



# Board Agenda Item 4

DATE: August 23, 2022

TO: Board of Supervisors

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

SUBJECT: Variance Application No. 4125 (Appellant: Larry King)

RECOMMENDED ACTION(S):

**Consider appeal of the Planning Commission's denial of Variance Application No. 4125 proposing to allow for the creation of four substandard sized two-acre lots and a two-acre remainder from an existing 10-acre parcel and waiver of the road frontage requirements in the AL-20 (Limited Agricultural, 20-acre minimum) Zone District.**

**The project site is located on the west side of 6th Avenue at its intersection with Mehlert Avenue, approximately 1,320 feet north of E. Clarkson Avenue, adjacent to the City of Kingsburg (APN: 395-030-11) (863 6th Ave. Drive).**

This item comes before your Board on appeal of the Planning Commission's denial of the subject application (5 to 1, with two Commissioners absent and one vacancy) at its May 19, 2022, 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 (VA) No. 4125, 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, on behalf of the Applicant/Owner, paid \$508 in fees to appeal the Planning Commission's denial.

DISCUSSION:

The proposal is to allow for the creation of four substandard sized two-acre lots and a two-acre remainder from an existing 10-acre parcel and waiver of the road frontage requirements in the AL-20 (Limited Agricultural, 20-acre minimum) Zone District.

The Planning Commission Staff Report (Attachment B) dated May 19, 2022, includes background information about the proposal and a history of variances approved within the vicinity.

In order for your Board to approve VA No. 4125, 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 May 19, 2022 hearing, the Planning Commission considered the staff report, presentation, and testimony from the Applicant/Owner's representative. At the Planning Commission Hearing, a representative from the City of Kingsburg spoke in opposition to the request stating further subdividing parcels would conflict with the City of Kingsburg's General Plan. In addition, two neighbors opposed to the proposal stated that the proposed parcels would increase both residential density and water consumption. It should be noted that staff was unable to make all four required findings to recommend approval to the Planning Commission. After the Planning Commission considered public testimony, a motion was made to deny the application based on the inability to make the required Findings.

An appeal of the Planning Commission's denial was filed by the Appellant on May 20, 2022. The appeal document (Attachment C) states that the Commission should have been able to make the required Findings. According to the applicant, the existing parcel is already a substandard size parcel, surrounded by one-acre and two-acre parcels within the AL-20 Zone District, and therefore constitutes an extraordinary circumstance.

If your Board is able to make the required Findings for granting approval of VA No. 4125, a motion to uphold the appeal and approve the variance would be appropriate stating in its motion to approve the manner in which the four required Findings can be made, and that approval be subject to the recommended Conditions of Approval (Attachment D).

Additionally, staff recommends your Board include the following additional Condition of Approval for indemnification:

*The Applicant shall enter into an agreement indemnifying the County for all legal costs associated with its approval of VA No. 4125 and provide security in an amount determined by the County 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.*

If your Board is unable to make the required Findings for granting VA No. 4125, a motion to deny the appeal thus denying the variance would be appropriate.

ATTACHMENTS INCLUDED AND/OR ON FILE:

Attachments A - D

CAO ANALYST:

Salvador Espino