



**COMMUNITY AND ECONOMIC  
DEVELOPMENT DEPARTMENT**

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Equal Opportunity Employer

**DATE:** OCTOBER 28, 2015

**TO:** PLANNING COMMISSION

**PROJECT PLANNER:** PAM NAVARES PLANNER I PN

**PROJECT NO:** MINOR SUBDIVISION APPLICATION NO. MS15-008

**APPLICANT:** ROBERT ERICKSON

**PROPERTY OWNERS:** SAME AS APPLICANT

**REPRESENTATIVE:** GOLDEN VALLEY ENGINEERING AND SURVEYING

**APPLICATION REQUEST:** TO RE-SUBDIVIDE A 112.5 ACRE PARCEL INTO TWO PARCELS. PARCEL 1 = 46.71 ACRES AND PARCEL 2 = 65.81 ACRES WITH NO HOMES PROPOSED.

**LOCATION/SITUS:** NORTH SIDE OF EAST SANDY MUSH ROAD, 1 MILE EAST OF SOUTH HEALY ROAD IN THE MERCED AREA.

**APN:** 066-240-007

**SUPERVISORIAL DISTRICT:** 1 - PEDROZO

**MUNICIPAL ADVISORY COUNCIL:** MERCED

The following table indicates the designations for General Plan, Zoning, and current land use of the subject parcel and the adjacent parcels generally to the north, east, south and west of the application request:

	<b>GENERAL PLAN</b>	<b>ZONING</b>	<b>CURRENT LAND USE</b>
<b>ON SITE</b>	Agricultural	A-1	Vacant land/Residence
<b>NORTH</b>	Agricultural	A-1	Orchards/Row Crops
<b>EAST</b>	Agricultural	A-1	Grazing
<b>SOUTH</b>	Agricultural	A-1	Orchards
<b>WEST</b>	Agricultural	A-1	Orchards/Vacant

**I. PROJECT DESCRIPTION**

To divide a 112.5 acre parcel into two parcels: Parcel 1 = 46.71 acres and Parcel 2 = 65.81 acres. The subject property is located on the north side of Sandy Mush Road, 1 mile east of Healy Road in the Merced area. The project site is designated Agricultural

land use in the General Plan and zoned A-1 (General Agricultural).

## II. SUMMARY OF RECOMMENDATION

Staff recommends the Planning Commission determine that the application is exempt from further review under the California Environmental Quality Act (CEQA) under Section 15183 "Projects Consistent with a Community Plan or Zoning" of the CEQA Guidelines, and make a determination (approve or deny) on Minor Subdivision Application No. MS15-008 based on the project findings and subject to the conditions of approval found in this Staff Report.

## III. ANALYSIS

### A. Background

The project proposes to re-subdivide a 112.5 acre parcel to create two parcels, Parcel 1 = 46.71 acres and Parcel 2 = 65.81 acres. The 112.5 acre was created through MS15-006, which was approved by the Hearing Officer on June 3, 2015. The project site is designated Agricultural land use in the 2030 Merced County General Plan and zoned A-1 (General Agricultural). The parcel is located on the north side of Sandy Mush Road, 1 mile east of Healy Road and approximately five miles southeast of the City of Merced.

The purpose of the proposed minor subdivision is to create a new parcel (Parcel 2) that will contain the existing farmhouse and approximately 65.81 acres of land that will be retained by the owner's family. Parcel 1 will be offered up for sale. The entire property has been farmed as a single unit as a fish farm. Parcel 1 has been leveled and is being prepared to be planted with pistachios. Parcel 2 is in the process of being leveled and will be planted with various row crops. The proposed subdivision will allow both parcels to be farmed independently, with each parcel being irrigated through its own (existing) agricultural well and associated drip system. Both parcels have road frontage on Sandy Mush Road. The applicant anticipates that the property will continue in agricultural production for the foreseeable future. No approvals for additional residences for either parcel have been requested as part of this application. The project site is located within the Merced County Agricultural Preserve, but is not under a Williamson Act contract.

The project site is located southeast of Merced in an area dominated by commercial agriculture. All residences in the general area are directly related to commercial agriculture. The project site and much of the surrounding area are substantially flat, being characterized by relatively intensive modification through commercial agricultural land uses.

Staff discussion with Robert Erickson (the owner) revealed the soil quality on the existing parcel is poor because the previous use as a fish farm left the soil very high in salinity. He is currently adding nutrients to the soil trying to neutralize the ph. The applicant has indicated that the adjacent property owner is interested in purchasing Parcel 1 and he preferred to subdivide the land rather than complete a property line adjustment for economic reasons. Staff has indicated that a property line adjustment can accomplish the same purpose without a subdivision which will result in two parcels much smaller than most of those in the vicinity.

## **B. General Plan Consistency**

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

### ***Land Use Element***

The Land Use Element of the 2030 General Plan provides the policy context for Merced County to achieve its vision for both rural and urban land use. The project site is designated as Agricultural land use in the Plan. The Agricultural land use designation is applied to much of the land within the County. It acknowledges the importance of agriculture 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 goal and policy are applicable to the present application to subdivide a 112.5 acre parcel into a 46.71 acre parcel and a 65.81 acre parcel:

#### **Goal LU-2**

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

#### **Policy LU-2.3: Land Use Activity Limitations (RDR)**

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

### ***Agricultural Element***

Commercial agriculture drives the local economy and shapes the character of Merced County. The 2030 Merced County General Plan identifies the preservation and expansion of commercial agricultural activities as being one of its highest priorities and clearly identifies the commercial production of agricultural crops and the raising of livestock as preferred uses on agriculturally designated land. The proposed project is to subdivide an existing parcel into two smaller parcels, an issue that was carefully considered in production of the General Plan. The following Agricultural Element goals and policies are directly applicable to the proposed minor subdivision:

#### **Goal AG-2**

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

#### **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-2.13: Minimum Agricultural Parcel Size Requirement**

Require 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.

**Policy AG-2.14: Viability of Smaller Parcels**

Require applicants seeking to divide agriculturally-zoned parcels to demonstrate the continued viability of lots less than 40 acres for commercial agriculture, using specific standards (i.e., access to agricultural water, joint farm management, access for aerial spraying, size viability for specific commodities) and farm management plans.

**AG-2.17: Continued Access to Surface Water for Subdivided Parcels**

Where requested by the water purveyor, when agricultural parcels are subdivided and the original parcel (prior to subdivision) has access to surface water (such as from an irrigation or water district facility), require that an easement be provided over the parcel(s) that has/have access to the surface water source to the remaining parcel(s) that will not be adjacent to or near the surface water source. The easement should specify the purpose of the easement and whose responsibility it is to maintain private water conveyance facilities within said easement.

**Policy AG-3.12: Subdivision and Residential Uses in Agricultural Areas**

Revise the Merced County Zoning Code, Section 18.02.02, Table 4, to allow for two classes of minor subdivisions within the A-1, A-1-40, and A-2 zones: one that would conditionally waive the right to construct residences on the 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.

**B.1 General Plan Consistency Analysis**

The proposed project is to re-subdivide a 112.5 acre agricultural parcel into two parcels: Parcel 1 = 46.71 acres and Parcel 2 = 65.81 acres. The Land Use Element of the General Plan calls for the preservation and expansion of commercial agriculture in the county and limiting preferred land uses on agriculturally designated land to those directly related to commercial agriculture. The Agricultural Element is more directive, calling for the conservation of land used for productive agriculture and establishing the requirement that any proposal to subdivide an agriculturally zoned parcel to a size of less than 40 acres must demonstrate that the division will result in parcels that are viable for commercial agriculture.

It is the stated intention of the present owner to keep the proposed 65.81 acre parcel and return it to general agriculture, and sell the 46.71 acre parcel that is expected to be planted with pistachio trees. Both parcels exceed the 40 acre size threshold identified for assumed commercial viability identified in Policy AG-2.14.

The project site is located within the Le Grand Athlone Irrigation District service area boundary. Goals AG-2 and AG-3 establish the County's interest in

preserving productive agricultural land, making consideration of the continued availability of irrigation water a reasonable issue for public review. Staff discussion with Robert Erickson (the owner), revealed that the proposed parcels will each be irrigated through their own existing dedicated agricultural wells that will directly feed the installed drip systems. The irrigation district no longer provides water to this parcel.

Adoption of the 2030 Merced County General Plan and Policy AG-3.12 of the Agricultural Element “Subdivision and Residential Uses in Agricultural Areas” has had the effect of superseding the provisions of the Zoning Code that previously governed the construction of residences on agriculturally designated and zoned parcels. Under Policy AG-3.12, a conditional use permit approval is required to allow construction of a residence on a newly created agricultural parcel. When no conditional use permit is approved with creation of a new agricultural parcel, a notice is placed on the face of the parcel map that the right to construct any new residences on the parcels created through the subdivision has been waived. In the case of a newly created parcel that contains existing residences (as is the case for proposed Parcel 2 of this application) there is no assigned right for approval an additional residence through administrative review.

Further information regarding the suitability of the project site for commercial agricultural production is provided in the following section of this report.

### **C. Zoning Code Consistency**

The parcel is designated A-1 (General Agricultural) in the Merced County Zoning Code. The purpose of this 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 location in sparsely populated low traffic areas.

Minor Subdivision Application No. MS15-008 proposes to divide an existing 112.5 acre parcel into a 46.71 acre parcel (Parcel 1) and a 65.81 acre parcel (Parcel 2). Both parcels are consistent with the 40-acre minimum size identified by policy AG-2.14 of the 2030 Merced County General Plan as the minimum necessary to be accepted as viable for commercial agricultural production. No use is presently being proposed for the property that requires the approval of an additional discretionary land use permit.

#### Allowable and Permitted Uses (Section 18.02.02.020)

The provisions of Table 4 identifying permitting requirements for residential land uses have been superseded by Policy AG-3.12 of the Agricultural Element “Subdivision and Residential Uses in Agricultural Areas”. The applicant has not submitted a conditional use permit application for construction of a new residence on either proposed parcel. A notice consistent with the requirement of Policy AG-3.12 will therefore be placed on the face of the recorded parcel map.

#### Development Standards and Subdivision Considerations (Section 18.02.03)

The proposed parcels comply with the minimum size standards provided in the

2030 Merced County General Plan and Table 5 Section 18.02.03 of the Zoning Code. No new structures have been proposed as part of this application and any future structures that may be located on these proposed parcels would be required to comply with the setback standards provided in this table.

Section 18.02.03.B, Subdivision Considerations, of the Zoning Code identifies six factors that must be considered to determine conformity with the Merced County Year 2000 General Plan objective of avoiding divisions which reduce the agricultural productivity of the property. While the Year 2000 General Plan has been entirely replaced by the 2030 General Plan, a brief analysis of those six factors is provided as they provide useful information on the proposed subdivision.

**1. Soil Capability and Productivity of the Site and Vicinity**

The State Important Farmlands Map shows almost the entire project site as being composed of “Confined Animal Agriculture”. Confined Animal Agriculture facilities include dairies, feedlots, poultry facilities, and aquaculture (fish farms). These uses do not qualify for the major agricultural categories on the Important Farmland Maps. Soils to the west, however, are identified as “Unique” and of “Statewide Importance” which in the 2030 Merced County General Plan policies identify land containing these soils as productive agricultural lands that require protection. Therefore there is no impact to agricultural soil, as the sites use as a fish farm precludes appropriate soil classification.

**2. Current and Proposed Irrigation Facilities on the Site**

The property is currently irrigated through the use of two on-site wells and drip irrigation lines. Each proposed parcel has an existing well located on it that has the capability of irrigating the future orchard and row crops.

**3. Access to Public Roads and Right-of-Ways**

Proposed Parcel 1 and Parcel 2 have direct access to Sandy Mush Road, a county owned and maintained public roadway.

**4. Compatibility with Existing Agricultural Uses and Cropping Patterns in the Vicinity**

The majority of land in the general area, is devoted to commercial agricultural production (orchards and row crops). While the land to the east is used for grazing, the lands to the north, south and west are intensively farmed. Given the probability that the project site will be farmed as a pistachio orchard and row crops, based on the soil preparation and existence of necessary irrigation facilities, and no requested residential development, the proposed subdivision will not result in incompatibility with the surrounding agricultural uses.

Similarly, Minor Subdivision Application No. MS15-008 would divide the property into two parcels of sufficiently regular shape and size to support

modern commercial farming methods. Finally, the project site is located within the Agricultural Preserve; however it is not under Williamson Act Contract.

**5. Relationship to Current Parcel Sizes and Parcel Configurations in the Vicinity**

Minor Subdivision Application No. MS15-008 proposes to divide an existing 112.5 acre parcel into a 46.71 acre parcel (Parcel 1) and an 65.81 acre parcel (Parcel 2). Planning staff analyzed the size distribution of existing parcels located within a half mile radius of the project site and identified the following size distribution of these parcels as summarized in Table 1.

**Table 1  
 MS15-008 Parcel Size Analysis**

<b>Parcel Sizes</b>	<b># Parcels</b>	<b>Total Acres</b>	<b>Average Size</b>
0 - 10 Acres	2	7.21	3.6
10.01 - 20 Acres	0	0	0
20.01 - 40 Acres	0	0	0
40.01 - 60 Acres	0	0	0
60.01 - 100 Acres	2	151.6	75.8
Over 100 Acres	12	3832.57	319.4
<b>Total:</b>	<b>16</b>	<b>3991.38</b>	<b>249.5</b>

**Note:** Figures may not sum precisely due to rounding variation

It is apparent from Table 1 that there is little variation in the size of parcels located in the vicinity of the project site. Review of the aerial map and a visit to the area found that one of the smaller parcels is dedicated to residential use – being fallow and possibly used for light grazing. The other small parcel is a cell tower site. Larger parcels occur more frequently to the north, south and east of the project site, with this land being devoted to commercial agricultural production and grazing. Given that the average size for 12 of the 16 existing parcels in the vicinity is 319.4 acres, the proposed minor subdivision will result in the creation of parcel sizes that are inconsistent with those presently found in the vicinity.

**6. Applicants Reasons for the Proposed Division**

The submitted application materials state that the purpose of the proposed minor subdivision is to allow sale of the Parcel 1. The Erickson family would retain and continue to farm Parcel 2 and live in the existing house.

**D. Subdivision Map Act Consistency**

The proposed subdivision is found to be consistent with Title 17 of the Merced County Zoning Code. Currently the parcel is non-contiguous, separated from the rest of the parcel by the El Nido Canal. No new homes or new land use projects are being proposed on site that would require a land use permit. Currently, Policy

AG-3.12 of the General Code waives 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.

#### **IV. PRELIMINARY PUBLIC AGENCY REVIEW**

##### **A. County Department Comments**

Minor Subdivision Application No. MS15-008 was reviewed at the Preliminary Application Review (PAR) meeting held on September 3, 2015. The meeting was attended by representatives of the applicant and County staff representatives from the Department of Health Environmental Health Division, the Department of Public Works Building and Safety Division, the Department of Public Works Road Division, Merced County Fire Department, and the Community and Economic Development Department.

No formal comments were submitted by any County agency.

##### **B. Other Agency Comments**

The application was also referred to the University of California Cooperative Extension (Merced County), the Merced County Farm Bureau, Merced County Agricultural Commissioner, for review and comment. No response had been received from any of these agencies as of the date this report was sent to the Planning Commission.

#### **V. PROJECT NOTIFICATION and PUBLIC COMMENT**

Notice of the proposed project was mailed to all owners of property located within 300 feet of the project site. No written or verbal comments were received by staff as of the completion of this report.

Notice of the Planning Commission public hearing on Minor Subdivision Application No. MS15-008 was published in the Merced Sun-Star newspaper on October 17, 2015.

#### **VI. ENVIRONMENTAL REVIEW**

Staff recommends that the Planning Commission determine the project to be exempt from California Environmental Quality Act (CEQA) review under Section 15183 of the CEQA Guidelines "Projects Consistent with a Community Plan or Zoning". Section 15183(a) of the CEQA Guidelines provides that:

"Projects which are consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site."

This recommended determination is based on the following findings:

1. The project is to re-subdivide an existing 112.5 acre parcel into a 46.71 acre parcel (Parcel 1) and an 65.81 acre parcel (Parcel 2). No intensification of land uses on either of the proposed parcels is proposed as part of this application. Land will be converted from animal confinement (fish farms) to general agricultural use (row crops and pistachios).



2. The minor subdivision is consistent with existing land uses, adopted zoning, and General Plan designations.
3. No use is being proposed that requires permitting that might disturb environmentally sensitive areas on or adjacent to the project site.
4. The Community and Economic Development Department has received no information from any responsible or affected agencies identifying any potentially significant project-specific effects which are peculiar to the proposed project or its site.
5. The determination the application is exempt from CEQA review reflects the independent judgment of the County.
6. A Program Environmental Impact Report on the Merced County 2030 General Plan was certified on December 10, 2013. This Program EIR included an evaluation of agricultural subdivisions such as proposed with this application and there are no identified impacts resulting from this division as the parcels are over 40 acres in size and no new housing is proposed.

## **VII. CONCLUSION**

Minor Subdivision Application No. MS15-008 proposes the division of an existing 112.5 acre parcel into a 46.71 acre parcel (Parcel 1) and a 65.81 acre parcel (Parcel 2). Both of these proposed parcels meet the minimum size standard set by 2030 Merced County General Plan Policy AG-2.14: Viability of Smaller Parcels, for assumed commercial viability. The purpose is to allow sale of Parcel 1 while the Erickson family retains proposed Parcel 2 for continued use of the existing residence and farming.

The analysis provided in this staff report finds the proposed minor subdivision to be consistent with applicable provisions of the General Plan and not in conflict with the Williamson Act Agricultural Preserve. And while the proposed subdivision is largely compliant with the Zoning Code, Staff has difficulty finding the site compatible with existing parcel sizes in the area. Further 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 upon this consistency.

Staff recommends the Planning Commission make a determination to approve or deny Minor Subdivision Application No. MS15-008 based on the project findings and subject to the conditions of approval found in this Staff Report.

## **VIII. RECOMMENDED ACTIONS**

### **A. CEQA Determination**

If the Planning Commission can make the determination that MS15-008 is eligible for exemption from further review under the California Environmental Quality Act (CEQA) review under Section 15183 of the CEQA Guidelines "Projects Consistent with a Community Plan or Zoning", staff recommends the Planning Commission make the following motion:

**MOTION:** The Planning Commission finds that Minor Subdivision No. MS15-008 is exempt from further review under the California Environmental Quality Act (CEQA) under Section 15183 “Projects Consistent with a Community Plan or Zoning” of the CEQA Guidelines, based on the following CEQA findings:

1. The project is to re-subdivide an existing 112.5 acre parcel into a 46.71 acre parcel (Parcel 1) and an 65.81 acre parcel (Parcel 2). No new land uses, or intensification of existing land uses on either of the proposed parcels is proposed as part of this application.
2. The minor subdivision is consistent with existing land uses, adopted zoning, and General Plan designations.
3. No use is being proposed that requires permitting that might disturb environmentally sensitive areas on or adjacent to the project site.
4. The Community and Economic Development Department has received no information from any responsible or affected agencies identifying any potentially significant project-specific effects which are peculiar to the proposed project or its site.
5. The determination the application is exempt from CEQA review reflects the independent judgment of the County.
6. A Program Environmental Impact Report on the Merced County 2030 General Plan was certified on December 10, 2013. This Program EIR included an evaluation of agricultural subdivisions such as proposed with this application and there are no identified impacts resulting from this division as the parcels are over 40 acres in size and no new housing is proposed.

**B. Project Determination**

The Planning Commission should carefully consider the information in this staff report for MS15-008. Staff finds difficulty recommending approval or denial of this application based on the average parcel size and soil quality. Staff has therefore provided project findings for both approval (Motion A) and denial (Motion B).

**MOTION A:** The Planning Commission approves Minor Subdivision Application No. MS15-008 based on the 11 project findings and subject to the 4 recommended conditions of approval.

**Project Findings:**

1. Minor Subdivision Application No. MS15-008 proposes to re-subdivide a 112.5 acre parcel to create two parcels, Parcel 1 = 46.71 acres and Parcel 2 = 65.81 acres in size.
2. The project site is on the north side of Sandy Mush Road, 1 mile east of Healy Road in the Merced area.

3. The property is designated 'Agricultural' in the General Plan and zoned A-1 (General Agricultural).
4. 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.
5. The project site is located within the Agricultural Preserve, but not under Williamson Act Contract.
6. 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.
7. The proposal is consistent with the Subdivision Map Act.
8. The project has been reviewed by the Department of Public Works Road Division, The Department of Health Environmental Health Division, The Department of Public Works Building and Safety Division, Merced County Fire Department, Merced County Farm Bureau, Merced County Agricultural Commissioner, and the U.C. Cooperative Extension.
9. 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.
10. The project is subject to all applicable Federal, State and Local regulations.
11. Notice of the application and Planning Commission hearing was published in the Merced Sun Star and mailed to property owners within 300 feet of the project site.

**C. Conditions of Approval**

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. A notice shall be placed on the face of the parcel map stating that there is no right to construct any new residences on the parcels created through Minor Subdivision No. MS15-008, unless otherwise permitted by the County.
3. The applicant shall comply with all applicable County, State and Federal regulations.

County Counsel

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

ROBERT ERICKSON has the contracted duty (hereinafter "the duty") to indemnify, defend and hold harmless, County, its Board of Supervisors, officers, employees, agents and assigns from and against any and all claims, petitions, demands, liability, judgments, awards, interest, attorney's fees, costs, experts' fees and expenses of whatsoever kind or nature, at any time arising out of or in any way connected with the performance of this Agreement, whether in tort, contract, writ of mandamus, or otherwise. This duty shall include, but not be limited to, claims, petitions, or the like for bodily injury, property damage, personal injury, contractual damages, writ of mandamus, or otherwise alleged to be caused to any person or entity including, but not limited to employees, agents, commissions, boards, and officers of ROBERT ERICKSON.

ROBERT ERICKSON liability for indemnity under this Agreement shall apply, regardless of fault, to any acts or omissions, willful misconduct or negligent conduct of any kind, on the part of ROBERT ERICKSON, its agents, subcontractors, employees, boards, and commissions. The duty shall extend to any allegation, claim of liability, or petition, except in circumstances found by a jury or judge to be the sole and legal result of the willful misconduct of County. This duty shall arise at the first claim, petition, or allegation of liability against County. ROBERT ERICKSON will on request and at its expense, defend any action or suit or proceeding arising hereunder. This clause and shall not be limited to any and all claims, petitions, demands, liability, judgments, awards, interest, attorney's fees, costs, experts' fees and expenses of whatsoever kind or nature, that may arise during the term of this Agreement but shall also apply to all such claims and the like after the term of this contract, for example, arising from land use and environmental law actions, or meeting notice law actions, brought against the County following project approval, modification, or denial.

This clause for indemnification shall be interpreted to the broadest extent permitted by law.

Or

**MOTION B:** The Planning Commission denies Minor Subdivision Application No. MS15-008 based on the 14 project findings.

**Project Findings:**

1. Minor Subdivision Application No. MS15-008 proposes to re-subdivide a 112.5 acre parcel to create two parcels, Parcel 1 = 46.71 acres and Parcel 2 = 65.81 acres in size.
2. The project site is on the north side of Sandy Mush Road, 1 mile east of Healy Road in the Merced area.