

Mark J. Hendrickson Hearing Officer 2222 "M" Street Merced, CA 95340
(209) 385-7654 (209) 726-1710 Fax
www.co.merced.ca.us

HEARING OFFICER AGENDA Regular Meeting

Monday, February 10, 2020 - 8:30 a.m

Merced County Administration Building
Development Resource Center, Second Floor 2222 M Street
Merced, California 95340
Phone: 209.385.7654 Fax: 209.726.1710

1. CALL TO ORDER

2. CITIZEN COMMUNICATIONS

Public opportunity to address the Hearing Officer on any item of interest over which the Planning Commission has jurisdiction that is not on the agenda

3. PUBLIC HEARING(S)

3.I. MINOR SUBDIVISION APPLICATION No. MS20-001

IRENE ROBERTS / JOHN AND JULIE PEREIRA - A request to create a 3.77 acre homesite parcel from a 28.7 acre parcel and combine the remaining 24.93 acres with an abutting parcel, creating a 53.55 acre parcel. The project site is located at the northeast corner of W. Bell Drive and N. Steinberg Road in the Atwater area, identified as Assessor's Parcel Numbers (APNs) 056-034-005 and 056-034-006. The property is designated Agricultural land use and zoned A-1 (General Agricultural). CEQA: Staff recommends that the Hearing Officer determine that no further environmental review is required pursuant to Section 15162 - "Subsequent EIRs and Negative Declarations" of the CEQA Guidelines. **BP**

RECOMMENDATION(S):

- 1) Open/close the public hearing;
- 2) Determine no further environmental review is required pursuant to Section 15162 - "Subsequent EIRs and Negative Declarations" of the CEQA Guidelines based on the analysis in the 2030 Merced County General Plan Program Environmental Impact Report and the attached CEQA Section 15162 Findings and Analysis; and,
- 3) Approve Minor Subdivision Application No. MS20-001 based on the findings identified in the Staff Report and subject to the recommended Conditions of Approval.

Documents:

[ITEM A. MS20-001 - IRENE ROBERTS AND JOHN AND JULIE PEREIRA.PDF](#)

4. HEARING OFFICER AGENDA

4.I. Hearing Officer Agenda 02/10/2020

Documents:

[021020.PDF](#)



Hearing Officer
 Staff Report
 February 10, 2020

PREPARED BY:
 APPROVED BY:

BRODY PATTERSON, PROJECT PLANNER *BP*
 MARK HENDRICKSON, DIRECTOR

MINOR SUBDIVISION APPLICATION No. MS20-001 – IRENE ROBERTS / JOHN AND JULIE PEREIRA - A request to create a 3.77 acre homesite parcel from a 28.7 acre parcel and combine the remaining 24.93 acres with an abutting parcel, creating a 53.55 acre parcel. The project site is located at the northeast corner of W. Bell Drive and N. Steinberg Road in the Atwater area, identified as Assessor's Parcel Numbers (APNs) 056-034-005 and 056-034-006. The property is designated Agricultural land use and zoned A-1 (General Agricultural). CEQA: Staff recommends that the Hearing Officer determine that no further environmental review is required pursuant to Section 15162 - "Subsequent EIRs and Negative Declarations" of the CEQA Guidelines.

SUPERVISORIAL DISTRICT: 4 – Lloyd Pareira

RECOMMENDATION(S):

- 1) Open/close the public hearing;
- 2) Determine no further environmental review is required pursuant to Section 15162 - "Subsequent EIRs and Negative Declarations" of the CEQA Guidelines based on the analysis in the 2030 Merced County General Plan Program Environmental Impact Report and the attached CEQA Section 15162 Findings and Analysis; and,
- 3) Approve Minor Subdivision Application No. MS20-001 based on the findings identified in the Staff Report and subject to the recommended Conditions of Approval.

LOCATION MAP:



BACKGROUND:

Site Description

The project site is located at the northeast corner of W. Bell Drive and N. Steinberg Road in the Atwater area, identified as Assessor’s Parcel Numbers (APNs) 056-034-005 and 056-034-006. The project site and properties in the vicinity are designated Agricultural land use in the General Plan and zoned A-1 (General Agricultural). The project site and surrounding area is substantially flat, characterized by commercial agricultural land uses and the occasional single-family residence.

The applicant is requesting to create a homesite parcel by conveying a 3.77 acre portion of a 28.7 acre parcel and combining the remaining 24.93 acres with an abutting 28.7 acre parcel, creating a 53.55 acre parcel. The proposed homesite parcel (Parcel B) and the proposed merged parcel (Parcel A) each contain one home, both of which are served by their own respective private domestic wells and septic systems. Parcel A will have frontage on Bell Drive and Steinberg Road. Parcel B will have frontage on Bell Drive. Agricultural operations will continue on the merged parcel (Parcel A), with no changes in agricultural operations proposed. No new structures are being proposed with this project.

Surrounding Uses

	General Plan	Zoning	Current Land Use
On-Site:	Agricultural	A-1	Row Crops / Single-Family Residence
North:	Agricultural	A-1	Orchards / Single-Family Residences
South:	Agricultural	A-1	Fallow Land / Single-Family Residence
East:	Agricultural	A-1	Orchards / Single-Family Residences
West:	Agricultural	A-1	Orchards / Single-Family Residences

Prior Actions/Entitlements

ZV254; MS3397 (PM60-43)

ANALYSIS:

Project Description

The applicant is requesting to create a 3.77 acre homesite parcel from a 28.7 acre parcel and combine the remaining 24.93 acres with an abutting parcel, creating a 53.55 acre parcel. The project site is designated Agricultural land use and zoned A-1 (General Agricultural).

Consistency with Adopted Plans and Policies

1. General Plan

The 2030 General Plan provides a set of guiding principles, goals, and policies that communicate the adopted philosophy of the County regarding growth, development and sustainability. These statements, together with adopted diagrams, standards and analysis, provide the context under which specific land use proposals are reviewed. The 2030 General Plan is therefore considered the local "constitution" for planning and development and serves to direct the physical growth and development of the County for the long term.

Land Use Element

The Land Use Element of the 2030 General Plan provides the policy context for Merced County to achieve its vision for both rural and urban land use. Agricultural land use designation is applied to much of the land within the County. It acknowledges the importance of agriculture to

the economy and culture of the County, and seeks to protect productive agricultural land, promote agricultural processing and support operations, and recognize and preserve valuable open space resources.

The following land use goals and policies are applicable to the present application:

Goal LU-2

Preserve, promote, and expand the agricultural industry in Merced County.

- **Policy LU-2.3: Land Use Activity Limitations**

Limit allowed land use within Agricultural and Foothill Pasture areas to agricultural crop production, farm support operations, and grazing and open space uses.

The proposed project is consistent with Policy LU-2.3 of the General Plan. The 24.93 acres of land being combined with the abutting property (Parcel A) will remain in agricultural production.

Agricultural Element

The Agricultural Element provides the policy context for Merced County to achieve its vision for the protection, preservation, and expansion of productive agriculture. Agriculture is the prominent economic segment in the County and accounts for more than 90 percent of all land area. Merced County is ranked fifth among all counties in California and sixth in the nation in the annual market value of farm products. Rich soils, accessible irrigation water, favorable climate, a large labor force, and reliable access to local, national, and global markets make Merced County a thriving agricultural community.

The following agricultural goals and policies are applicable to the present application:

Goal AG-2

Ensure the long-term preservation and conservation of land used for productive agriculture, potentially-productive agricultural land, and agricultural-support facilities.

- **Policy AG-2.13 Minimum Agricultural Parcel Size Requirement**

Require a 20 acre minimum permitted parcel size in areas designated Agricultural to discourage land divisions for rural residential purposes and maintain parcels large enough for efficient commercial agriculture production. Require 160 acre minimum permitted parcel size in areas designated Foothill Pasture and in grassland areas.

The proposed merged parcel is 53.55 acres, which is consistent with the minimum permitted parcel size in areas designated Agricultural.

2. Zoning Code

The project site is zoned A-1 (General Agricultural) on the Merced County Zoning Map. The purpose of the A-1 (General Agricultural) zone is to provide areas for more intensive farming operations that are dependent on higher quality soils, water availability, relatively flat topography, and agricultural commercial and/or industrial uses dependent on proximity to urban areas or locations in sparsely populated low traffic areas. In the A-1 zone, parcels smaller than 40 acres down to a minimum of 20 acres can be considered where the agricultural productivity of the property will not be reduced.

The proposed Minor Subdivision is consistent with the development standards in the Zoning Code. The proposed merged parcel (Parcel A) will be 53.55 acres, exceeding the minimum 20-acre parcel size in the A-1 zone. The proposed 3.77 acre homesite parcel (Parcel B) is exempt

from the minimum A-1 zone parcel size requirement because the project meets all of the following conditions pursuant to Section 18.10.030(G) of the Merced County Zoning Code, which reads:

When the parcel owner desires to retain a dwelling, which has existed on the parcel for at least 10 years, the parcel owner may divide off the parcel containing the dwelling when all the following conditions are met:

1. The portion of the parcel which does not contain the dwelling is combined with an abutting parcel.
2. The parcel containing the dwelling shall not be less than one net acre and not more than five net acres in size and has a minimum 150 feet of frontage on a public road; and,
3. The dwelling which is to be retained must have been lived in by the parcel owner for at least 10 years.

Both parcels involved in this Convey and Combine Minor Subdivision are currently 28.7 acres. The parcel on which a homesite is being created will divide off 3.77 acres, and the remaining 24.93 acres will be combined with the abutting 28.7 acre parcel, creating a 53.55 acre parcel. The 3.77 acre homesite parcel (Parcel B) will have approximately 391 feet of frontage on Bell Drive, and the property owner has provided proof that they have lived in the dwelling on the proposed homesite parcel for at least 10 years.

The project is also subject to the Agricultural Setback Requirement for Created Parcels pursuant to Sections 18.10.030(E) and 18.10.040(M.1.) of the Zoning Code. This provision of the Zoning Code requires a 200 foot physical separation (buffer) between any existing habitable structure and any abutting parcels used for agricultural production. The existing residence on proposed Parcel A is currently located less than 200 feet from the shared property line to the west, and the existing residence on proposed Parcel B is currently located less than 200 feet from the shared property line to the east. This Minor Subdivision does not propose to move that shared property line due to the configuration of the existing residences. Areas of both Parcel A and Parcel B are currently used for agricultural production.

The existing residence on Parcel A will still be located less than 200 feet from its western property line should this Minor Subdivision be approved, but because the area bordering that property line is an existing residence (specifically, the residence on Parcel B) and is not in agricultural production, the 200 foot buffer does not apply. The 200 foot agricultural buffer is met to the east, north, and south of the residence on Parcel A, and therefore, the Agricultural Setback Requirement is satisfied for Parcel A.

The existing residence on Parcel B will still be located less than 200 feet from its eastern property line should this Minor Subdivision be approved, but because the area bordering that property line is an existing residence (specifically, the residence on Parcel A) and is not in agricultural production, the 200 foot buffer does not apply. The proposed parcel map has accommodated for the 200 foot buffer for the new property lines to the west and north of the residence on Parcel B. The agricultural buffer is met to the west, north, and south of the residence on Parcel B, and therefore, the Agricultural Setback Requirement is satisfied for Parcel B.

3. Other Adopted Plans and Policies

Subdivision Map Act and Title 17

The proposed subdivision can be found consistent with the Subdivision Map Act and Title 17 of the Merced County Code. No new homes or new land uses are proposed on the project site. Additionally, Policy AG-3.12 of the Agricultural Element of the General Plan waives the right to construct residences on resulting parcels by placement of a note on the face of the recorded-map that would permit the construction of residences on the resulting parcels subject to the approval of a conditional use permit.

Williamson Act and Agricultural Preserve

Both parcels involved in the proposed subdivision are located within the Agricultural Preserve. Neither parcel is currently under a Williamson Act contract. The minimum parcel size for parcels in the Agricultural Preserve is 10 acres, and the applicant is proposing a 3.77 acre homesite parcel. As a result, prior to recordation of the Parcel Map, the area where the 3.77 acre homesite parcel is proposed will need to be removed from the Agricultural Preserve. This will be incorporated as a condition of approval for this Minor Subdivision. With removal of the 3.77 acre homesite from the Agricultural Preserve, the proposal is consistent with applicable provisions of the Williamson Act and Agricultural Preserve.

California Environmental Quality Act (CEQA)

Staff has assessed the proposed Minor Subdivision project in relation to the Program Environmental Impact Report (PEIR) prepared for the 2030 Merced County General Plan Update, and is recommending that the Hearing Officer determine that no further environmental review is required pursuant to Section 15162 - "Subsequent EIRs and Negative Declarations" of the CEQA Guidelines. See **Exhibit C** for the findings and analysis which support this conclusion.

The 2030 Merced County General Plan Program EIR contained an extensive analysis of the potential impacts from subdivisions located in agricultural and open space areas of the County (specifically Chapter 6 in the Recirculated Draft Program EIR dated July 26, 2013). The Draft and Final Program EIR concluded that the impact from agricultural subdivisions was less than significant when no new residences are proposed. Additionally, Mitigation Measure AG-5g was adopted to require a conditional use permit be processed for any new housing proposed on a newly created parcel in the agricultural zones.

However, because new residences were permitted on existing agricultural parcels, the EIR concluded the overall impact of the General Plan would be significant and unavoidable. In the current application, Minor Subdivision No. MS20-001, no additional residences are proposed and a note will be placed on the face of the Parcel Map indicating that the right to seek additional housing on the parcels has been waived. Should the landowner change their decision in the future, Mitigation Measure AG-5g would require processing of a discretionary conditional use application which would be subject to further environmental review.

Community Engagement

The project application was routed to applicable County departments for comment. No comments were received.

Notice of the Hearing Officer's public hearing was mailed to all owners of property located within 300 feet of the project site on **January 30, 2020** and published in the Merced Sun-Star on **January 30, 2020**. No written or verbal comments were received by staff prior to the completion of this Staff Report.

CONCLUSION:

The analysis provided in this Staff Report finds that the proposed Minor Subdivision is consistent with applicable provisions of the General Plan, Zoning Code, and Subdivision Map Act. Furthermore, the project is consistent with the range of possible uses considered for the area in the General Plan Program Environmental Impact Report and can be exempted from further CEQA review based on this consistency.

Staff recommends that the Hearing Officer approve Minor Subdivision Application No. MS20-001 based on the findings identified below and subject to the recommended Conditions of Approval.

RECOMMENDED HEARING OFFICER ACTION:

A. CEQA Determination

MOTION: Determine no further environmental review is required pursuant to Section 15162 - "Subsequent EIRs and Negative Declarations" of the CEQA Guidelines based on the analysis in the 2030 Merced County General Plan Program Environmental Impact Report and the attached CEQA Section 15162 Findings and Analysis.

B. Project Determination

MOTION: Approve Minor Subdivision Application No. MS20-001 based on the findings identified in the Staff Report and subject to the recommended Conditions of Approval.

Project Findings:

1. Minor Subdivision Application No. MS20-001 proposes to create a 3.77 acre homesite parcel from a 28.7 acre parcel and combine the remaining 24.93 acres with an abutting 28.7 acre parcel, creating a 53.55 acre parcel.
2. The property is designated Agricultural in the General Plan and zoned A-1 (General Agricultural).
3. The proposal is consistent with applicable provisions of the 2030 Merced County General Plan requiring the preservation of commercial agricultural land and maintaining the commercial viability of agricultural parcels.
4. The proposal is consistent with applicable provisions of the Merced County Zoning Code that have not been superseded through adoption of the 2030 General Plan.
5. The proposal is consistent with the Subdivision Map Act.
6. The proposal will be consistent with the requirements of the Agricultural Preserve after the 3.77 acre homesite is removed from the Agricultural Preserve. The homesite will be removed from the Agricultural Preserve prior to recordation of the Parcel Map.
7. The proposed Minor Subdivision is compatible with adjacent uses and properties, and will not be a nuisance nor be detrimental to the public health, safety or general welfare.

8. The project is subject to all applicable Local, State and Federal regulations.
9. Notice of the application and the Hearing Officer hearing was published in the Merced Sun-Star and mailed to property owners within 300 feet of the project site.

EXHIBITS:

- A. Recommended Conditions of Approval
- B. Tentative Parcel Map
- C. CEQA Section 15162 Findings and Analysis

cc:

Property Owner – Irene Roberts / John and Julie Pereira
Engineer – GDR Engineering, Inc.



COMMUNITY AND ECONOMIC
DEVELOPMENT DEPARTMENT

Mark J. Hendrickson
Director

Steve Maxey
Deputy Director

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MS20-001 CONDITIONS OF APPROVAL

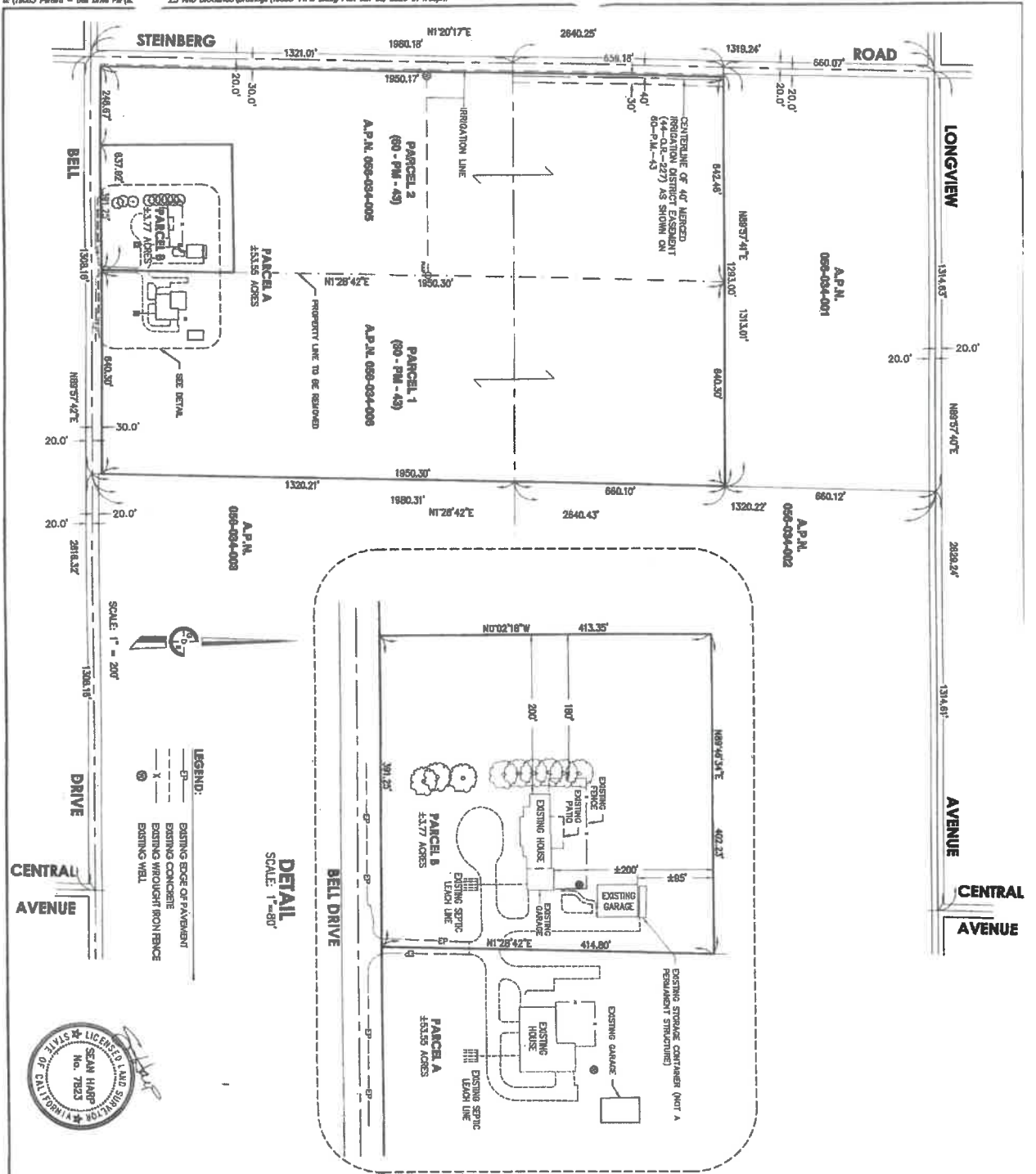
Merced County Community and Economic Development Department

1. A parcel map, including all parcels involved, shall be recorded within two (2) years of the approval date, as required by the Subdivision Map Act and Merced County Subdivision Code.
2. The applicant shall comply with all applicable Local, State and Federal regulations.
3. The project shall comply with all standard conditions contained in Planning Commission Resolution No. 20-001.
4. A note shall be placed on the face of the parcel map stating that any new residences will be subject to review and approval of a Conditional Use Permit from the County, as per General Plan Policy AG-3.12, or as otherwise permitted by the County subject to the current policies in place at the time of the request.
5. The 3.77 acre homesite parcel shall be removed from the Agricultural Preserve prior to recordation of the Parcel Map.

County Counsel

6. **INDEMNITY AND HOLD HARMLESS AGREEMENT:**

IRENE ROBERTS / JOHN AND JULIE PEREIRA have the contracted duty (hereinafter "the duty") to defend, indemnify and hold harmless the County of Merced, its Board of Supervisors, commissions, officers, employees, agents, and assigns (hereinafter "COUNTY") from any claim, action, or proceeding arising out of, or in connection with the COUNTY's approval of the project including, but not limited to, COUNTY's actions regarding related environmental determinations. This obligation shall extend to any such claim, action, or proceeding against COUNTY to attack, set aside, void, or annul, an approval by COUNTY. This duty shall arise at the first claim, action, or proceeding against COUNTY. In the event that a claim, action, or proceeding is brought, COUNTY shall promptly notify the applicant and cooperate fully in the defense. This clause for indemnification shall be interpreted to the broadest extent permitted by law.



PROPERTY OWNER / APPLICANT
 JOHN PERERA
 8815 SUNSET DRIVE
 ATWATER, CA 95301
 209-852-2953
 JOHN@PERERA.COM

PROPERTY OWNER
 JOY DALE ROBERTS & RILEY MARION ROBERTS
 8390 BELL DRIVE
 ATWATER, CA 95301

A.P.N.:
 066-034-008
 JOHN A. PERERA & JILL K. PERERA
 8350 W BELL DRIVE
 ATWATER, CA 95301

EXISTING CONDITIONS
 066-034-005 & 066-034-008
 2 PARCELS 2,496.66 ACRES
 PARCELS 1, 2, 4,268.88 ACRES
 TOTAL ACRES: 6,765.54 ACRES

EXISTING GENERAL PLAN:
 A (AGRICULTURAL)
EXISTING ZONING:
 A-1 (GENERAL AGRICULTURAL)

PROPOSED PROJECT
 2 PARCELS
 PARCEL A: 5,335.50 ACRES
 PARCEL B: 5,337.72 ACRES
 TOTAL ACRES: 10,673.22 ACRES

NOTES:
 1. ON-SITE PRIVATE WELL
 ON-SITE SEPTIC SYSTEM

PROPERTY DESCRIPTION
 1. NO IMPROVEMENTS PROPOSED WITH THIS APPLICATION.
 PARCELS 1 AND 2 AS SHOWN ON THE MAP RECORDED IN BOOK 00 OF PARCELS MAPS, PAGES 48 AND 49, MERGED COUNTY RECORDS, FILED IN COUNTY CLERK'S OFFICE, SAN JOSE, CALIFORNIA, ON 08/11/2017 IN MOUNT DIABLO MUNICIPAL.

GDR ENGINEERING, Inc.
 ENGINEERING/SURVEYING/PLANNING
 5025 MITCHELL ROAD, SUITE G
 CERRITOS, CA 94507
 TELEPHONE: (925) 258-1380 FAX: (925) 258-7370
 E-MAIL: pding@engdr.com

**CONVEY AND COMBINE
 MINOR SUBDIVISION
 FOR PERERA & ROBERTS**

Scale: AS SHOWN
 Date: JANUARY 5, 2020
 Sheet: 1 OF 1
 Dwg No. 18065 VPM 2.dwg
 Overhead: SH
 Date Plotted: 08/11/2020

MINOR SUB. 20001

REVISED MAP 1-8-2020

**The California Environmental Quality Act
(CEQA) Section 15162 Findings:**

Application: Minor Subdivision No. MS20-001 (Irene Roberts / John and Julie Pereira)

Assessor Parcel Number or Location: Assessor’s Parcel Number(s) (APN’s) 056-034-005 and 056-034-006.

Previous Initial Study/EIR Reference: The subdivision of “Agriculturally” designated land was previously comprehensively reviewed through the Program Environmental Impact Report (EIR) for the 2030 Merced County General Plan Update (SCH #2011041067).

Original Project Date: The Program Environmental Impact Report was certified on December 10, 2013, by the Merced County Board of Supervisors.

Section A - Previous Studies

- | | | |
|--|--------------------------|-------------------------------------|
| | Yes | No |
| | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
- Substantial changes are proposed in the project that will require major revisions of the previous project EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects?

Comment/Finding: The proposed project is consistent with the previous environmental review. No substantive changes are proposed. (See Page 3 for supporting analysis.)

- | | | |
|--|--------------------------|-------------------------------------|
| | Yes | No |
| | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
- Substantial changes have occurred with respect to the circumstances under which the project is undertaken that will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects?

Comment/Finding: There have been no changes in the circumstances under which the project is undertaken that would require major revisions in the previous EIR. There are no new significant environmental effects or substantial increases in the severity of previously identified environmental effects. (See Page 3 for supporting analysis).

- | | | |
|--|--------------------------|-------------------------------------|
| | Yes | No |
| | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
- New information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the Negative Declaration was adopted, has been revealed? (If “Yes” is checked, go to Section “B” below)

Comment/Finding: There is no new information of substantial importance that was not known and could not have been known with the reasonable diligence at the time the previous EIR was adopted. (See Page 3 for supporting analysis).

Section B - New Information

- | | | |
|---|---------------------------------|---|
| A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration. | Yes
<input type="checkbox"/> | No
<input checked="" type="checkbox"/> |
| B) Significant effects previously examined will be substantially more severe than shown in the previous EIR. | Yes
<input type="checkbox"/> | No
<input checked="" type="checkbox"/> |
| C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative. | Yes
<input type="checkbox"/> | No
<input checked="" type="checkbox"/> |
| D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative. | Yes
<input type="checkbox"/> | No
<input checked="" type="checkbox"/> |

Comment/Finding: All previously identified mitigation measures were adopted as General Plan policies and implementation measures as part of the Agricultural Element. Approval of this subdivision project will be dependent upon finding the project is consistent with the General Plan and all applicable policies. Therefore, the potential impacts resulting from the subdivision are no greater than those previously analyzed and the previously imposed mitigation measures remain sufficient to address all impacts from this project.

On the basis of this evaluation, in accordance with the requirements of Section 15162 of the CEQA Guidelines:

- 1. It is found that subsequent negative declaration will need to be prepared.
- 2. It is found that an addendum Negative Declaration will need to be prepared.
- 3. That a subsequent EIR will need to be prepared.
- 4. No further documentation is required.

Date: February 10, 2020
Prepared By:

Brody Patterson
Project Planner

CEQA Section 15162 Findings: Supporting Analysis

I. Introduction

Minor Subdivision No. MS20-001 is a request to create a homesite parcel by removing a 3.77 acre portion of an existing 28.7 acre parcel and combining the remaining 24.93 acres with an abutting parcel, creating a 53.55 acre parcel. The project site is located at the northeast corner of W. Bell Drive and N. Steinberg Road in the Atwater area, identified as Assessor's Parcel Numbers (APN's) 056-034-005 and 056-034-006. The property is designated Agricultural land use and zoned A-1 (General Agricultural). No new residences are proposed.

II. Analysis

The extensive analysis in the 2030 Merced County General Plan Program EIR concluded that the impact from agricultural subdivisions was less than significant when no new residences are proposed. However, because new residences were permitted on existing agricultural parcels, the EIR concluded the overall impact of the General Plan would be significant and unavoidable.

In the current Minor Subdivision Application No. MS20-001, no additional residences are proposed and a note will be placed on the face of the Parcel Map indicating that the right to seek additional housing on the parcels has been waived. Should the landowner change their mind in the future, Mitigation Measure AG-5g would require processing of a discretionary conditional use permit application which would be subject to further environmental review.

The General Plan EIR also concluded that the impact from the subdivision of agricultural parcels 40 acres or less in size would typically not result in a significant impact on the environment in the analysis under Impact AG-7: "Involve other land use changes that would result in conversion of farmland to non-agricultural uses due to inadequate parcel sizes." (Starting on Page 6-71 of the Recirculated Draft Program EIR). This conclusion was reached based on the fact that the General Plan contained Policy AG-2.13 "Minimum Agricultural Parcel Size Requirement" along with Policy AG-2.14 "Viability of Smaller Parcels." The conclusion in the Program EIR was that the subdivision of productive agricultural land into parcels over 20 acres in size that does not involve the construction of new housing units would have a less than significant impact on the environment.

This proposed minor subdivision is a request to create a homesite parcel by removing a 3.77 acre portion of an existing 28.7 acre parcel and combining the remaining 24.93 acres with an abutting parcel, creating a 53.55 acre parcel. The proposal is consistent with Title 17 of the Merced County Zoning Code. Farming practices for the newly created 53.55 acre parcel will not change. The project proposes no change in land use, intensification of farming, and/or increase in demand for irrigation water. Additionally, no new structures are proposed which would result in a significant impact not previously evaluated in the General Plan Program EIR.



Mark J. Hendrickson
Hearing Officer

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HEARING OFFICER AGENDA

Regular Meeting of Monday, February 10, 2020, 8:30 A.M.

Merced County Administration Building
Development Resource Center, Second Floor
2222 M Street
Merced, California 95340
Phone: 209.385.7654 Fax: 209.726.1710

The Hearing Officer welcomes you and encourages your participation.

CITIZEN COMMUNICATIONS: If you wish to speak on a matter that does NOT appear on the agenda, you may do so during the citizen communications period. Please state your name and address for the record. Each speaker will be limited to five (5) minutes.

PUBLIC COMMENT: If you would like to address the Hearing Officer on any item on the agenda, please fill it out with your name, street address, phone number, email address and the application number on the sign-in sheet. Each speaker will be limited to five (5) minutes.

AGENDAS and MINUTES: Hearing Officer agendas, minutes, and copies of items to be considered are published on the County's Website no later than the Wednesday, but generally on the Monday, preceding each Commission meeting and may be viewed at www.co.merced.ca.us/planning/hearingoffcomarchive.html. All proposed agenda items with supportive documents are available for viewing at the Merced County Planning and Community Development Department between the hours of 8:30am and 4:30pm, Monday - Friday (except holidays). This is the same packet that the Hearing Officer will review and discuss at the meeting. In addition, if you would like a copy of any record related to an item on the agenda, please contact the Department and copies will be provided for the direct cost of duplication or emailed at no cost.

PUBLIC RECORDS: As required by Government Code Section 54957.5, any public record distributed to the Hearing Officer less than 72 hours prior to this meeting in connection with any agenda item shall be made available for public inspection at the Merced County Administration Building, 2222 M Street, Merced, CA 95340. Public records distributed during the meeting will be available for public inspection at the meeting if prepared by the County. If the public record is prepared by some other person and distributed at the meeting it will be made available for public inspection following the meeting at the Planning and Community Development Department.

REASONABLE ACCOMMODATIONS: In compliance with the Americans with Disabilities Act (ADA), the Merced County Hearing Officer meeting facility is accessible to persons with disabilities. If you need special assistance to participate in this meeting, please contact the Planning and Community Development Department at (209) 385-7654. Notification 48 hours prior to the scheduled meeting will enable the County to make reasonable arrangements to ensure accessibility to this meeting.

APPEAL NOTICE: Any person aggrieved by the decision of the Hearing Officer may appeal the decision within five (5) calendar days after the day the action is made. [Within ten (10) calendar days after the day the action is made on subdivisions]. The deadline for appeals of Hearing Officer actions, excluding subdivisions, is 5:00 p.m. on the Monday following the Hearing Officer meeting, and for subdivisions, the deadline is the following Thursday at 5:00 pm. Please note that appeals may not be submitted on days that the County is officially closed.

Appeals of Hearing Officer actions may be filed with the Planning and Community Development Department. Appeals must state appellant's name, action appealed and reasons for the appeal. A filing fee set by Resolution of the Board of Supervisors must be submitted with the written appeal.

Members of the public are advised that all pagers, cellular telephones and any other communication devices are to be turned off upon entering the Hearing Officer meeting.



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Regular Meeting of Monday, February 10, 2020, 8:30 A.M.

Merced County Administration Building
Development Resource Center, Second Floor
2222 M Street
Merced, California 95340
Phone: 209.385.7654 Fax: 209.726.1710

I. CALL TO ORDER

II. CITIZEN COMMUNICATIONS

Public opportunity to address the Hearing Officer on any item of interest over which the Planning Commission has jurisdiction that is not on the agenda.

III. PUBLIC HEARING(S)

- A. MINOR SUBDIVISION APPLICATION No. MS20-001 – IRENE ROBERTS / JOHN AND JULIE PEREIRA** - A request to create a 3.77 acre homesite parcel from a 28.7 acre parcel and combine the remaining 24.93 acres with an abutting parcel, creating a 53.55 acre parcel. The project site is located at the northeast corner of W. Bell Drive and N. Steinberg Road in the Atwater area, identified as Assessor's Parcel Numbers (APNs) 056-034-005 and 056-034-006. The property is designated Agricultural land use and zoned A-1 (General Agricultural). CEQA: Staff recommends that the Hearing Officer determine that no further environmental review is required pursuant to Section 15162 - "Subsequent EIRs and Negative Declarations" of the CEQA Guidelines. **BP**

RECOMMENDATION(S):

- 1) Open/close the public hearing;
- 2) Determine no further environmental review is required pursuant to Section 15162 - "Subsequent EIRs and Negative Declarations" of the CEQA Guidelines based on the analysis in the 2030 Merced County General Plan Program Environmental Impact Report and the attached CEQA Section 15162 Findings and Analysis; and,
- 3) Approve Minor Subdivision Application No. MS20-001 based on the findings identified in the Staff Report and subject to the recommended Conditions of Approval.