



Planning Commission
Staff Report
February 26, 2020

AGENDA ITEM # A

PREPARED BY:
APPROVED BY:

JIMENA OLAGUEZ, PROJECT PLANNER
MARK HENDRICKSON, DIRECTOR

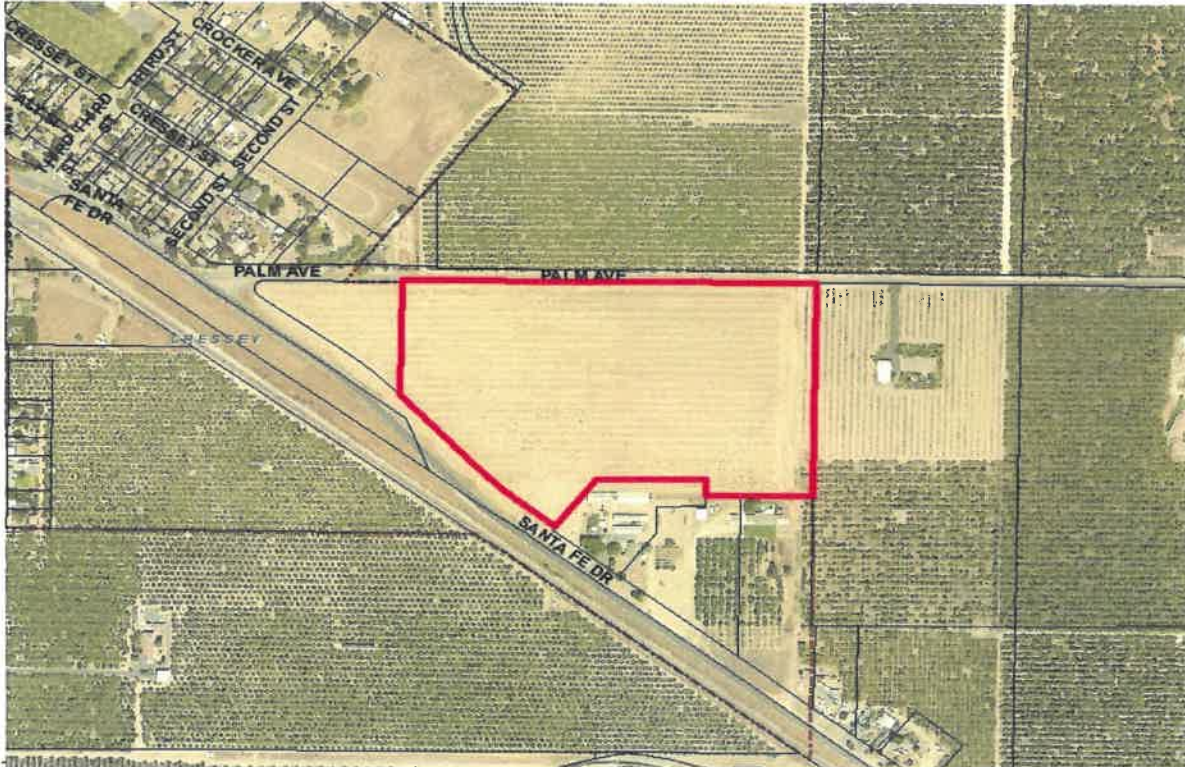
10th EXTENSION APPLICATION No. EXT20-001, TO MAJOR SUBDIVISION No. MAS04-003 – "RIVER REACH ESTATES" – Bhupinder Sahota: A request to extend the expiration date of the tentative map for Major Subdivision MAS04-003 by 1 year, FROM: March 9, 2020 TO: March 9, 2021. The project site is located on the south side of West Palm Avenue, 750 feet east of North Santa Fe Drive, identified as Assessor's Parcel Number (APN) 140-170-068. The property is designated Cressey Rural Center – Agricultural Residential land use in the General Plan and zoned R-R (Rural Residential). CEQA: Staff recommends that the Planning Commission find that no further environmental review is required pursuant to Section 15162 of the CEQA Guidelines - "Subsequent EIRs and Negative Declarations."

SUPERVISORIAL DISTRICT: 4 – Lloyd Pareira

RECOMMENDATION(S):

- 1) Open/close the public hearing;
- 2) Determine no further environmental review is required pursuant to Section 15162 "Subsequent EIRs and Negative Declarations" of the CEQA Guidelines; and,
- 3) Approve Extension Application No. EXT20-001 based on the findings identified in the Staff Report and subject to the proposed conditions of approval.

LOCATION MAP:



BACKGROUND:

Site Description

Major Subdivision Application No. MAS04-003, also known as “River Reach Estates”, was approved by the Planning Commission on March 9, 2005 to subdivide a 23.3 acre parcel into 19 one-acre lots, with 6 conditions of approval. The project site is located on the south side of West Palm Avenue, 750 feet east of North Santa Fe Drive, identified as Assessor's Parcel Number (APN) 140-170-068. The property is designated Cressey Rural Center - Agricultural Residential land use in the General Plan and zoned R-R (Rural Residential). The project site is not in the Agricultural Preserve and is therefore not under a Williamson Act contract.

Surrounding Uses

	General Plan	Zoning	Current Land Use
On-Site:	Agricultural-Residential	R-R	Row Crops
North:	Agricultural	A-1	Orchards
East:	Agricultural	A-1	Orchards/Row Crops
South:	Agricultural-Residential	R-R	Residences/Orchards
West:	Industrial	M-2	Orchards

Prior Actions/Entitlements

This tentative map has been subject to nine extensions since Major Subdivision Application No. MAS04-003 was approved by the Planning Commission on March 9, 2005. In a letter dated January 9, 2020, Bhupinder Sahota (property owner) submitted a timely request to extend the expiration date of the tentative map by one year to March 9, 2021.

On February 28, 2007, the Planning Commission approved Extension Application No. EXT07-001 to extend the tentative map by one year to March 9, 2008. On February 27, 2008, the Planning Commission approved Extension Application No. EXT08-001 to extend the tentative map by one year to March 9, 2009.

Subsequently, the State of California granted five automatic extensions to MAS04-003:

- In 2008, Senate Bill SB-1185 automatically extended the expiration date by one year to March 9, 2010 (EXT18-068).
- In 2009, Assembly Bill AB-333 automatically extended the expiration date by two years to March 9, 2012 (EXT09-014).
- In 2011, Assembly Bill AB-208 automatically extended the expiration date by two years to March 9, 2014 (EXT11-009).
- In 2013, Assembly Bill AB-116 automatically extended the expiration date by two years to March 9, 2016 (EXT13-009).
- In 2015, Assembly Bill AB-1303 automatically extended the expiration date by two years to March 9, 2018 (EXT15-009).

On April 25, 2018, the Planning Commission approved Extension Application No. EXT18-002 to extend the tentative map by one year to March 9, 2019. On March 27, 2019, the Planning Commission approved Extension Application No. EXT19-001 to extend the tentative map by one year to March 9, 2020.

If approved, Extension Application No. EXT20-001 would be the tenth overall extension and fifth discretionary extension to Major Subdivision No. MAS04-003.

ANALYSIS

Project Description

The application is a request to extend the expiration date of the tentative map for Major Subdivision No. MAS04-003 by one year, FROM: March 9, 2020 TO: March 9, 2021. If the final map is not recorded by March 9, 2021, or if an extension is not requested, the tentative map will expire.

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.

There have been no changes to the project, project site, or surrounding area since the subdivision was approved by the Planning Commission on March 9, 2005. The project remains consistent with the General Plan with regards to density standards and consistent with the character of the surrounding area.

2. Zoning Code

The project site is zoned R-R (Rural Residential) per the Merced County Zoning map. The purpose of the Rural Residential zone is to provide areas for rural residential development and hobby farming and limited animal raising operations with less than a full range of urban services. It is intended that this zone typically serve as a transitional area between more dense urban communities and agricultural uses with the option of allowing either one unit or three units per acre.

There have been no changes to the project, project site, or surrounding area. A comprehensive update of the Zoning Code became effective on November 21, 2019. Pursuant to Section 18.02.070, an application that has been deemed complete before the effective date of the Zoning Code or any amendment, shall be processed in compliance with the requirements in effect when the application was accepted as complete. Major Subdivision No. MAS 04-003 was approved by the Planning Commission on March 9, 2005 and was found consistent with the codes and regulations of the Zoning Code at the time of approval.

3. Other Adopted Plans and Policies

Subdivision Map Act

Pursuant to Section 66452.6 of the Subdivision Map Act, an approved or conditionally approved tentative map shall expire 24 months after its approval. After the 24-month period, an approved tentative map may be extended by a legislative body for a period or periods not to exceed a total of six years. Although this is considered the 10th extension to the major subdivision tentative map, five of the nine previous extensions were automatic extensions granted by the State of California. EXT20-001 would be the fifth discretionary extension considered by the Planning Commission and not automatically granted by the State of California.

California Environmental Quality Act (CEQA)

On March 9, 2005, the Planning Commission adopted the Negative Declaration for Major Subdivision Application No. MAS04-003. Staff has determined that pursuant to Section 15162 - "Subsequent EIRs and Negative Declarations" of the CEQA Guidelines, Extension Application No. EXT20-001 requires no further environmental review, as there have been no changes to the environmental character of the project site or the surrounding areas since Major Subdivision No. MAS04-003 was approved by the Planning Commission on March 9, 2005.

Community Engagement

The project application was routed to applicable County departments for comment. Comments were received from Environmental Health regarding well and septic system locations, well setbacks, and leach field setbacks. Environmental Health has requested to review the final map prior to recordation. **See Exhibit C.**

Notice of the public hearing was mailed to all property owners located within 300 feet of the project and published in the Merced Sun-Star on **February 14, 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 project continues to be consistent with applicable provisions of the General Plan and Zoning Code. Furthermore, the project can be found exempt from further CEQA review under Section 15162 - "Subsequent EIRs and Negative Declarations" of the CEQA Guidelines.

Staff recommends that the Planning Commission approve Extension Application No. EXT20-001 based upon these findings and subject to the recommended conditions of approval.

RECOMMENDED PLANNING COMMISSION ACTION:

A. CEQA Determination

MOTION: Determine no further environmental review is required pursuant to CEQA Section 15162 - "Subsequent EIRs and Negative Declarations" of the CEQA Guidelines.

CEQA Findings:

1. On March 9, 2005, the Planning Commission adopted the Negative Declaration for Major Subdivision Application No. MAS04-003.
2. Extension Application No. EXT20-001 proposes only to extend the time for recordation of a final map for Major Subdivision Application No. MAS04-003 by one year.
3. The extension in time for recording the Final Map does not constitute substantial changes to the project, and therefore does not warrant preparation of a subsequent environmental document. No new information has been identified that would require revisions to the Negative Declaration in accordance with Section 15162 - "Subsequent EIRs and Negative Declarations" of the CEQA Guidelines.

4. There have been no changes to the environmental character of the project site or surrounding area since Major Subdivision No. MAS04-003 was approved on March 9, 2005.
5. The determination that the application is exempt from CEQA review reflects the independent judgment of the County.

B. Project Determination

MOTION: Approve Extension Application No. EXT20-001 based on the findings included in the staff report and subject to the proposed conditions of approval.

Project Findings:

1. The approved tentative map is to subdivide a 23.3 acre parcel into 19 one-acre lots.
2. The project site is located on the south side of West Palm Avenue, 750 feet east of North Santa Fe Drive.
3. The project area is designated Cressey Rural Center – Agricultural-Residential land use in the General Plan and zoned R-R (Rural Residential).
4. The subdivision application conforms to the Merced County Zoning Code for the design and size of new lots at the time of approval.
5. The subdivision application conforms to the Merced County Subdivision Code, Section 17.08 (Major Subdivisions) and Section 17.04.050 (Design Requirements).
6. The project has been reviewed by the Department of Public Works Road Division, Department of Public Health Environmental Health Division, Department of Public Works Building and Safety Division, and the Fire Department.
7. The project, as conditioned, is consistent with the Merced County General Plan, compatible with surrounding area and uses, and has the potential to meet all applicable development requirements.
8. The proposed subdivision does not meet the findings for denial listed in Section 66474 of the Subdivision Map Act as the design is consistent with the County General Plan and with the implementation of the proposed mitigation measures, the site is: Physically suitable for the size and density for this type of development; it will not cause substantial environmental harm; it will not create serious health problems; and it does not conflict with existing public easements.
9. The proposed subdivision, as conditioned, will not have an adverse impact on public health, safety, or general welfare.
10. The public hearing has been adequately noticed and advertised.

EXHIBITS

- A. Proposed Conditions of Approval
- B. Applicant's Request for Extension
- C. Agency Comments
- D. Tentative Map

cc:

Property Owner – Bhupinder Sahota



**COMMUNITY AND ECONOMIC
DEVELOPMENT DEPARTMENT**

Mark J. Hendrickson
Director

Steve Maxey
Deputy Director

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

Equal Opportunity Employer

EXT20-001 CONDITIONS OF APPROVAL

Merced County Community and Economic Development Department

1. The Tentative Map for Major Subdivision Application No. MAS04-003 shall expire on March 9, 2021, unless an extension request is applied for.
2. The current Extension Application No. EXT20-001 shall comply with all conditions of approval as required by the previously approved Minor Subdivision No. MAS04-003 and any previously approved discretionary extensions (EXT07-001, EXT08-001, EXT18-002 and EXT19-001).

County Counsel

3. INDEMNITY AND HOLD HARMLESS AGREEMENT:

BHUPINDER SAHOTA 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.

MARK HENDRICKSON
Community Development Director
2222 "M" Street
Merced, CA 95340

January 9, 2020

RE: MSA 04003, request for map extension
APN 140-170-068

Dear Mark,

I, Bhupinder Sahota, property owner, formally request for a one year extension for MSA 04003, River Reach Subdivision. A check for the amount of \$452.00 is attached herewith. Your cooperation is appreciated.

Sincerely,


Bhupinder Sahota

10th (FINAL) EXT TO MSA 04003
EXT # 20-001



Rebecca Nanyonjo-Kemp, DrPH
Director

Gordon Arakawa, MD, PhD
Health Officer

Memorandum

DATE: February 6, 2020

TO: Jimena Olaguez, Code Compliance Technician

FROM: Brent Cronk, EHS III
(209) 385-7654 xt4568; Brent.Cronk@countyofmerced.com

SUBJECT: **10th EXTENSION APPLICATION No. EXT20-001, TO MAJOR SUBDIVISION No. MAS04-003 – "RIVER REACH ESTATES" – Bhupinder Sahota:** A request to extend the expiration date of the tentative map for Major Subdivision MAS04-003 by 1 year, FROM: March 9, 2020 TO: March 9, 2021. The project site is located on the south side of West Palm Avenue, 750 feet east of North Santa Fe Drive, identified as Assessor's Parcel Number (APN) 140-170-068. The property is designated Cressey Rural Center – Agricultural Residential land use in the General Plan and zoned R-R (Rural Residential).

SITUS: No situs

Observations and Comments – Merced County Division of Environmental Health (MCDEH):

The vested tentative map shows the well and septic system locations for each lot.

MCDEH needs to review the final map before it is recorded.

An MCDEH memo dated April 1, 2004 for the preliminary application review indicated that a soils analysis and a percolation test are required for each parcel. The soil analysis and percolation test will need to be performed at the location of the proposed leach field during the building permit application process.

In general, the leach fields will go in the back yards, with the tanks and leach lines close enough to the houses to allow shallow leach trenches if so required. However, the leach lines shall be at least 125 feet from the front property line (115 feet from the PUE). This will maintain the 100-foot setback for initial and future replacement wells. The back yards on almost all the lots are large enough to accommodate septic systems serving up to six bedrooms, but this would leave little room for other uses in the back yard. Future nitrate loading restrictions by the State may affect the number of bedrooms allowed per parcel, even if there is physically enough room on the parcel to fit the leach lines.

Two of the leach field locations shown on the vested tentative map do not meet setback requirements under current Merced County Code. The lots, setbacks, and adjustments are listed below:

- Lot 15 Leach field will need to be moved north, away from the SE corner and south property

line in order to meet the 100-foot setback from the domestic well on the adjacent property to the south (APN 140-170-064; 8710 Santa Fe Dr.).

- Lot 19 The west end of the indicated leach field area will be eliminated in order to meet the 50-foot setback from the storm drain pond to the west. The reduced leach field area may cause a limit on the number of bedrooms present in the dwelling, but a 3-bedroom dwelling may be possible.

The well locations shown on the vested tentative map are unnecessarily restrictive. The specifications below will allow all but one property owner to choose a location along the front property line while preserving locations for replacement of failed wells.

In general, the wells will go in the front yards, no more than 25 feet from the front property line (no more than 15 feet from the PUE) and no closer than 15 feet to the side property lines. Wells on corner Lots 4 and 5 will be along the north property lines. Wells on corner Lots 10 and 11 will be along the south property lines. This will allow leach fields to be close to houses as necessary for shallow leach trenches and will maintain the 100-foot setback from wells to initial and replacement leach fields.

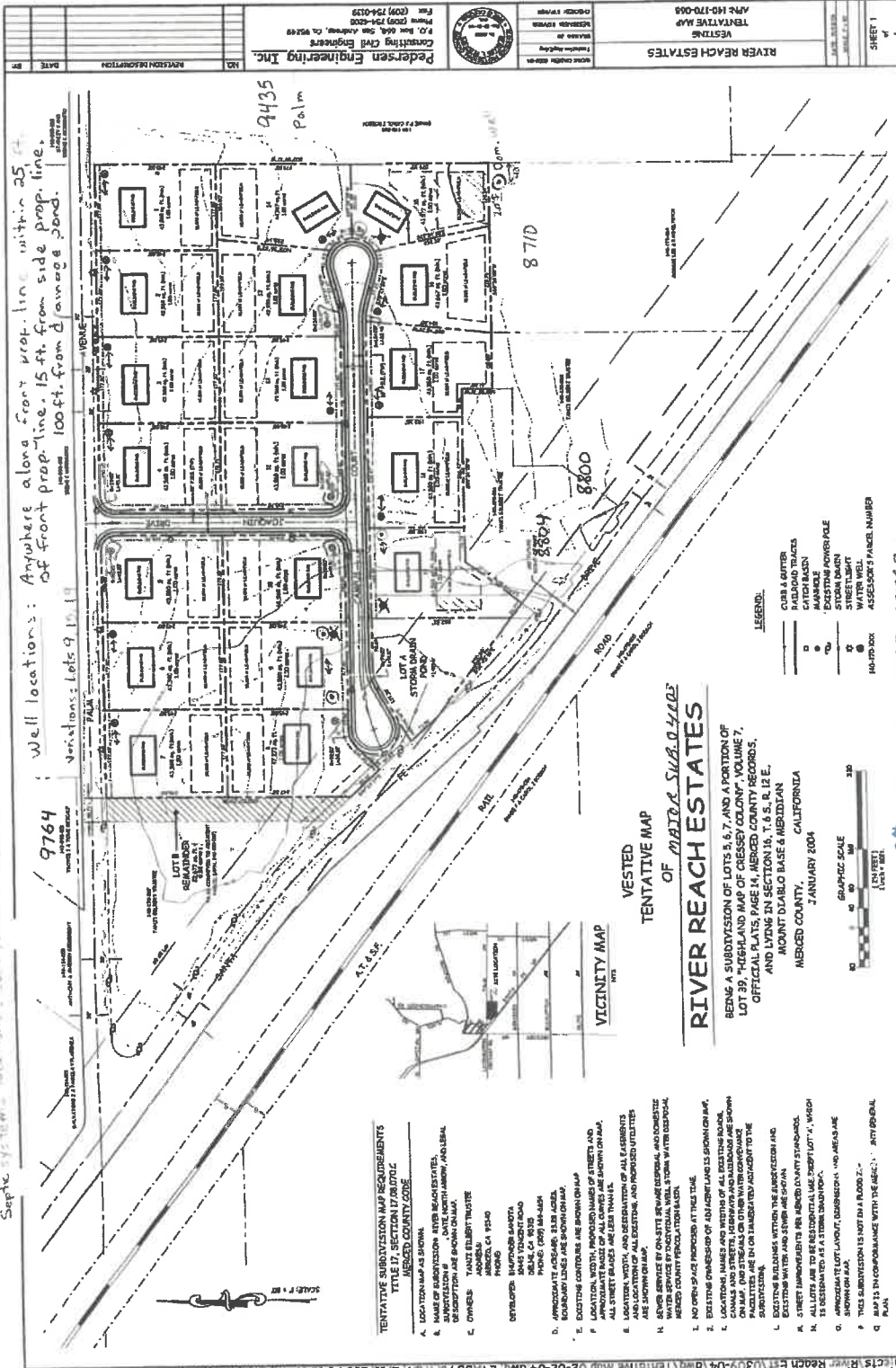
Three of the well locations shown on the vested tentative map do not meet setback requirements under current Merced County Code. The lots, setbacks, and necessary adjustments are listed below:

- Lot 9 Well will need to be slightly more than 25 feet from the front property line in order to meet the 100-foot setback from the storm drain pond across the street.
- Lot 15 Well will need to be as close to the NW corner of the parcel as possible in order to allow the leach field area to be moved (see below for leach field information).
- Lot 19 Well will need to be along the east half of the front property line in order to meet the 100-foot setback from the storm drain pond to the west.

Below is a hand-annotated subdivision map showing the well and septic system location information provided above.

Septic systems locations: Each yard is located min. 125' from property line. Variations: Lots 15, 19

Well locations: Anywhere along front prop. line within 25' of front prop. line. 15 ft from side prop. line. 100 ft from drainage pond.



NO.	REVISION DESCRIPTION	DATE BY
1	INITIAL DESIGN	
2	REVISED DESIGN	
3	REVISED DESIGN	
4	REVISED DESIGN	
5	REVISED DESIGN	
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47	REVISED DESIGN	
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49	REVISED DESIGN	
50	REVISED DESIGN	

With annotations by Merced County Division of Environmental Health 3/7/2018, Brent Creek

Pedersen Engineering Inc.
 Consulting Civil Engineers
 1700 Hill Street, Suite 200
 Merced, CA 95341
 Phone (209) 734-4200
 Fax (209) 734-0133

RIVER REACH ESTATES
 TENTATIVE MAP
 MAP NO. 17-003

WESTING
 1700 Hill Street, Suite 200
 Merced, CA 95341
 Phone (209) 734-4200
 Fax (209) 734-0133

- TENTATIVE SUBDIVISION MAP REQUIREMENTS**
 TITLE 17, SECTION 17.0101(C)
 MERCED COUNTY CODE
- LOCATION MAP AS SHOWN
 - NAME OF SUBDIVISION: RIVER REACH ESTATES, LOT 39, "HIGHLAND MAP OF CRESSY COLONY", VOLUME 7, OFFICIAL PLATS, PAGE 14, MERCED COUNTY RECORDS, AND LYING IN SECTION 16, T. 6 S., R. 12 E., MOUNT DIABLO BASE & MERIDIAN, MERCED COUNTY, CALIFORNIA, JANUARY 2004
 - OWNER: TANT ELEMENT TRUSTEES ANDREW & YESSA PHOENIX
 - DEVELOPER: BOUTNER BROTHERS 2045 TOWNSEND ROAD PHOENIX, (909) 884-4444
 - APPROXIMATE ACREAGE: 31.81 ACRES BOUNDARY LINES ARE SHOWN ON MAP.
 - EXISTING CONTROLS ARE SHOWN ON MAP
 - LOCATION, WIDTH, PROPOSED NAME OF STREET, AND EXISTING AND PROPOSED RIGHT-OF-WAY LINES ARE SHOWN ON MAP. ALL STREET BRANDES ARE LESS THAN 144'
 - LOCATION, WIDTH, AND DIRECTION OF ALL EGRESSWAYS AND LOCATIONS OF ALL EXISTING, AND PROPOSED UTILITIES
 - SEWER SERVICE BY ON-LOTS SEWER SYSTEMS AND CONNECTION TO EXISTING OR NEW SEWER SYSTEMS ARE SHOWN ON MAP.
 - NO OPEN SPACE REQUIRED AT THIS TIME.
 - EXISTING OWNERSHIP OF ADJACENT LAND IS SHOWN ON MAP.
 - LOCATIONS, NAMES AND WIDTHS OF ALL EXISTING AND PROPOSED WATERWAYS ARE SHOWN ON MAP. ALL STREAMS OR OTHER WATER CONVEYANCE FACILITIES ARE IN CONFORMANCE WITH THE MERCED COUNTY REGULATION BASED.
 - EXISTING AND PROPOSED WATER AND SEWER ARE SHOWN ON MAP.
 - STREET IMPROVEMENTS ARE SHOWN ON MAP.
 - ALL LOTS ARE TO BE RESIDENTIAL USE EXCEPT LOT #1, WHICH IS DESIGNATED AS A STORE FRONT.
 - APPROPRIATE LOT LAYOUT, DIMENSIONS, AND AREAS ARE SHOWN ON MAP.
 - PROPOSED LOTS ARE TO BE 1/4 ACRES.
 - MAP IS IN CONFORMANCE WITH THE REG. - 17.0101(C) PLN.

VICINITY MAP

SCALE: 1" = 1/2 MI

VESTED TENTATIVE MAP

OF **MOUNT DIABLO SUBDIVISION**

RIVER REACH ESTATES

BEING A SUBDIVISION OF LOTS 5, 6, 7, AND A PORTION OF LOT 39, "HIGHLAND MAP OF CRESSY COLONY", VOLUME 7, OFFICIAL PLATS, PAGE 14, MERCED COUNTY RECORDS, AND LYING IN SECTION 16, T. 6 S., R. 12 E., MOUNT DIABLO BASE & MERIDIAN, MERCED COUNTY, CALIFORNIA, JANUARY 2004

- LEGEND:**
- CLUB & GUTTER
 - RAILROAD TRAILS
 - EXISTING POWER POLE
 - EXISTING WATER MAIN
 - EXISTING WATER WELL
 - ASSESSOR'S PARCEL NUMBER



8th EXT TO MAS 04003

