



SOLANO COUNTY

Land Use and Transportation Committee

**Meeting of September 17, 2024 at 2:00 p.m.
675 Texas Street, Fairfield - 6th Floor Conference Room 6003**

The County of Solano does not discriminate against persons with disabilities. If you wish to participate in this meeting and you will require assistance in order to do so, please call the Department of Resource Management at (707) 784-6765 at least 24 hours in advance of the event to make reasonable arrangements to ensure accessibility to this meeting.

ATTENTION: Please see the instructions below for telephonic participation option for the meeting.

To submit comments verbally from your phone, you may do so by dialing **1-323-457-3408** and entering Access Code **926 883 327#**. Once entered in the meeting, you will be able to hear the meeting. Press **(star) *5 to Raise/Lower your Hand** during the public speaking period to be called upon to speak. Press **(star) *6 to Mute/Unmute** or use your phone's Mute feature when not speaking.

- A G E N D A -

1. **Public Comment:** *This is the opportunity for members of the public to address the committee on matters not listed on the agenda.*
2. **Discussion items:**
 - A. Farmland Conversion Mitigation Ordinance
 - B. Water Efficient Landscape Ordinance (WELO)
 - C. County Battery Energy Storage Systems Update
3. **Committee Member Comments**
4. **Adjournment**

DEPARTMENT OF RESOURCE MANAGEMENT

JAMES BEZEK
Director
(707) 784-6765

ALLAN CALDER
Planning Services Manager
(707) 784-6765



675 Texas Street, Suite 5500
Fairfield, CA 94533-6342
(707) 784-6765
Fax (707) 784-4805

Planning@solanocounty.com

www.solanocounty.com

Planning Services Division

MEMORANDUM

DATE: September 12, 2024
TO: Land Use and Transportation Committee
FROM: James Bezek, Director of Resource Management
SUBJECT: September 17, 2024, Land Use and Transportation Committee (LUTC) Meeting Background Information

1. Agenda item 2.A: Farmland Conversion Mitigation Ordinance

Background

The 2008 Solano County General Plan includes an Agriculture Chapter with goals and policies that promote the long-term protection of agricultural resources in the County. General Plan Implementation Program AG.I-1 directs the County to create and adopt a farmland conversion mitigation program and ordinance:

“Create and adopt a farmland conversion mitigation program and ordinance. Require compensation for loss of agricultural land. Establish appropriate mitigation ratios for the program or utilize a graduated mitigation mechanism. The mitigation ratio shall be a minimum of 1.5:1 (1.5 acres of farmland protected through mitigation for each acre of farmland converted). The program shall not present regulatory barriers to agritourism, agricultural services, and agricultural processing in regions and within land use designations where such uses are permitted and encouraged. The program shall also establish mitigation within the same agricultural region as the proposed development project, or within the Agricultural Reserve Overlay district, as a preferred strategy. The program shall incorporate a fee option, and shall provide an exemption for farmworker housing. Mitigation lands shall be of similar agricultural quality to the lands being converted.” (AG.I-1.)

The purpose of the program is to require compensation for the loss of agricultural land within the unincorporated area of Solano County. In summary, the General Plan calls for:

- A minimum mitigation ratio of 1.5:1.
- Mitigation lands shall be of similar agricultural quality to those being converted.
- Mitigation within the same agricultural region, or within the Agricultural Reserve Overlay District, as a preferred strategy.
- Incorporate a fee option.

- No regulatory barriers to agritourism, agricultural services, and agricultural processing in regions and within land use designations where such uses are permitted and encouraged.
- Provide an exemption for farmworker housing.

The farmland conversion mitigation ordinance will detail mitigation requirements and the mitigation process applicants can use to comply with those mitigation requirements, such as protecting land via a legal instruction (farmland conservation easement), payment of in-lieu fees, and alternative mitigation methods.

Ordinance Outline and Topics for Discussion

Planning Division staff, the Agricultural Commissioner and County Counsel have been developing a draft ordinance and have identified several topics for consideration by the LUTC:

1. **Applicability: Activities subject to the ordinance.**

- General Plan Amendments:** General Plan amendments to re-designate land from an Ag designation to any other designation, except for redesignations consistent with LU.P-3 and AG.P-31 to -36 (re certain redesignations to watershed, marsh, park & recreation, etc.).
- Rezoning Petitions:** Rezoning petitions to rezone property from an Agricultural District to any other zoning district. Rezoning to Watershed and Conservation and Marsh Preservation exempt.
- Development Permits Converting Ag Use to Non-Ag Use:** Projects that require an Administrative Permit or a Use Permit where the use of Farmland is converted to a nonagricultural use, regardless of the General Plan designation and Zoning district. "Nonagricultural Use" could mean, for purposes of this ordinance, any use not classified as an Agricultural Use or Agritourism Use in the applicable Table of Allowed Uses in Article II of Chapter 28 of the Code.
- Questions for Discussion:** Should this ordinance apply to development permits, or only General Plan amendments and Rezoning petitions? What types of uses might be covered? Would it only apply if a minimum footprint of conversion from Ag is met? What permits key off requirement (use permits, minor use permits, admin permits, etc.)?

2. **Mitigation Plan and Qualifying Entity.**

- Application would be required to submit a mitigation plan concurrently with their land use application that identifies the type of mitigation and the proposed Qualifying Entity (QE) to hold the farmland conservation easement or administer in-lieu fees.
- The QE may be the County, or a non-profit public benefit 501(c)(3) or other legal entity eligible to hold a conservation easement for mitigation purposes under California law and operating for the purpose of conserving and protecting agriculture. If the QE is not the County, the BOS shall approve the QE for purposes of implementing this program.
- Topic for Discussion:** The Qualifying Entity that would hold a conservation easement established pursuant to this ordinance.

3. **Mitigation Requirements.**

- 3:1 Ratio for conversion of Prime farmland.
- 1.5:1 Ratio for conversion of other farmland, including Statewide, Unique, and Local Farmland, and Grazing Land.
- Important Farmland classification as mapped by the CDOC shall be used to determine ratio.

4. Mitigation Lands.

- a. In order to be eligible mitigation land, the land must be:
 - I. Designated Agriculture in the General Plan;
 - II. Be acquired from a willing seller;
 - III. Be of adequate size, configuration and location to be viable for Ag use;
 - IV. Be of substantially equivalent FMMP category or better than lands being converted;
 - V. Located within Solano County.

5. Mitigation Methods.

- a. Easements, In-Lieu Fees, Alternative/Complementary Mitigation
 - I. **If conversion is 20+ acres**, a farmland conservation easement within same agricultural region would be required; if good faith effort does reveal adequate lands, mitigation land may be anywhere else in Solano County. If no land in the County is available, in-lieu fees or alternative method may be proposed.
 - II. **If conversion of land less than 20 acres**, an easement, in-lieu fees, or alternative mitigation may be proposed from the start.
- b. Conservation Easements:
 - I. Applicant's responsibility to locate and obtain easement and ensure it will be held by a QE.
 - II. Must be acceptable to the County and the QE.
 - III. Shall run with the land in perpetuity and prohibit any activities that impair or diminish the ag productivity. Consider a carved-out footprint for non-agricultural uses, consistent with zoning.
 - IV. Shall name the QE, and the County as a third-party beneficiary, to enforce all terms of easement.
 - V. Applicant shall pay all costs to purchase easement, including transaction costs and costs to cover enforcing and administering easement.
- c. In-Lieu Fees:
 - I. Determined by the appraised fair market value of hypothetically acquiring an easement on the land being converted, times 3 or 1.5 depending on Farmland classification.
 - II. Funds shall pay the QE to cover ongoing management, enforcement, and administration of easement or other use of in-lieu fees.
 - III. Other uses of in-lieu fees?
 - a. **Ag Conservation Practices** - farm conservation management practices that improve soil health, sequester carbon and reduce greenhouse gas emissions (e.g. cover cropping, nutrient management, compost applications, hedgerow planting, prescribed grazing)
 - b. **Irrigation Efficiency** – practices supporting water conservation and efficiencies (e.g. establish micro-irrigation systems, ag water catchment, storage and conveyance systems)
 - c. **Land Access** – incentives supporting new, beginning and socially disadvantaged farmers/ranchers to access agricultural lands
 - d. **Farm Machinery Cooperative** – establishment of an equipment rental program to allow farmers to borrow specialized farm machinery at a low cost to offset high capital expenditures for equipment that is only used a few times a year.

- e. Provide incentives for farmers and landowners to take part in market-based conservation programs and wildlife-friendly agriculture.
 - f. Provide incidental take protection or other methods to protect agricultural infrastructure and adjacent lands.
 - g. Establish good neighbor policies and agricultural buffer zones based on right-to-farm policies.
 - h. Integrate agricultural infrastructure improvements, flood system improvements (e.g., levees, drainage systems, intakes, pumps), local transportation improvements, barrier fencing, water supply reliability, and/or water quality enhancements into project.
 - i. Help reduce downstream flooding through coordination with upstream landowners to temporarily hold stormwater on properties.
- d. Alternative/Complementary Mitigation:
- I. Applicant may propose alternative mitigation if appraised value is equal to or exceeds value of land being converted, times 3 or 1.5 depending on Farmland classification.
 - II. Must be approved by BOS.

2. Agenda item 2.B: Water Efficient Landscape Ordinance (WELO)

What Is WELO?

The Water Efficient Landscape Ordinance is a statewide water conservation law for new and renovated landscapes. The ordinance applies to any single-family or multi-family residential, public, institutional, or commercial project that requires a permit, plan check or design review from the local reviewing agency and meets one of the following size thresholds:

- New construction projects with a total landscape area greater than 500 sq. ft
- Rehabilitations of existing landscape with a total landscape area greater than 2,500 sq. ft

Under SB 1383 regulations, Solano County is mandated to adopt an ordinance or similar enforcement mechanism that requires compliance with Sections 492.6(a)(3)(B),(C),(D), and (G) of the Model Water Efficient Landscape Ordinance (MWELo) and annually report the number of projects subject to the ordinance. Department of Water Resources (DWR) also requires an annual report submitted via WUEdata portal documenting MWELo permitting.

For this reason, staff is recommending that an ordinance be brought forward to address the state requirements. The ordinance will simply incorporate the State Model Ordinance by reference.

Summary of Water Efficient Landscape Ordinance Process

A. Design Phase:

Before landscape construction:

- 1. Applicants submit a stamped Landscape Documentation Package by a State of California registered landscape architect along with their building permit application. This includes:**
 - Project Information;
 - Water Budget / Water Use Calculator;

- Soil Management Report;
- Landscape Design Plan, Plant Legend and Specifications;
- Irrigation Plan;
- Hydrozone Plan; and
- Grading Plan

2. Agency staff reviews the Landscape Documentation Package and approves the permit, plan check or design review or requests revisions and resubmittal.

B. Post-Construction Phase:

After the permit is approved and the landscape installed:

1. Applicant submits a Certificate of Completion which includes:

- Project Information;
- Certification that landscape is built per plans;
- As-built drawings (if necessary, to show major changes);
- Irrigation diagram showing hydrozones;
- Irrigation scheduling parameters;
- Landscape and irrigation maintenance schedule;
- Irrigation audit report;
- Soil report (if not submitted during design); and
- Verification of implementation of report recommendations

2. Agency staff:

- Reviews the Certificate of Completion and accompanying submittals.
- Conducts a site visit using the Landscape Installation Checklist. Site visits should be conducted only after the irrigation audit and repairs are complete.
- Approves or denies final submittal prior to issuing a Certificate of Occupancy (if applicable) or requests revisions and resubmittal.

3. **Agenda item 2.C: BESS Ordinance Update**

On July 18, 2024, the Solano County Planning Division hosted a public workshop to gather input on the County's efforts to develop a zoning ordinance for battery energy storage systems (BESS) in response to the Urgency Ordinance approved and extended by the Board of Supervisor on February 27, 2024.

Public comments identified significant resident concerns about the proximity of BESS facilities to homes and schools, particularly near the Vaca Dixon substation in Vacaville. Commenters advocated for measures to protect taxpayer interests, such as collecting a percentage of revenue generated, funding for independent safety audits, emergency response training, and equipment for first responders. They also stressed the importance of cybersecurity and the need for US-based service and manufacturing requirements. Concerns were raised about potential impacts on property values, insurance rates, and agricultural land protection. Many residents urged placing BESS facilities far from populated areas, while others emphasized that rural communities deserve equal protection. There was strong advocacy for considering safer BESS chemistries, like iron flow and graphene, instead of lithium-ion. Some residents suggested locating BESS projects in the Lambie Industrial Park, where existing natural gas peaker plants offer grid interconnection without the same concerns as those near the Vaca Dixon substation. The meeting outlined the alternative permitting pathway under Assembly Bill 205 known as the "Opt In" process which allows applicants to bypass local permitting authority.

The County has been informed by the California Energy Commission (CEC) that NextEra Energy Resources has initiated the Opt-In Certification application process for the 300 MW Corby Energy Storage Project battery energy storage system located at southwest corner of Kilkenny and Byrnes. The pre-filing meeting will consist of representatives of California Department of Fish and Wildlife (CDFW), Department of Toxic Substance Control (DTSC), and Water Boards, County staff and the applicant, scheduled for October 2, 2024. This meeting is an opportunity for the County to present local concerns that should be addressed by the project. Following the pre-filing meeting, the applicant may complete the Opt In application within the next 30 days.

Approval of the project is subject to a CEC Public Hearing and required findings include:

- Overall net positive economic benefit to the local government
- Applicant has entered into a community benefits agreement
- Applicant-certified prevailing wage, skilled and trained workforce
- The project will comply with all applicable laws, ordinances, regulations, and standards, unless, the project is deemed to be required for public convenience and necessity
- CEQA findings which do not have a significant impact on the environmental considerations

The development of the County BESS ordinance is underway and anticipated in 2025.