



Agenda Date: 10/24/2006
Agenda Placement: 8C
Set Time: 9:45 AM PUBLIC HEARING
Estimated Report Time: 30 Minutes

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: Michael Stoltz for Robert Peterson - Director
Public Works
REPORT BY: Nate Galambos, Principal Engineer Public Works , 259-8371
SUBJECT: Appeal by Christopher Peacock and Angus Wurtele to the approval by Public Works of a lot line adjustment of the lands of Mark and Carolyn Butler

RECOMMENDATION

Consideration and possible action regarding an appeal filed by Christopher Peacock and Angus Wurtele to a decision by the Director of Public Works to approve a Lot Line Adjustment filed by Mark and Carolyn Butler for the property located on Spring Mountain Road in St. Helena. (Assessor's Parcel Nos. 022-190-004 and 022-250-010)
ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.
(APPELLANT REQUESTS CONTINUANCE; IF THE BOARD GRANTS THE CONTINUANCE, THE BOARD WILL SET THE DATE OF THE CONTINUED HEARING IMMEDIATELY AFTER OPENING THE HEARING ON OCTOBER 24, 2006, AND NOTICE OF THE DATE WILL NOT BE REPUBLISHED)

EXECUTIVE SUMMARY

Chapter 17.46.080(C) of Napa County Code states that any interested person, as defined in Section 2.88.010, may appeal to the Board of Supervisors the tentative approval by the Director of Public Works of a lot line adjustment. This appeal is being made by Christopher Peacock and Angus Wurtele.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION

On July 19, 2006, the Public Works Department approved a lot line adjustment application for Mark and Carolyn Butler. As stated in Napa County Code Chapter 17.46.080 an appeal may be made to the Board of Supervisors by any interested person, as defined by Section 2.88.010. An appeal was filed within the required ten day appeal period by Christopher Peacock and Angus Wurtele.

The basis of their appeal consists of allegations that the proposed Lot Line Adjustment (LLA) does not comply with three sections of Napa County Code related to the approval of a LLA.

First, the appellant claims that the proposed lot line adjustment would result in the creation of an entirely new parcel, not an adjustment of an existing parcel as defined by Chapter 17.46.040(C)(1). This section of the code relates to the list of conditions that a LLA has to meet for it to be approved by the Director of Public Works. The code section cited states, 'the lot line adjustment will result in the transfer of property between at least two, but no more than four, existing adjoining legal parcels...'. The proposed LLA consists of two adjacent, legal parcels, APN 022-250-010 and APN 022-190-004. The resulting two parcels will have a configuration such that one parcel will be located completely within the boundaries of the second parcel. While this situation is unique, it is not unheard of, and the County has approved similar LLA.

Secondly, the appellant claims that the applicant failed to show that one of the proposed lots is of sufficient size for its average slope as established by Section 13.32.040. This section of Napa County Code is related to defining a minimum parcel size, based on the parcels average slope, for the utilization of an individual sewage disposal system. Interpreting the Slope Density Table within the above noted code section indicates that a 2.0 acre parcel needs to have an average slope less than thirty two percent. The appellant contends that the average slope of one of the resulting parcels would be greater than thirty two percent and therefore could not support an individual septic system. LLA applications are circulated to advisory agents within the Planning/Conservation department (CDPD), Environmental Management (EM), and Public Works (PW). EM reviewed this particular LLA application and had no comments or concerns with its approval. Upon receipt of the appeal, EM was again asked their opinion of the LLA based on Napa County Code Section 13.32.040. EM responded that this particular section of code dates back to the late 1960's, when types of septic systems that could be installed were limited and slope restrictions were a considerable issue. However, septic system design standards have advanced dramatically over the last 30 years and now the new technologies have allowed septic system installations on steeper more difficult sites. Therefore, it has been standard practice of the EM department to process LLA simply utilizing the minimum parcel size without slope consideration. Additionally, while not a common practice, some parcels have been approved that utilize another parcel's septic system using appropriate recorded easements. This solution could be implemented in this particular situation.

Finally, the appellant claims that the applicant failed to show that one of the proposed lots has sufficient buildable area as required by the provisions of Section 18.104.110 as defined in Napa County Code Section 17.46.040(C) (6). The portion of the above noted section of the Napa County Code pertains to parcel design and simply states that no lot shall be created with less than four thousand square feet of buildable area. The advisory agent for CDPD reviewed the original application and recommended approval of the LLA with the condition that the applicant provided mapping calculations to confirm that the larger resulting parcel was greater than 40.0 acres. Upon receipt of the appeal, PW again asked CDPD to review the LLA with regards to Napa County Code Section 18.104.110. CDPD responded that upon additional review the parcel appears to have an approximate total area of 30,000 square feet that is less than 30% slope. After applying the appropriate set backs the approximate total buildable area is 15,416 square feet, which exceeds the minimum buildable area by a factor of 3.85. CDPD relied upon the slope layer data contained in the Napa County Environmental Resource Maps. While Chapter 18.108 of the County Code (Conservation Regulations) encourages development which avoids steep slopes, there are

provisions in the code that allow property owners to pursue Use Permit Exceptions to Conservation Regulations and/or variances to Title 18 if necessary. However, in the opinion of CDPD these actions would not be necessary for the proposed parcels.

Public Works staff has met with the appellant and the applicant with the intent of resolving the issue. It appears that the appellant has concerns about the Butler property that can not be conditioned or regulated by the Public Works Department through the LLA process. The appellant has requested a continuance to their appeal to obtain additional evidence in support of their appeal from a surveyor.

The LLA approval is a ministerial decision by the Director of Public Works. All advisory agents have reviewed the application and deem it in compliance with the Codes that are enforced by their respective departments. Therefore, the applicant has satisfied all conditions outlined in Napa County Code related to LLA, which obligates the approval by the Director of Public Works. The appellant claims have been reviewed by each advisory agent and found to be invalid with regards to Napa County Code as it applies to this LLA application. Therefore, the Director of Public Works recommends that the Board of Supervisors deny the appeal based on the information provided above and allow the approval of the LLA.

SUPPORTING DOCUMENTS

- A . Butler proposed LLA
- B . Appeal to Butler LLA
- C . Appellant Request for Continuance

CEO Recommendation: Approve

Reviewed By: Andrew Carey