



**Planning Commission Staff Report  
Item # 1, May 21, 2020  
Time Extension for Site Approval No. PA-1700196  
Prepared by: Stephanie Stowers**

**PROJECT SUMMARY**

**Applicant Information**

**Property Owner:** Daniel & Cassandra Durst  
**Project Applicant:** Daniel Durst

**Project Site Information**

**Project Address:** 10173 East Acampo Road, Acampo  
**Project Location:** On the north side of Acampo Road, one quarter (1/4) mile east of Buck Road, Acampo

<b>Parcel Number (APN):</b>	017-180-12	<b>Water Supply:</b>	Private (Well)
<b>General Plan Designation:</b>	A/G (General Agriculture)	<b>Sewage Disposal:</b>	Private (Septic)
<b>Zoning Designation:</b>	AG-40 (General Agriculture, 40-acre minimum)	<b>Storm Drainage:</b>	Private (Natural)
<b>Project Size:</b>	5 acres	<b>100-Year Flood:</b>	No
<b>Parcel Size:</b>	5 acres	<b>Williamson Act:</b>	No
<b>Community:</b>	Stockton	<b>Supervisory District:</b>	4

**Environmental Review Information**

**CEQA Determination:** Notice of Exemption (Attachment C, Environmental Document)

**Project Description**

This project is a one-year Time Extension application for a previously approved Site Approval to expand an existing small winery. The project was originally approved on July 5, 2018, and included two (2) phases. The application also included an increase in the number of attendees at marketing events from 100 to 150 people. The existing winery is approved for twenty-four (24) marketing events per year with indoor and outdoor amplified music.

With the original approval, building permits for Phase 1 improvements were to be issued within eighteen (18) months, and building permits were to be issued within five (5) years. If approved, this Time Extension will extend the entire project by one (1) year, with thirty (30) months to obtain building permits for Phase 1 improvements, and six (6) years to obtain building permits for Phase 1 improvements. If approved the new expiration date for Phase 1 will be February 26, 2021, and the new expiration date for Phase 2 will be July 15, 2024.

## **Recommendation**

1. Approve a one-year Time Extension application for Site Approval No. PA-1700196.
2. Adopt the previously approved Findings for Use Permit (Attachment D, Previously Approved Findings for Site Approval);
3. Adopt the updated Conditions of Approval (Attachment E, Updated Conditions of Approval).

## NOTIFICATION & RESPONSES

(See Attachment B, Response Letters)

### Public Hearing Notices

Legal ad for the public hearing published in the Stockton Record: [Select publishing date](#)

Number of Public Hearing notices: [Enter number of PHNs](#)

Date of Public Hearing notice mailing: [Select mailing date](#)

### Referrals and Responses

- **Project Referral with Environmental Determination Date:** February 14, 2020

- **OPR State Clearinghouse #:** N/A

Agency Referrals	Response Date - Referral
<b>County Departments</b>	
Community Development	
Building Division	
Fire Prevention Bureau	
Public Works	February 18, 2020
Environmental Health	March 4, 2020
Agricultural Commission	February 24, 2020
Assessor	
General Services	
Mosquito Abatement	
Sheriff Office	
Supervisor District: 4	
<b>State Agencies</b>	
Alcoholic Beverage Control	
Highway Patrol	
Central Valley Flood Production Board	
Central Valley Regional Water Quality Control Board	March 5, 2020
Fish & Wildlife District 2	
Food and Agriculture	
Native American Heritage Commission	
<b>Federal Agencies</b>	
Army Corps of Engineers	
F.E.M.A.	February 20, 2020
Fish & Wildlife	

Agency Referrals	Response Date - Referral
<b>Local Agencies</b>	
San Joaquin Council of Governments	February 24, 2020
San Joaquin Valley Air Pollution Control District	
Liberty Fire District	
Lodi Unified School District	
North San Joaquin Water Conservation District	
<b>Miscellaneous</b>	
A.T.&T.	
B.I.A.	
Builders Exchange	
Buena Vista Rancheria	
California Tribal T.A.N.F. Partnership	
California Valley Miwok Tribe	
Haley Flying Services	
North Valley Yokuts Tribe	
Precissi Flying Services	
P.G.&E.	February 26, 2020
San Joaquin Farm Bureau Federation	
Sierra Club	
United Auburn Indian Community	

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## ANALYSIS

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### **Background**

On July 5, 2018, the Planning Commission approved Site Approval No. PA-1700196 to expand an existing small winery in two (2) phases over five (5) years.

Phase 1 included the construction of a 2,048 square foot storage mezzanine, a 3,200 square foot barrel production and marketing event area, a 2,728 square foot crush pad and outdoor tank storage area, a 1,024 square foot case storage building, and a 500 square foot restroom. Phase 2 included the construction of an 800 square foot commercial kitchen and a 1,200 square foot indoor marketing event area. The application also included an increase in the number of attendees at marketing events from 100 to 150 people. The existing winery is approved for twenty-four (24) marketing events per year with indoor and outdoor amplified music.

The applicant requested a one-year Time Extension on January 31, 2020, and stated that the extension is necessary to secure financing to construct the expansion.

If approved, this Time Extension will extend the entire project by one (1) year, with thirty (30) months to obtain building permits for Phase 1 improvements, and six (6) years to obtain building permits for Phase 2 improvements. If approved the new expiration date for Phase 1 will be February 26, 2021, and the new expiration date for Phase 2 will be July 15, 2024.

### **CEQA Exemption**

This application is a one-year Time Extension request, which will add one (1) year to each phase of the proposed project. No other changes are proposed with this application, and no additional Conditions of Approval are recommended for adoption. California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3), which states that a project is exempt from CEQA if the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The Community Development Department determined that the proposed one-year Time Extension will not cause a significant effect on the environment.

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## **RECOMMENDATION**

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It is recommended that the Planning Commission:

1. Approve a one-year Time Extension application for Site Approval No. PA-1700196.
2. Adopt the previously approved Findings for Use Permit (Attachment D, Findings for Site Approval);
3. Adopt the updated Conditions of Approval (Attachment E, Updated Conditions of Approval).

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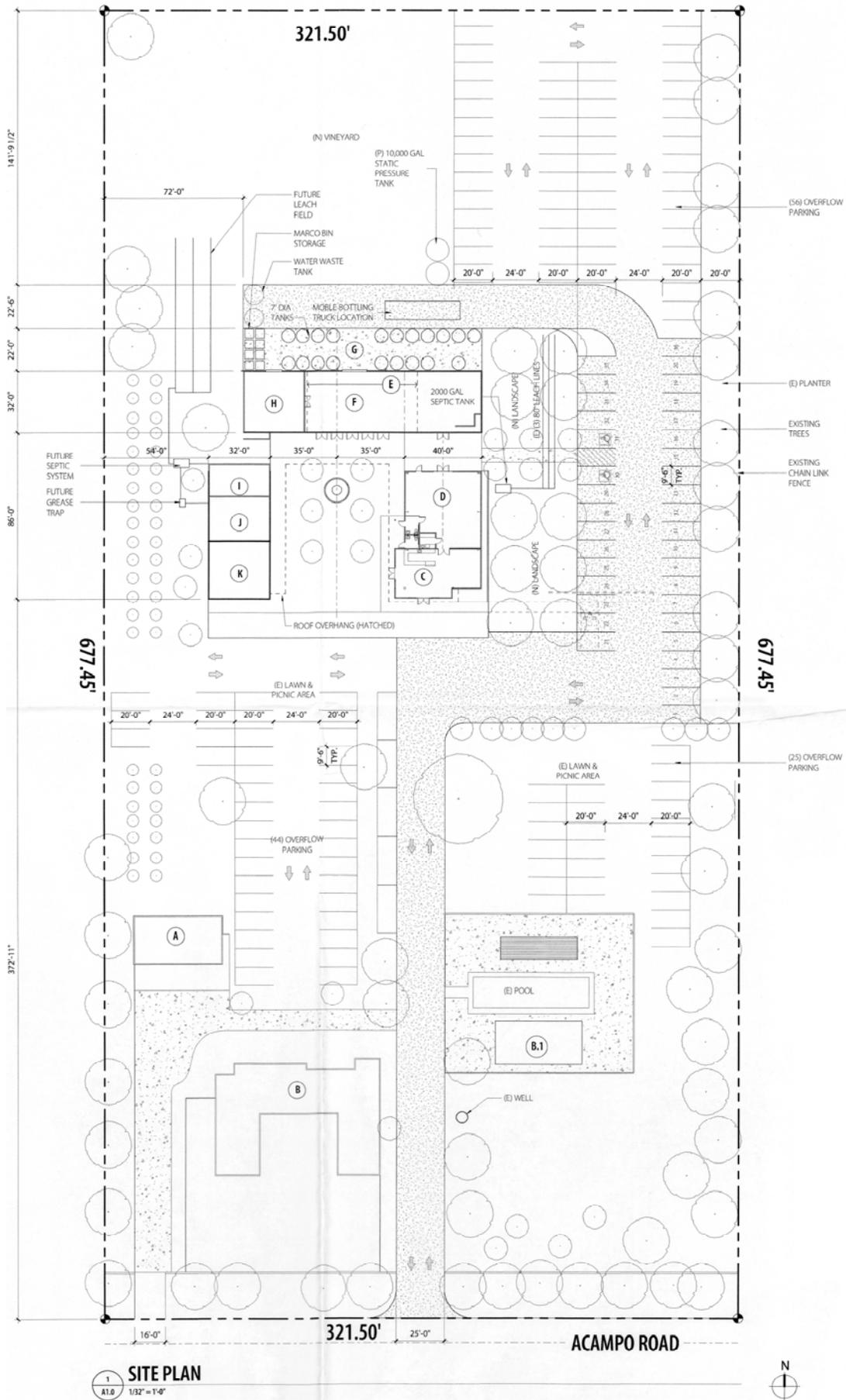
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## Attachment A Site Plan

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## Attachment B Response Letters

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Response letters will be added before the report is finalized and sent out.

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## Attachment C Environmental Document

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**NOTICE OF EXEMPTION**

TO:  Office of Planning & Research  
P. O. Box 3044, Room 212  
Sacramento, California 95812-3044

FROM: San Joaquin County  
Community Development Department  
1810 East Hazelton Avenue  
Stockton, California 95205

County Clerk, County of San Joaquin

**Project Title:** One-Year Time Extension for previously approved Site Approval No. PA-1700196  
**Project Location - Specific:** The project site is located on the north side of Acampo road, 1/4 mile east of Buck Road, Acampo. (APN/Address: 017-180-12/10173 East Acampo Road, Acampo) (Supervisory District: 4)  
**Project Location - City:** Acampo  
**Project Location - County:** San Joaquin County

**Project Description:** A One-Year Time Extension for a previously approved Site Approval application to expand an existing Small Winery. Phase 1, to include the construction of 2,048 square foot storage mezzanine, a 3,200 square foot barrel production and marketing event area, a 2,728 square foot crush pad and outdoor tank storage area, a 1,024 square foot case storage building, and a 500 square foot restroom. Phase 2 includes the construction of an 800 square foot commercial kitchen and a 1,200 square foot indoor marketing event area. This application also proposes to increase the number of attendees at marketing events from 100 people to 150 people. The previously approved Small Winery is approved for twenty-four (24) marketing events per year with indoor and outdoor amplified music. This parcel is not under a Williamson Act contract.

With the original approval, building permits for Phase 1 improvements were to be issued within eighteen (18) months, and building permits for Phase 2 were to be issued within five (5) years. If approved, this time extension will extend the entire project by one (1) year, with thirty (30) months to obtain building permits for Phase 1 improvements, and six (6) years to obtain building permits for Phase 2 improvements. The new Phase 1 expiration date will be February 26, 2021, and the new Phase 2 expiration date will be July 15, 2024.

The Property is zoned AG-40 (General Agriculture, 40-acre minimum) and the General Plan designation is A/G (General Agriculture).

**Project Proponent(s):** Daniel L. & Cassandra M. Durst Trust / Daniel Durst

**Name of Public Agency Approving Project:** San Joaquin County Community Development Department  
**Name of Person or Agency Carrying Out Project:** Stephanie Stowers, Senior Planner  
 San Joaquin County Community Development Department

**Exemption Status:**  
 General Exemptions. (Section 15061 [b](3))

**Exemption Reason:**  
 Processed under the provisions of California Code of Regulations Section 15061(b)(3), which are exempt from CEQA.

This project is exempt from the California Environmental Quality Act (CEQA) per CEQA Guidelines section 15061(b)(3). Section 15061(b)(3) states that "CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA." There is no possibility that this project may have a significant effect on the environment and, therefore, the project is not subject to CEQA.

**Lead Agency Contact Person:**  
 Stephanie Stowers Phone: (209) 468-9653 FAX: (209) 468-3163 Email: sstowers@sjgov.org

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name: Domenique Martorella Title: Deputy County Clerk  
 Signed by Lead Agency

Date Received for filing at OPR: \_\_\_\_\_

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**Attachment D**  
**Previously Approved Findings**  
**for Site Approval**

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## PREVIOUSLY APPROVED FINDINGS FOR SITE APPROVAL

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1. The proposed use is consistent with the goals, policies, standards, and maps of the General Plan, any applicable Master Plan, Specific Plan, and Special Purpose Plan, and any other applicable plan adopted by the County. The project is in the Primary zone of the delta. However, the winery expansion is an agricultural use in an agricultural zone.
  - **This finding can be made because small wineries are consistent with the General Agriculture (A/G) General Plan designation and in turn may be conditionally permitted with a Site Approval in the AG-40 zone. There are no Master Plans, Specific Plans, Special Purpose Plans, or any other applicable plan adopted by the County in the vicinity.**
2. Adequate utilities, roadway improvements, sanitation, water supply, drainage, and other necessary facilities have been provided, and the proposed improvements are properly related to existing and proposed roadways.
  - **This finding can be made because the proposed project and all necessary improvements are adequate and meet the standards of the Development Title. The project will be served by a private septic system, an individual well, and on-site storm drainage. The amount of storm drainage runoff generated by the construction of any new buildings will be contained on-site. The Public Works Department is requiring the developer to provide drainage facilities and meet the requirements of San Joaquin County Development Standards to prevent the increased runoff release rate of storm water from discharging onto other properties and to prevent offsite sediment transport. Additionally, the applicant is able to modify the surfacing requirements pursuant to Development Title Section 9-1015.9.**
3. The site is physically suitable for the type of development and for the intensity of development.
  - **This finding can be made because the 5-acre parcel is of adequate size and shape to accommodate the proposed expansion, building coverage, setbacks, parking areas, and other requirements of the Development Title. The Site Plan shows that there is sufficient area for parking and circulation for the winery in compliance with Standards of the Development Title.**
4. Issuance of the permit will not be significantly detrimental to the public health, safety, or welfare, or be injurious to the property or improvements of adjacent properties.
  - **This finding can be made because an Initial Study prepared for this project found no potentially significant environmental impacts.**
5. The use is compatible with adjoining land uses.
  - **This finding can be made because surrounding land uses are primarily agricultural. The nearest residence is located 230 feet west of the proposed project site, and is not on a parcel adjacent to the winery parcel.**

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## **Community Development Department**

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### **Attachment E Updated Conditions of Approval**

## UPDATED CONDITIONS OF APPROVAL

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### PA-1700196 DURST WINERY/ DURST

**A one-year Time Extension application for Site Approval Application No. PA-1700196 was approved by the Planning Commission on. The original effective date of approval is July 15, 2018. This approval will expire on February 26, 2019 2021, which is 48 thirty (30) months from the effective date of approval, unless (1) all Conditions of Approval have been complied with, (2) all necessary building permits have been issued and remain in force, and (3) all necessary permits from other agencies have been issued and remain in force.**

**Unless otherwise specified, all Conditions of Approval and ordinance requirements shall be fulfilled prior to the establishment of the use and the issuance of any building permits. Those Conditions followed by a Section Number have been identified as ordinance requirements pertinent to this application. Ordinance requirements cannot be modified, and other ordinance requirements may apply.**

1. COMMUNITY DEVELOPMENT DEPARTMENT (Staff Contact: Stephanie Stowers, [209] 468-9653)

- a. **BUILDING PERMIT:** Submit an "APPLICATION-COMMERCIAL BUILDING PERMIT". The Site Plan required as a part of the building permit must be prepared by a registered civil engineer or licensed architect. This Plan must show drainage, driveway access details (including gates), on-site parking, landscaping, signs, existing and proposed utility services, and grading (refer to the "SITE PLAN CHECK LIST" for details). A fee is required for the Site Plan review. (Development Title Section 9-884)
- b. **APPROVED USE:** This approval is to expand an existing small winery in two (2) phases over five (5) years, as shown on the site plan dated September 21, 2017. The previously approved small winery is approved for twenty-four (24) marketing events annually, with indoor and outdoor amplified sound. This approval includes the increase in attendees at marketing events to a maximum of 150 people. Accessory winery events, wine release events, and industry events are permitted pursuant to Development Title Section 9-1075.9

Phase 1 (with building permits to be issued with eighteen [18] months from the effective date of approval) to include the construction of a 6,272 square foot winery multi-purpose building including a 3,200 square foot production and marketing event area, a 1,024 square foot case storage room, and a 2,048 square foot storage mezzanine; and an outdoor crush pad and tank storage area.

Phase 2, (with building permits to be issued within five [5] years from the effective date of approval) to include the construction a 2,500 square foot multi-purpose winery building to including an 800 square foot commercial kitchen, a 500 square foot restroom, and a 1,200 square foot marketing event area.

These conditions of approval are in addition to the conditions of approval of Site Approval application No. PA-1000264.

Existing Structures:

Wine tasting and production building: 2,785 square feet

- c. **SETBACK:** The proposed winery shall have a front yard setback of 200 feet for areas that will be used for marketing events, industry events, wine release events, and/or accessory winery events. (Development Title Section 9-1075.3[c][1][B])
- d. **MARKETING EVENTS:** Marketing events are subject to the following regulations:
  - 1) A maximum of twenty-four (24) marketing events are permitted annually as part of the proposed marketing plan dated September 8, 2017.
  - 2) Each event shall have a maximum attendance of 150 people (Development Title Section 9-1075.9[e][1])
  - 3) Marketing events shall end by 10:00 p.m. (Development Title Section 9-1075.9[j])
- e. **MARKETING CALENDAR:** A Marketing Calendar shall be filed with the Community Development Department and updated as required for any winery or off-site wine cellar with approved marketing events, accessory winery events, wine release events, and/or industry events.
- f. **PRODUCTION CAPACITY:** A small winery shall have a minimum production capacity of 201 gallons of wine per year and a maximum production capacity of 36,000 gallons of wine per year. (Development Title Section 9-1075.5[a])
- g. **TASTING ROOM:** The maximum size of a stand-alone wine tasting room or structure or area designated for wine tasting within a multi-purpose building at an on-site wine cellar shall not exceed thirty percent (30%) of the area designated for production facilities or 2,000 square feet, whichever is greater. (Development Title Section 9-1075.5[n][1][A])
- h. **RETAIL SALES AREA:** The maximum area for the sale of retail items shall not exceed 500 square feet of contiguous floor area within the wine tasting room structure or area designated for wine tasting within a multipurpose building. (Development Title Section 9-1075[n][1][B])
- i. **CAPITAL FACILITY FEE:** This project may be subject to the Capital Facility Fee. If the Capital Facility Fee is applicable, the County shall collect the fees before the issuance of any building permits. (Development Title Section 9-1245.2)
- j. **PARKING:** Off-street parking shall be provided and comply with the following:
  - 1) The first 100 feet of the driveway from Acampo Road shall be surfaced and permanently maintained with chip seal to provide a durable, dust free surface. (Development Title Section 9-1015.9)
  - 2) All parking spaces, maneuvering areas, and remainder of driveways for the winery shall be surfaced and permanently maintained with gravel. Bumper guards shall be provided when necessary to protect adjacent structures or properties. (Development Title Section 9-1015.5[e])
  - 3) A minimum of twenty-four (24) parking spaces shall be provided with Phase 1, and a minimum of three (3) parking spaces shall be provided with Phase 2, in addition to the eight (8) previously required parking spaces (PA-1000264 [SA]). At full buildout, thirty-five (35) parking spaces shall be provided. (2.5 spaces are required for every 1,000 square feet of building area)(Development Title Section 9-1015.3)

- 4) A total of seventy-five (75) overflow parking spaces (one [1] space is required for every two [2] attendees) shall be provided for marketing events. Marketing event parking may be an alternative surfacing material.
  - 5) Parking spaces for persons with disability shall be provided as required by Chapters 11A and 11B of the California Building Code.
  - 6) Parking for marketing events shall be located on maintained grass area to ensure a dust-free surface.
- k. **ACCESS AND CIRCULATION:** The following requirements apply and shall be shown on the Site Plan:
- 1) Access driveways shall have a width of no less than twenty-five (25) feet for two-way aisles and sixteen (16) feet for one-way aisles, except that in no case shall driveways designated as fire department access be less than twenty (20) feet wide (Development Title Section 9-1015.4[h]).
- l. **LIGHTING:** Lighting shall be provided and comply with the following:
- 1) If the parking area is to be used at night, parking lot and security lighting shall be installed. (Development Title Section 9-1015.5[g])
  - 2) Any lighting shall be designed to confine direct rays to the premises. No spillover beyond the property lines shall be permitted except onto public thoroughfares, provided, however, that such light shall not cause a hazard to motorists. (Development Title Section 9-1015.5[g][4])
- m. **LANDSCAPING:** Landscaping shall be provided and comply with the following:
- 1) A minimum ten (10) foot wide landscaped strip, respecting the ultimate right-of-way width of Acampo Road shall be installed across the frontage of the project site. (Development Title Section 9-1020) The existing landscaping satisfies this requirement.
  - 2) This project will be required to comply with the Model Water Efficient Landscape Ordinance Requirement per California Code of Regulations, Title 23, Division 2, Chapter 2.7.
- n. **SCREENING:** Screening shall be provided and comply with the following:
- 1) All storage materials and related activities, including storage areas for trash, shall be enclosed by a screen six (6) to eight (8) feet in height. Items stored within one hundred (100) feet of a dedicated street or residential zone shall not be stacked higher than two (2) feet above the adjacent screen. (Development Title Section 9-1022.4[e][2][A])
- o. **BUILDING CODE REQUIREMENTS:** The following California Building Code (CBC) and San Joaquin Ordinance requirements will be applicable to the proposed project. The following conditions shall be addressed prior to submittal of a building permit application to the Building Inspection Division:
- 1) A building permit for each separate structure or building is required. Submit plans, Specifications and supporting calculations, prepared by a Registered Design Professional (architect or engineer) for each structure or building, showing compliance

with The 2016 California Building, Existing Building, Mechanical, Plumbing, Electrical, Energy and Fire Codes as may be applicable. Plans for the different buildings or structures may be combined into a single set of construction documents.

- 2) A grading permit will be required for this project. Submit plans and grading calculations, including a statement of the estimated quantities of excavation and fill, prepared by a Registered Design Professional. The grading plan shall show the existing grade and finished grade in contour intervals of sufficient clarity to indicate the nature and extent of the work and show in detail that it complies with the requirements of the code. The plans shall show the existing grade on adjoining properties in sufficient detail to identify how grade changes with conform to the requirements of the code.
- 3) The required plans must be completed at the time of submittal for a building permit. Plans must address building design and construction, fire and life safety requirements, accessibility and show compliance with the current California codes and San Joaquin County ordinances. A complete set of plans must include fire sprinkler plans, truss design submittals, metal building shop drawings, structural plans and calculations, plumbing, electrical and mechanical drawings and energy report.
- 4) For each proposed new building, provide the following information on the plans:
  - (a) Description of proposed use
  - (b) Existing and proposed occupancy Groups
  - (c) Type of construction
  - (d) Sprinklers (Yes or No)
  - (e) Number of stories
  - (f) Building height
  - (g) Allowable floor area
  - (h) Proposed floor area
  - (i) Occupant load based on CBC
  - (j) Occupant load based on CPC
- 5) Phase 1 proposed a new 4,224-square-foot mixed-occupancy wine production marketing event area (Area F, 3,200 square feet)/ storage (Area H, 1,024 square feet) building with a 2,048-square-foot second level identified as a "mezzanine." However, the second level area exceeds the area allowed for a mezzanine, which is limited to not more than one-third the floor area of the room or space in which it is located (CBC 505.2.1). This second level must be reduced in size or analyzed as a second floor. The building must be analyzed as a mixed occupancy building per CBC section 508.
- 6) A soils report is required pursuant to CBC § 1803 for foundations and CBC appendix § J104 for grading. All recommendation of the Soils Report shall be incorporated into the construction drawings.
- 7) As noted on the submitted plans, (but not included in the Project Description), phase one also includes the conversion of the wine production area of the existing mixed occupancy wine production / wine tasting building, into additional wine tasting. This will constitute a partial change of occupancy, and will require a code analysis report and necessary plans prepared by an architect or engineer in accordance with the California Existing Building Code. The report and plans shall identify existing conditions, and proposed alterations necessary to bring the building in compliance with the current code and include the following:

- (a) Description of proposed use
  - (b) Existing and proposed occupancy Groups
  - (c) Type of construction
  - (d) Sprinklers (Yes or No)
  - (e) Number of stories
  - (f) Building height
  - (g) Allowable floor area
  - (h) Proposed floor area
  - (i) Occupant load based on CBC for the new use
  - (j) Exiting analysis for the new use
  - (k) Occupant load based on CPC for the new use
- 8) It is noted that the proposed 500-square-foot toilet facility is proposed for Phase 1 in the project Description, but is proposed for Phase 2 on the accompanying development plan. In any case, adequate sanitary facilities shall be provided for each phase of the facility, per the requirements of Chapter 4, Section 422 of the California Plumbing Code.
- 9) Pursuant to Section 422.4 of the California Plumbing Code, toilet facilities shall be accessible to employees at all times, should not be more than 500 feet from where employees are regularly employed and accessible by not more than one flight of stairs. The plans shall indicate the location of the toilet facilities and the travel distance from work areas.
- 10) Modifications to existing buildings are required to include upgrades related to disability access pursuant to California Existing Building Code. Plans showing these upgrades must be prepared by a registered engineer or licensed architect and shall be submitted for review and approval prior to issuance of a building permit.
- 11) Accessible routes shall be provided per CBC § 11B-206. At least one (1) accessible route shall be provided within the site from accessible parking spaces and accessible passenger loading zones; public streets and sidewalks; and public transportation stops to the accessible building or facility entrance the serve. Where more than one (1) route is provided all routes must be accessible. § 11B-206.2.1.
- 12) At least one (1) accessible route shall connect accessible buildings, accessible facilities, accessible elements and accessible spaces that are on the same site. § 11B-206.2.2.
- 13) Parking spaces will be required to accommodate persons with disabilities in compliance with Chapter 11B of the California Building Code. Note that accessible parking spaces are required for each phase of the project. These parking spaces(s) shall be located as close as possible to the primary entrance to the building.
- 14) This project will be required to comply with the Model Water Efficient Landscape Ordinance requirements of the California Code of Regulations, Title 22, Division 2, Chapter 2.7.
- p. **FIRE CODE REQUIREMENTS:** The following California Fire Code (CFC) requirements will be applicable to the proposed project. The following conditions shall be addressed prior to submittal of a building permit application to the Building Inspections Division.
- 1) CFC 507 Fire Protection Water Supply - Fire flow and hydrants shall be provided for the proposed project by the use of: CFC Appendix B.

- 2) If Fire Protection Systems are required they shall be installed according to the CFC, Chapter 9 and the appropriate standards and guides adopted in Chapter 35 of the California Building Code and the California Electrical Code.
- 3) CFC, Section 503 Fire Apparatus Access Roads - Shall be provided as required by this section. 503.1.2 - A secondary access may be required.
- 4) CFC, Section 906 Portable Fire Extinguishers - Provide portable fire extinguishers are required by this section.
- 5) CFC Section 506 Key Box - A Knox Box shall be installed according to the local fire department's instructions. Make application for the key box at the fire district having jurisdiction of this project. If there is an electronically controlled access gate at this site a Knox key switch will also be required.
- 6) CFC, Section 5001.3.3.1 Properties of Hazardous Materials - A complete list of hazardous materials used and or stored at this site shall be provided.
- 7) A complete review, at building permit submittal, will require compliance with applicable codes and ordinances.
- 8) CFC, Section 105 Permits: Operations Permit(s) may be required prior to occupancy.

2. DEPARTMENT OF PUBLIC WORKS (Staff contact: Alex Chetley, [209] 468-3023)

- a. All vehicular parking related to applicant's proposed development shall be onsite at all times. Parking in the County right-of-way for all winery related events shall be prohibited. It is the responsibility of the applicant to monitor Acampo Road to ensure compliance with this requirement.
- b. The Traffic Impact Mitigation Fee shall be required for any incremental traffic resulting from this application. The fee is due and payable at the time of building permit application. The fee will be based on the current schedule at the time of payment. The fee shall be automatically adjusted July 1 of each year by the Engineering Construction Cost Index as published by the Engineering News Record. (Resolutions R-00-433)
- c. The Regional Transportation Impact Fee shall be required for any incremental traffic resulting from this application. The fee is due and payable at the time of building permit application. The fee will be based on the current schedule at the time of payment. (Resolution R-06-38)
- d. The owner shall execute an Irrevocable Offer to Dedicate Road to result in a twenty-five (25) foot wide right-of-way from the centerline of Acampo Road to the property line across the parcel's frontage. (A fee based on the current fee schedule is required for processing per Development Title Table 9-240.2 in addition to a copy of the Grant Deed and a legal description of the parcel to be offered for dedication.)(Development Title Section 9.1150.5)
- e. If any marketing events are held for more than 150 people, the Department of Public Works reserves the right to require a traffic study to determine the impacts and mitigation of the proposed project. The applicant shall deposit funds with the County for all costs, as estimated by the Department of Public Works Transportation Engineering Division prior to the Department preparing or contracting for the required study. (Development Title Section 9-1150.4)

- f. A copy of the Final Site Plan shall be submitted prior to release of building permit.
- g. The developer shall provide drainage facilities in accordance with the San Joaquin County Development Standards. Retention basins shall be fenced with six (6) foot high chain link fence or equal when the maximum design depth is eighteen (18) inches or more. Required retention basin capacity shall be calculated and submitted along with a drainage plan for review and approval, prior to release of building permit. (Development Title Section 9-1135)
- h. The proposed project disturbs less than one (1) acres of ground and is not part of the larger plan of common development. The construction phase of the proposed project shall follow best management practices as may be appropriate to minimize the discharge and transport of pollutants. (Title 5-Health and Sanitation. Division 10-Storm Water Management and Discharge Control)
- i. Owner shall comply with the SWRCB's General Order No. 2014-0057-DWQ, "General Permit for Discharges of Storm Water Associated with Industrial Activities." The WDID for the Industrial General Permit Issued by SWRCB shall be submitted to Public Works.

3. ENVIRONMENTAL HEALTH DEPARTMENT: (Staff contact: Stephen Shih, [209] 468-9850)

- a. An addendum to the soil suitability/nitrate loading study (SR0031787) incorporating proposed staff and customer use shall be submitted to the Environmental Health Department, indicating that the area is suitable for septic system usage. The studies must be approved by the Environmental Health Department prior to issuance of building permit(s). (San Joaquin County Development Title, Section 9-1105.2(d)). A review fee of \$650 must be paid at time of submittal to the Environmental Health Department.

The sewage disposal system shall comply with the onsite sewage standards of San Joaquin County prior to approval. A percolation test that meets absorption rates of the manual of septic tank practice or E.P.A. Design Manual for onsite wastewater treatment and disposal system is required for each parcel. The fee will be based on the current schedule at the time of payment.

- b. Submit to the Environmental Health Department revised site plans showing the maximum number of persons the sewage disposal system is being designed for. In addition, show on revised plans that the leach field area will be barricaded so that it cannot be driven over, parked on, or used as a storage area. This leach field area must be used for that specific purpose only, and it cannot contain any underground utility lines (San Joaquin County Development Title Section 9-1110.4[c][5])
- c. Construction of an individual sewage disposal system(s) under permit and inspection by the Environmental Health Department is required at the time of development (San Joaquin County Development Title, Section 9-1110.3 & 9-1110.4).
- d. If floor drains are required, they must be plumbed through a sand.oil separator and discharged to an above ground system approved by the Environmental Health Department. A registered engineer must design this system. The material collected in the above ground holding system must be analyzed for hazardous constituents prior to disposal. Specific test requirements may be obtained from the Environmental health Department. The fee will be based on the current schedule at the time of payment.

- e. If hazardous material(s) is stored on site, the applicant must register all regulated hazardous materials stored onsite at, [cers.calepa.ca.gov](http://cers.calepa.ca.gov), for all regulated Certified Unified Program Agency (CUPA) programs.
- f. If any quantity of hazardous waste is generated, a hazardous waste generator permit must be obtained from the EHD. The applicant must also obtain an EPA Identification Number and comply with all applicable regulations.

4. SAN JOAQUIN COUNCIL OF GOVERNMENTS (Staff Contact: Laurel Boyd, [209] 235-0600)

This project is subject to the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP). This can be up to a ninety (90) day process and it is recommended that the project applicant contact SJMSCP staff as early as possible. It is also recommended that the project applicant obtain an information package.



**Planning Commission Staff Report  
Item # 2, May 21, 2020  
Text Amendment PA-2000004  
Prepared by: Megan Aguirre**

**PROJECT SUMMARY**

**Applicant Information**

**Project Applicant:** San Joaquin County Community Development Department

**Project Site Information**

**Project Location:** Countywide  
**Supervisory District:** All

**Environmental Review Information**

**CEQA Determination:** Notice of Exemption (Attachment A)

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**Project Description**

This project is a Development Title Text Amendment application to revise Chapter 9-1080 Agricultural Mitigation to improve the County's ability to carry out the purpose and intent of the Chapter. Proposed revisions include updating the language pertaining to the Qualifying Entity, Agricultural Technical Advisory Committee members and duties, and mitigation options. Minor text changes are also recommended throughout the Chapter for better continuity and clarification. (See Attachment B, Proposed Ordinance)

**Recommendation**

1. Forward Development Title Text Amendment No. PA-2000004 to the Board of Supervisors with a recommendation for approval based on the ability to make the required Basis for Development Title Text Amendment. (See Attachment C, Basis for Development Title Text Amendment)

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## NOTIFICATION & RESPONSES

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### Public Hearing Notices

Legal ad for the public hearing published in the Stockton Record: May 11, 2020.

### Referrals and Responses

- **Project Referral with Environmental Determination Date:** May 5, 2020

Agency Referrals	Response Date - Referral
<b>County Departments</b>	
Ag Commissioner	
Assessor	
Board of Supervisors	
Community Development Building Division	
Code Enforcement	
Fire Prevention Bureau	
County Administrator's Office	
Public Works	
Environmental Health	
General Services	
Sheriff's Office	
<b>Local Agencies</b>	
A.L.U.C.	
Delta Protection Commission	
Motuzuma Fire District	
Mosquito & Vector Control	
S.J.C.O.G.	
San Joaquin Farm Bureau	
SJC Resource Conservation	
S.E.W.D. Irrigation District	
Stockton Municipal Airport	
All SJC Cities	
All SJC School Districts	
All SJC Fire Districts	
All Irrigation Districts	
All Reclamation Districts	
All Surrounding Counties	

Agency Referrals	Response Date - Referral
<b>State Agencies</b>	
Department of Conservation	
C.H.P.	
C.R.W.Q.C.B.	
C.V.F.P.B.	
Fish & Wildlife, Division: 2 & 3	
Native American Heritage Commission	
Delta Stewardship Council	
<b>Federal Agencies</b>	
U.S. Fish & Wildlife	
<b>Miscellaneous</b>	
All SJC Municipal Advisory Councils	
Buena Vista Rancheria	
California Tribal TANF Partnership	
California Valley Miwok Tribe	
North Valley Yokuts Tribe	
United Auburn Indian Community	
Delta Keeper	
Farm Bureau	
BIA	
Haley Flying Service	
Precissi Flying Service	
P.G.&E.	
Lodi Grape Growers Association	
Sierra Club	

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# ANALYSIS

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## **Background**

On November 21, 2006, the Board of Supervisors adopted Ordinance No. 4308, adding Chapter 9-1080 Agricultural Mitigation to the Ordinance Code of San Joaquin County, which established a program to achieve an optimal farmland protection system and created an Agricultural Technical Advisory Committee (AgTAC) to manage the program. After fourteen (14) years of managing the program, the AgTAC found that the existing language of Chapter 9-1080 is insufficient to effectively implement agricultural mitigation within San Joaquin County.

On March 12, 2019, the Community Development Department brought the AgTAC's request to revise Chapter 9-1080 before the Board of Supervisors with a recommendation to direct County staff to make the requested changes. The Board of Supervisors approved the request. After extensive review and revisions, the AgTAC voted on January 23, 2020 to forward the attached Text Amendment to the Planning Commission with a recommendation of approval. If the Planning Commission recommends approval, the Text Amendment will be forwarded to the Board of Supervisors for review.

## **Proposed Amendments**

The proposed Development Title Text Amendment includes revisions related to the Qualifying Entity, the AgTAC members and duties, and mitigation options. (See Attachment B – Proposed Ordinance). A discussion of these items is listed below. Minor text changes are also recommended throughout the Chapter for better continuity and clarification.

### **Qualifying Entity**

In 2016, the AgTAC adopted a model agricultural easement document, and proposed to have the Central Valley Farmland Trust (now the California Farmland Trust or "CFT") agree to serve as the Qualifying Entity for administration of the model easement. However, CFT determined that the model easement did not comply with the strict State and Federal mandates that CFT must have in any easement it administers. Although the AgTAC and CFT attempted to work together to revise the model ordinance, the two (2) entities could not reach a consensus. Accordingly, the AgTAC discussed and ultimately voted to move forward without a non-County Qualifying Entity and explore methods by which the County could administer its model easement. Those discussions led to the AgTAC's recommended changes to Chapter 9-1080 to favor the County to serve as the Qualifying Entity to oversee agricultural mitigation easements by:

1. Section 9-1080.6(b): Allowing the maps and County records of parcels with approved agricultural mitigation easements to be identified in a manner similar to the identification of parcels with Williamson Act Contracts to avoid County approvals of any activity that is in violation of the mitigation easement;
2. Section 9-1080.6(a)(4): Allowing landowners that have granted a mitigation easement to build and use the land in any way allowed in the Agricultural Zone of the County's Development Title, so long as it does not impair or diminish the agricultural productive capacity of the parcel as determined by the AgTAC;
3. Section 9-1080.3(e)(7): Removing the requirement that the Qualifying Entity monitor, inspect, or report to the AgTAC or the Board of Supervisors on activities on the parcels with approved agricultural mitigation easements on an annual basis;

4. Section 9-1080.8(a) & 9-1080.9: Replacing the requirement with enforcement of the provisions of the approved agricultural mitigation easements through the existing code enforcement process.

#### AgTAC Members & Duties

Currently, the AgTAC is comprised of nine (9) members, of which the San Joaquin Farm Bureau, Business Industry Association, and Board of Supervisors each appoint three (3) members. The AgTAC is proposing to reduce the number of members to two (2) appointees each for a total of six (6) members (Section 9-1080.7[c]) and to clarify the length terms served by members (Section 9-1080.7[d]).

In regards to the AgTAC's duties, the existing ordinance states that the AgTAC was to perform certain duties within one (1) year after adoption of the original ordinance. Specifically, the AgTAC was to develop and recommend a Mitigation Strategy to the Board of Supervisors to ensure that the acquisition of agricultural mitigation land achieves maximum benefits to the residents of San Joaquin County, and also to develop a report concerning different agricultural mitigation ratios and definitions for types of land. While the AgTAC has met intermittently since 2007 in furtherance of these goals, during much of this time the need for mitigation was low due to economic conditions, and a Mitigation Strategy has yet to be developed. However, it is expected that as development in the unincorporated County increases, so will the need for mitigation. Therefore, the AgTAC is recommending revisions to allow the AgTAC to develop a Mitigation Strategy Document, review of farmland conservation easements or other preservation instruments, reports to the Board of Supervisors regarding agricultural strategies, etc. only as it deems necessary instead of as prescribed in the current ordinance (Section 9-1080.7[b]).

#### Mitigation Bank

Under the current ordinance, there is no provision for developers to participate in a mitigation bank to satisfy the mitigation requirement. Locally, Calaveras and Stanislaus Counties both allow for mitigation credit banking as an additional option for meeting their agricultural mitigation requirements in addition to the options for direct provision of an agricultural easement or payment of an in-lieu fee for the purchase of a future easement. Similarly, AgTAC is recommending that the ordinance include allowing for agricultural mitigation through participation in an approved mitigation bank (Section 9-1080.3[f]).

#### **Basis for Development Title Text Amendment**

Prior to approving an application for a Text Amendment, the Planning Commission and the Board of Supervisors must determine that the proposed Text Amendment is consistent with the General Plan and any applicable Master Plan. The following is an analysis of the consistency of the proposed Development Title Text Amendment with the General Plan.

#### General Plan Consistency

General Plan Goal LU-7 (pgs. 3.1-60 through 3.1-61): Provide for the long-term preservation of productive farmland and to accommodate agricultural services and related activities that support the continued viability of the County's agricultural industry.

#### **Agricultural Preservation Mechanisms**

**LU-7.10 Agricultural Mitigation Program**: The County shall continue to require agricultural mitigation for projects that convert agricultural lands to urban uses.

**LU-7.12: Agricultural Land Conversion Mitigation:** The County shall maintain and implement the Agricultural Mitigation Ordinance to permanently protect agricultural land within the County.

- **With the proposed revisions, the Agricultural Mitigation chapter will continue to require agricultural mitigation for projects that include a General Plan Amendment or Zoning Reclassification to convert agricultural lands to urban uses. The proposed revisions will improve the AgTAC's ability to maintain and implement the Agricultural Mitigation Program, and include adding participation in an established agricultural mitigation bank as an additional mitigation option. Therefore, the proposed Development Title Text Amendment is consistent with the 2035 General Plan Goal LU-7 for preserving productive farmland.**

### **Notice of Exemption**

California Environmental Quality Act (CEQA) Section 15061(b)(3) states that a project is exempt from CEQA if the local agency determines that the activity has no potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in questions may cause a significant effect on the environment, the activity is not subject to CEQA and, therefore, exempt from CEQA. The Community Development Department has determined that the proposed Development Title Text Amendment has no potential for causing a significant effect on the environment because it is strictly an amendment to the Development Title and will not result in any changes to the level of agricultural mitigation that is required. Accordingly, a Notice of Exemption will be filed by the Community Development Department if the Development Title Text Amendment is approved.

### **Notification of Development Title Text Amendment**

Pursuant to Development Title Section 9-220.8 Notification (Chapter 9-220) notification shall be given to local agencies for property-specific applications only. In addition, notice of hearing shall be mailed to any person who has filed a written request for notice with the Community Development Department. Because this Development Title Text Amendment is not property-specific, notification to local agencies is not required.

### **Fiscal Impact**

There are no net County costs associated with the proposed changes to the Agricultural Mitigation ordinance, and the revisions will not result in any impacts to the current Community Development Department fiscal year budget or future budgets. Therefore, there is no fiscal impact anticipated if the Development Title Text Amendment is approved.

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## **RECOMMENDATION**

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It is recommended that the Planning Commission:

1. Forward Development Title Text Amendment No. PA-2000004 to the Board of Supervisors with a recommendation for approval based on the ability to make the required Basis for Development Title Text Amendment. (See Attachment C, Basis for Development Title Text Amendment)

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—COUNTY—  
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# Community Development Department

Planning · Building · Neighborhood Preservation

## **Attachment A** **Environmental Review**

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**NOTICE OF EXEMPTION**

TO:  Office of Planning & Research  
P. O. Box 3044, Room 212  
Sacramento, California 95812-3044

FROM: San Joaquin County  
Community Development Department  
1810 East Hazelton Avenue  
Stockton, California 95205

County Clerk, County of San Joaquin

**Project Title:** Development Title Text Amendment Application No. PA-2000004

**Project Description:** This project is a Development Title Text Amendment application to revise Chapter 9-1080 Agricultural Mitigation to improve the County’s ability to carry out the purpose and intent of the Chapter. Proposed revisions include updating the language pertaining to the Qualifying Entity, Agricultural Technical Advisory Committee members and duties, and mitigation options. Minor text changes are also recommended throughout the Chapter for better continuity and clarification.

**Name of Public Agency Approving Project:** San Joaquin County Community Development Department

**Name of Person or Agency Carrying Out Project:** Megan Aguirre, Senior Planner  
San Joaquin County Community Development Department

**Exemption Status:**  
The “common sense” exemption (CEQA Guidelines Section 15061[b][3])

**Exemption Reason:**  
This project is exempt from the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15061(b)(3), which states that “CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.” The Community Development Department has determined that the proposed Development Title Text Amendment will not have a significant effect on the environment; therefore, it is exempt from CEQA.

**Lead Agency Contact Person:**  
Megan Aguirre Phone: (209) 468-3144 FAX: (209) 468-3163 Email: meaguirre@sjgov.org

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name: Select clerical's name Title: Deputy County Clerk

Signed by Lead Agency

Date Received for filing at OPR: \_\_\_\_\_

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# Community Development Department

Planning · Building · Neighborhood Preservation

## **Attachment B** **Proposed Ordinance**

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BEFORE THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN JOAQUIN,  
STATE OF CALIFORNIA

ORDINANCE NO.

**AN ORDINANCE AMENDING TITLE 9 OF THE ORDINANCE CODE OF THE COUNTY OF  
SAN JOAQUIN RELATING TO CHAPTER 9-1080 (AGRICULTURAL MITIGATION) OF THE  
DEVELOPMENT TITLE**

The Board of Supervisors of the County of San Joaquin ordains as follows:

**SECTION 1.** Chapter 9-1080 (Agricultural Mitigation), Division 1, Title 9 of the San Joaquin County Ordinance Code is hereby amended to read as follows:

**CHAPTER 9-1080 - AGRICULTURAL MITIGATION**

Sections:

- 9-1080.1 Purpose and Intent.
- 9-1080.2 Findings
- 9-1080.3 Mitigation Requirements
- 9-1080.4 Use of In-Lieu fees.
- 9-1080.5 Agricultural Mitigation Lands.
- 9-1080.6 Mitigation Strategy Document.
- 9-1080.7 Legal Instruments for Preservation of Agricultural Land.
- 9-1080.8 Agricultural Technical Advisory Committee.
- 9-1080.9 Monitoring, Enforcing and Reporting.
- 9-1080.10 Enforcement.
- 9-1080.11 Cost Recovery.
- 9-1080.12 Fees.
- 9-1080.103 Precedence.
- 9-1080.104 Severability.

9-1080.1 PURPOSE AND INTENT.

The purpose and intent of this Chapter is to implement the agricultural land conservation policies contained in the San Joaquin County General Plan that require agricultural mitigation for projects that convert agricultural lands to urban uses, and that are related to related to permanently protecting agricultural land and prime soils for productive farming

and rangelands within the County. Further, it ~~The intent of this Chapter~~ is to create an agricultural land protection system to avoid and mitigate for the loss of agricultural land development through the ~~specified as~~ followings:

- (a) **Intergovernmental Coordination.** It is the policy of San Joaquin County to work cooperatively with the cities within the County and to encourage them to adopt agricultural preservation policies and ordinances which are consistent with this ordinance in order to undertake an integrated, comprehensive Countywide approach to preservation. It is the ultimate goal of the County that all seven (7) cities participate in or adopt an agricultural mitigation ordinance that is the same as or substantially similar to this ordinance.
- (b) **Habitat Mitigation Plan.** It is the intent of the Board of Supervisors that the program set forth in this Chapter shall be coordinated with the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan in order to achieve an optimal ~~farmland~~ agricultural land protection system.
- (c) **Delta Protection Commission.** It is the intent of the Board of Supervisors that the program set forth in this Chapter be coordinated with efforts of the Delta Protection Commission in order to achieve an optimal farmland protection system.

9-1080.2 FINDINGS.

The Board of Supervisors finds this Chapter is necessary for the following reasons:

- (a) San Joaquin County is losing ~~farmland~~ agricultural land to development and annexation at a rapid rate;
- (b) San Joaquin County ~~farmland~~ agricultural land is of exceptional productive quality;
- (c) The loss of ~~farmland~~ agricultural land to development is irreparable;
- (d) ~~and a~~ Agriculture is an important component of the County's economy;
- (~~e~~) The loss of ~~farmland~~ agricultural land will have a cumulatively negative impact on the economy of the County and the cities located within it;
- (~~e~~) The continuation of agricultural operations ~~also~~ preserves the landscape and environmental resources;
- (~~f~~) Permanent preservation of ~~farmland~~ agricultural land is consistent with the policies of the San Joaquin County General Plan;
- (~~g~~) New development on non-agricultural land benefits from the preservation of ~~farmlands that~~ agricultural land to support the overall economy of the County; ~~and,~~
- (~~h~~) ~~Using only zoning and other regulatory mechanisms has been a useful, but inadequate, approach to preserving farmland.~~

9-1080.3 MITIGATION REQUIREMENTS.

- (a) **Mitigation Required.** The County shall require agricultural mitigation for any of the following actions:
- (1) A General Plan Amendment that changes the designation of any land from an agricultural use to a non-agricultural use; and
  - (2) A Zoning Reclassification that changes the permitted uses from an agricultureal-use to a non-agricultural use, regardless of the General Plan designation.
- (b) **Mix of Uses.** Mitigation shall only be required for that portion of the land that is being converted from an agricultural use to a nonagricultural use or zone~~no longer will be designated as or zoned for agricultural land. This Nonagricultural use~~ includes any ~~portion of the~~ land to be used for park and recreation purposes.
- (c) **Agricultural Mitigation Ratio.** The number of acres required for agricultural mitigation land shall be at least equal to the number of acres that will be changed from an agricultural use or zone to a non-agricultural use or zone (a 1:1 ratio).
- (~~e~~d) **Types of Mitigation.** Agricultural mitigation shall be satisfied by ~~granting a farmland conservation easement or other farmland conservation mechanism as set forth in Subsection (d) of this Section to or for the benefit of a Qualifying Entity. The number of acres of agricultural mitigation land shall be at least equal to the number of acres that will be changed to a non-agricultural use [a 1:1 ratio]~~ completing one of the following options prior to the County issuing a building or grading permit:
- (1) Obtaining an agricultural land conservation easement that has been approved by the Agricultural Technical Advisory Committee, known as direct provision of agricultural mitigation land;
  - (2) Participating in an established agricultural mitigation bank that has been approved by the Agricultural Technical Advisory Committee; or,
  - (3) Payment of an in-lieu fee as approved by the Board of Supervisors.
- (~~e~~d) **Direct Provision of Agricultural Mitigation Land.** The direct provision of agricultural mitigation land pursuant to Subsection (c) of this Section is subject to the following provisions:
- (1) ~~The applicant shall pay an administrative fee to cover the costs of administering, monitoring and enforcing the farmland conservation easement or other instrument in an amount determined by the Board of Supervisors.~~

- (21) The location and characteristics of the agricultural mitigation land shall comply with ~~the~~ any Mitigation Strategy adopted pursuant to Section 9-1080.6.
- (32) The Agricultural Technical Advisory Committee shall review each ~~farmland~~ agricultural land conservation easement or other preservation instrument for consistency with ~~the~~ any Mitigation Strategy adopted pursuant to Section 9-1080.6 and with this Chapter.
- (43) The participation in an agricultural land ~~farmland~~ conservation easement or other preservation instrument shall be held by the Qualifying Entity. The County shall be a co-holder or backup beneficiary of the legal instrument. ~~If the Qualifying Entity refuses to hold the easement or other preservation instrument, it shall be held by the County.~~
- (54) If the applicant for the General Plan Amendment or Zoning Reclassification makes an application to the Board of Supervisors and demonstrates to that Board that the applicant has made a diligent effort to obtain an agricultural land ~~farmland~~ conservation easement or other preservation instrument, and that the applicant has been unable to obtain such easement or other preservation instrument, then the Board may by Resolution allow ~~grant~~ the applicant ~~the option to either obtain the easement or other instrument, or~~ to pay the in-lieu fee set forth in Subsection (e) of this Section. The applicant shall provide documentation to the Board of Supervisors with their application that they have ~~he/she~~ has met with at least three (3) landowner ~~the Qualifying Entity and San Joaquin Farm Bureau Federation and~~ could still not obtain an easement or other preservation instrument ~~neither entity has been able to assist with the acquisition of the easement.~~ Facts which the Board may consider in making a decision regarding applicant's request include, but are not limited to, the following:
- (A) The applicant made ~~M~~ multiple good faith offers to land owner(s) to purchase an agricultural land easement or other preservation instrument, ~~which and the land owner(s) declined those offers~~ have been declined by the seller or sellers.
- (B) The applicant made ~~G~~ good faith efforts to purchase an agricultural land easement or other preservation instrument over an extended a reasonable period of time and because those efforts were not successful ~~where~~ requiring further such efforts would be ~~make it~~ unreasonable.
- (C) The applicant made ~~G~~ good faith efforts to purchase an agricultural land easement or other preservation instrument, but ~~where~~ the high

cost of the easement or instrument made requiring such a purchase makes it unreasonable for the applicant to continue such efforts.

- (e) **In-Lieu Fees.** The payment of an in-lieu fee pursuant to Subsection (d)(3) is subject to the following provisions:
- (1) The in-lieu fee shall include the costs of managing the property, including the costs of administering, monitoring and enforcing the ~~farmland~~agricultural land conservation easement or other instrument.
  - (2) The fee shall be based on the cost of purchasing ~~farmland~~an agricultural land conservation easement(s) on land of comparable size and agricultural quality, plus the estimated cost of legal, appraisal and other costs, including staff time, to acquire and manage the ~~farmland~~agricultural land conservation easement or other ~~agricultural mitigation~~preservation instrument.
  - (3) The Board of Supervisors shall approve by resolution the amount and other terms of the in-lieu fee.
  - (4) The in-lieu fee shall be reviewed every two (2) years by the Agricultural Technical Advisory Committee to confirm that the fee reflects the costs considered in (e)(2) of this Section. Based on its review, the Agricultural Technical Advisory Committee may recommend an adjustment to the in-lieu fee to the Board of Supervisors.~~he updated annually based on an inflator that takes into account the inflation of property values and should include a standard assumption for the time it takes to acquire property for agricultural mitigation. The inflator shall be calculated based on a three-year running average of the most recent available data from the House Price Index (HPI) for the Stockton Metropolitan Statistical Area, as compiled by the Office of Federal Housing Enterprise Oversight. Other cost components shall be updated annually based on the Consumer Price Index (CPI).~~
  - (5) Within sixty (60) days after collection by the County, in-lieu fees shall ~~be~~be transferred to a fund administered by ~~the~~a Qualifying Entity.
  - (6) The in-lieu fees shall be administered by an approved Qualifying Entity in fulfillment of its programmatic responsibilities. These responsibilities cover, without exception, acquiring interests in land and administering, monitoring, and enforcing the agricultural land conservation easement or other preservation instrument designed to preserve the agricultural values of the land for agricultural land mitigation purposes.
  - (67) The Agricultural Technical Advisory Committee shall prepare and present a annual report described in pursuant to Section 9-1080.9(b), every five (5) years, or as the Agricultural Technical Advisory Committee deems

~~necessary, that shall describes the effectiveness of the use of in-lieu fees as provided for in this Chapter under this ordinance. During the fifth year, the Agricultural Technical Advisory Committee shall include in the annual report recommendations to the Board of Supervisors regarding whether to maintain, amend, or remove the in-lieu fee requirement of the ordinance and to replace it with an in-kind only requirement.~~

- (f) **Mitigation Bank.** Participation in a Mitigation Bank approved by the Agricultural Technical Advisory Committee shall be permitted pursuant to Subsection (d)(2) so long as the land purchased by the Mitigation Bank meets the requirements of Sections 9-1080.3(c) and 9-1080.5 subject to the following provisions:
- (fg) **Final Approvals.** ~~Final approval of any~~ No project subject to Subsection (a) of this Section shall be approved by the County without a requirement to execution of the legal instrument to provide agricultural mitigation land and payment of the administrative fee, or participation in an approved mitigation bank, or approval and payment of an in-lieu fee. Submission of the required legal instrument or payment of the in-lieu fee shall is required to occur at the time of Grading Permit or Building Permit issuance.
- (gh) **Participation.** Participation in the Agricultural Mitigation Program shall be considered during the environmental review for projects pursuant to the California Environmental Quality Act.

#### ~~9-1080.4 — USE OF IN-LIEU FEES.~~

~~The in-lieu fees shall be administered by the Qualifying Entity in fulfillment of its programmatic responsibilities. These responsibilities cover, without exception, acquiring interests in land and administering, monitoring and enforcing the farmland conservation easement or other instrument designed to preserve the agricultural values of the land for farmland mitigation purposes.~~

~~The location and characteristics of the agricultural mitigation land shall comply with the provisions of Section 9-1080.5 and the Mitigation Strategy adopted pursuant to Section 9-1080.6. The in-lieu fees shall not be used for purposes inconsistent with this Section.~~

#### ~~9-1080.54~~ AGRICULTURAL MITIGATION LANDS.

- (a) **Allowable Uses.** Agricultural mitigation land, for purposes of an agricultural land conservation easement or mitigation bank, must be shown on the County General Plan as Agriculture and zoned for agricultural uses. Agricultural mitigation land shall include the Delta. The type of agricultural related activity allowed on mitigation land will be limited to activities allowed in the land's agricultural zone as specified in an agricultural easement or related legal instrument, as described in Section 9-1080.7.

- (b) **Soil Quality.** The agricultural mitigation land should be of comparable or better soil quality than the agricultural land whose use is being changed to nonagricultural use. ~~Priority shall be given to lands with prime agricultural soils, which are located in areas of greatest potential development.~~
- (c) **Water Supply.** The agricultural mitigation land shall have an adequate water supply to support ~~the~~ agricultural use of the land. The water supply on the agricultural mitigation land shall be protected in the ~~farmland~~ agricultural land conservation easement or other preservation document ~~evidencing the agricultural mitigation.~~
- (d) **Plan Consistency.** The use of the agricultural mitigation land shall be consistent with the County General Plan.
- (e) **Previous Encumbrances.** Land already effectively encumbered by a conservation easement of any nature is not eligible to qualify as agricultural mitigation land.
- (f) **Location.** The agricultural mitigation land shall ~~be~~ be located in the unincorporated area of San Joaquin County and comply with ~~the~~ any Mitigation Strategy adopted pursuant to Section 9-1080.6.

9-1080.65 MITIGATION STRATEGY.

- ~~(a) **Initiation and Approval.** The Agricultural Technical Advisory Committee shall develop and recommend a Mitigation Strategy with approval by the Board of Supervisors occurring one (1) year after adoption of this Chapter. Thereafter, the Mitigation Strategy should be updated periodically with a formal update approved by the Board of Supervisors every five (5) years.~~
- (~~b~~a) **Purpose and Contents.** The purpose of the Mitigation Strategy is to ensure that the acquisition of agricultural mitigation land, ~~from both direct provision,~~ participation in an approved mitigation bank, and/or payment of in-lieu fees, ~~pursuant to this Chapter,~~ achieves maximum benefits to the residents of San Joaquin County. The Mitigation Strategy may consist of any combination of policies, evaluation criteria, maps, and other useful decision-making tools. It shall be of sufficient specificity to provide adequate guidance on location and other factors to people considering and reviewing the proposed encumbrance of agricultural mitigation land.
- (~~e~~b) **Issues to Be Considered.** The Mitigation Strategy shall consider the following issues:
  - (1) The need to ~~include~~ prioritize the utilization of contiguous parcels and areas large enough to preserve agricultural operations.

- (2) The qualities of high priority ~~farmlands~~soils and the type of activities allowed on agricultural mitigation lands.
  - (3) Coordination with other public and private land conservation programs.
  - (4) Other relevant factors that would result in the more effective provision of agricultural lands.
- ~~(d) **Transmittal.** The Mitigation Strategy shall be transmitted immediately after approval to the Qualifying Entity for its use in acquiring and managing interests in agricultural mitigation land.~~

9-1080.76 LEGAL INSTRUMENTS FOR PRESERVATION OF AGRICULTURAL LAND.

- (a) **Requirements.** The legal instrument encumbering agricultural mitigation land shall meet the following requirements:
  - (1) It shall be executed by all owners of the agricultural mitigation land.
  - (2) It shall be in a form suitable for recordation.
  - (3) It shall contain an accurate legal description setting forth the description of the agricultural mitigation land.
  - (4) It shall prohibit any activity that substantially impairs or diminishes the agricultural productivity of the land, as determined by the Agricultural Technical Advisory Committee, ~~and approved by the Board of Supervisors.~~ However, ~~a~~All activities or land uses currently allowed under in the County's AG-40 (General Agriculture) zoning designation would be allowed on mitigation are hereby found not to substantially impair or diminish the agricultural productivity of the land.
  - (5) It shall prohibit new residential and/or commercial development on agricultural mitigation land that is not directly needed for agricultural production, regardless of existing zoning.
  - (6) It shall protect the existing water rights and retain them with the agricultural mitigation land.
- ~~(b) **County Interests.** The County shall be named a co-holder or backup beneficiary under any instrument conveying the interest in the agricultural mitigation land to a Qualifying Entity.~~
- ~~(e**b**) **Disposition of Land.** Interests in Agricultural land encumbered by agricultural mitigation land and conservation easements shall be identified in County records, held in trust by a Qualifying Entity and/or by the County in perpetuity. Except as provided in Subsection (d) of this Section, the Qualifying Entity or the County~~

~~shall not sell, lease, or convey any interest in agricultural mitigation land it acquires. The legal instrument encumbering the agricultural mitigation land shall require confirmation that the easement be reflected in County records. include the provisions of this Subsection.~~

- (d) **Change in Circumstances.** If judicial proceedings find that the public purpose described in Section 9-1080.1 of this Chapter can no longer reasonably be fulfilled as to an interest acquired, the Qualifying Entity's interest in the agricultural mitigation land, as secured by the legal instrument, may be extinguished through sale, and the proceeds shall be used to acquire interests in other agricultural mitigation land in San Joaquin County, pursuant to the provisions of this Chapter and subject to approval by the Board of Supervisors.
- ~~(e) **Cessation of Qualifying Entity.** If any Qualifying Entity owning an interest in agricultural mitigation land ceases to exist, the duty to hold, administer, monitor and enforce the interest shall pass to the co-holder or backup beneficiary of the legal instrument. The County, acting as co-holder or backup beneficiary, may designate another Qualifying Entity to assume the responsibilities to hold, administer, monitor and enforce the interest.~~

9-1080.87 AGRICULTURAL TECHNICAL ADVISORY COMMITTEE.

- (a) **Creation.** An Agricultural Technical Advisory Committee, as defined in Section 9-110.4, is hereby created to carry out the functions authorized by this Chapter.
- (b) **Powers.** The Agricultural Technical Advisory Committee shall exercise the following powers:
  - (1) Adopt rules of procedure and bylaws governing the operation of the advisory committee and the conduct of its meetings.
  - (2) Develop and recommend a Mitigation Strategy, consistent with Section 9-1080.6, ~~which includes providing the Board of Supervisors with a report, within one year from the effective date of this Chapter, recommending conditions under which land with overlapping encumbrances could be considered as Agricultural Mitigation Land.~~
  - ~~(3) Develop a report for consideration by the Board of Supervisors within one (1) year from the effective date of this Chapter concerning different agricultural mitigation ratios and definitions for the Delta and for Prime Agricultural land.~~
  - (4) Consider and make recommendations to the Board of Supervisors regarding future consideration of the inclusion of land outside the County as allowable Agricultural Mitigation Land, and regarding agricultural mitigation strategies other than options including providing effective

~~agricultural land mitigation, the hybrid in-lieu fee/in-kind land approach set forth in this Chapter.~~

- (5) Explore the concept of establishing a Mitigation Bank.
- (6) Assume other responsibilities as set forth in this Chapter.
- (c) **Composition.** The Agricultural Technical Advisory Committee shall consist of ~~three (3)~~two (2) representatives appointed by the San Joaquin Farm Bureau Federation, ~~three (3)~~two (2) representatives appointed by the Building Industry Association, and ~~three (3)~~two (2) representatives appointed by the Board of Supervisors, in which the appointees from the San Joaquin Farm Bureau Federation and the Building Industry Association are ratified by the Board of Supervisors and in which a supermajority vote (i.e., a two-thirds ( 2/3 ) vote of its members) is a requirement for, and a decision by, the Agricultural Technical Advisory Committee.
- (d) **Term.** The terms of the Agricultural Technical Advisory Committee shall be as follows:
  - (1) ~~Five (5)~~Three (3) members shall be initially appointed for two-year terms. Said two- year terms shall be applicable to ~~two (2)~~one (1) of the appointees of the Building Industry Association, ~~two (2)~~one (1) of the appointees of the San Joaquin Farm Bureau Federation, and one (1) of the appointees of the Board of Supervisors.
  - (2) ~~Four (4)~~Three (3) members shall be appointed for four-year terms. Said four-year terms shall be applicable to one (1) of the appointees of the Building Industry Association, one (1) of the appointees of the San Joaquin Farm Bureau Federation, and ~~two (2)~~one (1) of the appointees of the Board of Supervisors.
  - (3) All terms after initial appointment will be four-year terms.
- (e) **Staff.** The County shall provide the Agricultural Technical Advisory Committee with staff support.

9-1080.98 MONITORING, ENFORCING, AND REPORTING.

- (a) **Monitoring and Enforcing.** The County or other designated Qualifying Entity shall ~~enforce compliance~~monitor all lands and easements acquired under this Chapter and shall review and monitor the implementation of all management and maintenance plans for these lands and easement areas. It shall also enforce compliance with the terms of the agricultural land conservation easements or other agricultural mitigation instruments when it is on notice of violation(s) of the terms of the agricultural land conservation easement.

- (b) **Reporting by Qualifying Entity.** ~~Annually, beginning one (1) year after the adoption of this Chapter,~~ Upon request by the Agricultural Technical Advisory Committee, the County and/or the Qualifying Entity shall provide to the Agricultural Technical Advisory Committee an annual report delineating the activities undertaken pursuant to the requirements of this Chapter and an assessment of these activities. The report(s) shall describe the status of all lands and easements acquired under this Chapter, including a summary of all enforcement actions.
- (c) **Reporting by Agricultural Technical Advisory Committee.** ~~Annually,~~ The Agricultural Technical Advisory Committee shall review the reports submitted to it by the County and/or Qualifying Entity as well as any other relevant material. It shall ~~Based on that review, the Agricultural Technical Advisory Committee may prepare a an Annual R~~report that provides an independent assessment of the effectiveness of the agricultural mitigation program and its consistency with ~~the~~ any existing and operative Mitigation Strategy. The ~~R~~report shall document the funds collected and/or direct provision of mitigation lands pursuant to the provisions of this Chapter. It shall also document the size and location of the land that is to be converted to a nonagricultural use, which generated the mitigation requirements of this Chapter. The Committee shall forward the ~~R~~report, along with other relevant material received, to the Board of Supervisors.

9-1080.9 ENFORCEMENT.

Enforcement of this Chapter will be done pursuant to Title 1, Division 2, or Title 9, Division 19 of this Code at the discretion of the Community Development Department Director.

9-1080.10 COST RECOVERY.

The County shall be reimbursed by the violator for all time, services, and materials needed to enforce compliance with the terms of the agricultural land conservation easement or other agricultural mitigation instrument.

9-1080.11 FEES.

The Board of Supervisors shall, by Resolution, adopt a fee schedule for any fees it deems necessary under this Chapter.

9-1080.10~~2~~ PRECEDENCE.

This Chapter shall take precedence over all ordinances or parts of ordinances or resolutions or parts of resolutions with which it is in conflict.

9-1080.143 SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this Chapter is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Code. The Board of Supervisors hereby declares that it would have passed this Chapter and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

**SECTION 2.** This Ordinance shall take effect and be in force thirty (30) days after its adoption, and prior to the expiration of fifteen (15) days from the passage thereof, shall be published once (1) in the Record, a newspaper of general circulation published in the County of San Joaquin, State of California, with the names of the members of the Board of Supervisors voting for and against the same.

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of San Joaquin, State of California, on this    of    to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Katherine M. Miller  
Chair, Board of Supervisors  
County of San Joaquin  
State of California

ATTEST: RACHÉL DeBORD  
Clerk of the Board of Supervisors  
County of San Joaquin  
State of California

By: \_\_\_\_\_  
Deputy Clerk





**Attachment C**  
**Basis for Development Title Text Amendment**

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## **Basis for Development Title Text Amendment**

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Prior to approving an application for a Development Title Text Amendment, the Planning Commission and the Board of Supervisors shall determine that the proposed Development Title Text Amendment is consistent with the General Plan and any applicable Master Plan.

- **This determination can be made because the proposed revisions to Development Title Chapter 9-1080 Agricultural Mitigation support 2035 General Plan goals and do not conflict with any of the goals, objectives, policies, or implementation measures of the General Plan. A key issue cited in the 2035 General Plan is minimizing the impact of growth on agricultural land by preserving and protecting it. Land Use Goal LU-7 (pages 3.1-60 – 3.1-61), states that the County will provide for the long-term preservation of productive farmland through agricultural preservation mechanisms. Land Use Goals LU-7.10 and LU-7.12 state that the County shall require agricultural mitigation for projects that convert agricultural lands to urban uses by maintaining and implementing the Agricultural Mitigation Ordinance to permanently protect agricultural land within the County. The proposed Development Title Text Amendment is an update to the Agricultural Mitigation Ordinance to improve the ability for the Agricultural Technical Advisory Committee to implement the Agricultural Mitigation Program. Therefore, the proposed amendment is consistent with the 2035 General Plan.**