



Inter Office Memo

DATE: December 14, 2023
TO: Board of Supervisors
FROM: Planning Commission
SUBJECT: RESOLUTION NO. 13020 - VARIANCE APPLICATION NO. 4136

APPLICANT/
OWNER: Neng Vang and Blia Vue

REQUEST: Allow for the creation of a 2.24-acre, 2.79-acre, 13.53-acre, 2.39-acre, and a one-acre parcel from an existing 21.95-acre parcel; and waive the required 165 foot wide road frontage requirement for the 2.39-acre and one-acre parcel (165 feet of road frontage required for parcels less than five acres) in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

LOCATION: The subject parcel is located on the north side of McKinley Avenue, approximately 2.25 miles east of the nearest city limits of the City of Fresno (APN: 309-210-48 and 309-210-47) (9522 and 9520 E. McKinley Avenue) (Sup. Dist. 5).

PLANNING COMMISSION ACTION:

At its hearing of December 14, 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 determining that the required Variance Findings could be made, stating in their motion that Finding No. 1 could be made as the property is in an area with other substandard-sized parcels, and the existence of the separate ownership interest in the one-acre tax parcel creates an exceptional circumstance; Finding No. 2 could be made as the owners are entitled to develop their respective properties independently of each other; and the property is located in an area where there are a number of other substandard-sized parcels and a higher residential density; and Finding No. 4 could be made as the division of the property would not conflict with agriculture as it will continue to be farmed and does not present a substantial conflict with the General Plan's agricultural preservation policies. The Commission then moved to approve Variance No. 4136, subject to the Conditions of Approval listed in Exhibit B.

RESOLUTION NO. 13020

This motion passed on the following vote:

VOTING: Yes: Commissioners Abrahamian, Zante, Carver, Hill, and Quist

 No: None

 Absent: Commissioners Arabian, Chatha and Woolf

 Recused: None

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

By: 
 T.M. Chris W. Motta, Manager
 Development Services and Capital Projects Division

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NOTE: The approval of this project will expire one year from the date of approval unless an application for the required mapping procedure has been filed. 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. 4136

Staff: The Fresno County Planning Commission considered staff's report dated December 14, 2023 and heard a summary presentation by staff.

Applicant: The Applicant's representative disagreed with staff's recommendations, described the project, and offered the following information to clarify the intended use:

- We believed that the parcel in question was created by gift deed.
- According to our observations, there are approximately 39 parcels in the immediate area that are less than 20 acres in size.
- The staff report states that the City of Fresno does not support the project, but we disagree with that conclusion by the City due to the fact that the specific plan for the area has not yet been adopted.
- We believe that the existence of other substandard parcels in the area conveys a substantial property right to the applicant.
- We disagree with staff that this application conflicts with the County's General Plan.

Others: Two additional individuals presented information in support of the application.

One individual stated that they engage in specialty agriculture on the property and supply the farmers' market community. The requested variance to divide the property will allow those family members who help with the farming operation live on site.

A second individual stated that they live on the one-acre parcel and would like to legalize the parcel through this Variance.

Correspondence: Five letters were presented to the Planning Commission in support of the application.

EXHIBIT B
Variance Application (VA) No. 4136
Conditions of Approval and Project
Notes

Conditions of Approval	
1.	Division of the subject parcel shall be substantial conformance with the site plan (Exhibit 6) as approved by the Planning Commission.
2.	<p>Prior to approval of the required mapping procedure, the Applicant(s)/subdivider(s) shall record a document on the subject property incorporating the provisions of the County Right-of-to-Farm Notice (Ordinance Code Section 17.40.100).</p> <p><i>Fresno County Right-to-Farm Notice: "It is the declared policy of Fresno County to preserve, protect, and encourage development of its agricultural land and industries for the production of food and other agricultural products. Residents of property in or near agricultural districts should be prepared to accept the inconveniences and discomfort associated with normal farm activities. Consistent with this policy, California Civil Code 3482.5 (right to farm law) provides that an agricultural pursuit, as defined, maintained for commercial uses shall not become a nuisance due to a changed condition in a locality after such agricultural pursuit has been operations of three years."</i></p>
3.	McKinley Avenue currently has 60 feet of prescriptive right-of-way and an ultimate right-of-way of 60-feet, as per the Fresno County General Plan. Prior to approval of the final parcel map, the road right-of-way for McKinley Avenue must be perfected to 60 feet across the parcel frontage. Accordingly, the subdivider shall dedicate of 30 feet of road right-of-way across the subject parcel frontage as part of the required mapping process.
4.	A 60-foot-wide easement, as shown shall be recorded on the map for access to the proposed parcels including the remainder, from McKinley Avenue, as shown on the approved site plan.
5.	Prior to approval of the mapping procedure, all unpermitted structures on the subsequent parcels shall be permitted or removed, including the detached garage and any accessory structures, on the proposed 2.39-acre parcel.

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.	Variance 4136 shall become void if the parcels authorized by said Variance are not created within one (1) year after the granting of said Variance, or an application for the mapping procedure is not filed within one (1) year. However, in the case of a Variance for which a tentative or vesting map has been timely filed, expiration of said Variance shall be concurrent with the expiration date of the tentative or vesting map and may be extended in the same manner as said

Notes	
	map.
2.	Where circumstances beyond the control of the applicant cause delays, which do not permit compliance with the time limitation established in Section 877-D.2 (one year), the Commission may grant an extension of time for a period not to exceed an additional one (1) year period. Application for such extension of time must be set forth in writing the reasons for the extension and must be filed with the Department of Public Works and Planning, Development Services and Capital Projects Division before the expiration of the Variance.
3.	Division of the subject property shall be subject to the provisions of the Fresno County Parcel Map Ordinance and other applicable State regulation. The required mapping procedure shall be filed to create the proposed parcels. The subdivision shall comply with the requirements of Title 17.72 of the Fresno County Ordinance Code. The Fresno Subdivision Ordinance (County Ordinance Code, Title 17- Divisions of Land) provides that "Property access improvements associated with the division of the subject property are subject to the provisions of the Fresno County Subdivision Ordinance, including dedication, acquisition of access easement, roadway improvements, and roadway maintenance.
4.	Prior to site development, all survey monumentation; property corners, centerline monumentation, section corners, county benchmarks federal benchmarks and triangulation stations, etc. within the subject property shall be preserved in accordance with Section 8771 of the Professional Land Surveyors Act and Section 6730.2 of the Professional Engineers Act.
5.	An encroachment permit from the Fresno County Road Maintenance and Operations Division shall be required for any work proposed within the County Road right-of-way.
6.	Setbacks for new construction shall be based on the ultimate road right-of-way for McKinley Avenue, of 60-feet.

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County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING
STEVEN E. WHITE, DIRECTOR

March 13, 2024

Neng Vang and Blia Vue
9522 E. McKinley
Fresno, CA 93737

Dear Applicant:

Subject: Resolution No. 13020 – Variance Application No. 4136

On December 14, 2023 the Fresno County Planning Commission approved your above-referenced project. A copy of the Planning Commission Resolution is enclosed.

Since no appeal was filed with the Clerk to the Board of Supervisors within 15 days, the Planning Commission's decision is final.

If you have any questions regarding the information in this letter please contact Jeremy Shaw at jshaw@fresnocountyca.gov or 559-600-4207.

Sincerely,

Jeremy Shaw, Planner
Development Services and Capital Projects Division

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Enclosure

cc Julian Torres and Ahinoam Hernandez