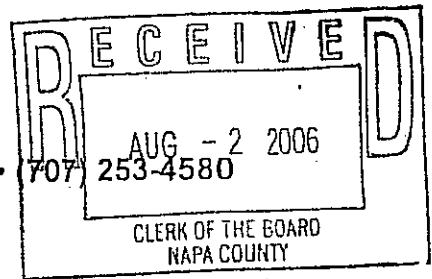


NAPA COUNTY  
CLERK OF THE BOARD'S OFFICE  
1195 Third Street, Room 310, Napa, California, 94559 • (707) 253-4580



**APPEALS**  
(Chapter 2.88 of Napa County Code)

TO BE COMPLETED BY APPELLANT\*  
(Please type or print legibly)

8/5/06 CC: Don Ridenhour - PW  
Pat Tyrell - CC  
Andrew Carey - CEC

Appellant's Name: Lloyd Llewelyn for Christopher Peacock & Angus Wurtele  
Telephone #: (707) 252-9100 Fax #: (707) 252-8516 E-Mail: l1lewelyn@coombslaw.com

Mailing Address: 1211 No. Division Street Street Napa, CA 94559 City State Zip

Status of Appellant's Interest in Property: Attorney for two adjacent property owners  
project applicant, adjacent property owner, other (describe)

Action Being Appealed: Tentative approval of lot line adjustment

Permittee Name: Mark P. Butler and Carolyn J. Butler

Permittee Address: 2900 Spring Mountain Road, Napa

Permit Number: N/A Date of Decision: July 19, 2006

Nature of Permit or Decision: Tentative approval of lot line adjustment

Reason for Appeal (Be Specific - If the basis of the appeal will be, in whole or in part, that there was a prejudicial abuse of discretion on the part of the approving authority, that there was a lack of a fair and impartial hearing, or that no facts were presented to the approving authority that support the decision, **factual or legal basis for such grounds of appeal must be expressly stated or they are waived.** (attach additional sheet if necessary): see attached

If the basis of the appeal will be, in whole or in part, that the environmental determination under the California Environmental Quality Act is inadequate, please provide: a detailed statement supported by substantial evidence for each insignificant or less than significant impact identified in the initial study that the appellant contends may be significant, a detailed legal and factual statement indicating why the project is not exempt, and a detailed statement supported by substantial evidence describing why the Negative/Mitigated Negative Declaration or EIR is inadequate.) (attach additional sheet if necessary) N/A

Project Site Address/Location: Spring Mountain Road, Napa, CA 94558  
Street City State Zip

Assessor's Parcel No.: 22-250-10 and 22-190-04

[Signature] Aug 2, 2006 Lloyd Llewelyn  
Signature of Appellant Date PRINT NAME

TO BE COMPLETED BY CLERK OF THE BOARD

Total Fee: \$1,571 Receipt Nos. 845309 Received by: Karla Presuda Date: 8/2/06

\* The following information, in addition to the information required by this form also needs to be provided as attachments hereto pursuant to County Code Section 2.88.050 (F-1): Title Insurance Report, Assessor's Map Book Pages, and Appeals Fee

## **Reason For Appeal of Lot Line Adjustment**

Appellant: Lloyd Llewelyn

Date of Notice of Appeal: August 2, 2006

Appellant requests that the Board of Supervisors overturn the decision of the Department of Public Works approving the subject lot line adjustment on grounds that the adjustment does not comply with three requirements for approval set forth in the Napa County Code.

### **The Proposed Lot Line Adjustment Does Not Meet The Definition of a Lot Line Adjustment**

The proposed lot line adjustment is improper because it would result in the creation of a parcel where none existed before. A lot line adjustment is proper only where it "will result in the transfer of property between two or more existing adjacent parcels." Napa County Code, §17.46.040(C)(1). In this instance, the applicant seeks, in fact, to create an entirely new parcel by lot line adjustment.

The original parcels consist of a larger and smaller adjacent parcel. Under the proposed lot line adjustment, the smaller original parcel would be effectively merged into the larger, and a new parcel would be created in a wholly different location, entirely within the boundary of the larger parcel. Importantly, no area lying within the boundaries of the smaller original parcel lies within the boundaries of the smaller proposed parcel. Rather, its entire area is in a different location from the original parcel. Thus the proposed parcel cannot be said to be an "existing" parcel for purposes of section 17.46.040(C)(1). Moreover, because the proposed parcel would be entirely surrounded by the boundary of the larger parcel, it cannot be said to be an "adjacent" parcel for purposes of section 17.46.040(C)(1).

Because the proposed lot line adjustment does not result in the transfer of property between two or more existing adjacent parcels, the approval of the lot line adjustment by the director of public works is improper. Napa County Code §17.46.040(C)(1).

### **The Applicant Failed To Show That The Proposed Lot Is Of Sufficient Size**

The lot line adjustment should be denied for the independent reason that the applicant failed to show that the proposed new parcel is of sufficient size for its average slope. "The director of public works shall deny the lot line adjustment if . . . the size of any adjusted parcel that will utilize an individual sewage system [fails to] equal or exceed the minimum parcel size established by Section 13.32.040." Napa County

Code, §17.46.040(C)(9). Section 13.32.040 provides that a 2.0 acre parcel must have an average slope of less than 32% grade.

The smaller proposed lot is 2.0 acres in size. That area is made up of a severe conical mound rising to a small pad. Observation of the site suggests that the proposed parcel may equal or exceed 32% average grade. Because the applicant provided no evidence that the average slope of the proposed smaller parcel is less than 32%, the approval of the lot line adjustment by the director of public works is improper. Napa County Code §§17.46.040(C)(9), 13.32.040.

### **The Applicant Failed To Show That The Proposed Lot Has Sufficient Buildable Area**

Finally, the lot line adjustment should be denied for the independent reason that the applicant failed to show that the proposed smaller lot has sufficient buildable area. "The director of public works shall deny the lot line adjustment if . . . the resultant parcels [fail to] comply with all of the provisions of Section 18.104.110." Napa County Code, §17.46.040(C)(6). Section 18.104.110 provides that "no lot shall be created with less than four thousand square feet of buildable area after taking into account the restrictions imposed by this title."

Again, because the proposed parcel consists of a severe conical mound rising to a small pad, there is significant question whether that parcel would have 4,000 square feet of buildable area. Because the applicant provided no evidence that the proposed smaller parcel would have 4,000 square feet of buildable area, the approval of the lot line adjustment by the director of public works is improper. Napa County Code §§17.46.040(C)(6), 18.104.110.