

HEARING OFFICER AGENDA Regular Meeting

Monday, August 24, 2020 - 9:00 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 No. MS20-005

DILLON & MURPHY - A request to subdivide three parcels (totaling in 798 acres) into four parcels to align property lines with an existing creek, resulting in the proposed parcel sizes: Parcel 1 = 165 acres, Parcel 2 = 160 acres, Parcel 3 = 195 acres, and Parcel 4 = 278 acres. The project site is located on the north side of West Monte Vista Avenue, east of North Bledsoe Road in the Denair area, identified as Assessor's Parcel Numbers (APN's): 042-020-022, 042-020-023, and 042-020-024. The property is designated Agricultural land use in the General Plan and is zoned A-2 (Exclusive Agricultural). CEQA: Staff recommends that the Planning Commission find that the project is exempt from environmental review pursuant to Section 15315 of the CEQA Guidelines – "Minor Land Divisions." **TSH**

RECOMMENDATION(S):

- 1) Open/close public hearing;
- 2) Determine that the project can be found exempt from environmental review pursuant to Section 15315 – "Minor Land Divisions" of the CEQA Guidelines; and,
- 3) Approve Minor Subdivision Application No. MS20-005 based on the findings included in the staff report and subject to the recommended conditions of approval.

Documents:

[ITEM A. MS20-005 DILLON MURPHY.PDF](#)

4. HEARING OFFICER AGENDA

4.I. Hearing Officer Agenda

Documents:

[AUGUST 24, 2020 HEARING OFFICER AGENDA.PDF](#)



Hearing Officer
Staff Report
August 24, 2020

AGENDA ITEM # A

PREPARED BY: TIFFANY HO, PROJECT PLANNER
APPROVED BY: MARK HENDRICKSON, DIRECTOR

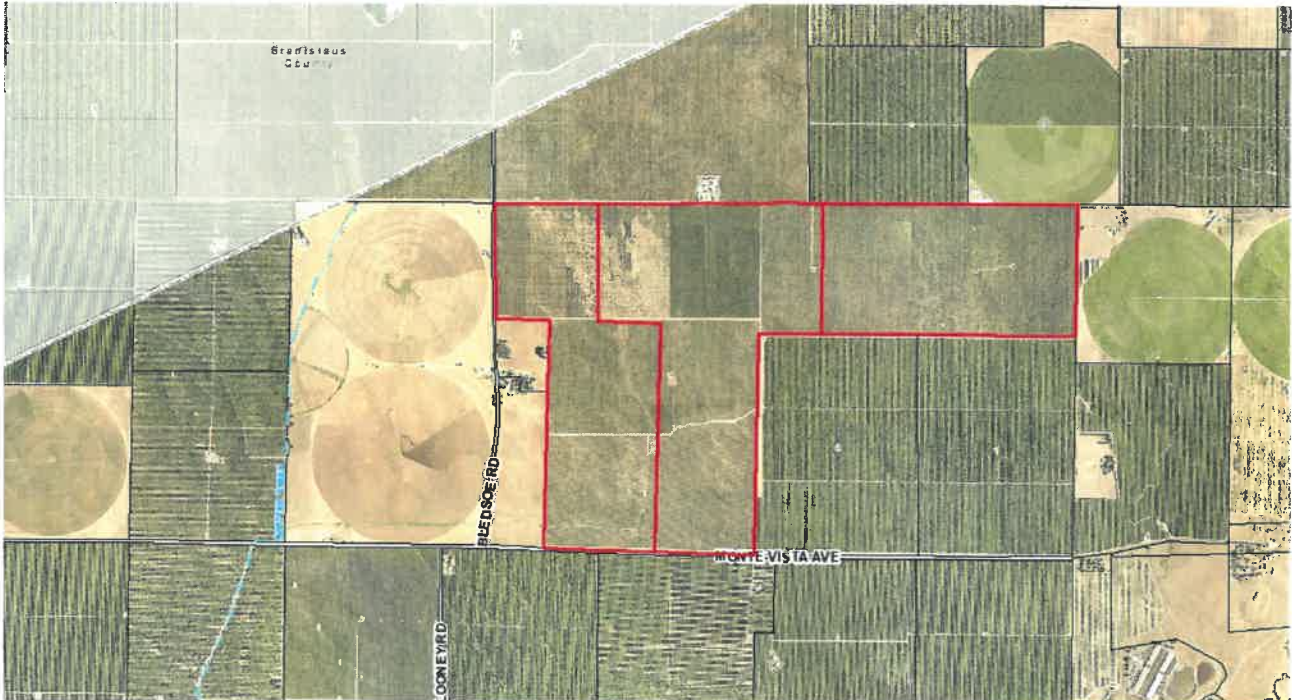
MINOR SUBDIVISION No. MS20-005 - DILLON & MURPHY - A request to subdivide three parcels (totaling in 798 acres) into four parcels to align property lines with an existing creek, resulting in the proposed parcel sizes: Parcel 1 = 165 acres, Parcel 2 = 160 acres, Parcel 3 = 195 acres, and Parcel 4 = 278 acres. The project site is located on the north side of West Monte Vista Avenue, east of North Bledsoe Road in the Denair area, identified as Assessor's Parcel Numbers (APN's): 042-020-022, 042-020-023, and 042-020-024. The property is designated Agricultural land use in the General Plan and is zoned A-2 (Exclusive Agricultural). CEQA: Staff recommends that the Hearing Officer find no further environmental review is required pursuant to Section 15162 of the CEQA Guidelines – "Subsequent EIRs and Negative Declarations." **TSH**

SUPERVISORIAL DISTRICT: 4 – Lloyd Pareira

RECOMMENDATION(S):

- 1) Open/close public hearing;
- 2) Determine that 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. MS20-005 based on the findings included in the staff report and subject to the recommended conditions of approval.

LOCATION MAP:



BACKGROUND:

Site Description

The project site consists of three parcels, totaling approximately 798 acres, identified as Assessor’s Parcel Numbers (APNs) 042-020-022, 04-020-023, and 042-020-024. The property is located on the northside of West Monte Vista Avenue, east of North Bledsoe Road in the Denair area, within Sections 1 and 2 of Township 5 South, Range 12 East, Mount Diablo Base and Meridian. There are no addresses associated with any of the parcels.

The project site and the surrounding area is designated Agricultural land use in the General Plan, and zoned A-2 (Exclusive Agricultural). The property is developed with vineyards and six irrigation, and there are no houses or structures on-site. The property maintains road frontage on Bledsoe Road and Monte Vista Avenue, and an existing creek, which is typically dry, runs along the southern portion of the property. The surrounding area is characterized by agricultural land uses, including orchards, row crops, and the occasional rural residence.

Surrounding Uses

	General Plan	Zoning	Current Land Use
On-Site:	Agricultural	A-2	Vineyards
North:	Agricultural	A-2	Orchards, vineyards, row crops, a residence, and accessory agricultural structures
South:	Agricultural	A-2	Orchards, vineyards, residences
East:	Agricultural	A-2	Orchards, row crops, residences
West:	Agricultural	A-2	Row crops, vacant/fallow, residences

Prior Actions/Entitlements

None

ANALYSIS:

Project Description

request to subdivide three parcels (totaling in 798 acres) into four parcels to align property lines with an existing creek, resulting in the proposed parcel sizes: Parcel 1 = 165 acres, Parcel 2 = 160 acres, Parcel 3 = 195 acres, and Parcel 4 = 278 acres. The subdivision would allow the land to be divided along existing farming operations and boundaries.

The property is currently developed with vineyards and irrigation wells. There are no structures on-site and the project does not involve construction of any houses or structures. Proposed Parcels 1, and 2 may be accessed on Bledsoe Road and Parcel 2 may be accessed on Monte Vista Avenue. A private access easement may be required for access for Parcel 4.

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 project site is designated Agricultural land use and the property is currently farmed with vineyards. There are no houses and structures on-site, and there is no construction associated with the proposed project. The property will continue to be used for agricultural operations.

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.

Goal AG-3

Minimize conflicts between productive agricultural areas and urban land uses, and discourage parcelization and conversion of large agricultural holdings into rural residential parcels or urban uses.

Policy AG-3.12: Subdivision and Residential Uses in Agricultural Areas

Revise the Merced County Zoning Code, Section 18.02.02, Table 4, to allow for two classes of minor subdivisions within the A-1, A-1-140, A-2 zones: one that would conditionally waive the right to construct residences on resulting parcels by placement of a note on the face of the

recorded-map; and one that would permit the construction of residences on the resulting parcels is subject to a conditional use permit.

The proposed subdivision will result in parcels that meet the minimum permitted parcel size for the Agricultural designation (20 acres). Additionally, the parcels will meet the minimum parcel size permitted for the zoning designation, A-2 (Exclusive Agricultural), which requires parcels to be a minimum of 160 acres.

The parcels will remain in agricultural use and no new residential structures are proposed with this project. Staff recommends placing a note on the map to require a Conditional Use Permit for any residences as a condition of approval in compliance with Policy AG-3.12. With the proposed conditions of approval, the project will be consistent with the General Plan.

2. Merced County Zoning Code (MCZC)

The project site is zoned A-2 (Exclusive Agricultural) on the Merced County Zoning Map. The purpose of the Exclusive Agricultural Zone (A-2) is to provide for areas with considerably expanded agricultural enterprises, due mainly to the requirement of large parcels which are more economically suitable to support farming activities. The 160-acre minimum parcel size facilitates farming and ranching operations and a variety of open space functions that are typically less dependent on soil quality and are often connected more with foothill and wetlands locations; grazing and pasture land; and wildlife habitat and recreational areas. This zone implements the Agriculture (A), Agriculture Residential (AR), Foothill Pasture (FP), and Urban Reserve (UR) land use designations in the General Plan.

a. Section 18.10.030, Agricultural Zone Development Standards

The proposed parcel sizes are as follows: Parcel 1 = 165 acres, Parcel 2 = 160 acres, Parcel 3 = 195 acres, and Parcel 4 = 278 acres. The proposed parcels sizes meet the minimum parcel size of 160 acres, as required by Section 18.10.030 of the MCZC.

b. Section 18.10.040, Other Applicable Agricultural Zone Regulations

There are no residential structures proposed with this project. Consistent with General Plan Policy AG-3.12 (Subdivision and Residential Uses in Agricultural Areas) and pursuant to Section 18.010.040 (N), a Conditional Use Permit is required to construct new residences on any new parcel.

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

The project site is within the Agricultural Preserve and under an active Williamson Act Contract (Contract No. 2000-0154/0132). The proposed subdivision is consistent with the Rules of Procedure to Implement the California Land Conservation Act of 1965, including meeting the minimum parcel size of 10 acres. Therefore, resulting parcels will remain in the Agricultural Preserve and under contract. An Amended Contract will not be required.

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. **Exhibit D** 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. MS20-004, 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 Permit application which would be subject to further environmental review.

Community Engagement

The project application was routed to applicable County departments for comment. Letters were received from the Division of Environmental Health, Fire Department, and the Buildings and Safety Division stating that they had no comments on project. See Exhibit C for agency comments.

Notice of the public hearing was published in the Merced Sun-Star on **August 13, 2020** and mailed to all owners of property located within 300 feet of the project site on **August 14, 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 the Subdivision Map Act, and is not in conflict with the Agricultural Preserve and the existing Williamson Act Contract. 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. MS20-005 based on the findings and subject to the recommended conditions of approval.

RECOMMENDED HEARING OFFICER ACTION:

A. CEQA Determination

MOTION: Determine that 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. MS20-005 based on the findings included in the staff report and subject to the recommended conditions of approval.

Project Findings:

1. Minor Subdivision Application No. MS20-005 proposes to subdivide three parcels (totaling in 798 acres) into four parcels to align property lines with an existing creek, resulting in the proposed parcel sizes: Parcel 1 = 165 acres, Parcel 2 = 160 acres, Parcel 3 = 195 acres, and Parcel 4 = 278 acres. The project site is located on the north side of West Monte Vista Avenue, east of North Bledsoe Road in the Denair area, identified as Assessor's Parcel Numbers (APN's): 042-020-022, 042-020-023, and 042-020-024.
2. The property is designated Agricultural land use in the General Plan and is zoned A-2 (Exclusive 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, the Agricultural Preserve, and the Merced County Rules of Procedure to Implement the California Land Conservation Act of 1965 (Williamson Act).
6. The proposed minor subdivision is compatible with adjacent uses, properties, and neighborhoods, and will not be a nuisance or detrimental to public health, safety, or general welfare.
7. The project is subject to all applicable Local, State and Federal regulations.
8. 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. Conditions of Approval
- B. Tentative Parcel Map
- C. Agency Comments
- D. CEQA Section 15162 Findings and Analysis

cc:

Property Owner – FJ Venture Partnership

Applicant/Engineer – Dillon & Murphy C/O Joe Murphy

Owner's Representative – Corporate Development, Inc. C/O Jerry Marquis

EXHIBIT A



COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT

Mark J. Hendrickson
Director

Steve Maxey
Deputy Director

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

Equal Opportunity Employer

MS20-005 CONDITIONS OF APPROVAL

Merced County Community and Economic Development Department

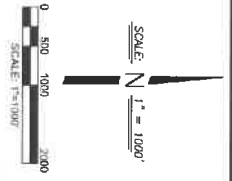
1. A parcel map, including all parcels involved, shall be recorded within two (2) years of the approval date, as required by the Subdivision Map Act and Merced County Subdivision Code.
2. A note shall be placed on the face of the parcel map stating that any new residences will be subject to review and 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.
3. The applicant shall comply with all applicable Local, State and Federal regulations.

County Counsel

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

DILLON & MURPHY ENGINEERING has 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.

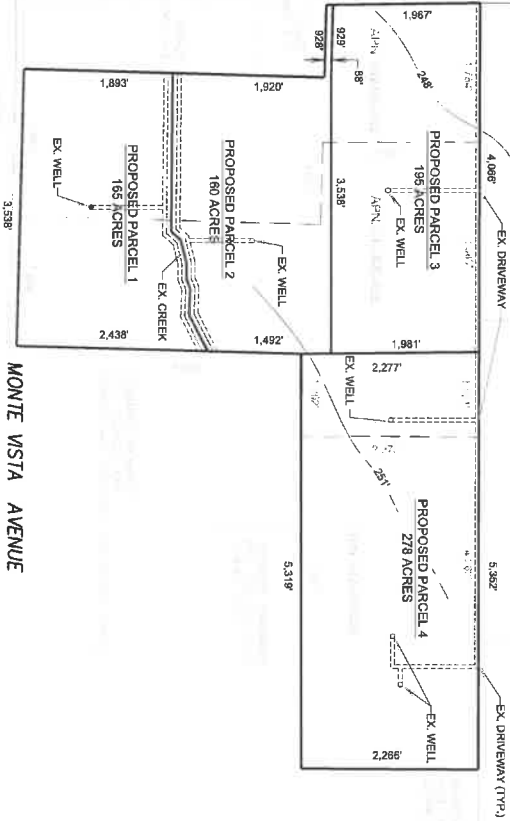
EXHIBIT B



DATA SUMMARY TABLE	
EXISTING AREA	PROPOSED AREA
PARCEL 1 (042-020-022) 247 AC/ 10,758,320 SF	185 AC/ 7,187,400 SF
PARCEL 2 (042-020-023) 329 AC/ 14,331,240 SF	180 AC/ 8,989,800 SF
PARCEL 3 (042-020-024) 222 AC/ 9,870,300 SF	195 AC/ 8,494,200 SF
PARCEL 4	279 AC/ 12,109,800 SF

LOONEY RD.

BLED SOE RD.



MONTA VISTA AVENUE

TENTATIVE MAP

JUNE, 2020

OWNER

FL VENTURE PARTNERSHIP, A PARTNERSHIP
6342 BYSTROM ROAD
CERRITOS, CA 94530
(925) 470-7899

ENGINEER

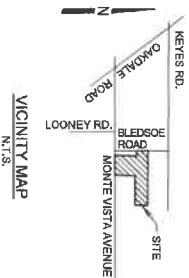
DILLON & MURPHY C/O JOE MURPHY
P.O. BOX 2180
847 N. GULF AVENUE, SUITE A2
Lodi, CA, 95241
(209) 334-6613

NOTES

1. APN: 042-020-022, 042-020-023, 042-020-024
2. WATER: PRIVATE WELL
3. SANITARY SEWER: PRIVATE SEPTIC
4. STORM DRAINAGE: NATURAL DRAINAGE
5. SITE ADDRESS: SUBJECT PARCELS HAVE NO ADDRESS PER MERCED COUNTY GIS RECORDS.
6. FLOOD ZONE: ZONE X, MAP NO. 06047C0050C DATE: 9/26/2008
7. EXISTING TREES ARE NOT OAK TREES.
8. ALL IMPROVEMENTS SHOWN ARE EXISTING, UNLESS OTHERWISE NOTED.
9. THERE ARE NO EXISTING BUILDINGS ON SITE.
10. ZONING: A-2, EXCLUSIVE AGRICULTURE GENERAL PLAN: AGRICULTURE
11. ALL PROPOSED PARCELS ARE COMPLETELY SURFACE IRRIGATED. THERE IS NO FLOODPLAIN ON ANY OF THE PARCELS.
12. THERE IS NO OFF-STREET PARKING OR DEFINED PARKING LOT AREAS.
13. THERE ARE NO FIRE HYDRANTS OR FIRE STORAGE TANKS.
14. THERE IS NO DEFINED INTERNAL CIRCULATION, ONLY DIRT ROADS PROVIDING ACCESS TO THE IRRIGATION WELLS AND FARMING.
15. NO NEW ACTIVITY OR WORK IS BEING PROPOSED THAT WOULD BE EXCEED BEYOND 65 DBA LdN.
16. THE PROJECT IS NOT PROPOSING ANY PHASES.
17. THERE ARE NO EXISTING TREES ON-SITE. EXISTING AGRICULTURAL USE (S) VINEYARDS.
18. THE PROPOSED LOT SIZE IS 180.8 ACRES.
19. PRIVATE ACCESS EASEMENTS WILL BE SUBMITTED FOR EACH PARCEL.
20. EXACT LOCATIONS TO BE DETERMINED.
20. ALL WELLS SHOWN ARE AGRICULTURAL WELLS.

LEGEND

- AC. AGRES
- EX. EXISTING
- SF. SQUARE FEET
- SS. EX. SANITARY SEWER
- W. EX. WATER
- 20' CONTOUR
- EX. DRIVEWAY
- EX. PROPERTY LINE
- PROPOSED PROPERTY LINE
- 365' EXISTING LOT DIMENSION
- PROPOSED LOT DIMENSION



VICINITY MAP
N.T.S.

Ho, Tiffany

From: Bohn, Rich
Sent: Tuesday, July 21, 2020 12:07 PM
To: Ho, Tiffany; Chan, Ashlee; Cronk, Brent; Elias, Gerardo; Fire Marshal; Flores, Jose; Guerrero, Brian; Mendenhall, Charles
Subject: RE: REV & COMM - MS20-005 & ZV20-001 - Dillon & Murphy

Good morning Tiffany,

Fire has no comments or requirements for this project.

Rich Bohn
Battalion Chief B20
Merced County Fire Marshal
Merced County Fire Department
(209) 385-7347 office Ext.4680
(209) 761-1970 cell
(209) 725-0174 fax

Striving for excellence in Fire & Life Safety
In cooperation with CAL FIRE

Ho, Tiffany

From: Mendenhall, Charles
Sent: Tuesday, July 28, 2020 4:15 PM
To: Ho, Tiffany
Subject: RE: REV & COMM - MS20-005 & ZV20-001 - Dillon & Murphy

We have no comments.

Charlie Mendenhall
Merced County Building & Safety Division
2222 M St
Merced, CA 95340
209-385-7477



Rebecca Nanyonjo-Kemp, DrPH
Director

Salvador Sandoval, MD, MPH
Health Officer

Memorandum

DATE: July 30, 2020

TO: Tiffany Ho, Planner II

FROM: Brent Cronk, EHS III
(209) 385-7654 xt4568; Brent.Cronk@countyofmerced.com

SUBJECT: **ZONE VARIANCE No. ZV20-001 (see also MINOR SUBDIVISION No. MS20-005) - DILLON & MURPHY** - A request to subdivide three parcels (totaling in 798 acres) into four parcels and vary from the minimum required parcel size on one parcel, to align property lines with an existing creek. The proposed parcel sizes would be: Parcel 1 = 165 acres, Parcel 2 = 151 acres, Parcel 3 = 204 acres, and Parcel 4 = 278 acres. Alternatively, if a variance is not granted, the proposed parcel sizes would be: Parcel 1 = 165 acres, Parcel 2 = 160 acres, Parcel 3 = 195 acres, and Parcel 4 = 278 acres. The project site is located on the north side of West Monte Vista Avenue, east of North Bledsoe Road in the Denair area, identified as Assessor's Parcel Numbers (APN's): 042-020-022, 042-020-023, and 042-020-024. The property is designated Agricultural land use in the General Plan and is zoned A-2 (Exclusive Agricultural).

SITUS: No situs

Observations and Comments – Merced County Division of Environmental Health (MCDEH):

MCDEH has no objection to the zone variance.

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

Application: Minor Subdivision No. MS20-005 (Dillon & Murphy)

Assessor Parcel Number(s)(APNs) or Location: 042-020-022, 042-020-023, and 042-020-024

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 |
|--|--------------------------|-------------------------------------|
| 1. 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? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

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 |
|--|--------------------------|-------------------------------------|
| 2. 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? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

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 |
|---|--------------------------|-------------------------------------|
| 3. 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) | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

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:

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | 1. It is found that subsequent negative declaration will need to be prepared. |
| <input type="checkbox"/> | 2. It is found that an addendum Negative Declaration will need to be prepared. |
| <input type="checkbox"/> | 3. That a subsequent EIR will need to be prepared. |
| <input checked="" type="checkbox"/> | 4. No further documentation is required. |

Date: August 24, 2020

Prepared By:

Tiffany Ho
Project Planner

CEQA Section 15162 Findings: Supporting Analysis

I. Introduction

Minor Subdivision No. MS20-005 is a request to subdivide three parcels (totaling in 798 acres) into four parcels to align property lines with an existing creek, resulting in the proposed parcel sizes: Parcel 1 = 165 acres, Parcel 2 = 160 acres, Parcel 3 = 195 acres, and Parcel 4 = 278 acres. The project site is located on the north side of West Monte Vista Avenue, east of North Bledsoe Road in the Denair area, identified as Assessor's Parcel Numbers (APN's): 042-020-022, 042-020-023, and 042-020-024. The property is designated Agricultural land use in the General Plan and is zoned A-2 (Exclusive 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. MS20-005, 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 subdivide three parcels (totaling in 798 acres) into four parcels to align property lines with an existing creek, resulting in the proposed parcel sizes: Parcel 1 = 165 acres, Parcel 2 = 160 acres, Parcel 3 = 195 acres, and Parcel 4 = 278 acres. The proposal is consistent with Title 17 of the Merced County Zoning Code. 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

2222 "M" Street
Merced, CA 95340
(209) 385-7654
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Equal Opportunity Employer

HEARING OFFICER AGENDA

Regular Meeting of Monday, August 24, 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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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 No. MS20-005 - DILLON & MURPHY** - A request to subdivide three parcels (totaling in 798 acres) into four parcels to align property lines with an existing creek, resulting in the proposed parcel sizes: Parcel 1 = 165 acres, Parcel 2 = 160 acres, Parcel 3 = 195 acres, and Parcel 4 = 278 acres. The project site is located on the north side of West Monte Vista Avenue, east of North Bledsoe Road in the Denair area, identified as Assessor's Parcel Numbers (APN's): 042-020-022, 042-020-023, and 042-020-024. The property is designated Agricultural land use in the General Plan and is zoned A-2 (Exclusive Agricultural). CEQA: Staff recommends that the Planning Commission find that the project is exempt from environmental review pursuant to Section 15315 of the CEQA Guidelines – "Minor Land Divisions." **TSH**

RECOMMENDATION(S):

- 1) Open/close public hearing;
- 2) Determine that the project can be found exempt from environmental review pursuant to Section 15315 – "Minor Land Divisions" of the CEQA Guidelines; and,
- 3) Approve Minor Subdivision Application No. MS20-005 based on the findings included in the staff report and subject to the recommended conditions of approval.