

## **HEARING OFFICER AGENDA Regular Meeting**

**Monday, October 26, 2020 - 8:30 a.m**

Merced County Administration Building  
Development Resource Center, Second Floor 2222 M Street  
Merced, California 95340  
Phone: 209.385.7654 Fax: 209.726.1710

1. CALL TO ORDER

2. CITIZEN COMMUNICATIONS

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

3. PUBLIC HEARING(S)

3.I. MINOR SUBDIVISION No. MS20-012

**BEE VANG** - A request to divide a net 4.48 acre parcel into 4 parcels, resulting in parcel sizes of: Parcel 1 = 1.32 net acres, Parcel 2 = 1.13 net acres, Parcel 3 = 1.02 net acres and Parcel 4 = 1.01 net acres. The project site is located east of North Herrod Avenue, approximately 670 feet north of West Fleming Road in the Atwater area, identified as Assessor's Parcel No. (APN) 207-050-015. The project site is located within the McSwain Rural Residential Center and is designated A-R (Agricultural-Residential) in the General Plan and zoned R-R (Rural Residential). CEQA: Staff recommends that the Hearing Officer find that the project is exempt from environmental review pursuant to Section 15315 of the CEQA Guidelines - "Minor Land Divisions". **DL**

**RECOMMENDATION(S):**

- 1) Open/close the Public Hearing;
- 2) Determine the project can be found exempt from environmental review pursuant to Section 15315 "Minor Land Divisions" of the CEQA Guidelines; and,
- 3) Approve MS20-012 based on the findings and subject to the recommended conditions of approval.

Documents:

[ITEM A. MS20-012 - BEE VANG.PDF](#)

4. HEARING OFFICER AGENDA

4.I. HEARING OFFICER AGENDA 10-26-20

Documents:

[HEARING OFFICER AGENDA 10-26-20.PDF](#)



**Hearing Officer**  
**Staff Report**  
**October 26, 2020**

**PREPARED BY:**  
**APPROVED BY:**

DIANA LOWRANCE, PROJECT PLANNER   
MARK HENDRICKSON, DIRECTOR

**MINOR SUBDIVISION No. MS20-012 - BEE VANG** - A request to divide a net 4.48 acre parcel into 4 parcels, resulting in parcel sizes of: Parcel 1 = 1.32 net acres, Parcel 2 = 1.13 net acres, Parcel 3 = 1.02 net acres and Parcel 4 = 1.01 net acres. The project site is located east of North Herrod Avenue, approximately 670 feet north of West Fleming Road in the Atwater area, identified as Assessor's Parcel No. (APN) 207-050-015. The property is located within the McSwain Rural Residential Center, is designated A-R (Agricultural Residential) in the General Plan and zoned R-R (Rural Residential). CEQA: Staff recommends that the Hearing Officer find that the project is exempt from environmental review pursuant to Section 15315 of the CEQA Guidelines - "Minor Land Divisions". DL

**SUPERVISORIAL DISTRICT:** 3 – Daron McDaniel

**RECOMMENDATION(S):**

- 1) Open/close the public hearing;
- 2) Determine the project can be found exempt from environmental review pursuant to Section 15315 "Minor Land Divisions" of the CEQA Guidelines; and,
- 3) Approve MS20-012 based on the findings in the staff report and subject to the recommended conditions of approval.

**LOCATION MAP:**



**BACKGROUND:**

**Site Description**

The project site is located on the east side of N. Herrod Avenue, approximately 670 feet north of West Fleming Road in the Atwater area, identified as Assessor's Parcel No. (APN) 207-050-015. The project site is located within the McSwain Rural Residential Center, is designated A-R (Agricultural-Residential) in the General Plan and zoned R-R (Rural Residential). The project site is developed with one single-family residence, related well and septic system, a barn and the remnants of an orchard. The project site is surrounded on the north and south by single-family homes and row crops and on the east and west by single-family homes.

**Surrounding Uses**

	<b>General Plan</b>	<b>Zoning</b>	<b>Current Land Use</b>
<b>On-Site:</b>	Agricultural-Residential	R-R	Single-Family Residence
<b>North:</b>	Agricultural-Residential	R-R	Single-Family Residences/Undeveloped
<b>South:</b>	Agricultural-Residential	R-R	Single-Family Residences/Undeveloped
<b>East:</b>	Agricultural-Residential	R-R	Single-Family Residences
<b>West:</b>	Agricultural-Residential	R-R	Single-Family Residences/ Row Crops

**Prior Actions/Entitlements**

Planned Development PD1831 was approved in 1972 to divide a larger 20+-acre parcel into four parcels each being approximately 4.48 acres in size.

MS17-012. The Planning Commission approved MS17-012 on Oct. 25, 2017, with 18 Conditions of Approval. However, the map expired because it was not recorded within the required two-year period.

**ANALYSIS:**

**Project Description**

Minor Subdivision No. MS20-012 is a request is to divide a 4.48-acre parcel (with an existing single-family residence and a barn) into 4 parcels, to be sold. The project site is located east of North Herrod Avenue, approximately 670 feet north of West Fleming Road in the Atwater area, identified as Assessor's Parcel No. (APN) 207-050-015. The resulting parcels are as follows: Parcel 1 = 1.32 acres, Parcel 2 = 1.13 acres, Parcel 3 = 1.02 acres and Parcel 4 = 1.01 acres. Parcel 1 will contain the existing single-family residence (and its related well and septic system), while Parcel 3 will contain the existing barn. Parcels 2 and 4 will be undeveloped. Additionally, the project will improve a portion of a new cul-de-sac (at the terminus of Appaloosa Way). The remainder of the cul-de-sac will improved by an adjacent project.

## Consistency with Adopted Plans and Policies

### 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 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. It addresses countywide growth and development patterns in the unincorporated portion of Merced County. In addition, to directing urban development to vacant and underused land within unincorporated communities.

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

### **Goal LU-3**

*Provide limited areas for suburban residential land uses in a manner that minimizes conflicts with surrounding agricultural and open space uses.*

### **Policy LU-3.3: Residential Densities**

*Maintain a minimum lot size commensurate with sanitation requirements by allowing one-acre minimum lots when Environmental Health Division approved on-site septic systems are installed or a one-third-acre minimum when the lot has connection to a public sewer and water system.*

As the project site is located within the McSwain Rural Residential Center, Goal LU-3, and Policy LU-3.3 applies. However, as the resulting parcels are all over one acre (i.e., Parcel 1 = 1.32 acres, Parcel 2 = 1.13 acres, Parcel 3 = 1.02 acres and Parcel 4 = 1.01 acres) the proposed project can be found consistent with this goal and policy of the General Plan.

### Zoning Code

The project site is zoned R-R (Rural Residential). The purpose of the R-R (Rural Residential) zone is to provide areas for rural residential development, hobby farming, and limited animal raising operations with less than a full range of urban services. This zone typically serves as a transitional area between denser urban communities and agricultural uses, allowing one to three dwelling units per acre. This zone implements the Agricultural Residential (AR) and Very Low Density Residential land use designations in the General Plan.

The proposed Minor Subdivision is consistent with the R-R (Rural Residential) development standards in the Zoning Code. All proposed parcels meet or exceed the 1.00 net acre minimum parcel size required in an R-R (Rural Residential) zoned area with no public sewer or water. Additionally, all proposed parcels met the required parcel width at the front parcel line and the Maximum Depth Width Ratio of 3:1.

## **Other Adopted Plans and Policies**

### **Subdivision Map Act and Title 17 (Subdivisions) of the Merced County Code**

The proposed minor subdivision can be found consistent with the Subdivision Map Act and Title 17 (Subdivisions) of the Merced County Code.

### **California Environmental Quality Act (CEQA)**

Staff has determined that this project can be found exempt from environmental review under Section 15315 – “Minor Land Divisions,” which 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.*

### **Community Engagement**

The project’s application was routed to applicable County departments and agencies for comment. Comments were received from the Merced County Department of Public Works, Division of Environmental Health, the Merced County Fire Department Prevention Bureau, and the Merced County Department of Public Works Road Division. Additionally, agency conditions and requirements have been including in the Recommended Conditions of Approval (Exhibit A).

Notice of the Hearing Officer’s public hearing was mailed to all owners of property located within 300 feet of the project site on **October 14, 2020** and published in the Merced Sun-Star on **October 16, 2020**. No written or verbal comments were received (by staff) prior to the completion of this Staff Report.

### **CONCLUSION:**

The analysis provided in this Staff Report finds that the proposed Minor Subdivision is consistent with applicable provisions of the General Plan, Zoning Code, and Subdivision Map Act. Staff recommends that the Hearing Officer approve Minor Subdivision Application No. MS20-012 based on the findings identified below and subject to the recommended Conditions of Approval.

### **RECOMMENDED HEARING OFFICER ACTION:**

#### **A. CEQA Determination**

**MOTION:** The Hearing Officer determines that Minor Subdivision Application No. MS20-012 can be found exempt from environmental review under Section 15315 – “Minor Land Divisions”.

#### **B. Project Determination**

**MOTION:** The Hearing Officer approves Minor Subdivision Application No. MS20-012 based on the findings identified in the Staff Report and subject to the recommended Conditions of Approval.

**Project Findings:**

1. Minor Subdivision Application No. MS20-012 proposes to divide a net 4.48-acre parcel into 4 parcels, resulting in parcel sizes of: Parcel 1 = 1.32 net acres, Parcel 2 = 1.13 net acres, Parcel 3 = 1.02 net acres and Parcel 4 = 1.01 net acres.
2. The property is located within the McSwain Rural Residential Center, designated A-R (Agricultural Residential) in the General Plan and zoned R-R (Rural Residential).
3. The proposed Minor Subdivision is consistent with applicable provisions of the 2030 Merced County General Plan specifically Goal LU-3 and Policy LU-3.3 of the Land Use Element, which requires one-acre minimum lot sizes in areas where (Environmental Health Division approved) on-site septic systems are installed.
4. The proposed Minor Subdivision is consistent with applicable provisions of the Merced County Zoning Code.
5. The proposed Minor Subdivision is consistent with the Subdivision Map Act and Title 17 (Subdivisions) of the Merced County Code.
6. 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.
7. The project is subject to all applicable Local, State and Federal regulations.
8. Notice of the application and the Hearing Officer hearing was published in the Merced Sun-Star and mailed to property owners within 300 feet of the project site.

**EXHIBITS:**

- A. Recommended Conditions of Approval
- B. Tentative Parcel Map

cc:

Property Owner – Bee Vang

Engineer – Golden Valley Engineering (Tim Barker)



COMMUNITY AND ECONOMIC  
DEVELOPMENT DEPARTMENT

EXHIBIT A

Mark J. Hendrickson  
*Director*

Steve Maxey  
*Deputy Director*

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

**MS20-012 CONDITIONS OF APPROVAL**

Merced County Community and Economic Development Department

Equal Opportunity Employer

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. In conjunction with submittal of the final map for review, the applicant shall apply for and obtain any necessary permits for existing residences or accessory structures for which a land use permit is required.
3. The applicant shall comply with all applicable County, State and Federal regulations.

Merced County Division of Environmental Health

4. The recorded map shall indicate a 10,000 square-foot leach field area on each parcel. The configuration of the area must be reasonable for leach field use (all leach lines of equal length, no line longer than 100-feet, leach lines at least 10-feet apart, etc.). The area should be rectangular or nearly so. Triangular areas are not acceptable.
5. The recorded map shall indicate a domestic well location on each parcel and a 100-foot radius circle around the well. Each proposed well location shall meet all applicable setbacks. A location for a replacement well that meets setbacks and is at least 30-feet from the initial well shall be available. The replacement well does not have to be indicated on the map.
6. Parcel sized on the recorded map shall comply with requirements in effect for parcels with onsite septic systems when MS20-012 is approved by the County.
7. Advance treatment septic systems may be required, depending on requirements in place at the time of parcel development.

Merced County Fire Department Prevention Bureau

8. Address Identification.  
New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property (**CFC Sec. 505**)
9. Fire Department Access.  
Fire access shall be maintained in accordance with **CFC Sec. 503**. A knoxbox keyed entry system is required on driveway gate and enclosure gate. Approved locks shall be installed on gates for similar barriers where required by the fire code official (**CFC Sec. 506**). Driveway access shall be a minimum of 20-foot wide all weather construction capable of supporting 75,000 lbs.

Merced County Department of Public Works Road Division

10. Pursuant to Chapter 16.08 of the Merced County Code, the Applicant shall install Level 1 improvements along Appaloosa Way. This improvement may require existing overhead lines be relocated. All improvements shall be constructed prior to the recordation of the map.
11. Applicant shall comply with the County's MSE Storm Water Permit, Order No. 2013-0001-DWQ. Applicant shall implement site design, source control, runoff reduction and storm water treatment as described in E. 12 of the permit.

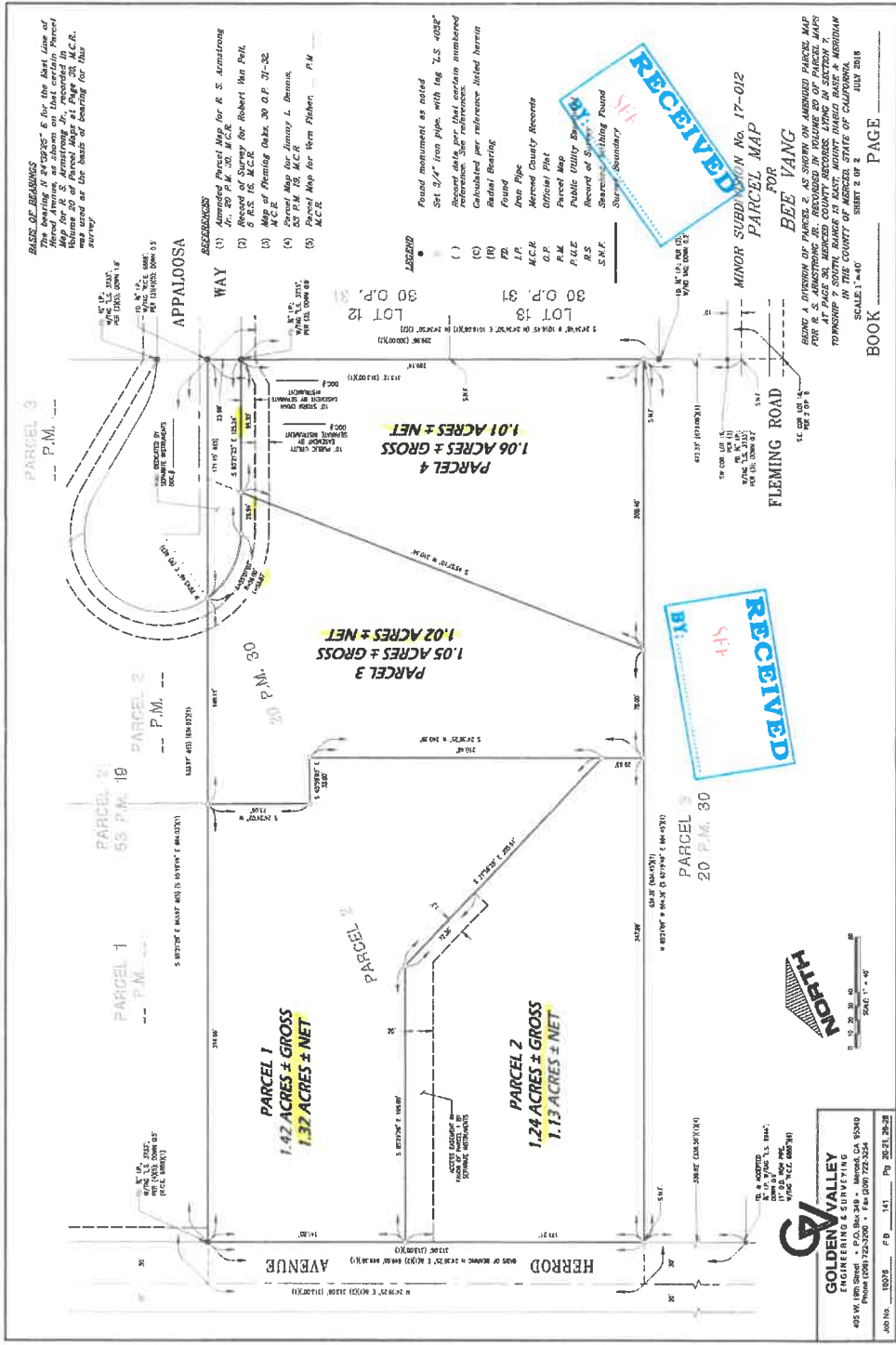
County Counsel

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

BEE VANG 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.



MINOR SUBDIVISION NO. MS 20-012 (BEE VANG)



**GV**

**GOLDEN VALLEY**  
ENGINEERING & SURVEYING

495 W. Elm Street • P.O. Box 240 • Merced, CA 95340  
Phone (209) 722-5200 • Fax (209) 722-5254

JOB NO. 10075 P/B 141 P/L 2023 2628





**Mark J. Hendrickson**  
Hearing Officer

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Phone: 209.385.7654 Fax: 209.726.1710

***The Hearing Officer 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 five (5) minutes.

**PUBLIC COMMENT:** If you would like to address the Hearing Officer on any item on the agenda, please fill it out with your name, street address, phone number, email address and the application number on the sign-in sheet. Each speaker will be limited to five (5) minutes.

**AGENDAS and MINUTES:** Hearing Officer agendas, minutes, and copies of items to be considered are published on the County's Website no later than the Wednesday, but generally on the Monday, preceding each Commission meeting and may be viewed at [www.co.merced.ca.us/planning/hearingoffcomarchive.html](http://www.co.merced.ca.us/planning/hearingoffcomarchive.html). All proposed agenda items with supportive documents are available for viewing at the Merced County Planning and Community Development Department between the hours of 8:30am and 4:30pm, Monday - Friday (except holidays). This is the same packet that the Hearing Officer will review and discuss at the 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 Hearing Officer less than 72 hours prior to this meeting in connection with any agenda item shall be made available for public inspection at the Merced County Administration Building, 2222 M Street, Merced, CA 95340. Public records distributed during the meeting will be available for public inspection at the meeting if prepared by the County. If the public record is prepared by some other person and distributed at the meeting it will be made available for public inspection following the meeting at the Planning and Community Development Department.

**REASONABLE ACCOMMODATIONS:** In compliance with the Americans with Disabilities Act (ADA), the Merced County Hearing Officer meeting facility is accessible to persons with disabilities. If you need special assistance to participate in this meeting, please contact the Planning and Community Development Department 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.

**APPEAL NOTICE:** Any person aggrieved by the decision of the Hearing Officer may appeal the decision within five (5) calendar days after the day the action is made. [Within ten (10) calendar days after the day the action is made on subdivisions]. The deadline for appeals of Hearing Officer actions, excluding subdivisions, is 5:00 p.m. on the Monday following the Hearing Officer meeting, and for subdivisions, the deadline is the following Thursday at 5:00 pm. Please note that appeals may not be submitted on days that the County is officially closed.

Appeals of Hearing Officer actions may be filed with the Planning and Community Development Department. 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 with the written appeal.

***Members of the public are advised that all pagers, cellular telephones and any other communication devices are to be turned off upon entering the Hearing Officer meeting.***



**Mark J. Hendrickson**  
*Hearing Officer*

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