

AGENDA

PLANNING COMMISSION

Regular Meeting

Wednesday, November 4, 2020 - 9:00 a.m

Merced County Administration Building

Board Room, Third Floor 2222 M Street

Merced, California 95340

Phone: 209.385.7654 Fax: 209.726.1710

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL OF COMMISSIONERS
4. APPROVAL OF MINUTES
 - 4.I. DRAFT PC MINUTES 10-14-2020

Documents:

[DRAFT PC MINUTES 10-14-20.PDF](#)

5. CITIZEN COMMUNICATIONS
6. PUBLIC HEARING(S)
 - 6.I. MINOR SUBDIVISION No. MS20-015

DUANE & MARY MARSON / FOREBAY FARMS, LLC - A request to create a 4.0 acre homesite parcel from an 18.3 acre parcel and combine the remaining 14.1 acres with an abutting parcel, creating a 30.1 acre Remainder parcel. The project site located at the southeast corner of N.

Griffith Avenue and W. August Road in the Delhi area, identified as Assessor's Parcel Numbers (APNs) 046-190-042 and 046-190-044. The property is designated Agricultural land use and zoned A-1 (General Agricultural). CEQA: Staff recommends that the Planning Commission 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. MS20-015 based on the findings identified in the Staff Report and subject to the recommended Conditions of Approval.

Documents:

[ITEM A. MS20-015 - MARSON - FOREBAY FARMS LLC.PDF](#)

7. COMMISSION ACTION ITEM(S)

8. DIRECTOR'S REPORT
9. COMMISSIONER'S COMMENT
10. ADJOURNMENT
11. PRINTABLE (PDF) AGENDA
- 11.I. PLANNING COMMISSION AGENDA 11-4-2020

Documents:

[PLANNING COMMISSION AGENDA 11-4-20.PDF](#)

MERCED COUNTY PLANNING COMMISSION
MINUTES FOR MEETING OF OCTOBER 14, 2020

DRAFT

The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of October 14, 2020, are available online at www.co.merced.ca.us/planning/plancomarchive.html.

I. CALL MEETING TO ORDER

The regularly scheduled meeting of the Merced County Planning Commission was called to order at 9:00 a.m., on October 14, 2020, in the Board Chambers located at 2222 "M" Street, Third Floor, Merced, California.

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL OF COMMISSIONERS

Commissioners Present: Commissioner Kurt Spycher – Chairman
 Commissioner Mark Erreca
 Commissioner Robert Acheson
 Commissioner Jack Mobley
 Commissioner Fernando Aguilera

Staff Present: Mark Hendrickson, Director
 Kim Zinke, Recording Secretary
 Brody Patterson, Planner I

Legal Staff: Jeff Grant, Deputy County Counsel

Commissioners Absent: None

IV. APPROVAL OF MINUTES

MOTION: M/S ERRECA – ACHESON AND CARRIED BY A VOTE OF 5 – 0, THE COMMISSION APPROVES THE MINUTES FROM THE SEPTEMBER 23, 2020 MEETING.

V. CITIZEN COMMUNICATIONS

None

VI. PUBLIC HEARINGS

A. 2nd EXTENSION APPLICATION No. EXT20-013 TO MAJOR SUBDIVISION No. MAS13-002 – "FLEMING HILLS" – Sohan Sahota - A request to extend the expiration date of the tentative map for Major Subdivision No. MAS13-002 by one year, FROM: October 25, 2020 TO: October 25, 2021. The project site is located at the southwest corner of W. Fleming Road and N. Herrod Avenue in the Atwater area, identified as Assessor's Parcel Number (APN) 207-081-009. The property is designated Atwater Rural Residential Center - Agricultural-Residential land use and zoned R-R (Rural Residential). CEQA: Staff recommends that the Planning Commission 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 findings identified in the Staff Report; and,
- 3) Approve Extension Application No. EXT20-013 based on the findings identified in the Staff Report and subject to the recommended Conditions of Approval.

Planner Brody Patterson presented the Staff Report and recommendations of approval dated October 14, 2020.

The public hearing opened at 9:04 a.m.

No one spoke in favor of or opposition to this application.

The public hearing closed at 9:05 a.m.

MOTION: M/S MOBLEY - ACHESON, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION DETERMINES THAT NO FURTHER ENVIRONMENTAL REVIEW IS REQUIRED PURSUANT TO SECTION 15162 - "SUBSEQUENT EIRS AND NEGATIVE DECLARATIONS" OF THE CEQA GUIDELINES.

MOTION: M/S MOBLEY - ACHESON, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED OCTOBER 14, 2020, AND MAKES THE PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES 2nd EXTENSION APPLICATION No. EXT20-013 TO MAJOR SUBDIVISION No. MAS13-002 SUBJECT TO THE 3 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Merced County Community and Economic Development Department

1. The Tentative Map for Major Subdivision No. MAS13-002 shall expire on October 25, 2021, unless the map is recorded or an extension request is applied for and approved.
2. The current Extension Application No. EXT20-013 shall comply with all conditions of approval as required by the previously approved Major Subdivision No. MAS13-002 and any previously approved extensions.

County Counsel

3. INDEMNITY AND HOLD HARMLESS AGREEMENT:

SOHAN SAHOTA 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

MERCED COUNTY PLANNING COMMISSION

Minutes – October 14, 2020

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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.

VII. COMMISSION ACTION ITEM (S)

None

VIII. DIRECTOR'S REPORT

None

IX. COMMISSIONERS COMMENTS

None

X. ADJOURNMENT

There being no further business, the meeting adjourned at 9:06 a.m.



Planning Commission

AGENDA ITEM # A

Staff Report

November 4, 2020

PREPARED BY:
APPROVED BY:

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

MINOR SUBDIVISION No. MS20-015 – DUANE & MARY MARSON / FOREBAY FARMS, LLC - A request to create a 4.0 acre homesite parcel from an 18.3 acre parcel and combine the remaining 14.1 acres with an abutting parcel, creating a 30.1 acre Remainder parcel. The project site located at the southeast corner of N. Griffith Avenue and W. August Road in the Delhi area, identified as Assessor's Parcel Numbers (APNs) 046-190-042 and 046-190-044. The property is designated Agricultural land use and zoned A-1 (General Agricultural). CEQA: Staff recommends that the Planning Commission 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. MS20-015 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 southeast corner of N. Griffith Avenue and W. August Road in the Delhi area, identified as Assessor's Parcel Numbers (APNs) 046-190-042 and 046-190-044. 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 and characterized by commercial agricultural land uses and the occasional single-family residence.

The applicant is requesting to create a homesite parcel by conveying a 4.0 acre portion of an 18.3 acre parcel and combining the remaining 14.1 acres with an abutting 17.0 acre parcel, creating a 30.1 acre Remainder parcel. The proposed homesite parcel (Parcel 1) and the proposed merged parcel (Remainder) each contain one existing residence, both of which are served by their own respective domestic well and septic systems. Parcel 1 will have frontage on Griffith Avenue, while the Remainder parcel will have frontage on Griffith Avenue and August Road. Agricultural operations and other existing land uses will continue on the Remainder parcel, with no changes in land use proposed or anticipated. No new residences are proposed as part of this project.

Surrounding Uses

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

Prior Actions/Entitlements

CUP3715

ANALYSIS:

Project Description

The applicant is requesting to create a 4.0 acre homesite parcel from an 18.3 acre parcel and combine the remaining 14.1 acres with an abutting parcel, creating a 30.1 acre Remainder 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 current land use of the 14.1 acres being combined with the abutting property (which will create a 30.1 acre Remainder parcel) will not change from the current use as row crops.

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 30.1 acres, which is consistent with the minimum permitted parcel size in areas designated Agricultural. The proposed homesite parcel may be reduced to less than 20 acres pursuant to Section 18.10.030, subdivision (F)(5) of the Merced County Zoning Code.

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 (Remainder) will be 30.1 acres, exceeding the minimum 20-acre parcel size in the A-1 zone. The proposed 4.0 acre homesite parcel (Parcel 1) is exempt from the minimum A-1 zone parcel size requirement because the project meets the following conditions pursuant to Section 18.10.030, subdivision (F)(5) 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.

The 14.1 acres which does not contain the dwelling will be combined with an abutting parcel, consistent with Condition 1 indicated above. The proposed homesite parcel is 4.0 acres and has 546 feet of frontage on Griffith Avenue, consistent with Condition 2 above. The property owner has also provided proof of ownership for at least 10 years, demonstrating compliance with Condition 3 above. In meeting these conditions, the proposed convey and combine subdivision is consistent with Section 18.10.030, subdivision (F)(5) of the Zoning Code.

This project is also subject to the Agricultural Setback Requirement for Created Parcels pursuant to Sections 18.10.030, subdivision (E) and 18.10.040, subdivision (M)(1) of the Zoning Code. Those provisions of the Zoning Code require a 200-foot physical separation (buffer) between any habitable structure and any abutting parcels used for agricultural production. Because this subdivision is proposed in an agriculturally-zoned area, the project was reviewed for compliance with the Agricultural Setback Requirement for Created Parcels.

The 200-foot buffer between the existing residence on the homesite parcel (Parcel 1) and any abutting parcels used for agricultural production has been implemented where necessary. The 200-foot buffer was appropriately incorporated to the east, north, and south of the existing residence on Parcel 1. While that residence is not 200 feet from the property line to the west, the property line to the west is not being adjusted as part of this project (other than for right-of-way dedication), and therefore, the 200-foot buffer does not need to be incorporated in that direction. Because no new property lines are encroaching upon the existing residence on the Remainder parcel, no 200-foot buffer is necessary for that residence. Based on the tentative map submitted for this application, the Agricultural Setback Requirement has been satisfied for the existing residence on proposed Parcel 1, and no further action or analysis is required.

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. 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 (or other applicable policy in place at the time of the request).

Agricultural Preserve and Williamson Act

A portion of the 18.3-acre property identified as Assessor's Parcel Number (APN) 046-190-042 is located within the Agricultural Preserve. Parcels within the Agricultural Preserve must maintain a minimum parcel size of 10 acres, and as a condition of approval for the project, the homesite parcel must be removed from the Agricultural Preserve. Neither property involved in this subdivision is enrolled in the Williamson Act. With implementation of the condition of approval requiring removal of the homesite parcel from the Agricultural Preserve, the proposal is consistent with applicable provisions of the Agricultural Preserve and Williamson Act.

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 Planning Commission determine that no further environmental review is required pursuant to Section 15162 - "Subsequent EIRs and Negative Declarations" of the CEQA Guidelines. See **Exhibit B** 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. MS20-015, 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. Comments were received from the Roads Division regarding required right-of-way dedication, see **Exhibit D**. Those comments were incorporated and are reflected on the tentative map. The Buildings Division noted that building permits would be required for any future structures on site.

Notice of the Planning Commission's public hearing was mailed to all owners of property located within 300 feet of the project site on **October 23, 2020** and published in the Merced Sun-Star on **October 23, 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 Planning Commission approve Minor Subdivision Application No. MS20-015 based on the findings identified below and subject to the recommended Conditions of Approval.

RECOMMENDED PLANNING COMMISSION 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. MS20-015 based on the findings identified in the Staff Report and subject to the recommended Conditions of Approval.

Project Findings:

1. Minor Subdivision Application No. MS20-015 proposes to create a 4.0 acre homesite parcel from an 18.3 acre parcel and combine the remaining 14.1 acres with an abutting 17.0 acre parcel, creating a 30.1 acre parcel.
2. The property is designated Agricultural land use 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 preservation of commercial agricultural land and maintenance of 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 is consistent with the Agricultural Preserve and Williamson Act.
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 Planning Commission 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. CEQA Section 15162 Findings and Analysis
- C. Tentative Parcel Map
- D. Agency Comments

cc:

Applicants/Property Owners – Duane & Mary Marson / Forebay Farms, LLC
Engineer – Golden Valley Engineering



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
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Equal Opportunity Employer

MS20-015 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. 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.
4. The 4.0 acre homesite parcel shall be removed from the Agricultural Preserve prior to recordation of the Parcel Map.

Merced County Department of Public Works, Roads Division

5. Right-of-Way dedication is required to fulfill the 60' ultimate right-of-way for Griffith Avenue fronting the property. Griffith Avenue has an existing 40' right-of-way, the owners shall dedicate an additional 10' of right-of-way along the Griffith Avenue frontage of the property.
6. Right-of-Way dedication is required to fulfill the 80' ultimate right-of-way for August Road fronting the property. August Road has an existing 40' right-of-way, the owners shall dedicate an additional 20' of right-of-way along the August Road frontage of the property.

County Counsel

7. INDEMNITY AND HOLD HARMLESS AGREEMENT:

DUANE & MARY MARSON / FOREBAY FARMS, LLC 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

EXHIBIT A

promptly notify the applicant and cooperate fully in the defense. This clause for indemnification shall be interpreted to the broadest extent permitted by law.

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

Application: Minor Subdivision No. MS20-015 (Duane & Mary Marson / Forebay Farms, LLC)

Assessor Parcel Number or Location: Assessor’s Parcel Numbers (APNs) 046-190-042 and 046-190-044.

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 substantial 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 know 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 No

B) Significant effects previously examined will be substantially more severe than shown in the previous EIR. Yes No

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 No

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 No

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: October 28, 2020

Prepared By:



Brody Patterson
Project Planner

CEQA Section 15162 Findings: Supporting Analysis**I. Introduction**

Minor Subdivision Application No. MS20-015 is a request to create a homesite parcel by removing a 4.0 acre portion of an existing 18.3 acre parcel and combining the remaining 14.1 acres with an abutting 17.0 acre parcel, creating a 30.1 acre remainder parcel. The project site is located at the southeast corner of N. Griffith Avenue and W. August Road in the Delhi area, identified as Assessor's Parcel Numbers (APNs) 046-190-042 and 046-190-044. The property is designated Agricultural land use and zoned A-1 (General Agricultural). No new residences are proposed.

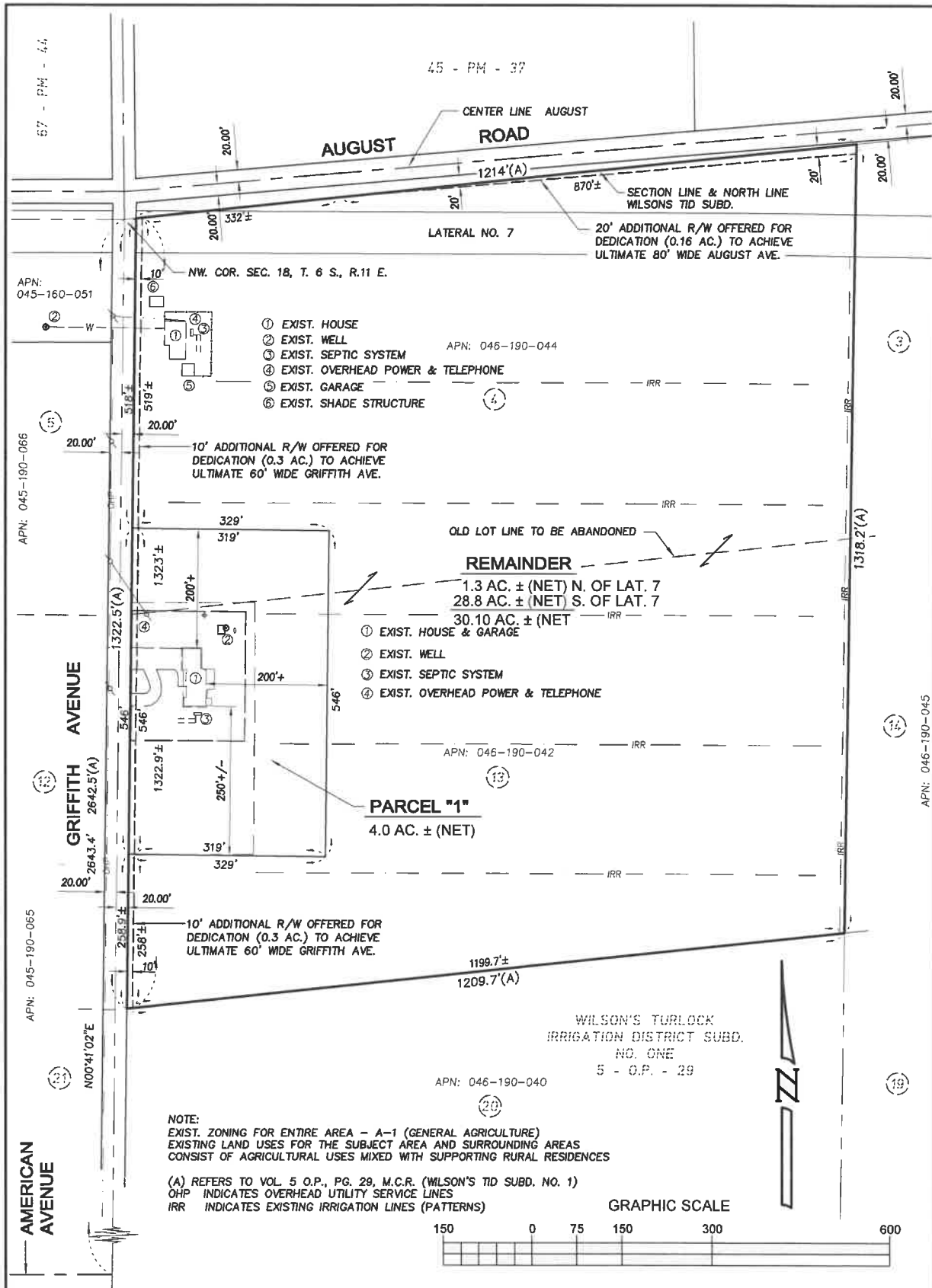
II. Analysis

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. MS20-015, 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 4.0 acre portion of an existing 18.3 acre parcel and combining the remaining 14.1 acres with an abutting 17.0 acre parcel, creating a 30.1 acre parcel. The proposal is consistent with Title 17 of the Merced County Zoning Code. Farming practices and other existing land uses for the newly created 30.1 acre Remainder 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.



PLOT PLAN FOR			
APPLICATION TYPE MINOR SUBDIVISION CONVEY & COMBINE	NUMBER	A.P.N. 046-190-042 & 044	DATE: JULY, 2020
PROPERTY OWNER/S DUANE & MARY MARSON / FINN ACQUISITIONS, LLC (FOREBAY FARMS, LLC)			
ADDRESS P.O. BOX 506 HILLMAR, CA 95324 / P.O. BOX 2717, MERCED, CA 95344 (SITE ADDRESS 8850 & 8998 GRIFFITH AVENUE)			
TELEPHONE MERCED COUNTY PLANNING DEPARTMENT (209) 541-5983			

<p>ASSOCIATED ENGINEERING GROUP 4206 TECHNOLOGY DRIVE, SUITE 4, MODESTO, CA 95356 PHONE: (209) 545-3390 FAX: (209) 545-3875 www.assoceng.com</p>	DRAWN DLS
	DATE 10/19/20
	SCALE 1" = 150'
	JOB # 1359-20
	DWG. MS SITE PLAN(2)



DEPARTMENT OF PUBLIC WORKS
Road Division

EXHIBIT D

Dana S. Hertfelder
Director

345 West 7th Street
Merced, CA 95340
(209) 385-7601
(209) 722-7690
www.co.merced.ca.us

Equal Opportunity Employer

Date: October 16, 2020

To: Brady Patterson, Planner I
Planning and Community Development Department

From: Gerardo Elias, Engineering Associate
Department of Public Works

Subject: Minor Subdivision No. MS20-015
Duane & Mary Marson

MEMORANDUM

We have reviewed this Minor Subdivision No. MS20-015, to create a homesite parcel and combine the remainder with an abutting parcel, identified as APN 045-190-044 & 046-190-042. The property is designated agricultural in the general plan and zoned A.

1. Right-of-Way dedication is required to fulfill the 60' ultimate right-of-way for Griffith Avenue fronting the property. Tyler Road has an existing 40' right-of-way, the owners shall dedicate an additional 10' of right-of-way along the Griffith Avenue frontage of the property.
2. Right-of-Way dedication is required to fulfill the 80' ultimate right-of-way for August Avenue fronting the property. August Avenue has an existing 40' right-of-way, the owners shall dedicate an additional 20' of right-of-way along the Griffith Avenue frontage of the property.

Public Works has no further comments.



PLANNING COMMISSION MEMBERS

Fernando Aguilera District 1
Robert Acheson District 2 (Vice Chairperson)
Jack Mobley District 3
Kurt Spycher District 4 (Chairperson)
Mark Erreca District 5

Mark Hendrickson, Secretary
www.co.merced.ca.us

AGENDA PLANNING COMMISSION

Regular Meeting of Wednesday, November 4, 2020 - 9:00 a.m.

Merced County Administration Building
Board Chambers, Third Floor
2222 M Street
Merced, California 95340
Phone: 209.385.7654 Fax: 209.726.1710

The Planning Commission 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 three (3) minutes.

PUBLIC COMMENT: If you would like to address the Planning Commission on any item on the agenda, please pick up a speaker card in the foyer; fill it out with your name, street address, phone number, email address and the item number you wish to speak on. Please hand the speaker card to the staff member to the left of the podium once the Commission Chairman opens the public hearing for the agenda item. Each speaker will be limited to three (3) minutes.

AGENDAS and MINUTES: Planning Commission agendas, minutes, and copies of items to be considered are published on the County's Website no later than the Friday, but generally on the Wednesday, preceding each Commission meeting and may be viewed at www.co.merced.ca.us/planning/plancomarchive.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 Planning Commissioners will review and discuss at the Commission 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 Planning Commission 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.

AUDIO/VIDEO BROADCAST: All Planning Commission meetings are normally broadcast live and replayed on local cable television. In addition, a live audio/video broadcast of this meeting may be heard/viewed at: www.co.merced.ca.us/planning/index.html, via live audio or live video. All meetings are archived for audio/video replay following the meeting.

REASONABLE ACCOMMODATIONS: In compliance with the Americans with Disabilities Act (ADA), the Merced County Planning Commission meeting facility is accessible to persons with disabilities. If you need special assistance to participate in this meeting, please contact the Planning Commission Secretary 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.

COMMISSION QUORUM AND ACTION: A Quorum of the Planning Commission shall consist of three (3) members. Actions by the Commission shall require a majority vote (three votes or more) of the total membership of the Commission. When an action by the Planning Commission results in a tie vote the action shall be deemed denied. In the case of a tie vote, the applicant may request that the application be reconsidered at another meeting of the Commission.

APPEAL NOTICE: Any person aggrieved by the decision of the Planning Commission 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 Planning Commission actions, excluding subdivisions, is 5:00 p.m. on the Monday following the Planning Commission meeting, and for subdivisions, the deadline is the following Monday at 5:00 pm. Please note that appeals may not be submitted on days that the County is officially closed. Appeals of Planning Commission actions may be filed with the Clerk of the Board of Supervisors. 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 to the Board Clerk with the written appeal.

Members of the public are advised that a 2-hour time limit for customer parking in designated areas is strictly enforced by the City of Merced. You can request a one-day parking pass from County Administration prior to the Commission meeting, which must be displayed on the dashboard of your vehicle.

Please turn off all pagers, cellular telephones and any other communication devices.



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AGENDA
PLANNING COMMISSION

Regular Meeting
Wednesday, November 4, 2020 - 9:00 a.m.

Merced County Administration Building
Board Chambers, Third Floor
2222 M Street
Merced, California 95340
Phone: 209.385.7654 Fax: 209.726.1710

- I. **CALL TO ORDER**
- II. **PLEDGE OF ALLEGIANCE**
- III. **ROLL CALL OF COMMISSIONERS**
- IV. **APPROVAL OF MINUTES**
- V. **CITIZEN COMMUNICATIONS**

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

VI. **PUBLIC HEARING(S)**

- A. **MINOR SUBDIVISION No. MS20-015 – DUANE & MARY MARSON / FOREBAY FARMS, LLC** - A request to create a 4.0 acre homesite parcel from an 18.3 acre parcel and combine the remaining 14.1 acres with an abutting parcel, creating a 30.1 acre Remainder parcel. The project site located at the southeast corner of N. Griffith Avenue and W. August Road in the Delhi area, identified as Assessor's Parcel Numbers (APNs) 046-190-042 and 046-190-044. The property is designated Agricultural land use and zoned A-1 (General Agricultural). CEQA: Staff recommends that the Planning Commission 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. MS20-015 based on the findings identified in the Staff Report and subject to the recommended Conditions of Approval.

VII. **COMMISSION ACTION ITEM(s)**

VIII. **DIRECTOR'S REPORT**

IX. **COMMISSIONER'S COMMENT**

X. **ADJOURNMENT**