

Open Space Protection recommendations to City Council

Right to Farm Amendments

[Brentwood Municipal Code, Chapter 8.0.1](#), establishes the Right to Farm

<https://ecode360.com/43613594>

The Right to Farm chapter was written with the intent to protect farms from nuisance complaints when a non_agricultural land use is placed into or adjacent to agricultural areas. This idea is simple. Farms should not have to shut down or alter their operations just because a new development or business is built next to them.

However, it is not clear that this only applies when the non-agricultural use is built in a currently agricultural area. With the adoption of Measure Q, the Brentwood General Plan now provides a possibility of a farm being established within the boundaries of a residential or commercial area.

The Right to Farm provisions need to be studied and amended so that the new farm would not be a nuisance to the existing residents or businesses. For example, section 8.01.110 – Agricultural Buffer Area - provides for a buffer between the agricultural and non-agricultural uses in certain circumstances. This section foresees this buffer being created in a new non-agricultural development built next to a farm, but it does not foresee such a buffer being created in a new agricultural development built next to an existing non-agricultural area that has already been developed. In this circumstance, since the farm would be new, any buffer zones would need to be allowed for in the farm, as the existing non-agricultural area was not developed with such a buffer.

Another example would be a syntactical disagreement between section 8.10.010 – Purpose and intent – that foresees potential disruptions of existing agricultural operations, and section 8.10.030 – Properly operated agricultural operation not a nuisance – that references both present and future agricultural operations. This would need to be clarified, hopefully to distinguish between agricultural operations that existed at the time of an adjacent non-agricultural development being built, and agricultural operations established adjacent to non-agricultural developments that already exist. If the non-agricultural development already exists, then it is not as reasonable to require that all farming activities be accepted, even if they create a nuisance for the non-agricultural areas that existed before the agricultural operations started.

We recommend a complete review of the Right to Farm chapter to make sure there are no ambiguities, and to ensure that existing non-agricultural operations have rights on par with agricultural operations when a new use is established alongside an established use.

Conservation and Open Space Element Actions

Open Space protections can be strengthened in the [General Plan](https://www.brentwoodca.gov/home/showpublisheddocument/2900/638301044656500000) (<https://www.brentwoodca.gov/home/showpublisheddocument/2900/638301044656500000>). For example, there are two COS actions mentioned in the General Plan Conservation and Open Space Element. We mention these as examples of actions that might be taken to improve Open Space protections, acknowledging that additional step can also be considered.

1. - Action COS 1b, defined on page 4-2 of the General Plan, and referenced in table 12-1: General Plan Implementation on page 12-12 of the General Plan, states:

Adopt an ordinance that specifies standards and responsibilities for the maintenance of private open space lands within the city limits. The standards should include provisions for public access, habitat management, water quality protection, safety, and aesthetics.

We currently have a significant Open Space in the Deer Ridge neighborhood that is privately owned, and the question of maintenance requirements has been raised by residents online in a private group. Implementation of this Action has not commenced. It is estimated that total staff time needed would be 30 hours, as shown in Table 12-12. We recommend that the City Council direct staff to implement this Action.

2. – Action COS 2c, defined on page 4-5 of the General Plan, and referenced in table 12-1: General Plan Implementation on page 12-13 of the General Plan, states:

Amend Title 17 (Zoning) of the Brentwood Municipal Code to include specific agricultural buffer requirements for residential and sensitive land uses (i.e., schools, day care facilities, and medical facilities) that are proposed near existing agricultural lands in order to protect the associated agricultural operations from encroachment by incompatible uses. Buffers shall generally be defined as a physical separation, depending on the land use, and may consist of topographic features, roadways, bike/pedestrian paths, greenbelts, water courses, or similar features. The buffer shall occur on the parcel for which a permit is sought and shall favor protection of the maximum amount of agricultural land.

As in the Right to Farm chapter of the Municipal Code, Action COS 2c envisions new non-agricultural development adjacent to an existing farm, but does not envision new

agricultural development adjacent to an existing non-agricultural development. Such an agricultural development can be considered under Measure Q, and was in fact proposed at one time for the Deer Ridge open space. It seems a sensible requirement should be added that such buffers should be created as part of the new development, even in the case where the new development is agricultural. It is just common sense to expect to place the buffers in new development, rather than disturb an existing development. We recommend that action COS 2c be implemented by staff at the direction of City Council, and further recommend that the provisions be modified to make the requirements applicable to agricultural development in or adjacent a non-agricultural development.

3. - In section 17.730.040, Eligible land for agricultural conservation easement, Part D states:

D. The lands to be conserved are to be located in the following areas:

1. First priority will be given to the Brentwood agricultural conservation area as defined on the Brentwood general plan land use map.
2. Lands to be conserved may also be located in the following areas: the Contra Costa County agricultural core lands as defined on the Contra Costa County general plan urban limit line map.
3. Agricultural land within the city limits that possess unique agricultural, visual, historic or other important values may also be considered.

We recommend that a provision could be added for the consideration of lands under the Measure Q overlay that may be considered for agricultural use.

We further recommend that the General Plan and Municipal Code be reviewed to discover other opportunities to further protect Open Space in the City.

Conservation and Open Space chapter to be added to the Municipal Code

We further recommend that consideration be given to creating a section in the Municipal Code that further protects Open Spaces in the City, similar to the way Right to Farm protects agriculture. This chapter could be supportive of the Conservation and Open Space Element in the General Plan, which is summed up well by the overview on page 4-1 in the General Plan.

The Municipal Code can enact enforceable ordinances that can provide a mechanism to ensure that the Policies enumerated in the Conservation and Open Space element are complied with.

Conclusion

As a body, the Planning Commission supports the City Council and the People and Businesses of Brentwood in their desire to protect our Open Spaces and preserve the Quality of Life that makes Brentwood a special place to live. It is in this spirit that we respectfully submit these recommendations for your consideration.