



Planning Commission

AGENDA ITEM # A

Staff Report

August 25, 2021

PREPARED BY:
APPROVED BY:

DIANA LOWRANCE, PROJECT PLANNER
MARK HENDRICKSON, DIRECTOR

MINOR SUBDIVISION APPLICATION NO. MS20-017 AND MINOR DEVIATION NO. MD20-003 - GOULARTE - A request to divide a 70.5 acre parcel into three parcels resulting in parcel sizes of: Parcel 1 = 21.52 acres, Parcel 2 = 20.95 acres and Parcel 3 = 30.00 acres; a request for a Minor Deviation to allow the house on created Parcel No. 1 to have a 13.7 foot side yard setback in lieu of the required 15 foot side yard setback, and a request to allow an exception to the Agricultural Setback requirement for created parcels per Zoning Code Section 18.10.040 M. 1 (a) (2). The project site is located at the southwest corner of West Gun Club Road and South Hunt Road in the Gustine area, identified as Assessor's Parcel Number (APN) 063-190-026. The property 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 of the CEQA Guidelines - "Subsequent EIRs and Negative Declarations" and that Minor Deviation No. MD20-003 is exempt from environmental review pursuant to Section 15305 - "Minor Alterations in Land Use Limitations" of the CEQA Guidelines. DL

SUPERVISORIAL DISTRICT: 4 - Lloyd Pareira

RECOMMENDATION(S):

- 1) Open/close public hearing;
2) Determine that no subsequent environmental review is required for Minor Subdivision application No. MS20-017 in compliance with Section 15162 - "Subsequent EIRs and Negative Declarations" of the CEQA Guidelines based upon the analysis in the 2030 Merced County General Plan Program Environmental Impact Report; and,
3) Determine that Minor Deviation No. MD20-003 is exempt from environmental review pursuant to Section 15305 - "Minor Alterations in Land Use Limitations" of the CEQA Guidelines; and,
4) Approve Minor Subdivision Application No. MS20-017 and Minor Deviation No. MD20-003 based on the findings included in the staff report and subject to the proposed conditions of approval.

LOCATION MAP:



BACKGROUND:

Site Description

The project site is located on the southwest side of the intersection of Gun Club Road and Hunt Road in the Gustine area, also identified as Assessor Parcel Number (APN) 063-190-026. The property is designated Agricultural land use in the General Plan and is zoned A-1 (General Agricultural). Additionally, the project site is located just south of the City Planning Area for Gustine.

Surrounding Uses

	General Plan	Zoning	Current Land Use
On-Site:	Agricultural	A-1	Orchards/Single-Family Homes
North:	Agricultural	A-1	Orchards/Ag Truck Parking/ Single Family House/ Ag Structures
East:	Agricultural	A-1	Row Crops/ Single Family Homes
South:	Agricultural	A-1	Fallow Land/Ag Structures
West:	Agricultural	A-1	Orchards

Prior Actions/Entitlements

The project site has one previous action/entitlement:

- AD-2297 was approved in 1991 to allow a mobile home (to be used a family residence) to be installed.

ANALYSIS

Project Description

Minor Subdivision No. MS20-017 is a request to divide a 70.5 acre parcel into three parcels resulting in parcel sizes of: Parcel 1 = 21.52 acres, Parcel 2 = 20.95 acres and Parcel 3 = 30.00 acres. The application also includes Minor Deviation No. MD20-003, which is a request to allow the existing house on created Parcel No. 1 to have a 13.7 foot side yard setback, in lieu of the required 15 foot side yard setback; and a request to allow an exception to the Agricultural Setback requirement for created parcels per Zoning Code Section 18.10.040 M. 1 (a) (2).

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.

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.

The following land use 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.

Minor Subdivision No. MS20-017 is a request to divide a 70.5 acre parcel into three parcels resulting in parcel sizes of: Parcel 1 = 21.52 acres, Parcel 2 = 20.95 acres and Parcel 3 = 30.00 acres. All of the created parcels meet the 20 acre minimum parcel size required in the A-1 (General Agricultural) zone. As such, the project can be found consistent with Goal AG-2 and Policy AG-2.13 of the Agricultural Element of the General Plan.

Goal AG-3

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

Policy AG-3.5: Home Site Clustering

Require clustering of homes on agricultural parcels to minimize interference with agricultural operations.

The project can be found consistent with Goal AG-3 and Policy AG-3.5 of the Agricultural Element of the General Plan as the existing homes located on proposed Parcel 1 and proposed Parcel 2 are essentially clustered as they are located approximately sixty feet from each other.

2. Merced County Zoning Code (Title 18)

The project site is zoned A-1 (General Agricultural). The purpose of A-1 zone is to provide for areas of intensive farming operations dependent on higher quality soils, water availability, relative flat topography, and agricultural commercial and/or industrial uses dependent on proximity to urban areas or locations in sparsely populated low traffic areas.

Section 18.10.030 (Agricultural Zone Development Standards)

The Zoning Code provides that main structures in agricultural zones shall have a Front yard setback of 20 feet and a Side (Interior Parcel) setback of 15 feet. On corner parcels (on the side fronting the street) the setback for main structures is 20 feet.

In this instance, the application includes a request to allow the existing house on created Parcel No. 1 to have a 13.7 foot side yard setback, in lieu of the required 15 foot side yard setback. Given the location of existing residential and accessory structures, there is not sufficient area to provide a 15 foot side yard setback. As proposed, the house on created Parcel 1 will have a 13.7 foot side yard setback and the garage on created Parcel 2 will have a 5.7 foot side yard setback, which complies with Code. Due to these factors, staff recommends that the Planning Commission approve the request to allow a reduced side yard setback for the existing house on created Parcel No. 1.

With the approval of the requested Minor Deviation, the project may be found consistent with the Agricultural Zone development standards.

Agricultural Setback Requirement for Created Parcels.

The Zoning Code provides that on agriculturally zoned parcels (with an existing habitable structure), any parcel resulting from division or adjustment shall have the boundaries of the parcel located so as to provide a physical separation of 200 feet, as measured from any existing habitable structure to any abutting parcels used for Agricultural Production. "Agricultural Production," as used herein, means either an existing agricultural operation or an agricultural operation that would be a reasonably anticipated use.

The application also includes a request to allow an exception to this requirement for created parcels 1 and 2. Created parcels 1 and 2 have existing residential structures that are, at most, sixty feet apart. As such, any parcel line created between these residential structures would be unable to meet the 200 foot setback. While unable to meet this required setback, these existing residential structures do further a Goal and Policy of the General Plan (as outlined in No. 1 above) as they are essentially clustered together.

Based on the information in the application and staff's analysis, staff recommends that the Planning Commission approve the request to allow an exception from the required 200 foot agricultural setback on the basis that the Minor Subdivision will create a new property line between two existing dwelling units (one on created parcel 1 and one on created parcel 2) and the distance between those dwelling units is such that neither dwelling could meet the required setback.

3. Other Adopted Plans and Policies

Subdivision Map Act and Title 17

The proposed Minor Subdivision may be found consistent with the Subdivision Map Act and Title 17 of the Merced County Code.

California Environmental Quality Act (CEQA)

Staff recommends that the Planning Commission find that no further environmental review is required for Minor Subdivision No. MS20-017 pursuant to Section 15162 of the CEQA Guidelines – "Subsequent EIRs and Negative Declarations" and that Minor Deviation No. MD20-003 is exempt from environmental review pursuant to Section 15305 – "Minor Alterations in Land Use Limitations" of the CEQA Guidelines.

Community Engagement

The project application was routed to applicable County departments for comment. Comments were received from the Division of Environmental Health, Building & Safety Division, Public Works Roads Division, and the Fire Department and have been incorporated into the Conditions of Approval.

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 **August 13, 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 18), Title 17 of the Merced

County Code, and the Subdivision Map Act. Furthermore, based on the CEQA Section 15162 findings (Exhibit C), no further environmental review is required for Minor Subdivision No. MS20-017 pursuant to Section 15162 – “Subsequent EIRs and Negative Declarations” of the CEQA Guidelines and Minor Deviation No. MD20-003 is exempt from environmental review pursuant to Section 15305 – “Minor Alterations in Land Use Limitations” of the CEQA Guidelines.

In conclusion, staff recommends the Planning Commission approve the following (based upon the findings in the staff report and subject to the recommended conditions of approval): Minor Subdivision Application No. MS20-017; the exception to the required 200 foot agricultural setback (for the existing habitable structures located on created Parcels 1 and 2); and the request to allow the existing house on created Parcel No. 1 to have a 13.7 foot side yard setback in lieu of the required 15 foot side yard setback.

RECOMMENDED PLANNING COMMISSION ACTION:

A. CEQA Determination

MOTION 1: Determine that no subsequent environmental review is required for Minor Subdivision application No. MS20-017 in compliance with Section 15162 - “Subsequent EIRs and Negative Declarations” of the CEQA Guidelines based upon the analysis in the 2030 Merced County General Plan Program Environmental Impact Report and the CEQA Guidelines Section 15162 Findings attached as Exhibit C.

MOTION 2: Determine that Minor Deviation No. MD20-003 is exempt from environmental review pursuant to Section 15305 - “Minor Alterations in Land Use Limitations” of the CEQA Guidelines.

CEQA Findings:

1. The project site is zoned A-1 (General Agricultural).
2. The proposed project will not result in changes in land use or density.
3. The project site has an average slope that is less than 20 percent.
4. Approval of Minor Deviation No. MD20-003 will not result in the creation of any new parcel.

B. Project Determination

MOTION: Approve Minor Subdivision Application No. MS20-017 and Minor Deviation No. MD20-003 based on the findings included in the staff report and subject to the recommended conditions of approval.

Project Findings:

1. Minor Subdivision No. MS20-017 is a request to divide a 70.5 acre parcel into three parcels resulting in parcel sizes of: Parcel 1 = 21.52 acres, Parcel 2 = 20.95 acres and Parcel 3 = 30.00 acres. The application also includes Minor Deviation No. MD20-003, which is a request to allow the existing house on created Parcel No. 1 to have a 13.7 foot side yard setback, in lieu of the required 15 foot side yard setback; and a request to

allow an exception to the Agricultural Setback requirement for created parcels per Zoning Code Section 18.10.040 M. 1 (a) (2).

2. The project site is located at the southwest corner of West Gun Club Road and South Hunt Road in the Gustine area, identified as Assessor's Parcel Number (APN) 063-190-026. The property is designated Agricultural land use in the General Plan and is zoned A-1 (General Agricultural).
3. The proposed project is consistent with the 2030 Merced County General Plan.
4. As approved, 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 and properties and will not be a nuisance or detrimental to the public health, safety or general welfare.
8. Notice of the public hearing was published in the Merced Sun-Star and mailed to property owners within 300 feet of the project site on August 20, 2021.

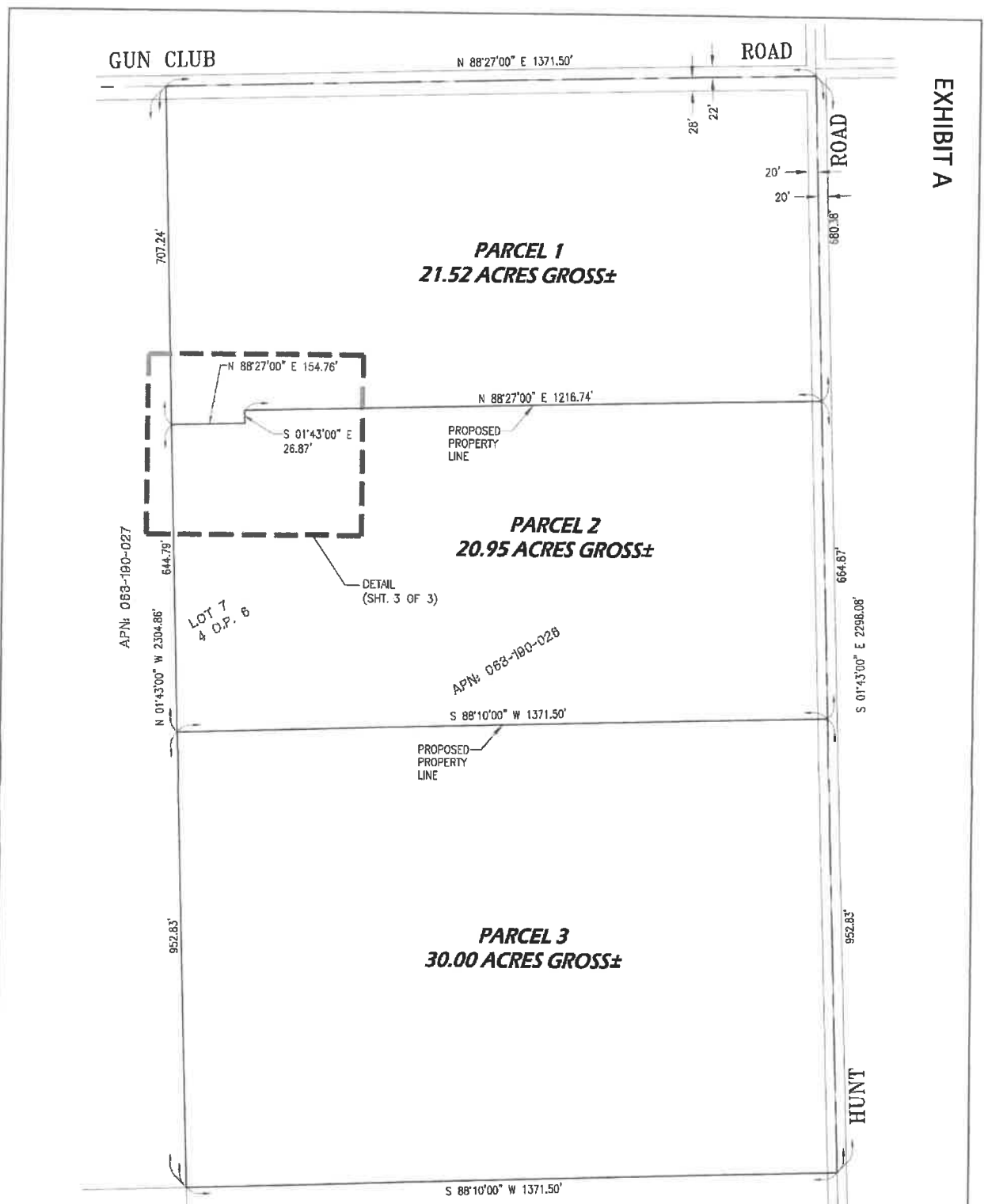
EXHIBITS

- A. Tentative Parcel Map
- B. Detail of Structures on Parcel 1 and Parcel 2
- C. Conditions of Approval
- D. CEQA Section 15162 Findings

cc.

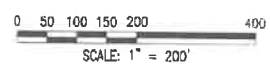
Property Owners – Goularte Family Trust
Engineer – Golden Valley Engineer

EXHIBIT A



LEGEND

- PROPERTY LINE
- NEIGHBORING PROPERTY LINE
- ROAD CENTER LINE



JOB NO.: 20123

SHEET 2 OF 3

NOTE: PLEASE USE BLACK INK OR DARK PENCIL

PLOT PLAN

SCALE 1" = 200'

GOLARTE FAMILY

FOR

APPLICATION TYPE	NUMBER	A.P.N.	DATE
MINOR SUBDIVISION	20017	063-190-026	10/12/20

PROPERTY OWNER(S): C/O SHAWN GEORGE

PREPARED BY: GOLDEN VALLEY ENGINEERING AND SURVEYING, INC.

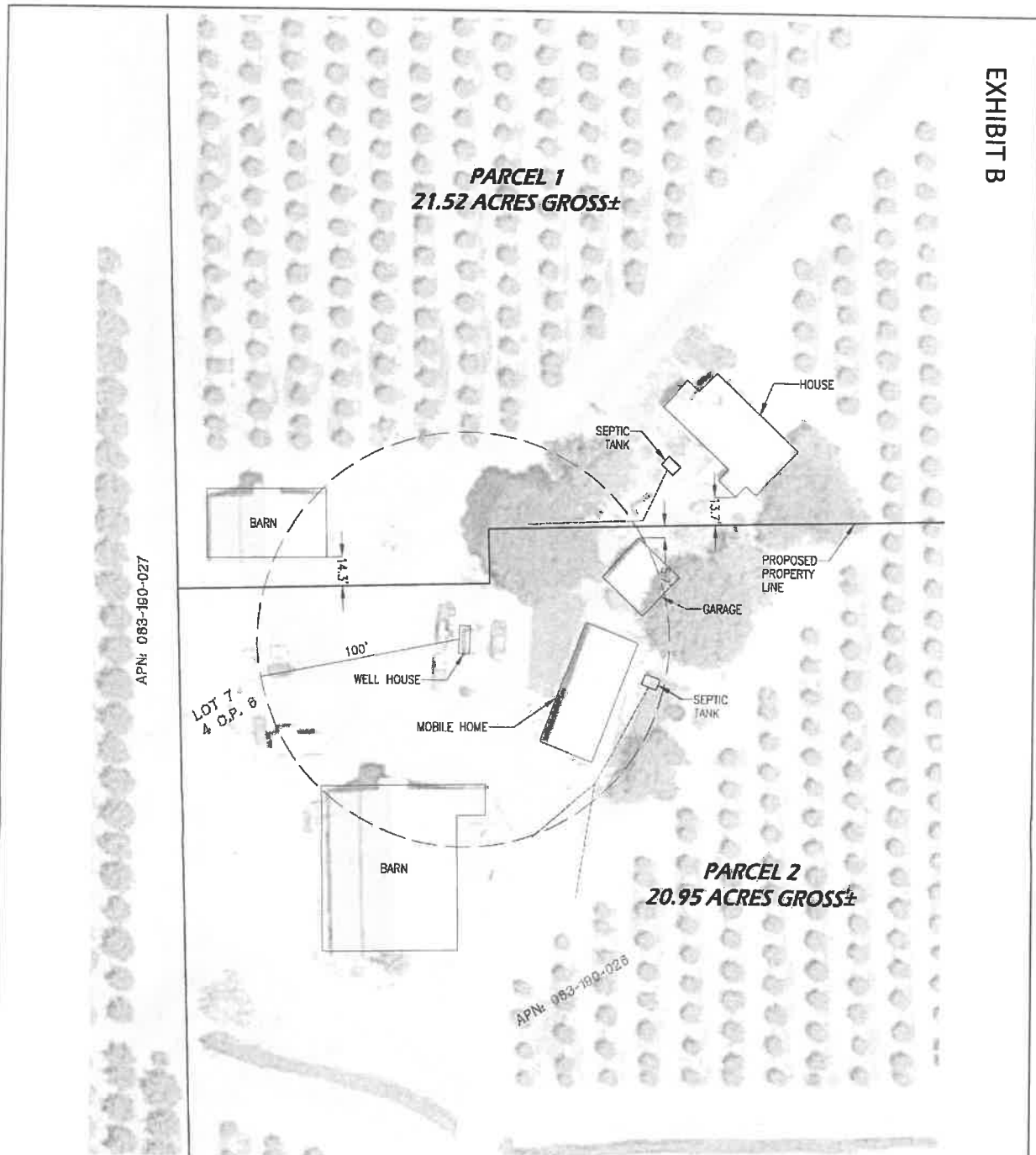
ADDRESS: 1009 6TH STREET LOS BANOS, CA 93635

ADDRESS: 405 W. 19TH STREET, MERCED, CA 95340

TELEPHONE: (209) 826-4LAW

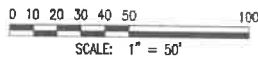
TELEPHONE: (209) 722-3200

MERCED COUNTY PLANNING DEPARTMENT



LEGEND

- PROPERTY LINE
- NEIGHBORING PROPERTY LINE
- - - - - LEACH LINE



JOB NO.: 20123

SHEET 3 OF 3

NOTE: PLEASE USE BLACK INK
OR DARK PENCIL.

PLOT PLAN

SCALE 1" = 50'

GOULARTE FAMILY

FOR

APPLICATION TYPE	NUMBER	A.P.N.	DATE
MINOR SUBDIVISION	20017	063-190-026	10/12/20

PROPERTY OWNER(S): C/O SHAWN GEORGE

PREPARED BY: GOLDEN VALLEY ENGINEERING AND SURVEYING, INC.

ADDRESS: 1009 6TH STREET LOS BANOS, CA 93635

ADDRESS: 405 W. 19TH STREET, MERCED, CA 95340

TELEPHONE: (209) 826-4LAW

TELEPHONE: (209) 722-3200

MERCED COUNTY PLANNING DEPARTMENT



**COMMUNITY AND ECONOMIC
DEVELOPMENT DEPARTMENT**

Mark J. Hendrickson
Director

Steve Maxey
Deputy Director

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

Equal Opportunity Employer

MS20-017 CONDITIONS OF APPROVAL

Merced County Community and Economic Development Department

1. A parcel map, including all parcels involved, shall be recorded within two (2) years of the approval date, as required by the Subdivision Map Act and Merced County Subdivision Code.
2. The applicant shall comply with all applicable Local, State and Federal regulations.
3. The project shall comply with all standard conditions contained in Planning Commission Resolution No. 20-001, attached.
4. A note shall be placed on the face of the parcel map stating that any new residences will be subject to the review and approval of a Conditional Use Permit from the County, as per General Plan Policy AG-3.12 and Zoning Code Section 18.10.040 (N) or as otherwise permitted by the County subject to the current policies in place at the time of the request.
5. A note shall be placed on the parcel map indicating that a shared well agreement will be required at the time of sale of either parcel. An easement for well access shall be indicated on the map.
 - a. A shared well agreement shall not be required if a domestic well permit is obtained and a well is installed on proposed Parcel 1, prior to parcel map recordation.

Merced County Fire Department Prevention Bureau

6. Maintain address identification. Each individual dwelling address shall be posted at the corresponding driveway entrance and on each dwelling. Address identification shall be a minimum four (4) inch letters/numbers on a contrasting background.
7. Road access. Driveways shall provide for all weather access and be a minimum twenty (20) feet in width with an approved location to allow for fire equipment to turnaround. Turnaround is only required if access to the dwelling is greater than one-hundred-fifty (150) feet from the main roadway.

Merced County Department of Public Works Road Division

8. Right-of-Way dedication is required to fulfill the sixty (60) foot ultimate right-of-way for Gun Club Road and Hunt Road fronting the property. Gun Club Road and Hunt Road have an existing forty-eight (48) foot and forty (40) foot right-of-way respectively.

- a. The applicant/owners shall dedicate an additional two (2) feet of right-of-way along the Gun Club Road frontage and an additional ten (10) feet of right-of-way along the Hunt Road frontage of the property.

County Counsel

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

JANE GOULARTE AS TRUSTEE OF THE JANE GOULARTE 1996 REVOCABLE LIVING TRUST has the contracted duty (hereinafter "the duty") to defend, indemnify and hold harmless the County of Merced, its Board of Supervisors, commissions, officers, employees, agents, and assigns (hereinafter "COUNTY") from any claim, action, or proceeding arising out of, or in connection with the COUNTY's approval of the project including, but not limited to, COUNTY's actions regarding related environmental determinations. This obligation shall extend to any such claim, action, or proceeding against COUNTY to attack, set aside, void, or annul, an approval by COUNTY. This duty shall arise at the first claim, action, or proceeding against COUNTY. In the event that a claim, action, or proceeding is brought, COUNTY shall promptly notify the applicant and cooperate fully in the defense. This clause for indemnification shall be interpreted to the broadest extent permitted by law.

**PLANNING COMMISSION
MERCED COUNTY**

In the matter of

RESOLUTION NO. 20-001

**ADOPTING REVISED STANDARD
CONDITIONS OF APPROVAL FOR MAJOR
SUBDIVISIONS, ADMINISTRATIVE PERMITS,
AND CONDITIONAL USE PERMITS**



WHEREAS, the Planning Commission and Planning and Community Development Department have been designated as the Planning Agency for the County by the Board of Supervisors; and

WHEREAS, the Planning Commission may hold public hearings and approve, conditionally approve, or deny applications for Major Subdivisions, Administrative Permits, and Conditional Use Permits; and

WHEREAS, the Planning Director as Hearing Officer may also hold public hearings to approve, conditionally approve, or deny applications for Administrative Permits; and

WHEREAS, the local building industry, applicants, the Planning Commission, County Staff, and the general public have benefited from the adoption of Standard Conditions of Approval applied to all Major Subdivisions, Administrative Permits, and Conditional Use Permits in Planning Commission Resolution No. 97-1; and

WHEREAS, these Standard Conditions of Approval have also provided for more expedited processing of development applications by eliminating the need for individually specified measures to mitigate potential environmental impacts; and

WHEREAS, the Board of Supervisors adopted a new completely revised Zoning Code on October 22, 2019;


NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission hereby adopts the attached revised list of Standard Conditions of Approval to replace Planning Commission Resolution No. 97-1 at a regular meeting held on January 22, 2020, by the following vote:

AYES: Chairman Mobley, Commissioner Aguilera, Commissioner Acheson, Commissioner Spycher, Commissioner Erreca

NOES: None

ABSENT: None

By _____


Mark Hendrickson
Planning and Community Development Director
Secretary of the Planning Commission

**MERCED COUNTY PLANNING COMMISSION
STANDARD CONDITIONS OF APPROVAL**

A. Major Subdivisions:

1. The Final map, meeting all Zone Code and Public improvements requirements, shall be recorded within two (2) years of the Planning Commission approval date as required by the Merced County Subdivision Code, unless a Development Agreement between the County and the Developer is executed prior to expiration of the tentative map, in which case the tentative map may be extended for a period of time provided for in the Agreement but not beyond the duration of the Agreement.
2. The applicant shall satisfy Improvement Level 1 requirements as set forth in Chapter 16.08 – Improvement Requirements of the Merced County Code which generally includes dedication of right-of-way and public utilities easements, roadway construction and installation of matching pavement along existing roadways, street lighting, storm drainage system and underground or relocate utilities and irrigation facilities.
3. All lot and street grading shall be completed prior to the issuance of any building permits. The developer shall enter into an agreement with Public Works that no occupancy shall take place until such time as all improvements are completed.
4. The developer shall comply with Title 17 Subdivisions, Chapter 17.44 – Local Recreational Park Land Space and/or Fee Obligation. Payment of all cash fees shall be prior to, or concurrently with, the recording of the Final Map.
5. Any existing irrigation well shall be abandoned according to County standards.

B. Administrative Permits and Conditional Use Permits

1. The uses under this Permit shall be located, developed, and operated in a manner as described on the approved plot plan, sections, and elevations. The Planning Director may approve minor modifications.
2. All development on the project property shall be constructed and thereafter maintained and operated in accordance with the conditions of the permit.
3. The application shall comply with all applicable regulations administered by the County. These regulations shall include, but not be limited to standards administered by the County Fire, Health, Planning and Public Works Departments.
4. If the Administrative or Conditional Use Permit is not implemented within one year, it shall expire and become void. The Planning Director may extend the Permit if a request is filed by the applicant prior to its expiration (Zoning Code Section 18.130.080 – Time Extensions).
5. If the use authorized by the Administrative or Conditional Use Permit is abandoned or discontinued for over one year, the Planning Department may initiate revocation proceedings at a public hearing before the body that originally approved the permit (Zoning Code Sections 18.152.030 – Revocations; 18.152.040 – Findings to Modify or

Revoke; and 18.152.050 – Hearing and Notice Required).

6. A solid waste/recycling storage enclosure shall be provided and designated on the plot plan, for development, in all Urban Community areas. Solid waste/recycling storage areas shall conform to the standards in Zoning Code Chapter 18.46 – Solid Waste and Recycling Materials Storage, subject to approval of the Planning Department.
7. The project site shall be maintained in a neat and orderly manner at all times.
8. All signs shall be subject to the standards in Chapter 18.44 – Sign Regulations of the Zoning Code.
9. A Sign Permit application shall be submitted to the Department in compliance with Chapter 18.44.060 – Application and Review of Sign Permits prior to the installation of any sign.
10. No use shall be permitted which creates dust, dirt, mud, fumes, odors, vibrations, heat, glare or electrical disturbances beyond the boundaries of the project site (Zoning Code Chapter 18.40 – Performance Standards).
11. Project site emissions shall comply with the San Joaquin Valley Air Pollution Control District (SJVAPCD) standards.
12. All exterior lighting shall be designed and maintained in a manner so that glare and reflections are contained within the boundaries of the subject parcel. Exterior lighting shall be hooded and directed downward and away from adjoining properties and public rights-of-way. (Zoning Code Section 18.40.070 – Outdoor Lighting).
13. Three copies of landscape and irrigation plans for landscaping shown on the plot plan or required as conditions of approval shall be submitted for review and approval of the Planning Director in accordance with the standards in Chapter 18.36 - Landscaping of the Zoning Code prior to the issuance of building permits.
14. Landscaping and irrigation in compliance with the approved plans shall be installed prior to Final inspection or issuance of a Certificate of Occupancy by the County Building Division.

C. All Discretionary Permits and Subdivision Maps

1. The applicant shall inform in writing all contractors and subcontractors for the project of the potential discovery of significant archaeological and historical resources below the ground surface in the project area. If any cultural resources are found or disturbed during project activities, all work must be halted within the area and the Merced County Planning Department and a qualified archaeologist must be contacted to evaluate the find.
2. If the construction site has been disturbed (cleared, graded or excavated) and is to remain inactive for a period of three or more months, it shall be seeded with an annual grass and watered until growth is evident. If after disturbing, the site is inactive for three or more months during the dry period (June-October), as an alternative to seeding, a soil-binding dust palliative, such as Hemicellulose extract (wood molasses) solution, may be applied.

If seeded, grass shall be mowed (not disced under) to a maximum height of four inches for fire control. Grasses do not need to be maintained in a green/growing condition. Mowing should occur before the grass dries out to avoid fires that may result from blades striking rocks (Zoning Code Section 18.40.030 B).

3. During clearing, grading, earth-moving and other site preparation activities and all construction:
 - a. Exposed earth surfaces shall be watered as needed, whenever needed, in order to prevent dust from leaving the project site on that phase of the project presently under development.
 - b. Mud and dirt carried from the development onto adjacent roadways shall be cleaned-up daily.
 - c. Litter and debris shall be cleaned-up daily to prevent it from leaving the project site and littering adjacent properties. (Zoning Code Section 18.40.030 B)
4. The applicant shall ensure that construction hours shall be limited to the daytime hours between 7:00 a.m. and 6:00 p.m., and all construction equipment shall be properly muffled and maintained. (Zoning Code Section 18.40.050 E).
5. Drainage. Parking areas shall be designed to dispose of accumulated rain water the project site. Runoff shall be disposed of subject to approval of the County Department of Public Works in one of the following ways:
 - a. Uniform on-site percolation over widespread area.
 - b. Use of on-site detention or retention basin.
 - c. Off-site drainage to community drainage system. (Zoning Code Section 18.38.140 C)
6. The Planning Director, or his/her authorized designee(s) may enter at all reasonable times any building, structure, or premise for the purpose of carrying out any activity required or authorized by the provisions of Title 17 (Subdivisions) or 18 (Zoning) of the County Code. Upon request, the Planning Director or his/her authorized designee(s), shall provide adequate identification (Zoning Code Section 18.154.040 - Inspections).
7. The project shall be developed in accordance with the Conditions of Approval including any conditions related to Site Plan and Design Review (Zoning Code Section 18.122.060).

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

Application: Minor Subdivision No. MS20-017 – GOULARTE FAMILY TRUST

Assessor Parcel Number or Location: Assessor’s Parcel Number (APN) 063-190-026.

Previous Initial Study/EIR Reference: The subdivision of “Agriculturally” designated land was previously comprehensively reviewed through the Program Environmental Impact Report (PEIR) 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

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? Yes No

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

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? Yes No

Comment/Finding: There have been no changes in the circumstances under which the project is undertaken that would require major revisions to 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.)

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) Yes No

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, showing any of the following (See Page 3 for supporting analysis.)

Section B. - New Information

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

Comment/Finding: All previously identified mitigation measures from the Program Environmental Impact Report (PEIR) for the 2030 Merced County General Plan Update were adopted as either General Plan policies or mitigation measures within the Agricultural Element and will be applied to the subject project as applicable.

Additionally, approval of this minor subdivision will be dependent upon finding that 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 policies and 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. |
| X | 4. No further documentation is required. |

Date: August 10, 2021

Prepared By:

Diana Lowrance, Planner III

CEQA Section 15162 Findings: Supporting Analysis

I. Introduction

Minor Subdivision No. MS20-017 is a request to divide a 72.47 acre parcel into three (3) parcels resulting in parcel sizes of: Parcel 1 = 21.52 acres, Parcel 2 = 20.95 acres, Parcel 3 = 30.00 acres. The project site is located at the southwest corner of W. Gun Club Road and Hunt Road in the Gustine area, identified as Assessor Parcel Number (APN) 063-190-026. The property is designated Agricultural land use and zoned A-1 (General Agricultural).

The project also includes a request for Minor Deviation No. MD20-003, which is a request to allow the existing house on proposed Parcel 1 to have a 13.7 foot side yard setback in lieu of the required 15 foot side yard setback, and a request to allow for an exception to the Agricultural Setback requirement for created parcels. However those requests are exempt from environmental review pursuant to Section 15305 – “Minor Alterations in Land Use Limitation” of the CEQA Guidelines.

II. Analysis

Background

The 2030 Merced County General Plan PEIR extensively analyzed the impacts of minor subdivision activity on agricultural resources (Impact AG-5); the impacts on continued agricultural production due to conflicts between agricultural and residential uses; and the influence of minimum parcel sizes on continued agricultural productivity (Impact AG-7).

Minor subdivisions and the subsequent construction of dwelling units would result in the conversion of important farmland to non-agricultural use, and the effect of scattered residences within active agricultural areas could have a potentially significant impacts on agricultural production.

The General Plan PEIR also concluded that the impact from the subdivision of agricultural parcels 40 acres (or more) in size would typically not result in a significant impact on the environment in the analysis under Impact AG-7; and 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.

Minor Subdivision No. MS20-017 is a request to divide a 72.47 acre parcel into three (3) parcels resulting in parcel sizes of: Parcel 1 = 21.52 acres, Parcel 2 = 20.95 acres, and Parcel 3 = 30.00 acres. As the size of each of the proposed parcels meets the minimum size for parcels in the A-1 (General Agricultural) zone; the parcel will continue to be used for commercial agriculture; and no new homes are proposed, the project will have a less than significant impact on the environment, pursuant to the analysis in the General Plan PEIR.

However, to comply with Zoning Code Section 18.10.040 N, a note will be required on the face of the Parcel Map indicating that a Conditional Use Permit will be required to construct a new single-family home (or employee housing, residential - six residents or less). This Zoning Code requirement applies to any parcel created after December 10, 2013. The processing and approval of a discretionary conditional use permit would also be subject to further environmental review.