



Planning Commission

Staff Report

July 28, 2021

AGENDA ITEM # B

PREPARED BY:
APPROVED BY:

MARK MARSHALL, PROJECT PLANNER
MARK HENDRICKSON, DIRECTOR

MINOR SUBDIVISION APPLICATION No. MS21-009 – MARGIE BIRDSSELL - A request to subdivide a 14 acre parcel into three parcels, resulting in parcel sizes of: Parcel 1 = 1.21 acres, Parcel 2 = 5.55 acres, and Parcel 3 = 6.76 acres. The property located on the Highway 33, 1,300 feet south of Carmellia Road adjacent to the Dos Palos area, identified as APN 013-030-012. The property is designated Low Density Residential land use in the General Plan and is zoned R-1 (Single-Family Residential). CEQA: Staff recommends that the Planning Commission determine the project is exempt from environmental review pursuant to Section 15315 - "Minor Land Divisions" of the CEQA Guidelines. **MM**

SUPERVISORIAL DISTRICT: 5 – Scott Silveira

RECOMMENDATION(S):

- 1) Open/close public hearing;
- 2) Determine that the project can be found exempt from environmental review pursuant to Section 15315 – "Minor Land Divisions" of the CEQA Guidelines; and,
- 3) Approve Minor Subdivision No. MS21-009 based on the findings identified in the staff report and subject to the recommended conditions of approval.

LOCATION MAP:



Site Description

The project site is located on Highway 33, south of Carmellia Road, and north of the intersection of Santos Street and Sharon Lane, and is identified as Assessor Parcel Number (APN) 013-030-012. The proposed project site is immediately adjacent to the City of Dos Palos. The property is designated as Low Density Residential land use in the General Plan and is zoned R-1 (Single-Family Residential). Currently, the parcel contains two residences and residential accessory structures. Proposed Parcels 1 and 2 currently contain the residential structures, while Proposed Parcel 3 is vacant land and remains undeveloped.

Surrounding Uses

	General Plan	Zoning	Current Land Use
On-Site:	Low Density Residential (LD)	Single-Family Residential (R-1)	Residential
North:	Low Density Residential (LD)	Single-Family Residential (R-1)	Residential
East:	City Limits (Dos Palos)	City Limits (Dos Palos)	Residential Subdivisions
South:	Low Density Residential (LD)	Single-Family Residential (R-1)	Residential
West:	Low Density Residential (LD)	Single-Family Residential (R-1)	Residential/Vacant Land

Prior Actions/Entitlements

The project site has two previous actions/entitlements on recent record, including:

- HST-00105987 was approved in 1996 for a new residential pool;
- BP2010-1163 was approved in 2020 for a heating and air conditioning replacement.

ANALYSIS

Project Description

Minor Subdivision No. MS21-009 is a request to divide an approximately 14 acre parcel into three (3) parcels, resulting in parcel sizes of: Parcel 1 = 1.21 acres, Parcel 2 = 5.55 and Parcel 3 = 6.74 acres. Proposed Parcels 1 and 2 will each contain one existing residence, whereas Proposed Parcel 3 will be undeveloped, with no proposed new construction at this time.

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. Countywide growth and development policies serve to direct urban development to vacant and/or underused land within cities and unincorporated communities. The following land use goals and policies are applicable to the present application:

Incorporated Cities and Urban Fringe Areas

The majority of future growth in Merced County will occur in either the existing cities (Atwater, Dos Palos, Gustine, Livingston, Los Banos, Merced) or within their spheres of influence. While the cities have land use authority within their city limits, the County coordinates planning efforts with the cities in the unincorporated portions of their spheres of influence. Consultation, coordination, and cooperation between the cities and the County are a necessary and essential aspect of future planning. Orderly expansion, land use controls, and zoning consistency are among the many efforts employed by both the cities and the County to better plan for the future of the local population.

Goal LU-7

Ensure that development in county/city fringe areas is well planned and adequately serviced by necessary public facilities and infrastructure.

Policy LU-7.2: Orderly Expansion

Promote orderly expansion of urban uses within city spheres of influence recognizing the city has primary responsibility to determine the type and timing of development.

Policy LU-7.11: City Consultation

Do not approve any discretionary permit for new urban development within a city sphere of influence unless the development proposal has first been referred to the city for consideration of possible annexation pursuant to the policies of this section and provisions of any applicable city/county memorandum of understanding.

Minor Subdivision No. MS21-009 will allow for the partition and possible development of several residential parcels, and is designated as Low-Density Residential land use, zoned Single-Family Residential and is consistent with the abutting residential subdivisions within the Dos Palos city limits. The project was referred to the City of Dos Palos for review. The proposed minor subdivision has been conditioned for access from the city-maintained road to Parcel 3, at the intersection of Loraine Street and Fir Avenue. The City of Dos Palos is constrained by water availability, and is not capable of granting water service to the proposed subdivision at this time. However, the proposed parcels can be developed with septic tanks and wells, subject to County approval. As no new construction is being proposed at this time and the City of Dos Palos has been consulted for the project, minor subdivision MS21-009 can be found in alignment with Goal LU-7 and Policies LU-7.1 and LU-7.11 of the General Plan.

2. Merced County Zoning Code (MCZC)

The project site is designated LDR (Low-Density Residential) and R-1 (Single-Family Residential). The Low-Density Residential designation provides for single-family dwellings on medium to large lots. This designation is typically applied to areas considered appropriate for the construction of single-family dwellings within Urban Communities. The purpose of the R-1 Residential Zone is to provide a full range of urban services and reserve appropriately located areas for single-family living with low population densities consistent with sound standards of public health, welfare, and safety. It is the intent of this zone to protect the residential characteristics of an area and to promote a suitable environment for family life.

Minor Subdivision No. MS21-009 would divide a 14 acre parcel into three parcels, resulting in parcel sizes of: Parcel 1 = 1.21 acres, Parcel 2 = 5.55 and Parcel 3 = 6.74 acres. Per 18.12.030 (Table 2-4) of the Merced County Zoning Code, the minimum parcel size of Single-Family Residential zoned parcels is 6,000 square feet for interior parcels and 6,400

square feet for corner parcels. The maximum threshold for minor subdivisions is four or fewer parcels, and all three proposed parcels front a publicly maintained street and meet both minimum and maximum depth and width requirements. As a condition of approval for the minor subdivision, future improvements will be required in accordance with Section 16.08.040A(1) of the Merced County Code and the Subdivision Map Act, expounded upon below. As Parcels 2 and 3 have the possibility to be subdivided at a later date and could create more than four potential parcels included with the parcels of this subdivision, the proposed project would typically be subject to full Level 1 Improvements outlined in County Code Section 16.08.040, prior to recordation of the final map. However, as the entirety of the road frontage of Fir Avenue is under the jurisdiction of the City of Dos Palos, the proposed minor subdivision would not be subject to Level 1 Improvements, as it does not front on a County-maintained road and no new construction is being proposed at this time. The City of Dos Palos has granted temporary access to Parcel 3 of the minor subdivision from the intersection of Fir Avenue and Loraine Street, under the stipulation that improvements will be made by the applicant when new construction is proposed and approved.

Therefore, since the proposed parcels meet the minimum lot development standards and will be conditioned to require applicable improvements, the project meets the standards required by the Zoning Code.

Subdivision Map Act and Title 17

Consistent with the Subdivision Map Act, all land divisions approved by the planning director, commission and/or the board after March 4, 1972, and recorded by the county recorder consistent with conditions of approval and ordinances in effect at the time of approval shall be considered legal.

Consistent with Section 17.12.040 of the County of Merced Subdivision Code, this tentative map application has provided adequate and legible information regarding the proposed subdivision and its dimensions, existing structures, and utility services to the parcel(s).

In addition, as stated previously, subject to the Subdivision Map Act (Government Code Section 66411.1), the project will be conditioned to create road access agreed upon between the County of Merced, the City of Dos Palos, and the applicant.

California Environmental Quality Act (CEQA)

Staff has determined that the project Minor Subdivision No. MS21-009 can be found exempt from environmental review pursuant to Section 15315 – “Minor Land Divisions” of the CEQA Guidelines. The section states:

Class 15 consists of the division of property in urbanized areas zoned for residential, commercial, or industrial use into four or fewer parcels when the division is in conformance with the General Plan and zoning, no variances or exceptions are required, all services and access to the proposed parcels to local standards are available, the parcel was not involved in a division of a larger parcel within the previous 2 years, and the parcel does not have an average slope greater than 20 percent.

The following findings can be made to support this determination:

1. The project site is located within an urbanized area zoned for residential use, adjacent to the City of Dos Palos.

2. The project site is designated LDR (Low-Density Residential) and R-1 (Single-Family Residential).
3. The proposed project involves the division of property into four or fewer parcels.
4. The proposed project is consistent with the General Plan and Zoning Code.
5. No variances or exceptions are required to implement the proposed project.
6. All services and access to the proposed parcels are available.
7. The parcel has not been involved in a division of a larger parcel within the previous two (2) years.
8. The parcel does not have an average slope greater than 20 percent.

Community Engagement

The project application was routed to the applicable County departments and the City of Dos Palos for comment. Comment was received from the Division of Public Works and the City of Dos Palos. No other agencies had comments regarding the subdivision. See **Exhibit B** for agency comments.

Notice of the public hearing was mailed to all owners of property located within 300 feet of the project site and published in the Merced Sun-Star on **July 16, 2021**. 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 the proposed minor subdivision to be consistent with applicable provisions of the General Plan, the Zoning Code, Title 17 of the Merced County Code, and the Subdivision Map Act. Furthermore, the project can be found exempt from environmental review pursuant to Section 15315 – “Minor Land Divisions” of the CEQA Guidelines.

Staff recommends the Planning Commission approve Minor Subdivision Application No. MS21-009 based upon the findings in the staff report and subject to the recommended conditions of approval.

RECOMMENDED PLANNING COMMISSION ACTION:

A. CEQA Determination

MOTION: Determine the project can be found exempt from environmental review pursuant to Section 15315 – “Minor Land Divisions” of the CEQA Guidelines.

CEQA Findings:

1. The project site is located within an urbanized area zoned for residential use, adjacent to the City of Dos Palos.
2. The project site is designated LDR (Low-Density Residential) and R-1 (Single-Family Residential).
3. The proposed project involves the division of property into four or fewer parcels.

4. The proposed project is consistent with the General Plan and Zoning Code.
5. No variances or exceptions are required to implement the proposed project.
6. All services and access to the proposed parcels are available.
7. The parcel has not been involved in a division of a larger parcel within the previous two (2) years.
8. The parcel does not have an average slope greater than 20 percent.

B. Project Determination

MOTION: Approve Minor Subdivision Application No. MS21-009 based on the findings included in the staff report and subject to the recommended conditions of approval.

Project Findings:

1. Minor Subdivision Application No. MS21-009 proposes to divide a 14 acre parcel into three parcels, resulting in parcel sizes of: Parcel 1 = 1.21 acres, Parcel 2 = 5.55 acres, and Parcel 3 = 6.76 acres. The property is located on Highway 33, 1,300 feet south of Carmellia Road adjacent to the Dos Palos area.
2. The property is designated Low-Density Residential (LDR) in the General Plan and is zoned R-1 (Single-Family Residential).
3. The proposed project is consistent with applicable provisions of the 2030 Merced County General Plan.
4. The proposed project is consistent with applicable provisions of the Merced County Zoning Code.
5. The proposed project is consistent with the Subdivision Map Act and Title 17 of the Merced County Code.
6. The project has been reviewed by the County Roads Division, Environmental Health Division, Building and Safety Division, and the Fire Department.
7. The proposed minor subdivision is compatible with adjacent uses, properties, and neighborhoods, and will not be a nuisance or detrimental to the public health, safety or general welfare.
8. The project is subject to all applicable Federal, State, and local 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.

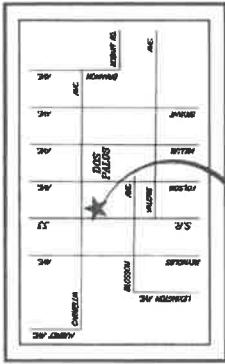
EXHIBITS:

- A. Tentative Parcel Map
- B. Conditions of Approval
- C. Merced County Agency Comments

cc.
Property Owner(s) – Margie Lee Birdsell
Applicant – Diane Rentfrow
Engineer – Kevin Bronson

EXHIBIT A

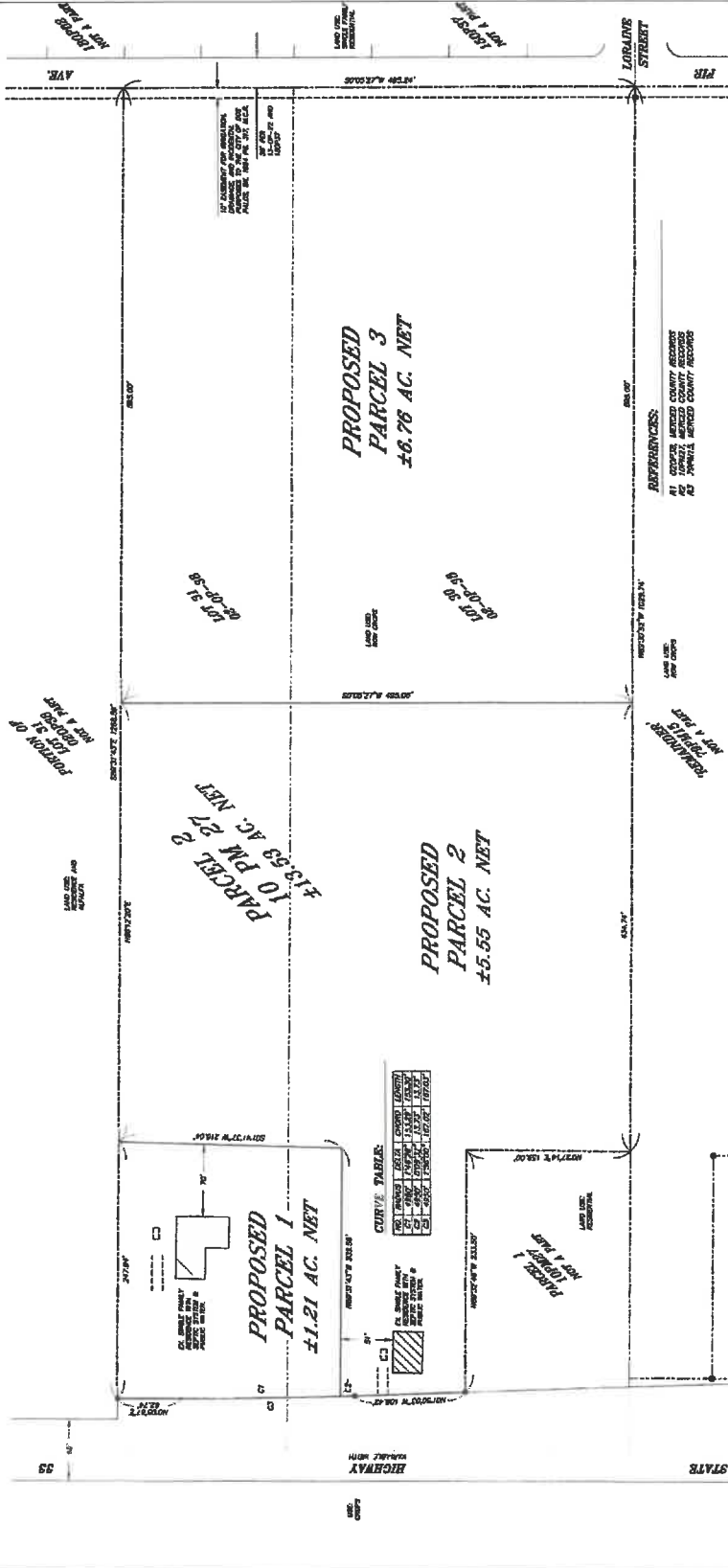
VICINITY MAP
N.T.S.



TENTATIVE PARCEL MAP FOR

**MARGIE LEE BIRDSELL AND
FRANKLIN W. JOHN**
APN 013-030-012

BEING SUBDIVISION OF PARCEL e AS
SHOWN ON THAT CERTAIN MAP ENTITLED 'A PORTION OF THE SOUTH 5.0 ACRES OF
LOT 31 AND THE NORTH 9.99 ACRES OF LOT 30 OF DOS PALOS COLONY', IN
SECTION 11, T.1S., R.12E., M.D.R.&M.
SITE
COUNTY OF MERCED
STATE OF CALIFORNIA



	<p>SURVEY PREPARED FOR MARGIE BIRDSELL & FRANKLIN JOHN MAY 26, 2021</p>	<p>THE BRONSON COMPANY SURVEYING SERVICES 6206 EPPS DRIVE WINTON, CA 95388 (209) 906-7340 KWB@BRONSONSURV.COM</p>	<p>TENTATIVE PARCEL MAP OF COUNTY OF MERCED, UNINCORPORATED PARCEL 2, 10PM27, STATE OF CALIFORNIA</p>	<p>NO. 10000 MARGIE BIRDSELL KAREN BRONSON NO. 10000 DATE FILED MAY 2021 JOB NUMBER 4322 SHEET S1 OF 1</p>
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EXHIBIT B



COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT

Mark J. Hendrickson
Director

Steve Maxey
Deputy Director

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

Equal Opportunity Employer

MS21-009 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 applicants shall comply with all applicable Local, State and Federal regulations.
3. The applicants shall secure encroachment permits for road access from the City of Dos Palos prior to recordation of the parcel map.

City of Dos Palos Public Works

4. Access to Proposed Parcel 3 is granted as temporary, pending an agreement with the City of Dos Palos, and only at the intersection of Fir Avenue and Loraine Street.
5. The temporary driveway access may not be offset from Loraine Street and should be in line with Loraine Street.
6. The applicant shall enter into a written agreement with the City of Dos Palos that any future subdivision development of more than one unit on the Parcel 3 property would include construction of the Western half of Fir Avenue within Parcel 3, currently a half street outside Parcel 3, including storm drainage, AND, full intersection development at Loraine Street.
7. The applicant may have to obtain a right-of-way, easement or property control of that portion of the Loraine/Fir intersection that is not in Parcel 3 as needed.

County Counsel

8. **INDEMNIFICATION AND HOLD HARMLESS AGREEMENT:**

MARGIE LEE BIRDSELL, FRANKLIN W. JOHN ("Applicants") 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 duty 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,

EXHIBIT B

action, or proceeding is brought, COUNTY shall promptly notify Applicants and cooperate fully in the defense. This clause for indemnification shall be interpreted to the broadest extent permitted by law.

EXHIBIT C

From: [City Dos Palos](#)
To: [Marshall, Mark](#)
Cc: [Dewayne Jones](#)
Subject: RE: Minor
Subdivision 21-009
Date: Wednesday, June
23, 2021 3:08:14
PM
Attachments:[image001.png](#)

Mark Marshall,
County of Merced
Thank you for contacting the City,

Currently there are no new City water services available. The City's water plant is at capacity. We are awaiting grant funding expected soon for the construction of a new water plant in 2023. So, no "can and will serve"(s) can be issued at this time, not even for one unit.

Access to Fir Avenue for "Parcel 3" is available now, as a temporary driveway, only at the intersection of Fir Avenue and Loraine Street (the correct spelling) with the condition that the property owner agree in writing with the City, that any future subdivision development of more than one unit on the Parcel 3 property would include construction of the Western half of Fir Avenue within Parcel 3, currently a half street outside Parcel 3, including storm drainage, AND, full intersection development at Loraine Street. The applicant may have to obtain a right of way or easement or property control of that portion of the Loraine/Fir intersection that is not in Parcel 3 as needed. The temporary driveway access may not be offset from Loraine Street and should be in line with Loraine Street. Please contact either of us if you have any questions.

Dewayne Jones, Planning
Director
dppubsafety@cityofdp.co
[m](#) Darrell Fonseca, City
Manager
cityofdp@cityofdp.com
City of Dos Palos
209 392-2174

From: Marshall, Mark <Mark.Marshall@countyofmerced.com>
Sent: Thursday, June 10, 2021 11:59 AM
To: City Dos Palos <cityofdp@cityofdp.com>
Cc: Maxey, Steve <Steve.Maxey@countyofmerced.com>; Guerrero, Brian
<Brian.Guerrero@countyofmerced.com> **Subject:** Minor Subdivision 21-009

Hello Mr. Fonseca,

I have attached the project that is bordering the city limits of Dos Palos. Thank you for the information regarding the water capacity as well. The applicant is not proposing any new dwellings at this time, but

EXHIBIT C

my concern was the access on Proposed Parcel 3 adjacent to Fir Avenue. Let me know what you think, appreciate your time.



EXHIBIT C

EXHIBIT C

Rebecca Nanyonjo-Kemp, DrPH
Director
Salvador Sandoval, MD, MPH
Health Officer



Memorandum

DATE: July 6, 2021

TO: Mark Marshall, Planner I

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

SUBJECT: **MINOR SUBDIVISION No. MS21-009 - Margie L. Birdsell** - To subdivide a 14-acre residential parcel into 3 parcels for estate planning purposes, resulting in parcel sizes of: Parcel 1 = 1.21 acres, Parcel 2 = 5.55 acres, and Parcel 3 = 6.76 acres on property located at the East of Highway 33, 1300 feet south of Carmellia Avenue in the Dos Palos area, identified as APN: 013-030-012. The property is designated Low Density land use in the General Plan and is zoned R-1 (Single Family Dwelling).

SITUS: 20246 Elgin Ave., Dos Palos (proposed Parcel 1), 20288 Elgin Ave. (proposed Parcel 2)

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

The parcel is not in the service area of any community water or sewer system. Nonetheless, the existing two dwellings are served by community water. The dwellings are served by onsite septic systems. The tentative map shows the septic tanks and leach lines in locations that meet the leach line setback of 5 feet to new property lines. Adequate leach line replacement areas will exist on the new parcels.

MCDEH has no concerns with the subdivision.

EXHIBIT C

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Vicki Jones, MPA, REHS <i>Environmental Health Division Director</i>	Jessica Montoya-Juarez, MS <i>Assistant Public Health Director</i>	Yadira Vazquez, MBA <i>Assistant Public Health Director</i>	James Clark, MICP, MHOAC <i>EMS Administrator</i>
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260 E. 15th Street, Merced, CA 95341 | Main: (209) 381-1200 | Environmental Health: (209) 381-1100 | www.countyofmerced.com/health

From: [Elias, Gerardo](#)
To: [Marshall, Mark](#)
Subject: RE: Minor Subdivision MS21-009
Date: Wednesday, June 23, 2021 10:04:25 AM
Attachments: [image001.png](#)

Hi Mark,

Per our conversation today Level 1 improvements are require on lots fronting County Roads. Since Fir Avenue belongs to the City of Dos Palos the City requirements would apply to the Minor Subdivision. Therefore, public works would not have any comments since the frontage of Fir Avenue is inside City of Dos Palos.

Thank you

From: Marshall, Mark
Sent: Tuesday, June 22, 2021 11:15 AM
To: Elias, Gerardo <Gerardo.Elias@countyofmerced.com>
Subject: Minor Subdivision MS21-009

Hey there Gerardo,

Hope that you are doing well and staying cool! I have attached a project for a minor subdivision next to the City of Dos Palos. They are Single-Family Residential (R-1) zoning, within the City of Dos Palos Sphere of Influence (SOI) and the entire road that fronts Parcel 3 (Fir Avenue) belongs to the City.

I was under the impression that under **16.08.040**, the subdivision would have to create Level 1 Improvements in addition to dedicating right-of-way for access off of Fir Avenue. Can you give me some feedback by Friday? Thank you for your time.

Mark Marshall
Planner I

Community & Economic Development Department
2222 M Street
Merced, CA 95430
(209) 385-7654 x 4415