Legislation Details (With Text)

File #:	21-1072	**Name:**	Appeal of Planning Commission's Denial of Variance Application No. 4106, (Applicant/Appellant: Brenda Ramirez)
		In control:	Public Works & Planning
On agenda:	11/2/2021	**Final action:**	11/2/2021
Enactment date:		**Enactment #:**	

Title: Consider appeal of Planning Commission's denial of Variance Application No. 4106, proposing to allow a 75-foot-tall (35 feet maximum permitted) sign, 300 square-feet (150 square-feet permitted) in area, on 3.97-acres in the C-2 (Community Shopping Center) Zone District located on east side of N. McCall Avenue approximately 400 feet north of Highway 180 on Kings Canyon Road (frontage road), and approximately two miles northwest of City of Sanger (APN 314-120-66) (10070 E. Kings Canyon Road); and if your Board desires to grant Appeal and overturn Planning Commission's denial of Variance Application No. 4106, it would be appropriate to: a. Make required Findings specified in Section 877(A) for approval of Variance Application No. 4106 stating basis for making four required findings; and b. approve Variance Application No. 4106, with Conditions of Approval contained within Staff Report to Planning Commission

Sponsors:

Indexes:

Code sections:

Attachments: 1. Agenda Item, 2. Attachments A - D, 3. Additional Information

Date	Ver.	Action By	Action	Result
11/2/2021	1	Board of Supervisors	approved as amended	Pass

DATE: November 2, 2021

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. 4106, (Applicant/Appellant: Brenda Ramirez)

RECOMMENDED ACTION(S):

1. **Consider appeal of Planning Commission's denial of Variance Application No. 4106, proposing to allow a 75-foot-tall (35 feet maximum permitted) sign, 300 square-feet (150 square-feet permitted) in area, on 3.97-acres in the C-2 (Community Shopping Center) Zone District located on the east side of N. McCall Avenue approximately 400 feet north of Highway 180 on Kings Canyon Road (frontage road), and approximately two miles northwest of the City of Sanger (APN 314-120-66) (10070 E. Kings Canyon Road); and**

2. **If your Board desires to grant the Appeal and overturn the Planning Commission's denial of Variance Application No. 4106, it would be appropriate to:**

   a. **Make the required Findings specified in Section 877(A) for approval of Variance Application No.**

4106 stating the basis for making the four required findings; and

b. Approve Variance Application No. 4106, with Conditions of Approval contained within the Staff Report to the Planning Commission.

This item comes before your Board on appeal of the Planning Commission's denial of the subject application (4 to 2, with three Commissioners absent) at its August 12, 2021 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 5.

ALTERNATIVE ACTION(S):

Your Board may reject the appeal and uphold the Planning Commission's denial of Variance Application No. 4106.

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 $6,426.00 in land use processing fees to the County for the processing of the Variance Request. The Appellant/Applicant also paid $508.00 in fees to appeal the Planning Commission's denial.

DISCUSSION:

The Applicant/Appellant, in their submitted appeal is requesting to revise their original request as presented to the Commission by reducing the overall height of the sign from 75 feet to 55 feet, with 300 square feet of sign area, where a maximum height of 35 feet and 150 square feet of sign area is permitted.

The Planning Commission Staff Report (Attachment B) dated August 12, 2021 includes detailed information about the original proposal.

Pursuant to Zoning Ordinance Section 877(A), to approve a Variance, 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 August 12, 2021, the Planning Commission considered Staff's presentation and testimony from the applicant's representative. 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 consistent with the staff report. It should be noted that Staff, in its recommendation to the Commission, was unable to make Findings one and two. The Planning Commission denied the application on a vote of 4 to 2 with three Commissioners absent.

An appeal was filed by the Applicant/Appellant on August 12, 2021, requesting to revise the original Variance request from a 75-foot-tall sign to a 55-foot-tall sign and seek approval of the application. A subsequent letter from the appellant in support of the appeal was latter submitted and is included as Attachment C.

If your Board is able to make the required Variance Findings for granting Variance Application No. 4106, a motion to uphold the appeal and approve the project (stating the manner in which the four Findings can be made) would be appropriate subject to the conditions listed in the Staff Report and any additional conditions your Board determines appropriate. For reference a copy of the conditions of approval are also attached as Attachment D.

If your Board is unable to make the required Findings for granting Variance Application No. 4106, a motion to deny the appeal and deny the Variance would be appropriate.

ATTACHMENTS INCLUDED AND/OR ON FILE:

Attachments A - D

CAO ANALYST:

Ron Alexander

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