



**RESOURCE MANAGEMENT
AGENCY
COUNTY OF TULARE
AGENDA ITEM**

BOARD OF SUPERVISORS

ALLEN ISHIDA
District One
PETE VANDER POEL
District Two
PHILLIP A. COX
District Three
J STEVEN WORTHLEY
District Four
MIKE ENNIS
District Five

AGENDA DATE: July 27, 2010

Public Hearing Required	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input type="checkbox"/>
Published Notice Required	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input type="checkbox"/>
Advertised Published Notice	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input type="checkbox"/>
Meet & Confer Required	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Electronic file(s) has been sent	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Personnel Resolution attached	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Resolution, Ordinance or Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s)	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input type="checkbox"/>
CONTACT PERSON: Celeste Perez PHONE: 624-7000						

SUBJECT: Appeal of the Zoning Administrator's Decision No. 3002 to deny Zone Variance No. PZV 08-027 (ZA), south of Porterville

REQUEST(S):

That the Board of Supervisors:

Continue the appeal filed by Robert J. Owen to September 14, 2010 at 9:30 a.m., pending the adoption an Amendment to Section 15.D.2 of the Tulare County Zoning Ordinance pertaining to Division of Land Exceptions in Agricultural Zones (Homesite Parcel Ordinance). Regarding the decision of the Zoning Administrator denying Zone Variance No. PZV 08-027 (ZA) to allow the creation of a 0.37-acre homesite parcel from an original parcel (4.70 acres) containing less acreage than required in the AE-10 (Exclusive Agricultural-10 acre minimum) Zone, on property located on the east side of Road 252 (Plano Street), approximately 1,350 feet south of Scranton Avenue, south of Porterville.

SUMMARY:

The applicant, Robert J. Owen, requested a zone variance to allow a division of property to create a 0.37-acre homesite parcel from an original 4.70-acre parcel containing less acreage than required in the AE-10 Zone (Parcel 1 - 0.37 acre and Parcel 2 - 4.33 acres). Proposed Parcel 1 contains a single-family dwelling and proposed Parcel 2 contains a domestic well with open space.

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Public hearings were conducted on October 16, 2008 and October 23, 2008, at which time the Zoning Administrator heard testimony both in support of and opposition to the variance. The Zoning Administrator denied the variance on December 3, 2008, by Decision No. 3002, because the further division of a sub-standard parcel containing less than the minimum acreage within the AE-10 Zone will reduce any potential agricultural production of the site. In addition, the creation of the 0.37 homesite parcel does not comply with the one-acre minimum requirement of the Tulare County Subdivision Ordinance Section 7-01-1350 for containment of both a well and a septic system.

Public hearings were conducted on February 24, 2009, March 24, 2009, October 20, 2009, January 26, 2010, and April 27, 2010 before the Board of Supervisors at which time the applicant requested the public hearing be continued to July 27, 2010 pending the adoption of an Ordinance Amendment to Section 15.D.2 of the Zoning Ordinance pertaining to Division of Land Exceptions in Agricultural Zones. The Ordinance Amendment to Section 15.D.2 will be presented to the Board of Supervisors for consideration on August 10, 2010.

Public hearings were conducted before the Planning Commission on December 2, 2009, January 27, 2010, February 24, 2010, March 24, 2010, May 12, 2010, and June 9, 2010 to consider the Amendment to Section 15.D.2 of the Zoning Ordinance for recommendation that the Board of Supervisors adopt the proposed Ordinance Amendment. At the June 9, 2010 Planning Commission meeting, the Planning Commission adopted Resolution No. 8498, recommending that the Board of Supervisors adopt an Ordinance Amendment to Section 15.D.2 of the Zoning Ordinance pertaining to Division of Land Exceptions in Agricultural Zones. The Ordinance Amendment as recommended by the Planning Commission for adoption by the Board of Supervisors requires that the parcel to be divided for the purposes of creating a homesite parcel must contain the minimum acreage in the zone which the property is located. Therefore, if the Amendment is adopted by the Board of Supervisors as recommended by the Planning Commission, the division of land requested by Robert J. Owen will not comply with Zoning requirements.

The Tulare County Zoning Ordinance Section 15.D.2. g. and h. as amended, provides for the division of existing homesite parcels containing less acreage than required in agriculture zones if certain requirements are met. The proposed division of land does not meet the requirement that the parcel being divided must contain the minimum acreage requirement in the applicable zone before a homesite parcel may be divided. The original parcel does not meet the minimum 10-acre requirement; the parcel only contains 4.70 acres.

North: AE-10, AE-20 (Exclusive Agricultural-20 acre minimum), R-A-217 (Rural Residential-217,000 sq. ft. minimum) Zones; agriculture (orchard/open space), and scattered rural residences

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East: AE-10; agriculture (open space) and scattered rural residences

West: AE-10; agriculture (orchard) and scattered rural residences

South: AE-10; agriculture (open space) and scattered rural residences

The majority of the substandard parcels in the vicinity, which are under 5-acres, were created prior to the implementation of the Rural Valley Lands Plan in 1977. Since the majority of the parcels that are under 5-acres in this area were created prior to the Rural Valley Lands Plan designation, the granting of the variance constitutes a granting of special privilege.

FISCAL IMPACT/FINANCING:

There is no net County cost to the General Fund. The appellant, Robert J. Owen, has paid \$3,489: the required initial deposit fee of \$1,439 for the variance application, \$1,750 to the General Fund for processing fees and the appeal fee of \$300.

LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:

A goal of the strategic plan is to promote public health and welfare, education, opportunities, natural resource management and continued improvement in the environmental quality. Division of agricultural lands is not conducive to protecting the natural resource of agricultural lands; therefore, the denial is consistent with the goal of Tulare County's Strategic Business Plan 2006-2011.

ALTERNATIVE:

1. Deny the appeal filed by Robert J. Owen and uphold the decision of the Zoning Administrator denying Zone Variance No. PZV 08-027 (ZA) to allow the creation of a 0.37 acre homesite parcel from an original parcel (4.70 acres) in the AE-10 (Exclusive Agricultural-10 acre minimum) Zone. The subject property cannot satisfy the criteria set forth in Govt. Code Section 65906, and the mandatory findings for approval as required by the Tulare County Zoning Ordinance. The property is located on the east side of Road 252 (Plano Street), approximately 1,350 feet south of Scranton Avenue, south of Porterville.

2. Approve the appeal and thereby conditionally approve the project. However, staff does not recommend this action because the subject site cannot satisfy the mandatory findings for approval as required by the Zoning Ordinance. If this occurs, staff recommends the public hearing be continued for three weeks so that staff may prepare the appropriate documents for approval of the project.

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INVOLVEMENT OF OTHER DEPARTMENTS OR AGENCIES:

None

ADMINISTRATIVE SIGN-OFF:



Jake Raper Jr., AICP
Director

cc: County Counsel
County Administrative Office (3)
Robert J. Owen, 16151 Mustang Drive, Springville, CA 93265
Roberts Engineering, P.O. Box 908, Porterville, CA 93258

**BEFORE THE BOARD OF SUPERVISORS
COUNTY OF TULARE, STATE OF
CALIFORNIA**

IN THE MATTER OF AN APPEAL OF THE)
APPEAL OF THE ZONING) RESOLUTION NO. _____
ADMINISTRATOR'S DECISION NO.)
3002 TO DENY ZONE VARIANCE NO.)
PZV 08-027 (ZA), SOUTH OF PORTERVILLE)

UPON MOTION OF SUPERVISOR _____, SECONDED BY
SUPERVISOR _____, THE FOLLOWING WAS ADOPTED
BY THE BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD
_____, BY THE FOLLOWING VOTE:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST: JEAN M. ROUSSEAU
COUNTY ADMINISTRATIVE OFFICER/
CLERK, BOARD OF SUPERVISORS

BY: _____
Deputy Clerk

* * * * *

That the Board of Supervisors:

Continued the appeal filed by Robert J. Owen to September 14, 2010 at 9:30 a.m., pending the adoption an Amendment to Section 15.D.2 of the Tulare County Zoning Ordinance pertaining to Division of Land Exceptions in Agricultural Zones (Homesite Parcel Ordinance). Regarding the decision of the Zoning Administrator denying Zone Variance No. PZV 08-027 (ZA) to allow the creation of a 0.37-acre homesite parcel from an original parcel (4.70 acres) containing less acreage than required in the AE-10 (Exclusive Agricultural-10 acre minimum) Zone, on property located on the east side of Road 252 (Plano Street), approximately 1,350 feet south of Scranton Avenue, south of Porterville.