

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL OF COMMISSIONERS
4. APPROVAL OF MINUTES

4.I. MERCED PLANNING COMMISSION MEETING MINUTES 10/25/2023

Documents:

[2023-10-25 PLANNING COMMISSION MINUTES ROUGH DRAFT-TSH2023.11.06.PDF](#)

5. CITIZEN COMMUNICATIONS
6. PUBLIC HEARING(S)

6.I. ITEM VI. A ZONE VARIANCE No. ZV23-001/ MINOR SUBDIVISION No. MS23-005 - ROMERO / SOUSA

ZONE VARIANCE No. ZV23-001 / MINOR SUBDIVISION No MS23-005 - ROMERO / SOUSA - A request to vary from the minimum A-1 parcel sized homesite parcels by reconfiguring the resulting property boundaries to reflect current and future ownership, thereby creating 4 parcels totaling 28.67 acres, sized as Parcel 1 = 1.15 acres, Parcel 2 = 25.44 acres, Parcel 3 = 1.45 acres and Parcel 4 = .63 acres. The project site is located on the north side of West Santa Rita Grade Road, 1940 feet east of South San Juan Road in the Dos Palos area, identified as Assessor's Parcel Numbers (APNs) 085-170-057 and 085-170-058. The project site is designated Agricultural land use in the General Plan and is zoned A-1 (General Agricultural). CEQA: Staff recommends that the Planning Commission find that no further environmental review is required pursuant to Section 15162 ("Subsequent EIRs and Negative Declarations") of the CEQA Guidelines. VR

RECOMMENDATION(S):

- 1) Open/close the public hearing;
- 2) Find that no further environmental review is required pursuant to Section 15162 ("Subsequent EIRs and Negative Declarations") of the CEQA Guidelines; and,
- 3) Approve Zone Variance No. ZV23-001 and Minor Subdivision No. MS23-005 based on the findings and subject to the recommended conditions of approval.

Documents:

[ITEM VI. A ZC23-001 MS23-005.PDF](#)

7. COMMISSION ACTION ITEM(S)

7.I. COMMISSION ACTION ITEM(S)

Establish Chairman and Vice Chairman for October 2024 to October 2025.

8. DIRECTOR'S REPORT
9. COMMISSIONER'S COMMENT
10. ADJOURNMENT
11. PRINTABLE (PDF) AGENDA
- 11.I. MERCED PLANNING COMMISSION AGENDA 11/15/2023

Documents:

[PLANNING COMMISSION AGENDA 2023-NOVEMBER 15 - TSH2023.11.06.PDF](#)

MERCED COUNTY PLANNING COMMISSION
MINUTES FOR MEETING OF OCTOBER 25, 2023

The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of October 25, 2023 are available online at <https://www.countyofmerced.com/411/Planning-Commission>.

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 25, 2023, in the Board Chambers located at 2222 "M" Street, Third Floor, Merced, California.

II. PLEDE OF ALLEGIANCE

III. ROLL CALL OF COMMISSIONERS

Commissioners Present: Commissioner Mark Erreca (Chairperson)
Commissioner Jack Mobley (Vice Chairperson)
Commissioner Joe Ramirez
Commissioner Fernando Aguilera

Staff Present: Steve Maxey, Director
Valeria Renteria, Planner I
Danielle Bettencourt, Recording Secretary

Legal Staff: Rina Gonzales, Chief Deputy County Counsel
Michael Profant, Deputy County Counsel

Commissioners Absent: Commissioner Kurt Spycher

IV. APPROVAL OF MINUTES

Approval of minutes from the September 27, 2023 meeting.

MOTION: M/S MOBLEY / RAMIREZ AND CARRIED BY A VOTE OF 4-0, THE PLANNING COMMISSION APPROVE MINUTES FROM THE SEPTEMBER 27, 2023 MEETING.

V. CITIZENS COMMUNICATIONS

None

VI. PUBLIC HEARINGS

A. ZONE CHANGE No. ZC22-002 / SITE PLAN & DESIGN REVIEW No. SPR23-003 – BEARD ENTERPRISES, LTD. - A request to change the zoning on three (3) contiguous parcels from C-2 (General Commercial) to MU (Mixed Use) to allow the construction of a triplex. The project site is located on the south side of North Stephens Street, 100 feet east of West Delhi Avenue in the Delhi Urban Community, identified as Assessor's Parcel Numbers (APNs) 009-161-001, 009-161-002, and 009-161-003. The property is designated

MERCED COUNTY PLANNING COMMISSION

Minutes – October 25, 2023

Page 2

Mixed Use land use in the General Plan and zoned C-2 (General Commercial). CEQA: Staff recommends that the Planning Commission find that the project requires no further environmental review pursuant to Section 15183 (“Projects Consistent with Community Plan, General Plan, or Zoning”) of the CEQA Guidelines. **VR**

RECOMMENDATION(S):

- 1) Open/close the public hearing;
- 2) Determine that the project requires no further environmental review pursuant to Section 15183 (“Projects Consistent with Community Plan and Zoning”) of the CEQA Guidelines; and,
- 3) Adopt the Resolution recommending the Board of Supervisors adopt the Ordinance approving Zone Change No. ZC22-002 and adopt the Resolution approving Site Plan & Design Review No. SPR23-003 based on the findings listed in the Staff Report and subject to the recommended conditions of approval.

Valeria Renteria, Planner I, provided a presentation on the Zone Change No. ZC22-002 and Site Plan and Design Review No. SPR23-003 Beard Enterprises.

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

No public comment received.

The public hearing closed at 9:06 a.m.

MOTION: M/S MOBLEY - AGUILERA, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION RECOMMENDS THE BOARD OF SUPERVISORS DETERMINE THAT THE PROJECT REQUIRES NO FURTHER ENVIRONMENTAL REVIEW PURSUANT TO SECTION 15183 (“PROJECTS CONSISTENT WITH COMMUNITY PLAN AND ZONING”) OF THE CEQA GUIDELINES.

MOTION: M/S MOBLEY - AGUILERA, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION RECOMMENDS THE BOARD OF SUPERVISORS ADOPT THE ORDINANCE APPROVING ZONE CHANGE No. ZC22-002 AND ADOPT THE RESOLUTION APPROVING SITE PLAN AND DESIGN REVIEW No. SPR23-003 BASED ON THE FINDINGS LISTED IN THE STAFF REPORT AND SUBJECT TO THE RECOMMENED CONDITIONS OF APPROVAL.

- B. Project Description: CONDITIONAL USE PERMIT No. CUP23-008 - AT&T MOBILITY -**
A request to extend the height of an existing monopole cell tower from 90 feet to 115 feet and add 15 antennas near the top of monopole along with associated ground mounted equipment cabinets. The project site is located on the east side of North Mercey Springs Road, 2100 feet south of West Henry Miller Avenue, in the Los Banos area, identified as Assessor’s Parcel Number (APN) 082-020-020. The site is designated Agricultural land use in the General plan and zoned A-1 (General Agricultural). CEQA: Staff recommends that the Planning Commission determine the project is categorically exempt from environmental review pursuant to Section 15301 (“Existing Facilities”) of the CEQA Guidelines. **VR**

MERCED COUNTY PLANNING COMMISSION

Minutes – October 25, 2023

Page 3

RECOMMENDATION(S):

- 1) Open/close the public hearing;
- 2) Determine that the project is categorically exempt from environmental review pursuant to Section 15301 (“Existing Facilities”) of the CEQA Guidelines; and,
- 3) Approve Conditional Use Permit No. CUP23-008 based on the findings included in the staff report and subject to the recommended conditions of approval.

Valeria Renteria, Planner I, provided a presentation on Conditional Use Permit No. CUP23-008 for AT&T Mobility.

The public hearing opened at 9:10 a.m.

No public comment received.

The public hearing closed at 9:11 a.m.

MOTION: M/S MOBLEY - AGUILERA, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION DETERMINES THAT THE PROJECT IS CATEGORICALLY EXEMPT FROM ENVIRONMENTAL REVIEW PURSUANT TO SECTION 15301 (“EXISTING FACILITIES”) OF THE CEQA GUIDELINES.

MOTION: M/S MOBLEY - AGUILERA, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION APPROVE CONDITIONAL USE PERMIT No. CUP23-008 BASED ON THE FINDINGS INCLUDED IN THE STAFF REPORT AND SUBJECT TO THE RECOMMENDED CONDITIONS OF APPROVAL.

VII. COMMISSION ACTION ITEM(S)

Director, Steve Maxey reported the rotation of the Chair and Vice Chair will be November 15, 2023.

VIII. DIRECTOR’S REPORT

None

IX. COMMISSIONERS’ COMMENTS

None

X. ADJOURNMENT

There being no further business, the meeting adjourned at 9:12 a.m.



Planning Commission
Staff Report
November 15, 2023

AGENDA ITEM # A

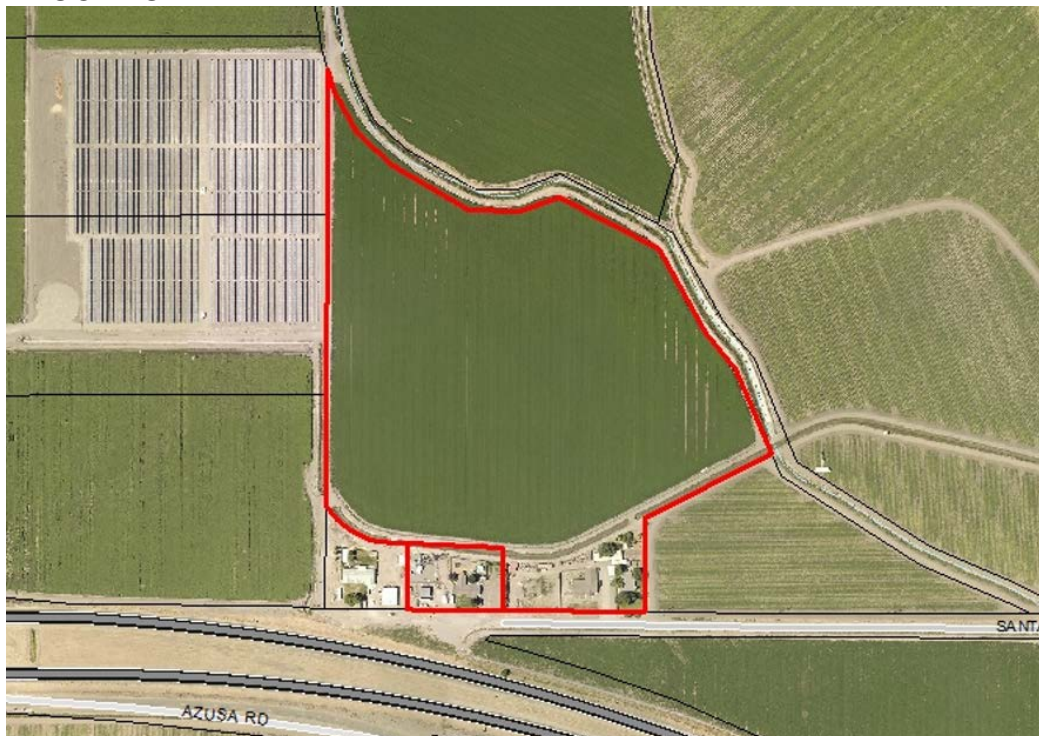
PREPARED BY: VALERIA RENTERIA, PROJECT PLANNER
APPROVED BY: PLANNING COMMISSION

ZONE VARIANCE No. ZV23-001 / MINOR SUBDIVISION No MS23-005 – ROMERO / SOUSA - A request to vary from the minimum A-1 parcel sized homesite parcels by reconfiguring the resulting property boundaries to reflect current and future ownership, thereby creating 4 parcels totaling 28.67 acres, sized as Parcel 1 = 1.15 acres, Parcel 2 = 25.44 acres, Parcel 3 = 1.08 acre and Parcel 4 = 1.00 acre.. The project site is located on the north side of West Santa Rita Grade Road, 1940 feet east of South San Juan Road in the Dos Palos area, identified as Assessor's Parcel Numbers (APNs) 085-170-057 and 085-170-058. The project site is designated Agricultural land use in the General Plan and is zoned A-1 (General Agricultural). CEQA: Staff recommends that the Planning Commission find the project requires no further environmental review pursuant to Section 15162 ("Subsequent EIRs and Negative Declarations") of the CEQA Guidelines. **VR**

RECOMMENDATION(S):

- 1) Open/close the public hearing;
- 2) Find the project requires no further environmental review pursuant to Section 15162 ("Subsequent EIRs and Negative Declarations") of the CEQA Guidelines; and,
- 3) Approve Zone Variance No. ZV23-001 and Minor Subdivision No. MS23-005 based on the findings and subject to the recommended conditions of approval.

PROJECT LOCATION



BACKGROUND:

Site Description

The project site is located on Santa Rita Grade, approximately 1,940 feet east of South San Juan Road in the Dos Palos area. The project site is one legal parcel that consist of Assessor’s Parcel Numbers (APNs) 085-170-058 and 085-170-057 (tax parcel) and totals 28.67 acres.

The project site is developed with three rural residences and associated accessory structures and a wireless cell tower facility and approximately 25.44 acre of row crops. The residence on the southwest side of the site maintains an existing well and septic system, while the two residences on the southeast side of the site each have their own septic system and share a well. Each home has an improved driveway along Santa Rita Grade.

The existing farming operations is physically separated from the residences and neighboring properties by an unnamed canal/waterway to the south, the West San Juan Drain to the north and east, and the an solar energy generation facility to the west.

Surrounding Uses

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

Prior Actions/Entitlements

- Conditional Use Permit No. CUP 2172 was approved by the Planning Commission on May 9, 1979 to permit the conversion of an existing garage to a dwelling for the property owner.
- Mobile Home Use Permit No. MHR 301 and Additional Dwelling No. AD0821 was approved September 9, 1986 to permit for a mobile home.
- Administrative Application No. AA97-074 and Additional Dwelling No. AD 3279 was approved by the Planning Director on September 29, 1997 permit a third and fourth residence for family members.
- Conditional Use Permit No. CUP97-015 was approved by the Planning Commission to permit the construction and operation of a commercial 140-foot communications cell tower.
- Minor Subdivision No. MS01-031 and Zone Variance ZV01-010 was approved by the Planning Commission on September 12, 2001 to vary from the minimum parcel size in the A-1 zone and divide a quarter acre parcel from 29.1-acre parcel.
- Minor Subdivision No. MS08-001 was approved by the Planning Commission on March 12, 2008 to create a financial parcel for the purposes of funding the construction of a single-family residence for a family member.
- PPR’s
 - Plot Plan Review No. PPR12-041 was approved November 5, 2012 by County Staff to allow three new panel antennas and 6 RRU’s and one GPS antenna, with associated cabling and equipment cabinet on an existing 140-foot communications tower facility.

- Plot Plan Review No. PPR13-001 was approved January 14, 2013 by County Staff to add four-foot microwave dish and four ODU's on an existing 140-foot communications tower facility.
- Plot Plan Review No. PPR14-017 was approved September 19, 2014 by County Staff to add two-foot microwave dish antenna with appropriate cabling on an existing 140-foot communications tower facility.
- Plot Plan Review No. PPR16-014 was approved July 25, 2016 by County Staff to add a two-foot microwave dish antenna on an existing 140-foot communications tower facility.
- Plot Plan Review No. PPR16-031 was approved by County Staff December 6, 2016 to remove three panel antennas, add one additional panel antenna, seven RRU's and associated ground mounted equipment on an existing 140-foot communications tower facility.

ANALYSIS:

Project Description

The request is vary from the minimum parcel size for the A-1 zone to allow for the subdivision of homesite parcels separate from existing farming operations which are physically separated by waterways. The resulting parcels would be: Parcel 1 = 1.15 acres, Parcel 2 = 25.44 acres, Parcel 3 = 1.08 acre and Parcel 4 = 1.0 acre. Parcel 2 would consist of the existing farming operations, and Parcel 1, 3, and 4 would be homesite parcels.

In consultation with Environmental Health Division, it was identified that Parcel 4 size would need to be increased to maintain adequate area and setbacks for well and septic systems and compliance with the Local Agency Management Plan. The Applicant has agreed to this revision and has submitted a revised tentative map to reflect these changes. Consequently, the revised resulting parcel sizes would be: Parcel 1 = 1.15 acres, Parcel 2 = 25.44 acres, Parcel 3 = 1.08 acre and Parcel 4 = 1.0 acre.

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. The site is generally designated Mixed-Use land use designation in the General Plan. The Mixed-Use designation provides for higher density residential development to be located on the same parcel or block as either commercial or office uses in order to provide denser, pedestrian and transit oriented development in urban areas. The mix of uses can be either horizontal or vertical. This designation is typically applied in central areas of Urban Communities.

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.

Policy LU-2.4: Secondary Uses in Agricultural Areas

Except as otherwise provided by law, limit ancillary uses in Agricultural and Foothill Pasture areas to include secondary single-family residences, farm worker housing, agricultural tourism related uses, and agricultural support services, provided that such uses do not interfere with historic agricultural practices, result in adverse health risks, or conflict with sensitive habitats or other biological resources.

The project site consists of a rural residence and row crops, both of which are land uses allowed on Agricultural designated land. The project proposes to create three homesites parcels which would contain the existing rural residences and one parcel consisting of the existing farming operation which would remain in agricultural operation. No new residences or structures are proposed with this subdivision.

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 project would result in parcels that would less than 20 acres; however, the project also involves a request for a variance from the minimum parcel size requirement.

As proposed, the subdivision would create one conforming parcel (Parcel 2) which is currently farmed and would remain in agricultural production. The homesite parcels, totaling approximately 3.23 acres, are physically separated from existing farming operations by a water way and bounded by Santa Rita Grade to the south. These features make the land ineffective for commercial agriculture regardless of existing development.

Currently, the existing rural residential development is situated to minimize impacts to existing agricultural operations, maintain the ability of viable agricultural operations, and is reflective of the uses and pattern as contemplated by the General Plan. Should the Planning Commission approve the variance request, the project would not increase the density of the project area, change the existing land uses, or increase the severity of impacts to existing agricultural.

No new residences are proposed with this project and any potential residential development would be limited with implementation of General Plan Policy AG-3.1. Therefore, the project is consistent with the spirit and intent of the General Plan.

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.

a. Section 18.10.030, Agricultural Zone Development Standards

The proposed project involves the creation of four parcel, Parcel 1 = 1.15 acres, Parcel 2 = 25.44 acres, Parcel 3 = 1.08 acre and Parcel 4 = 1.0 acre.

A variance is proposed to permit variance from the 20-acre minimum parcel size requirement for the A-1 zone. Exceptions to the minimum parcel size requirement is outlined in Section 18.10.030(F). The project does not meet the criteria for these exceptions, because the intent is not to create a financial parcel (tax parcel), air strip, or utility or quasi-utility. Subparagraph 5 permits the creation of a homesite when the remaining acreage can be sold to create a larger, more efficient agricultural operation. Due to the physical constraints of the property, waterways which bound the site, and the adjacent uses (solar facility), the property owner cannot meet this condition and is consequently requesting a variance.

b. Section 18.10.040, Other Applicable Agricultural Zone Regulations

The project is exempt from the agricultural buffer requirement as existing development is already clustered to minimize impacts to agricultural operations and no new residences are proposed.

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.

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.

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 to 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. MS23-005/ Zone Variance No. ZV23-001, no additional residences are proposed, and, if the application is approved, a note would 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 seek to build an additional residence 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 the Merced County agencies such as the Public Works Roads Division, Division of Environmental Health, and the Buildings and Safety Division. (**Attachment C**)

Notice of the Planning Commission’s public hearing was published in The Merced County Times on **November 2, 2023** and mailed to all owners of property located within 300 feet of the project site on **November 3, 2023**. 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 and can be exempted from further CEQA review under Section 15162 (“Subsequent EIRs and Negative Declarations”) of the CEQA Guidelines.

Staff recommends that the Planning Commission approve Minor Subdivision Application No. MS23-005 and Zone Variance No. ZV23-001 based on the findings identified below and subject to the recommended Conditions of Approval.

RECOMMENDED PLANNING COMMISSION ACTION:

A. CEQA Determination

MOTION: Determine that no further environmental review is required for the project 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 Guidelines Section 15162 Findings and Analysis.

B. Project Determination

MOTION: Approve Minor Subdivision Application No. MS23-005 and Zone Variance No. ZV23-001 based on the findings identified and subject to the recommended conditions of approval.

Project Findings:

1. **Minor Subdivision Findings.** The Planning Commission finds that Minor Subdivision Application No. MS23-005 and Zone Variance No. ZV23-001 is in compliance with Government Code Section 66474:

- a. None of the findings listed in Section 66474 of the Government Code that would require the County to deny the approval of the tentative parcel map are applicable to this project.
- b. That the proposed map is consistent with applicable general and specific plans as specified in Section 65451. Zone Variance No. ZV23-001 / Minor Subdivision Application No. MS23-05 is a request to vary from the minimum A-1 parcel size to reconfigure the resulting property boundaries to reflect current and future ownership, thereby creating 4 parcels totaling 28.67 acres, sized as Parcel 1 = 1.15 acres, Parcel 2 = 25.44 acres, Parcel 3 = 1.08 acre and Parcel 4 = 1.00 acre. The project site is located on the north side of West Santa Rita Grade Road, 1940 feet east of South San Juan Road in the Dos Palos area, identified as Assessor’s Parcel Numbers (APNs) 085-170-057 and 085-170-058. The project site is designated Agricultural land use in the General Plan and is zoned A-1 (General Agricultural).

The homesite parcels already developed with rural residences and an approximately 25.44-acre parcel with existing agriculture to remain in agricultural production. No additional residences are proposed. Consequently, the proposed project would be consistent with land uses and density allowed by the General Plan and would be consistent with other applicable General Plan goals and policies and applicable provisions of the Zoning Code.

- c. That the design or improvement of the proposed subdivision is consistent with applicable general and specific plans. The project design and improvements would be consistent with the goals and policies of the General Plan.
- d. That the site is physically suitable for the type of development already present and no new development is proposed.

That the site is physically suitable for the proposed density of development as rural residences are contemplated by the General Plan as long as the size of the parcels provide adequate area for well and septic system.

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

The project does not involve any improvements; therefore, the proposed subdivision would not likely cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

a. *That the design of the subdivision or type of improvements is likely to cause serious public health problems.*

The proposed project would not likely cause serious public health problems because it is a subdivision which does not propose any new development.

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

The design of the subdivision would not conflict with any easements and the project would not involve any improvements which would conflict with any easement.

Minor Subdivision Application No. MS23-005 and Zone Variance No. ZV23-001

2. **Zone Variance Section 18.126.050.** The Planning Commission finds that Minor Subdivision Application No. MS23-005 and Zone Variance No. ZV23-001 is in compliance with Merced County Code Chapter 18.126 (“Variances and Minor Deviations”). In accordance with Merced County Code Section 18.126.050, the Planning Commission finds that:
 - a. There are physical, geographic features that prohibit the expansion of agricultural operations beyond the existing boundaries, including the waterways which bound Parcel 2 and the solar facility, a non-agricultural use, adjacent to the property. Additionally, the area which is developed with existing rural residences is bounded by waterways and existing roads and is too small for effective farming. The existing canal that runs around proposed Parcel 2 and divides it from proposed Parcel 1, Parcel 3 and Parcel 4 of the project site does not apply generally to the other properties in the vicinity under the same zoning classification.
 - b. Strict compliance with Zoning Code requirements would deprive the subject property of privileges enjoyed by other property in the vicinity and under identical zoning classification because the waterways bounding existing agricultural operations and existing development limits the ability of the property owner to retain their home and sell/convey the remaining acreage to adjacent farming operations.
 - c. Approving the Variance would not constitute a grant of special privilege inconsistent with the limitations on other properties in the same vicinity and zone in which the subject property is situated because the proposed project does not change the use of

the land, Parcel 2 would continue to be farmed and no new residences are proposed;
and,

- d. The proposed involves the creation of property boundaries to reflect current ownership for family members and a parcel that is actively farmed which are expressly authorized by the regulations governing the subject parcel and are consistent with adjacent uses.
- e. The project is subject to all applicable local, state, and federal regulations, including but not limited to those enforced by the Merced County Divisions of Environmental Health, Roads, and Buildings & Safety.
- f. The public hearing for the project has been adequately noticed and advertised.

ATTACHMENTS:

- A. CEQA Findings
- B. Recommended Conditions of Approval
- C. Tentative Parcel Map

ATTACHMENT A

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

Application: Minor Subdivision Application No. MS23-005

Assessor Parcel Number or Location: Assessor's Parcel Numbers (APNs) 085-170-057 and 085-170-058

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 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 exercise of reasonable diligence at the time the previous EIR was adopted. (See Page 3 for supporting analysis).

ATTACHMENT A

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 November XX, 2023

Prepared By:

Valeria Renteria
Project Planner

ATTACHMENT A

CEQA Guidelines Section 15162 Findings: Supporting Analysis

I. Introduction

Zone Variance No. ZV23-001 and Minor Subdivision Application No. MS23-005 for Manuela Sousa and Wendy Romero is a request to vary from the minimum A-1 parcel sized homesite parcels by reconfiguring the resulting property boundaries to reflect current and future ownership, thereby creating 4 parcels totaling 28.67 acres, sized as Parcel 1 = 1.15 acres, Parcel 2 = 25.44 acres, Parcel 3 = 1.45 acres and Parcel 4 = .63 acres. The project site is located on the north side of West Santa Rita Grade Road, 1940 feet east of South San Juan Road in the Dos Palos area, identified as Assessor's Parcel Numbers (APNs) 085-170-057 and 085-170-058. The project site is designated Agricultural land use in the General Plan and is zoned A-1 (General Agricultural).

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. MS23-005, 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.

This proposed minor subdivision is a request to create three homesite parcels from a 28.67 parcel and a 25.44-acre remainder parcel to remain as active agriculture. Farming practices and other existing land uses for the 25.44-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.



**COMMUNITY AND ECONOMIC
DEVELOPMENT DEPARTMENT
Planning Division**

Steve Maxey
Director

Tiffany Ho
Deputy Director

**MINOR SUBDIVISION APPLICATION No.
MS23-005 / ZONE VARIANCE NO. ZV23-001
CONDITIONS OF APPROVAL**

2222 "M" Street
Merced, CA 95340
(209) 385-7654
(209) 726-1710 Fax
www.countyofmerced.com

Merced County Planning Division

1. Zone Variance No. ZV23-001 / Minor Subdivision Application No. MS23-005 is granted to vary from the minimum A-1 parcel sized homesite parcels by reconfiguring the resulting property boundaries to reflect current and future ownership, thereby creating 4 parcels totaling 28.67 acres, sized as Parcel 1 = 1.15 acres, Parcel 2 = 25.44 acres, Parcel 3 = 1.08 acre and Parcel 4 = 1.0 acre. The project site is located on the north side of West Santa Rita Grade Road, 1940 feet east of South San Juan Road in the Dos Palos area, identified as Assessor's Parcel Numbers (APNs) 085-170-057 and 085-170-058.
2. A new well shall be drilled on Parcel 4 for the benefit of Parcel 4 prior to the sale or change of ownership of either Parcel 3 or 4.
3. The existing shed located on the property line that divides Parcels 3 and 4 shall be relocated or demolished so that it is not situated on a property line and meets adequate setbacks.
4. 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.
5. 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.
6. The applicant shall comply with all applicable Local, State and Federal regulations.

Merced County Environmental Health Division

7. New installations or repairs of on-site wastewater treatment systems shall conform to current Merced County standards to the greatest extent possible.

County Counsel

8. INDEMNITY AND HOLD HARMLESS AGREEMENT:

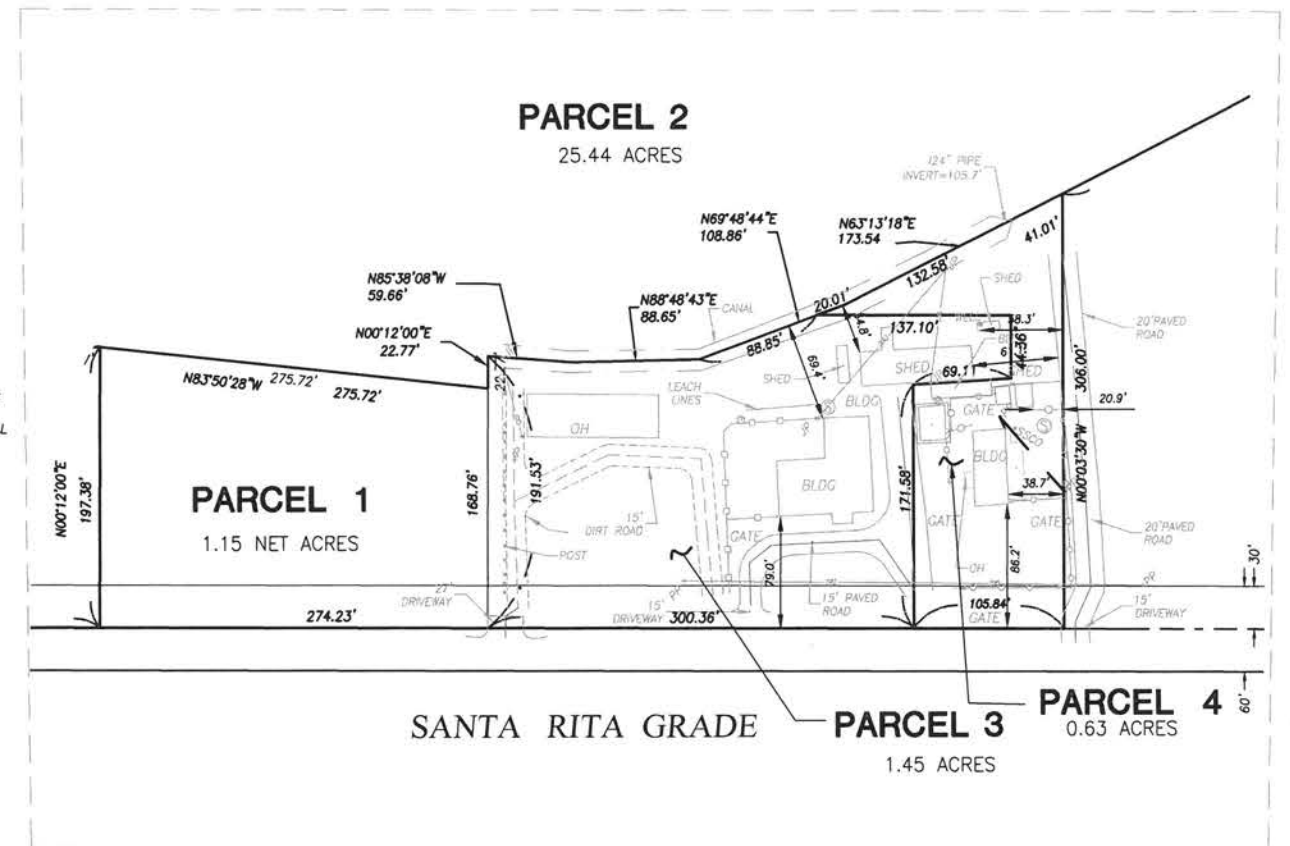
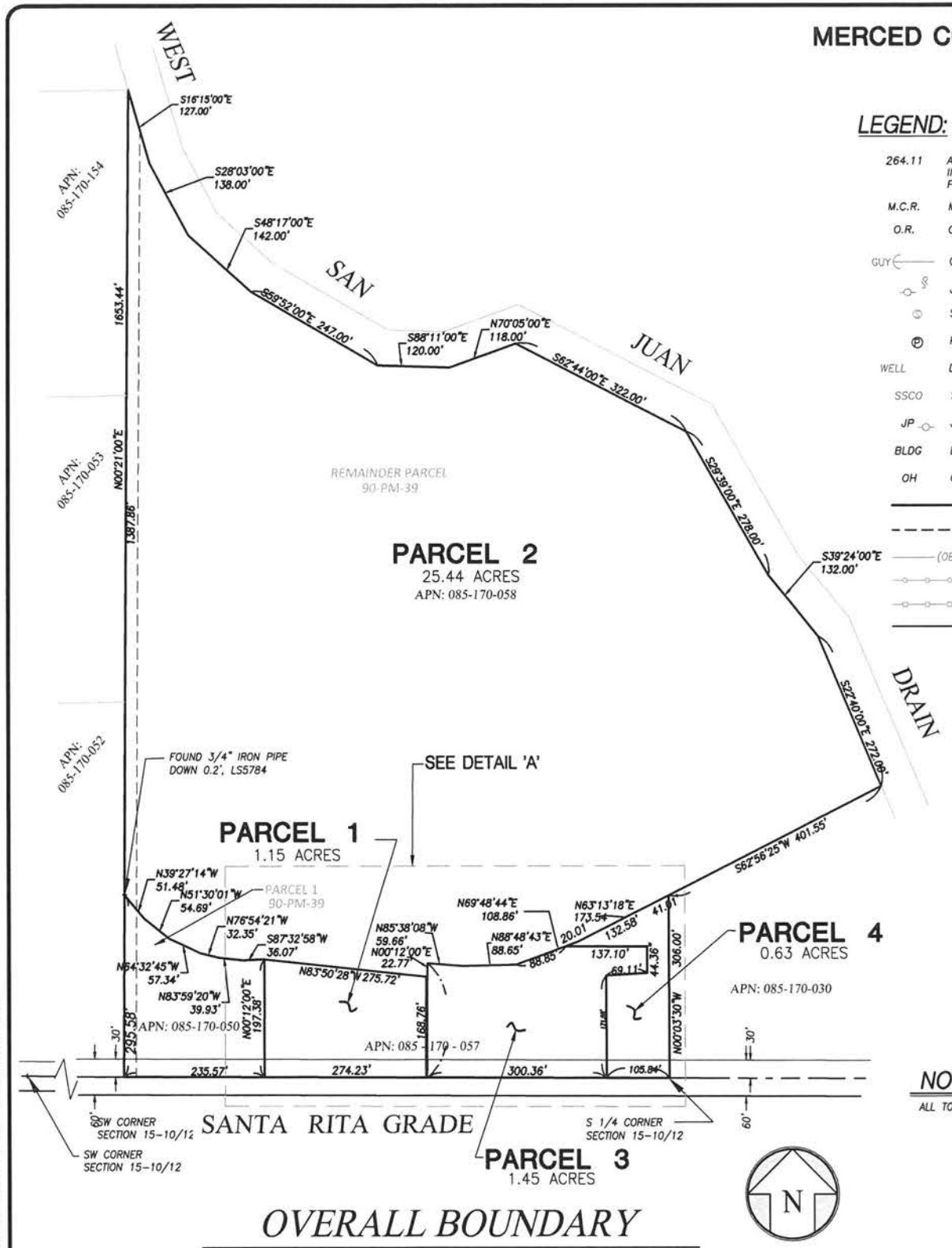
WENDY ROMERO and MANUELA SOUSA ("INDEMNITORS") have the contracted duty (hereinafter "the duty") to defend, indemnify and hold harmless the County of Merced, its Board of Supervisors, commissions, officers, employees, agents, and assigns (hereinafter "COUNTY") from any claim, action, or proceeding arising 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 INDEMNITORS and cooperate fully in the defense. This clause for indemnification shall be interpreted to the broadest extent permitted by law.

ATTACHMENT C

MERCED COUNTY PLANNING DEPARTMENT PLOT PLAN

LEGEND:

- 264.11 ALL MEASUREMENTS ARE IN FEET AND DECIMAL FRACTIONS THEREOF.
- M.C.R. MERCED COUNTY RECORDS
- O.R. OFFICIAL RECORDS
- GUY GUY ANCHOR
- JOINT POLE
- SEPTIC TANK
- PROPANE TANK
- WELL DOMESTIC WATER WELL
- SSCO SEWER CLEANOUT
- JP JOINT POLE
- BLDG BUILDING
- OH OVERHANG
- BOUNDARY LINE
- NEW BOUNDARY LINE
- (OE) OVERHEAD ELECTRICAL
- CHAINLINK FENCE
- WOODEN FENCE
- PROPOSED LINE



DETAIL 'A'

NOTE:
ALL TOPOGRAPHIC FEATURES ARE EXISTING

PROPERTY OWNER/S	MANUELA SOUSA
ADDRESS	8530 W SANTA RITA GRADE, DOS PALOS, CA 93620
TELEPHONE	(209)-769-9277
DRAWING PREPARED BY	QK INC.
ADDRESS	2816 PARK AVENUE, MERCED, CA 95348
TELEPHONE	(209) 723-2066

FOR: MANUELA SOUSA
SEPTEMBER 2022



PROJECT NO.: 220287	ZONE VARIANCE 23001 / MINOR SUB. 23005		
DRAWN BY: JLS	APPLICATION TYPE	NUMBER	DATE
QA/QC BY: GAP	MINOR SUBDIVISION	---	4/11/2023
SCALE: AS SHOWN			

L:\PROJECTS\2022\220287\4540\SURVEY\EXHIBITS\202287-PLTP\PLANNING\4/11/2023 1:12 PM



PLANNING COMMISSION MEMBER

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

Steve Maxey, Secretary
www.countyofmerced.com

AGENDA
PLANNING COMMISSION
Regular Meeting
Wednesday, November 15, 2023 9:00am

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 Chairperson 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.countyofmerced.com/411/Planning-Commission. All proposed agenda items with supportive documents are available for viewing at the Merced County Community and Economic 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 Community and Economic 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.countyofmerced.com/2229/Planning-Commission-Meetings, 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 ten (10) calendar days after the day the action is made. The deadline for appeals of Planning Commission actions is 5:00 p.m. two Mondays following the Planning Commission meeting. 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.



PLANNING COMMISSION MEMBER

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

Steve Maxey, Secretary
www.countyofmerced.com

AGENDA
PLANNING COMMISSION
Regular Meeting
Wednesday, November 15, 2023

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**

Approval of minutes from the October 25, 2023 meeting.

- 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. ZONE VARIANCE No. ZV23-001 / MINOR SUBDIVISION No MS23-005 – ROMERO / SOUSA -
A request to vary from the minimum A-1 parcel sized homesite parcels by reconfiguring the resulting property boundaries to reflect current and future ownership, thereby creating 4 parcels totaling 28.67 acres, sized as Parcel 1 = 1.15 acres, Parcel 2 = 25.44 acres, Parcel 3 = 1.45 acres and Parcel 4 = .63 acres. The project site is located on the north side of West Santa Rita Grade Road, 1940 feet east of South San Juan Road in the Dos Palos area, identified as Assessor's Parcel Numbers (APNs) 085-170-057 and 085-170-058. The project site is designated Agricultural land use in the General Plan and is zoned A-1 (General Agricultural). CEQA: Staff recommends that the Planning Commission find that no further environmental review is required pursuant to Section 15162 ("Subsequent EIRs and Negative Declarations") of the CEQA Guidelines. **VR**

RECOMMENDATION(S):

- 1) Open/close the public hearing;
- 2) Find that no further environmental review is required pursuant to Section 15162 ("Subsequent EIRs and Negative Declarations") of the CEQA Guidelines; and,
- 3) Approve Zone Variance No. ZV23-001 and Minor Subdivision No. MS23-005 based on the findings and subject to the recommended conditions of approval.

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

Establish Chairman and Vice Chairman for October 2024 to October 2025

VIII. **DIRECTOR'S REPORT**

IX. **COMMISSIONER'S COMMENT**

X. **ADJOURNMENT**