



## Inter Office Memo

---

DATE: June 9, 2022  
TO: Board of Supervisors  
FROM: Planning Commission  
SUBJECT: RESOLUTION NO. 12946– VARIANCE APPLICATION NO. 4115

APPLICANT: Dale Mell

OWNER: Ronald Silva

REQUEST: Allow the creation of three parcels (2.25, 2.25 and 2.7 acres in size) from a 7.18-acre parcel in the AL-20 (Limited Agricultural, 20-acre minimum parcel size) Zone District with reduced lot widths of 154.9 feet for Parcels A and Parcel C where a width of 165 feet is required.

LOCATION: The subject parcel is located on the south side of E. Behymer Avenue 1,000 feet east of N. Sunnyside Avenue, approximately 0.43 miles southwest of the City of Clovis (APN: 557-011-63) (5187 E. Behymer Ave.) (Sup. Dist. 5).

### PLANNING COMMISSION ACTION:

At its hearing of June 9, 2022, the Commission considered the Staff Report and testimony (summarized in Exhibit A).


A motion was made by Commissioner Woolf and seconded by Commissioner Arabian to determine that the four required findings for the Variance could be made stating that for Finding Nos. 1 and 2 the surrounding area has a land use pattern of substandard-sized parcels consisting of one-acre and two-acre parcels similar to the parcel sizes proposed by the Applicant, which provides for a unique circumstance and substantial property right. In addition, regarding Finding No. 4, the area has an underlying General Plan land use designation of Rural Residential, which represents a smaller parcel size than the existing agricultural zoning and provides the applicant the opportunity to conform to similar lot patterns of the surrounding parcels.

Based on the ability to make all four of the required variance findings, a motion was made to approve Variance Application No. 4115 subject to the Conditions of Approval and Project Notes listed in Exhibit B.

This motion passed on the following vote:

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

WMK:er:jp  
 \\pacific\pwp\4360Devs&Pin\PROJSEC\PROJDOCS\VA\4100-4199\4115\Resolution\VA 4115 Resolution.doc

NOTE: The approval of this project will expire one year from the date of approval unless a determination is made that substantial development has occurred. 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. 4115

- Staff:** The Fresno County Planning Commission considered the Staff Report dated June 9, 2022 and heard a summary presentation by staff.
- Representative:** The applicant disagreed with the Staff's recommendation. He stated the stated variance findings could be made and offered the following information to clarify the intended use:
- The unusual circumstance is based on the parcel being surrounded by one-acre and two-acre parcels. In addition, the parcel is already substandard based upon what was permitted in the 1960's.
  - The project will allow the parcel to conform to lot patterns consistent with the surrounding properties. This constitutes a substantial property right as properties in the vicinity with the same zoning classification also are one-acre and two-acres in size.
  - The underlying land use designation to allow for smaller parcels gives the applicant the opportunity to conform to similar lot patterns consistent with the surrounding parcels.
- Others:** The property owner also spoke in favor of the application stating that the neighborhood has transitioned away from agricultural to more residential land uses, and the agricultural viability of the land has been reduced due to factors such as decreasing access to irrigation water which has prevented continued agricultural operations. The property owner also stated that it is their intent to use two of the newly created parcels for family members and to sell the third parcel (Parcel C).
- No individuals presented information in opposition to the application.
- Correspondence:** No letters were presented to the Planning Commission in support of or in opposition to the application.

WMK:er:jp:cwm  
\\pacific\pwp\4360Devs&PIn\PROJSEC\PROJDOCS\VA\4100-4199\4115\Resolution\VA 4115 Resolution.doc

EXHIBIT B  
**Variance Application No. 4115**  
**(Including Conditions of Approval and Project Notes)**

EXHIBIT B

<b>Conditions of Approval</b>	
1.	Development shall be in accordance with the site plan as approved by the Planning Commission.
<b>Notes</b>	
<b>The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.</b>	
1.	Development will be subject to the requirements of the current Fire Code and Building Code when a building permit or certificate of occupancy is sought.
2.	For property within flood zone shaded x, any future/proposed building pad must be elevated above the existing ground to at least a minimum of twelve inches (12") and/or the finish floor elevation must be elevated above the crown of the adjacent street. Furthermore, any future/proposed associated electrical equipment/electrical system components (e.g., panels, meters, switches, outlets, electrical wiring, walk-in equipment cabinets, generators, bottom of the lowest edge of the solar array, pool-associated motors and water heater, receptacles, junction boxes, inverter, transformers, etc.) in the shaded flood zone x must be elevated above the finish floor elevation. All electrical wiring below the flood elevation shall be in a watertight conduit or approved direct burial cable. All sides of the future/proposed building shall be sloped 2% for 5' to provide positive drainage away from the building.
3.	Any additional storm water runoff generated by future development of this site cannot be drained across property lines or into the County road right-of-way, and must be retained on-site, per County Standards unless FMFCD specifies otherwise.
4.	Any existing or future access driveway should be set back a minimum of 10 feet from the property line.
5.	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.
6.	A 10 foot x 10 foot corner cut-off should be improved for sight distance purposes at any existing driveway accessing Behymer Avenue if not already present.
7.	A grading permit or voucher is required for any future grading proposed with this application.
8.	If the variance is approved, a parcel map application will have to be filed with Fresno County in order to affect the property division.

**Notes**

9.	It is recommended that the applicant consider having the existing septic tanks pumped and have the tank 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.
10.	Any new sewage disposal systems 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.
11.	The future construction project has the potential to expose nearby residents to elevated noise levels. Consideration should be given to the County of Fresno noise ordinance and the City of Clovis Municipal Code.
12.	At such time the applicant or future property owner decides to construct a 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 Public 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.
13.	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.
14.	Should any underground storage tank(s) be found during the project, the applicant shall apply for and secure an Underground Storage Tank Removal Permit from the Fresno County Department of Public Health, Environmental Health Division. Contact the Fresno County Hazmat Compliance Program at (559) 600-3271 for more information.
15.	Should the structures have an active rodent or insect infestation, the infestation should be abated prior to demolition of the structures to prevent the spread of vectors to adjacent properties.
16.	In the process of demolishing the existing structures, the contractor may encounter asbestos containing construction materials and materials coated with lead-based paints.
17.	If asbestos containing materials are encountered, contact the San Joaquin Valley Air Pollution Control District at (559) 230-6000 for more information.
18.	<p>If the structures were constructed prior to 1979 or if lead-based paint is suspected to have been used in these structures, then prior to demolition and/or remodel work the contractor should contact the following agencies for current regulations and requirements:</p> <ul style="list-style-type: none"> <li>• California Department of Public Health, Childhood Lead Poisoning Prevention Branch, at (510) 620-5600</li> <li>• United States Environmental Protection Agency, Region 9, at (415) 947-8000</li> </ul>

**Notes**

- State of California, Industrial Relations Department, Division of Occupational Safety and Health, Consultation Service (CAL-OSHA) at (559) 454-5302.

19. If approved, the subdivision will require a 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.

20. 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.

21. If surface water is proposed, it must come from a reliable source and the supply must be made "firm" by water banking or other suitable arrangement. If groundwater is proposed, a hydrogeologic investigation may be required to confirm the availability of water in amounts necessary to meet project demand. If the lands in question lie in an area of limited groundwater, a hydrogeologic investigation shall be required.

22. If use of surface water is proposed, its use must not have a significant negative impact on agriculture or other water users within Fresno County. If use of groundwater is proposed, a hydrogeologic investigation may be required. If the lands in question lie in an area of limited groundwater, a hydrogeologic investigation shall be required. Should the investigation determine that significant pumping-related physical impacts will extend beyond the boundary of the property in question, those impacts shall be mitigated.

23. A determination that the proposed water supply is sustainable or that there is an acceptable plan to achieve sustainability. The plan must be structured such that it is economically, environmentally, and technically feasible. In addition, its implementation must occur prior to long-term and/or irreversible physical impacts, or significant economic hardship, to surrounding water users.

24. For property within flood zone shaded x, any future/proposed building pad must be elevated above the existing ground to at least a minimum of twelve inches (12") and/or the finish floor elevation must be elevated above the crown of the adjacent street.

25. Any work performed within the County Road right-of-way will require an encroachment permit.