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November 18, 2015 (Agenda)

November 18, 2015
 Agenda Item 8

Contra Costa Local Agency Formation Commission
 651 Pine Street, Sixth Floor
 Martinez, CA 94553

LAFCO Agricultural & Open Space Preservation Policy Discussion

Dear Commissioners:

This is a report from LAFCO Policies & Procedures Committee regarding activities relating to developing a Contra Costa LAFCO Agricultural & Open Space Preservation Policy (AOSPP) and next steps.

BACKGROUND

On July 8, 2015, Contra Costa LAFCO hosted an Agricultural & Open Space Preservation Workshop. The purpose of the workshop was to engage stakeholders and begin a discussion as to whether or not Contra Costa LAFCO should develop a local AOSPP, like other LAFCOs around the State; and if so, what the Contra Costa LAFCO policy should address.

On August 12, 2015, the Policies & Procedures Committee provided a summary of LAFCO law, highlights of its work to date, including a collection of LAFCO policies representing 18 different LAFCOs from around the State, a summary of Government Code sections relating to preserving agricultural and open space lands (see march 11, 2015 LAFCI agenda), and a series of maps. At that time, the Committee initiated a discussion with the Commission as to what type of AOSPP Commissioners want, if any. The Committee presented a decision tree to help guide the conversation. That decision tree, which has been amended, is shown in Attachment 1.

Following input from the Commissioners and members of the public, including representatives from environmental groups, the agricultural community, the building industry and economic development interests, the Commission recommended that the Committee conduct outreach to several groups to inquire as to how these groups would like to work with LAFCO on a proposed policy.

THE COMMITTEE’S WORK TO DATE

In October, the Committee reported on its meetings with the Planning Committee of the Contra Costa Transportation Authority (CCTA), Contra Costa Public Managers Association (PMA), and County Planning Directors Association.

Since the October LAFCO meeting, the Committee made a presentation to the Contra Costa Special Districts Association (CCSDA); and Commissioner Tatzin made a presentation to the CCTA Board.

What we Learned - The meetings with these groups were useful – here is some of what we learned:

- The groups are generally interested in a LAFCO AOSPP. The level of interest is related to how close a community is to agricultural and open space land and what its expansion concepts are.
- The boards ask that LAFCO advise them of our progress periodically and engage the most affected jurisdictions (i.e., cities of Antioch, Brentwood, Clayton, Concord, Oakley, Pittsburg, San Ramon, and Walnut Creek). LAFCO staff has reached out to these agencies. Those who have responded to date indicate that they would like to be involved in the conversation, and have asked that LAFCO staff notify them as to when the Commission will discuss the matter. They have been notified of today's meeting.
- Some jurisdictions want to annex open space and parkland because they believe this will make it more likely that it remains open space. For example, parkland west of San Ramon, and the Montanera Gateway annexation of parkland to Orinda approved by LAFCO in 2006.
- School districts sometimes wish to locate in areas that are designated for agricultural uses, which can be challenging.
- Through the assistance of the County, we identified sites that may be subject to requests for SOI adjustments and/or annexation. The maps show that many of these are on prime or important agricultural lands. (Attachment 2)
- Martin Englemann, Deputy Director for Planning from CCTA, made a presentation at the October LAFCO meeting. He provided information about the Urban Limit Line (ULL) that the CCTA uses as part of its allocation of return to source funding. He also discussed how jurisdictions are planning to implement Plan Bay Area, noting that all of the housing and jobs growth anticipated for Contra Costa County through 2040 can occur within the current ULL.

Additional Feedback – Prior to the LAFCO Agricultural & Open Space Preservation Workshop, staff asked the City/County Planning staff to provide information relating to Agricultural and Open Space General Plan and Zoning designations and policies. The LAFCO Planner has prepared a summary of the responses received to date (Attachment 3). The County and a number of cities have agricultural and open space policies designed to protect these areas. A LAFCO policy could complement those policies already adopted by the land use agencies.

LAFCO has also received input from the Brentwood Agricultural Land Trust (BALT) recommending that Contra Costa LAFCO adopt an agricultural protection policy to mitigate for the cumulative impact of the loss of Contra Costa's farm and ranchland. The BALT paper also provides background information relating to agriculture today in Contra Costa County, current tools for protecting agriculture in the County, reasons why a LAFCO policy is important, and some ideas for a successful LAFCO agricultural policy (Attachment 4).

We also heard from John Cunningham, Principal Planner with Contra Costa County regarding the County's interests and efforts in reforming school siting policies and practices. The County is collaborating with the California Farm Bureau Federation to address conversion of agricultural land, and more specifically, conversion to school sites. In 2014, the County prepared its *School Siting and Safety Initiative* which outlines some of the challenges, concerns and potential remedies relating to school siting (Attachment 5).

Also at the October LAFCO meeting, Commissioner Skardoff reported that he is working on some ideas relating to the open space component. Open space is a little more difficult to define than agricultural land. The LAFCO law defines “open space” as follows: **56059**. "Open space" means any parcel or area of land or water which is substantially unimproved and devoted to an open-space use, as defined in Section 65560. Section 65560 is attached for reference (Attachment 6).

Contra Costa County is fortunate in that the environmental community and the East Bay Regional Park District have done an outstanding job preserving and protecting open space in our county. Their efforts are further enhanced through East Contra Costa Habitat Conservation Plan.

Commissioner Skardoff will provide the Commission with an update on his research at the November 18th LAFCO meeting.

NEXT STEPS

If the Commission is comfortable with the information presented, the Committee recommends resuming the discussion as outlined in the decision tree.

RECOMMENDATION:

Receive update and provide direction.

Respectfully submitted,

Sharon Burke and Don Tatzin

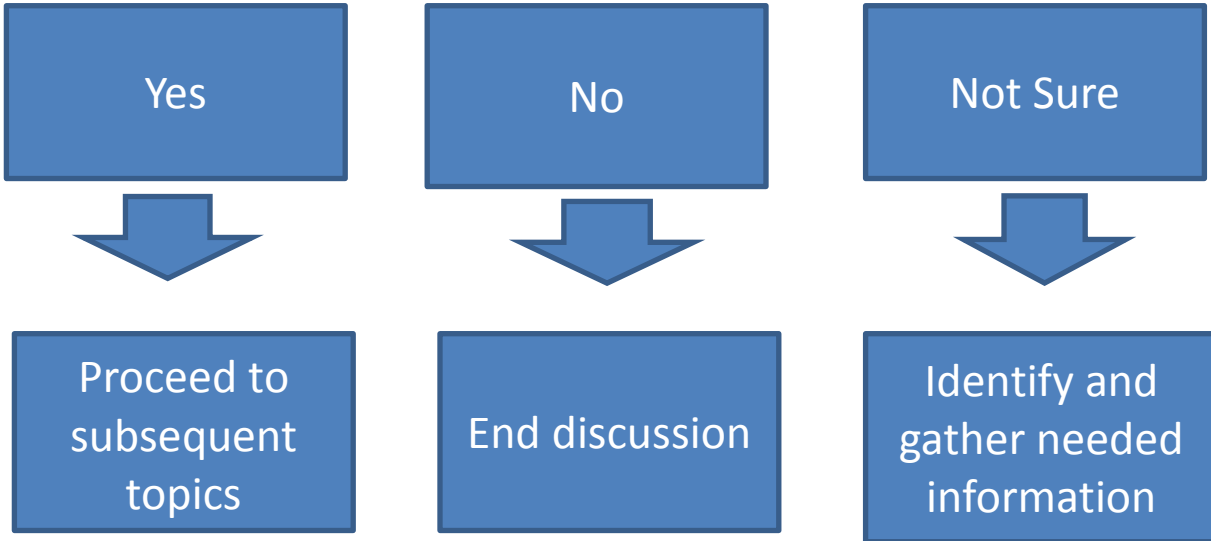
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Attachments

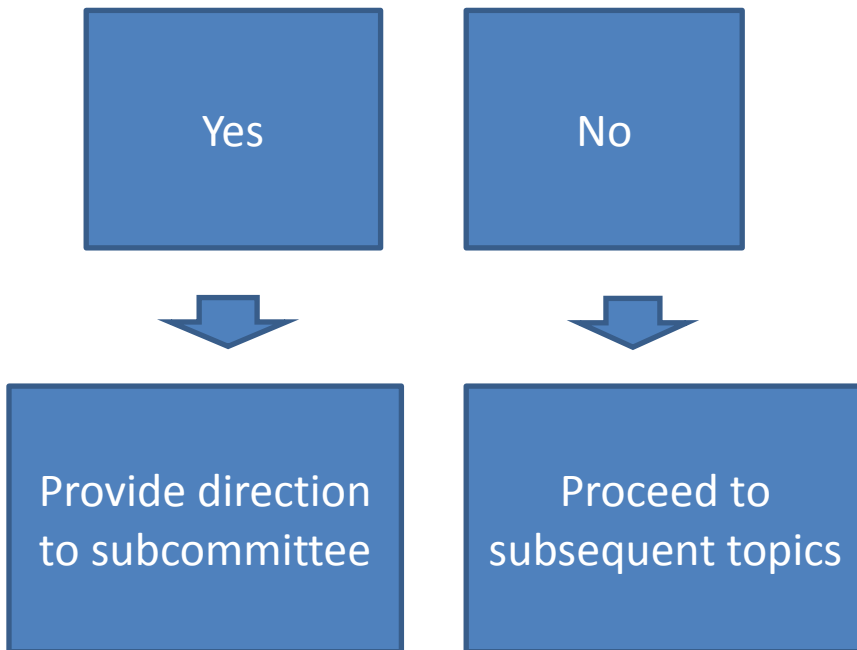
1. Decision Tree
2. Presentation Maps from Outreach Discussions and October Contra Costa LAFCO Meeting
3. Summary - City/County Agricultural and Open Space General Plan and Zoning Designations and Policies
4. Correspondence - Brentwood Agricultural Land Trust
5. Contra Costa County *School Siting and Safety Initiative*
6. Government Code Section 65560 – Definition of Open Space

LAFCO AGRICULTURAL & OPEN SPACE PRESERVATION POLICY DECISION TREE

I. Should CC LAFCO have an agriculture and open space preservation policy?

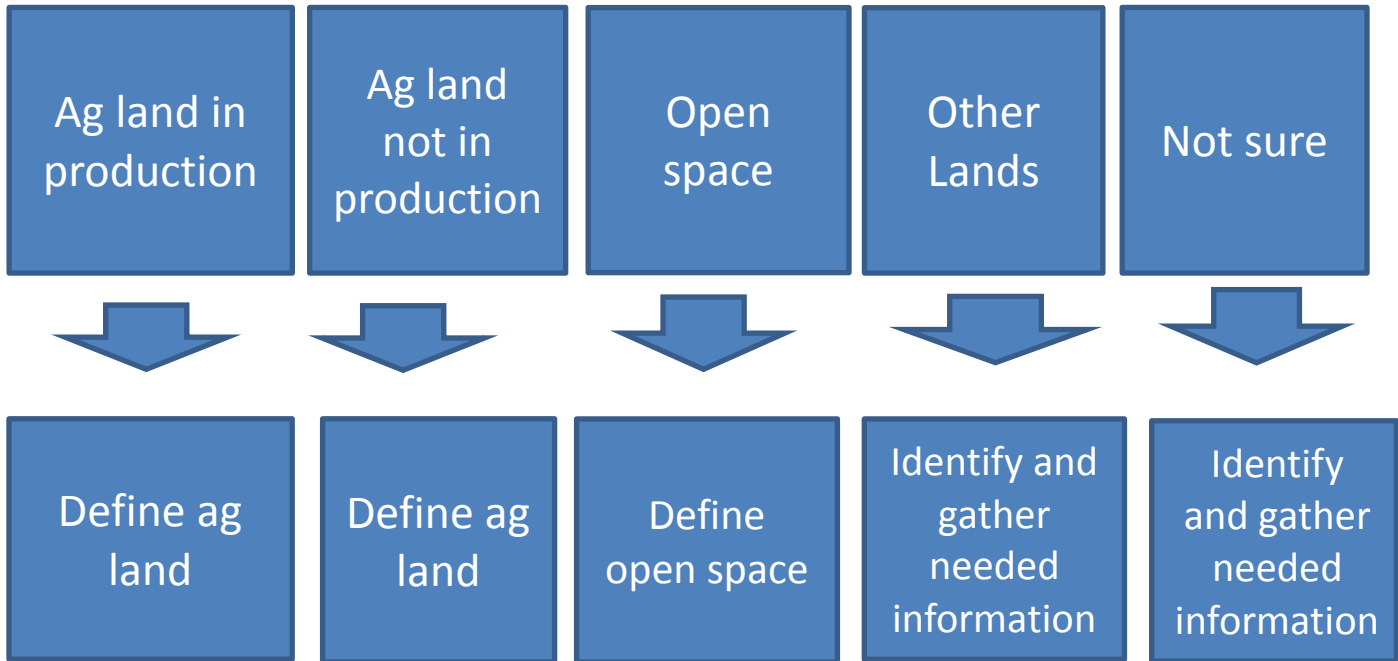


II. Should the CC LAFCO policy simply restate LAFCO law?



The Cortese Knox Hertzberg Act “(CKH)” provides specific definitions for “agricultural lands, “prime agricultural land” and “open space.” LAFCO law also includes provisions and restrictions relating to land covered by Williamson Act contracts.

III. What types of lands should be targeted by the policy?



If the Commission wishes to protect land in addition to agricultural land, the subcommittee recommends having the discussion regarding those types of land at a subsequent meeting.

IV. Should the policy discourage including certain types of land in SOIs and boundaries?

Economically/ environmentally productive ag and open space	Land in reservoirs/ watersheds	Land in Priority Conservation Areas
Unused ag and open space lands	Other lands, e.g., park land	Not sure

When determining the type of land that should be included in jurisdictional boundaries and SOI (i.e., receive municipal services), the Commission may also wish to consider the following:

- ✓ Should the LAFCO policy encourage detachment of some categories of undeveloped lands (e.g., productive agricultural land)?
- ✓ Should the LAFCO policy require or encourage that undeveloped lands within the boundary and the SOI be developed/annexed before new ag and open space land is annexed?

V. What types of applications to annex ag and open space lands should be exempt from the requirements of an AOSPP, if any?

- ✓ Applications that produce substantial permanent employment
- ✓ Lands owned by public agencies where the agency is the applicant
- ✓ Annexations of less than XX acres
- ✓ Annexation to urban services districts where the annexation is needed to keep the land in active agricultural use, e.g., water districts
- ✓ Other

VI. Which, if any, of the following should an application that would annex ag (and open space) lands to a sphere or a boundary be required to include before the application is deemed complete?

- ✓ An analysis of the impact of the proposal on the economic viability of nearby ag and open space land both within five years after the proposal is adopted and cumulatively, e.g., 25 years later
- ✓ An explanation of why the application is necessary for orderly development of the jurisdiction and cannot be achieved in any reasonable way that does not involve the annexation of ag and/or open space land
- ✓ An assessment of how the application will balance LAFCOs requirement to protect ag and open space land with orderly development of the jurisdiction
- ✓ Other?

VII. Which, if any, of the following conditions should be included in approvals for the annexations of ag lands?

- ✓ Deed recognition of “Right to Farm” by agricultural neighbors
- ✓ Establish an undeveloped buffer of some width (300’ is common) between development and agricultural uses
- ✓ Protection of other comparable land
- ✓ Other, e.g., commitment from the annexing jurisdiction that the land will remain in ag or open space uses?

VIII. If protection of comparable land is a desired condition, several other discussion topics arise:

- ✓ What ratio of protection, e.g., 1:1, 2:1, etc. should be approved?
 - Would the ratio of protection vary by location of the protected land is (e.g., higher ratio for more distant land, lower ratio for land that might create a buffer around the community)
 - Who establishes the ratio, LAFCO, local city, other?

- ✓ Is protection achieved by entering into an option or an agreement to protect a specific parcel before the LAFCO action becomes final or as a subsequent condition of the approval?

- ✓ In lieu of protecting a specific parcel, can a fee be paid? If a fee can be paid, at what time should the fee be paid, and to what type of organization (see below for examples)?

- ✓ Should protection agreements include provisions requiring the applicant to pay a fee for ongoing conservatorship?

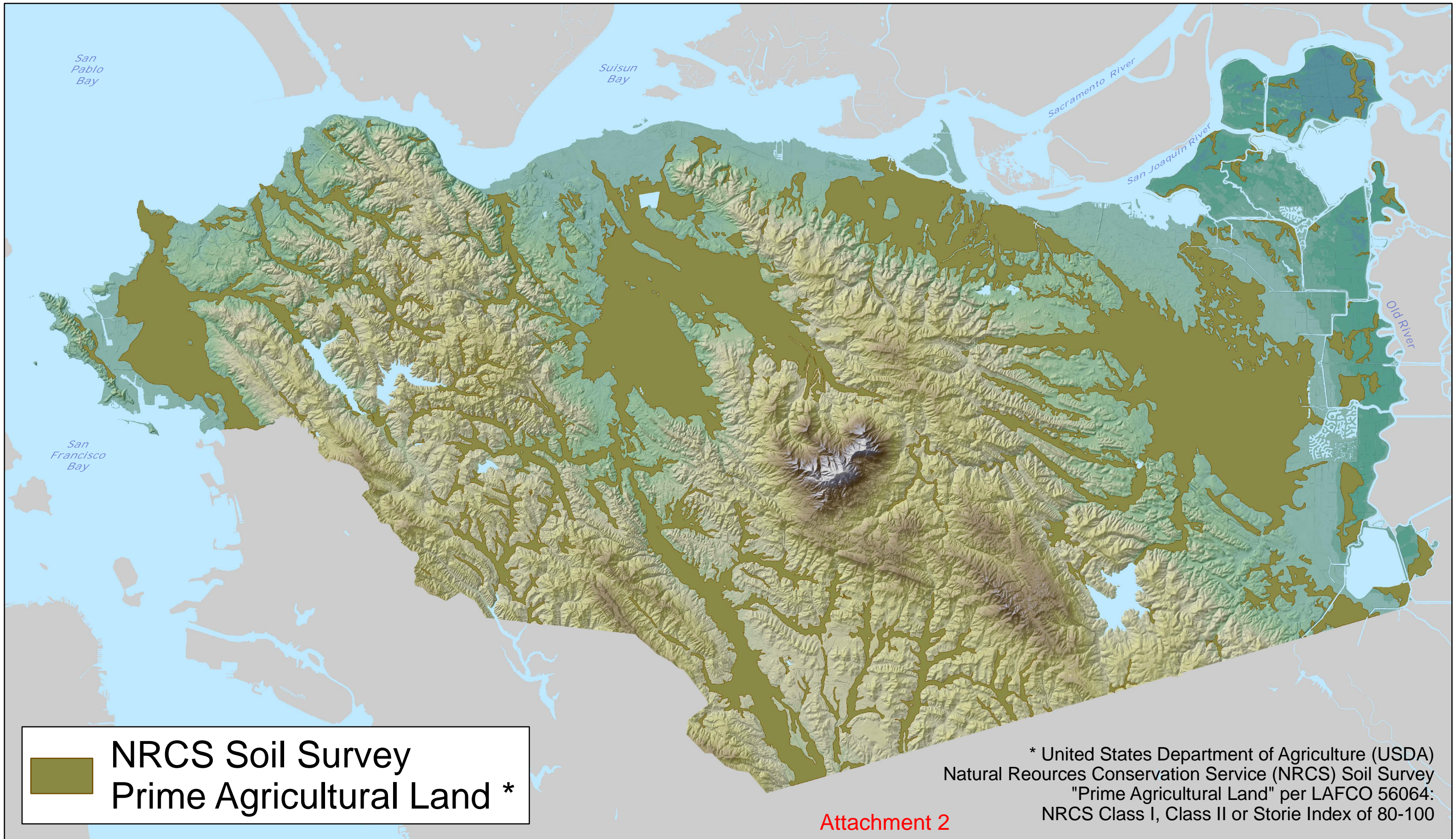
- ✓ If fees can be paid to protect land, how is the fee established? For example, should the approved protecting agency set the fee with LAFCO concurrence, should an annexing agency set the fee, should LAFCO provide guidelines and set the fee on a case-by-case basis?

- ✓ Will the ability of applicants to pay fees to provide land protection be limited to annexations below a minimum size? (Some jurisdictions use 20 acres as the maximum amount subject to a fee. Annexations of larger parcels must find suitable parcels to protect.)

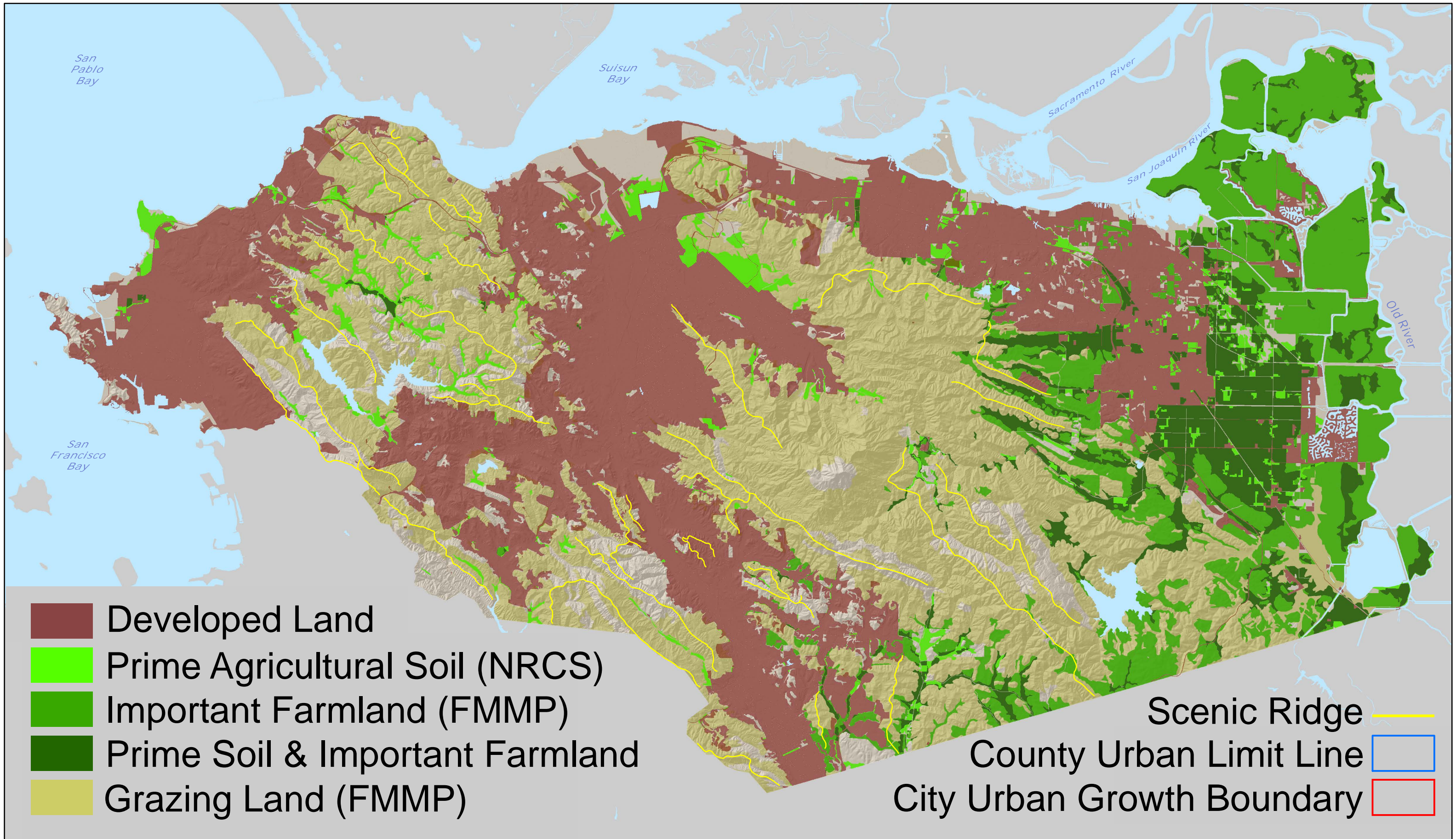
- ✓ What types of organizations can hold protected land and/or easements (e.g., City, EBRPD, agricultural or other land trust, etc.)

- ✓ Other?

Prime Agricultural Soil

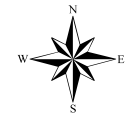
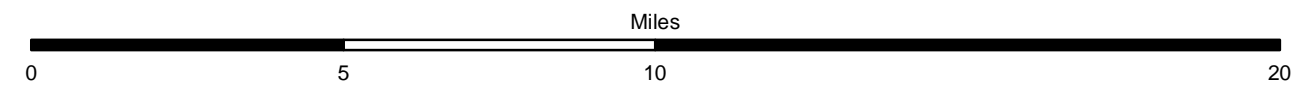


Prime Agricultural Soil and Important Farmland

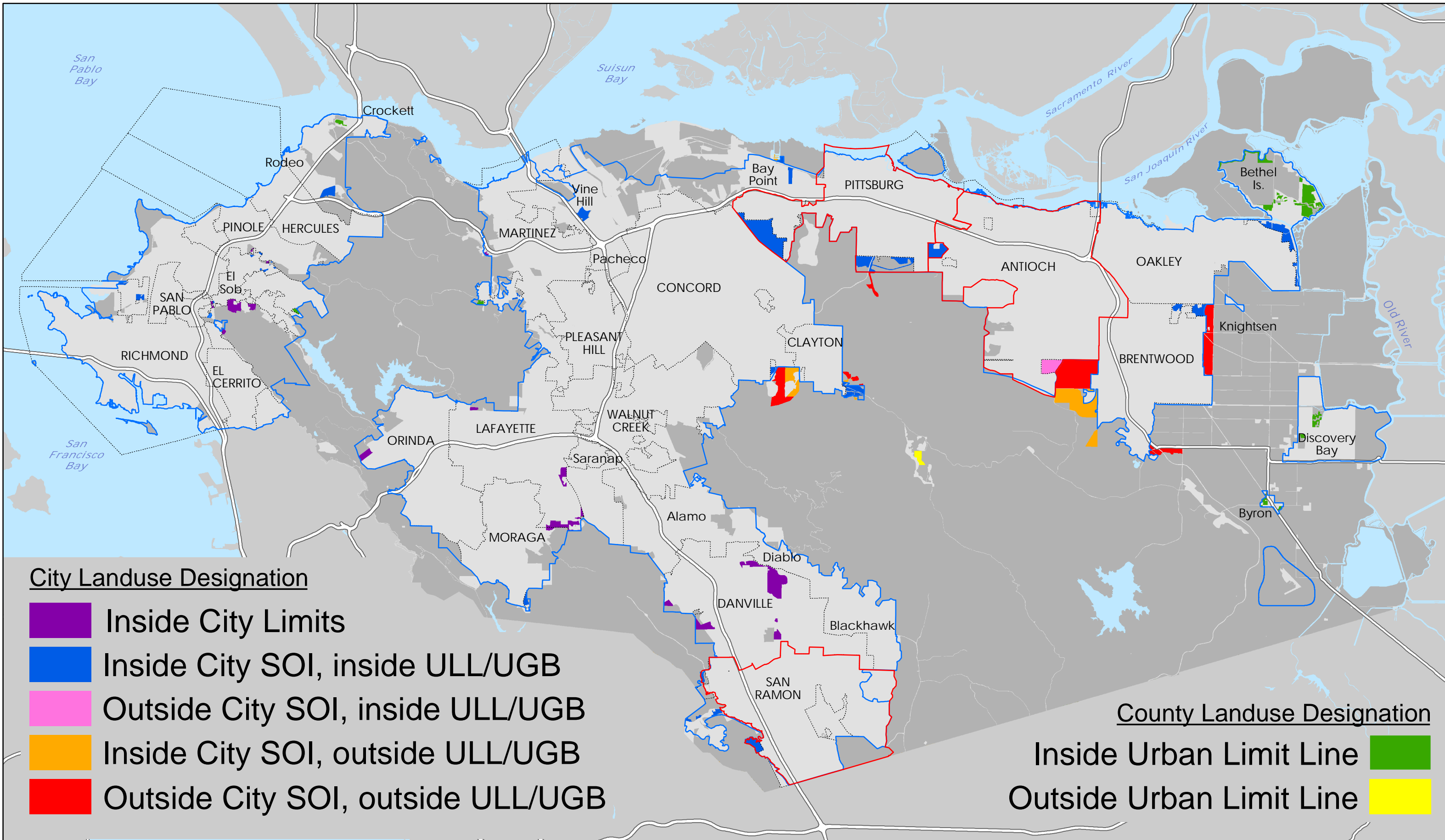


- Developed Land
- Prime Agricultural Soil (NRCS)
- Important Farmland (FMMP)
- Prime Soil & Important Farmland
- Grazing Land (FMMP)

- Scenic Ridge
- County Urban Limit Line
- City Urban Growth Boundary



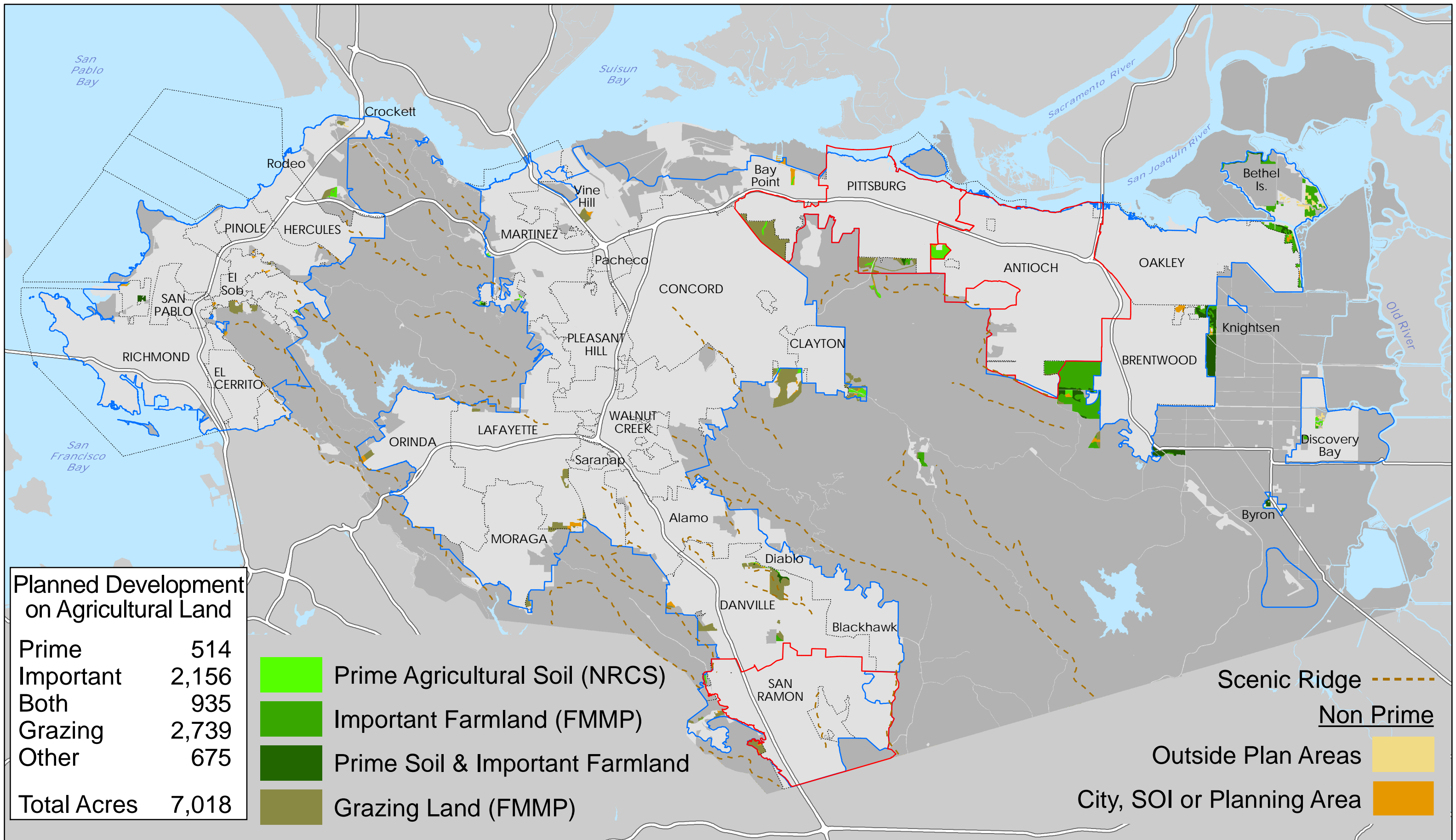
Planned Development inside and outside of ULL / UGB



Map created 9/3/2015
by Contra Costa County Department of
Conservation and Development, GIS Group
30 Muir Road, Martinez, CA 94553
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Planned Development on Prime Farmland



Planned Development on Agricultural Land	
Prime	514
Important	2,156
Both	935
Grazing	2,739
Other	675
Total Acres	7,018

- Prime Agricultural Soil (NRCS)
- Important Farmland (FMMP)
- Prime Soil & Important Farmland
- Grazing Land (FMMP)

- Scenic Ridge
- Non Prime
- Outside Plan Areas
- City, SOI or Planning Area

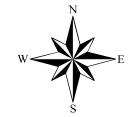
Map created 9/3/2015
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30 Muir Road, Martinez, CA 94553
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No Planned Development

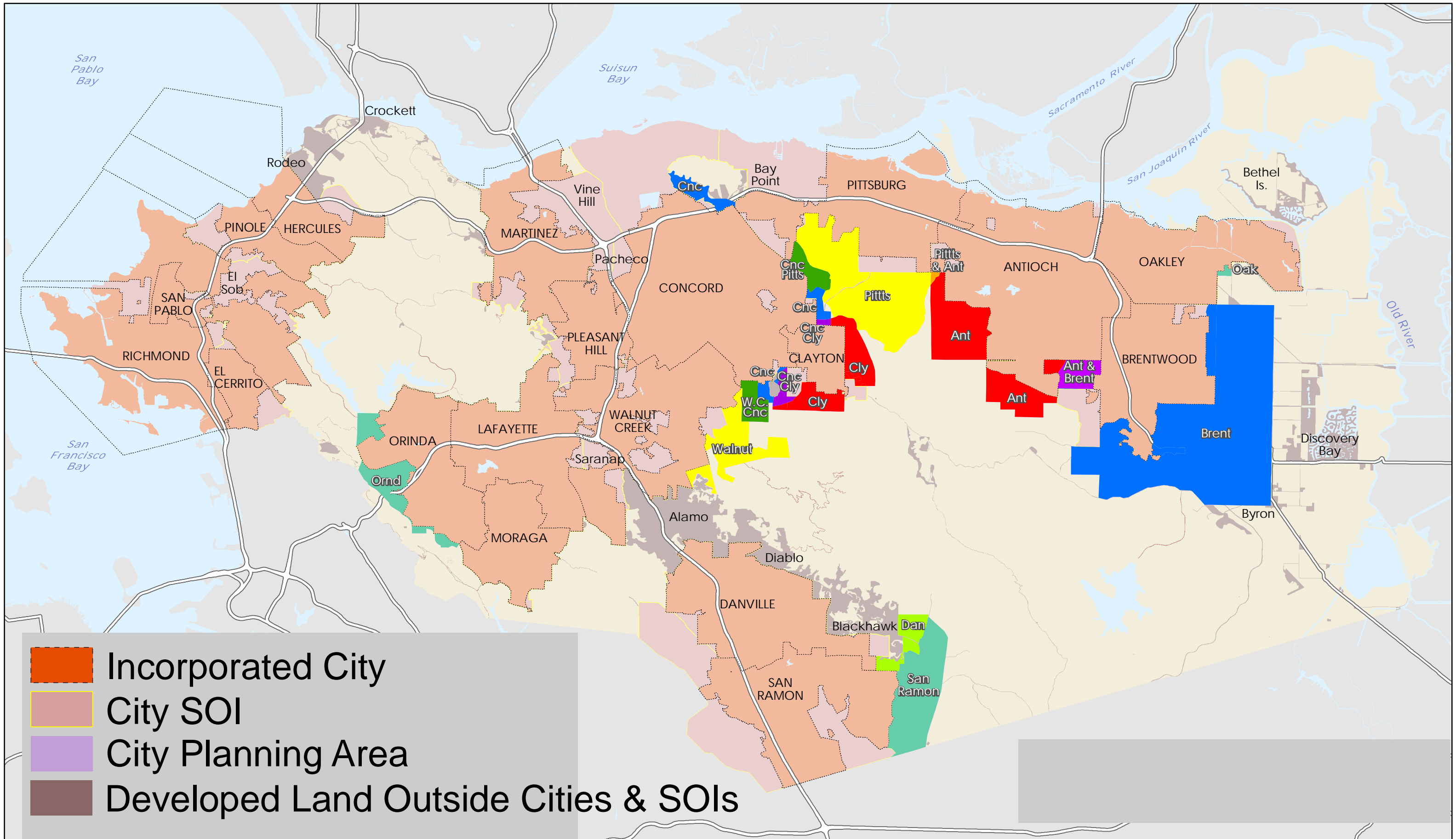
In Urban Services District or developed land

City Limit

County ULL
City UGB

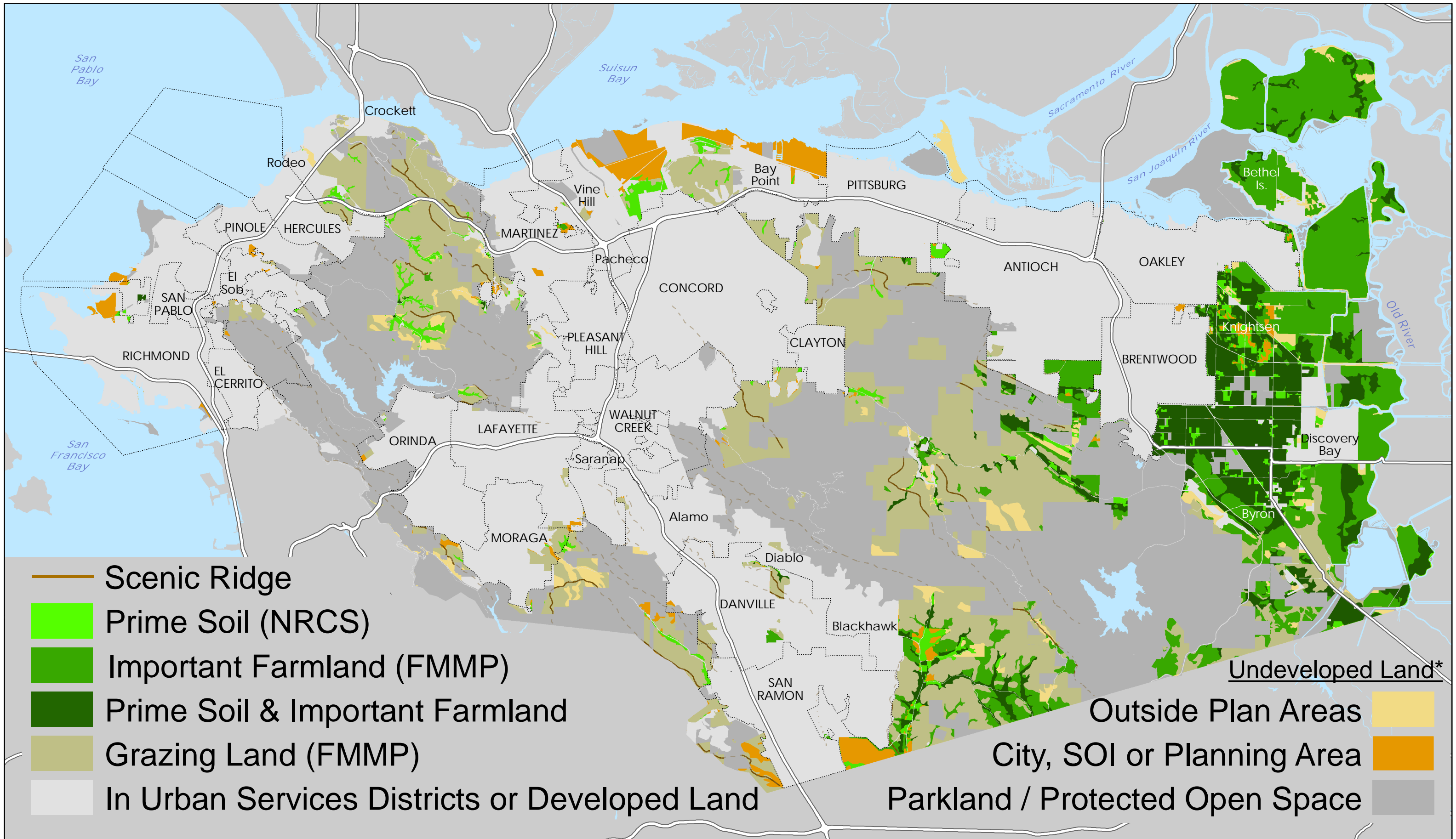


Incorporated Cities, Spheres of Influence and Planning Areas



- Incorporated City
- City SOI
- City Planning Area
- Developed Land Outside Cities & SOIs

Prime Farmland with potential for LAFCO action



* Undeveloped Land in this discussion refers ONLY to those areas that would need LAFCO approval to obtain water and/or wastewater service.

Compilation of General Plan Policies Related to Preservation of agricultural Resources and/or Open Space - Contra Costa Cities and the County of Contra Costa

Jurisdiction	General Plan Provisions	Comments
Contra Costa County	<p>The GP has two land use categories related to agricultural lands – AL (Agricultural Lands) and AC (Agricultural Core).</p> <p>Agricultural Lands (AL). This land use designation includes most of the privately owned rural lands in the County, excluding private lands that are composed of prime soils or lands that are located in or near the Delta. Most of these lands are in hilly portions of the County and are used for grazing livestock, or dry grain farming. The category also includes non-prime agricultural lands in flat East County areas, such as outside Oakley, which are planted in orchards. Some of the Agricultural Lands east of Oakley and Byron are included in the 100-year flood plain, as mapped by the Federal Emergency Management Agency (FEMA).</p> <p>The purpose of the Agricultural Lands designation is to preserve and protect lands capable of and generally used for the production of food, fiber, and plant materials.</p> <p>Agricultural Core (AC). This designation applies to agricultural lands that are composed primarily of prime (Class I or II) soils in the Soil Conservation Service Land Use Capability Classifications, which are considered the very best soils for farming a wide variety of crops. Lands designated as Agricultural Core are located in East County outside the ULL to the east, south, and west of the City of Brentwood. Much of the land in this designation is under active cultivation of intensive row crops, such as tomatoes and other vegetables. A portion of the Agricultural Core lands are included within the 100-year flood zone, as identified by the U.S. Federal Emergency Management Agency (FEMA).</p> <p>The purpose of the Agricultural Core designation is to preserve and protect the farmlands of the County which are the most capable of, and generally used for, the production of food, fiber, and plant materials. Agricultural operations in the Agricultural Core shall, in accordance with Measure C - 1990, be protected by requiring a higher minimum parcel size than the Agricultural Lands designation, to attempt to maintain economically viable, commercial agricultural units. The creation of small uneconomical units will be discouraged by land use controls and by specifically discouraging minor subdivisions and "ranchette"</p>	<p>Land Uses that are potentially consistent with and allowed in Agriculturally designated areas include:</p> <ul style="list-style-type: none"> • Parks and Recreation, • Open Space, • Agricultural Lands, Agricultural Core and • Delta Recreation <p>Comment: it can be seen from the excerpts of GP text shown at left that County policies are aimed at preserving agricultural activities; the policies recognize these as viable economic activities and that the aesthetic and nostalgic aspects of agriculture are secondary.</p>

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Jurisdiction	General Plan Provisions	Comments
	<p>housing development. The uses that are allowed in the Agricultural Core designation are the same as those allowed, without the issuance of a land use permit, in the Agricultural Lands designation. Except for wineries and olive oil mills, each of which typically includes tasting rooms and a limited retail sales area, none of the uses described as conditional uses in the Agricultural lands designation are considered appropriate in the Agricultural Core designation.</p> <p>The over-arching Land Use policy is the 65/35 policy which limits urban development to no more than 35 percent of the land and requires that at least 65 percent of all land be preserved for agriculture, open space, wetlands, parks and other non-urban uses.</p> <p>Policy 9-3 in the Conservation Element states: Areas designated for open space shall not be considered as a reserve for urban land uses. The Conservation Element focuses on 3 aspects of conservation lands: Scenic Resources, Historic/Cultural Resources and Parks and Recreation.</p> <p>Policy 3-10. The extension of urban services into agricultural areas outside the Urban Limit Line, especially growth-inducing infrastructure, shall be generally discouraged.</p> <p>3-11. Urban uses shall be expanded only within an Urban Limit Line where conflicts with the agricultural economy will be minimal.</p> <p>3-12. Preservation and buffering of agricultural land should be encouraged as it is critical to maintaining a healthy and competitive agricultural economy and assuring a balance of land uses. Preservation and conservation of open space, wetlands, parks, hillsides and ridgelines should be encouraged as it is crucial to preserve the continued availability of unique habitats for wildlife and plants, to protect unique scenery and provide a wide range of recreational opportunities for County residents.</p> <p>3-13. Promote cooperation between the County and cities to preserve agricultural and open space land.</p> <p>3-14. Protect prime productive agricultural land from inappropriate subdivisions.</p>	

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Jurisdiction	General Plan Provisions	Comments
Brentwood	<p>Current General Plan adopted July 22, 2014.</p> <p>Relevant Land Use categories in the General Plan include:</p> <ul style="list-style-type: none"> • Public Facility (PF) • Semi Public Facility (SPF) • Parks (P) • Schools (SCH) • Community College (CC) • Permanent Open Space (POS) • Agricultural Conservation (AC) • Urban Reserve (UR) <p>General Plan policies related to agriculture & open space are contained in Section 4 of the City’s General Plan, Conservation and Open Space (COS) element. The opening paragraph of the COS Element reflects the City’s view that conservation and open space are assets of high value that need to be protected but balanced against the City’s readiness to accommodate growth:</p> <p style="padding-left: 40px;">Natural resources, including open space lands, agricultural lands, waterways, hillsides, scenic views, wildlife habitat, and historical resources form an important part of Brentwood’s unique character and represent some of its greatest assets. The Conservation and Open Space Element provides the framework to protect, maintain, and enhance Brentwood’s natural resources. The Conservation and Open Space Element balances the overall vision of the General Plan for preserving Brentwood’s high living standards, agricultural heritage, and natural resources while simultaneously providing for economic development and balanced growth.</p> <p>Examples of Goals and Policies set forth in the COS Element are:</p> <p style="padding-left: 40px;">Goal COS 1: Ensure the provision and preservation of diverse and accessible open spaces throughout the Brentwood Planning Area</p> <p style="padding-left: 40px;">Policy COS 1-1: General Plan land use designations that include agriculture, permanent open space, parks, and similar uses, as well as waterways (i.e., Marsh Creek,</p>	<p>Comment: Of the policies reviewed from among the cities in the County and the County itself, Brentwood has perhaps the most extensive goals and policies and zoning restrictions related to preserving agriculture, agricultural lands as a viable economic enterprise that also embrace agricultural activities and open space as having significant character-defining value that give Brentwood its identity.</p> <p>Brentwood also has significant policies reflecting its intentions for additional growth and expansion. These transitional areas are designated Special Planning Areas (SPAs) which are outside existing City limits and outside the City’s SOI and the County ULL and in some cases involve sites comprised of high quality agricultural lands.</p> <p>Brentwood’s General Plan also has a category called Urban Reserve (UR) which is applied to areas intended to be considered for future growth, farther out in time following the disposition of SPA areas. There do not appear to be many areas designated UR in the current General Plan.</p> <p>Zoning. Article VII in Brentwood’s Municipal Code (Zoning) is entitled <i>Agricultural and Open Space Zoning Regulations</i>. This section includes 4 categories of agricultural and open space lands:</p> <p>A-10: Agricultural Conservation</p>

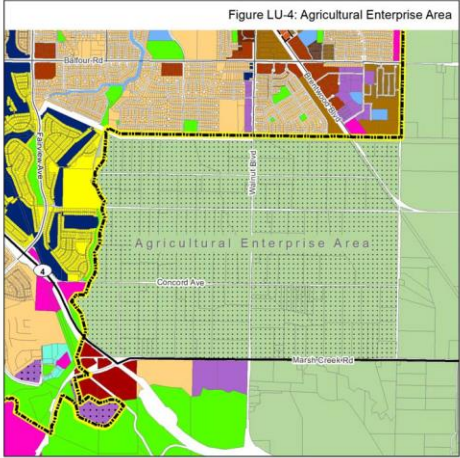
Compilation of General Plan Policies Related to Preservation of agricultural Resources and/or Open Space - Contra Costa Cities and the County of Contra Costa

Jurisdiction	General Plan Provisions	Comments
	<p>Dry Creek, Deer Creek, and Sand Creek), shall be considered open space.</p> <p>Policy COS 1-2: Preserve open space for conservation, recreation, and agricultural uses.</p> <p>Policy COS 1-3: Conversion of open space, as defined under Policy COS 1-1, to developed residential, commercial, industrial, or other similar types of uses, shall be strongly discouraged. Undeveloped land that is designated for urban uses may be developed if needed to support economic development, and if the proposed development is consistent with the General Plan Land Use Map.</p> <p>Goals and Policies specific to agricultural lands are:</p> <p>Goal COS 2: Preserve designated agricultural lands in Brentwood’s Planning Area</p> <p>Policy COS 2-1: Support and encourage the preservation of agricultural lands throughout Brentwood’s Planning Area, particularly in areas to the south and east of the city limits.</p> <p>Policy COS 2-2: Maintain permanent agricultural lands surrounding the city limits to serve as community separators and continue the agricultural heritage of Brentwood.</p> <p>Policy COS 2-3: Encourage and support programs that create or establish permanent agricultural areas in Brentwood’s Planning Area.</p> <p>Policy COS 2-4: Participate in regional planning efforts with agencies and organizations such as Contra Costa County, land trusts, and other regional partners to establish and maintain permanent agricultural areas to the south and east of Brentwood.</p> <p>Policy COS 2-5: Work with the Local Agency Formation Commission (LAFCO) on issues of mutual concern including the conservation of agricultural land through consistent use of LAFCO</p>	<p>Zone (1 DU per 10 acres)</p> <p>A-20: Intensive Agricultural Zone (1 DU per 20 acres)</p> <p>AP: Agricultural Preservation Zone (applies to lands under Williamson Act contracts)</p> <p>OS: Open Space Zone (applies to open space lands which form a part of the park and open space system of the city of Brentwood including all public parks, playgrounds, linear parks or greenways, golf courses and country clubs and similar uses intended for public use.</p>

Compilation of General Plan Policies Related to Preservation of agricultural Resources and/or Open Space - Contra Costa Cities and the County of Contra Costa

Jurisdiction	General Plan Provisions	Comments
	<p>policies, particularly those related to conversion of agricultural lands and establishment of adequate buffers between agricultural and non-agricultural uses, and the designation of a reasonable and logical Sphere of Influence (SOI) boundary for the City.</p> <p>Policy COS 2-6: Minimize conflicts between agricultural and urban land uses.</p> <p>The City’s General Plan also addresses agricultural lands in the Land Use element. Following are representative Goals and Policies from the Land Use element:</p> <p>Goal LU 5: Preserve Brentwood’s agricultural heritage by protecting and maintaining significant areas of agricultural lands around the city.</p> <p>Policy LU 5-1: Maintain significant areas of permanent agricultural lands and open space surrounding the city limits.</p> <p>Policy LU 5-2: Protect agricultural land from urban development except where the General Plan Land Use Map has designated the land for urban uses.</p> <p>Actions in Support of Goal LU 5</p> <p><i>Action LU 5a: Continue to designate agricultural lands to the south and east of the city limits as Agricultural Conservation on the Land Use Map.</i></p> <p><i>Action LU 5b: Coordinate with Contra Costa County to encourage and facilitate a variety of agricultural enterprises on lands identified as the Agricultural Enterprise Area in the Brentwood General Plan (Fig LU-4). Agricultural uses within this area should be flexible in order to maximize the economic vitality of smaller agricultural parcels that may not be suitable for large-scale commercial agricultural operations. Allowed uses should be agricultural in nature and may include, but are not limited to, the following...</i></p>	

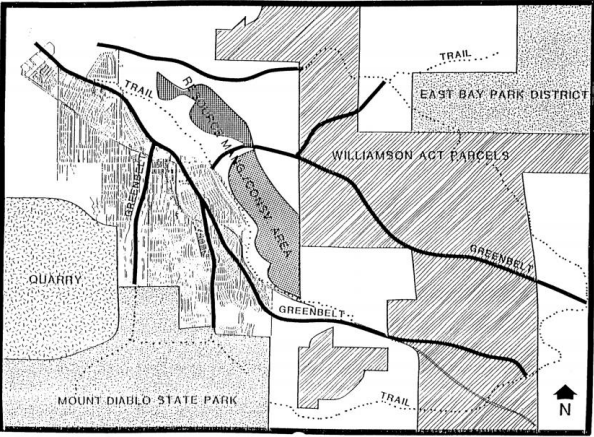
Compilation of General Plan Policies Related to Preservation of agricultural Resources and/or Open Space - Contra Costa Cities and the County of Contra Costa

Jurisdiction	General Plan Provisions	Comments
	 <p>Figure LU-4: Agricultural Enterprise Area</p>	
Clayton	<p>Section VI Conservation/Open Space Element</p> <p>Goal To maintain a system of active open space along stream channels and passive open space within hillsides as a means to preserve the rural character of the community.</p> <p>Objective 1 To promote the City’s greenbelts as the basis of its open space system.</p> <p>Objective 2 To develop neighborhood parks within the greenbelt system adjacent to other community facilities.</p> <p>Objective 3 To establish an open space conservation designations to preserve natural resources, to manage resources, to provide for outdoor recreation, to promote health and safety and to ensure orderly growth.</p> <p>General Plan Open Space Designations</p> <p>“The City of Clayton seeks to preserve open space and provide recreational opportunities to Clayton residents within the City limits. Four designations have been created to fulfill these goals: Private Open Space, Public Park/Open Space, Quarry and Agriculture.</p> <ol style="list-style-type: none"> 1. Private Open Space (PR) 2. Public Park/Open Space/Open Space and Recreational (PU) 	<p>Comment:</p> <p>Similar to the other cities, Clayton’s General Plan associates agricultural resources mostly as open space, for aesthetic and recreational values and activities. While lower in the listing of policy priorities, the City’s AG policies recognize the value of the low intensity cattle grazing that characterizes a large part of the City’s land area; its’ policies encourage continuation of Williamson Act contracts to preserve the status quo.</p> <p>Consistent with other Agricultural zoning provisions, Clayton allows very low density residential uses within the AG designated lands.</p>

Compilation of General Plan Policies Related to Preservation of agricultural Resources and/or Open Space - Contra Costa Cities and the County of Contra Costa

Jurisdiction	General Plan Provisions	Comments
	<ul style="list-style-type: none"> a. Regional Parks b. Greenbelts c. Community Park d. Neighborhood Park <p>3. Quarry</p> <p>4. Agriculture (AG) Many land owners in the Clayton planning area have entered into the Williamson Act contract with Contra Costa County. The contracts are self-perpetuating 10-year agreements that preclude non-agricultural development. Use of these County designations will reinforce the Preserve Designation used by the County and promote a conservation context to future development analysis on these sites. Acres to the northeast and east of the City limits include rugged terrain that is primarily used as rangeland for livestock and other similar open uses. The City supports and encourages the continuation of agriculture in these areas. Given the low intensity of agricultural activities, the City encourages large lot zoning of at least 20 to 40 acres to ensure agriculturally viable sized lots.</p> <p>The purpose of the Agriculture designation is to preserve and protect lands capable of and generally used for the production of food, fiber and plant materials. The title is intended to be descriptive of the predominant land extensive agricultural uses that take place in these areas, but the land use title or description shall not be used to exclude or limit other types of agricultural, open space or non-urban uses.”</p> <p>Here is a graphic showing the City’s OS and AG lands</p>	

Compilation of General Plan Policies Related to Preservation of agricultural Resources and/or Open Space - Contra Costa Cities and the County of Contra Costa

Jurisdiction	General Plan Provisions	Comments
	<p style="text-align: center;">Open Space & Greenbelt Areas</p> 	
<p>Concord</p>	<p>The General Plan includes a land use category for Open Space (Parks, Recreation and Open Space) but no category specifically related to agriculture or agricultural preservation. A new category – CRP (“Concord Reuse Project”) is used to designate the former Concord Naval Weapons Station and the designated land uses etc. that the City is intending to adopt for that area. A large part of the CRP area is “Conservation Open Space,” applied to the south and west-facing slopes of the hills that separate Concord from Pittsburg.</p> <p>There is no agricultural land or land uses in Concord although the vast amount of Open Space land (mostly outside of City limits, in the City’s Planning Area - Los Medanos Hills and Mt. Diablo foothills) is available for low intensity grazing. These open space lands account for about 1/3rd of the land area in the City’s Planning Area.</p> <p>Specifically, “...the Open Space (OS) land use designation is intended for large areas that are necessary for natural resource protection, the managed production of natural resources, the provision of natural resources, outdoor recreation (including trails), scenic value, and the assurance of public health and safety. This designation includes private recreation facilities and larger privately-owned areas dedicated as permanent open space within residential subdivisions.”</p> <p>Another land use category - Rural Conservation (RCON) is intended to provide for protection of rural</p>	<p>Concerns reflected in the GP and zoning text are about preserving natural resources, outdoor recreation, and scenic values.</p>

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	<p>hillside areas. Single family residential development of up to 1 unit per 20 developable net acres would be allowed, with clustering encouraged to minimize impacts on views of the area.</p> <p>The General Plan includes a section, or “element,” entitled Parks, Open Space and Conservation (POS). Section 6.3 addresses issues related Open Space.</p> <p>“6.3 OPEN SPACE Concord’s setting—within a valley surrounded by gently sloping foothills and laced with creeks—includes natural resources that are important, not only for aesthetic value, but also for environmental quality, habitat protection, and water resources. In addition, preserving the general configuration of the hills, creeks, and natural topographic features fosters a sense of place for the community, and this affords current and future residents an understanding of the City’s natural setting and native topography...”</p> <p>“Classification of Open Space</p> <ul style="list-style-type: none"> • Open space for the preservation of natural resources including, but not limited to, areas required for the preservation of plant and animal life, such as: habitat for fish and wildlife species; areas required for ecologic and other scientific study purposes; rivers, streams, bays and estuaries; coastal beaches, lakeshores, banks of rivers and streams; and watershed lands. • Open space for outdoor recreation including, but not limited to, areas of outstanding scenic, historic and cultural value; areas particularly suited for park and recreation purposes, such as access to lakeshores, beaches, rivers and streams; and areas that serve as links between major recreation and open space reservations, including utility easements, banks of rivers and streams, trails, and scenic highway corridors. • Open space for public health and safety including, but not limited to, areas that require special management or regulation due to hazardous or special conditions. This type of open space might include: earthquake fault zones, unstable soil areas, floodplains, watersheds, areas presenting high fire risks, areas required for the protection of water quality and water reservoirs, and areas required for the protection and enhancement of air quality. • Open space used for the managed production of 	

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	<p>resources including, but not limited to, forest lands, rangeland, agricultural lands and areas of economic importance for the production of food or fiber; areas required for recharge of ground water basins; bays, estuaries, marshes, rivers and Concord 2030 General Plan 6-12 streams that are important for the management of commercial fisheries; and areas containing major mineral deposits.”</p>	
Martinez	<p>One of the few areas in Martinez where agriculture and open space issues arise is the Alhambra Valley (AV) located in the southwestern corner of the City. The Alhambra Valley Specific Plan (AVSP) is part of the City’s General Plan and sets forth land use policies and regulations for that area. Excerpts from the City’s draft General Plan Update describe the different land use categories that are applied to parts of the AV area:</p> <p>Alhambra Valley Estate Residential – Very Low Density (AV/ER-VL): The primary land use envisioned in this designation on is detached single-family homes on lots typically one acre or larger, with the keeping of a limited number of livestock, consistent with a rural or semi-rural lifestyle.</p> <p>Alhambra Valley Estate Residential -Low Density (AV/ER-L) The primary land use envisioned in this designation is detached single-family on lots typically one-half acre or larger.</p> <p>Alhambra Valley Agricultural Lands (AV/AL) This land use designation applies to privately owned rural lands, generally in hilly areas that are used for grazing livestock or dry grain farming. The primary purposes of the Agricultural Lands designation is to:</p> <ul style="list-style-type: none"> a) preserve and protect lands capable of and generally used for the production of food, fiber and plant materials; and b) provide opportunities for rural residential single family homes. <p>Open Space Preservation (OS/P).</p> <p>This designation is for public and private lands preserved as a scenic or environmental resource, either by public or common interest ownership, or through dedication of scenic open space or other easements or through conditions of development</p>	<p>Concerns reflected in the GP are about aesthetics (visual, character defining, resource preservation) more than economics.</p>

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	<p>approval or previous designation and zoning action. While alteration of such properties for active recreation is typically not envisioned, naturalistic and agricultural plantings, and trails, may be possible if consistent with the intent of preserving the intended scenic resource and as may be permitted by any easements.</p> <p>Alhambra Valley Open Space (AV/OS)</p> <p>This designation applies to <u>publicly owned</u> open space lands and includes areas of significant ecological resources or geologic hazards that are unique to the Alhambra Valley community.</p> <p>The Alhambra Valley Open Space designation also includes <u>privately owned</u> properties for which development rights have been deeded to a public or private agency or which have been previously designated as open space. Examples are the steep, unbuildable portions of approved subdivisions which may be deeded to agencies such as the East Bay Regional Park District but which have not been developed as park facilities.</p> <p>Agricultural Lands Land Use Designation - Agricultural Lands (AG)</p> <p>The Agricultural Lands designation is specific to areas currently used for agricultural production (specifically the Viano Vineyards. While similar to the Open Space categories in that Agricultural Lands have scenic value, structures for agricultural production and residential use are permitted and integral to the desirable preservation of viable agricultural uses.</p> <p>Goal LU-G-7 Encourage the preservation of existing agricultural businesses and minimize and resolve conflicts between agricultural and urban uses within and adjacent to the Alhambra Valley semi-rural residential community.</p> <p>Policy LU-P-7.1 Agriculture shall be protected to maintain the semi-rural atmosphere and to retain a balance of land uses in Alhambra Valley</p>	

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Moraga	<p>The Town’s most recent General Plan was adopted June 2002. Provisions relevant to agriculture and open space are excerpted below.</p> <p>Land Use Goal LU 5 Agriculture: Promotion and preservation of Moraga’s remaining agricultural resources as an important part of the Town’s heritage and character.</p> <p>Policy LU5.1 Agricultural Uses and Activities. Allow agricultural and horticultural uses and activities on lands within the Town so long as they are low intensity and compatible with adjacent uses. Examples include small orchards and cattle grazing.</p> <p>Implementing Programs: IP-B1 Zoning and Subdivision Ordinances LU5.2 Preservation of Agricultural Resources. Strive to preserve the Town’s remaining agricultural resources, such as pear and walnut orchards.</p> <p>Section 7 of the General Plan is entitled Open Space and Conservation. Relevant excerpts follow.</p> <p>Goal OS-1 Open Space Preservation. Preserve as much open space land as possible, including protection of all major and minor ridgelines and lands that help meet residents’ recreational needs.</p> <p>Policy OS 1.1 Open Space Preservation. Preserve open space to the maximum extent possible, using tools such as acquisition, lease, dedication, easements, donations regulation or tax incentive programs.</p> <p>Policy OS 1.2 Major Ridgelines.</p> <p>Policy OS 1.3 Development Densities. (Maximum allowed is 1 DU per 20 acres)</p>	<p>The Town’s GP policies focus on preserving remnants of the Town’s historic agricultural activities including fruit trees and grazing. The main concern seems to be mostly about aesthetics more than preserving or enhancing the economic viability of agricultural activities. Low density residential is permitted in the OS districts.</p>
Oakley	<p>Oakley’s General Plan includes two categories of agricultural lands:</p> <p>AL - Agriculture Limited (allowing light intensity agricultural operations - vineyards, orchards, row crops animal husbandry)</p> <p>AG – Agriculture - applies to areas historically engaged in more intense ag operations with either active cultivation of crops or some other type of use that is substantially agricultural in nature.</p>	<p>Comment: From the italicized text on the left it can be seen that, like most other cities and towns in Contra Costa, agricultural uses are giving way to suburban growth patterns and general plan policies are not intended to stop or slow that trend. Rather, the policy seems mostly aimed at retaining some semblance of</p>

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	<p>In both cases residential development is allowed at low densities.</p> <p>Here’s an excerpt from the General Plan that reflects how the City values agricultural resources:</p> <p>“...agriculture is a fundamental component of the community’s character. Historically, agriculture has been the primary economic activity in and around Oakley. <i>At this time, the community is transitioning to a more urban setting and large-scale agriculture is becoming a less prevalent use throughout Oakley.</i> However, the agricultural heritage of Oakley remains strong and is evident in the numerous remaining orchards and vineyards in town, as well as the strong equestrian interest of Oakley residents. As new development occurs, the City will seek to <i>protect the varied remaining agricultural activities of Oakley and to maintain the cultural connection to the community’s agricultural heritage through design standards, development project reviews, construction of community entry monuments and the design of public facilities serving Oakley residents.</i></p>	<p>the area’s agricultural heritage for nostalgia and aesthetic reasons.</p> <p>This is typical of the values attributed to agricultural resources as expressed in most of the planning documents we’ve reviewed.</p>
Pittsburg	<p>Pittsburg’s General Plan includes land use categories for Open Space but not for agriculture; the City’s zoning ordinance and map includes Open Space (OS) zoning, but no Ag zoning. The City has numerous goals and policies related to open space [Chapter 8 of the General Plan (Open Space, Youth & Recreation) and Chapter 9 (Natural Resources)].</p> <p>In Chapter 8, the General Plan describes two types of Open Space: Regional Preserves (e.g., Black Diamond Regional Preserve, managed by EBRPD) and Open Space which applies to “...privately owned, undeveloped land... typically consisting of steep, unstable hillside areas and large tracts of open land beyond the proposed limits of urban growth.”</p> <p>Section 8.3, Trails and Open Space, includes a brief description of the importance of open space:</p> <p>“Vacant, rolling hills in the southern portion of the Planning Area are used intermittently for livestock grazing. The preservation of local hillsides as open space areas is important for several reasons: marginal agricultural value resulting from grazing activities; undisturbed grasslands habitat; preservation of</p>	<p>The General Plan does not include agriculture protection policies. Its consideration of open space appears to be focused primarily on its value for trails and outdoor recreation.</p>

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	<p>ridgeline views from developed areas within the City; and quality-of-life value due to open space acreage accessible to local residents.”</p> <p>Relevant Goals and Policies in Section 8 include:</p> <p>GOALS: TRAILS AND OPEN SPACE</p> <p>8-G-3 Promote a local trail and linear park system to provide access to regional open space areas, as well as connections between neighborhoods.</p> <p>8-G-4 Support and promote the active use of regional open space areas, such as Black Diamond Mines Regional Preserve, by local residents.</p> <p>Policies:</p> <p>8-P-21 Encourage new residential development in hillside areas to develop public trails and/or trailheads providing connections to other regional and local open spaces.</p> <p>8-P-22 Preserve land under Williamson Act contract in agriculture, consistent with State law, until urban services are available and expansion of development would occur in an orderly and contiguous fashion.</p> <p>Section 9 of the General Plan, Natural Resources, begins with a description of Open Space:</p> <p>“The Planning Area contains a significant amount of open space, which is valuable as both a visual resource and as habitat for oak woodlands, wetlands and riparian wildlife. Intermittent streams and uninhabited areas also contribute to air and water quality in the hills and tidelands...”</p> <p>Relevant Goals and Policies include:</p> <p>GOALS: <u>Biological Resources and Habitat</u></p> <p>9-G-1 Protect conservation areas, particularly habitats that support special status species, including species that are State or Federally listed as endangered, threatened, or rare.</p> <p>9-G-2 Guide development in such a way that preserves significant ecological resources.</p> <p>POLICIES:</p>	

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	<p>9-P-1: Ensure that development does not substantially affect special status species, as required by State and federal agencies. Conduct assessments of biological resources as required by CEQA prior to approval of development within habitat areas of identified special status species.</p> <p>Other sections of Section 9 address concerns related to drainage and erosion, water quality, air quality, and historical and cultural resources.</p>	



Brentwood Agricultural Land Trust

Recommendations for a LAFCO Agricultural Preservation Policy

October 14, 2015

SUMMARY OF RECOMMENDATION

The Brentwood Agricultural Land Trust (BALT) recommends that Contra Costa LAFCO adopt an agricultural protection policy to mitigate for the cumulative impact of the loss of Contra Costa's farm and rangeland. Because agricultural mitigation is the responsibility of local jurisdictions, the adoption of a LAFCO mitigation policy is crucial.

Since local agricultural land trusts have professional expertise in agricultural land conservation, relationships with landowners and funders and an unambiguous mission to protect agricultural resources, BALT recommends that the agricultural mitigation lands and funds be provided to a qualified agricultural land trust with experience in agricultural mitigation and a board of directors that includes local farmers, ranchers and agriculturalists.

BALT recommends that LAFCO work with Contra Costa County, cities, BALT and local agricultural conservationists to develop a comprehensive agricultural conservation strategy for the Contra Costa County (the "County"). We recommend that the County and LAFCO work together to apply for a 2016 Sustainable Agricultural Land Conservation Program grant to create an agricultural protection strategy and mitigation policy.

BACKGROUND

Contra Costa agriculture today.

Contra Costa County is fortunate to be home to one of the Bay Area's most significant food-producing regions. Despite the significant loss of agricultural land over the past thirty years, studies continue to identify Contra Costa agriculture as one of the Bay Area's most important assets.¹ Contra Costa County has more than

¹ *San Francisco Foodshed Assessment*, 2008, American Farmland Trust (AFT) and SAGE; *Sustaining our Bounty: An Assessment of the Current State of Farming and Ranching in the San Francisco Bay Area*, 2011, AFT, SAGE and Greenbelt Alliance; *Locally Nourished: How a Stronger Regional Food System Improves the Bay Area*, 2013, SPUR; *Contra Costa Food System Analysis and Economic Strategy*, 2015, The Hatamiya Group.

90,000 acres of cropland and 168,000 acres of rangeland that produce almost \$120 million of agricultural products a year. The California Department of Conservation ranks East Contra Costa soils as the highest quality agricultural land. In normal years, Contra Costa farmers have access to ample, inexpensive Delta water through pre-1914 water rights. The Mediterranean climate with extremely hot days and cool nights is ideal for row crops, orchards and vineyards. Rangeland covers a significant part of Contra Costa County, providing grazing land, habitat and carbon sequestration.

Contra Costa farmers and ranchers produce a remarkable diversity of food – sweet corn, stone fruit, vegetables, olives, wine grapes, field grains and cattle. In the rich soils of East Contra Costa, yields per acre of fruits and vegetables are among the highest in world. For instance, 3,500 acres of sweet corn yield over 1.5 million boxes of corn that is distributed throughout the Western United States. Frog Hollow Farms produces almost 2 million pounds of organic stone fruit each summer from their 120-acre orchard. Brentwood u-pick visits have been a Bay Area tradition for generations. Every Memorial Day weekend, over 100,000 people from around the Bay Area flock to East Contra Costa to pick cherries and enjoy a farm experience.

While Contra Costa agriculture provides food security for Bay Area residents, food production is not our agricultural land's only value. Agricultural land is an irreplaceable natural resource that provides a host of ecosystem services, including groundwater recharge, open space, habitat and protection from climate change. Local farming and ranching contribute to our economy, create local jobs and provide us with a sense of history and place. We're continuing to learn about additional benefits provided by agriculture on the edges of our cities. Researchers at the University of California, Davis have demonstrated that urban uses produce 70 times more greenhouse gases than irrigated agriculture and recommend that we protect urban-edge agriculture to protect our cities from climate change.²

Contra Costa's current agricultural protection tools.

The threat that we will lose Contra Costa's agricultural resources is real and immediate. Since 1990, Contra Costa County has lost over 40% of its prime farmland.³ While loss of farmland slowed during the recession, development pressure is increasing again as the economy recovers. While there are some state and local land uses policies in place that protect Contra Costa County agriculture, these policies can be changed and do not permanently protect agricultural land.

Williamson Act. Some Contra Costa rangeland is protected by Williamson Act contracts, a state program that protects agricultural land for up to ten years in exchange for property tax benefits. However, Williamson Act contracts in Contra

² *Triple Harvest: Farmland conservation for climate protection, smart growth and food security in California.* February 2013. CalCAN.

³ California Farmland Mapping and Monitoring Program
<http://www.conservation.ca.gov/dlrp/fmmp>; *Sustaining Our Bounty*, page 20.

Costa County follow the state pattern: the Williamson Act primarily protects rangeland far from development pressures, but not farmland on the urban-edge. The Williamson Act has been ineffective in protecting the most fertile land in the Contra Costa County Agricultural Core (the “Agricultural Core”), not only because of the land’s proximity to the urban edge, but also because much of the land has been subdivided into small parcels. The voluntary Williamson Act contracts are only ten years in duration and do not provide permanent protection.

Contra Costa Agricultural Core. In 1978, the County established the Agriculture Core to protect the prime, irrigated farmland in East Contra Costa. When the Agricultural Core was established it encompassed 14,000 acres. In 1990, the Agricultural Core zoning was amended and the Agricultural Core was reduced to its current 11,500 acres. The Agricultural Core zoning can be changed simply by a vote of the County Board of Supervisors.

Contra Costa Urban Limit Line. Today the Contra Costa Urban Limit Line (ULL) provides voter-approved policy protection to a significant portion of Contra Costa’s agricultural land. The voters approved current ULL in 2004. In 2006, the City of Brentwood put a developer-funded initiative, Measure L, on the ballot seeking to move the ULL into the Agricultural Core. Measure L failed by less than 150 votes. In 2010, the City of Brentwood put Measure F on the ballot, once again seeking to expand the ULL into rangeland and open space. At the recent September 1, 2015 Brentwood City Council strategic planning session, members of the City Council opined that the City limits should be expanded into the Agriculture Core, west of Sellers Avenue. It is likely that we’ll see future efforts to expand the ULL, resulting in additional loss of agricultural land.

City of Brentwood Agricultural Mitigation Program. In 2002, the City of Brentwood adopted an agricultural mitigation program. The City levies a fee of approximately \$6,000 per acre on developers who convert farmland to urban uses within the Brentwood city limits. BALT applies to the City for agricultural easement funding, and the City has funded the permanent protection of over 1,000 acres in the Agricultural Core. In 2009, the City amended the agricultural mitigation ordinance to provide that the funds can be used, not only for conservation easements, but also for a broad range of economic development purposes. The City’s agricultural mitigation fund is currently depleted, and the City Council and staff have indicated that they intend to use the future funds for agricultural economic development projects within the City limits.

WHY A LAFCO POLICY IS IMPORTANT

There is consensus among experts that “the most effective local farmland protection programs in California (and elsewhere) combine two basic approaches: a strong urban growth boundary or other smart growth policies and funding sources for agricultural conservation easements.”⁴ While the land use policies described above

⁴ *Triple Harvest*, page 15.

provide immediate protection for Contra Costa's agricultural lands, the policies are not permanent. As we've seen before, these policies can and will change. Contra Costa cities will continue to seek to expand and developers will continue to challenge the ULL. Conservation easements are essential to permanently protect Contra Costa's farms and ranches.

Contra Costa developers mitigate the loss of habitat and open space through state and federal requirements. In East Contra Costa, the Habitat Conservancy streamlines developer permitting by collecting fees to protect natural resources and habitat. However, there are no state or federal agricultural mitigation requirements. Agricultural mitigation is the responsibility of local jurisdictions. There is no countywide requirement to mitigate the loss of agricultural land in Contra Costa County. The sole agricultural mitigation requirement in the county applies only to land within the Brentwood city limits. A countywide agricultural mitigation policy would deter development on agricultural land and provide funding for the permanent protection of the County's agricultural land.

In 2011, the authors of *Sustaining Our Bounty* noted that in Contra Costa County "no sustainable source of funding has been identified to support an agricultural land trust, regional marketing campaign or agricultural land uses reforms."⁵ The lack of sustained conservation easement funding in Contra Costa has limited the BALT's effectiveness. While state and federal funding is available for farmland protection, these programs require that land trusts provide fifty-percent local matching funds. In the past four years, BALT has received state and federal grants that we were unable to accept because we were unable to identify local matching funds.

SOME IDEAS FOR A SUCCESSFUL AGRICULTURAL MITIGATION POLICY

If Contra Costa LAFCO decides to pursue an agricultural mitigation policy (and we hope that you will), we recommend that you seek advice from local agriculturalists and BALT as you design your policy. We recommend that you consult with land trusts that have implemented agricultural mitigation policies. In addition to BALT, there are excellent examples in neighboring counties including the Tri-Valley Conservancy (Livermore) and the Central Valley Farmland Trust (San Joaquin, Stanislaus and Sacramento counties). Yolo Land Trust works closely with Yolo County LAFCO to implement their agricultural mitigation policy.

We recommend that you consider including the following provisions in a Contra Costa LAFCO policy:

Mitigation ratio. We recommend that LAFCO create an agricultural mitigation program that requires mitigation sufficient to permanently protect at least one acre of comparable agricultural land for every acre of land converted. The program should reflect the differing values of agricultural lands by requiring that one acre of "like kind" land must be protected for each acre lost.

⁵ *Sustaining Our Bounty*, page 23.

Provide mitigation funds to a qualified agricultural land trust. We recommend that LAFCO design a mitigation program that provides mitigation lands and funds directly to a qualified land trust. Providing mitigation lands and funds directly to a local land trust leads to the most successful mitigation programs for several reasons. Local governments have inherent conflicts of interest that can make agricultural conservation politically difficult. Additionally, the permanent protection and stewardship of farm and rangeland is complex. Agricultural land trusts have dedicated staff with the necessary professional expertise, as well as relationships with state and federal funders and local property owners. We also recommend that the agricultural mitigation program support the organizational capacity of the local land trust. Tri-Valley Conservancy and the Central Valley Farmland Trust provide excellent examples of successful agricultural mitigation programs administered by California agricultural land trusts.

With thirteen years of agricultural conservation experience and a diverse board that includes farmers, ranchers and agriculturalists, BALT is well qualified to implement a LAFCO agricultural mitigation program. Since 2002, BALT has been working with the City of Brentwood to implement the City's agricultural mitigation program, and BALT is a leader in Bay Area agricultural conservation.

Seek funding to engage in comprehensive agricultural conservation planning. BALT recommends that LAFCO to work with the County, cities, BALT and local agricultural conservationists to develop a comprehensive agricultural land conservation strategy for Contra Costa County. In January, LAFCO and Contra Costa County will have an opportunity to apply for a \$250,000 Sustainable Agricultural Land Conservation Program (SALCP) planning grant to develop agricultural conservation strategies and create an agricultural mitigation policy. We recommend that the County and LAFCO work together to apply. We have provided LAFCO staff with a copy of the successful 2015 SALCP planning grant that was awarded to Santa Clara County to fund a countywide agricultural conservation strategy.

CONCLUSION

Contra Costa agriculture is a unique and important Bay Area asset. And yet, while we protect our county's habitat and open space, there are no policies in place to permanently protect Contra Costa farms and ranches. As the economy recovers, development pressure is, once again, challenging existing zoning and the ULL. Now is the time to require mitigation for the loss of Contra Costa agricultural land. A mitigation program would deter development on agricultural lands and fund the permanent protection of Contra Costa's farms and ranches. Any mitigation land and funds dedicated through the program should be held and administered to a local agricultural land trust that can leverage the local money with regional, state and federal agricultural conservation funds. With thirteen years of experience with agricultural mitigation, BALT is well qualified to implement a LAFCO mitigation program.

California School Siting and Safety Initiative – Contra Costa County (rev: 12/1/14)

Schools have a large and enduring effect on the character and safety of the surrounding community due to the intensity of activity at the site and the vulnerability of the student population. Currently, the process by which schools are located and designed can result in negative community development, environmental, and public health/safety outcomes. **Directly related to this issue is the well-known, often cited decline in K-12 walk/bike to school rates. This decline should not be accepted as inevitable, but rather as a problem to be reversed through a strategic public policy response.** The State acknowledged school siting issues in recent studies¹. The Governor intends on addressing school funding in 2015². Interested organizations will need to engage in the 2015 legislative and policy development process to ensure adequate reforms are included in the funding package. This paper provides an issues overview, identifies existing processes, and potential reforms.

The current process of selecting and developing new school sites in California has substantial flaws. This flawed process can result in poorly functioning school sites, some of which have been acknowledged by the state in recent reports¹. Examples of poor school site function are:

- Inadequate or ill-conceived transportation infrastructure³ which causes avoidable congestion and/or chaotic circulation patterns both of which ultimately result in unsafe conditions.
- School locations that have limited or no access to critical municipal services (e.g., fire, sewer, water) and/or are too distant from the population served to support walking and biking⁴.
- School locations that undermine local/state policies such as sites that are outside urban limit line/urban growth boundary, in agricultural areas, preclude access by walking and cycling, undermine AB32/SB375 goals, etc.
- The safety and access issues mentioned above drain very limited Safe Routes to School (SR2S) funds, and
- Certain sites are contentious and strain relations between City Councils, Boards of Supervisors, and School Boards.

The current process has local school districts largely responsible for school siting and design. School districts do not have adequate policies, authority, or expertise to ensure that school sites have positive outcomes related to safe access and community development goals. It is the cities/counties, and the State that have this expertise:

- By statute, cities and counties have land use planning authority. Cities and counties cannot influence the selection and development of school sites as state law allows school districts to exempt themselves from this local authority⁶.
- Although the state has substantial statutes and polices⁵ in place that *should* inform school siting and design, school districts are not currently compelled to comply with those policies in their school siting and design decisions.
- Local school districts develop and design school sites independent⁶ of the aforementioned state and local land development policies. This *disconnect* is acknowledged by the state in their recent studies¹.

This disconnect can be addressed through regulations tied to anticipated revisions to the school construction funding process anticipated in the 2015-16 Budget. Implementing a solution using the budget as a mechanism was suggested by the State during their December 2012 Policy Symposium⁷ and contemplated in the Governor's 2013-14 Budget Proposal². The following are concepts to be considered in addressing school siting and design requirements attached to the proposed 2015 policy changes or with legislation developed in parallel:

- Limit the ability of school districts to preempt local zoning ordinances⁶. This could bring schools under the influence of SB375; ultimately it is the cities and counties that implement the sustainable communities strategy. *(next page)*

¹ 2012 - *California's K-12 Educational Infrastructure Investments: Leveraging the State's Role for Quality School Facilities in Sustainable Communities*, Report to the CA Dept of Education by UC Berkeley Center for Cities & Schools, and 2011 - *Schools of the Future Report*, Tom Torlakson/State Superintendent of Public Instruction

² Cabinet Report, 10/20/14 "*Brown's Plan for Fixing School Construction Funding*" and in 2014: Governor's 13-14 Budget Report, "...now is an appropriate time to engage in a dialogue on the future of school facilities..." / "*School districts and their respective localities should have appropriate control of the school facilities construction process and priorities.*"

³ Bicycle/pedestrian infrastructure is inadequate or not present, school sites in a cul-de-sac or with single points of access, safe roadway crossings are not considered, and no necessary improvements being funded or constructed by the schools.

⁴ "...studies show that the distance between home and school is the strongest predictor of whether students walk/bike to school." Institute of Transportation Engineers, 2012 "*School Site Selection and Off-site Access*"

⁵ AB32/SB375, The Complete Streets Act, Safe Routes to School concepts, and the Health in All Policies Initiative

⁶ Gov Code §53091(a)-53097.5: Allows school district preemption from zoning ordinances. Schools consistent with an SCS/PDA could be exempted.

⁷ Partnering with K-12 in Building Healthy, Sustainable, and Competitive Regions: Policy Symposium: Proceedings Summary & Next Steps: "*These efforts will inform the legislative debates over the possibility—and priorities—of a future statewide K-12 school construction bond.*"

- **Whether new school siting policies are advisory or prescriptive is critical.** Considering that there are *existing* advisory documents that *should* result in high quality school sites it suggests that new policies will need to be compulsory in order to be effective. Revised language could be implemented with revisions to the California Code of Regulations, Title 5.
- Coordination of attendance boundaries between school districts, cities/counties should be compulsory.
- Statutes for Local Agency Formation Commissions (LAFCOs) provide a role for LAFCOs in school site development⁸ and could be expanded. At a minimum, **1)** school districts should be required to consult with LAFCO when a new school site is being proposed, and **2)** LAFCO should discourage the extension of municipal services to school sites located in agricultural and open space areas pursuant to LAFCO law. More prescriptive restrictions related to the extension of municipal services should be considered in areas with an adopted Urban Limit Line or Urban Growth Boundary.
- Legislation should require revised *School Site Selection and Approval Guide* and *Guide to School Site Analysis and Development*. Critical revisions should be compulsory rather than mere guidance. [revisions are too voluminous to list in this paper]
- School districts, when approving a new site must **1)** make findings, w/substantial evidence in the record, that the decision is consistent with relevant requirements in statute, **2)** provide a full-cost accounting (off-site infrastructure [utility/ transportation] of facility development, costs borne by other agencies, community, etc.), of site options, and **3)** the approval must include a comprehensive (auto & active modes) circulation plan signed and stamped by a traffic engineer.

The State acknowledges a greater share of funds should be directed to modernization programs than to new construction⁷. Any 2015 school construction and modernization bond should be linked to a comprehensive effort to reverse the well-known decline in K-12 walking/bike rates which would include the following:

- **Redefinition of School Zone in state law:** Currently, in the vehicle code, school zone signage is limited to 500' and 1000'. These limits are not reflective of actual pedestrian/bicycle school access patterns and are not consistent with State policies. The prescriptive figures should be increased (1320' minimum) and local agencies should have discretion to further expand the zone based on knowledge of attendance boundaries, and travel sheds, as established in a traffic study.
- **Pass and fund implementation of an Enhanced Penalty School Zone statute:** In 2002 AB 1886 was passed which implemented a double fine school zone as a pilot⁹. The statute was allowed to sunset in 2007. The County has proposed an alternative which increases points levied against a driver's license for speeding in a school zone.
- **Implement a Vulnerable Road User (VRU) Protection Law:** VRU laws establish the concept "whoever can do the most damage has an obligation to be the most careful". Oregon has such a statute and the League of American Bicyclists has drafted model legislation¹⁰.
- **Implement and fund the bicycle and pedestrian safety curriculum developed by the State Health in All Policies Task Force and Strategic Growth Council:** The program would have dual benefit of decreased injuries/deaths and increased walking/biking. California already has numerous communities implementing such a program.
- **SR2S Funding Eligibility:** SR2S projects at existing schools should be an eligible use of bond funds.
- **Caltrans to conduct a study on auto speeds:** Given the significant¹¹ barrier that a speeding is to increases in K-12 walk/bike rates, this study would **1)** document any changes in automobile speeds over time due to vast improvements in vehicle technology, **2)** document how that change in speed has impacted other road users, and **3)** identify mitigations.

The concepts in this paper are for discussion purposes; they do not necessarily reflect adopted policy positions.

⁸ LAFCO mandate: 1) encourage orderly formation of local governmental agencies, 2) preserve agricultural land, 3) discourage urban sprawl.

⁹ The AB 1886 post-mortem report was inconsistent in its findings and recommendations. The report did not endorse it and gave a negative review of the program. The lack of success was likely related to the fact that little to no resources were devoted to implementation.

¹⁰ 801.608 "Vulnerable user of a public way": http://www.oregonlegislature.gov/bills_laws/lawsstatutes/2011ors801.html
http://www.bikeleague.org/sites/bikeleague.org/files/bikeleague/bikeleague.org/action/images/vru_story.pdf

¹¹ U.S. Centers for Disease Control and Prevention. Barriers to Children Walking to or from School United States 2004, Morbidity and Mortality Weekly Report September 30, 2005. Available: www.cdc.gov/mmwr/preview/mmwrhtml/mm5438a2.htm - AND - Chauhan, C, Yeh J, Fox, P. The Safe Routes to School Program in California: An Update. American Journal of Public Health <http://ajph.aphapublications.org/doi/pdf/10.2105/AJPH.2012.300703> - AND - CCTA SR2S Master Plan 2011: Existing Conditions: Data Summary

California Government Code

65560. (a) "Local open-space plan" is the open-space element of a county or city general plan adopted by the board or council, either as the local open-space plan or as the interim local open-space plan adopted pursuant to Section 65563.

(b) "Open-space land" is any parcel or area of land or water that is essentially unimproved and devoted to an open-space use as defined in this section, and that is designated on a local, regional or state open-space plan as any of the following:

(1) Open space for the preservation of natural resources including, but not limited to, areas required for the preservation of plant and animal life, including habitat for fish and wildlife species; areas required for ecologic and other scientific study purposes; rivers, streams, bays and estuaries; and coastal beaches, lakeshores, banks of rivers and streams, and watershed lands.

(2) Open space used for the managed production of resources, including but not limited to, forest lands, rangeland, agricultural lands and areas of economic importance for the production of food or fiber; areas required for recharge of groundwater basins; bays, estuaries, marshes, rivers and streams which are important for the management of commercial fisheries; and areas containing major mineral deposits, including those in short supply.

(3) Open space for outdoor recreation, including but not limited to, areas of outstanding scenic, historic and cultural value; areas particularly suited for park and recreation purposes, including access to lakeshores, beaches, and rivers and streams; and areas which serve as links between major recreation and open-space reservations, including utility easements, banks of rivers and streams, trails, and scenic highway corridors.

(4) Open space for public health and safety, including, but not limited to, areas which require special management or regulation because of hazardous or special conditions such as earthquake fault zones, unstable soil areas, flood plains, watersheds, areas presenting high fire risks, areas required for the protection of water quality and water reservoirs and areas required for the protection and enhancement of air quality.

(5) Open space in support of the mission of military installations that comprises areas adjacent to military installations, military training routes, and underlying restricted airspace that can provide additional buffer zones to military activities and complement the resource values of the military lands.

(6) Open space for the protection of places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code.