



Board Agenda Item 5

DATE: January 26, 2021

TO: Board of Supervisors

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

SUBJECT: Appeal Planning Commission denial of Variance Application No. 4084
(Applicant: C&A Farms, LLC, Appellant for Applicant Jeffrey T. Roberts)

RECOMMENDED ACTION(S):

Consider appeal of the Planning Commission's denial of Variance Application No. 4084 proposing to allow the creation of a 1.18-acre parcel from an existing 40.00-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

The project site is located on the west side of South Rolinda Avenue, approximately one-quarter mile south of its intersection with West Jensen Avenue, and approximately four and one half-miles east of the nearest city limits of the City of Fresno (2253 S. Rolinda Avenue) (SUP. DIST. 1) (APN 025-041-37S).

This item comes before your Board on appeal of the Planning Commission's denial of the subject application (4 to 3, with two Commissioners absent) at its November 19, 2020 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 included as Attachment A. This item pertains to a location in District 1.

ALTERNATIVE ACTION(S):

If your Board is able to make the required findings for granting Variance No. 4084; your Board should make a motion to reverse the Planning Commission's denial, citing in its motion the ability to make the findings and articulate how the required findings can be made. In conjunction your Board should also adopt the proposed Negative Declaration prepared based upon Initial Study (IS) No. 7811 and approve Variance Application No. 4084 subject to the attached Conditions of Approval.

FISCAL IMPACT:

There is no Net County Cost associated with the recommended action. Pursuant to the County's Master Schedule of Fees, the Applicant has paid \$ 7,793.00 in land use processing fees to the County for the processing of the Variance Request. The Appellant on behalf of the Applicant also paid \$508 in fees to appeal the Planning Commission's denial.

DISCUSSION:

The Applicant/Appellant are requesting this variance to waive the minimum lot size requirements to allow the

creation of a 1.18-acre parcel from an existing 40.00-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District. In his statements to the Planning Commission, the applicant's representative stated that the property is involved in a contractual agreement for the sale of the agricultural balance of the property.

The Planning Commission Staff Report (Attachment B) dated November 19, 2020 includes information about the proposal and additional information regarding variances approved within the vicinity.

In order for your Board to approve Variance No. 4084, 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 November 19, 2020, the Planning Commission considered Staff's presentation and testimony from the applicant's representative. It should be noted that staff, in its recommendation to the Commission, was unable to make Findings one, two, and four. After the Planning Commission considered the testimony, a motion was made to deny the application based on the inability to make the required Variance Findings.

An appeal was filed by the Applicant on November 23, 2020. The appeal stated that the Commissioners in attendance were divided on Findings one and two, and had all Commissioners been present the outcome may have been approval.

The subject property is currently restricted by Williamson Act Contract No. 3342. The proposed 1.18-acre parcel does not qualify to remain in the Williamson Act Contract; therefore, the Applicant was required to file a petition for partial non-cancellation of Contract No. 3342. A petition was filed by the Applicant on March 19, 2020. At its meeting of September 9, 2020, the Agricultural Land Conservation Committee recommended that the Board of Supervisors deny the cancellation petition. The cancellation item is scheduled to be heard by your Board following this land use appeal.

If your Board determines that the required Variance Findings cannot be made, a motion to deny the appeal upholding the Commission's decision would be appropriate. If your Board determines that the required Variance Findings can be made, a motion would be appropriate stating that the Board is adopting the Negative Declaration prepared for the project (Attachment C) based on IS 7811, and state the manner in which the four required Variance Findings can be made and approve Variance No. 4084, subject to the conditions listed in the Staff Report to the Planning Commission (Attachment D) and any additional conditions your Board determines appropriate.

Should your Board act to approve the project, staff recommends inclusion of an additional Condition of Approval requiring the following:

- *The Applicant shall enter into an agreement indemnifying the County for all legal costs associated with its approval of Variance Application No. 4084.*

ATTACHMENTS INCLUDED AND/OR ON FILE:

Attachments A - D

CAO ANALYST:

Samantha Buck