



NOVEMBER 4, 2020

Governor's Office of Planning & Research

VIA EMAIL: STACY.ELMS@LOSBANOS.ORG

Nov 06 2020

City of Los Banos

520 J Street

Attn: Stacy Souza Elms

Community and Economic Development Director

STATE CLEARINGHOUSE

Dear Ms. Elms:

INITIAL STUDY/MITIGATED NEGATIVE DECLARATION FOR THE CITY OF LOS BANOS ANNEXATION AND PREZONE 2013-01 AND PRE-ANNEXATION DEVELOPMENT AGREEMENT (AMG INDUSTRIAL ANNEXATION), SCH# 2014091056

The Department of Conservation's (Department) Division of Land Resource Protection (Division) has reviewed the Initial Study/Mitigated Negative Declaration for the City of Los Banos Annexation and Prezone 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 Proposed Project consists of an Annexation, Pre-zone, and Pre-Annexation Development Agreement to allow for the annexation of the 28.5-acre parcel (APN: 081-110-007) into the city limits of the City of Los Banos. The annexation will include a Pre-Zoning of the project site to Industrial but does not include any specific development. At this time, the proposed project consists only of an Annexation and Pre-Zone request, in addition to the Pre-Annexation Development Agreement. The Pre-Annexation Development Agreement will clarify future improvements, development fees, and City expectations for the future development of the proposed project site.

The proposed project site has been historically utilized for agricultural purposes and is actively farmed with row crops. There are no existing structures within the proposed project area. Urban development (single-family and industrial development) has occurred on the south, east, and west sides of the project site, along with associated street and utility improvements.

The project site contains Prime Farmland as defined by the Department of Conservation's Farmland Mapping and Monitoring Program¹.

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 statute, mitigation may also 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 partial 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:

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

² Public Resources Code Section 15370, Association of Environmental Professionals, 2020 CEQA, California Environmental Quality Act, Statute & Guidelines, page 284, https://www.califaep.org/docs/2020_ceqa_book.pdf

<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.

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.

Thank you for giving us the opportunity to comment on the Initial Study/Mitigated Negative Declaration for the City of Los Banos Annexation and Prezone 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