



Board Agenda Item 9

DATE: November 14, 2017

TO: Board of Supervisors

SUBMITTED BY: Steven E. White, Director
Department of Public Works and Planning

SUBJECT: Variance Application No. 4025 (Appellant/Applicant: Matt Ratzlaff)

RECOMMENDED ACTION(S):

Consider appeal of the Planning Commission's denial of Variance Application No. 4025 proposing to allow the creation of a 2.3-acre parcel and a 2.55-acre parcel from an existing 4.85-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

The project site is located on the southwestern corner of E. Reno Road and Auberry Road, approximately one mile northeast of the nearest city limits of the City of Fresno (3825 E. Reno Road) (SUP. DIST. 5) (APN 580-010-25S).

This item comes before the Board on appeal of the Planning Commission's denial of the subject application (8 to 0, with one Commissioner recused) at its August 10, 2017 Planning Commission Hearing. Staff notes that the Zoning Ordinance requires the Board to determine, independent from the decision of the Planning Commission, whether the application should be approved, approved with stated conditions, or denied. A copy of the Planning Commission's action is attached as Attachment A.

ALTERNATIVE ACTION(S):

If the Board is able to make the required findings for granting Variance No. 4025, a motion to uphold the appeal and overturn the Planning Commission's decision, stating the basis for making the findings and articulating the manner in which each of the Findings can be made, would be appropriate.

FISCAL IMPACT:

Pursuant to the County's Master Schedule of Fees, the Applicant has paid \$6,707 in land use processing fees to the County for the processing of the Variance Request. The Applicant also paid \$508 in fees to appeal the Planning Commission's denial.

DISCUSSION:

The subject parcel is generally rectangular in shape, with a shortened southern property line and diagonal western property line to accommodate the design of Auberry Road. The proposed new property line runs north to south through the parcel, providing slightly more gross acreage on proposed Parcel B, which is adjacent to Auberry Road.

Pages 3 and 4 of the Planning Commission Staff Report dated August 10, 2017 (Attachment B) include a discussion of rezoning activity related to the subject property and additional history regarding variances

approved within the vicinity. Also, as indicated on page 4 the Staff Report, while under different ownership, Variance Application No. 3771 was filed on the subject parcel in 2004, requesting to allow the creation of a 3.11-acre parcel and a 1.74-acre parcel from the existing 4.85-acre parcel. That application was denied by the Planning Commission on April 22, 2004 based on the Planning Commission's inability to make Variance Findings 1, 2, and 4. In addition, Director Review and Approval (DRA) No. 4397 was approved on July 28, 2015 to allow a permanent second residence on this parcel, which has since been constructed. If this Variance application is approved, the DRA will no longer be necessary, since each existing residence will be located on a separate parcel.

In the time since the subject application was filed, Matt Ratzlaff (the Applicant) purchased the property from Gary McDonald Development Company, Inc., who is listed as the property owner on the Planning Commission Staff Report (Attachment B).

In order for the Board to approve Variance No. 4025, the following findings must be made:

1. *There are exceptional or extraordinary circumstances or conditions applicable to the property involved which do not apply generally to other property in the vicinity having the identical zoning classification; and*
2. *Such Variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, which right is possessed by other property owners under like conditions in the vicinity having the identical zoning classification.*
3. *The granting of a Variance will not be materially detrimental to the public welfare or injurious to property and improvement in the vicinity in which the property is located.*
4. *The granting of such a Variance will not be contrary to the objectives of the General Plan.*

At its hearing of August 10, 2017, the Planning Commission considered staff's presentation and testimony from the property owner and his representative. Also, four members of the public spoke in opposition to the project, stating concerns that the proposed parcels were smaller than other parcels along Reno Avenue, that Reno Avenue was not sufficient to support an additional parcel, and that there was not enough water to allow additional parcels. After the Planning Commission considered public testimony, a motion was made to deny the application based on the inability to make the required Variance Findings.

Fifteen letters of opposition were presented at the Planning Commission Hearing. These are included as Attachment C.

An appeal was filed by the Applicant on August 21, 2017. The appeal document stated that the Commission's decision was inconsistent with other variances granted in the area.

If the Board is able to make the required findings for granting approval of Variance Application No. 4025, a motion to uphold the appeal and approve the project would be appropriate stating in its motion to approve the manner in which the four required Variance Findings can be made, subject to the conditions listed in the Staff Report and any additional conditions the Board determines appropriate. For reference a copy of the conditions of approval are also attached as Attachment D to this Agenda Item.

In addition, staff recommends inclusion of an additional Condition of Approval requiring the following:

- *The Applicant shall enter into an agreement indemnifying the County for all legal costs associated with its approval of Variance Application No. 4025.*

If the Board is unable to make the required Variance Findings for granting Variance Application No. 4025, a

motion to deny the appeal and deny the project would be appropriate.

ATTACHMENTS INCLUDED AND/OR ON FILE:

Attachments A - D

CAO ANALYST:

John Hays