



Community and Economic Development Planning Division

Jamie Bax *JB*
Deputy Director

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PLANNING COMMISSION DATE: August 2, 2022

AGENDA ITEM: #2

PM	#4287	Request to appeal the Parcel Map Committee's decision on tentative parcel map #4287
APN	031-512-003	Applicant/Owner: Garcia Cortes, Fernando
CEQA	EXEMPT	Section 15315

REQUEST:

A request to appeal the Parcel Map Committee's decision to approve tentative Parcel Map (PM#4287) which would divide 4.77 acres of RRS-2 (Residential, Rural, Single-Family District-2 acre) zoned property into two parcels (2 acres & 2.77-acres).

LOCATION:

The subject property is located on the northwest corner of Avenue 21 1/2 and Elmwood Road (no situs), Madera.

ENVIRONMENTAL ASSESSMENT:

A Categorical Exemption 15315 Class 15 was filed for the project in compliance with provisions of the California Environmental Quality Act (CEQA)



RECOMMENDATION: Staff recommends the Planning Commission deny the appeal of the Parcel Map Committee's decision to approve tentative Parcel Map #4287.

GENERAL PLAN DESIGNATION (EXHIBIT A):

SITE: RR (Rural Residential) Designation.

SURROUNDING: RR (Rural Residential) Designation.

ZONING (EXHIBIT B)

SITE: RRS-2 (Residential, Rural, Single Family – 2 Acre) with MHA (Manufactured Housing Architectural Overlay)

SURROUNDING: RRS-2 (Residential, Rural, Single Family – 2 Acre) with MHA (Manufactured Housing Architectural Overlay)

LAND USE:

SITE: Residential

SIZE OF PROPERTY: 4.77 Total Acres

ACCESS (EXHIBIT B): Access to the site is via Avenue 21 1/2

WILLIAMSON ACT:

The applicant's property is not subject to a Williamson Act (Agricultural Preserve) contract.

BACKGROUND AND PRIOR ACTIONS:

No prior actions are associated with the project parcels

PROJECT DESCRIPTION:

On April 27th, 2022, the Parcel Map Committee approved a tentative Parcel Map (PM#4287) which would divide 4.77 acres of RRS-2 (Residential, Rural, Single-Family District-2 acre) zoned property into two parcels (2 acres & 2.77-acres). A request to appeal the Parcel Map Committee's decision was initiated by surrounding property owners within the 10-day appeal period.

ORDINANCES/POLICIES:

Madera County Code (Chapter 18.11.100) – Use Regulations of Residential Zones.

Madera County Code (Chapter 17.72.140) - Tentative Parcel Map

Madera County Code (Chapter 17.72.141) - Hearing Before Planning Commission.

Madera County General Plan Part 1, Land Use Designations

ANALYSIS:

On April 27th, 2022, the Parcel Map Committee approved a tentative Parcel Map (PM#4287) which would divide 4.77 acres of RRS-2 (Residential, Rural, Single-Family District-2 acre) zoned property into two parcels (2 acres & 2.77-acres). The tentative map is exempt from any environmental assessment due to Categorical Exemption 15315 Class 15. The exemption applies to any division of property into four or fewer parcels within a residential urbanized area. The proposed division is in conformance with the General Plan and zoning designations, does not have any variances, and does not have a slope greater

than 20 percent. Per the applicant's operational statement, the proposed division will facilitate future residential developments for each parcel.

A request to appeal the Parcel Map Committee's decision was initiated by surrounding property owners within the 10-day appeal period. Per the Madera County ordinance (Sec.17.72.140 (h)), a decision made by the Parcel Map Committee may be appealed to the Planning Commission and/or Board of Supervisors. The hearing before the planning commission shall be noticed and conducted upon the following conditions (Sec.17.72.141):

- A. The commission shall consider the division of land and determine whether the division is in accordance with the rules and regulations established by state statute, and the ordinances of the county and whether any substantial injury would be caused to any real property right or interest of any person objecting to said parcel map.
- B. The commission may approve, disapprove or approve said division of land upon specific terms and conditions.
- C. The order of the planning commission shall be followed in the processing of said parcel map.
- D. The order of the commission may be appealed to the board of supervisors by any department, or any person appearing at said hearing and adversely affected by the decision thereof. Said appeal shall be made in writing within fifteen days from the date of the decision by the planning commission, upon the payment of an appeal fee.
- E. Failure to file the appeal within the time specified herein is jurisdictional.

The application was circulated to internal and external agencies for comments, including Native American tribes per Assembly Bill 52 requirements. Comments were received from Environmental Health, Public Works, and the Assessor's Office. Environmental Health has recommended a Shared Water Well Agreement between parcels and full compliance with Madera County Code Title 13 as it relates to water and sewer. Public Works has required the existing 30' wide easement along the west side of the parcel shall be dedicated/offered in fee.

FINDINGS OF FACTS

The Madera County Zoning Ordinance requires that the following findings of fact must be made by the Planning Commission to grant approval of this tentative parcel map:

1. *The proposed project does not violate the spirit or intent of the Zoning Ordinance in that the proposed parcel map complies with the existing general plan and zoning parcel size requirements. The RRS-2 zone district (Residential, Rural, Single Family, 2 Acre) and RR (Rural Residential) designations are compatible.*
2. *The proposed project is not contrary to the public health, safety, or general welfare. No activities from the proposed project are projected to have a significant impact on the public's health, safety, or general welfare. Conditions have been placed to mitigate any water and sewer related issues.*
3. *The proposed project is not hazardous, harmful, noxious, offensive, or a nuisance because of noise, dust, smoke, odor, glare, or similar, factors, in that the project must*

PM#4287

adhere to the conditions of approval as well as mitigation measures. The proposed parcel map is not projected to have any hazardous elements involved.

4. *The proposed project will not for any reason cause a substantial, adverse effect upon the property values and general desirability of the surrounding properties.* Due to the contiguous residential parcels within the region, the proposed parcel map will not have a negative effect on surrounding properties. Future development on the parcels will include residential structures which are in line with the Valley Lake Ranchos subdivision.

GENERAL PLAN CONSISTENCY:

The General Plan is listed as RR (Rural Residential) which provides for single-family detached homes, secondary residential units, limited agricultural uses, public and quasi-public uses, and similar and compatible uses. The property is zoned RRS-2 (Residential, Rural, Single Family – 2 Acre) with MHA (Manufactured Housing Architectural Overlay), which requires a minimum lot area of 2 acres and allows for single-family dwellings/mobile homes and accessory dwelling units.

RECOMMENDATION:

Staff recommends the Planning Commission deny the appeal of the Parcel Map Committee's decision to approve tentative Parcel Map #4287.

CONDITIONS:

See attached conditions of approval.

ATTACHMENTS:

1. Exhibit A. General Plan Map
2. Exhibit B. Zoning Map
3. Exhibit C. Assessor Map
4. Exhibit D. Tentative Parcel Map
5. Exhibit E. Aerial Map
6. Exhibit F. Topographical Map
7. Exhibit G. Operational Statement
8. Exhibit K. Environmental Health Division Comments
9. Exhibit O. Public Works-Engineering Comments
10. Exhibit P. Appeal Letter

CONDITIONS OF APPROVAL

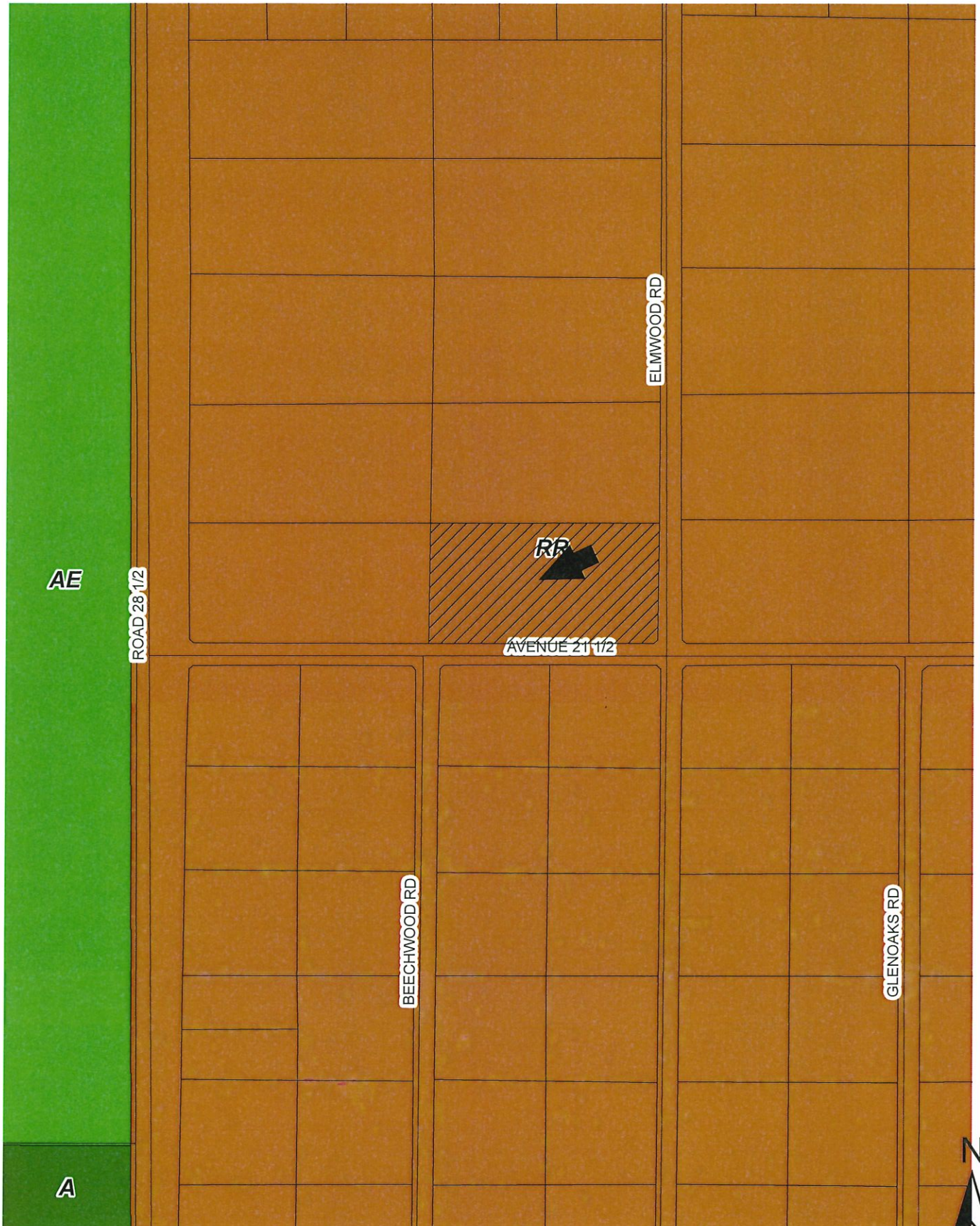
PROJECT NAME:	Tentative Parce Map#4287
PROJECT LOCATION:	The subject property is located on the northwest corner of Avenue 21 1/2 and Elmwood Road (no situs), Madera.
PROJECT DESCRIPTION:	The applicant is requesting a tentative parcel map which would divide 4.77 acres of RRS-2 (Residential, Rural, Singe-Family District-2 acre) zoned property into two parcels (2 acres & 2.77-acres).
APPLICANT:	Bed Rock Engineering
CONTACT PERSON/TELEPHONE NUMBER:	(559) 645-4849

No.	Condition	Department/Agency	Verification of Compliance		
			Initials	Date	Remarks
Environmental Health					
1	Parcel map must comply with Madera County Code Title 13 as it relates to Water and Sewer.	EH			
2	Shared Water Well agreement between parcels is recommended.	EH			
3	The construction and then ongoing operation must be done in a manner that shall not allow any type of public nuisance(s) to occur including but not limited to the following nuisance(s); Dust, Odor(s), Noise(s), Lighting, Vector(s) or Litter. This must be accomplished under accepted and approved Best Management Practices (BMP) and as required by the County General Plan, County Ordinances and any other related State and/or Federal jurisdiction.	EH			
4	During the application process for required County permits, a more detailed review of the proposed project's compliance with all current local, state & federal requirements will be reviewed by this Division. The owner/operator of this property must submit all applicable permit applications to be reviewed and approved by this Division prior to commencement of any work activities.	EH			
Public Works - Engineering					
1	The existing 30' wide easement running along the west side of the subject parcel will need to be dedicated/offered in fee, not in easement.	PW			
2	Proposed driveway approaches will need to be shown on the map prior to its recordation.	PW			
Planning					
1	The final map will require the notarized signature(s) of the property owner(s).	Planning			
2	The final map will require the completion of the applicant's certificate.	Planning			

No.	Condition	Department/Agency	Verification of Compliance		
			Initials	Date	Remarks
3	Place an Applicant Notary Public's certificate on the final parcel map.	Planning			
4	The final map will require the completion and signature of the property owner's Notary Public.	Planning			
5	The final map will require the signature and seal of the project engineer/surveyor.	Planning			
6	The final map will require completion of the surveyor's certificate.	Planning			
7	Place all other required certificates on the final parcel map as per Madera County Code Chapter 17.72.	Planning			
8	Pursuant to the California Government Code (Subdivision Map Act), the signature(s) of the beneficiary(ies) and/or trustee(s) under deed(s) of trust, if any, must be provided on the map and on any necessary documents required by the map process, such as offers of dedication.	Planning			
9	Pursuant to the California Government Code (Subdivision Map Act), public utilities or public entities whose easements are affected by this map have thirty (30) days to determine if the map will unreasonably interfere with the free and complete exercise of the easements. A copy of the map and the easement(s) must be sent by certified mail to the affected public utility or entity by your project surveyor/engineer. Either a copy of the surveyor/engineer's notice to the utility/entity with a copy of the dated certified return receipt or a letter of consent to the recording of the map from the utility/entity must be provided to the Planning Department prior to final map approval.	Planning			
10	Supply the Planning Department with a land division guarantee (current within 30 days) covering the entire parcel proposed for division, as well as any portion of road right-of-way being offered for dedication to the County of Madera.	Planning			
11	Identify this proposal as Parcel Map No. 4287.	Planning			
12	All parcels being created must maintain a minimum of 1 acre gross and net as specified by the General Plan/Zoning Ordinance.	Planning			
13	The final parcel map shall indicate gross and net acreages for all parcels being created.	Planning			
14	Place a north arrow on the final map.	Planning			
15	Place a vicinity map on the final map additional sheet.	Planning			
16	The final map shall utilize a written and graphic scale of 1 inch = 100 feet (or larger), unless written authorization is received from the Planning Department to deviate there from.	Planning			
17	The final map shall indicate on an additional sheet all structures which exist on the property with setback distances to the nearest two property lines. If there are no structures, add a note so stating.	Planning			
18	The final map shall indicate on the additional sheet the type of structures together with their dimensions.	Planning			
19	Under the provisions of County Code Section 17.72.187, prior to final map recordation the applicant or his authorized agent will provide the Planning Director with "Will Serve" letters from the appropriate water, wastewater, power, and telephone companies.	Planning			

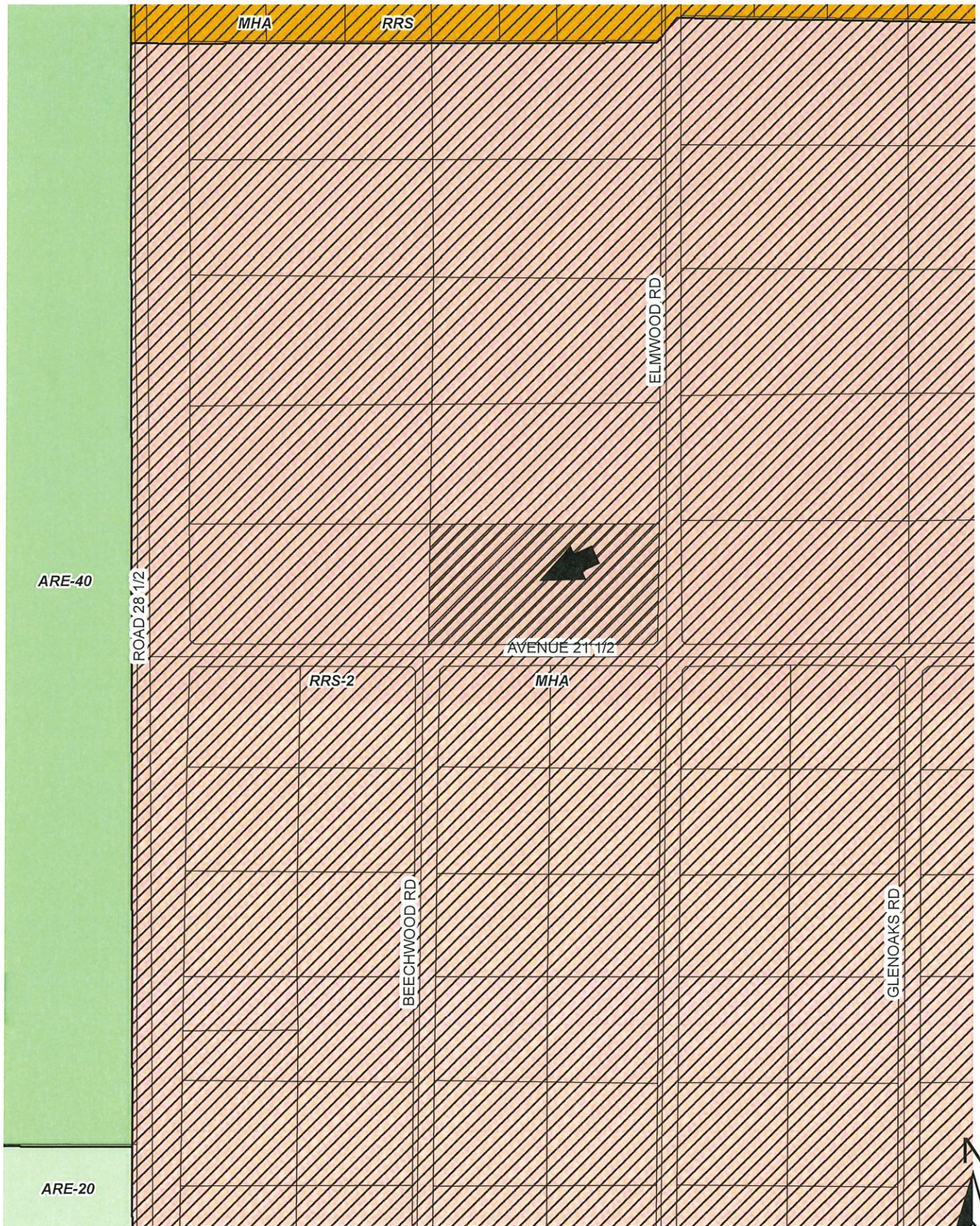
No.	Condition	Department/Agency	Verification of Compliance		
			Initials	Date	Remarks
20	The final map shall indicate the proposed division lines by means of short dashed lines.	Planning			
21	The final parcel map shall indicate on the additional sheet driveway location for each parcel being created. The driveway shall be a minimum of twelve (12) feet in width and must be located within the road frontage of the parcel it serves. Each location is subject to inspection and approval.	Planning			
22	If applicable, place the appropriate grant deed certificate(s) on that portion of road right-of-way which was grant deeded to the County of Madera prior to submission of this proposal. Said certificate shall read as follows, as appropriate: a. For grant deeds recorded prior to January 1, 1990: " ?'-wide road right-of-way previously grant deeded to the County of Madera in Book ? at page ? , Madera County Official Records." b. For grant deeds recorded on or after January 1, 1990: " ? '-wide road right-of-way previously grant deeded to the County of Madera as Instrument # ? - ? , Madera County Official Records."	Planning			
23	The final map will require the completion of all data (i.e., record data, notes, original acreage, references, previous grant deeds and/or offers of dedication, etc.).	Planning			
24	The final map shall require the signature and seal of the County Engineer/Surveyor.	Planning			
25	The final map shall require letters of approval from the Fire, Assessor, Road, and Environmental Health Departments.	Planning			
26	Payment of all payable liens (estimated taxes, pending supplemental taxes, supplemental taxes, current taxes, delinquent taxes, and/or penalties, etc.), if any, must be made to the County of Madera prior to review by the County Counsel's Office.	Planning			
27	A recording fee, based upon the number of final map pages, shall be supplied to the Planning Department and made payable to the County of Madera for use in final map recordation.	Planning			
28	All parcels shall have a minimum of 60 feet of lot frontage along the access road serving the parcel.	Planning			
29	Each addressable structure shall have its address posted on it. If the posted address is not visible from the roadway to which the address is issued, the address shall also be posted at the intersection of that roadway and the driveway serving the structure. Multiple addresses shall be posted on the same post.	Planning			
30	This proposal must complete processing within two (2) years of lead agency tentative approval; that is, on or before April 27, 2024.	Planning			
31	The final map shall be processed in accordance with Title 7 of the California Government Code and Title 17 of the Madera County Code.	Planning			

No.	Condition	Department/Agency	Verification of Compliance		
			Initials	Date	Remarks
32	Corrective comments pertinent to the final map may be stipulated upon review of the final map for compliance with the aforementioned conditions.	Planning			
33	All construction activities shall cease and the Madera County Sheriff's Department shall be notified should any human remains be discovered. All activities or actions that that could disrupt, or adversely affect a prehistoric or historic archaeological site or a property of historical or cultural significance to a community or ethnic or social groups; or a paleontological site, except as part of a scientific study shall cease until a archaeological survey has been completed.	Planning			
34	Any existing violations or un-finaled permits must be corrected prior to submittal of Final Map.	Planning			
Assessor's Office					
1	Provide a completed AO-93 form.	Assessors Office			



GENERAL PLAN

EXHIBIT B



ZONING

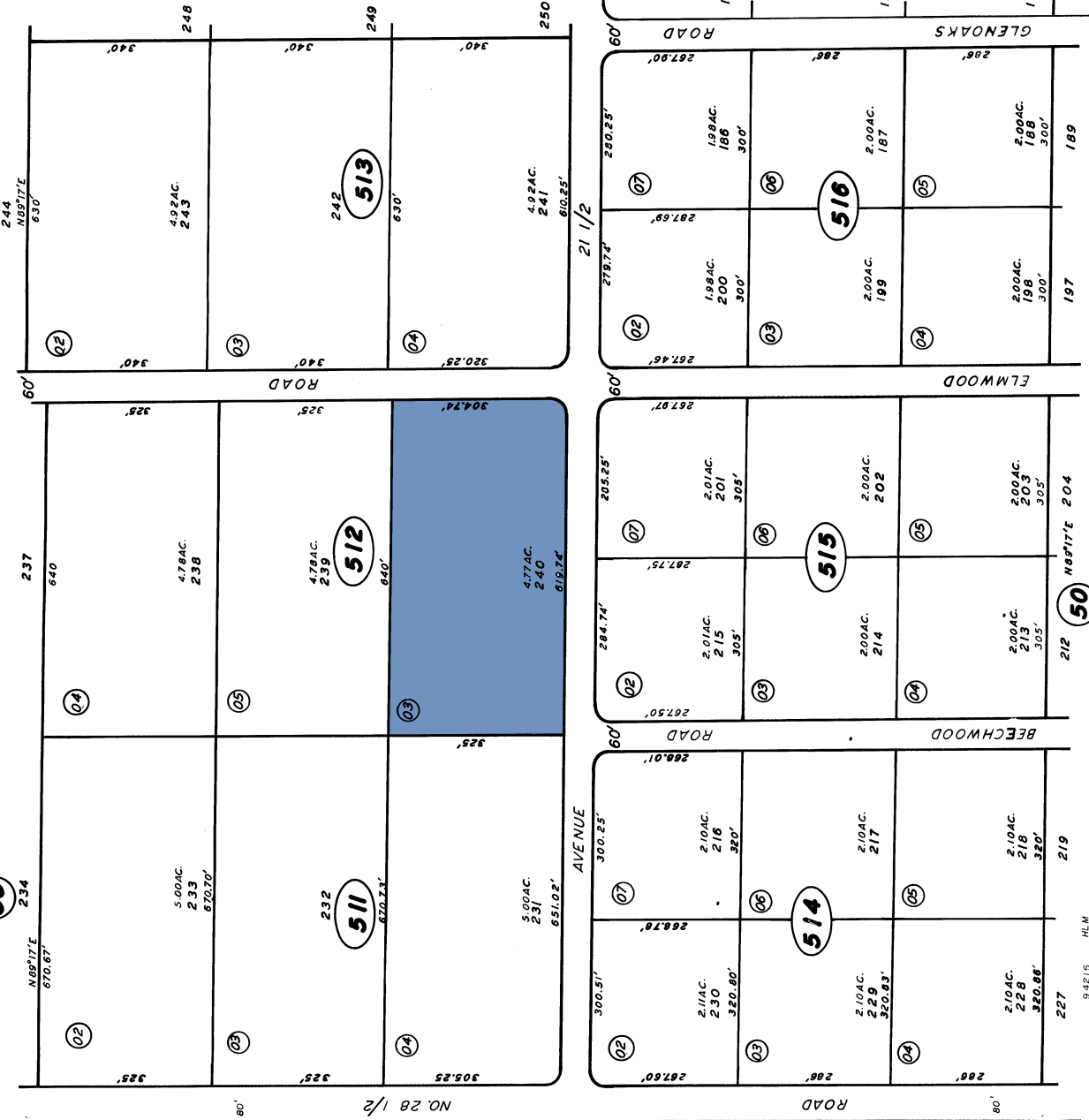
31-51

VALLEY LAKE RANCHOS

MB. VOL. 11 PG. 30-63 INC. TRACT NO. 153



Tax Area No. 61 10
SCALE 1"=200'
T105 RIBE



Assessor's Map No. 31-51
County of Madera Calif.
Madera Outside
1965
MADERA UNIFIED

**TENTATIVE
PARCEL MAP NO. 4287**

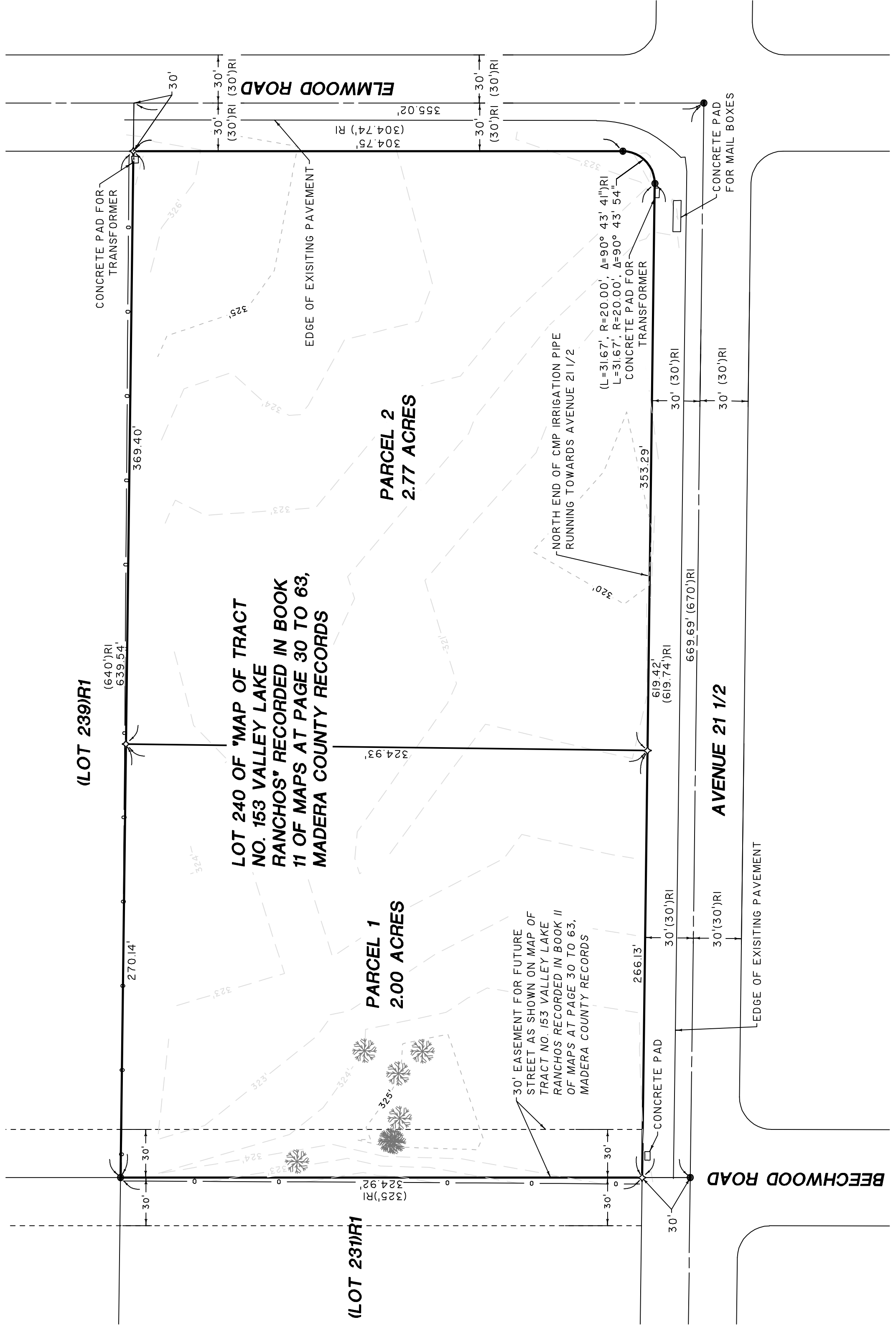
SHEET ONE OF ONE SHEET
IN THE

COUNTY OF MADERA, STATE OF CALIFORNIA

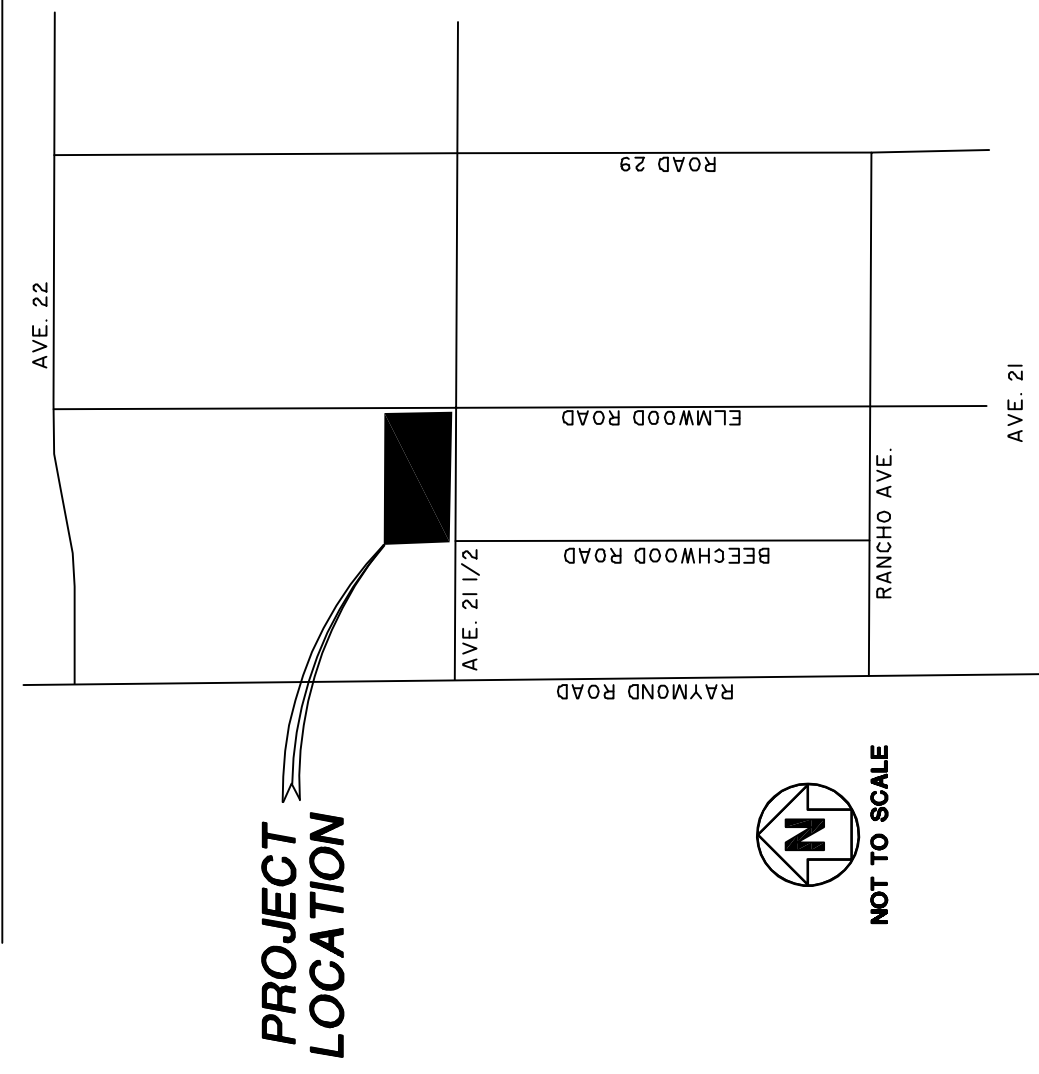
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TENTATIVE PARCEL MAP



VICINITY MAP



LEGEND / ABBREVIATIONS

- EXISTING PROPERTY LINE
- PROPOSED PROPERTY LINE
- CENTERLINE OF RIGHT-OF-WAY
- - - FUTURE RIGHT-OF-WAY
- FENCE LINE
- FOUND MONUMENT
- ◇ CALCULATED POSITION - NOTHING FOUND OR SET
- () RI
- ☼ DECIDUOUS TREE

OTHER INFORMATION

1. THERE ARE NO STRUCTURES ON THIS PROPERTY EXCEPT AS SHOWN.
2. TOTAL LAND AREA: ±4.77 AC. GROSS AND ±4.77 AC. NET.
3. ELEVATIONS SHOWN ON MAP ARE ACQUIRED FROM WGS84 DATUM.

APPLICANT'S STATEMENT

I HEREBY APPLY FOR APPROVAL OF THE DIVISION OF REAL PROPERTY SHOWN ON THIS PARCEL MAP AND CERTIFY THAT I AM THE LEGAL OWNER OF SAID PROPERTY AND THAT THE INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. THIS IS NOT APPLICATION FOR A DEVELOPMENT PERMIT.

BY: FERNANDO GARCIA CORTES
(559) 232-6058
25125 AVENUE 21
MADERA, CA 93638



SCALE: 1"=50'
0 25 50

EXHIBIT E



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



AERIAL PHOTO





Community and Economic Development Planning Division

Matthew Treber
Director

- 200 W 4th Street
- Suite 3100
- Madera, CA 93637
- (559) 675-7821
- FAX (559) 675-6573
- TDD (559) 675-8970
- mc_planning@madera-county.com

OPERATIONAL/ENVIRONMENTAL STATEMENT CHECKLIST

It is important that the operational/environmental statement provides for a complete understanding of your project proposal. Please be as detailed as possible.

1. Please provide the following information:

Assessor's Parcel Number: _____

Applicant's Name: _____

Address: _____

Phone Number: _____

2. Describe the nature of your proposal/operation.

3. What is the existing use of the property?

4. What products will be produced by the operation? Will they be produced onsite or at some other location? Are these products to be sold onsite?

5. What are the proposed operational time limits?

Months (if seasonal): _____

Days per week: _____

Hours (from ___ to ___): Total Hours per day: _____

6. How many customers or visitors are expected?

Average number per day: _____

Maximum number per day: _____

What hours will customers/visitors be there? _____

7. How many employees will there be?

Current: _____

Future: _____

Hours they work: _____

Do any live onsite? If so, in what capacity (i.e. caretaker)? _____

8. What equipment, materials, or supplies will be used and how will they be stored? If appropriate, provide pictures or brochures.

9. Will there be any service and delivery vehicles? _____

Number: _____

Type: _____

Frequency: _____

10. Number of parking spaces for employees, customers, and service/delivery vehicles. Type of surfacing on parking area.

11. How will access be provided to the property/project? (street name)

12. Estimate the number and type (i.e. cars or trucks) of vehicular trips per day that will be generated by the proposed development.

13. Describe any proposed advertising, including size, appearance, and placement.

14. Will existing buildings be used or will new buildings be constructed? Indicate which building(s) or portion(s) of will be utilized and describe the type of construction materials, height, color, etc. Provide floor plan and elevations, if applicable.

15. Is there any landscaping or fencing proposed? Describe type and location.

16. What are the surrounding land uses to the north, south, east and west property boundaries?

17. Will this operation or equipment used, generate noise above other existing parcels in the area?

18. On a daily or annual basis, estimate how much water will be used by the proposed development, and how is water to be supplied to the proposed development (please be specific).

19. On a daily or weekly basis, how much wastewater will be generated by the proposed project and how will it be disposed of?

20. On a daily or weekly basis, how much solid waste (garbage) will be generated by the proposed project and how will it be disposed of?

21. Will there be any grading? Tree removal? (please state the purpose, i.e. for building pads, roads, drainage, etc.)

22. Are there any archeological or historically significant sites located on this property? If so, describe and show location on site plan.

23. Locate and show all bodies of water on application plot plan or attached map.

24. Show any ravines, gullies, and natural drainage courses on the property on the plot plan.

25. Will hazardous materials or waste be produced as part of this project? If so, how will they be shipped or disposed of?

26. Will your proposal require use of any public services or facilities? (i.e. schools, parks, fire and police protection or special districts?)

27. How do you see this development impacting the surrounding area?

28. How do you see this development impacting schools, parks, fire and police protection or special districts?

29. If your proposal is for commercial or industrial development, please complete the following; Proposed Use(s):

Square feet of building area(s):

Total number of employees:

Building Heights:

30. If your proposal is for a land division(s), show any slopes over 10% on the map or on an attached map.

MADERA COUNTY
ENVIRONMENTAL, PARCEL MAP, AND SUBDIVISION COMMITTEE

TO: Madera County Planning Division

FROM: Environmental Health Division

DATE: December 14, 2021

REGARDING:

PARCEL MAP #4287- Fernando Garcia Cortez, APN: (031-512-003)

The subject document has been reviewed and is recommended for:

- Approval. (No Conditions)
 - Approval with Conditions. (See Below)
 - Not Approved. Conditions or indicated items below must be met.
-

Parcel map must comply with Madera County Code Title 13 as it relates to Water and Sewer.

Shared Water Well agreement between parcels is recommended.

The construction and then ongoing operation must be done in a manner that shall not allow any type of public nuisance(s) to occur including but not limited to the following nuisance(s); Dust, Odor(s), Noise(s), Lighting, Vector(s) or Litter. This must be accomplished under accepted and approved Best Management Practices (BMP) and as required by the County General Plan, County Ordinances and any other related State and/or Federal jurisdiction.

During the application process for required County permits, a more detailed review of the proposed project's compliance with all current local, state & federal requirements will be reviewed by this Division. The owner/operator of this property must submit all applicable permit applications to be reviewed and approved by this Division prior to commencement of any work activities.

If there are any questions or comments, please contact this Division at (559) 675-7823.



TO: Madera County Planning Division

FROM: Public Works, Engineering

DATE: June 21, 2022

RE: PARCEL MAP #4287- Fernando Garcia Cortez, APN: (031-512-003)

The subject document has been reviewed and is recommended for:

- Approval. (No Conditions)
- Approval with Conditions. (See Below)
- Not Approved. Conditions or indicated items below must be met.

The existing 30' wide easement running along the west side of the subject parcel will need to be dedicated/offered in fee, not in easement.

Proposed driveway approaches will need to be shown on the map prior to its recordation.



Duskin and Mara Franz
21598 Elmwood Rd
Madera, CA 93638
(916) 541-1652

May 2, 2022

To whom it may concern:

We are writing regarding the proposed division of the property located on the northwest corner of Ave 21 ½ and Elmwood Road in Madera County (APN 031-512-003) into two smaller parcels rather than remaining a single parcel. We have multiple concerns regarding this proposal, the most pressing of which is the issue of water. As you know, California is in the midst of a severe drought. Most of the wells in the vicinity of this parcel have gone dry, including ours (and we are the direct neighbors of this property). It is worrisome that instead of having a single well drilled next door, with this proposal (and any other parcels that you choose to subdivide), multiple wells would be drilled, furthering the depletion of the water table.

While we understand that the impetus for approving the division of the property into separate parcels is to therefore double the property taxes received, it should be noted that we have not seen our tax dollars at work in our neighborhood. Multiple properties are nothing but undeveloped trash heaps with humans living in filth and squalor without proper running water or sewage disposal (ie massive code violations). The parcel that we are discussing is currently being used as a haven for the owner's trash, including a non-operable limousine rusting away and remaining an eyesore. If you review the sheriff's logs, you will also note that each weekend, there are multiple phone calls from this neighborhood regarding noise complaints from out of control parties. The prospect of having not one, but two homes adjacent to us therefore doubles the possibility of raucous parties each weekend. We purchased in this area for the sole purpose of having larger lots and less population density, as did many others. By dividing the parcel, you are opening the door for all of the other unsold larger lots to do the same, effectively doubling the possible increase in population from its current potential.

While we realize that this project has already been approved and this is unlikely to change the outcome, we wanted to make it known that we do not support this decision. Please feel free to contact us if you would like to discuss our concerns further.

Sincerely,



Mara Franz

Duskin Franz



We also collected signatures from multiple neighbors in the direct vicinity of this property who also feel the same as we do.

Name	Signature	Address
Angela Statt	Angela Statt	21467 Beechwood Rd
GENO CANJA	GENO CANJA	28536 AVE 21 1/2
		21537 AVE 28 1/2
		559 363-17-05
Manuel Munoz	Manuel Munoz	21444 Elmwood Rd
Linnette Elkins	J. Elkins	21593 Rd 28 1/2, Madera
Yeroni Munoz		21597 ELMWOOD RD
Steve Elkins		21593 Road 28 1/2 Madera