



Board Agenda Item 8

DATE: March 3, 2026

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. 4181 and Initial Study No. 8658 (Applicant/Appellant: JD Investments)

RECOMMENDED ACTION(S):

1. **Consider appeal of the Planning Commission's denial of Variance Application No. 4181 proposing to allow the creation of two 2.55-acre parcels where 20-acres is required, from an existing 5.09-acre parcel located in the AL-20 (Limited Agricultural, 20-acre minimum) Zone District. If approved, a mapping procedure will follow; and**
2. **If your Board chooses to grant the Appeal and overturn the Planning Commission's denial of Variance Application No. 4181, it would be appropriate to:**
 - a. **Adopt the Negative Declaration prepared for the project based on Initial Study No. 8658; and**
 - b. **Make the required Findings specified in Section 860.5.060.D for approval of a variance stating the basis for making the four required variance findings; and**
 - c. **Approve Variance Application No. 4181, with Conditions of Approval, and the additional Conditions of Approval as recommended by Department Staff.**

The subject parcel is located on the west side of Willow Bluff, approximately 0.65-miles from the City of Fresno (APN: 579-050-16) (12739 Willow Bluff) (Sup. Dist. 5).

This item comes before your Board on appeal of the Planning Commission's denial (6 to 2, with one Commissioner absent) at its August 14, 2025 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 5.

ALTERNATIVE ACTION(S):

If your Board is able to make the required Findings for granting approval of Variance Application (VA) No. 4181, then adoption of the Negative Declaration prepared for Initial Study (IS) No. 8658 (Attachment E) 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), any additional conditions your Board determines appropriate, and the additional conditions related to indemnification and compliance with the approved Site Plan.

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 \$8,199 in land use processing fees to the County for the processing of the Variance Application and IS and is included as Exhibit B of Attachment A. The Appellant paid \$555 in fees to appeal the Planning Commission's denial.

DISCUSSION:

The proposal is to allow the creation of two 2.55-acre parcels where 20-acres is required, from an existing 5.09-acre parcel located in the AL-20 (Limited Agricultural, 20-acre minimum) Zone Districts with a mapping procedure to follow. The Planning Commission Staff Report (Attachment B) dated August 14, 2025, includes background information about the proposal.

Pursuant to Zoning Ordinance Article 5, Chapter 860.5, the following four 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 August 14, 2025 hearing, the Planning Commission considered the Department's Staff report (Attachment B), Staff's presentation, testimony from the Applicant/Owner, the Applicant/Owner's representative, the Applicant/Owner's hydrogeologist, and testimony from an individual opposing the project. It should be noted that Staff, in its report to the Planning Commission, was unable to recommend making Finding Nos. 1, 2 and 4 as required for approval of a Variance.

After Staff's presentation, the Applicant/Owner's representative made statements to support making Findings Nos. 1, 2 and 4 (Attachment A). The representative cited Exhibit 7 of the Staff Report to support making the Findings (Attachment F). The Applicant/Owner spoke about the intent of the project. The Applicant/Owner's hydrogeologist answered questions about the project's impact on the water supply of the area. A letter of opposition was received via email the morning of the hearing and copies of the letter were printed and provided to the Planning Commission during the hearing (Attachment G). The letter provides the opponent's view on the limitations which would prohibit the Planning Commission from making the required variance Findings, citing specifically Public Resources Code § 65906 regarding variances in State law. The letter discusses Department Staff's inability to make the required Findings and that the burden of proof to support those Findings falls to the Applicant. The letter disagrees with statements made by the Applicant that the subject property is within an area evaluated, and in 2024, ultimately redesignated by the Board for smaller parcel sizes. The letter also requests that the Planning Commission articulate its ability to make the variance Findings should they move to approval.

The individual who submitted the opposition letter spoke to the Planning Commissioners regarding the reasons why the project should not be approved as outlined in his letter and referenced the letter in his testimony. The speaker reiterated the position that should the Planning Commission make the Findings for approval, they must clearly state their reasoning including what unique circumstances exist to make the Findings to support an approval action.

After considering Staff's report/presentation, the Applicant/Owner's testimony and the opposing individual's testimony, the Planning Commission concurred with Staff's recommendation; a motion was made to adopt Staff's recommendation to deny VA No. 4181 based on the inability to make the required Findings Nos. 1, 2 and 4.

On August 22, 2025, the Applicant/Owner filed an appeal of the Planning Commission's decision to deny VA No. 4181 (Attachment C).

If your Board is able to make the required Findings for granting approval of VA No. 4181, then adoption of the Negative Declaration prepared for IS No. 8658 (Attachment E) 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 two years from the date of your Board's approval unless a mapping application to create the parcel is filed. Where circumstances beyond the control of the applicant cause delays, the Planning Commission may grant a maximum of two one (1)-year extensions of time.

If your Board approves the request, Staff recommends that the following indemnification and Site Plan compliance conditions be included in your motion:

- 1) *The Applicant shall enter into an agreement indemnifying the County for all legal costs associated with its approval of VA No. 4181 and IS No. 8658 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.*
- 2) *Development shall be in substantial compliance with the Site Plan as approved by the Board.*

If your Board is unable to make the required Findings for granting VA No. 4181, a motion to deny the appeal and deny the Variance would be appropriate.

California Environmental Quality Act (CEQA):

IS No. 8658 was prepared for VA No. 4181 to address the potential environmental impacts associated with the proposed creation of the substandard parcels. The IS concluded that these actions would not result in a significant impact on the environment and that adoption of a Negative Declaration would be appropriate.

ATTACHMENTS INCLUDED AND/OR ON FILE:

Attachments A - G

CAO ANALYST:

Maria Valencia