



# Board Agenda Item 14

DATE: March 7, 2017

TO: Board of Supervisors

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

SUBJECT: Variance Application No. 4013 (Appellant: El Ebanito Ranch, LLC)

RECOMMENDED ACTION(S):

1. **Consider appeal of the Planning Commission's technical denial of Variance Application No. 4013 proposing creation of a 2-acre parcel and an 11.82-acre parcel from an existing 13.82-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District; and**
2. **Determine that the required Findings specified in Fresno County Ordinance Code Section 873-F can or cannot be made for approval or denial of the Variance request.**

**The project site is located on the east side of South Cove Avenue, approximately 375 feet southeast of its intersection with E. Lincoln Avenue, approximately 1.4 miles northwest of the nearest city limits of the City of Orange Cove (SUP. DIST. 4) (APN 373-061-26).**

This item comes before the Board on appeal of the Planning Commission's technical denial of the subject application (4 to 4, with one vacancy on the Commission) at its January 12, 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 Exhibit A.

ALTERNATIVE ACTION(S):

If the Board is able to make the required findings for granting Variance No. 4013, 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 \$6,673 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 triangular-shaped with its long edge abutting the Minkler Southern Railway Company's right-of-way. The southern corner of the property was removed prior to 1971 without the need for a variance. A residence has existed on this parcel prior to 1958. The current request proposes to remove the

northern corner of the parcel as a separate legal parcel to isolate the residential use from the agricultural operation. A variance is required because both parcels created by the split will be less than 20 acres in size.

In order for the Board to approve Variance No. 4013, 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 January 12, 2017, the Planning Commission considered staff's presentation and testimony from the project's representative. A motion was made to deny the application, which failed to pass on a tie vote. A second motion was then made to approve the application, stating that Findings 1 and 2 be made based on the presence of an existing home and the parcel's substandard parcel size. Further, Finding 4 could be made with the inclusion of a condition of approval restricting residential development on the proposed parcels. This motion to approve failed to pass on another tie vote. Pursuant to the Zoning Ordinance section 877.B.6, a tie vote by the Commission constitutes a Technical Denial. A copy of the January 12, 2017 Planning Commission Staff Report is attached as Exhibit B. Correspondence in favor of the application is attached as Exhibit C.

An appeal was filed on January 24, 2017. The appeal document stated that the applicant would present new information not available at the time of the commission hearing in support of the proposed variance. Also, the applicant has voluntarily offered to prohibit additional residential development on the proposed two-acre and 11.82-acre parcels, and prohibit residential development on an adjacent 60.5 acres of property to the east comprised of two parcels (Assessor's Parcel Numbers 373-061-25 and 373-061-24) which are also owned by the Applicant's corporation (El Ebanito Ranch LLC). To support this request to voluntarily prohibit residential development on the contiguous El Ebanito Ranch LLC holdings, the Applicant's representative has submitted revised Variance Findings, a revised site plan which includes the adjacent parcels under same ownership, and a sample covenant to demonstrate how such a restriction could be implemented.

Staff did review the revised Variance Findings submitted, and while it is noted that the Findings elaborate on the voluntary request to prohibit additional home sites on the properties and re-emphasizes the Applicant's commitment to agricultural operations on the properties subject to their ownership, the additional information does not change staff's original denial recommendation for the Variance as it relates to the need to make the four Findings listed above. The additional information provided by the Applicant's representative is attached as Exhibit D.

If the Board is able to make the required findings for granting approval of Variance Application No. 4013, 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 Exhibit E to this Agenda Item.

If the Board is unable to make the required Variance Findings for granting Variance Application No. 4013, a motion to deny the appeal and deny the project would be appropriate.

ATTACHMENTS INCLUDED AND/OR ON FILE:

Exhibits A - E

CAO ANALYST:

John Hays