



Board Agenda Item 9

DATE: June 24, 2025

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. 4138 and Initial Study No. 8285 (Applicant/Appellant: Melissa Holtermann)

RECOMMENDED ACTION(S):

Consider appeal of the Planning Commission's denial of Variance Application No. 4138 proposing to allow the creation of a 2.0-acre parcel and an 18.0-acre parcel, from an existing 20-acre parcel, in the AE-20 (Exclusive Agricultural, 20-acre Minimum Parcel Size) Zone District; and

If your Board desires to grant the Appeal and overturn the Planning Commission's denial of Variance Application No. 4138, it would be appropriate to:

- 1. Adopt the Negative Declaration prepared for the project based on Initial Study No. 8285;**
- 2. Make the required Findings specified in Section 860.5.060.D for approval of a variance stating the basis for making the four required findings; and**
- 3. Approve Variance Application No. 4138, with Conditions of Approval contained within the Staff Report to the Planning Commission.**

The subject parcel is located on the east side of N. Biola Avenue, south of W. Ashlan Avenue, approximately 4 miles northeast of the City of Kerman (APN: 016-110-07) (3488 N. Biola Avenue) (Sup. Dist. 1)

This item comes before your Board on appeal of the Planning Commission's denial (5 to 1 with two Commissioners absent and one Commissioner vacancy) at its February 13, 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 1.

ALTERNATIVE ACTION(S):

If your Board is able to make the required Findings for granting Variance Application No. 4138 (VA), a motion to uphold the appeal and overturn the Planning Commission's decision, stating the basis for making the Findings and adopt the Negative Declaration prepared for the project based on Initial Study No. 8285 would be appropriate.

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 \$7,413 in land use processing fees to the County for the processing of the Variance Request and Initial Study. The Appellant paid \$508 in fees to appeal the Planning Commission's denial.

DISCUSSION:

The proposal is to allow the creation of a 2.0-acre parcel and an 18.0-acre parcel, from an existing 20-acre parcel, in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District. The Planning Commission Staff Report (Attachment B) dated February 13, 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 February 13, 2025 hearing, the Planning Commission considered the Department's Staff report, presentation, and testimony from the Applicant/Owner's representative. The presentation submitted by the Applicant to the Planning Commission is attached to this agenda item as Attachment F. This presentation contains the Applicant's updated responses to the four required Variance Findings and an assessor's map that highlights the project's location. It was slightly revised and included with their appeal application as well. It should be noted that staff, in its report to the Commission, was unable to recommend making Finding Nos. 1, 2, and 4 required for approval of a variance. The Commission concurred with Staff's recommendation; a motion was made to adopt staff's recommendation to deny Variance Application No. 4138 based on the inability to make the required findings.

On February 26, 2025, the Appellant filed an appeal of the Planning Commission's denial. The appeal document (Attachment C) asserts that one Commissioner was able to make all necessary findings, and therefore, requests your Board to do the same. The Appellant also reiterates the two objectives for this variance application, to sell the proposed 2.0-acre parcel to the family residing at the residence on site and to help the property owner, GSW Farms, pay down their debt.

Staff notes that the Applicant has filed a Williamson Act Cancellation with the Policy Planning Unit for processing of Revision to Land Conservation Contract (RLCC) No. 1051 and that cancellation will be brought before your Board for a decision should the appeal be upheld and the Variance approved.

If your Board is able to make the required Findings for granting approval of VA No. 4138, a motion to uphold the appeal, approve the variance, and adopt the Negative Declaration prepared for Initial Study No. 8285 (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 Commission may grant a maximum of two one (1) -year extensions of time.

If your Board is unable to make the required Findings for granting VA No. 4138, a motion to deny the appeal and deny the variance would be appropriate.

CEQA:

Initial Study Application No. 8285 was prepared for Variance Application No. 4138 and its associated Williamson Act Cancellation petition to address the potential environmental impacts associated with the proposed creation of the substandard parcels and their removal from the Williamson Act. The Initial Study 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 - F

CAO ANALYST:

Maria Valencia