

RESOLUTION NO. 010192

A. P. # 109-241-006-000 and 109-
241-007-000

In the matter of the application of
Rogers Foods, Inc. (PLN010192)

FINDINGS AND DECISION

to allow a **Combined Development Permit** in accordance with Title 21 (Zoning) Chapter 21.76 (Combined Development Permits) of the Monterey County Code, consisting of a Lot Line Adjustment between three (3) legal, non-conforming lots of record and a request for a Variance from the 40 acre minimum lot size requirement in an area designated "Farmland" ("F/40"); located between Cypress and Pine Avenues at Thirteenth Street just northwesterly of the City of Greenfield, Central Salinas Planning area, came on regularly for meeting before the Zoning Administrator on December 13, 2001.

Said Zoning Administrator, having considered the application and the evidence presented relating thereto,

1. **FINDING:** The proposed project and/or use, as described in condition #1 is consistent with the policies of the Monterey County General Plan, the Greater Salinas Area Plan and the requirements and standards of the Monterey County Zoning Ordinance (Title 21).
EVIDENCE: The text and policies of these documents have been evaluated during the course of the review of this application. No conflicts were found to exist. No communication was received during the course of review of this project to indicate that there is any inconsistency with the text and policies of these documents.
EVIDENCE: The parcels are non-conforming as to size. However, the adjustment will create one conforming and one non-conforming lot and will not result in a change in land use or intensity for the parcels. In fact, the creation of one conforming lot will lessen the intensity of use for that lot by adding 21.8 acres to the existing food processing plant plus the addition of an existing percolation pond at a slightly lower elevation from the plant. Therefore, potential development will be limited in the future to two rather than three lots.
2. **FINDING:** The proposed project will not have a significant environmental impact.
EVIDENCE: The Monterey County CEQA Guidelines categorically exempts this project from environmental review. No adverse environmental impacts were identified during review of the proposed project.
3. **FINDING:** That the lot line adjustment is between three existing adjacent parcels.
EVIDENCE: The application and plans for a lot line adjustment found in the project file (PLN010192) show the adjustment is between three parcels.
EVIDENCE: The three lots owned by the Roger Foods, Inc. are considered separate legal lots of record based on the Clark County subdivision found in Volume 10 of Surveys, at Page 141, Monterey County Recorder's Office.
4. **FINDING:** A greater number of parcels than originally existed will not be created as a result of the lot line adjustment.

EVIDENCE: The three contiguous, separate legal parcels of record will be adjusted to merge two of the contiguous lots to create one 40 acre parcel that is consistent with the allowed 40 acre minimum lot size in the area, and leave a reduced 16.4 acre parcel, thereby creating two contiguous, separate legal parcels of record.

5. **FINDING:** The parcels resulting from the lot line adjustment are made to better conform to the County Zoning and Building Ordinances.

EVIDENCE: The proposed lot line adjustment between three legal, non-conforming lots of record, are made to better conform with the Farmlands Designation for parcels within the "F/40" Zoning District by merging two of the parcels into parcel that conforms with this Zoning designation.

EVIDENCE: The application and plans for a lot line adjustment found in project file PLN010192.

6. **FINDING:** That because of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of Title 21 (Zoning Ordinance) is found to deprive subject property of privileges enjoyed by other properties in the vicinity under identical zone classification.

EVIDENCE: All three of the applicant's parcels fall below the current allowable 40 acre maximum gross density per unit. The applicant's property is not unique in this respect. In fact, numerous non-conforming parcels, ranging in size between 10 and 20 acres, surround the subject property.

EVIDENCE: The strict application of this title will prevent the property-owner from enjoying the same privileges as their neighbors, who currently own and operate "non-conforming" lots and will prevent the consolidation of two non-conforming lots into one 40 acre parcel.

7. **FINDING:** That the variance not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone which such property is situated.

EVIDENCE: By issuing this variance, the County is not granting the applicant any special privileges apart from other lots in this area. The applicant wishes to enjoy the same privileges as his neighbors who have similar non-conforming lots in the area.

EVIDENCE: By creating at least one of the lots to conform to the 40 acre minimum size designated for the area by eliminating a third non-conforming lot is making the lot reconfiguration more in conformity with the Title 21 Zoning Ordinance.

8. **FINDING:** A variance shall not be granted for a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property.

EVIDENCE: The applicant's present use of the property for an agricultural processing plant is a use allowed in a "Farmlands" designated zoning district as found in Section 21.30.050 N. of the Zoning Ordinance. The applicant will continue to use the property for agricultural purposes in a manner consistent with the underlying zoning designation.

EVIDENCE: The merger of two of the non-conforming lots provides a more rational and operational configuration of the property by consolidating the percolation pond with the plant processing facilities it serves on the same lot that fronts entirely on Cypress Avenue, further authorizing an activity allowed by the "Farmlands" zoning designation governing the parcel

9. **FINDING:** The project, as approved by the Zoning Administrator, is appealable to the Planning Commission.

EVIDENCE: Section 21.80.040 B of the Monterey County Zoning Ordinance (Title 21).

DECISION

It is the decision of the Zoning Administrator of the County of Monterey that said application for a Combined Development Permit be granted as shown on the attached sketch and subject to the following conditions:

1. This permit allows the lot line adjustment between three legal lots of record totaling 56.4 acres (Assessor Parcel Numbers 109-241-006 and 109-241-007) such that the three non-conforming lots will be reconfigured to allow one conforming 40 acre lot and one non-conforming 16.4 acre lot. The project is in accordance with County ordinances and land use regulations subject to the findings for a Variance allowing for the one non-conforming lot, and subject to the following terms and conditions. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of Planning and Building Inspection. Any use or construction must be established as consistent with the "Farmlands" designation found in the Monterey County General Plan and Zoning Ordinance (Title 21) and must be in substantial conformance with the terms and conditions of this permit. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. **(Planning and Building Inspection)**

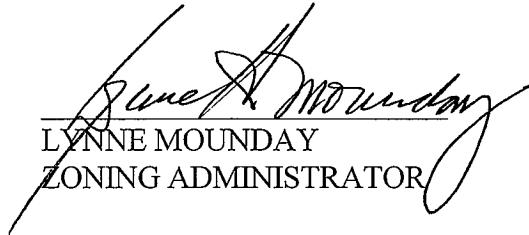
Prior to recordation of Grant Deeds or a Record of Survey:

2. The property owner agrees as a condition and in consideration of the approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action. County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, filing of the final map, whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the County harmless. **(Planning and Building Inspection Department)**
3. The applicant shall record a notice which states: "A permit (Resolution 010192) was approved by the Zoning Administrator for Assessor's Parcel Numbers 109-241-006 and 109-241-007 on December 13th, 2001. The permit was granted subject to 5 conditions of approval which run with the land. A copy of the permit is on file with the Monterey County Planning and Building Inspection Department." Proof of recordation of this notice shall be furnished to the Director of Planning and Building Inspection prior to

filing a Record of Survey that reflects the approved reconfigured lots. (**Planning and Building Inspection Department**)

4. Obtain a survey of the new line and have the line monumented. (**Public Works Department**)
5. File a Record of Survey showing the new line and its monumentation. (**Public Works Department**)

PASSED AND ADOPTED this 13th day of **December, 2001**.


LYNNE MOUNDAY
ZONING ADMINISTRATOR

COPY OF THIS DECISION MAILED TO APPLICANT ON **DEC 14 2001**

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE SECRETARY TO THE PLANNING COMMISSION ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE **DEC 24 2001**

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

NOTES

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

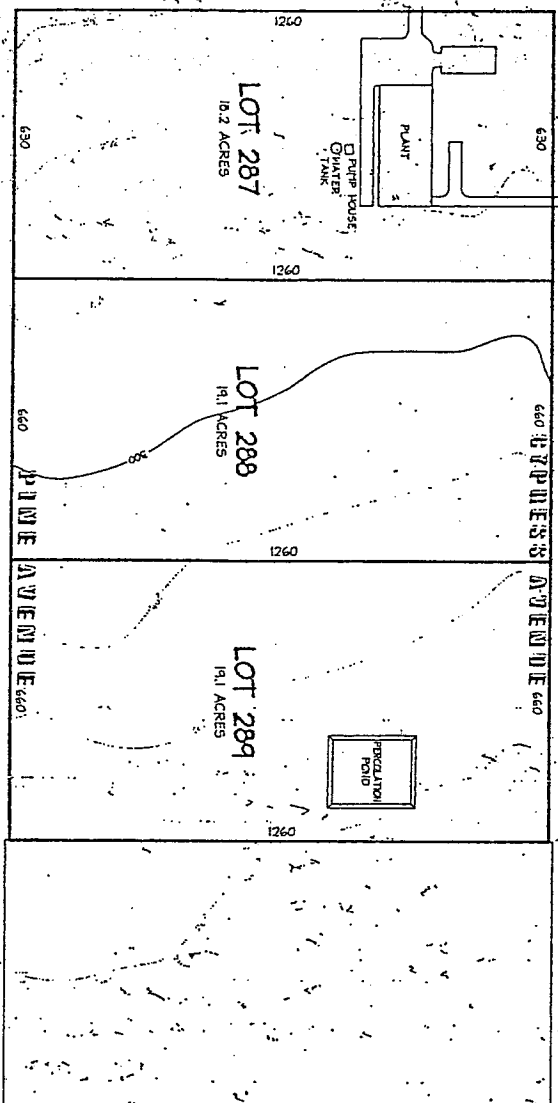
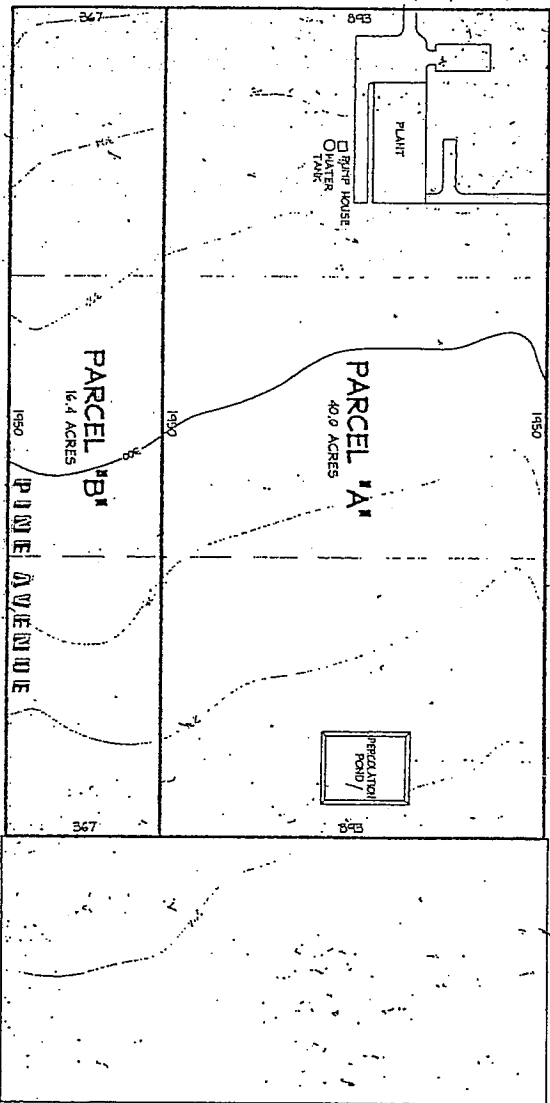
Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from the Monterey County Planning and Building Inspection Department office in Marina.

2. This permit expires 2 years after the above date of granting thereof unless construction or use is started within this period.

FOURTEENTH STREET

THIRTEENTH STREET



PROPOSED PARCELS

EXISTING PARCELS

HYPHNESS AVENUE

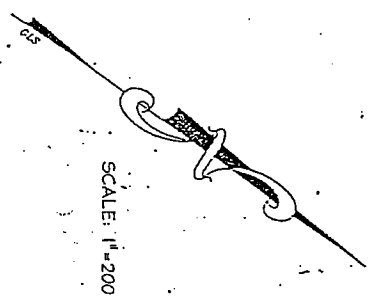
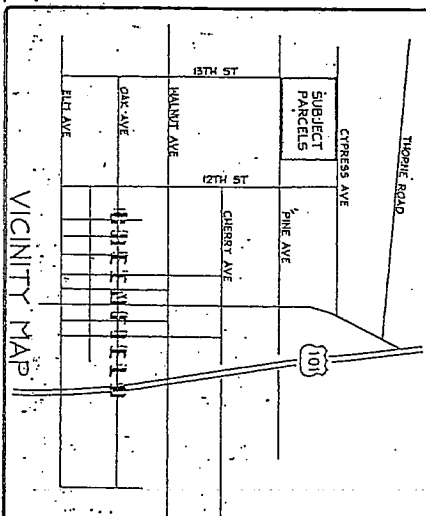
TWELFTH STREET

TWELFTH STREET

PROPOSED LOT LINE ADJUSTMENT
 BETWEEN LOTS 287, 288 AND 289 OF THE MAP OF CLARK
 COLONY, AS SHOWN ON MAP FILED IN VOLUME 10 OF
 SURVEYS, AT PAGE 141, MONTEREY COUNTY, CALIFORNIA

PREPARED FOR
QUINN'S SURVEYS, INC.
 P.O. BOX 1524 TURLOCK, CALIFORNIA 95301

APR 109-241-006 & 007
 JULY 5, 2001



SCALE: 1"=200'

GLS COEY LAND SURVEYORS
 111 ARBOLD STREET 42-4114
 SALINAS, CALIFORNIA 93901

SCALE: 1"=200'
JOB NO. 78-01