STAFF REPORT
Zoning Administration
March 1, 2018

Item #1

File: 10700-16S

Four-lot subdivision of two parcels at 10164 Pacheco Pass Highway

Summary: Proposed Minor Subdivision (4-lots) from two (2) existing legal lots. The proposed subdivision would create 4 lots, measuring 5 acres, 5 acres, 7.5 acres, and 110.13 acres, respectively, with two remainder lots of approximately 3,237 acres and 5,887 acres.
Owner: Pacheco Pass Land and Cattle LLC
General Plan Designation: Ranchlands & Roadside Services
Applicant: Ryan Amaya (Kier & Wright Civil Engineers and Surveyors)
Zoning: AR-sr & RS-sr
Lot Size: 3,237 acres, and 5,887 acres approximately
Address: 10164 Pacheco Pass Highway, Hollister, CA 95023
Present Land Use: Single family residence and grazing
Supervisorial District: #1
Habitat Plan: Not Covered
Williamson Act: Yes

RECOMMENDED ACTIONS

A. Approve the use of a prior CEQA document (2017 Initial Study/Negative Declaration for General Plan and Zoning Amendments related to Roadside Services) (Attachment A).

B. Approve the tentative map with recommended conditions of approval (Attachment B).

ATTACHMENTS INCLUDED

Attachment A – CEQA Determination - Use of a Prior CEQA document
Attachment B – Proposed Conditions of Approval
Attachment C – Location & Vicinity Map
Attachment D – Proposed Tentative Map

Board of Supervisors: Mike Wasserman, Cindy Chavez, Dave Cortese, Ken Yeager, S. Joseph Simitian
County Executive: Jeffrey V. Smith
The proposed project is a four-lot subdivision of two parcels, each measuring approximately 3,239 acres and 6,012 acres in size. The parcels are bisected by Highway 152 to the south and are located within unincorporated Santa Clara County, east of the City of Gilroy (See Attachment C – Location and Vicinity Map). The portion of the subject parcel west of Highway 152 contains an existing residence, and is zoned AR-sr (Agricultural Ranchlands with Scenic Road Combining District), while the portion of the lot located east of the highway is zoned RS-sr (Roadside Services with Scenic Road Combining District), and is currently vacant.

Proposed Parcel 1 comprises the portion of the property located to the west of Pacheco Pass Highway, and proposed Parcels 2-4 are located to the east between the highway and Casa De Fruta Parkway (See Attachment D – Tentative Map). The proposed parcels are as follows:

- Parcel 1 would be approximately 110 acres, zoned Agricultural Ranchlands-sr, and would contain the ranch residence;
- Parcel 2 would be approximately 5 acres, and zoned RS-sr;
- Parcel 3 would be approximately 5 acres, contains an approximately ½-acre inholding related to water conveyance infrastructure, and zoned RS-sr;
- Parcel 4 would be approximately 7.5 acres, and zoned RS-sr.

No development is proposed on Parcel Nos. 2, 3, or 4. As these parcels would have a land use designation of Roadside Services, any future proposal to develop these properties with a roadside service use would be subject to a Use Permit, and would require development of a septic system and water well. Residential development of these parcels will only be allowed as a part of such a Use Permit provide the residential use is ancillary and in support of the permitted roadside service use.

Setting/Location Information

The subject properties are located at 10164 Pacheco Pass Highway, adjacent to Casa De Fruta Orchard Resort, in the unincorporated area of Gilroy. The properties are approximately 10 miles east of Gilroy and 10 miles north of Hollister. A location/vicinity map has been included with this Staff report as Attachment C. An unnamed tributary of Pacheco Creek runs through the property. The property is currently under a Williamson Act Contract.

REASONS FOR RECOMMENDATIONS

A. Environmental Review and Determination (CEQA)

The environmental impacts of the proposed 4-lot subdivision project have been adequately evaluated in the Initial Study/Negative Declaration dated June 16, 2017 for the General Plan and Zoning Ordinance amendments related to Roadside Services. There are no new significant impacts beyond those analyzed. The use of the prior CEQA document – the Negative Declaration adopted by the Board of Supervisors in September 2017 is adequate for this project.
B. Project/Proposal

1. General Plan: The project is a proposed four-lot subdivision. Proposed Parcel 1 has a General Plan land use designation of Ranchlands while proposed Parcel Nos. 2, 3, and 4 are designated as Roadside Services.

The County’s General Plan land use designation is Ranchlands, which specifies a minimum lot size between 20 and 160 acres, as determined by the 20-160 acre variable slope density formula. The average slope of Parcel 1 is approximately 7.0 %, and a minimum lot size of 20 acres is required for the purposes of subdivision. The proposed lot size is 110.2 acres, and therefore, proposed Parcel 1 complies with applicable General Plan policies governing density and minimum lot size requirements for the Ranchland areas at 1 dwelling unit per 110.2 acres.

The remainder parcels will retain their current AR-sr zoning designation, and, at approximately 3,173 acres and 6,120 acres respectively, will remain above the required minimum lot size of 20 - 160 acres depending on average slope.

The minimum lot size for the purposes of subdivision in the Roadside Services zoning designation is five (5) acres (refer to ‘Background’ section for General Plan amendment history). The proposed Parcel Nos. 2, 3, and 4 within the Roadside Services zoning would measure 5 acres, 5 acres, and 7.5 acres, respectively. As such, the parcels will be compliant with applicable General Plan policies governing density and minimum lot size requirements for the Roadside Services areas.

2. Zoning Ordinance:

A) Agricultural Ranchlands Base Zoning District

The base zoning district for Parcel 1 is AR, and the Zoning Ordinance specifies that minimum lot sizes in AR zones shall be determined by the 20-160s slope density formula. This formula specifies a 20-acre minimum lot size for parcels with average slope of 10% or less, and a 160-acre minimum lot size for parcels with an average slope of 50% or greater.

The average slope of the parcel is 7% and therefore the required minimum lot size is 20 acres. The proposed subdivision would create one 110.2 acre lot within the AR district, and therefore the proposed subdivision conforms to the Zoning Ordinance requirements for lot size. The existing use on this parcel is single-family residential and agricultural ranchlands, which is allowed by right in the AR zoning district. No new improvements or development is proposed on this Parcel.

B) Roadside Services Zoning District

The base zoning district for proposed Parcel Nos. 2, 3, and 4 is RS. The minimum lot size for purposes of subdivision within the Roadside Services zoning district is
five (5) acres (refer to ‘Background’ section for Zoning Ordinance amendment history). The three RS zoned parcels are proposed at 5 acres, 5 acres, and 7.5 acres, respectively, and conform to the Zoning Ordinance requirements for lot size. The area comprising proposed Parcels 2 to 4 is currently vacant, and no development is proposed as a part of the subdivision. Any subsequent development proposals on proposed parcels 2 to 4, would need to conform to the use regulations and development standards of the RS zoning district.

C) Scenic Road Combining District

Parcel 1 is zoned AR-sr, and Parcels 2 to 4 are zoned RS-sr. The Scenic Road (-sr) combining district mandates Design Review approval prior to issuance of any building permit for a structure located within 100 feet of a designated scenic road. No development is proposed with this subdivision, and none of the existing structures shown on the tentative map are located within 100 feet of the designated scenic road (Pacheco Pass Highway). Any future development that proposes to locate a structure within 100 feet of Pacheco Pass Highway will require Design Review approval.

3. Williamson Act Compatible Use Determination

The subject property is used for the commercial production of hay and cattle, and the majority is currently under a Williamson Act Contract. California Government Code requires a tentative map be denied if the resulting parcels following a subdivision of that land would be too small to sustain their agricultural use, or the subdivision will result in residential development not incidental to the commercial agricultural use of the land.

Government Code § 66474.4 (b) (1) states: “For purposes of this section, land shall be conclusively presumed to be in parcels too small to sustain their agricultural use if the land is (A) less than 10 acres in size in the case of prime agricultural land, or (B) less than 40 acres in size in the case of land that is not prime agricultural land,” and Government Code § 66474 (b) (2) states: “For purposes of this section, agricultural land shall be presumed to be in parcels large enough to sustain their agricultural use if the land is (A) at least 10 acres in size in the case of prime agricultural land, or (B) at least 40 acres in size in the case of land that is not prime agricultural land.”

Parcel 1 is proposed at 110.7 acre parcel, and the two remainder parcels will be approximately 5,887 acres and 3,237 acres in size. Per Code § 66474.4 (b) (2), the proposed parcels are large enough to sustain their agricultural use. Additionally, staff determined that the property and the proposed 4-lot subdivision project meet the Williamson Act Ordinance, Findings, and Guidelines adopted by the Board of Supervisors on December 15, 2016, and complies with the Williamson Act contract restricting development on the subject parcel.

4. Subdivision Ordinance
This subdivision application has been reviewed in accordance with the Subdivisions and Land Development Ordinance Section C12-122 of the County of Santa Clara Ordinance Code, and the State Subdivision Map Act, which states that the Zoning Administrator shall deny approval of a tentative or final subdivision map if it makes any of the following seven (7) findings outlined below in letters (a) - (g). Staff has determined that none of the findings, outlined in bold below, can be made for the proposed subdivision, followed by Staff’s analysis for each finding presented below in regular text:

(a) That the proposed map is not consistent with applicable general and / or specific plans.

Subdivisions are subject to conformance with policies R-LU 37 through 44 in Ranchland areas, and policies 83 and 83.1 in lands designated as Roadside Services (County General Plan, Book B).

The proposed four-lot minor subdivision is consistent with the above referenced General Plan policies, because:

1. The proposed subdivision meets the density and minimum lot size requirements for Ranchlands (Policy R-LU41) at 1 dwelling unit per 110.2 acres, and Roadside Services (R-LU83.1) at 1 dwelling unit per 5 acres;
2. The existing single-family residence is a permitted use on Parcel 1, and as no development is proposed as part of the subdivision, the project will not lead to intensification of the property (R-LU37 and 39);
3. The subdivision proposal does not exceed lot creation thresholds for area B; R-LU 42(3) requires minimum lot size of 160 acres for any major subdivisions created over a three-year period over one land holding, the proposal includes 4 lots and is below that threshold; R-LU 43 for Area A requires no more than 20 parcels greater than 160 acres be created in any year; the project is located within Area A and the creation of Parcel 1 is the only subdivision proposal within the Ranchland areas for 2018;
4. The existing roadway is adequate to meet the access needs of this residence (R-LU44);
5. There is no development currently proposed on Parcel Nos. 2, 3, or 4, and any future development proposal would require a Use Permit and related evaluation for consistency with the County General Plan (R-LU 83).

(b) That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.

The General Plan designation for the subject parcels is Ranchlands and Roadside Services. There are no General Plan policies with respect to design for Ranchlands and Roadside Services Designations, and no improvements are proposed with the subdivision. This finding is not applicable.

(c) That the site is not physically suitable for the type of development.
The project site has a slope of less than 10%. Access to the four proposed lots is available, and there are no physical or geographic features which would significantly impede, or prevent the proposed subdivision.

No development is proposed with this subdivision; the existing residence is served by an existing well and septic system. Any proposed development of these proposed parcels would be subject to review by the County Department of Planning and Development for consistency with County codes and ordinances. The County Geologist would also review any proposals to ensure compliance with codes related to potential geological/seismic hazards.

(d) That the site is not physically suitable for the proposed density of development.

There are no physical constraints present on the subject parcel which make the site physically unsuited for the proposed density of development.

For Parcel Nos 2, 3 and 4, as no roadside service development is proposed as part of the subdivision, the project was evaluated for basic development on each new parcel. The proposed lots are large enough to accommodate all necessary improvements for future development and have the capacity to be developed with on-site wells for domestic water, on-site septic systems for sewage disposal, and necessary drainage and access improvements. Any future development proposals on these parcels would be reviewed against all County codes, ordinances, and standards.

(e) That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

The Habitat Plan land cover of the subject parcels is a mix of grain / row crop / hay / pasture, California grassland, and mixed Oak Woodlands. No creeks or riparian corridors are located within 150 feet of the subject property, and the property contains no serpentine soils. Any future proposed Roadside Service use would be subject to discretionary approval and subsequent environmental review under CEQA, and any development of the proposed RS zoned parcels within Santa Clara Valley Habitat Plan area will be required to comply with the conditions of the Santa Clara Valley Habitat Plan prior to issuance of any building permits. Hence, the proposed subdivision, which does not include physical development, is unlikely to cause any environmental damage or impact any fish or wildlife habitats.

(f) That the design of the subdivision or the type of improvements is likely to cause serious public health problems.
No development is proposed with this subdivision. Any future proposed development will require environmental review under CEQA to assess long-term traffic, noise, and air quality impacts, and will require septic systems which will be reviewed and approved by the Department of Environmental Health. Percolation tests have been conducted which indicate that the proposed parcels are suitable for development of septic systems.

(g) That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through, or use of property within the proposed subdivision. In this connection, the Zoning Administrator may approve a map if it finds that alternate easements, for access or use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This section shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction, and no authority is hereby granted to the Board to determine that the public at large has acquired easements for access through, or use of property within the proposed subdivision.

The tentative map submitted with this application shows all easements which exist on the subject parcel, and a review of all available maps and the submitted tentative map by Staff, confirms that the design of the subdivision will not conflict with any existing easements on the property.

Access to proposed lots 1, 2, 3 and 4 will be from Pacheco Pass Highway. The proposed subdivision will not conflict with easements, acquired by the public at large, for access through, or use of property within the proposed subdivision.

Staff has determined that the proposed Tentative Parcel Map is consistent with the applicable General Plan designations, and that the site is physically suitable for the proposed density of development. Moreover, the proposed subdivision will not cause substantial environmental damage, injure wildlife or their respective habitat, cause serious public health problems, nor will the proposed subdivision conflict with easements for access through, or use of, property within the proposed subdivision. Therefore, none of the findings in Section C1-12 of the County of Santa Clara Ordinance Code and the California Subdivision Map Act are applicable to the proposed subdivision, and therefore Staff recommends approval of the proposed subdivision.

BACKGROUND

On July 22, 2016, the applicant submitted a subdivision application to create four (4) new parcels from two (2) existing parcels on Pacheco Pass Highway in the unincorporated area east of Gilroy. At the time of application submittal, the existing minimum lot size in requirements in the Roadside Services zoning ordinance was 20 acres and the Santa Clara County General Plan (Book B) did not contain an allowable density policy for these areas. Staff evaluated the variety of uses permitted by the Roadside Services land use designation and zoning, and determined that the 20 acre minimum lot size was excessive, and, since leasing portions of a legal parcel is not
allowed under the Subdivision Map Act, the then-specified 20-acre minimum lot size requirement was unduly restrictive.

As a result, the County initiated a General Plan and Zoning Ordinance Amendment which modified the allowable uses and the minimum lot size requirements for the Roadside Service Land Use Designation and the RS Zoning District. This amendment, adopted by the Santa Clara County Board of Supervisors, and effective as of October 12, 2017, reduced the minimum lot size in Roadside Service areas from 20 to 5 acres, and modified the allowable uses within Roadside Service Land Use Designation and RS Zoning District to include single-family residential uses incidental to a legally established non-residential use on the property.

The application for the four-lot subdivision was deemed complete on January 3, 2017, pending the approval of the Roadside Services General Plan and Zoning Amendments, which went into effect October 12, 2017, during the County General Plan Amendment window. Subsequent to approval of the Roadside Services General Plan and Zoning Amendments, the project was scheduled for the December 21, 2017 Zoning Administration public hearing. Public notice for this Zoning Administration public hearing was provided through direct mail to nearby residents, sent December 8, 2018, and through newspaper publishing on December 8, 2017.

On December 21, 2017, the Deputy Zoning Administrator continued the project to January 18, 2018 to allow for additional time to review the administrative record for the project, and resolve questions related to the two (2) existing lots indicated in the record that would result as remainder lots on the proposed Burdette Minor Subdivision.

On January 18, 2018 the project was continued again to a date uncertain to allow additional staff time to review the impacts, if any, of proposed “Parcel 2” being bisected by a fee simple right-of-way, and to verify that there are two (2) existing legal lots that can result in two (2) remainder lots on the proposed Subdivision. Additionally, a representative from Santa Clara County Roads and Airports noted that a County-owned right-of-way was not accurately depicted on the proposed map, and that there was an active violation (fence and gate) constructed by the applicant on the County’s right-of-way.

After resolving all questions and incomplete items that arose through the public hearing process, the application was subsequently scheduled for the March 1, 2018 Zoning Administration public hearing. A new public notice was mailed and published February 16, 2018.

STAFF REPORT REVIEW

Prepared by: Robert Salisbury, Senior Planner
Reviewed by: Mark Connolly, Senior Planner
Leza Mikhail, Principal Planner/Zoning Administrator
USE OF A PRIOR CEQA DOCUMENT
NEGATIVE DECLARATION

Pursuant to Section 15162 of the CEQA Guidelines, the County of Santa Clara has determined that the project described below is pursuant to or in furtherance of a Negative Declaration which has been previously adopted and does not involve new significant impacts beyond those analyzed in the previous Negative Declaration.

<table>
<thead>
<tr>
<th>File Number</th>
<th>APN(s)</th>
<th>Date</th>
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<tr>
<td>10700-16S</td>
<td>898-20-032, -036, others</td>
<td>2/22/2018</td>
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**Project Name**: Burdette Subdivision

**Project Type**: Residential/Commercial

**Owner**: Pacheco Pass Land and Cattle LLC

**Applicant**: Ryan Amaya /Kier & Wright

**Project Location**: 10164 Pacheco Pass Highway in unincorporated Santa Clara County

**Project Description**: Subdivision to create 4 lots of 5, 5, 7, and 110.2 acres, respectively, with 2 remainder lots.

**Background and Summary of Findings**

Per the California Environmental Quality Act (CEQA) of 1970 (as amended), all development permits processed by the County Planning Office which require discretionary approval are subject to environmental review. If a previous CEQA document has been prepared and adopted or certified which adequately address all the possible environmental impacts of the proposed project, a new negative declaration or EIR is not required unless (a) substantial changes are proposed in the project which will result in new significant environmental effects, (b) substantial changes have occurred with respect to the circumstances (background conditions) which will result in the identification of new significant impacts, or (c) new information is available which shows that the project will have new or more intensive significant impacts or new mitigation measures and alternatives which were previously found to be infeasible (in the prior CEQA document) would now in fact be feasible (CEQA Guidelines 15162).

The Planning Office evaluated the project described above and has determined that none of the circumstances exist which would require additional environmental review. As such the environmental impacts of the project have been adequately evaluated in the Negative Declaration adopted by the Board of Supervisors on September 12, 2017 for the project entitled “Roadside Services Zoning Ordinance Amendment” and that no further environmental review is required under the California Environmental Quality Act.

Approved by:
Robert Salisbury, Senior Planner

Signature
Date 2/22/18
ATTACHMENT B

4-lot Subdivision on Pacheco Pass Highway
Preliminary Conditions of Approval

10700 – 16S

Owner/Applicant: Pacheco Pass Land and Cattle LLC/ Ryan Amaya
File Number: 10700 – 16S
Location: 10164 Pacheco Pass Highway, Hollister, CA 95023
Project Description: Proposed Tentative Map for a 4-lot subdivision of two parcels (6,242± acres and 3,178± acres respectively) into four lots of 110.2, 5, 5, and 7.47 acres located within the AR-sr and RS-sr zoning district.

Items marked with an asterisk (*) must be completed prior to submittal of the final. Items marked with two asterisks (**) must be completed prior to map recordation.

PLANNING
Contact Robert Salisbury at (408) 299-5785, or e-mail: robert.salisbury@pln.sccgov.org regarding the following conditions:

1. The parcel configuration shown on the Tentative Map date-stamped March 1, 2018 shall be the approved configuration.

2. The Parcel Map shall include a note stating Parcel Nos 2, 3, and 4 are not approved building sites. These parcels have not been evaluated for development as no roadside service use was proposed.

3. The base zoning district for Parcel Nos. 2, 3 and 4 is Roadside Services. Any subsequent roadside service development proposed on Parcels 2-4 shall conform to the development standards of RS zoning district; and shall be subject to a use permit and environmental review under CEQA.

4. The base zoning district for Parcel 1 is Agricultural Ranchlands. No development or improvement is proposed on Parcel 1 with this subdivision. Any subsequent development proposed must conform to the development standards of AR zoning district.

5. The grading violation located on APN 898-24-038 shall be fully abated prior to submittal of the Final Parcel Map.

Williamson Act
6.** Prior to Final Parcel Map recordation, the property owner shall obtain Board of Supervisor’s approval to Rescind and Enter into a new Williamson Act Contract to either a) consolidate all three contracts into one contract, or b) enter into one separate contract for the subdivided parcels and the remaining lands.

7.** The property owner shall submit one copy each of the recorded Williamson Act Contracts to the Planning Office, prior to Final Parcel Map recordation.

Habitat Plan

8.** Prior to Final Parcel Map recordation, a note shall be placed on the signature sheet that states, “Development of parcels shall comply with the Santa Clara Valley Habitat Conservation Plan.”

LAND DEVELOPMENT ENGINEERING:
Contact Christine Hii (408-299-5716 / christine.hii@pln.sccgov.org) regarding the following conditions:

9.** Prepare and submit a Parcel Map for review and approval by the County Surveyor.

10.** Parcels 1, 2, 3, and 4 must be surveyed by a Licensed Land Surveyor or Registered Civil Engineer. Monuments shall be set, reset, or verified in accordance with County standards, the California Subdivision Map Act, and/or the California Land Surveyor’s Act map recordation.

11.** A monument bond shall be posted prior to Final Parcel Map recordation.

Utilities
12. All new on-site utilities, mains and services shall be placed underground and extended to serve any future development. Off-site work should be coordinated with any other undergrounding to serve other properties in the immediate area.

13.** Provide letters from the utility companies stating that all easements and financial obligations have been satisfied. These shall include:
   a. Gas Company
   b. Electric Company
   c. Telephone Company
   d. Water Company
   (Contact the utility companies immediately as these clearances may require over 90 days to acquire.)

Dedications and Easements:
14.** The following offers to dedicate easements shall be submitted to LDE. All easement dedications shall include legal descriptions, plats, and corresponding documents to be reviewed and approved by the County Surveyor’s Office. The owner/applicant will be
required to record the document with the County’s Recorder’s Office after reviewed and approved by the County Surveyor’s Office.

a. Offer to dedicate a minimum 25-foot wide or 5 feet beyond top of bank, whichever is greater, easement to the public and the County for storm-drainage purposes for all swales and channels effected by this development that pass drainage through the site.

15.** Please include all applicable easements affecting the parcel with benefactors and recording information on the parcel map.

Other Conditions:

16.** Should the project change and require improvements, the improvement plans shall be reviewed for approval by LDE.

DEPARTMENT OF ENVIRONMENTAL HEALTH
Contact Darrin Lee (408-299-5183 / Darrin.Lee@deg.sccgov.org for questions regarding the following:

17.** Prior to Final Parcel Map recordation, the existing septic system (Lot #1) must be evaluated by a licensed septic tank contractor or pumper. (Refer to Santa Clara County Onsite System Manual, pages 1-3 and 4). The evaluation must include pumping, inspecting and water testing the septic tank, and a 30-minute water test of the leachlines. The evaluation is necessary to ensure that the existing system is in adequate working condition, and if it is not, that sufficient area is available for a septic system repair before any further development on the parcel is approved.


18. For each of the proposed lots, prior to obtaining any future Planning and Development permits for commercial use (and possible ancillary residential use), availability of potable water shall be demonstrated by obtaining water clearance from the Department of Environmental Health.

ROADS AND AIRPORTS
Contact Rocelia Kmak (408) 573-2464 or email at Rocelia.Kmak@rda.sccgov.org for questions regarding the following.

19.** Prior to Final Parcel Map recordation, the gate located within the County right-of-way shall be removed to the satisfaction of Roads and Airport Staff.

FIRE MARSHAL OFFICE
Contact Mac Bala at 408-299-5763 or mac.bala@pln.sccgov.org for question.
20. Development of the proposed lots is subject to future review and evaluation for fire department access and water supply. At such time as a Planning and Development Permit application is submitted, FMO review and approval shall be required.
Project Site
10164 Pacheco Pass Hwy

Casa de Fruta

Vicinity Map
File No. 10700-165
APN(s): 898-20-032, -036, -043
898-59-002, -003, -004, -007, -008, -009
898-58-001, -002

Attachment C - Location and Vicinity Map
ATTACHMENT D
Proposed Tentative Map
December 15, 2016

Shawn Bourdet c/o Pacheco Pass Land & Cattle LLC
10164 Pacheco Pass Highway
Hollister, CA 95023

RE: County File No. 10700-16WA
Williamson Act Compatible Use Determination for a Four Lot Subdivision Application
Pacheco Pass Highway

Dear Mr. Bourdet:

The properties subject to this Williamson Act Compatible Use Determination are restricted by the following Williamson Act Contracts:

- Contract No. 67.024: APNs 898-20-032, 033, 036, and 043
- Contract No. 67.025: APNs-898-58-001
- Contract No. 72.145: APNs-898-59-006, 007, and 008

The parcels consist of approximately 9,234 acres of standard and non-standard size and prime and non-prime agricultural land located on the north side of Highway 152, at the intersection of the Casa de Fruita exit. This land is currently being utilized for the production of cattle and hay. The subdivision application (File # 10700-16S) will create “Parcel 1” and two remainder parcels (“Remainder 1” and “Remainder 2”). The portion of the property located on the south side of Highway 152 is not under Williamson Act Contract (Parcels 2, 3, and 4), and is not subject to this Williamson Act Compatibility Determination.

Staff evaluated the application for a Compatible Use Determination related to the proposed “Parcel 1”, “Remainder 1”, and “Remainder 2”. Staff has determined the property and the proposed project meet the Williamson Act Ordinance and Guidelines adopted by the Board of Supervisors and complies with the Williamson Act contract restricting the subject parcel for the reasons discussed below.

This Compatible Use Determination is based upon a submitted subdivision application, dated July 22, 2016.
This Compatible Use Determination is based upon a submitted subdivision application, dated July 22, 2016.

The proposed subdivision will modify existing Williamson Act Contract Nos. 67.024, 67.025, and 72.145. Therefore, prior to recordation of the Tentative Subdivision Map, the owner shall file applications and obtain Board of Supervisor’s approval to Rescind and Enter into a New Williamson Act Contract to either

a) Consolidate all three contracts into one contract, or
b) Enter into separate Williamson Act Contracts for the subdivided parcel and the remaining lands.

The County Planning Office is issuing a favorable Compatible Use Determination, subject to the following condition:

1. Prior to recordation of the Tentative Subdivision Map, the property owner shall obtain Board of Supervisor’s approval to Rescind and Enter into a new Williamson Act Contract to a) consolidate all three contracts into one contract or b) enter into one separate contract for the subdivided parcel and the remaining lands.

2. The property owner shall submit one copy each of the recorded Williamson Act Contracts to the Planning Office prior to recordation of the Tentative Subdivision Map.

Guideline for Commercial Agricultural Use
Based upon documentation submitted by the applicant, a site visit, and records maintained with the Division of Agriculture, staff determined the standard sized parcel of non-prime land is devoted to the commercial production of agricultural commodities (livestock production) as described in the “Guideline for Commercial Agricultural Use.” Specifically, at least 60% of the property is being used for commercial agriculture and the owner substantiated revenue from commercial agricultural on at least 60% of the property in three of the past five years.

Staff verified that the subject properties are adequately fenced and cross-fenced for grazing, with 500 cows and heifers on the ranch. Hay is grown on the flat portion of the property for grazing, and the site inspection showed that over 60% of the subject property is used for commercial agriculture. Records maintained by the Division of Agriculture show that the property has been owned and operated by the applicant’s family since 1939. In addition, a restricted materials permit was issued under the name of San Felipe Cattle Company. For agricultural commodities to be considered in agricultural production, more than 60% of the property must be used for commercial agriculture. Therefore, the subject parcel is devoted to the commercial production of agricultural commodities.
Guideline for Compatible Use Development on Restricted Lands, County Ordinance Code and the Williamson Act

Staff evaluated the existing property and proposed subdivision, and determined that the proposed 4-lot subdivision meets the criteria for Williamson Act compatible use development for the reasons outlined below.

1. The contracted parcel is devoted to commercial agricultural use - specifically commercial production of beef cattle and hay.

2. The proposed subdivision will result in Parcel 1 (110.13 acres), Remainder 1 (5,887 acres), and Remainder 2 (3,237 acres). Parcel 1 consists of 118,457 square feet of existing development, which is 2.5% coverage on the parcel. No development or improvement are proposed on Remainder 1 or Remainder 2 parcels. The subdivision is compatible with and will not significantly compromise the long-term productive agricultural capability of any contracted land within the agricultural preserve. The proposed project will be minor in relation to the acreage devoted to commercial agricultural production. The proposed improvements would not compromise the long-term productive agricultural capability of any contracted land within the agricultural preserve, or livestock production currently on the subject parcel.

3. The proposed subdivision will not significantly displace or impair the cattle and hay production or reasonably foreseeable agricultural operations on the subject parcel. The remainder of the land will continue to be available for cattle and hay production. Therefore, cattle and hay production on the parcel will not be displaced or impaired.

4. The proposed subdivision will not substantially interfere with the cattle and hay production on the subject property. No new development is proposed and the submitted subdivision plan indicates the total square footage of existing development on Parcel 1 is approximately 118,457 square feet (2.72 acres), which remains minimal in relation to the size of the parcel - 110.13 acres. Total development coverage shall not exceed the maximum of 10%, shall not exceed 5 acres, and shall be incidental to the cattle and hay production on the land.

5. At least 97% of the Parcel 1 110.13 acre property, and all of Remainder 1 and Remainder 2, will continue to be devoted to cattle and hay production. The majority of the land will be capable of sustaining a commercially viable agricultural use.

6. The proposed subdivision for Parcel 1 (existing development), Remainder 1, and Remainder 2 will not hinder or impair agricultural operations in the area by significantly increasing the permanent or temporary human population of the area.
The proposed subdivision is for estate planning purposes and no residential subdivision is proposed. Cattle and hay production will continue to be the primary use of the land.

The proposed project complies with other applicable laws, regulations, ordinances and guidelines, including the County General Plan and Zoning Ordinance.

If you have any questions regarding this determination, please do not hesitate to contact me at (408) 299-5790 or kim.rook@pln.sccgov.org.

Sincerely,

Kim Rook
Senior Planner

c: Ryan Amaya, Kier & Wright, 3350 Scott Blvd., Bldg. 22, Santa Clara, CA 95054
Joe Deviney, Agricultural Commissioner
Eric Wylde, Acting Deputy Agricultural Commissioner
Lori Oleson, Agricultural Biologist