



Board Agenda Item 6

DATE: May 26, 2020

TO: Board of Supervisors

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

SUBJECT: Initial Study No. 7721 and Director Review and Approval Application No. 4602
(Applicant: Charles Maxwell; Appellant: David Kyle)

RECOMMENDED ACTION(S):

1. **Consider appeal of the Planning Commission's approval of Director Review and Approval No. 4602, proposing to allow operational modifications for an approved commercial horse arena on a 40.05-acre parcel in the AL-40 (Limited Agricultural, 40-acre minimum parcel size) Zone District. Operational modifications include increasing the number of authorized event days from 24 event days to 72 event days and changing operational time limits to allow 30 event days to operate during the evening hours from 4:00 PM to 10:00 PM.**
2. **If the Appeal is denied and the Planning Commission's approval of Director Review and Approval No. 4602 is upheld:**
 - a. **Adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program prepared for Initial Study No. 7721; and**
 - b. **Make the required Findings specified in the Fresno County Zoning Ordinance Section 872(C) and approve Director Review and Approval Application No. 4602, subject to Project Mitigation Measures and Conditions of approval.**

The project site is located on the west side of Rusty Spur Lane approximately 690 feet south of its nearest intersection with Millerton Road, and is approximately 6.35 miles east from the unincorporated community of Friant (10925 Rusty Spur Lane, Clovis, CA) (APN 138-061-49).

This item comes before your Board on appeal of the Planning Commission's March 12, 2020 approval of the subject application (6 to 2 with one Commissioner absent). 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 5.

ALTERNATIVE ACTION(S):

If your Board is unable to make the required Findings for granting Director Review and Approval Application (DRA) No. 4602, a motion to uphold the appeal and overturn the Planning Commission's decision, stating the basis for not 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 \$5,688 in land use processing fees to the County for the processing of the Director Review and Approval request. Further, the Appellant has paid \$508 to appeal the Commission's decision.

DISCUSSION:

The Applicant is requesting this Director Review and Approval to allow operational modifications for an approved commercial horse arena on a 40.05-acre parcel in the AL-40 (Limited Agricultural, 40-acre minimum parcel size) Zone District. The operational modifications include increasing the number of authorized event days from 24 event days to 72 event days and changing operational time limits to allow 30 event days to operate during the evening hours from 4:00 PM to 10:00 PM. The Planning Commission Staff Report (Attachment B) dated March 12, 2020, includes background information about the proposal and a history of variances approved within the vicinity. This application was referred directly to the Planning Commission due the public interest in the project when the public notice was issued.

At its March 12, 2020 hearing, the Planning Commission considered Department staff's report (Attachment C) and presentation; testimony from the Applicant, Appellant, and other interested individuals; and reviewed one letter of support stating the arena will give children scholarships, help people learn to ride horses, and will host police and sheriff events. In addition, six letters of opposition stating concerns with traffic safety, maintenance of the private road, noise and light pollution, and being a visual detriment to the neighborhood were submitted to the Planning Commission. After the Planning Commission considered public testimony and correspondence, a motion was made to approve the application and to make the required Findings consistent with the staff report.

An appeal of the Planning Commission's approval was filed by the Appellant on March 26, 2020. In his appeal, the Appellant stated that the project should not be allowed to operate at night, will cause light and noise pollution, and will negatively impact elderly residents and young children in the area.

Section 873(G-H) of the Fresno County Zoning Ordinance outlines the procedure for an appeal of the decision of the Planning Commission. Appeal hearings are "de novo," which means the application is examined a new.

In order for your Board to approve DRA No. 4602, the following findings must be made:

1. That the site of the proposed use is adequate in size and shape to accommodate said use and all yards, spaces, walls and fences, parking, loading, landscaping and other features required by this Division, to adjust said use with land and uses in the neighborhood.
2. That the site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use.
3. That the proposed use will not be detrimental to the character of the development in the immediate neighborhood or the public health, safety, and general welfare.
4. That the proposed development be consistent with the General Plan.

If your Board is able to make the required Findings for granting approval of DRA No. 4602, a motion to deny the appeal and approve the Director Review and Approval would be appropriate, subject to the recommended Conditions of Approval (Attachment D) and any additional conditions your Board determines appropriate.

In addition, Department 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 IS No. 7721 and DRA No. 4602 and provide security in the amount of \$150,000 for any such legal costs incurred. The agreement and payment of security shall be due unless the litigation period has expired, in which case the requirements for the indemnification agreement and security shall be considered null and void. Staff will return to your board for execution of the agreement.

If your Board is unable to make the required Findings for granting DRA No. 4602, a motion to approve the appeal and deny the Director Review and Approval would be appropriate, stating in the denial motion which Findings cannot be made.

REFERENCE MATERIAL:

BAI#18 - April 25, 2017

BAI #14 - September 27, 2011

BAI #18 - February 23, 2010

ATTACHMENTS INCLUDED AND/OR ON FILE:

Attachments A - D

CAO ANALYST:

Debbie Paolinelli