i.e., FMMP classifications prime farmland, farmland of statewide importance, unique farmland, farmland of local importance). About two-thirds of this land, approximately 1,700 acres, is classified as prime farmland. The remaining agricultural land area is about 7,500 acres of grazing land.

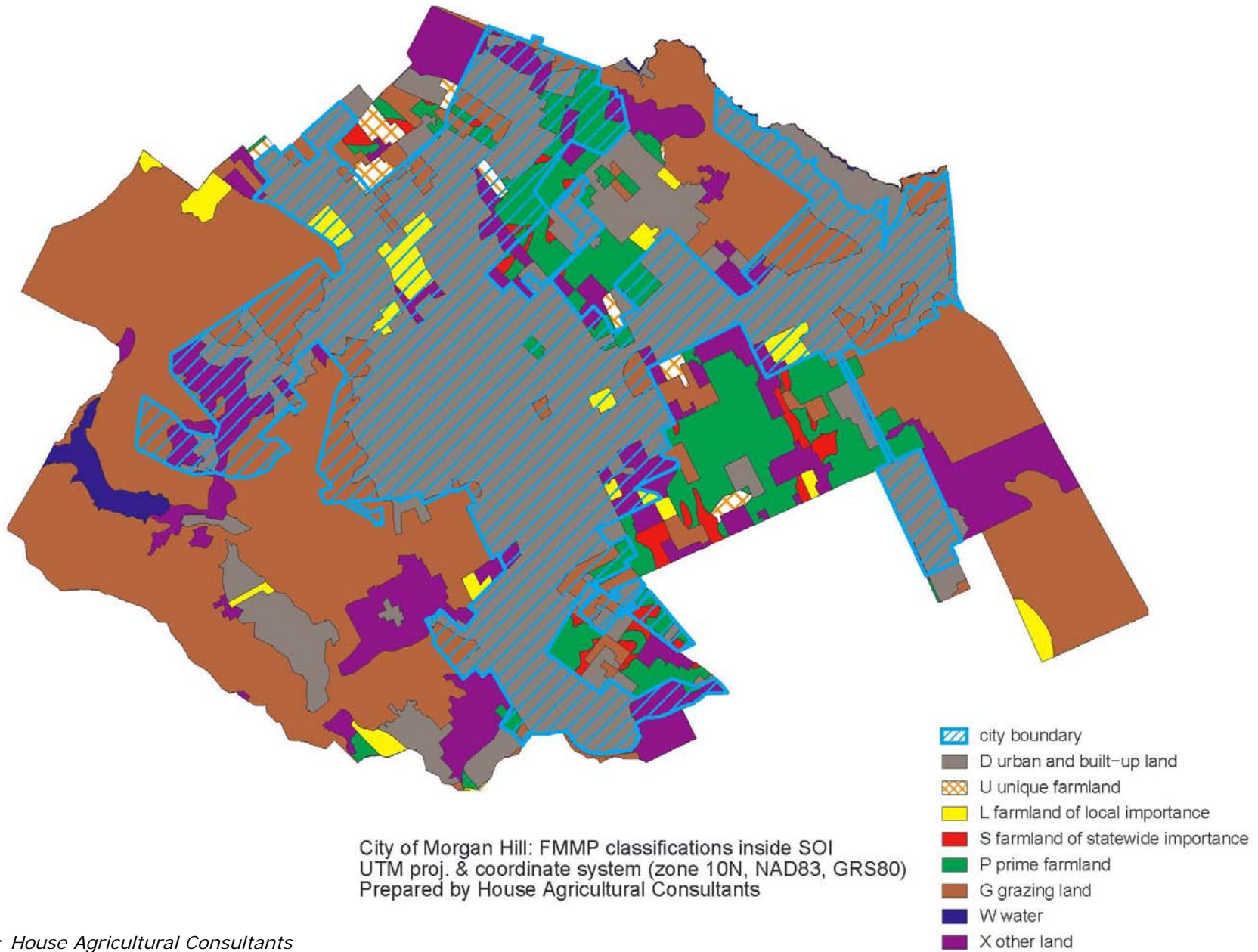
It should be noted that while the FMMP Map identifies approximately 2,500 acres of irrigated or irrigable agricultural lands, some of this acreage has already been developed, such as the Madrone Plaza residential development located near the north end of town; has been approved for development; or is currently under development review. Also, the 2,500-acre figure represents a total for the entire Morgan Hill SOI. The SEQ, where the Agricultural Priority Area is proposed, is only a subset of the total acreage of irrigated or irrigable agricultural lands.

Table 1. Acreage Distribution of Agricultural and Grazing Land within Morgan Hill Sphere of Influence

Land Use Classification	Symbol	Acres
Prime farmland	P	1,679
Farmland of statewide importance	S	227
Unique farmland	U	174
Farmland of local importance	L	<u>438</u>
Subtotal		2,518
Grazing land	G	7,463
TOTAL		9,981

Source: California DOC; House Agricultural Consultants

Figure 2. Land Classifications in Morgan Hill Sphere of Influence



Organization of Report

This report is organized into four chapters and three appendices.

- **Chapter 1** (this chapter) summarizes the purpose of the report, the general findings and outcomes, and overarching background considerations.
- **Chapter 2**, Technical Findings, provides the Consulting Team's evaluation of the viability of agriculture as well as the development feasibility challenges associated with requiring agricultural mitigation for the loss of agricultural land in the Morgan Hill SOI.
- **Chapter 3**, City Proposed Agricultural Preservation Tools, provides the set of tools City staff is recommending to support agricultural preservation in and around the City of Morgan Hill.
- **Chapter 4**, Recommended General Plan Goals and Actions, describes the new General Plan policies and actions to adopt the City's Proposed Agricultural Preservation Tools.

The main body of this report is supplemented by two appendices. **Appendix A**: Study Background and **Appendix B**: Agricultural Conservation Easements.

2. TECHNICAL FINDINGS

The City of Morgan Hill was interested in answering two key questions as it contemplated the selection of a preferred set of agricultural preservation tools and, as part of this policy framework, an agricultural mitigation program. The two questions were:

1. Is small-scale agriculture in and around Morgan Hill viable over the long term?
2. Is it feasible for new development to mitigate its impacts through the dedication of agricultural land or payment of agricultural mitigation fees toward the preservation of agricultural land?

This chapter describes the data considered and analysis undertaken in answering these two questions. The Consulting Team ultimately concluded that:

1. Small-scale agricultural was viable in and around Morgan Hill if land were available at limited cost; and
2. Some form of agricultural mitigation is feasible, though not necessarily consistent with the preferred Local Agency Formation Commission (LAFCo) approach if agricultural preservation is focused in the Morgan Hill SOI.

Viability of Small-Scale Agriculture

The Consulting Team has identified the key threats to agricultural viability in the Morgan Hill Sphere of Influence (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.

Given these threats, does agriculture remain viable in the Morgan Hill SOI, and will agriculture likely remain viable in the Morgan Hill SOI into the indefinite future, assuming steps are taken in the present to protect its viability?

What Is Viable Agriculture?

A simple definition of *agricultural viability* is:

The agriculture must be economically feasible to maintain and continue.

This implies that:

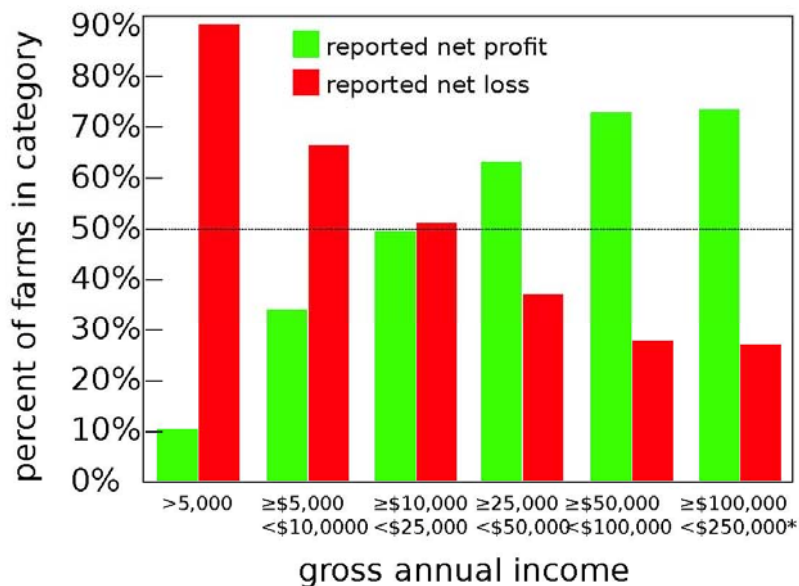
- Land continues to be farmed, returning a net profit, on a multiyear basis.
- Natural resources are stewarded for the long term.
- Agricultural operations are supported by the local community.

This definition makes no distinction as to type or scale, 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 and farmers' markets.

According to 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. See **Figure 3**. As this study examines gross income, there is no implication that "a living" can be made if a farm grosses \$25,000. It 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.

Figure 3. California Gross Farm Income



* United States Census of Agriculture defines small farms as having less than \$250,000 in gross annual income.

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 Consulting Team finds that large-scale agriculture is not viable in the Morgan Hill area in the long term, although established operations can be expected to continue operating at least in the immediate future. However, the outlook for small-scale agriculture is good. A comparison of the characteristics of large-scale agriculture, commonly called "agribusiness," is helpful in elucidating the difference in long-term outlook.

Agribusiness	Small Farms
Gross income > \$250,000 per farm business	Gross income < \$250,000 per farm business
Needs large parcels (> 40 acres) for efficiency	Suited to small-sized parcels
Needs lots of land: average farm size > 600 acres	Overall smaller farm size requires less total land
Needs isolation from urban areas	Urban proximity benefits direct marketing and outside employment
Long-term outlook: not viable in Morgan Hill SOI	Remains viable in Morgan Hill SOI with strong long-term outlook

Financial Feasibility of Agricultural Mitigation

The City of Morgan Hill is concerned about the implications of placing additional cost burdens on new development. At the same time, the City is interested in supporting agriculture in and around Morgan Hill. To evaluate what is a reasonable balance for these two goals, this section examines the costs to new development for agricultural mitigation.

Agricultural Mitigation Costs

Agricultural mitigation requirements, whether through land dedications or mitigation fees, result in additional cost to any development that converts agricultural land. 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 as 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.

The value of agricultural land transactions over the last several years provides an indication of the costs of preservation. Several factors were used to estimate these values including reviews of:

- 17 transactions of land with an agricultural use in Morgan Hill's SOI between 2006 and 2009
- 30 land transactions of undeveloped agriculture and rural residential developments in and around Morgan Hill between 2009 and 2011
- Discussions with brokers active in agriculture and residential land transactions in and around Morgan Hill

Based on these factors, planning level estimates of per acre values are shown in **Table 2**, for parcels of various sizes. They range from an average of \$30,000 per acre for large parcels of more than 50 acres to an average of \$200,000 per acre for smaller 2-acre parcels. It is important to note that these land values are for planning uses only; while ultimately one land value must be used in this analysis to estimate the extent to which an agricultural preservation program may impact the feasibility of development projects, the actual costs of preserving agricultural land will vary on a per acre basis depending on the particular attributes of the land being preserved.

Table 2. Summary of Generalized Land Values

Parcel Size	Per Acre Sale Price
2 acres	\$200,000
2 - 5 acres	\$150,000
5 - 10 acres	\$80,000
10 - 20 acres	\$50,000
20 - 50 acres	\$35,000
50+ acres	\$30,000

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[1] This general table is based on: a review of land transactions in and around Morgan Hill from 2006-2010, discussions with brokers active in Morgan Hill, and discussions with City staff.

Source: MLS, Land listings including LoopNet and Zillow, EPS

As another point of reference, land sales for agricultural land in Santa Clara County and around Gilroy have steadily averaged in the \$15,000 to \$45,000 per acre based on a review of transactions and listings between 2006 and 2009. The 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.

To estimate the potential costs of preserving agricultural land, the Consulting Team assumes that most parcels preserved through the program will be between five and 20 acres. This assumption is based on an analysis of parcel sizes located within the SEQ. Based on this assumption, **Table 3** reports the value range for agricultural land in Morgan Hill's SOI and in Gilroy and other Santa Clara County locations. Costs to preserve agricultural land through fee simple purchases are estimated to range from \$50,000 to \$80,000 per acre in Morgan Hill, or \$30,000 to almost \$50,000 per acre for an agricultural easement.² Easements in Gilroy and other Santa Clara locations are estimated at between \$9,000 and \$27,000 per acre. It is important to note that these costs have been estimated to examine the feasibility of the mitigation program only. The actual land costs that individual applicants will face will 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 would be incurred to manage and monitor the agricultural conservation easements.

Potential Development Cost Burdens

The unit cost of agricultural land preservation (assuming easement acquisition) is estimated to 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. Many California agricultural preservation programs require that new development preserve an amount of agricultural land equal to the amount of land converted (i.e., they require a 1:1 mitigation ratio). Under a 1:1 mitigation ratio, the following additional cost burdens would be required of new development that involves the conversion of agricultural land (these estimates do not include the additional development costs associated with the managing and monitoring of agricultural programs):

² The cost of an agricultural easement reflects the value of the land related to the potential for development. In other words, a permanent easement takes away the possibility of future development, thereby reducing the land value by whatever amount buyers would assign to having that development potential remain. Around cities, the portion of the land's value associated with its development potential is typically relatively high. Therefore, the cost of an easement in this case—which effectively eliminates the possibility of future development—is estimated to be equal to 60 percent of the full value of the land.

Table 3. Summary of Mitigation Program Estimated Land Costs

Item	Morgan Hill [1]	Gilroy/ Other Santa Clara County [2]
Agricultural Land Value	\$50,000 - \$80,000	\$15,000 - \$45,000
Agricultural Easement Value [3]	\$30,000 - \$48,000	\$9,000 - \$27,000

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[1] Values based on previous table for parcels 5-20 acres in size.

[2] Based on a review of recent transactions and listing for agricultural land in Gilroy.

[3] Easement value estimated to be 60% by EPS based on discussions with personnel at land conservation trusts who participate in land and easement transactions. Individual easement transactions may vary widely from 40-70% of the land's value.

Source: EPS

- 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 in the \$30,000 to \$48,000 per acre range. 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 acre. 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 in the \$9,000 to \$27,000 per acre range. 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.

Fee/Cost Comparisons

Table 4 shows a selection of existing Citywide fees as well as the proposed new mitigation fee under the Santa Clara Valley Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP) under development. Fees are expressed per residential unit for purposes of comparison. As shown, the proposed HCP mitigation fee for the Morgan Hill area is estimated at about \$2,500 per unit, while most other Citywide fees shown fall significantly below the potential \$6,000 to \$9,600 per unit. Based on a 2,000-square-foot dwelling unit, the potential \$6,000 to

\$9,600 per unit fee would represent approximately 14 to 21 percent of the development fee total per dwelling unit. While difficult to compare because many agricultural mitigation programs do not state their requirements in cost/fee terms, of those that do formally charge a mitigation fee, most fall well below \$30,000 per acre.

Table 4. Selection of Development Fees in Morgan Hill for Residential Development Involving Conversion of Agricultural Lands

Fee Type	Fee Rate per Dwelling Unit	
Existing Fees in Morgan Hill [1]		
Police		\$381
Community/Rec Centers		\$477
Fire		\$589
Public Facilities		\$605
Traffic		\$1,597
Water		\$3,150
Storm Drain		\$2,149
Park		\$6,662
Sewer		\$12,328
School fees [2]		\$5,940
Potential HCP Fee [3]		\$2,500
Subtotal		\$36,378
Potential Addt'l Dev. Costs for Agriculture Preservation at 1:1 Mitigation Ratio	\$6,000 -	\$9,600
Total	\$42,378 -	\$45,978

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[1] Fees as of January 15, 2010.

[2] Assumes a 2,000 square foot dwelling unit at the current fee of \$2.97 per square foot.

[3] Zone B Potential HCP fee, assuming 5 unit per acre development and does not include any special fees like those proposed for serpentine land, western burrowing owl nesting habitat, etc. Also, note that there is some discussion about providing exemptions from HCP fees.

Source: Morgan Hill Public Works Department fee schedule; Proposed Revisions to the Santa Clara Valley Habitat Preservation Plan: A Framework for Preparing the Plan September 2011; EPS

Development Feasibility and Recommended Fee Program

The feasibility of new developments of all types has suffered from the collapse of the residential housing market and the long-lasting and ongoing economic downturn. **Figure 4** shows the Morgan Hill experience in the for-sale housing market. As shown, similar to the national housing

market, home prices in Morgan Hill increased significantly between 2002 and 2006 and then dropped swiftly between 2007 and 2009.

Figure 4. New Homes and Resale Homes, Median Prices, 1998-2009*

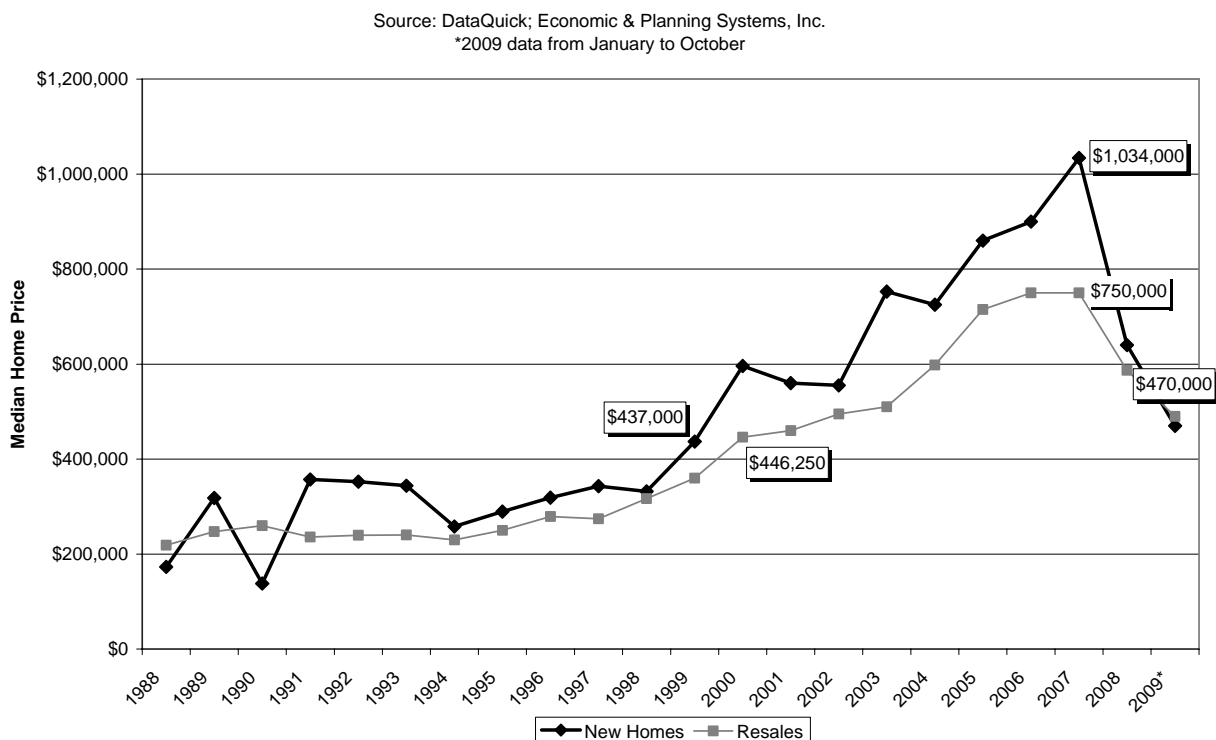


Figure note: 1999, 2007, and 2009 new home prices and 2000, 2007, and 2009 resale median home prices are shown in boxes. As shown, 2009 value is nearly equal to 1999/2000 home price levels.

Source: P:\19000s\19014MorganHill\Modell\19014mod.xls\Figs1+2

In general, the pace of new development of most types in Morgan Hill is likely to remain muted until the economy begins a more vigorous recovery and the housing market re-adjusts to return the rate of foreclosures and the number of households with negative equity in their homes to more stable/normal levels. As the economy recovers and demand for new development increases, the level of development costs will be one of the determinants of the viability and pace of new development. From the perspective of cost burden/development feasibility, the following observations/recommendations are made:

- Current feasibility constraints on new development are primarily demand-driven, though as the economy recovers, the overall balance between development costs and recovered values will become more important.
- The establishment of a 1:1 mitigation ratio, consistent with LAFCo policy and common California mitigation program practice, would result in an unusually high agricultural mitigation cost when coupled with the urban edge focus preferred by the Morgan Hill community.

- From the perspective of development feasibility, it is recommended that the City avoid, if possible, the levy of a 1:1 mitigation ratio (on the complete parcel size) where mitigation is required within the Morgan Hill SEQ.
- The City could seek to strike a balance between the feasibility of new development in the short/medium term and supporting agriculture in and around Morgan Hill by continuing to focus on the SEQ and by establishing a lower benchmark, such as a 0.5:1 mitigation ratio.
- The 0.5:1 mitigation ratio would result in a more modest increase in overall development costs, while still supporting the City goals for a preserved and active working landscape and buffer within the SEQ and directly addressing CEQA-related agricultural concerns.
- Some type of outlet for agricultural mitigation beyond the SEQ may be appropriate given the small size of the SEQ and the limited number of landowners. To limit the financial incentive to go beyond the SEQ, however, a higher mitigation ratio could be required.

3. CITY-PROPOSED AGRICULTURAL PRESERVATION TOOLS

This chapter describes the series of new tools/use of tools to support agricultural preservation in and around the City of Morgan Hill. These tools focus on the preservation of agricultural land as well as other actions that can improve the viability of agricultural operations. The City envisions these tools as add-ons/adjustments to the existing suite of tools and policies currently in place.³ Consistent with many other California agricultural preservation programs, the City will focus its preservation efforts on in-perpetuity agricultural preservation through agricultural conservation easements. The City has also determined to focus its agricultural preservation efforts in the SEQ as the priority area first, then elsewhere within the Morgan Hill SOI as the second level of priority. Agricultural conservations can be obtained via a number of different agricultural preservation tools through dedication, purchase, or donation.⁴ **Appendix B** provides more details on agricultural conservation easements.

As discussed in **Chapter 2**, small-scale agriculture can remain viable in the Morgan Hill SOI into the indefinite future. Safeguarding this viability will, however, depend on the preservation of appropriate agricultural land. In addition to the preservation of agricultural land, supportive land uses and other policies will be critical, in particular land use policies that define adjacent uses, limit speculation associated with the conversion of agricultural land, and allow for agriculture-supporting infrastructure.

The Consulting Team and City staff reviewed and considered different agricultural preservation tools and policies in the context of standard practice elsewhere in California, the technical findings described in Chapter 2, overall City goals for the SEQ, the existing City agricultural policies, and the parcel and ownership pattern in the SEQ. Based on this review, City staff has identified a preferred set of tools, as described below. All lands under the jurisdiction of the City of Morgan Hill or requesting annexation into the City will be required to participate in the City's new agricultural policies and requirements, including mitigation and other programs as applicable.

Agricultural Mitigation

The concept behind agricultural mitigation is to require activities converting agricultural land, such as new development, to preserve agricultural land in perpetuity. The purpose of the mitigation is 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

³ For example, the City currently has a Right-to-Farm Ordinance which should be updated periodically to address current land use compatibility issues.

⁴ Obtaining agricultural conservation easements—whether through dedication, donation, or purchase—generally provides the best opportunity to preserve land for agricultural use, while also allowing farmers to continue their operations unimpeded. An easement is defined as “an interest in real property that conveys use but not ownership of a portion of an owner's property.”

around the City of Morgan Hill consistent with community preferences and City policies. The recommended parameters for the mitigation program include:

- 1. Definition of Agricultural Land.** For the purposes of the agricultural mitigation program, agricultural land is defined as land that falls under the California Department of Conservation's Prime Farmland, Farmland of Statewide Importance, Unique Farmland, and Farmland of Local Importance designations within Morgan Hill's SOI.
- 2. Definition of Agricultural 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.
- 3. Mitigation Mechanism.** Conversion of agricultural land will require the acquisition and/or dedication of agricultural conservation easements over approved agricultural land to support agricultural preservation. In addition to land acquisition/dedication, developers would be required to pay a fee (on a per acre dedicated basis) to cover ongoing management and monitoring of the easements.
- 4. Activities Affected and Mitigation Ratios.** All new development/activities under the jurisdiction of the City of Morgan Hill that directly result in the conversion of agricultural land (as defined above) will be required to mitigate. The required dedicated acres of agricultural conservation easement will depend on the mitigation ratio and measure of affected area that will vary by land use and location of easement dedication (see **Table 5**).

In general, mitigation provided within the SOI will be required at a ratio of 0.5:1 and mitigation provided outside the SOI elsewhere within the County will be required at a ratio of 2:1. These ratios recognize the higher land values within the SOI and provide an incentive to developers to provide mitigation within Morgan Hill. The one exception to the 0.5:1 ratio within the SOI is the proposed SRL Subdistrict B zone located adjacent to the freeway. This area is proposed to have a higher mitigation ratio of 1:1 as it will be more intensive in use than the SRL uses away from the freeway and, based on its geographic location within the SEQ, has a greater impact on the area where the City proposes to focus its preservation efforts.

Also, consistent with the Santa Clara Valley HCP/NCCP plan, the areas subject to agricultural mitigation 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. Only aggregated areas of at least 10 acres in size will 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.

Table 5. Mitigation Ratios, Land Preserved to Land Developed, by Use Designation

General Plan Designation	Mitigation Within SOI	Mitigation Outside SOI	Developed Footprint vs. Entire Site
Open Space	0.5 : 1	2 : 1	developed footprint
Residential	0.5 : 1	2 : 1	entire site
Commercial	0.5 : 1	2 : 1	entire site
Industrial	0.5 : 1	2 : 1	entire site
Public Facilities	0.5 : 1	2 : 1	developed footprint
Sports-Recreation-Leisure: <i>Subdistrict B (next to freeway)</i>	1 : 1	2 : 1	developed footprint
Sports-Recreation-Leisure: <i>Subdistrict A (away from freeway)</i>	0.5 : 1	2 : 1	developed footprint

5. **Agricultural Land Quality.** Dedications inside the SOI will be strongly encouraged within the SEQ as the first priority. The City has identified an Agricultural Priority Area, shown on **Figure 5**, as the City's first priority for conservation, with other rural County agricultural land in the SOI representing the next level of priority. Dedications outside the SOI must be inside Santa Clara County. In either case, the land dedicated for mitigation must be of equal or higher farmland quality under the California Department of Conservation FMMP classification system, except where the City determines a variation from this approach is appropriate to support agriculture; for example, to preserve areas actively farmed or containing essential agricultural processing infrastructure.
6. **Responsibility for Easement Acquisition.** Under this program, the party seeking to convert agricultural land is responsible for negotiating the purchase of a suitable agricultural conservation easement from a willing seller and paying all acquisition costs. The actual sale price of any specific agricultural conservation easement will be based on individual negotiations between parties seeking development and easement sellers distinct from City involvement.
7. **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 to cover the average cost of these activities.
8. **Implementing Entity.** The City will hold the easements and collect management and monitoring fees until an alternative implementing entity, such as a nonprofit conservation organization or agricultural consultant, has been identified.
9. **Mitigation Timing and Implementation.** Agricultural mitigation will be required prior to physical development involving the conversion of agricultural lands.

Planned Development/Development Agreements

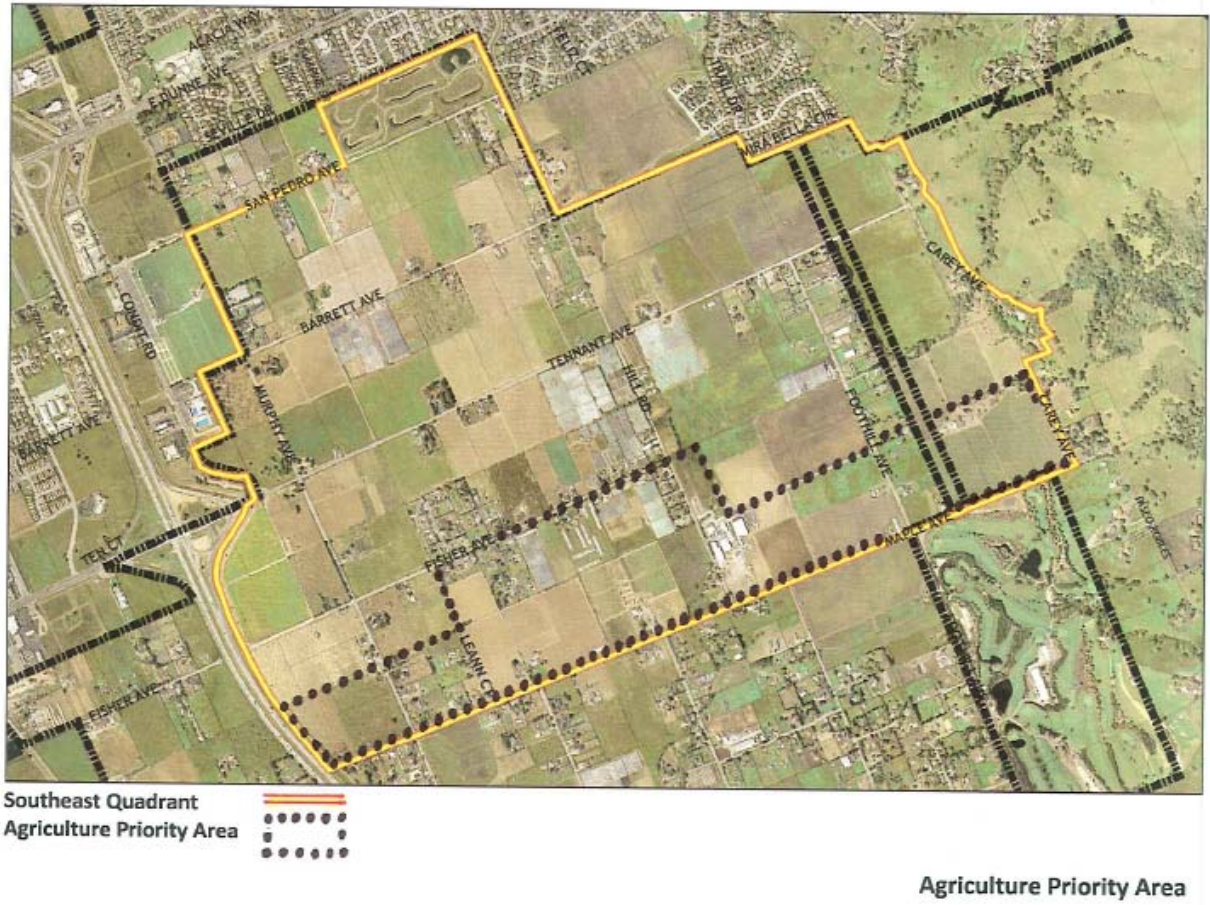
Landowners/developers who are required to provide agricultural mitigation may request an alternate method of mitigation different from the requirements outlined in **Table 5** through a Development Agreement. An alternate method of mitigation will only be considered if it results in equal or greater agricultural benefit as would have resulted from the **Table 5** requirements. For example, landowners/developers looking to develop their land in a manner different from the City's land use designations, but in no case greater than the density currently available to property owners under existing development rights (e.g., clustering of rural homesites), can submit a Planned Development (PD) application to the City for consideration. The City would evaluate the proposal in terms of the application's consistency with the City's overall goals, including the contributions to agricultural conservation. For clustered homesite applications, the landowner/developer will be required to demonstrate to the City how the project will provide equal or greater agricultural benefits. Factors that may be considered include but are not limited to: (1) the number, size, and location of permissible clustered homesites; (2) amount of land dedicated for agricultural conservation; (3) location of agricultural land in relation to City Agricultural Priority Area and contiguity with existing and conserved agricultural land; (4) commitments to actively farm agricultural land within the development agreement area; and (5) expected landowner financial compensation. The applicant 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.

Funding for Conservation

It is expected that the majority of agricultural land conservation in Morgan Hill's SOI will be generated by acquisitions/dedications of easements through the mitigation and the Planned Development/Development Agreement processes. The City will also complement these acquisitions/dedications with fund-raising to directly purchase additional agricultural conservation easements in the Agricultural Priority Area of the SEQ. The City will pursue funding for agricultural preservation through two primary sources:

- 1. Transfer of Development Credit (TDC) Program.** The City's TDC program has historically provided significant funding for hillside preservation. As part of Morgan Hill's Residential Development Control System (RDCS), developers can commit to purchase TDC credits to improve their points under the City's allocation system. These payments, approximately \$2,000 per residential unit, have provided significant revenues for hillside preservation. The City will refine the TDC program to seek use of a portion of existing and future revenues from the TDC program to be allocated toward agricultural preservation.
- 2. Other Funding Sources.** There are a number of State and federal funding sources for agricultural preservation. While some of them are currently unfunded or underfunded, over the longer term, they may become an important source of funding. The City will pursue these grant opportunities as they become available.

Figure 5. Proposed Agricultural Priority Area



4. RECOMMENDED GENERAL PLAN POLICIES AND ACTIONS

This chapter provides preliminary recommendations for new General Plan language, including new General Plan goals, policies, and actions, consistent with the recommend City agricultural preservation program outlined in **Chapter 3**. If approved, these goals, policies, and actions would serve as additions and/or replacements to existing General Plan language.

Goals

- **Goal 1.** Agricultural land uses and production should continue in and around the City of Morgan Hill.
- **Goal 2.** Agricultural lands with the greatest long-term potential to be sustained in agriculture should have highest priority for preservation.
- **Goal 3.** The aesthetic, open space, and urban separation functions should be emphasized.
- **Goal 4.** The role of local agricultural land in providing community farms and local food sources should be enhanced.
- **Goal 5.** Compatibility of urban and agricultural uses should be continually managed.
- **Goal 6.** Support agritourism and agricultural education within the Morgan Hill SOI.
- **Goal 7.** Encourage and support the marketing, sale and consumption of locally-grown produce.

Policies and Actions

Policy 1: Cooperate with other jurisdictions to achieve agricultural preservation goals.

Action #1.1: Land use designations and annexations support agricultural uses.

When considering annexation applications involving land that is mapped or used for agricultural production, or is located adjacent to such land, strong consideration shall be given to the proposed land use designation and pre-zoning to minimize potential conflict with surrounding agricultural uses in the area. All lands annexed into the City shall participate in the City's new mitigation and other programs as applicable.

Action #1.2: Coordinate and collaborate with other agencies/entities

The City will continue to identify opportunities to work with other jurisdictions and organizations in supporting agricultural land preservation and the agricultural industry in and around Morgan Hill. The County will continue to be a critical partner for the City. In addition, the City will outreach to other organizations where efforts and resources could be pooled in supporting agriculture.

Policy 2: Amend the zoning code to include enhanced agricultural preservation features.

Action #2.1: Establish buffer requirements for new development.

The City will establish a minimum agricultural buffer around new development adjacent to the City's Agricultural Priority Area and County land with an Agricultural Land Use Designation. Applicants will be required to record an agricultural buffer easement on the land that will make up the buffer concurrently with the permitting of any development/grading.

Action #2.2: Review zoning development standards.

The City will strengthen zoning development standards, where necessary, to encourage development placement, scale, and design that are consistent with the preferred rural character adjacent to the City's edge.

Action #2.3: Allow alternate methods of agricultural mitigation through Planned Development Zoning and/or a Development Agreement only if it will result in equal or greater agricultural benefit than would result from standard mitigation requirements.

Landowners/developers requesting an alternate method of agricultural mitigation will be required to demonstrate to the City how the project will provide equal or greater agricultural benefits. Factors that may be considered include but are not limited to: (1) project-specific merits of the project (e.g., the number, size, and location of permissible clustered homesites for residential projects); (2) amount of land dedicated for agricultural conservation; (3) location of agricultural land in relation to City Agricultural Priority Area and contiguity with existing and conserved agricultural land; (4) commitments to actively farm agricultural land within the development agreement area; and (5) expected landowner financial compensation. The applicant 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.

Action#2.4: Allow for agricultural sales.

The City will amend the Zoning Code to allow for small-scale sale of locally grown agricultural products on active agricultural land, and on other lands where appropriate, with approval of a temporary use permit.

Action#2.5: Promote agricultural support system.

The City will promote an agricultural support system including physical components (such as farm labor housing, retail sales, equipment supply and repair) and institutional components (such as agricultural education and training).

Policy 3: Adopt ordinances that will support agricultural preservation goals.

Action #3.1: Adopt agricultural mitigation program.

The City will update and adopt an Agricultural Mitigation Ordinance that will require mitigation for the development of agricultural land. Mitigation will be in the form of the acquisition and/or dedication of agricultural conservation easement(s) consistent with a specified ratio between preserved agricultural land and the land proposed for development/disturbance as well as a mitigation fee that will cover the ongoing management and monitoring of the easement.

Acquisition/dedication requirements will be based on mitigation ratios as follows: (1) first priority will be acquisition/dedication at a 0.5:1 ratio of agricultural lands in the Morgan Hill SOI; for lands located within the SRL Subdistrict B zone, a mitigation ratio of 1:1 within the SOI will be required; (2) as a second option, at the City's discretion if the first priority cannot be met, dedication at a 2:1 ratio of easements on agricultural land in other areas of the County, such as the Gilroy Agricultural Preserve area will be required. In general, dedicated land will be of equal to or greater farmland value (under the FMMP classifications) than the converted land.

Action #3.2: Refine the existing TDC Program.

The City will refine its existing TDC Ordinance to include agricultural preservation as well as hillside preservation. The revenue from new purchases of TDC credits will then be available, in part, to support the purchase of agricultural conservation easements in the City's Agricultural Priority Area in the SEQ.

Policy 4: Identify additional resources to support agricultural preservation.

Action #4.1: Pursue additional agricultural preservation funding opportunities.

The City will pursue additional funding sources for agricultural land preservation. These will include funding available through State and federal grant programs.

APPENDIX A:
Study Background

APPENDIX A: STUDY BACKGROUND

Previous Work Built Upon by This Study

The Agricultural Mitigation Working Paper

City staff prepared a document called the Agricultural Mitigation Working Paper that identifies and explores some major issues associated with the loss of agricultural lands and potential for mitigation thereof:

1. What land should be evaluated to determine if its conversion to urban use would be considered environmentally significant?
2. What method should be used to determine if the loss of agricultural land is significant?
3. If a loss of agricultural land is found to be significant, what type of mitigation is acceptable?
4. If mitigation is required, where should it be provided?
5. Is full mitigation economically feasible?

The intent of the Agricultural Mitigation Working Paper was to “provide an informational basis for discussion of some of the major issues associated with agricultural mitigation” and therefore offered numerous preliminary recommendations, but stopped short of defining a specific program or set of policies.

Actions of Morgan Hill Planning Commission

The Morgan Hill Planning Commission considered staff recommendations at meetings on March 25, April 8, and April 22 in 2008. The commission supported the staff's recommendations but also expressed concern that mitigation for the significant loss of agricultural land might be infeasible.

As a result, the commission recommended that the Morgan Hill City Council consider the following two alternatives:

- Planning alternative number 1 assumes that there are lands within the Morgan Hill SOI that have long-term viability, assumes that it is feasible to permanently restrict some portion of those lands to agricultural use, and assumes that it is feasible to require projects to provide mitigation for conversion of agricultural land to urban uses; while
- Planning alternative number 2 assumes that there are no lands within the Morgan Hill SOI that have long-term viability in agricultural use, assumes that it is not feasible to permanently restrict those lands to agricultural use, and assumes that it is not feasible to require projects to provide mitigation for conversion of agricultural land to urban uses.

Morgan Hill City Council's Action

The Morgan Hill City Council considered and accepted the planning commission's recommendations at its meeting on April 30, 2008. The City Council directed staff to prepare an environmental impact report (EIR) to analyze the proposed SEQ land use amendments and agricultural policies, evaluating both alternatives at the same level of detail. In addition, the council directed staff to develop additional information about the feasibility of agricultural mitigation and the long-term viability of agricultural lands within the Morgan Hill SOI. On April 7, 2010, the City Council accepted a refined project description for the purposes of the EIR that combines the two alternatives into one land use plan and is based on the premise that small-scale agriculture, under certain circumstances, is viable within the Morgan Hill SOI.

California Environmental Quality Act Mandate

A key motivation for this study comes from the California Environmental Quality Act (CEQA). For development projects that fall under the domain of CEQA, the statute requires that impacts to agricultural resources (farmland) and open space be considered and, if feasible, mitigated. The 2010 CEQA guidebook, page 243, offers the following guidance for determining whether a proposed project impacts agricultural resources:

Would the project:

1. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland) as shown on maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?
2. Conflict with existing zoning for agricultural use, or a Williamson act contract?
3. Involve other changes in the existing environment which, due to their location or nature, could result in the conversion of Farmland to non-agricultural use?

No specific threshold of significance for impact to agricultural resources is stipulated by CEQA—the determination of what level of impact is significant is determined by local policies. In undertaking this study, Morgan Hill seeks to formally define the significance of impacts to agricultural resources by proposed projects and appropriate means of mitigating such impacts.

APPENDIX B:
Agricultural Conservation Easements

APPENDIX B: AGRICULTURAL CONSERVATION EASEMENTS

Obtaining agricultural conservation easements—whether through dedication, donation, or purchase—generally provides the best opportunity to preserve land for agricultural use, while also allowing farmers to continue their operations unimpeded. An easement is defined as “an interest in real property that conveys use but not ownership of a portion of an owner’s property”.¹ 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 and open-space character of the property. 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.² Agricultural conservation easements are perpetual, running with the land so that their terms are binding on all future fee-title owners of the property.³

It is recommended that the City adopt an Agricultural Conservation Easement (ACE) program as a core component of its agricultural land preservation program. The City or agricultural preservation partners, would obtain agricultural conservation easements through one of three methods: dedication, purchase, or donation. Regardless of whether an agricultural conservation easement is acquired by a developer and then dedicated or directly purchased by the City or partner agency/entity, all easements will be purchased from willing sellers only. In some cases, land may be purchased in fee title (i.e., complete ownership of the land), where landowners are only interested in a fee-title sale. In these cases, the City or partner entity will place an easement over the land, then, if feasible, sell or lease the restricted land to interested farmers.

Recommended actions associated with the pursuit of agricultural conservation easements include:

- **Outreach.** As part of its outreach efforts, the City should conduct specific outreach to farmers and landowners concerning the ACE program and the financial advantages and use restrictions associated with an easement sale.

¹ Definition according to the *Dictionary of Real Estate*, third edition, by the Appraisal Institute.

² Typically, a homesite or building site is reserved, with restrictions on the number or size of structures permitted there, while structures are prohibited everywhere else. In some cases, multiple pre-existing legal lots are joined together under a single easement, creating a larger de facto unitary lot and extinguishing existing homesite and subdivision entitlements.

³ The California Farmland Conservancy Program of the California Department of Conservation publishes the *CFCP Model Easement*. Agricultural conservation easements, as discussed in this report, are assumed to be similar to the model easement.

- **Standard Legal Instrument.** The City should develop one or more ACE templates that can be shared and explained as part of the outreach. The legal template will outline the rights to be purchased under the easement agreement. The legal instrument will ultimately need to be adjusted based on the circumstances of the interested landowners.⁴
- **Rights to Purchase.** The City has jurisdiction over and will identify the rights to be dedicated/purchased in the easement that performs the mitigation, allowing flexibility for case-by-case decisions if appropriate. To best achieve Morgan Hill's agricultural preservation goals, the agricultural conservation easement should be placed over whole parcels of land or areas large enough to permit commercial, economic farming (as discussed in this policy document) to continue in perpetuity. Generally, agricultural production-related structures, such as barns and equipment sheds will be allowed within the easement area.
- **Easement Monitoring and Management.** Morgan Hill's agricultural mitigation program will also charge a fee to the development project applicant, imposed at time of easement transfer, to cover the ongoing monitoring and management costs of dedication agricultural conservation easements. In other jurisdictions this fee is often about 5 percent of the easement transfer value.

⁴ The California Farmland Conservancy Program of the California Department of Conservation publishes the CFCP model easement. It is recommended that the city adopt the CFCP model easement as the basis of its standard for an acceptable conservation easement.