

July 31, 2002

To: Sutter County Planning Commission

Re: Agenda Item #6: Public Hearing on Variance #02-05 to designate a parcel without street frontage as a building site; AG (General Agricultural) District; located approximately 542 feet south of Cornelius Road and 1,000 feet west of Pacific Avenue, East Nicolaus; A. P. #33-080-054; applicant/property owner - David McReynolds (Location: District 5 - Commissioner Shannon)

Current Proposal

A. Project Description:

The applicant has requested the approval of a variance for an existing 27.19-acre parcel that lacks frontage on a County road. Approval of the variance would designate the parcel as a building site under the Zoning Code and thereby allow the construction of a residence thereon if other requirements of the County Ordinance Code can be met; e.g., sewage disposal requirements.

B. Environmental Consideration:

The proposed use is categorically exempt under §15305 of the California Environmental Quality Act (CEQA) Guidelines as a minor alteration in land use limitations.

Background

A. Property Description:

The subject property is a 27.19-acre, agriculturally zoned parcel located approximately 542 feet south of Cornelius Road and 1,000 feet east of Pacific Avenue. The property is currently used as a combination wrecking/junk yard, heavy equipment contractor yard, commercial truck tractors and trailers storage, and for the storage of recreational vehicles and mobile homes, all in violation of the Zoning Code. It also appears to have a non-permitted mobile home on-site used as a residence.

Several acres of the site appear to have been graded and are now covered in crushed concrete for equipment and vehicle parking (see pictures below).



Access Road Into Property Looking West



Southern End of Property Looking West

B. General Plan Designation, Zoning Classification and Surrounding Land Use:

	Use	Zoning	General Plan
Subject Property	Wrecking/junk yard, heavy equipment contractor yard, storage of recreational vehicles and mobile homes and one mobile home apparently used as a residence	AG	Agriculture (Ag 80 acre parcel minimum)
North	Residences on small agricultural parcels	AG	Agriculture (Ag 80 acre parcel minimum)
East	Agriculture	AG	Agriculture (Ag 80 acre parcel minimum)
South	Mixed agriculture and residential home sites on ranchette-sized parcels	AG	Agriculture (Ag 80 acre parcel minimum)
West	Rice land	AG	Agriculture (Ag 80 acre parcel minimum)

B. Previous Commission Actions/Policies:

Aerial photos of the property show that until at least October of 1998 the property was used for various agricultural uses.

On May 31, 2000, the Community Services Department received a complaint that the previous owner of the property had allowed Mr. McReynolds to use the property for the storage of miscellaneous debris, junk vehicles, and heavy construction equipment.

In June of 2000, after site investigation, the Community Services Department started the process to try to resolve the zoning violation. Several letters were mailed to the previous property owner informing him of the violations of the Zoning Code.

On January 26, 2001, ownership of the property transferred to Mr. McReynolds.

On March 30, 2001, the Community Services Department notified Mr. McReynolds of the Zoning Code violation. Since notification to Mr. McReynolds, the violations have gotten worse.

In the last two years, the Planning Commission has approved five variances for parcels that lacked frontage on County roads; however, each of those variances involved the subdivision of land, generally for ranchettes.

A search of the Community Services Department records indicate that the County has not issued any building or other development permits for the subject property; however, the property was included as part of an approved lot line adjustment in 1980 (LLA 113).

Staff Comments

A. Environmental Health Division (EH):

Based upon on-site testing of the property by this Division that has occurred to date, the site has not been shown to have soils that meet minimum requirements for sewage disposal; therefore, at this time, the Environmental Health Division will not approve any development permit that requires plumbing fixtures and/or the disposal of sewage.

B. Building Inspection (B):

If the variance is approved, building permits will be required for any structures located upon this property (paraphrased).

C. Planning (P):

The subject property currently has several on-going zoning violations occurring on-site; however, the violations are not a factor for determining whether or not the Commission may approve a variance.

In order to approve a variance, your Commission is required to make several, specific findings. In summary, those findings pertain to:

1. Special circumstances relating to the property's size, shape, topography, location, etc;
2. Denial of privilege in that without the variance the property cannot be used in a similar manner as other properties in the area with similar zoning, and
3. Approval of the variance would not be a grant of special privilege.

Each of these findings is required to be supported by written evidence of record.

In support of these findings, the applicant has submitted a statement that is attached as Exhibit C.

Staff has reviewed the applicant's statement and found that it lacks sufficient evidence to support the required variance findings; however, a review of the property, uses that could occur on the property without the variance, and the surrounding area appear to provide sufficient evidence to support the required variance findings.

Special Circumstance

The subject property is an existing, legal parcel that does not front on a County road. That configuration has existed since the early 1980's when a minor change occurred through a lot line adjustment that slightly altered the parcel's size. That change did not alter the fact that prior to the lot line adjustment the property did not have frontage on the County road either; however, by approving the lot line adjustment the County did acknowledge the parcel's legality under the

Subdivision Map Act and the Zoning Code. The subject parcel and its parent parcel appear to have existed since at least 1968 as a separate legal parcel without frontage on a County road.

The special circumstances pertaining to the property is that the parcel is a legal parcel without frontage on a County road which has existed as such for at least 34 years and upon which the County has previously approved a lot line adjustment.

Denial of Privilege

Under the Zoning Code, any parcel lacking frontage on a County road is not considered to be a legal lot and hence not a building site. Denial of the variance would deny the property owner the right to utilize the subject AG District property in a manner that is normally enjoyed by other AG District property owners providing all other requirements of the Ordinance Code can be met; i.e., to construct a residence thereon.

Not a Grant of Special Privilege

A review of the study sketch of the area indicates that there are at least three other Assessor's parcels in the immediate vicinity that lack frontage on a County road with at least two of these parcels being clearly separate legal subdivision parcels. Each of these three parcel are zoned AG District and the two that are clearly separate parcels each have an existing mobile home located upon them. Therefore, approval of the variance creating a buildable lot for a homesite would not be a grant of special privilege in that other parcels in the vicinity with the same zoning and also lacking frontage on a County road have already been developed as building sites.

The property owner has indicated in his application that if the variance is approved that he intend to place a mobile home on the property as his residence and to eventually file an application for a use permit for a commercial tractor repair shop. Any future applications for development of the property will be required to conform to the Sutter County Ordinance Code, including but not limited to the requirements of the Environmental Health Division.

It should be noted that the Environmental Health Division has indicated that they have not been able to confirm the presence on-site of a suitable soil layer to support a septic system. Prior to the construction of any use that would require a septic system, the property owner will be required to show that a sewage disposal system complying with the requirements of the Ordinance Code can be constructed on-site.

Additionally, as part of the requirements of this application, staff has included a condition that no development permits of any type be granted for the subject property as long as the existing Zoning code violations persist.

Staff has also included its normal requirement that the applicant provides proof of legal access to the subject site. This condition has typically been applied to parcels that lack frontage on a County road. As part of the condition, we have specified that the access be a minimum of 20 feet in width for residential use. That width would allow the access drive to meet the County's driveway required width (12 feet) as well as provide for four foot shoulders on each side of the accessway. The

applicant should be advised that any proposal for commercial use of the property would normally require a wider accessway in order to meet the requirements of Zoning Code.

Recommended Findings

Based on information contained in the agenda report and/or testimony received at the public hearing, the Commission finds:

- A. The project is categorically exempt from the California Environmental Quality Act under Section 15305 of the CEQA Guidelines as a minor alteration in land use limitations.
- B. Approval of the variance is consistent with the Zoning Code and General Plan in that the proposed use would approve the site as a building lot for uses allowed under the Zoning Code and General Plan subject to the requirement thereof.
- C. Approval of the variance will not be detrimental to the public's health, safety, or general welfare or be detrimental or injurious to property or improvement in the area in that under the conditions of approval it will allow the use of the property in a manner as provided for under the Zoning Code and General Plan.
- D. The subject property is an existing legal parcel whose location, which lacks frontage on a County road, is a special circumstance.
- E. Denial of the variance would deny the property owner the right to utilize the subject AG District property in a manner that is normally enjoyed by other AG District property owners - i.e., to construct a residence thereon - providing all other requirements of the Ordinance Code can be met.
- F. Approval of the variance is not a grant of special privilege in that there are other parcels within ½ mile of the subject property that lack frontage on a County road and that are developed as building sites with an existing residence thereon.

Recommended Action

- A. Make the findings as recommended by staff.
- B. Approve Variance #02-05 allowing a building site without frontage on a County road subject to the following conditions:
 - 1. Prior to the issuance of any building permit for any use on the subject property all Zoning Code violations shall cease. (P)

2. Prior to the issuance of any building permit for any use, the property owner shall provide proof of legal access to the site. The access shall be a minimum of 20 feet in width for residential use. (P)
3. The applicant shall obtain all necessary permits from the Community Services Department (Building Inspection, Planning Division, Fire and Emergency Services, and Environmental Health Divisions) and Public Works Department for the intended use of the property. (P)

Sincerely,

THOMAS A. LAST
PLANNING DIVISION CHIEF

Dale Follas
Associate Planner

Attachments: Exhibit A - Study Sketch
Exhibit B - Site Plan
Exhibit C - Applicant's Statement

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