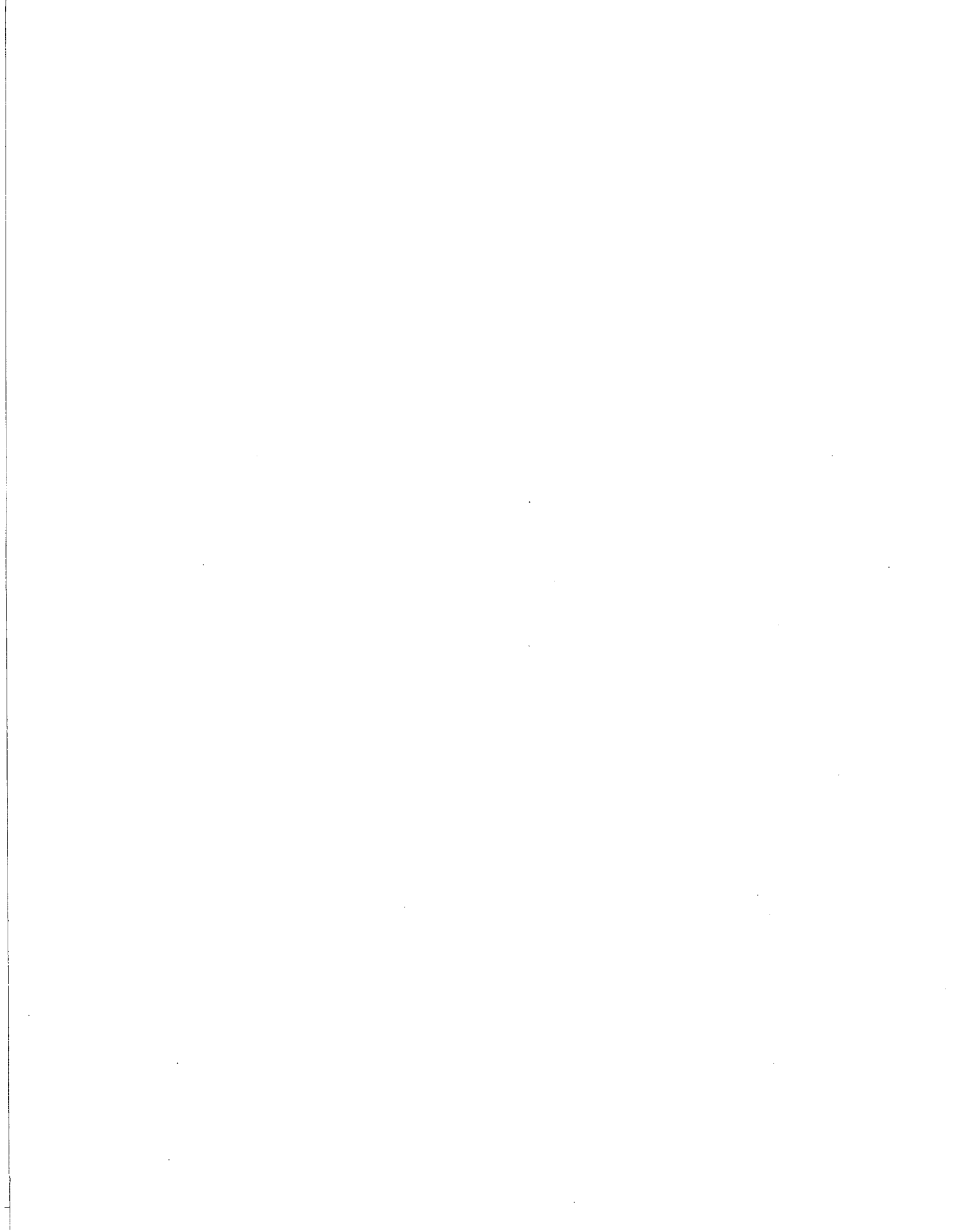


Attachment H  
Board of Supervisors  
Resolution No. 06-081

Harkins Road Limited Partnership  
PLN090248



Before the Board of Supervisors in and for the  
County of Monterey, State of California

Resolution No. 06-081

- a. Approve the lot line adjustment as shown on the proposed lot line adjustment map on file in Planning File No. **PLN000214, Porter**, subject to the Findings and Evidence and Conditions of Approval included in this Resolution;
- b. Approve retaining the existing acreage under Williamson Act contract by executing a new and separate Land Conservation Contract for the 13 acres under contract that will overlap onto proposed Parcel "B" after the lot line adjustment;
- c. Adopt a Resolution authorizing the Chair to execute two (2) new or amended Land Conservation Contracts in order to rescind a portion of the existing Land Conservation Contract #73-032 and all of #83-003 as it applies to the reconfigured, contracted parcels only, and simultaneously execute a new or amended Land Conservation Contract #73-032a for proposed "Parcel A" between the County and Jackson Family Investments II LLC, and a separate, new contract for the proposed "Parcel B" between the County and Hoson Produce Inc., respectively. The new or amended contracts shall incorporate the new legal descriptions to reflect new ownership interests and to incorporate any legislative changes to State Williamson Act provisions and current County Agricultural Preserve Policies or Procedures. Direct the Clerk-to-the-Board to record the new or amended contract or contracts.

WHEREAS, an application was submitted for a Lot Line Adjustment between two (2) separate lots of record (Assessor Parcel Number 223-042-021, the Jackson Family Investments II LLC property ["Jackson Family"] and APN 223-042-022, the Hoson Produce, Inc. property ["Hoson Produce"]). The legality of the Jackson Family and Hoson Produce parcels as separate legal lots of record was established by Minor Subdivision file no. MS 78-85 that subdivided the 17.77 acre Hoson Produce parcel from the larger, 316.960 acre Jackson Family parcel;

WHEREAS, one of the two existing Assessor Parcel Numbers involved in the subject lot line adjustment--Assessor Parcel Number 223-042-021--is erroneously subject to two overlapping Land Conservation Contracts, Nos. 73-032 and 83-003 (Williamson Act Agricultural Preserves), recorded on February 28, 1973 and February 23, 1983, respectively. To correct this historical error, the Board directs that the two contracts be rescinded and two new contracts executed that retains the original acreage under contract, although separates ownership interests between the Kendall-Jackson properties and the Hoson Produce property after the lot line adjustment;

WHEREAS, the Board finds the proposed Porter lot line adjustment of property as configuring one non-conforming parcel, "Parcel B," to accommodate the existing agricultural processing

structures considered as compatible with neighboring agricultural operations, but separate from proposed "Parcel A" under cultivation and under different ownership;

WHEREAS, the Board of Supervisors finds the existing and proposed lot configuration resulting in Parcel B is nonconforming with the Central Salinas Valley Area Plan designation for 40 acre minimum parcel sizes under a Farmlands designation. At the same time, the Board acknowledges the proposed 30.775 acre parcel as consistent with the State Department of Conservation classification as eligible for "Williamson Act Prime" status and is consistent with State of California Government Code Section 51257 that requires lot line adjustments on contracted lands not resulting in parcels of less than 10 acres of prime land;

WHEREAS, the Board of Supervisors is in receipt of the Department of Conservation letter dated April 19, 2005, and incorporated into this resolution by reference, that raises no objections to a similarly proposed lot line adjustment, the Howe (Costa) lot line adjustment (Planning and Building Inspection file no. PLN010251), that had the effect of parceling off existing agricultural accessory structures while under Williamson Act contract in recognition of their Williamson Act Prime status;

WHEREAS, given the above circumstances, and having considered the Subdivision Map Act requirements for lot line adjustments (Government Code Section 66412 d); the Williamson Act requirements and standards (Government Code Section 51257); and the application and evidence related thereto, the Board of Supervisors finds and declares that:

#### **FINDINGS AND EVIDENCE FOR APPROVAL OF LOT LINE ADJUSTMENT**

1. **FINDING:** The proposed project, while inconsistent with the designated Farmlands 40 acre minimum parcel size of the Central Salinas Valley Area Plan, is consistent with Goal 4 of the General Plan and with the requirements and standards of the Williamson Act that seeks to preserve and enhance agricultural lands.

**EVIDENCE:** The letter from the Interim Director of the Department of Conservation, dated May 17, 2005, finds no objections to a similarly proposed lot line adjustment under Williamson Act contract when it was determined that the proposed non-conforming parcel was eligible for Williamson Act Prime status and classified as "Farmlands."

**EVIDENCE:** The land configured under proposed "Parcel B" is currently sustaining a commercially viable agricultural processing operation, though not incidental to the cultivation of food and fiber on site, and shall continue to be under the four corners of a Land Conservation Contract by operating agricultural processing plants compatible with *contiguous* commercial agricultural operations.

**EVIDENCE:** Goal 4 of the General Plan seeks to preserve and enhance agricultural lands.  
a. *Policy 30.0.3* allows "...division of viable farmland designated as prime ... only for exclusive agricultural purposes, when demonstrating not to be detrimental to the agricultural viability of adjoining parcels...." The adjustment of an existing parcel boundary shall serve to delineate a 30.775 acre "Parcel B" that is consistent with the historical, existing use of the land as an agricultural processing plant (Hoson Produce Inc.) with a single

family residence, 9 agricultural accessory buildings, and approximately 10 acres of vacant pasture land. The proposed lot line adjustment improves upon the existing boundary delineating only 17.775 acres of that operation that actually divides one of the buildings and separates an adjoining cluster of 5 other accessory buildings on the larger neighboring parcel that were once integral to the Hoson Produce Inc. agricultural processing plant. The proposed lot line adjustment will serve to correct this division of the agricultural processing plant by including the residence and all of the 9 accessory buildings that can accommodate potentially an agricultural-related operation with circulation for truck distribution of agricultural-related products. Such an infrastructure is compatible with and incidental to the contiguous cultivation of lands for food and fiber as required under the Williamson Act.

- b. *Policy 30.0.4* requires the County to "...make every effort to preserve, enhance and expand viable agricultural land uses on farmland designated as prime...through application of 'agricultural' land use designations and encouragement of large lot agricultural zoning." The intent of the Porter lot line adjustment is to consolidate the former agricultural processing plant buildings as a separate agricultural activity from the neighboring cultivated fields, thereby enhancing the larger parcel for crop cultivation.

**EVIDENCE:** The existing structures on "Parcel B" are contiguous to another nonconforming parcel containing a small labor camp between the subject parcel and Gloria Road. Therefore, the existing and proposed non-conforming "Parcel B" reinforces the existing historical uses of non-conforming, contiguous parcels off Gloria Road that are separate from parcels under cultivation. Future purchasers of the nonconforming properties designated as "Farmlands" will be required to maintain compatible uses with the adjoining agricultural uses of the land.

**EVIDENCE:** The application and plans for a lot line adjustment found in the project file, Planning and Building Inspection File No. PLN000214.

2. **FINDING:** The proposed project will not have a significant environmental impact.

**EVIDENCE:** The State of California CEQA Guidelines, Section 15305 (a), categorically exempts lot line adjustments from environmental review. No adverse environmental impacts were identified during review of the proposed project. The parcels will remain in agricultural use; only property boundaries will change.

3. **FINDING:** The lot line adjustment is between two (2) existing adjacent parcels that are subject to Government Code Section 66412 d requiring that proposed parcels resulting from a lot line adjustment conform to zoning with the applicable plan (Central Salinas Valley Area Plan).

**EVIDENCE:** The one nonconforming parcel, "Parcel B," as proposed for adjustment, does not conform to the Farmlands designation requiring 40 acre minimum parcel sizes, but its status as Williamson Act prime farmland under a Farmlands zoning designation will require continued uses compatible with contiguous agricultural uses.

**EVIDENCE:** The application and plans for a lot line adjustment found in the project file, Planning and Building Inspection File No. PLN000214.

4. **FINDING:** The parcels resulting from the lot line adjustment shall continue to conform to the County Zoning and Building Ordinances and Williamson Act legislation regarding agricultural-related uses.

**EVIDENCE:** The original "Parcel A" with structures, while inconsistent with the minimum parcel size and density requirement for parcels within the Farmlands, 40-acre minimum ("F/40") Zoning District, has historically contained uses compatible or incidental to contiguous agricultural uses identified as permitted uses in the zoning district or under Williamson Act contract. The proposed lot line adjustment serves only to better delineate the existing structures from the neighboring agricultural operations.

**EVIDENCE:** The application and plans for a lot line adjustment found in the project file, Planning & Building Inspection File No. PLN000214.

**EVIDENCE:** Evidence provided for Finding #1 above.

WHEREAS, Section 51257 of the California Government Code requires that certain findings be made by the Board of Supervisors to facilitate lot line adjustments of land under Williamson Act contract as further evidenced below; and

WHEREAS, the Board of Supervisors further finds that the Porter request for a Lot Line Adjustment is consistent with California Government Code Section 51257 (Williamson Act). Specifically, the Board finds and declares that:

**FINDINGS AND EVIDENCE TO APPROVE THE LOT LINE ADJUSTMENT OF PROPERTY FOR LANDS UNDER WILLIAMSON ACT CONTRACT**

5. **FINDING:** The new or amended contract or contracts would enforceably restrict the adjusted boundaries of the parcel for an initial term for at least as long as the unexpired term of the rescinded contract or contracts, but not less than 10 years.

**EVIDENCE:** The subject lot line adjustment consists of an adjustment of a boundary between two (2) separate, legal lots of record under separate ownership. The existing Hoson Produce property (Assessor Parcel Number 223-042-022) is not under Williamson Act contract while the contiguous Jackson Family property (Assessor Parcel Number 223-042-021) is under contract. After the lot line adjustment, approximately 13 acres of the reconfigured Hoson Produce property (proposed "Parcel B") will be subject to the existing, overlapping, 20-year contracts (#73-032 and #83-003) formerly on the contiguous Jackson Family property. Upon rescinding the two contracts, a new contract shall be executed for the 13 acres on Parcel B so that no net decrease of acreage under contract will occur as a result of the lot line adjustment. This will guarantee that the contiguous parcels will continue to be subject to the same initial 20 year term of the rescinded contracts for both Parcel A and B.

**EVIDENCE:** The agricultural accessory buildings on the 13 acres shall be required to continue with commercial agricultural processing incidental to and compatible

with neighboring commercial cultivation of food and fiber consistent with Section 51238.1 (a) (2) of the State Government Code:

*The use will not significantly displace or impair current or reasonably foreseeable agricultural operations on the subject contracted parcel or parcels or on other contracted lands in agricultural preserves....*

To this end, the agricultural processing plant is deemed compatible if it relates directly to the production of commercial agricultural products on neighboring lands, including activities such as processing, or shipping of agricultural products. The new Williamson Act contract on said parcel enforceably restricts the adjusted boundaries of the parcel for an initial term for at least as long as the unexpired term of the rescinded contracts.

**EVIDENCE:** Pursuant to section 51222 of the California Government Code (Williamson Act), "agricultural land shall be presumed to be in parcels large enough to sustain their agricultural use if the land is (1) at least 10 acres in size in the case of prime agricultural land, or (2) at least 40 acres in size in the case of land which is not prime agricultural land." In the case of the subject lot line adjustment, the two (2) proposed parcels are large enough to sustain agriculture under Section 51222 of the California Government Code. The proposed 30.775 acre parcel ("Parcel B") meets the minimum 10 acre size required under the Williamson Act for prime farmlands and shall continue to be made compatible or incidental to the proposed contiguous 303.960 acre parcel ("Parcel A") under row crop cultivation while zoned "Farmlands" and under a 20-year Williamson Act contract.

**EVIDENCE:** The application and plans for a lot line adjustment found in the project file, Planning & Building Inspection File #PLN000214.

**6. FINDING:** There is no net decrease in the amount of the acreage restricted. In cases where parcels involved in a lot line adjustment are both subject to contracts rescinded pursuant to this section, this finding will be satisfied if the aggregate acreage of the land restricted by the new contracts is at least as great as the aggregate acreage restricted by the rescinded contracts.

**EVIDENCE:** County of Monterey Board of Supervisors Resolution No. 2003-383 requires that agricultural preserves will not be considered unless the group of contiguous parcels included in the preserve contains 100 or more acres, or 40 or more acres if it finds that smaller preserves are necessary due to the unique characteristics of the agricultural enterprises in the area. The subject lot line adjustment involves the Jackson Family parcel of approximately 316.960 acres that is under an umbrella contract including additional, contiguous acreage under separate ownership, all under contract #73-032. Parceling-off approximately 13 acres of said contract as a portion of proposed Parcel B cannot remove said parcel from current Williamson Act restrictions, and therefore the aggregate acreage of contiguous lands under contract well exceeds the minimum 40 acres required by Board Resolution No. 2003-383. Further, the Department of Conservation has indicated that immediate cancellation is only granted under extraordinary circumstances and that non-renewal is the preferred method for terminating a contract. Because extraordinary circumstances do not apply, only a Notice of Non-renewal of

the Williamson Act contract can remove the approximately 13 acre portion of proposed "Parcel B" from the contract pursuant to Government Code Section 51245. Should future property owners of "Parcel B" desire to commence non-renewal of the contract, the existing contract shall remain in effect for the stated term of the contract as required by Government Code Section 51246 (a).

**EVIDENCE:** If new contracts are entered into for the adjusted parcels, such contracts will cover all of the parcels as adjusted, with no net decrease in aggregate acreage.

7. **FINDING:** At least 90 percent of the land under the former contract or contracts remains under the new contract or contracts.

**EVIDENCE:** The existing acreage under Land Conservation Contract No. 73-032 will remain under contract, although resulting in a new Land Conservation Contract #73-032A and a second, separate contract between the County of Monterey and Hoson Produce.

8. **FINDING:** After the lot line adjustment, the parcels of land subject to contract will be large enough to sustain their agricultural use, as defined in Section 51222.

**EVIDENCE:** The subject property is prime agricultural land. Under Government Code Section 51222, the minimum parcel size is 10 acres. Each of the adjusted parcels will exceed 10 acres in size. There is no proposed change of use of the property from the existing uses, which will continue.

9. **FINDING:** The reconfigured parcels will not compromise the long-term agricultural productivity of the parcel or other agricultural lands subject to a contract or contracts.

**EVIDENCE:** The agricultural processing structures and residence will remain on the Hoson Produce property, and the contiguous row crop farming will continue on the Jackson Family property. The lot reconfiguration more logically accommodates the existing residence and agricultural processing structures that have not been historically incompatible with the long term agricultural use of the contiguous property cultivated in row crops.

**EVIDENCE:** The lot line adjustment will accomplish the following:

- a. Incorporate all of the cultivated land exclusively on the Jackson Family property so that the owner may retain as much cultivated land as possible under their own ownership and control; and
- b. Adjust the boundary line of the Hoson Produce property, which comprise the residence and agricultural processing structures for a more sensible division so as to facilitate the sale of said parcel.

**EVIDENCE:** The application and plans for a lot line adjustment found in the project file, Planning & Building Inspection File #PLN000214.

10. **FINDING:** The lot line adjustment is not likely to result in the removal of adjacent land from agricultural use.

**EVIDENCE:** The very purpose of the lot line adjustment is to enhance the agricultural use of the property for row crop production ("Parcel A") as separate from agricultural processing ("Parcel B").



**EVIDENCE:** The existing residence and agricultural processing structures on proposed "Parcel B" are compatible with neighboring farm labor housing between said parcel and Gloria Road.

**EVIDENCE:** As there is no proposed change in land use as a result of this lot line adjustment, the lot line adjustment is not likely to result in the removal of adjacent land from agricultural use.

11. **FINDING:** The two (2) parcels as reconfigured will not result in a greater number of *developable* parcels than existed prior to the adjustment, or an adjusted lot that is inconsistent with the General Plan.

**EVIDENCE:** There are two existing lots of record, and upon completion of the lot line adjustment, there will be two lots of record. Accordingly, the lot line adjustment does not result in a greater number of parcels. No further development is proposed on proposed "Parcel B," which is already substantially developed with improvements.

NOW THEREFORE, BE IT RESOLVED that in order to facilitate the lot line adjustment of agricultural preserve lands, the Board rescinds all of Land Conservation Contract 83-003 and a portion of the existing Land Conservation Contract No. 73-032 as it applies to the reconfigured "Parcel A" (originally Assessor Parcel Number 223-042-021) only, and simultaneously executes a new Land Conservation Contract No. 73-032A for "Parcel A" and a new contract for the 13 acres that will overlap onto proposed "Parcel B," which shall be applicable to the reconfigured parcels, consistent with Section 51257 of the State of California Government Code (Williamson Act), pending receipt of new legal descriptions for the two proposed reconfigured parcels with two separate, though contiguous, agricultural preserve boundaries, and the execution of the contract by the property owners;

IT IS FURTHER RESOLVED that, consistent with Government Code Section 51257, the Board authorizes the Chair to sign new or amended Land Conservation Contracts to simultaneously rescind a portion of the existing Land Conservation Contract No. 73-032, and all of Contract No. 83-003, as it applies to the reconfigured parcels only, and to execute a new or amended Land Conservation Contract No. 73-032A and a new contract for a contiguous 13 acre portion of proposed "Parcel B" to reflect said rescission of the reconfigured parcels;

IT IS FURTHER RESOLVED that the new or amended Land Conservation Contracts shall reflect new ownership interests and, shall incorporate any legislative changes to State Williamson Act provisions and current County Agricultural Preserve Policies or Procedures, and the Chair of the Board is authorized to sign the new Land Conservation Contracts with the property owners;

IT IS FURTHER RESOLVED that the Record of Survey or Deed and Legal Descriptions shall be reviewed for accuracy by County Staff of the Planning and Building Inspection Department, the County Surveyor, and the Assessor's Office, prior to recordation of the new or amended Land Conservation Contracts;

IT IS FURTHER RESOLVED that the Clerk is directed to record said new or amended Contract or Contracts upon recordation of the Record of Survey or Deed, completion of the legal description or descriptions, and execution by the Chair.

IT IS FURTHER RESOLVED that the Board of Supervisors hereby approves said Lot Line Adjustment, subject to the following conditions:

### **DECISION**

1. This permit allows (1) a Lot Line Adjustment (**Porter; PLN000214**) to adjust the boundaries between two existing lots of record of 17.775 and 316.960 acres respectively, which will result in two parcels of 30.775 acres ("Parcel B") and 303.960 acres ("Parcel A") respectively. The properties are fronting on and northerly of Gloria Road (Assessor's Parcel Numbers 223-042-021 and 223-042-022), east of Iverson Road, Gonzales area, and (2) authorizes the Chair of the County Board of Supervisors to execute new and amended Land Conservation Contracts in order to rescind a portion of Land Conservation Contract No. 73-032 and all of Contract No. 83-003, as it applies to the reconfigured parcels only, and to simultaneously execute a new Land Conservation Contract No. 73-032A and a new contract over 13 acres of proposed "Parcel B" reflecting new legal property descriptions and ownership interests and any legislative changes to State Williamson Act provisions and current county Agricultural Preserve Policies or Procedures.

The project is in accordance with County ordinances and land use regulations subject to the following terms and conditions. The uses allowed by this permit shall not 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 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 other than that specified by this permit is allowed unless the appropriate authority approves additional permits. (**Planning and Building Inspection**)

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

2. The applicant shall record a notice which states: "A permit (Resolution \_\_\_\_\_) was approved by the Board of Supervisors for Assessor' Parcel Numbers 223-042-019; 223-042-021 and 223-042-022 on March 28, 2006. The permit was granted subject to 7 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. (**Planning and Building Inspection Department**)
3. Obtain a survey of the new line and have the line monumented. (**Public Works**)
4. File a Record of Survey showing new line and its monumentation. (**Public Works**)
5. The reconfigured lots shall be reflected in a deed, which shall be recorded pursuant to California Government Code Section 66412(d). (**Planning and Building Inspection and County Counsel**)
6. Owner shall record a notice for each newly aligned parcel, stating, "The property is located within or partially within a floodplain and may be subject to building and/or land use restrictions." A copy of the recorded notice shall be provided to the County Water Resources Agency. (**Water Resources Agency**)

7. The property owners shall enter into a new or amended Contract or Contracts with the County Board of Supervisors, in order to amend the existing Land Conservation Contract No. 73-032 to rescind that portion of the existing Land Conservation Contract which is applicable to the reconfigured parcels and, enter into a new Land Conservation Contract No. 73-032A, which shall be applicable to the reconfigured "Parcel A," and a new contract over 13 acres of proposed "Parcel B" reflecting new legal property descriptions and ownership interests. The new or amended Contract or Contracts shall reflect the reconfigured parcels as applicable, the present ownership interests and, shall incorporate any legislative changes to State Williamson Act provisions and current County Agricultural Preserve Policies or Procedures. **(Planning and Building Inspection; Office of the County Counsel)**

NOW THEREFORE, IT IS HEREBY RESOLVED that the Board approves the proposed Porter lot line adjustment between the Jackson Family and Hoson Produce properties.

PASSED AND ADOPTED on this 28<sup>th</sup> day of March, 2006, upon motion of Supervisor Potter, seconded by Supervisor Armenta, by the following vote, to-wit:

AYES: Supervisor Armenta, Calcagno, Lindley, Potter and Smith

NOES: None

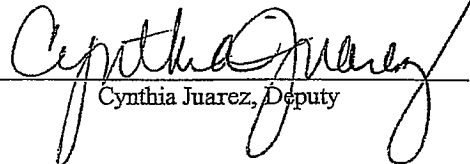
ABSENT: None

I, Lew C. Bauman, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof Minute Book 73, on March 28, 2006.

Dated: March 30, 2006

Lew C. Bauman, Clerk of the Board of Supervisors,  
County of Monterey, State of California.

By

  
Cynthia Juarez, Deputy