

September 25, 2002

To: Sutter County Planning Commission

Re: Agenda Item #7 : Public hearing on Variance #02-07 to allow a deviation from the County lot line adjustment standard to permit an existing 10-acre parcel to be reduced in size to 3.77 acres, where the Zoning Code requires the parcel to become larger; AG (General Agriculture) District; located at 5622 Madden Avenue, 635± feet south of the intersection of Madden Avenue and Bloyd Road, on the west side of Madden Avenue, Live Oak; A. P. #10-152-002; applicants/property owners - Russell & Patricia Mickelsen (Location: District 1 - Commissioner Capaul)

Current Proposal

A. Project Description:

The applicants request a variance to allow a deviation from the County lot line adjustment standard to permit a 10-acre parcel to be reduced in size (Lot Line Adjustment #02-28) to 3.77-acres where Zoning Code Section 1500-1414(1)(E) requires the parcel to become larger. The applicants wish to reduce the size of their parcel, which they believe is too small to be agriculturally viable, to allow the farmer to the south to increase the size of his existing 20.78-acre orchard by 6.23 acres.

B. Environmental Consideration:

The proposed variance is categorically exempt from the California Environmental Quality Act under Class 5 (CEQA Guidelines §15305[a]), "Minor Alterations in Land Use Limitations," which exempts variances and minor lot line adjustments that involve land that slopes less than 20%, that do not result in any changes in land use or density, and that do not create any new parcels.

Background

A. Property Description

The 10-acre subject parcel has 660 feet of frontage on Madden Avenue and is 635 feet deep. The northern 3.77 acres of the property is developed with a single-family residence, a barn and horse corral, and accessory buildings. The property owner to the south, who is the second party to the lot line adjustment application, is developing the remaining 6.23 acres as additional orchard ground.

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

Property	Use	Zoning	General Plan
Subject Property	Rural Residence & Agriculture	AG	AG-20
North	Agriculture & Rural Residences	AG	AG-20
East	Agriculture & Rural Residences	AG	AG-20
South	Agriculture & Rural Residences	AG	AG-20
West	Agriculture & Rural Residences	AG	AG-20

C. Previous Planning Commission Actions/Policies

There are no previous Planning Commission actions concerning the subject property. When the statutory findings have been made to support deviating from the adopted standards, your Commission has approved similar variance requests for property that is both in the vicinity of the subject property and under the same zoning designation.

Staff Comments

A. Environmental Health (EH):

The Environmental Health Division responded that upon repair, alteration, or expansion of the sewage disposal system, the County will require soil profile testing.

B. Building Inspection (BI):

The Building Division responded with no comments at this time.

C. Planning (P):

The applicants do not farm the southerly portion of their 10-acre parcel and want the greater part of the parcel to be returned to agricultural production. To this end, the applicants have filed a lot line adjustment application (LLA #02-28) by which 6.23 acres will be conveyed to an existing 20.78-acre agricultural parcel to the south; thus, the adjustment is between conforming and non-conforming lots where the minimum parcel size is 20 acres. The applicants are requesting variance approval to deviate from Zoning Code Section 1500-1414(1)(E), which requires that, "If adjusting between a conforming and a non-conforming parcel, the larger parcel shall maintain

conformance with the General Plan parcel size requirements and the smaller parcel shall become larger.” Zoning Code Section 1500-8412 specifies the findings that must be made in order for your Commission to grant a variance:

- 1. That special circumstances apply to the property, including size, shape, topography, location or surroundings.**

The subject property consists of 10 acres, and has historically not been fully utilized for agriculture. The agricultural utility of the parcel is further reduced by the area occupied by the residence and associated outbuildings and uses, which cover more than three acres.

- 2. That the strict application of the zoning ordinance deprives the property of privileges enjoyed by other property in the vicinity and under identical zoning classification.**

Other properties in the vicinity and under identical zoning classification are of non-conforming parcel size. Of the 42 parcels with frontage on Madden Avenue that are zoned AG, 38 are less than the required 20-acre minimum parcel size, and 18 of those consist of less than four acres. Most of these small parcels are developed with single-family residences and are not associated with agricultural operations on adjacent parcels.

- 3. That the granting of the variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and district in which the property is located.**

Where the required findings can be made, your Commission and/or the Board of Supervisors have historically granted variances that have allowed similar non-conforming parcels to be reduced by a lot line adjustment. The granting of the variance will not constitute a grant of special privileges in that other property in the vicinity and district of the subject property may also request and receive relief through the variance process.

- 4. That the variance from the strict interpretation of this code represents the minimum deviation possible to enable reasonable development of the property.**

The applicants have requested approval to allow deviation from only one standard, the Zoning Code provision that requires existing non-conforming properties to be enlarged when involved in a lot line adjustment action with a conforming parcel. Since a non-conforming parcel already exists, the variance does not propose deviation from the minimum parcel size or from other standards for the General Agricultural zone. The applicants and staff concur that the requested variance is also the most reasonable deviation, since it retains the maximum amount of land for agriculture that is available for cultivation on the subject parcel.

Based on the discussion above, which illustrates that the proposal is consistent with the intent of the General Plan and Zoning Code and meets the standards required for variance approval, staff recommends approval of the variance.

Recommended Findings

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

- A. That the proposed variance is Categorical Exempt from the provisions of CEQA pursuant to section 15305(a) of the Guidelines.
- B. That special circumstances apply to the property pertaining to size.
- C. That the strict application of the zoning ordinance deprives the property of privileges enjoyed by other property in the vicinity and under identical zoning classification.
- D. That the granting of the variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and district in which the property is located.
- E. That the variance from the strict interpretation of this code represents the minimum deviation possible to enable reasonable development of the property.

Recommended Action

- A. Make the recommended findings as prepared by staff.
- B. Approve Variance #02-07.

Sincerely,

THOMAS A. LAST
PLANNING DIVISION CHIEF

William J. Caplinger
Assistant Planner

Attachments: Exhibit A - Study Sketch
Exhibit B - Map of Lot Line Adjustment #02-28

D:\planning commission-2002\10-02-02\reports\vr 02-07 (mickelsen)