



County of Fresno

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Legislation Text

File #: 17-1337, **Version:** 1

DATE: November 14, 2017

TO: Board of Supervisors

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

SUBJECT: Initial Study Application No. 7160; Variance Application No. 3998 (Appellant/Applicant: Ceres Management Group)

RECOMMENDED ACTION(S):

- 1. Consider appeal of the Planning Commission's denial of Variance Application No. 3998 proposing to allow creation of a 1.5-acre parcel from an existing 18.86-acre parcel (20-acre gross; remaining 17.36-acre parcel to be combined with a 39.49-acre parcel) in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.**
- 2. Consider adoption of Negative Declaration prepared for Initial Study Application No. 7160.**
- 3. Determine whether the Required Findings specified in Fresno County Ordinance Code Section 877.A can be made for approval of a Variance and articulate for the record the manner in which the Findings are met.**

The project site is located on the northeast corner of E. South and S. Alta Avenues, approximately two miles east of the City of Reedley (22212 E. South Avenue, Reedley, CA) (SUP. DIST. 4) (APN 373-070-50 & 87S).

This item comes before the Board on appeal of the Planning Commission's denial of the subject application (5 to 2, with two Commissioners absent) at its September 21, 2017 Planning Commission 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 attached as Attachment A.

ALTERNATIVE ACTION(S):

If the Board is able to make the required findings for granting Variance Application No. 3998, a motion to uphold the appeal and overturn the Planning Commission's decision, stating the basis for making the findings and articulating the manner in which each of the Findings can be made, would be appropriate.

FISCAL IMPACT:

Pursuant to the County's Master Schedule of Fees, the Applicant has paid \$6,707 in land use processing fees to the County for the processing of the Variance Request. The Applicant also paid \$508 in fees to appeal the Planning Commission's denial.

DISCUSSION:

This proposal involves a Variance request to allow the creation of a 1.5-acre parcel and a 17.36-acre parcel from an existing 18.86-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District with the 17.36-acre balance of the 18.86-acre parcel to be combined with a northerly adjacent 39.49-acre parcel zoned AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) resulting in the creation of a 56.85-acre parcel.

Pages 4 and 5 of the Planning Commission Staff Report, dated September 21, 2017, (Attachment B) include a discussion of rezoning activity related to the subject property and additional history regarding variances approved within the vicinity. Also, as indicated on Page 4 of the Staff Report, the Applicant would like to sell the 1.5-acre homesite parcel and combine the 17.36-acre balance of the subject parcel with the adjacent 39.49-acre parcel through a property line adjustment to continue the farming operation. A Property Line Adjustment (PLA) application to adjust the property lines between the parcels has been filed with the County.

As a point of information, the project site is currently restricted by Williamson Act Contract No. 3726. The proposed 1.5-acre homesite parcel is not a compatible use on the subject 18.86-acre parcel enrolled in the Williamson Act program. Therefore, the Applicant filed a petition for cancellation of Contract No. 3726 for the 1.5-acre portion of the 18.86-acre parcel in April 25, 2017. Since the remaining 17.36 acres did not meet the minimum 20-acre parcel size requirement to remain enrolled in the Program, the applicant proposed to merge the remaining 17.36 acres with an adjoining 39.49-acre parcel that is also enrolled in the Williamson Act Program to create a 56.85-acre parcel exceeding the minimum contract parcel size of 20 acres for Prime Farmland. The Agricultural Land Conservation Committee heard the cancellation petition on May 3, 2017, and recommended approval of the petition to the Board of Supervisors provided that the applicant merge the remaining 17.36 acres with an adjoining 39.49-acre parcel to create a 56.85-acre parcel. This mapping process must occur prior to consideration of cancellation petition for the 1.5-acre portion of the 18.86-acre parcel by the Board. As such, if the Variance application is approved by the Board, the cancellation petition will be presented to the Board at a later date upon completion of the mapping process.

In order for the Board to approve Variance Application No. 3998, 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 September 21, 2017, the Planning Commission considered staff's presentation and testimony from the property owner and his representative. After the Planning Commission considered public testimony, a motion was made to deny the application based on the inability to make the required Variance Findings 1 and 4. A copy of the September 21, 2017 Planning Commission Staff Report is attached as Attachment B.

An appeal was filed by the Applicant on October 3, 2017. The appeal document stated that the required Variance Findings can be made. Further, the document states that the project is consistent with the General Plan and is not detrimental to agriculture.

If the Board is able to make the required findings for granting approval of Variance Application No. 3998, a motion to uphold the appeal and approve the project would be appropriate, stating in its motion to approve the manner in which the four required Variance Findings can be made, subject to the conditions listed in the Staff Report and any additional conditions the Board determines appropriate, and adopt the Negative Declaration prepared for Initial Study No. 7160 attached as Attachment C. For reference, a copy of the Conditions of Approval are also attached as Attachment D to this Agenda Item.

If the Board is unable to make the required Variance Findings for granting Variance Application No. 3998, a motion to deny the appeal and deny the project would be appropriate.

ATTACHMENTS INCLUDED AND/OR ON FILE:

Attachments A - D

CAO ANALYST:

John Hays