



Inter Office Memo

DATE: May 18, 2023
TO: Board of Supervisors
FROM: Planning Commission
SUBJECT: Resolution No. 12992 - Initial Study No. 8154, Tentative Tract Map Application No. 6382; Classified Conditional Use Permit Application No. 3726

APPLICANT/
OWNER: Family Farms, LLC

REQUEST: Allow the creation of a nine-lot residential subdivision from a 39.63-acre parcel and a 2.09-acre parcel in the R-R (Rural Residential, two-acre minimum parcel size) Zone District. The ninth 2.09-acre parcel (Lot 9) is a remainder lot from an approved Parcel Map No. 8193.

LOCATION: The subject parcels are located on the west side of Auberry Road approximately 600 feet southwest of its intersection with Thunderbird Road, within unincorporated community of Prather (APNs: 118-340-69 and 118-340-75) (28733 Auberry Road) (Sup. Dist. 5).

PLANNING COMMISSION ACTION:

At its hearing of May 18, 2023, the Commission considered the Staff Report and testimony (summarized in Exhibit A).

A motion was made by Commissioner Arabian and seconded by Commissioner Zante to adopt the Mitigated Negative Declaration for the project, based on the Initial Study No. 8154, adopt the recommended Findings as described in the staff report, and approve Tentative Tract Map No. 6382 and Classified Conditional Use Permit No. 3726 subject to the Conditions listed in Exhibit B.

The motion passed on the following vote:

VOTING: Yes: Commissioners Arabian, Zante, Abrahamian, Chatha, Woolf
 No: None
 Absent: Commissioners Carver, Ewell, Hill
 Abstain: None

STEVEN E. WHITE, DIRECTOR
Department of Public Works and Planning
Secretary-Fresno County Planning Commission

By:  _____
William M. Kettler, Manager
Development Services and Capital Projects Division

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NOTE: The approval of this tentative map will expire two years from the date of approval unless a determination is made that a final map has been submitted in substantial conformance with the approved tentative map. When circumstances beyond the control of the Applicant do not permit compliance with this time limit, the Commission may grant extension not to exceed one year time extension each year for upto six years. Application for such extension must be filed with the Department of Public Works and Planning prior to the expiration of the Tentative Tract Map.

Attachments

EXHIBIT A

Initial Study No. 8154
Tentative Tract Map Application No. 6382
Conditional Use Permit Application No. 3726

Staff: The Fresno County Planning Commission considered the Staff Report dated May 18, 2023 and heard a summary presentation by staff.

Applicant: The Applicant and his representatives concurred with the Staff Report and the recommended Conditions. They described the project and offered the following information to clarify the intended use:

- Access to the proposed lots will be built to Fresno County development standards.
- The project will be provided with storage tanks to assist with fire protection.
- A water availability test was conducted for the project; there is substantial water supply to support the project.
- The project will not cause substantial increase in vehicular traffic.
- The project site has two points of access; they are spread out to disperse traffic on Auberry Road.

Others: No other individuals presented information in support of the application. One individual spoke in opposition to the application stating that the project will affect groundwater supply even though his well has never went dry; the project will add more people to the area and will increase traffic on Auberry Road which already is crowded enough during school hours.

Correspondence: No letters were presented to the Planning Commission in support of or in opposition to the application.

EXHIBIT B

Mitigation Monitoring and Reporting Program
Initial Study No. 8154/Tentative Tract Map Application No. 6382/Classified Conditional Use Permit Application No. 3726
Mitigation Measures, Conditions of Approval and Project Notes

Mitigation Measures					
Mitigation Measure No.*	Impact	Mitigation Measure Language	Implementation Responsibility	Monitoring Responsibility	Time Span
*1.	Biological Resources	<p>To protect and preserve potential sensitive plant resources and their potential habitat, the following preventive avoidance measures shall be incorporated into the project and be implemented to avoid any potential significant impacts to these resources.</p> <p>a. No developments such as roads, trails, barns, sheds, homes, trailers, or bridges shall be built on or over the large rock outcropping as depicted in the attached Exhibits (Aerial Map and Habitat Map) and such areas shall be avoided and designated as open space, unless measure 'b' below is enacted.</p> <p>b. If future construction activities will occur in or over this sensitive open space area, a sensitive plant survey shall be conducted by a qualified biologist at the appropriate flowering period to further evaluate the potential occurrence and impacts of sensitive plants.</p>	Applicant	Applicant/Department of Public Works and Planning (PW&P)	Prior to ground disturbance
*2.	Biological Resources	<p>To protect and preserve nesting bird and nest resources, the following preventive avoidance measures shall be incorporated into the project and be implemented to avoid any potential significant impacts to such resources.</p> <p>a. Prior to ground-disturbing activities on the project site (such as road building, land contouring, house pad grading, etc.) in February thru August period, a preconstruction survey will be conducted by a qualified biologist for nesting birds. A findings memo shall be prepared by the biologist for the project files.</p>	Applicant	Applicant/PW&P/California Dept. of fish and Wildlife (CDFW)	Prior to issuance of development permits

EXHIBIT B

		<p>b. If any active nests are observed, the nests and nest trees/areas shall be designated as an Environmentally Sensitive Area and protected (while occupied by eggs or birds) during the construction activities.</p> <p>c. If nests are found, the California Department of Fish and Wildlife shall be contacted, consulted, and additional avoidance measures, specific to each incident above, shall be developed in cooperation with the landowner, developer, and a qualified biologist. The plan with comments from the California Department of Fish and Wildlife shall be submitted to County for approval prior to issuance of any development permits on the property.</p>			
*3.	Biological Resources	<p>To protect and preserve the pond resource, the following preventive avoidance measures shall be incorporated into the project and shall be implemented to avoid any potential significant impacts to this resource.</p> <p>a. A no impact zone of 25 feet around the pond and the pond itself shall be designated as open space. No developments such as roads, trails, barns, sheds, homes, trailers, or bridges shall be constructed in the open space area unless measure 'c' below is enacted.</p> <p>b. A qualified biologist shall locate the pond edge and measure, designate, and mark (flag) its protection zone prior to ground-disturbing construction activities in its area.</p> <p>c. If future road or construction activities will occur in, over, or along the pond and within its protection zone (open space), a qualified biologist will review and examine the plans, determine if the pond will be altered, consult with the CDFW and Corps, and if needed, obtain permits from the Corps and CDFW. The plan with comments from the</p>	Applicant	Applicant/PW&P/CDFW	Prior to issuance of development permits

		California Department of Fish and Wildlife shall be submitted to County for approval prior to issuance of any development permits on the property.			
*4.	Biological Resources	<p>To protect and preserve the intermittent drainage resources, the following preventive avoidance measures shall be incorporated into the project and be implemented to avoid any potential significant impacts to these resources.</p> <p>a. A no impact zone of 25 feet on either side of intermittent drainages shall be designated as open space. No developments such as roads, trails, barns, sheds, homes, trailers, or bridges shall be conducted in the open space area-drainage protection zone unless measure 'c' below is enacted.</p> <p>b. A qualified biologist shall locate the drainages and measure, designate, and mark (flag) its protection zone prior to ground-disturbing construction activities.</p> <p>c. If future road or construction activities will occur in, over, or along the intermittent drainages and within its protection zones (open space), a qualified biologist will review and examine the plans, determine if the bed or bank of the drainage will be altered, consult with the California Department of Fish and wildlife (CDFW) and Army Corps of Engineers (ACOE), and if needed, obtain permits from CDFW and ACOE. The plan with comments from the California Department of Fish and Wildlife shall be submitted to County for approval prior to issuance of any development permits on the property.</p>	Applicant	Applicant/PWP	Prior to issuance of development permits
*5	Biological Resources	Prior to recordation of the Tract Map, an Oak Woodland Management Plan consistent with the policies of the Fresno County Oak Woodland Management Guidelines, shall be prepared by one of the following professionals: Biologist, Registered Forester, Arborist,	Applicant	Applicant/PWP	Prior to recordation of final map

		Horticulturalist, or any other professionals experienced in the management of Oak tree habitat. The Plan shall contain provisions for preserving, maintaining, and replacing Oak trees currently existing on the project site at an acceptable ratio and maintenance of plantings for seven years. The plan shall be submitted to and approved by the Fresno County Department of Public Works and Planning in consultation with other agencies including the Sierra Resource Conservation District.			
*6.	Cultural Resources	In the event that cultural resources are unearthed during ground-disturbing activities, all work shall be halted in the area of the find. An Archeologist shall be called to evaluate the findings and make any necessary mitigation recommendations. If human remains are unearthed during ground-disturbing activities, no further disturbance is to occur until the Fresno County Sheriff-Coroner has made the necessary findings as to origin and disposition. All normal evidence procedures should be followed by photos, reports, video, etc. If such remains are determined to be Native American, the Sheriff-Coroner must notify the Native American Commission within 24 hours.	Applicant	Applicant/PWP	During ground-disturbance
*7.	Hydrology and Water Quality	Prior to the issuance of any Development permit or recordation of the Final Map, a water well yield test shall be conducted to demonstrate that the well is capable to adequately serve the proposed use and must be reviewed and approved as adequate by the County of Fresno Public Works and Planning Department's Water Natural Resources Division.	Applicant	Applicant/PWP	Prior to issuance of development permits
Subdivision Review Committee Conditions For Tract Map No. 6382					
1.	The proposed subdivision (final map) shall be in substantial conformance with the tentative map as approved by Planning Commission.				
2.	A 60-foot wide, non-exclusive private road easement from a public road shall be provided to all parcels without public road frontage. The alignment design shall provide for grades not exceeding the requirements of the A-15 improvement Standard and a minimum centerline curve radius of 125 feet, except the minimum radius may be 75 feet when grade is in excess of ten percent. It will be the duty of the Registered Civil Engineer to attest to compliance with this condition.				

3.	The easement shall be constructed to a standard not less than that required by the A-15 B and C County Improvement Standard from the intersection of Auberry Road to the end of the proposed private roads (18-foot wide).
4.	The private road shall be named, and street signs shall be provided at the intersection of the private roads and Auberry Road.
5.	Prior to the approval of subdivision, an engineered plan for road improvement and an engineered grading and drainage plans shall be prepared and submitted by a certified professional engineer for review and approval by the Fresno County Department of Public Works and Planning. The initial submittal shall include a soils report, which shall identify a recommended traffic index, R-value and pavement structural section. Subsequent R-values shall be obtained for sub-grade after completion of earthwork operations. The Plan show how additional storm water runoff generated by the proposed development of the access road will be handled without adversely impacting adjacent properties. The Fresno Metropolitan Flood Control District shall be consulted for drainage requirements.
6.	Prior to the recordation of final map of subdivision containing any improved local public or private roads, the subdivider shall have provided for their maintenance by a Road Maintenance Agreement or a Homeowners Association acceptable to the Director of Public Works and Planning.
7.	Prior to the recordation of final map of the subdivision, twenty-three (23) feet of additional road right-of-way across parcel frontage on Auberry Road shall be provided to meet 53 feet ultimate right-of-way for Auberry Road designated as an Arterial in the Transportation and Circulation Element of the Fresno County General Plan.
8.	All buildings and structures related to the future residential development on the proposed Lot 1 and Lot 8 shall maintain a scenic setback a minimum of 100 feet measured from 53 feet ultimate right-of-way for Auberry Road in compliance of General Plan Policy OS-L.3.d.3.
9.	Access to Lot 1, 8 and 9 each shall be limited to one direct access point off Auberry Road. The balance of the frontage shall be relinquished on the Final Map to restrict further direct vehicular access.
10.	Prior to the recordation of final map, a funding mechanism shall be established through a community facilities district or districts under the Mello-Roos Community Facilities Act of 1982, or other appropriate funding mechanism to be determined by the County, to support cost for Sheriff's protection services to achieve a ratio of 2.0 sworn officers per 1,000 residents for the affected properties. In addition, the project proponents shall pay for any cost associated with the establishment of the referenced funding mechanism."
11.	Hydrologic and hydraulic analyses shall be prepared and submitted prior to final map for approval by the County in accordance with standard engineering practices to demonstrate that the proposed tract will not result in any increase in flood levels or significantly change the existing drainage characteristics of those parcels adjacent to the development.
12.	Prior to site development, all survey monumentation – Property Corners, Centerline Monumentation, Section Corners, County Benchmarks, Federal Benchmarks and Triangulation Stations, etc. - within the subject area shall be preserved in accordance with Section 8771 of the Professional Land Surveyors Act and Section 6730.2 of the Professional Engineers Act.

*MITIGATION MEASURE – Measure specifically applied to the project to mitigate potential adverse environmental effects identified in the environmental document. Conditions of Approval reference required Conditions for the project.

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Project Notes	
The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.	
1.	As per Fresno County Ordinance Section 17.48.390.C; Water storage facilities for fire protection shall be provided where the parcels are to be served by individual wells. Such facilities shall be located within one half-mile of each lot measured along a public or approved private road and shall be capable of supplying a quantity of water for a one-hour period determined by the application of the following formula: $Q=700 F^{1/2}$; Q= Available storage in gallons; F= Number of families to be served by the fire protection water storage facility. In no case shall the storage facilities have a capacity of less than six (6) thousand gallons. Water storage facilities shall consist of a well, pump and storage tank located upon a water lot easement, together with an unsurfaced fire road between the water lot and a private or public road. Prior to the approval of the final map, the well shall be drilled and developed to supply the quantity of water necessary to replenish the storage facility in a 24-hour period. See Condition of Approval No. 5.
2.	Upon approval and acceptance of the Tentative Tract Map and any Conditions imposed thereon, a Final Tract Map shall be prepared and by a Professional Land Surveyor or Registered Civil Engineer authorized to practice Land Surveying, in accordance with the Professional Land Surveyors Act, the Subdivision Map Act and County Ordinance. Recordation of the Final Tract Map shall take place within two years of the acceptance of the Tentative Tract Map unless a Map extension is received prior to the expiration date of the approved Tentative Tract Map. Failure to record the Final Tract Map prior to the expiration of said Tentative Tract Map may void the Tract Map application.
3.	Both the Tentative Tract Map and Final Tract Map shall be approved and signed by all parties with a financial or beneficial interest in the subject parcel.
4.	Prior to the recordation of final map, any proposed wells shall be constructed, permitted, and tested by the County. Additionally, sewer system improvements must be completed and accepted by the County prior to the issuance of building permits for residential construction.
5.	An engineered Grading and Drainage Plan is required to show how additional runoff is being handled and verify compliance with Fresno County's Ordinances. If community facilities are not installed or available, the applicant will be required to contain additional storm water runoff associated with development in on-site retention areas. Any retention facilities greater than 18 inches in depth will require fencing to preclude public access.
6.	Auberry Road is classified as Arterial. All frontage access to Auberry Rd. shall be relinquished. Direct access shall be limited to the proposed parcels through the proposed access easements. The proposed lot 1 and the existing Lot 9 shall be limited to one access point.
7.	An encroachment permit shall be obtained from the Road Maintenance and Operations Division prior to any work

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	done within the County Road right-of-way (Auberry Road).
8.	Access points to Auberry Road shall be kept clear from any obstructions for visibility purposes with a 30-foot by 30-foot corner cutoff. Fences, walls, and hedges shall not exceed three (3) feet in height. Any branches of trees, signs, located within the corner cut-off area must be trimmed and/or maintained at a height of not less than eight (8) feet. If not already present, a 10-foot by 10-foot corner cut-off shall be improved for sight distance purposes at any existing or proposed driveway accessing Auberry Road.
9.	A grading permit/voucher is required for any grading that has been done without a permit and any proposed grading with this application.
10.	The proposed subdivision is within the State Responsibility Area (SRA). All access easements must satisfy SRA standards for emergency access. Any development shall be in accordance with the applicable SRA Fire Safe Regulations, as they apply to driveway construction and access.
11.	Discharging pollutants through a "point source" into a "water of the United States" are prohibited unless an NPDES permit has been obtained. A Notice of Intent (NOI) shall be filed with the State Water Resources Control Board (SWRCB) before the commencement of any construction activities disturbing 1.0 acre or more of area. Copies of completed NOI with WDID # and SWPPP incorporated into the construction improvement plans shall be submitted to the County prior to commencement of any grading activities.
12.	The proposed subdivision (tract map) is located within the State Responsibility (SRA) area and shall meet the development requirements within chapter 15.60 of the County of Fresno Title 15 Building and Construction Ordinance and any applicable State Fire Safe Regulation.
13.	On-site turnarounds are required for vehicles leaving the site to enter Auberry Road (Arterial) in a forward motion. Direct access to an Arterial is usually limited to one common point. No new access points are allowed without prior approval, and any existing driveway shall be utilized.
14.	For any discharge of dredge and/or fill material to wetlands and/or to local creeks, the project proponent shall submit application to the Central Valley Regional Water Quality Control Board for such discharges. The State Water Resource Control Board (State Board) or Regional Water Quality Control Boards (collectively, Water Boards) have the authority to regulate the discharge of dredged or fill material under section 401 of the Clean Water Act (CWA) and the Porter-Cologne Water Quality Control Act (Porter-Cologne). Dischargers that obtain a federal permit or license that authorizes impacts to waters of the United States (i.e., waters that are within federal jurisdiction), such as section 404 of the CWA and section 10 of the Safe Rivers and Harbors Act, must obtain certification from the Water Boards to ensure that the discharge does not violate state water quality standards or any other appropriate requirement of State law. When a discharge is proposed to waters outside of federal jurisdiction, the Water Boards regulate the discharge under Porter-Cologne through the issuance of Waste Discharge Requirements (WDRs). CWA section 401 Water Quality Certifications, WDRs, and waivers of WDRs are referred to as orders or permits.

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15.	<p>The State Water Resources Control Board (State Water Board) adopted the <i>State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State (Procedures)</i>, which became effective on 28 May 2020. Applications for dredge/fill activity and the processing of applications must comply with the Procedures. The Procedures require, among other things, the project applicant to conduct a delineation of waters, including wetlands, in an aquatic resource delineation report. The delineation must be performed as specified in the Procedures. The Procedures also require, in some instances, an alternatives analysis to identify the Least Environmentally Damaging Practicable Alternative (LEDPA). Even if the project is determined to be exempt from the Procedures' alternatives analysis requirement, the applicant must, at a minimum, demonstrate a sequence of actions has been taken to first avoid, then to minimize, and lastly compensate for adverse impacts that cannot be practicably avoided or minimized to waters of the state.</p> <p>Information supporting the Procedures including an implementation guidance document can be found here: https://www.waterboards.ca.gov/water_issues/programs/cwa401/wrapp.html. Other related resources can be found at: https://www.waterboards.ca.gov/water_issues/programs/cwa401/#resources</p>
16.	<p>If the project will disturb an acre or more, the project proponent must also comply with the National Pollutant Discharge Elimination System (NPDES) <i>General Permit No. CAS000002 (Order No. 2009-0009-DWQ) for Discharges of Storm Water Runoff Associated with Construction and Land Disturbance Activities</i>. The Construction General Permit requires development of a Storm Water Pollution Prevention Plan to control all pollutants and their sources associated with construction, construction site erosion, and all other activities associated with construction activity. Additionally, the General Permit requires compliance with post construction standards which requires low impact development design features, unless demonstrated to be infeasible, to minimize any increase in runoff or runoff pollutants. Information on the Construction General Permit can be obtained at: https://www.waterboards.ca.gov/water_issues/programs/stormwater/construction.html</p>
17.	<p>Prior to constructing water wells on the parcels, the water well contractor with a valid C-57 contractor's license shall apply for and obtain a Permit to Construct a Water Well from the Fresno County Department of Public Health, Environmental Health Division.</p>
18	<p>An Underground Storage Tank Removal Permit shall be obtained from the Fresno County Department of Public Health, Environmental Health Division for any underground storage tank(s) found during construction,</p>
19.	<p>Any existing septic tank(s) on the property should be pumped and the tank and leach lines evaluated by an appropriately licensed contractor if it has not been serviced and/or maintained within the last five years. The evaluation may indicate possible repairs, additions, or require the proper destruction of the system.</p>
20.	<p>A test hole and inspection is required prior to the issuance of construction permits. The test hole evaluation may result in a requirement for an engineered septic system. Such a system, following an on-site investigation, must be designed and installation certified by a Professional Engineer or Registered Environmental Health Specialist who is knowledgeable and experienced in the field of onsite wastewater treatment system design and installation.</p>

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	Whenever possible, test hole procedures should be conducted during the Spring runoff period to accurately assess seasonal high ground water conditions. Any proposal for a new sewage disposal system shall be installed under permit and inspection by the Department of Public Works and Planning Building and Safety Section.
21.	As a measure to protect ground water, any water wells or septic systems that exist or that have been abandoned within the project area, not intended for future use and/or use by the project, shall be properly destroyed by contacting the Water Surveillance Program at (559) 600-3357.
22.	Before any digging or excavation occurs, Underground Service Alert (USA) shall be contacted by dialing 811 a minimum of two (2) working days prior to commencing any work.
23.	The Sierra Unified School District in which the proposed development will occur has adopted a resolution requiring the payment of a construction fee. The County, in accordance with State Law, which authorizes the fee, may not issue a building permit without certification from the school district that the fee has been paid. The County will provide an official certification form when application is made for a building permit.
24.	Interior roads shall provide adequate sight distance at all intersections together with necessary property corner cutoff rights-of-way (20-foot by 20-foot minimum). Adequate sight distance shall be provided for the interior road entrances onto Auberry Road and shall intersect as near to a right angle as practicable. A County Standard B-2 rural residential cul-de-sac shall be provided at the end of cul-de-sac road and at the end of the private road on Lot 4.
25.	All parcels within the proposed subdivision shall have a minimum gross area of five (5) acres unless a public road is provided exclusive of all road and canal rights-of-way, recreation easements, permanent water bodies and public or quasi-public common use areas. Curved and cul-de-sac lots shall have a minimum street frontage of ninety (90) feet. All other lots shall conform to the development standards of the Rural Residential Zone District which requires a minimum width of 170 feet.
26.	Prior to the recordation of final map, the project shall be annexed into the Community Facilities District No. 2010-01 of the Fresno County Fire Protection District. A pressurized hydrant system will be required for the subdivision. The well, and pressurized storage tank shall be located on each lot and shall be maintained in perpetuity in accordance with Fresno County Ordinance Code and Fresno County Fire Protection District requirements, and subject to inspection and approval by the County Fire Protection District.
27.	As per Title 17, Section 17.04.100 of the Fresno County Ordinance Code; if a subdivision is at any point within three hundred feet of an AE-20 (Exclusive Agricultural), AL (Limited Agricultural), TPZ (Timberland Preserve) or RC (Resource Conservation) Zone District, the approval of the tentative and final subdivision map shall be conditional upon the recordation with the Fresno County Recorder of notice in substantially the following form: <i>Fresno County Right to Farm Notice: It is the declared policy of Fresno County to preserve, protect, and encourage development of its agricultural land and industries for the production of food and other agricultural products. Residents</i>

Project Notes

	<i>of property in or near agricultural districts should be prepared to accept the inconveniences and discomfort associated with normal farm activities. Consistent with this policy, California Civil Code 3482.5 (right-to-fate law) provides that an agricultural pursuit, as defined, maintained for commercial uses shall not be or become a nuisance due to a changed condition in a locality after such agricultural pursuit has been in operation for three years.</i>
28.	Fresno County Ordinance Code Title 17.48.350 street name signs, regulatory signs, markers, barricades and other markings shall be included in the design and be installed in accordance with the improvements and Specifications established by the County.
29.	Provisions shall be made to maintain natural drainage throughout the development in a manner that will not significantly change the existing drainage characteristics of those parcels adjacent to the development.
30.	A soils investigation report prepared in accordance with the County's Improvement Standards (Section II-H) shall be required for the subdivision as a condition of the final map. The soils report needs to address the feasibility of the site for the proposed type of development.
31.	Prior to any work conducted within the jurisdictional waters of the United States, the subdivider shall obtain necessary permits from the responsible agencies, including, but not limited to, the Army Corp of Engineers, California Department of Fish and Wildlife, and Regional Water Quality Control Board.
32.	All utilities shall be placed underground in accordance with the provisions of the Subdivision Ordinance.

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