



Board Agenda Item 9

DATE: May 19, 2026

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. 4180
(Applicant/Appellant: D.A. Real Estate Holdings)

RECOMMENDED ACTION(S):

1. **Consider appeal of the Planning Commission's denial of Variance Application No. 4180 proposing to allow the creation of a 2.7-acre parcel, a 3.8-acre parcel, a 4.3-acre parcel, and a 7.44-acre parcel from an existing 16.53-acre parcel located in the AE-20 (Exclusive Agricultural, 20-acre minimum) Zone District; and**
2. **If your Board chooses to grant the appeal and overturn the Planning Commission's denial of Variance Application No. 4180, it would be appropriate to:**
 - A. **Make the four required Findings specified in Section 860.5.060.D of the Fresno County Zoning Ordinance for approval of a variance stating the basis for making those findings; and**
 - B. **Approve Variance Application No. 4180, with Conditions of Approval including an additional indemnification condition, as recommended by Staff.**

The subject parcel is located on the north side of Biglione Dr., approximately 0.2-miles west of Auberry Rd., and approximately 1.3 miles northeast from the City of Clovis (APN: 300-320-10S) (Sup. Dist. 5).

There is no increase in Net County Cost associated with the recommended action, which will allow your Board to consider the appeal of the Planning Commission's technical denial (3 to 3, with three commissioners absent) at its March 12, 2026 hearing. Department Staff notes that the Zoning Ordinance requires your Board to determine, independently of 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):

If your Board is unable to make the required Findings for granting approval of Variance Application (VA) No. 4180, a motion to deny the appeal and deny the variance would be appropriate.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended actions. Pursuant to the County's Master Schedule of Fees, the Applicant/Owner has paid \$6,844 in land use processing fees to the

County for the processing of the variance request, as reflected in Exhibit B of Attachment A. The Applicant/Appellant paid \$555 in fees to appeal the Planning Commission's denial.

DISCUSSION:

The proposal would allow the creation of four substandard-sized parcels from an existing 16.53-acre parcel located in the AE-20 Zone District with a mapping procedure to follow if approved. The Planning Commission Staff Report (Attachment B) dated March 12, 2026, includes background information about the proposal.

Pursuant to Zoning Ordinance Article 5, Chapter 860.5, the following four Variance 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.*

The subject parcel is situated approximately 1,200 feet north of the Reno Road/Willow Bluff Five Acre Rural Residential designation area. General Plan Policy LU E.24 was adopted as part of the comprehensive General Plan Review on February 20, 2024, and was subsequently amended on August 20, 2024, at the direction of the Board of Supervisors to incorporate an additional approximately 18-acre parcel.

It is important to note that the parcel associated with this variance application lies outside the Reno Road/Willow Bluff Five Acre Rural Residential designation area. Additionally, the pre-application for this variance was submitted on April 4, 2024, and the formal variance application was submitted on October 14, 2024 following the 2024 update to the General Plan.

VA No. 4180 was first heard by the Planning Commission on February 26, 2026. At that hearing, staff presented the item, and two letters of support were received, which are included in Attachment B as Exhibit 8, along with testimony from the applicant and the applicant's engineer. The applicant agreed to continue the hearing to March 12, 2026, to allow additional time for staff and the applicant to address outstanding Commission questions, including verification of the Hydro Study results, clarification of the proposed shared well agreement, and availability of the hydrogeologist who prepared the study.

At the March 12, 2026 hearing, the Planning Commission considered staff's report and presentation, along with testimony from the property owner, and the applicant's hydrogeologist, and one individual in opposition to the request. The property owner submitted aerial images along with parcel site photos and updated Variance Findings addressing Variance Findings 1 and 2. The updated Findings and photos are attached as Attachment E. For Finding 1, the owner stated that the parcel contains steep terrain and that a drainage corridor along the eastern project area limits usable land by creating a physical barrier across the property. For Finding 2, the owner explained that the request is consistent with other variances approved in the surrounding area and that approval would promote uniformity and consistency in local land use patterns.

The applicant's hydrogeologist spoke and stated that the Hydro Study was based on a continuous 72-hour pump test, during which 131,200 gallons of water were extracted at an average rate of 30.8 gallons per minute, concluding that the site has an adequate groundwater supply. The individual in opposition then

stated that previous variances do not establish precedent for new applications and that a rezone would have been the appropriate process for the applicant's request.

After consideration, testimony, a motion was made and seconded to approve the variance and to determine that the required Findings could be made. Following the second, the Planning Commission had additional discussion, after which the Planning Commission Chair called for a roll-call vote. The vote resulted in a 3-3 vote. The tie vote constituted a technical denial, thereby upholding staff's recommendation to deny VA No. 4180. The Applicant filed an appeal on March 12, 2026, asserting disagreement with the Planning Commission's conclusion regarding the required Findings.

If your Board is able to make the required Findings for granting approval of VA No. 4180, it would be appropriate (to state in your motion the manner in which the four required Variance Findings can be made) subject to the recommended Conditions of Approval (Attachment D) and any additional conditions your Board determines appropriate with the additional condition for indemnification.

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 parcels is filed. Where circumstances beyond the control of the applicant cause delays, the Applicant may file a time extension to be presented to the Planning Commission.

Staff recommends that if your Board approves the request, the following indemnification condition be included in your motion:

The Applicant shall enter into an agreement indemnifying the County for all legal costs associated with its approval of VA No. 4180 and provide security in an amount determined by the County for any such legal costs incurred. The agreement and payment of security shall be due unless the litigation period has expired, in which case the requirements for the indemnification agreement and security shall be considered null and void.

If your Board is unable to make the required Findings for granting VA No. 4180, a motion to deny the appeal and deny the variance would be appropriate.

California Environmental Quality Act (CEQA):

It has been determined pursuant to Article 5: Review for Exemption, Section 15061(b)(3) of the California Environmental Quality Act (CEQA) guidelines: The activity is covered by the common-sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

ATTACHMENTS INCLUDED AND/OR ON FILE:

Attachments A-E

CAO ANALYST:

Maria Valencia