



MAY 26, 2022

VIA EMAIL: GEORGE@CITYOFCLOVIS.COM

George Gonzalez, MPA, Senior Planner
City of Clovis, Planning Division
1033 Fifth Street
Clovis, CA 93612



Dear Mr. Gonzalez:

NOTICE OF PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT FOR THE SHEPHERD NORTH PROJECT, SCH# 2022050180

The Department of Conservation's (Department) Division of Land Resource Protection (Division) has reviewed the Notice of Preparation of an Environmental Impact Report for the Shepherd North 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 site is north of the City of Clovis limit line at the northeast corner of N. Sunnyside Avenue and E. Shepherd Avenue. The Project site is approximately 155 acres and includes the approximate 77-acre Development Area and the approximate 78-acre Non-Development Area. The Development Area includes the parcels being annexed that will be entitled for subdivision and development of up to 605 residential units, parkland, and public and private infrastructure. The application includes a request for a Sphere of Influence Expansion, General Plan Amendment, Pre-zone, Annexation, Tentative Map, Planned Development Permit, and Residential Site Plan Review. The Non-Development Area includes the parcels being included in the Sphere of Influence (SOI) expansion that will not be entitled for subdivision or development.

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 Notice of Preparation of an Environmental Impact Report for the Shepherd North 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,

Monique Wilber

Monique Wilber
Conservation Program Support Supervisor