



May 3, 2021

VIA EMAIL: MMICHELENA@BUTTECOUNTY.NET

Mark Michelena, Senior Planner
Butte County
Department of Development Services
7 County Center Drive
Oroville, CA 95965

Governor's Office of Planning & Research

May 3, 2021

STATE CLEARINGHOUSE

Dear Mr. Michelena:

INITIAL STUDY AND MITIGATED NEGATIVE DECLARATION FOR A TENTATIVE SUBDIVISION MAP (TSM20-0001) PROJECT, SCH# 2021040146

The Department of Conservation's (Department) Division of Land Resource Protection (Division) has reviewed the Initial Study and Mitigated Negative Declaration for the Tentative Subdivision Map (TSM20-0001) Project (Project). The Division monitors farmland conversion on a statewide basis, provides technical assistance regarding the Williamson Act, and administers various agricultural land conservation programs. We offer the following comments and recommendations with respect to the project's potential impacts on agricultural land and resources.

Project Description

A Tentative Subdivision Map to divide an approximately 18.9-acre property into 18 lots (ranging in size from 1.01 to 1.19 acres). Phase I proposes eight lots and Phase II proposes ten lots. Access to the two phases will be served by a cul-de-sac, served off of Nord Avenue. The project's internal roads will be offered for dedication to the County and will be maintained as part of a Permanent Road Division. Future residential uses would be served by individual septic systems and individual wells. The project site is located on the northeast side of Nord Avenue, approximately 1,750 feet southeast of Bell Road, north and west of Chico. Assessor Parcel Numbers: 042-020-010.

The entire project area, approximately 19 acres, is currently designated as Prime Farmland by the Department of Conservation's Farmland Mapping and Monitoring Program.¹

¹ California Department of Conservation, Division of Land Resource Protection, Farmland Mapping and Monitoring Program, California Important Farmland Finder, <https://maps.conservation.ca.gov/DLRP/CIFF/>

Department Comments

Although conversion of agricultural land is often an unavoidable impact under CEQA analysis, feasible alternatives and/or feasible mitigation measures must be considered. In some cases, the argument is made that mitigation cannot reduce impacts to below the level of significance because agricultural land will still be converted by the project, and therefore, mitigation is not required. However, reduction to a level below significance is not a criterion for mitigation under CEQA. Rather, the criterion is feasible mitigation that lessens a project's impacts. As stated in CEQA guidelines, mitigation may include, "Compensating for the impact by replacing or providing substitute resources or environments, including through permanent protection of such resources in the form of conservation easements."²

The conversion of agricultural land represents a permanent reduction in the State's agricultural land resources. As such, the Department advises the use of permanent agricultural conservation easements on land of at least equal quality and size as compensation for the loss of agricultural land. Conservation easements are an available mitigation tool and considered a standard practice in many areas of the State. The Department highlights conservation easements because of their acceptance and use by lead agencies as an appropriate mitigation measure under CEQA and because it follows an established rationale similar to that of wildlife habitat mitigation.

Mitigation via agricultural conservation easements can be implemented by at least two alternative approaches: the outright purchase of easements or the donation of mitigation fees to a local, regional, or statewide organization or agency whose purpose includes the acquisition and stewardship of agricultural conservation easements. The conversion of agricultural land should be deemed an impact of at least regional significance. Hence, the search for replacement lands should not be limited strictly to lands within the project's surrounding area.

A source that has proven helpful for regional and statewide agricultural mitigation banks is the California Council of Land Trusts. They provide helpful insight into farmland mitigation policies and implementation strategies, including a guidebook with model policies and a model local ordinance. The guidebook can be found at:

<http://www.calandtrusts.org/resources/conserving-californias-harvest/>

Of course, the use of conservation easements is only one form of mitigation that should be considered. Any other feasible mitigation measures should also be considered.

² California Code of Regulations, Title 14, Division 6, Chapter 3, Article 20, Section 15370(e), [https://govt.westlaw.com/calregs/Document/I07DD0C819A19416D9A128AAC4B52ADD9?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Document/I07DD0C819A19416D9A128AAC4B52ADD9?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))

Conclusion

Thank you for giving us the opportunity to comment on the Initial Study and Mitigated Negative Declaration for the Tentative Subdivision Map (TSM20-0001) Project. Please provide this Department with notices of any future hearing dates as well as any staff reports pertaining to this project. If you have any questions regarding our comments, please contact Farl Grundy, Associate Environmental Planner via email at Farl.Grundy@conservation.ca.gov.

Sincerely,

A handwritten signature in black ink that reads "Monique Wilber". The signature is written in a cursive, flowing style.

Monique Wilber
Conservation Program Support Supervisor