



Board Agenda Item 13

DATE: June 4, 2019

TO: Board of Supervisors

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

SUBJECT: Initial Study No. 6205, Classified Conditional Use Permit Application No. 3281, and
Variance Application No. 4023 (Applicant: Obadi Kassim)

RECOMMENDED ACTION(S):

1. **Consider and adopt the Mitigated Negative Declaration prepared for an Agricultural Commercial Center (Initial Study Application No. 6205/State Clearinghouse #2019029118); and**
2. **Determine that the required Findings specified in Fresno County Zoning Ordinance Section 873-F and Section 877-A can be made and approve Classified Conditional Use Permit Application No. 3281 to allow an Agricultural Commercial Center consisting of a market with fuel sales, and Variance Application No. 4023 to allow the creation of a 2.36-acre parcel and a 16.32-acre parcel from a 0.53-acre parcel and an 18.15-acre parcel (minimum 20 acres required) by means of a property line adjustment.**

The project site is located on the northeast corner of Conejo and Highland Avenues, approximately two miles southwest of the nearest city limits of the City of Selma, within the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District. (APN 393-280-77S and 393-280-84S).

This item comes before your Board with a unanimous recommendation for approval from the Planning Commission (8 to 0, one Commissioner absent). Per Section 873-E.2 of the Fresno County Zoning Ordinance, the Planning Commission's action to recommend approval of an Agricultural Commercial Center is an advisory action to your Board. Further, both Applications [Conditional Use Permit (CUP) and Variance (VA)] are being brought before your Board for consideration, as they represent an interrelated request for a single project. A summary of the Planning Commission's Action is included in Attachment A.

The project site is currently restricted by Williamson Act Contract No. 5261. The proposal is not a compatible use with the Williamson Act Program. A Notice of Nonrenewal for Agricultural Land Conservation Contract No. 5261 was recorded on April 30, 2013. The petition for partial cancellation to remove a 1.82-acre portion of the 18.15-acre parcel, with non-renewal of the remainder of the Contract was filed in October 2017. The Agricultural Land Conservation Committee unanimously recommended that your Board approve the cancellation petition at its December 5, 2018 Committee meeting. The cancellation action is scheduled to follow this land use request. This item pertains to a location in District 4.

ALTERNATIVE ACTION(S):

If your Board determines that the required findings for granting CUP No. 3281 and VA No. 4023 cannot be made, a motion to deny the subject applications, stating which findings cannot be made and the reasoning

for the inability to make those findings, would be appropriate.

FISCAL IMPACT:

There is no Net County Cost associated with the recommended actions. Pursuant to the County's Master Schedule of Fees, the Applicant has paid land use processing fees in the amount of \$13,878.

DISCUSSION:

The recommended actions include a request to allow (1) an Agricultural Commercial Center consisting of a market (mini mart) and fuel sales, and (2) creation of a 2.36-acre parcel and a 16.32-acre parcel from a 0.53-acre parcel and an 18.15-acre parcel by means of a property line adjustment to accommodate the proposed Center.

Approval of the CUP and VA will allow the Applicant to replace an existing legal non-conforming market located on the northeast corner of Conejo and Highland Avenues, approximately two miles southwest of the nearest city limits of the City of Selma. As required by Section 867-B of the Fresno County Zoning Ordinance, a master plan has been prepared for the proposed Center, and the proposed site plan and development is in conformance with the master plan.

The project site is designated Agricultural in the Fresno County General Plan. Agricultural Commercial Centers may be allowed in the AE (Exclusive Agricultural) Zone District with approval of a Classified CUP. Section 867 of the Fresno County Zoning Ordinance contains regulations specifying allowed uses, property development standards, and application requirements for Agricultural Commercial Centers. Section 873 of the Fresno County Zoning Ordinance provides that final approval of an Agricultural Commercial Center must be made by the Board of Supervisors following review and recommendation by the Planning Commission.

The existing legal non-conforming market is located along State Route 43 (SR 43) on a 0.53-acre adjacent parcel. According to the Applicant, the market has been operating for more than 60 years, with the Applicant's family operating it for approximately 25 years. Past land use permits associated with the property include VA No. 3416, which was approved on May 20, 1993. The VA allowed creation of a 0.77-acre and 18.63-acre parcel from an existing 19.40-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District and waived the required 165 feet minimum lot width to allow a 145 feet width. The Director Review and Approval Application No. 2552 was approved April 25, 1990 to allow the addition of an employee restroom to the existing legal non-conforming market.

On April 11, 2019, the Planning Commission considered the subject applications. After receiving Department staff's presentation and considering public testimony from the Applicant's representative, the Commission voted unanimously (8 to 0 with one Commissioner absent) in favor of forwarding to your Board a recommendation to adopt the Mitigated Negative Declaration prepared for the Agricultural Commercial Center and recommending approval of the proposed CUP and VA subject to the Mitigation Measures, Conditions of Approval, and mandatory Project Notes listed in the Planning Commission Staff Report (Attachment B).

During the Planning Commission hearing, testimony was provided by the Applicant's representative regarding the history of the existing legal non-conforming market, and clarifications about the proposed structures and use. One individual spoke in support of the project providing background information regarding the eventual expansion of Highway 43 and benefits of the proposal. No one spoke in opposition to the project.

If your Board is determines the required findings listed below for granting approval of CUP No. 3281 and VA No. 4023 can be made, an approval motion would be appropriate. Your Board would state in its motion that your Board is:

- Adopting the Mitigated Negative Declaration (Attachment C) prepared for Initial Study No. 6205; and
- Approving CUP No. 3281 and VA No 4023, subject to the Mitigation Measures, Conditions of Approval, and Project Notes as listed in Attachment A.

Conditional Use Permit Findings (Zoning Ordinance Section 873-F)

- Finding 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.
- Finding 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.
- Finding 3: That the proposed use will have no adverse impact on abutting property and surrounding neighborhood or permitted use thereof.
- Finding 4: That the proposed development be consistent with the General Plan.

Variance Findings (Zoning Ordinance Section 877-A)

- Finding 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.
- Finding 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.
- Finding 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.
- Finding 4: The granting of such a Variance will not be contrary to the objectives of the General Plan.

If your Board determines that the required findings for granting approval of CUP No. 3281 and VA No. 4023 cannot be made, denial of these applications would then be appropriate, citing the reasons for denial and which findings cannot be made.

ATTACHMENTS INCLUDED AND/OR ON FILE:

Attachments A - C

CAO ANALYST:

Sonia M. De La Rosa