



Board Agenda Item 13

DATE: April 23, 2024

TO: Board of Supervisors

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

SUBJECT: Appeal of Planning Commission's denial of Variance Application No. 4157
(Appellant/Applicant: Jose Leon-Barraza)

RECOMMENDED ACTION(S):

Consider appeal of the Planning Commission's denial of Variance Application No. 4157 proposing to allow the creation of a 2.50-acre and a 17.50-acre parcel, from an existing 20-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

The subject parcel is located on the east side of S. Temperance Avenue, 0.17-miles south of E. Jensen Avenue, approximately 0.63-mile southwest from the City of Fresno (APN: 316-062-02) (2250 S. Temperance Avenue).

This item comes before your Board on appeal of the Planning Commission's denial (motion to approve failed on a vote of two to three with three Commissioners absent and one Commission vacancy, which resulted in a technical denial of the variance) at its February 8, 2024 hearing. Department staff notes that the Zoning Ordinance requires your 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 included as Attachment A. This item pertains to a location in District 4.

ALTERNATIVE ACTION(S):

If your Board is able to make the required Findings for granting Variance Application No. 4157 (VA), a motion to uphold the appeal and overturn the Planning Commission's decision, stating the basis for making the Findings would be appropriate.

FISCAL IMPACT:

There is no Net County Cost associated with the recommended action. Pursuant to the County's Master Schedule of Fees, the Applicant/Owner has paid \$6,460 in land use processing fees to the County for the processing of the Variance Request. The Appellant paid \$508 in fees to appeal the Planning Commission's denial.

DISCUSSION:

The proposal is to allow the creation of a 2.50-acre and a 17.50-acre parcel, from an existing 20.00-acre parcel (gross acreage), in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District. The Planning Commission Staff Report (Attachment B) dated February 8, 2024, includes background information about the proposal.

In order for your Board to approve VA No. 4157, 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 February 8, 2024, hearing, the Planning Commission considered the Department's Staff Report, presentation, and testimony from the Applicant/Owner's representative. It should be noted that staff, in its report to the Commission, was unable to recommend making Finding No. 1, 2, and 4 required for approval of a variance. After the Planning Commission considered public testimony, a motion was made to approve the application based on the ability to make all required Findings, but the motion failed on a vote of two to three.

An appeal of the Planning Commission's denial was filed by the applicant on February 22, 2024. The appeal document (Attachment C) indicated that the appellant believes that the findings can be made and that the Variance would allow construction of three new homes for family to assist their father with the agricultural operation at the site.

If your Board is able to make the required Findings for granting approval of VA No. 4157, a motion to uphold the appeal and approve the variance would be appropriate (stating in its motion the manner in which the four required Findings can be made) subject to the recommended Conditions of Approval (Attachment D) and any additional conditions your Board determines appropriate.

Staff also notes that should the Variance be approved, the Variance will expire one year from the date of the Board's approval unless a mapping application to create the parcel is filed. Where circumstances beyond the control of the applicant cause delays, the Commission may grant a maximum of two one (1)-year extensions of time.

If your Board is unable to make the required Findings for granting VA No. 4157, a motion to deny the appeal and deny the variance would be appropriate.

ATTACHMENTS INCLUDED AND/OR ON FILE:

Attachments A - D

CAO ANALYST:

Salvador Espino