



Board Agenda Item 15

DATE: May 1, 2018

TO: Board of Supervisors

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

SUBJECT: Variance Application No. 4039 (Appellant/Applicant: Iulia Vorobchevici)

RECOMMENDED ACTION(S):

1. **Consider appeal of the Planning Commission's approval of Variance Application No. 4039 proposing the creation of two five-acre parcels from an existing 10-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District, appeal specifically requests removal of a road improvement condition; and**
2. **Determine that the required Findings specified in Fresno County Ordinance Code Section 877 can or cannot be made for approval or denial of the Variance request.**

The project site is located on the south side of E. Reno Road, approximately 700 feet west of Auberry Road, approximately one mile northeast of the nearest city limits of the City of Fresno (12789 Auberry Road) (APN 580-010-24).

This item comes before the Board on appeal of the Planning Commission's approval of the subject application (7 to 0, with two Commissioners absent) at its February 15, 2018, Hearing. The Appellant/Applicant is appealing Condition of Approval No. 2, requiring that a segment of Reno Road across the proposed parcel frontages be improved to an A-15 Standard up to Auberry Road. 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, modified conditions, or denied. Thus, denial of the appeal or denial of the land use request in its entirety are possible actions for the Board. 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 the Board is able to make the required Findings for granting Variance Application No. 4039 with all Conditions of Approval as approved by the Planning Commission, a motion to deny the appeal and uphold the Planning Commission's decision, including the road improvements condition for Reno Road, stating, the basis for making the Findings and articulating the manner in which the Findings can be made, would be appropriate.

FISCAL IMPACT:

Pursuant to the County's Master Schedule of Fees, the Appellant/Applicant has paid \$6,673 in land use processing fees to the County for the processing of the Variance Request. The Appellant/Applicant also paid \$508 in fees to appeal the Planning Commission's approval.

DISCUSSION:

An appeal was filed by the Appellant/Applicant on February 16, 2018. The appeal document stated that the Appellant/Applicant was appealing the Conditions of Approval for the Variance, specifically Condition No. 2, requiring improvements to Reno Road.

The subject parcel is generally square in shape and the proposed new property line runs north to south through the center of the parcel. There are currently two residential structures on the property. With the division of the property, each parcel will have one residence.

Pages three through six of the Planning Commission Staff Report dated February 15, 2018 (Attachment B) includes discussion of permit activity related to the subject property and history regarding variances approved within the vicinity. Regarding the existing residences on the subject property, a Director Review and Approval (DRA) was required when the second residential unit was constructed in 2015, however, the DRA Application was not completed and filed by the Appellant/Applicant (property owner). If the Variance is denied by the Board, the Appellant/Applicant will be required to complete the DRA, convert the second residence to a non-residential use, or remove the second residence. If this Variance application is approved, the DRA will no longer be necessary, since each existing residence will be located on a separate parcel.

In order for the Board to approve Variance Application No. 4039, pursuant to County Zoning Ordinance Section 877, all 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.*
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 February 15, 2018, the Planning Commission considered staff's presentation and testimony from the Appellant/Applicant's representative who stated his disagreement with staff's recommendation, reaffirming his belief the findings could be made, and stating that the map presented of the area does not accurately depict its residential density. The Appellant/Applicant was present at the hearing, but did not speak to the Commission regarding her Variance request. No one spoke in opposition to the request; however, one letter of opposition expressing concerns about increasing residential density in a water-short area was received by staff and provided to the Commission (Attachment C). After the Planning Commission considered public testimony, a motion was made to approve the application and to make the required Variance Findings.

The Reno Road neighborhood has been subject of other variance requests including parcels adjacent the Appellant/Applicant's property. For Variance Application No. 3932 (immediately to the west of the Appellant/Applicant's property), approved by the Planning Commission in 2013, the subsequent Parcel Map was conditioned to improve Reno Road to an A-15 Standard from the property frontage to Auberry Road. In 2017, Variance Application No. 4025 (immediately east of the Appellant/Applicant's property) was filed and ultimately approved by the Board in on appeal. That Variance was also conditioned to improve Reno Road to the A-15 Standard from the property frontage to Auberry Road.

Reno Road is maintained through County Service Area (CSA) 35, Zone AJ. At a February 2018 community meeting, neighborhood property owners shared concerns about the deteriorating condition of Reno Road with County staff. Neither the Appellant/Applicant's property nor the two adjacent properties have annexed to CSA 35, Zone AJ, and therefore do not participate in the Reno Road maintenance costs.

The Appellant/Applicant's requirement to improve Reno Road as a Condition of Approval, which other applicants are subject to, can be a shared cost amongst all the applicants. Staff supports the road improvement condition and recommends the Board deny the Appellant/Applicant's appeal, and uphold the Planning Commission's approval of Variance Application No. 4039 with no modification to the conditions.

1. If the Board is able to make the required findings for granting approval of Variance Application No. 4039, with all Conditions of Approval as approved by the Planning Commission, a motion to deny the appeal and uphold the Planning Commission's decision, including the Reno Road improvement condition, stating the basis for making the Findings and articulating the manner in which such of the Findings can be made, would be appropriate.
2. If the Board is unable to make the required findings for granting Variance No. 4039, a motion to deny the Variance and overturn the Planning Commission's decision would be appropriate.

If the Board approves Variance Application No. 4039, with modified Conditions of Approval removing the road improvement condition, staff recommends inclusion of an additional Condition of Approval requiring the following:

- *The Appellant/Applicant shall enter into an agreement indemnifying the County for all legal costs associated with its approval of Variance Application No. 4039.*

REFERENCE MATERIAL:

BAI #9, November 14, 2017
BAI #10, June 3, 2014

ATTACHMENTS INCLUDED AND/OR ON FILE:

Attachments A - C

CAO ANALYST:

Sonia M. De La Rosa