



Inter Office Memo

DATE: March 9, 2023
TO: Board of Supervisors
FROM: Planning Commission
SUBJECT: RESOLUTION NO. 12976 – VARIANCE APPLICATION NO. 4143

APPLICANT: Peter Moua

OWNER: Susan Peron

REQUEST: Allow the creation of a five acre parcel and a 13.61-acre parcel, from an existing 18.61-acre parcel, in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

LOCATION: The subject parcel is located at the northeast corner of Maple Avenue and South Avenue, approximately 2.6 miles west of the nearest city limits of the City of Fowler (APN: 335-110-48) (7870 S. Maple Ave.) (Sup. Dist. 5).

PLANNING COMMISSION ACTION:

At its hearing of March 9, 2023, the Commission considered the Staff Report and testimony (summarized in Exhibit A).

A motion was made by Chairman Abrahamian and seconded by Commissioner Zante to determine that Variance Finding Nos. 1 and 2 could be made as the shape of the parcel and location of the high-speed rail line constituted as an extraordinary circumstance and creating the parcel will allow for the right to utilize the property for its intended purpose. Finding No. 3 could be made, as described in the staff report. Finding No. 4 could be made as the applicant intends on using the newly created parcels for farming; and moved to approve Variance No. 4143 subject to the Conditions of Approval and Project Notes listed in Exhibit B.

This motion passed on the following vote:

VOTING:	Yes:	Commissioners Abrahamian, Zante, Arabian, Carver, Ewell, and Hill
	No:	None
	Absent:	Commissioners Chatha and Woolf
	Abstain:	None

STEVEN E. WHITE, DIRECTOR
Department of Public Works and Planning
Secretary-Fresno County Planning Commission

By: 

William Kettler, Manager
Development Services and Capital Projects Division

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Notes: The approval of this project will expire one year from the date of approval unless a mapping application is filed in accordance with the requirements of the County Ordinance. When circumstances beyond the control of the applicant do not permit compliance with this time limit, the Commission may grant an extension not to exceed one additional year. Application for such extension must be filed with the Department of Public Works and Planning before the expiration of the Variance.

Attachments

EXHIBIT A

Variance Application No. 4143

Staff: The Fresno County Planning Commission considered the Staff Report dated March 9, 2023 and heard a summary presentation by staff.

Representative: The applicant disagreed with the Staff's recommendation. He stated the Findings could be made and offered the following information to clarify the intended use:

- The unusual circumstance is based on the parcel being already substandard based upon what was permitted in the 1960's.
- The City of Fresno's General Plan is anticipating residential growth east of the subject parcel; we anticipate this area to be rezoned in the future for residential development.
- The parcel is not economical for farming as it is substandard in size.
- Other alternatives such as applying for a secondary residence Director Review and Approval are not as desirable as using a variance process.
- Our desire is to separate the subject parcel to be given to a family members.
- Finding No. 1 presents an unusual circumstance as it is surrounded by many substandard parcels of which do not conform to the twenty-acre parcel size minimum; in addition, the project and the surrounding area is negatively affected by the high-speed rail.
- Finding No. 2 can be made due to surrounding properties in the same zoning classification having one-acre and two-acre sized parcels.
- Finding No. 4 can be made as the project conforms to the City of Fresno's Southeast Development Plan Area for Neighborhood Residential, of which is anticipated to be annexed into the City of Fresno at a later date; in the interim, the subdivided land will continue to be used for agricultural purposes: with the subdivision in place, the parcels will continue to operate in an agricultural capacity.

Others: No individuals presented information in support of or in opposition to the proposal.

Correspondence: No letters were presented to the Planning Commission in support of or in opposition to the application.

Variance Application (VA) No. 4143
 Conditions of Approval and Project Notes

Conditions of Approval	
1.	Division of the subject parcels shall be in substantial accordance with the site plan (Exhibit 6) as approved by the Planning Commission.
2.	Setbacks for new construction shall be based on the ultimate right-of-way.

Conditions of Approval reference required Conditions for the project.

Notes	
The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.	
1.	Division of the subject property is subject to the provisions of the Fresno County Parcel Map Ordinance. A Parcel Map Application shall be filed to create the three proposed parcels. The Map shall comply with the requirements of Title 17.72.
2.	The approval of this Variance will expire one year from the date of approval unless the required mapping application to create the parcels is filed in substantial compliance with the Conditions and Project Notes and in accordance with the Parcel Map Ordinance.
3.	It is recommended that the applicant consider having the existing septic tanks pumped and have the tanks and leach lines evaluated by an appropriately licensed contractor if it has not been serviced and/or maintained within the last five years. The evaluation may indicate possible repairs, additions, or require the proper destruction of the system.
4.	Any new development of less than two acres or secondary dwelling may require a nitrogen loading analysis by a qualified professional, demonstrating to the Department of Public Works and Planning (Department) that the regional characteristics are such that an exception to the septic system density limit can be accommodated. The Department will refer any analysis to the Regional Water Quality Control Board, Central Valley Region for their concurrence and input. Any new sewage disposal systems that are proposed, shall be installed under permit and inspection by the Department of Public Works and Planning Building and Safety Section. Contact Department of Public Works and Planning at (559) 600-4540 for more information.
5.	At such time the applicant or property owner(s) decides to construct a new water well, the water well contractor selected by the applicant will be required to apply for and obtain a Permit to Construct a Water Well from the Fresno County Department of Community Health, Environmental Health Division. Please be advised that only those persons with a valid C-57 contractor's license may construct wells. For more information, contact the Water Surveillance Program at (559) 600-3357.

Notes

6.	As a measure to protect ground water, all water wells and/or septic systems that exist or have been abandoned within the project area should be properly destroyed by an appropriately licensed contractor.
7.	If approved, the subdivision will require that a Tentative Parcel Map be prepared in accordance with the Professional Land Surveyors Act, the Subdivision Map Act and County Ordinance. The Tentative Parcel Map application shall expire two years after the approval of said Tentative Parcel Map.
8.	Upon approval and acceptance of the Tentative Parcel Map and any Conditions imposed thereon, a Final Parcel Map shall be prepared and by a Professional Land Surveyor or Registered Civil Engineer authorized to practice Land Surveying, in accordance with the Professional Land Surveyors Act, the Subdivision Map Act and County Ordinance. Recordation of the Final Parcel Map shall take place within two years of the acceptance of the Tentative Parcel Map unless a Map extension is received prior to the expiration date of the approved Tentative Parcel Map. Failure to record the Final Parcel Map prior to the expiration of said Tentative Parcel Map may void the Parcel Map application.
9.	Prior to site development, all survey monumentation – Property Corners, Centerline Monumentation, Section Corners, County Benchmarks, Federal Benchmarks and Triangulation Stations, etc. - within the subject area shall be preserved in accordance with Section 8771 of the Professional Land Surveyors Act and Section 6730.2 of the Professional Engineers Act.
10.	Any existing or future access driveway should be set back a minimum of 10 feet from the property line.
11.	Any existing or future entrance gate should be set back a minimum of 20 feet from the road right-of-way line or the length of the longest truck entering the site and shall not swing outward.
12.	Any future work done within the Caltrans state highway right-of-way to construct a new driveway or improve an existing driveway will require an Encroachment Permit/Clearance from Caltrans.
13.	A grading permit/voucher is required for any future grading with this application.
14.	If the variance is approved, a parcel map application will have to be filed with Fresno County to affect the property division.

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