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VIA EMAIL: [AGOODSPEED@COSB.US](mailto:AGOODSPEED@COSB.US)

County of San Benito  
Resource Management Agency, Planning Division  
Attn: Arielle Goodspeed, Principal Planner  
Hollister, CA 95023



Dear Mr. Prado:

DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE LEE SUBDIVISION PLN200051 PROJECT,  
SCH#2022020429

The Department of Conservation's (Department) Division of Land Resource Protection (Division) has reviewed the Draft Environmental Impact Report for the Lee Subdivision PLN200051 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

The project would involve the demolition of the existing on-site residence (constructed in the late 1980s), subdivision with subsequent development of 141 residential lots, a public park and open space, utilities infrastructure, internal public streets, and improvements to Old Ranch Road. The project includes 121 single-family detached units and 20 attached duet units. A total of 15 percent of the residences will be affordable, and the applicant will enter into an affordable housing agreement with the County.

The approximately 27.45-acre site contains formerly dry-farmed grassland, an existing roadway, and one existing single-family residence. The site is bordered by rural single-family residences to the north and west, and agricultural/open space to the east. The project site is located at 291 Old Ranch Road, which connects to Fairview Road approximately 0.5 mile north of Airline Highway/State Route (SR) 25, in unincorporated San Benito County (Assessor's Parcel Number 025-320-004).

## Department Comments

The conversion of agricultural land represents a permanent reduction and significant impact to California's agricultural land resources. CEQA requires that all feasible and reasonable mitigation be reviewed and applied to projects. Under CEQA, a lead agency should not approve a project if there are feasible alternatives or feasible mitigation measures available that would lessen the significant effects of the project.

All mitigation measures that are potentially feasible should be included in the project's environmental review. A measure brought to the attention of the lead agency should not be left out unless it is infeasible based on its elements.

Consistent with CEQA Guidelines, the Department recommends the County consider agricultural conservation easements, among other measures, as potential mitigation. (See Cal. Code Regs., tit. 14, § 15370 [mitigation includes "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."])

Mitigation through agricultural easements can take at least two forms: 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 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 helpful source 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:

[California Council of Land Trusts](#)

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. Indeed, the recent judicial opinion in *King and Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814 ("KG Farms") holds that agricultural conservation easements on a 1 to 1 ratio are not alone sufficient to adequately mitigate a project's conversion of agricultural land. KG Farms does not stand for the proposition that agricultural conservation easements are irrelevant as mitigation. Rather, the holding suggests that to the extent they are considered, they may need to be applied at a greater than 1 to 1 ratio, or combined with other forms of mitigation (such as restoration of some land not currently used as farmland).

## Conclusion

The Department recommends further discussion of the following issues:

- Type, amount, and location of farmland conversion resulting directly and indirectly from implementation of the proposed project.
- Impacts on any current and future agricultural operations in the vicinity; e.g., land-use conflicts, increases in land values and taxes, loss of agricultural support infrastructure such as processing facilities, etc.
- Incremental impacts leading to cumulative impacts on agricultural land. This would include impacts from the proposed project, as well as impacts from past, current, and likely future projects.
- Proposed mitigation measures for all impacted agricultural lands within the proposed project area.
- Projects compatibility with lands within an agricultural preserve and/or enrolled in a Williamson Act contract.

Thank you for giving us the opportunity to comment on the Draft Environmental Impact Report for the Lee Subdivision PLN 200051 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](mailto:Farl.Grundy@conservation.ca.gov).

Sincerely,

*Monique Wilber*

Monique Wilber  
Conservation Program Support Supervisor