



Planning Commission
Staff Report
September 14, 2022

PREPARED BY: CAMERON CHRISTIE, PROJECT PLANNER
APPROVED BY: MARK HENDRICKSON, DIRECTOR

MINOR SUBDIVISION APPLICATION No. MS22-009 – JOELL ERLANDSON - A request to create a 5-acre homesite parcel from a 20-acre parcel and convey and combine the remaining 15 acres with an adjacent parcel, creating a 35-acre parcel. The project site is located on the northwest corner of Washington Road and American Avenue in the Hilmar area, identified as Assessor’s Parcel Numbers (APNs) 045-180-056 and 045-180-057. The property is designated Agricultural land use in the General Plan and zoned A-1 (General Agricultural). CEQA: Staff recommends that the Planning Commission find 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. CC

SUPERVISORIAL DISTRICT: 4- Lloyd Pareira

RECOMMENDATION(S):

- 1) Open/close the public hearing;
2) 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; and,
3) Approve Minor Subdivision Application No. MS22-009 based on the findings and subject to the recommended conditions of approval.



BACKGROUND:

Site Description

The project site is located at the corner of American Avenue and Washington to the west of the Hilmar area, identified as Assessor’s Parcel Numbers (APNs) 045-180-056 and 045-180-057. The project site and properties in the vicinity are designated Agricultural land use in the General Plan and zoned A-1 (General Agricultural). The project site and surrounding area are substantially flat and characterized by agricultural land uses and dispersed single-family residences.

The applicant is requesting to subdivide 5 acres containing a home from a 20-acre parcel, and convey and combine the remaining 15 acres with an adjacent parcel, creating a 35-acre parcel. Both tentative parcels have frontage along both Washington Road and American Avenue.

Surrounding Uses

| | General Plan | Zoning | Current Land Use |
|-----------------|--------------|--------|-------------------------------------|
| On-Site: | Agricultural | A-1 | Orchard/Rural Residential |
| North: | Agricultural | A-1 | Orchard |
| South: | Agricultural | A-1 | Orchard/Row Crops/Rural Residential |
| East: | Agricultural | A-1 | Orchard/Rural Residential |
| West: | Agricultural | A-1 | Ranch |

Prior Actions/Entitlements

- Minor Subdivision Application No. MS22-001 was approved on March 23, 2022 by the Planning Commission to subdivide a 40-acre parcel two 20-acre parcels, including the subject parcel.
- Additional Permits: ADOMP 0869

ANALYSIS:

Project Description

The request is to create a homesite parcel 5 acres in size, containing a home in which the property owner has lived for more than 10 years. The homesite would be subdivided from a 20-acre parcel, and the remaining 15 acres would be combined with an adjacent parcel, creating a 35-acre parcel.

Consistency with Adopted Plans and Policies

1. General Plan

The 2030 General Plan provides a set of guiding principles, goals, and policies that communicate the adopted philosophy of the County regarding growth, development and sustainability. These statements, together with adopted diagrams, standards and analysis, provide the context under which specific land use proposals are reviewed. The 2030 General Plan is therefore considered the local "constitution" for planning and development and serves to direct the physical growth and development of the County for the long term.

Land Use Element

The Land Use Element of the 2030 General Plan provides the policy context for Merced County to achieve its vision for both rural and urban land use. Agricultural land use designation is

applied to much of the land within the County. It acknowledges the importance of agriculture to the economy and culture of the County, and seeks to protect productive agricultural land, promote agricultural processing and support operations, and recognize and preserve valuable open space resources.

The following land use goals and policies are applicable to the present application:

Goal LU-2

Preserve, promote, and expand the agricultural industry in Merced County.

Policy LU-2.3: Land Use Activity Limitations

Limit allowed land use within Agricultural and Foothill Pasture areas to agricultural crop production, farm support operations, and grazing and open space uses.

The proposed project is consistent with Policy LU-2.3 of the General Plan. The current land use as an orchard is not proposed to change and it will be conveyed and combined with currently vacant land that to form a single 35 acre productive parcel.

Agricultural Element

The Agricultural Element provides the policy context for Merced County to achieve its vision for the protection, preservation, and expansion of productive agriculture. Agriculture is the prominent economic segment in the County and accounts for more than 90 percent of all land area. Merced County is ranked fifth among all counties in California and sixth in the nation in the annual market value of farm products. Rich soils, accessible irrigation water, favorable climate, a large labor force, and reliable access to local, national, and global markets make Merced County a thriving agricultural community.

The following agricultural goals and policies are applicable to the present application:

Goal AG-2

Ensure the long-term preservation and conservation of land used for productive agriculture, potentially-productive agricultural land, and agricultural-support facilities.

Policy AG-2.13 Minimum Agricultural Parcel Size Requirement

Require a 20 acre minimum permitted parcel size in areas designated Agricultural to discourage land divisions for rural residential purposes and maintain parcels large enough for efficient commercial agriculture production. Require 160 acre minimum permitted parcel size in areas designated Foothill Pasture and in grassland areas.

The homesite parcel is less than 20 acres, but it meets all the requirements for an exception to minimum parcel size standards as outlined in Merced County Code Section 18.10.030(F)(5).

Goal AG-3

Minimize conflicts between productive agricultural uses and urban land uses, and discourage the 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 (RDR/MPSP)

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-1-40, and 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 subject to a conditional use permit.

Agricultural use is preserved by the limitations placed on the proposed subdivided parcels, which impedes them from having residences built on them pursuant to condition 4 of the standard conditions of approval for Minor Subdivisions. No new residences or new land uses are proposed on the project site. The applicant waives the right to construct residences on resulting parcels by placement of a note on the face of the recorded-map that would permit the construction of residences on the resulting parcels subject to the approval of a conditional use permit.

2. Zoning Code

The project site is zoned A-1 (General Agricultural) on the Merced County Zoning Map. The purpose of the A-1 (General Agricultural) zone is to provide areas for more intensive farming operations that are dependent on higher quality soils, water availability, relatively flat topography, and agricultural commercial and/or industrial uses dependent on proximity to urban areas or locations in sparsely populated low traffic areas. In the A-1 zone, parcels smaller than 40 acres down to a minimum of 20 acres can be considered where the agricultural productivity of the property will not be reduced.

The proposed Minor Subdivision is consistent with the development standards in the Zoning Code, including meeting or being exempt from meeting the minimum parcel size for each proposed parcel.

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

The project additionally is subject to 18.10.040(N), which requires a Conditional Use Permit (CUP) to build a single-family residence on subdivided land designated General Agricultural.

3. Other Adopted Plans and Policies

Subdivision Map Act and Title 17

The proposed subdivision can be found consistent with the Subdivision Map Act and Title 17 of the Merced County Code. No new residences or new land uses are proposed on the project site.

Agricultural Preserve and Williamson Act

The existing parcels are not under a Williamson Act contract. The existing parcels are part of the agricultural preserve. The Agricultural Preserve will be required to be amended prior to recordation of the Certificate of Compliance, as the homesite parcel will be smaller than the 10-acre minimum parcel size for parcels in the Agricultural Preserve.

California Environmental Quality Act (CEQA)

Staff has assessed the proposed Minor Subdivision project in relation to the Program Environmental Impact Report (PEIR) prepared for the 2030 Merced County General Plan Update and is recommending that the Planning Commission determine that no further environmental review is

required pursuant to Section 15162 - “Subsequent EIRs and Negative Declarations” of the CEQA Guidelines. See **Exhibit B** for the findings and analysis which support this conclusion.

The 2030 Merced County General Plan Program EIR contained an extensive analysis of the potential impacts from subdivisions located in agricultural and open space areas of the County (specifically Chapter 6 in the Recirculated Draft Program EIR dated July 26, 2013). The Draft and Final Program EIR concluded that the impact from agricultural subdivisions was less than significant when no new residences are proposed. Additionally, Mitigation Measure AG-5g was adopted to require a conditional use permit be processed for any new housing proposed on a newly created parcel in the agricultural zones.

However, because new residences were permitted on existing agricultural parcels, the EIR concluded the overall impact of the General Plan would be significant and unavoidable. In the current application, Minor Subdivision No. MS22-009, no additional residences are proposed, and a note will be placed on the face of the Parcel Map indicating that the right to seek additional housing on the parcels has been waived. Should the landowner change their decision in the future, Mitigation Measure AG-5g would require processing of a discretionary conditional use application which would be subject to further environmental review.

Community Engagement

The project application was routed to the Merced County Environmental Health Department for comment. No comments were received.

Notice of the Planning Commission’s public hearing was mailed to all owners of property located within 300 feet of the project site on **September 2, 2022** and published in The Merced Sun Star on **September 2, 2022**. No written or verbal comments were received by staff prior to the completion of this Staff Report.

CONCLUSION:

The analysis provided in this Staff Report finds that the proposed Minor Subdivision is consistent with applicable provisions of the General Plan, Zoning Code, and Subdivision Map Act. Furthermore, the project is consistent with the range of possible uses considered for the area in the General Plan Program Environmental Impact Report and can be exempted from further CEQA review based on this consistency.

Staff recommends that the Planning Commission approve Minor Subdivision Application No. MS22-009 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. MS22-009 based on the findings identified in the Staff Report and subject to the recommended Conditions of Approval.

Project Findings:

1. Minor Subdivision Application No. MS22-009 proposes to create a 5 acre parcel containing a home in which the property owner has lived for more than 10 years from a 20 acre parcel, and convey and combine the remaining 15 acres with an adjacent parcel, creating a 35 acre parcel.
2. The property is designated Agricultural in the General Plan and zoned A-1 (General Agricultural).
2. The proposal is consistent with applicable provisions of the 2030 Merced County General Plan requiring the preservation of commercial agricultural land and maintaining the commercial viability of agricultural parcels.
4. The proposal is consistent with applicable provisions of the Merced County Zoning Code that have not been superseded through adoption of the 2030 General Plan.
5. The proposal is consistent with the Subdivision Map Act.
6. The proposal is consistent with the Agricultural Preserve and the Williamson Act Rules and Procedures.
7. The proposed Minor Subdivision is compatible with adjacent uses and properties, and will not be a nuisance nor be detrimental to the public health, safety or general welfare.
8. The project is subject to all applicable Local, State and Federal regulations.
9. Notice of the application and the Planning Commission hearing was published September 2, 2022 and mailed to property owners within 300 feet of the project site.

EXHIBITS:

- A. Recommended Conditions of Approval
- B. CEQA Section 15162 Findings and Analysis
- C. Tentative Parcel Map

cc: Applicants/Property Owners – Joell Erlandson
Engineer – North Star Engineering Group, Inc.



**COMMUNITY AND ECONOMIC
DEVELOPMENT DEPARTMENT**

Mark J. Hendrickson
Director

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

Equal Opportunity Employer

MS22-009 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 applicant shall comply with all applicable Local, State and Federal regulations.
3. The project shall comply with all standard conditions contained in the Planning Commission Resolution No. 20-001.
4. 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.
5. The Agricultural Preserve will be required to be amended prior to recordation of a final map.

County Counsel

6. INDEMNITY AND HOLD HARMLESS AGREEMENT:

JOELL ERLANDSON 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.

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

Application: Minor Subdivision No. MS22-009 (Joell Erlandson)

Assessor Parcel Number or Location: Assessor’s Parcel Numbers (APNs) 045-180-056 & 045-180-057

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

Section B - New Information

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

Comment/Finding: All previously identified mitigation measures were adopted as General Plan policies and implementation measures as part of the Agricultural Element. Approval of this subdivision project will be dependent upon finding the project is consistent with the General Plan and all applicable policies. Therefore, the potential impacts resulting from the subdivision are no greater than those previously analyzed and the previously imposed mitigation measures remain sufficient to address all impacts from this project.

On the basis of this evaluation, in accordance with the requirements of Section 15162 of the CEQA Guidelines:

1. It is found that subsequent negative declaration will need to be prepared.
2. It is found that an addendum Negative Declaration will need to be prepared.
3. That a subsequent EIR will need to be prepared.
4. No further documentation is required.

August 29, 2022
Prepared By:



Cameron Christie
Project Planner

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

MS22-009 – Joell Erlandson is a request to create a 5 acre parcel containing a home in which the property owner has lived for more than 10 years from a 20 acre parcel, and convey and combine the remaining 15 acres with an adjacent parcel, creating a 35 acre parcel. The property is located on the northwest side of Washington Road at the corner with American Avenue in the Hilmar area, identified as Assessor's Parcel Numbers (APNs) 045-180-056 & 045-180-057. The land is designated Agricultural land use in the General Plan and is zoned A-1 (General Agricultural).

II. Analysis

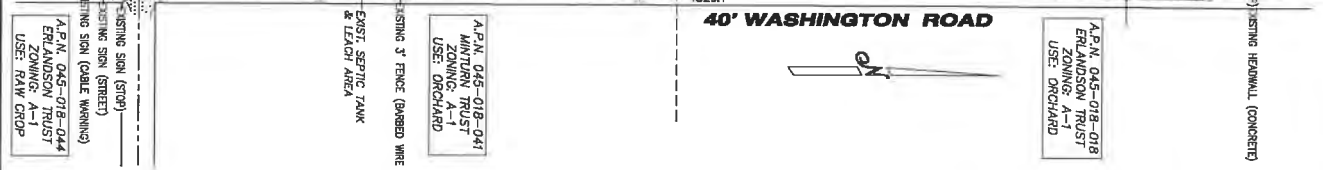
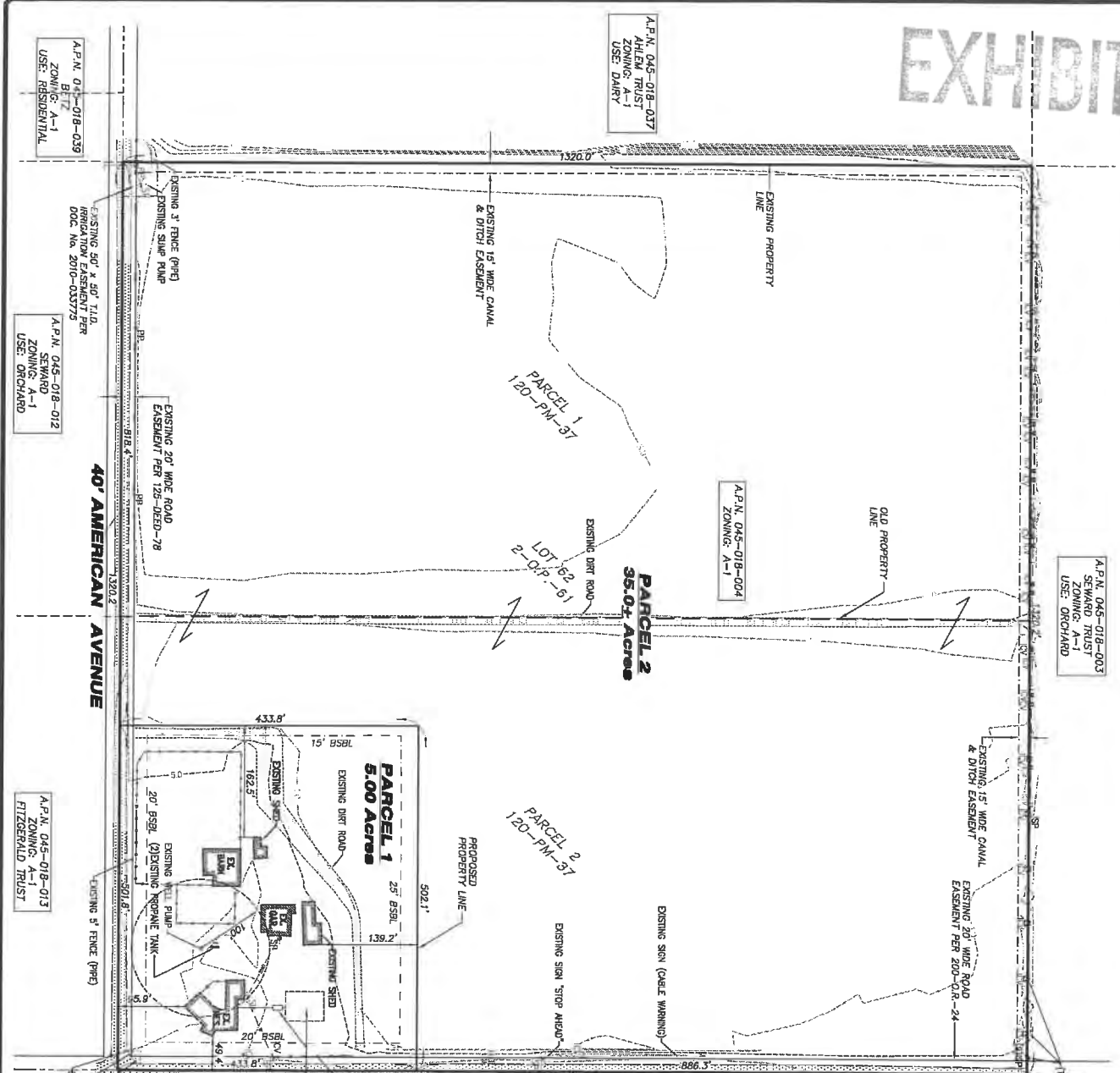
The extensive analysis in the 2030 Merced County General Plan Program EIR concluded that the impact from agricultural subdivisions was less than significant when no new residences are proposed. However, because new residences were permitted on existing agricultural parcels, the EIR concluded the overall impact of the General Plan would be significant and unavoidable.

In the current Minor Subdivision Application No. MS22-009, no additional residences are proposed and a note will be placed on the face of the Parcel Map indicating that the right to seek additional housing on the parcels has been waived. Should the landowner change their mind in the future, Mitigation Measure AG-5g would require processing of a discretionary conditional use permit application which would be subject to further environmental review.

The General Plan EIR also concluded that the impact from the subdivision of agricultural parcels 40 acres or less in size would typically not result in a significant impact on the environment in the analysis under Impact AG-7: "Involve other land use changes that would result in conversion of farmland to non-agricultural uses due to inadequate parcel sizes." (Starting on Page 6-71 of the Recirculated Draft Program EIR). This conclusion was reached based on the fact that the General Plan contained Policy AG-2.13 "Minimum Agricultural Parcel Size Requirement" along with Policy AG-2.14 "Viability of Smaller Parcels." The conclusion in the Program EIR was that the subdivision of productive agricultural land into parcels over 20 acres in size that does not involve the construction of new housing units would have a less than significant impact on the environment.

This proposed minor subdivision is a request to create a 5 acre parcel containing a home in which the property owner has lived for more than 10 years from a 20 acre parcel, and convey and combine the remaining 15 acres with an adjacent parcel, creating a 35 acre parcel. The proposal is consistent with Title 17 of the Merced County Zoning Code. Farming practices and other existing land uses for the newly created 35 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.

EXHIBIT C



OWNER/APPLICANT: JOEL M. ERLANDSON
 8548 WASHINGTON ROAD
 HILMAR, CA 95324

ENGINEER / SURVEYOR: NORTHSTAR ENGINEERING GROUP, INC.
 RENE GARGENWOLA, P.L.S., C.F.D.S.
 620 12TH STREET
 HILMAR, CA 95324
 (209) 524-5525
 RENE@NORTHSTARENGINEERING.COM

SITE ADDRESS: 8548 WASHINGTON ROAD
 HILMAR, CA 95324

APN: 045-180-004
ZONING: A-1 (20 ACRES MINIMUM)

GENERAL PLAN: A-1-AGRICULTURAL

USE: GROWING CROPS/SINGLE FAMILY RESIDENCE

TOTAL PROJECT AREA: 40.00 ACRES

EXISTING PARCELS: 2

PROPOSED PARCELS: 2

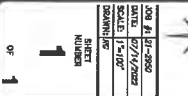
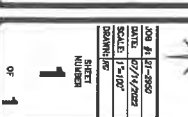
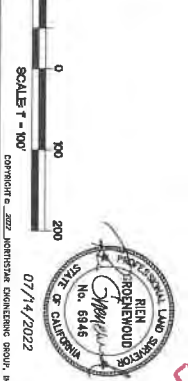
PROJECT DESCRIPTION: DIVISION OF LAND INTO TWO PARCELS & MERGING OF ONE OF THE PROPOSED PARCELS WITH ADJACENT EXISTING PARCEL PER CHAPTER 18.110.00 (T)(9) OF MERGED COUNTY ZONING CODE.

WATER: PRIVATE WELL

SEWERS: PRIVATE SEPTIC SYSTEM

ON-SITE STORM SEWER: ON-SITE

FEWA: ZONE X (AREA OF MINIMAL FLOOD HAZARD)
 MAP 06947001506 - EFFECTIVE DATE: 12/2/2008



CONVEY + COMBINE MINOR SUB. 22009

TENTATIVE PARCEL MAP

OF LOT 62 OF "MAP OF HILMAR COLONY" FILED FOR RECORD IN VOLUME 2 OF OFFICIAL PLATS, AT PAGE 61, MERCED COUNTY RECORDS, SECTION 18, T6S, R16E, M.D.M.

MERCED COUNTY CALIFORNIA

| NO. | REVISIONS DESCRIPTIONS | DATE | APPROVED |
|-----|------------------------|------|----------|
| | | | |

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