

Request for Lot Split and Variance

Project Description

The applicant, Steve Pylman (“Applicant”), farms approximately 175 acres in Clarksburg, California on Netherlands Avenue. Mr. Pylman’s vineyard has been in his family for several generations and PK Vineyards is a true family-run agricultural operation. This request pertains to only a portion of the family’s vineyard, one 69-acre legal parcel that is identified by two Assessor Parcel Numbers (“APNs”), 043-220-013 and -015 (referred to as APN -13 and APN -15) which were created by the County Assessor when the County right-of-way bisected the property. (See Exhibit A) In the interest of supporting and preserving a family-run vineyard operation, this application seeks to legally split the legal parcel to match the existing APNs.

More specifically, APN -13 is 11.85 acres in size located south of Netherlands Avenue and bounded by Elk Slough on the south and west; due to the unique shape of the parcel and the Elk Slough levee, only 7.7 acres are usable space. APN -15 is 57.08 acres in size located north of Netherlands Avenue and abuts County Road 146B to the east and Clarksburg Road to the north. These parcels are designated “Agriculture (AG)” under the Yolo County General Plan¹ and zoned “Agricultural Intensive (A-N)” under the County Code.² The property is currently in vineyards, with two distinct varieties grown on the respective APNs. The property also contains five residences with the old 1920s homestead serving as the primary residence on APN -15 and one home completed in 2010 serving as the primary residence on APN -13 (a total of six residences on one legal parcel).

The Applicant submits a request for a lot split of the current parcel into two separate legal parcels, consistent with the borders of existing APNs -13 and -15. Approval of the lot split also requires the grant of a variance pursuant to Yolo County Code Section 8-2.218(b), provided that a lot split would create a new legal lot (APN -13) that would not meet the 40-acre minimum lot size of the Agricultural Intensive (A-N) zone. The request would result in consistency between APN -13 and the legal status of all other neighboring properties that were similarly separated from larger acreages by the installation of Netherlands Avenue.

¹ See County of Yolo 2030 Countywide General Plan – Land Use and Community Character Element, Page LU-50 (October 2018). <https://www.yolocounty.org/home/showpublisheddocument/68781/637516723220130000>

² See ; See also Yolo County Code, Section 8-2.203(A).

Project Justification

The Lot Split

The proposed lot split is intended to legalize and reflect the physical split of APNs -13 and -15 that was created by Netherlands Avenue. There is no request to change the use of either APN nor to add structures, this is merely a request to alter a description on a map. For the reasons that follow, the lot split is warranted because it promotes the goals and objectives of the General Plan as reflected in the Clarksburg Area Community Plan, and supports the ongoing operations of a long-time agricultural family.³

To elaborate, the Clarksburg Area Community Plan (“CACP”) recognizes the unique nature of Clarksburg and indicates that “greater flexibility” is warranted to enhance and promote its unique character and the family-based agriculture that occurs there.⁴ The CACP outlines various County goals regarding the need to support existing privately owned and operated agricultural uses – particularly support for the wine industry – and to protect the existing community and quality of life.⁵

³ The Pylman family has been farming in Clarksburg for six generations.

⁴ The CACP includes the following description of Clarksburg from author and historian Shipley Walters, “It’s a place, she said, where “neighbors work together on community projects,” and it lies in a “prosperous agricultural region where the family farm still predominates.” It is a community that is “seemingly isolated from the outside world,” where the “air is scented with pear blossoms and alive with the sounds of birds, a distant tractor, and the outboard motor of a pleasure boat.” (See Clarksburg Area Community Plan (September 2015), Page 14).

⁵ A few of the relevant Agricultural Goals and Policies include: (CACP, Pages 33-34)

- Goal 1. Preserve, conserve, enhance, and support the continued productivity and economic viability of agricultural land and productive soil for agricultural land uses under private ownership.
- Goal 3. Promote a healthy and competitive farm economy to expand the Clarksburg community’s agricultural production base as a means of economic sustainability and stability.
- Policy A1. Support expanded productivity, conservation, enhancement, and economic viability of privately owned agricultural land.
- Policy A5. Continued growth and development of the wine industry and alternative value-added crops shall be supported and encouraged within the Plan area.

A few of the relevant Land Use Goals and Policies include: (CACP, Pages 36-38)

- Goal 3. Protect the historic, cultural, environmental, and social values and the agricultural land presently found in the Clarksburg Plan area.
- Goal 4. Preserve and promote a quality of life and community unique to the Clarksburg community.
- Goal 5. Conserve enhance, and support the continued and expanded productivity and economic viability of the Clarksburg community.
- Goal 7. Encourage development and maintenance in a manner that gives property owners the option to reduce flood insurance.
- Policy L1. Maintain the small town community atmosphere and agricultural characteristics of the Clarksburg Plan area.

The proposed lot split is justified because it would preserve and enhance existing agriculture by supporting and improving the viability of a long-term family farming operation. (CACP Goal 1, Policy A1, Policy A5.) Foremost, the lot split will improve the overall financial viability of the operation by allowing for a significant reduction in overhead costs associated with flood insurance. (CACP Goal 7.) Second, the split will support the unique quality of life and the preservation of community by allowing long-time resident Steve Pylman and his family to legally own their own home while continuing to manage the family's vineyard operation. (CACP Goal 3, Goal 4, Policy H2, Policy H6.) Third, the split will also allow for vineyard contracts to be more easily managed and for revenue related to specific varieties to be more easily accounted for which improves and enhances the farm economy. (CACP Goal 3, Goal 5, Policy A5.)

Approval of the lot split is also warranted as it will help to cure a legal and financial hardship that was created in error. More specifically, in 2008, the Applicant, under the belief that APNs -13 and -15 were two separate legal lots, applied for and received a building permit from Yolo County to construct a new, primary residential dwelling on APN -13. Had anyone realized that APN -13 was not a separate legal parcel the request should have been denied by Yolo County due to APN -15 already having four homes located thereon.⁶ That however did not occur and, during this application and approval process, both the Applicant and County inherently treated the two APNs as if they were two separate legal lots. In reliance upon issuance of the building permit, the Applicant spent considerable financial resources on the design and construction of his home. Only after the construction was complete in 2010, when the Applicant sought to convert his construction loan into a traditional mortgage, was it discovered that APNs -13 and -15 are actually one legal parcel. This mistake has resulted in significant hardship for the Applicant including an inability to independently own his home and excessive flood insurance costs for the past 13 years. The lot split would help to cure this costly mistake.

Expanding on the issue of flood insurance, the County clearly recognizes the burden that flood insurance places upon many agricultural operations located in the Delta. This

A few of the relevant Housing Goals and Policies include: (CACP, Pages 38-39)

- Policy H2. Promote continued provisions for on-farm housing for family members and farm employees within the Clarksburg agricultural area.
- Policy H6. Promote residences that support agricultural production, and agricultural support services, on lands surrounding the Clarksburg town area.

⁶ County code limits properties in the A-N zone to two residential units per lot without the grant of a use permit. (Yolo County Code, Table 8-2.304(e).) To encourage multi-generational farming, the number is increased in the CACP area to three homes on a single parcel with a site plan review. Given the number of existing homes already on APN -15, and given the proposed location of the home, the Applicant's building permit request for his residence should not have been approved and permit issuance was in error.

burden is only increasing as insurance premiums are rising annually and several insurance companies are exiting the market due to California being seen as a state that is prone to climate change-related disasters such as flooding. To address this, the CACP includes Goal 7 which states “Encourage development and maintenance in a manner that gives property owners the option to reduce flood insurance.”⁷ The mortgage on the 2010 home requires proof of flood insurance given the home’s location within Flood Zone A. Pursuant to insurance provisions, the flood insurance must cover all structures located on the legal parcel receiving coverage. As such, the Applicant has been required to insure not only his own newly constructed home, but all structures located on APN -15 which do not have mortgages on them. This technicality results in approximately \$25,000 annually (\$750,000 over the course of a 30-year mortgage) of unnecessary insurance costs that would be eliminated through the lot split approval.

Furthermore, the concern that insurers will no longer provide affordable, or even any coverage, to Californians has received statewide attention.⁸ This issue is sure to result in greater challenges in retaining coverage, as well as ballooning coverage rates, both of which will escalate financial hardships to this family farming operation. Ultimately, alleviating any financial constraint through this variance will support long-term community members, improve the viability of the agricultural operation, and encourage the Pylmans to continue their agricultural operations at PK Vineyards for generations to come.

The Variance

As mentioned above, the proposed lot split would create two separate legal parcels – one parcel which would total 57.07 acres in size (APN -15), and the other parcel which would total 11.85 acres in size (APN -13).⁹ Both properties would continue to be used as vineyards and as part of the larger family farming operation. However, under the Yolo County Code, new vineyard parcels created in the A-N zone must be at least 40 acres in size.¹⁰ Thus, one of the new legal parcels (APN -13) would not meet the minimum lot size of the applicable zoning.

⁷ See *Id.*, Page 37.

⁸ There has been a retreat of home insurers in California amid rising climate disasters, so much so that Governor Newsom has publicly recognized the issue and state lawmakers are slated to hold a series of hearings on the issue this fall. (See <https://www.kcra.com/article/california-homeowner-insurance-wildfire-crisis/45212954#>)

⁹ Yolo County GIS identifies the site as being 11.85 acres in area but the County Assessor’s records indicate 10.77 acres. We are using the GIS numbers.

¹⁰ See Yolo County Code, Section 8-2.203(A). The 40-acre minimum applies to irrigated parcels primarily planted in permanent crops, such as orchards or vineyards. As mentioned, the subject property is currently utilized for vineyards.

Nevertheless, APN -13 can be approved as a separate legal lot with the grant of a variance. A variance allows for a variation from the strict application of zoning code requirements, including minimum lot requirements, where “special circumstances pertaining to the physical characteristics and location of the site are such that the literal enforcement” of zoning code requirements “would involve practical difficulties or would cause hardship and would not carry out the spirit and purposes” of the zoning code and General Plan.¹¹ To that end, a variance may be granted when all of the following findings can be made:

- a) That any Variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is situated;
- b) That, because of special circumstances applicable to the subject property, including size, shape, topography, location, or surroundings, the strict application of the provisions of this chapter is found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under the identical zone classification; and,
- c) That the Variance shall not be granted for a parcel of property which authorizes a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property, excluding uses allowed by conditional Use Permit; and
- d) That the granting of such variance will be in harmony with the general purpose and intent of this chapter and will be in conformity with the Master Plan.¹²

For the reasons detailed below, all four mandatory findings can be made for this request and, as such, the grant of a variance is warranted.

- A. That any Variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is situated.**

The granting of this variance will not result in any special privilege to the Applicant which is not already enjoyed by neighboring property owners in the same zone and vicinity. In fact, it can be argued that the grant of the variance will provide the Applicant with treatment equal to that of surrounding property owners. For example, various parcels in the immediate vicinity of APNs -13 and -15 are zoned Agricultural Intensive

¹¹ See Yolo County Code, Section 8-2.218(a).

¹² See Yolo County Code, Section 8-2.218(e).

(A-N) and range from less than an acre in size to approximately 17-acres, noticeably smaller than the 40-acre minimum lot size requirement.¹³ Similar to the Applicant's property, several of these neighboring parcels back-up to Elk Slough and front onto the County roadway, likely bisected into smaller pieces as a result of the construction of Netherlands Avenue. Each of these proximately located properties within the A-N zone which are physically separated from larger agricultural properties by Netherlands Avenue and physically constrained by the Slough already enjoy the privilege of being a separate legal parcel. (See Exhibit B.) Therefore, the grant of a variance will allow the Applicant to enjoy the *same* privilege – distinct legal parcel status – enjoyed by the landowners in the same vicinity and zone. Ultimately, the variance would provide equitable treatment to the Applicant and will not result in the grant of a special privilege.

B. That, because of special circumstances applicable to the subject property, including size, shape, topography, location, or surroundings, the strict application of the provisions of this chapter is found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under the identical zone classification.

Due to the topography, location and surroundings, and the physical characteristics of the subject property, i.e. having been bisected by Netherlands Avenue and bounded on two sides by Elk Slough to the south and west, strict application of the zoning code is depriving the Applicant of the same privilege enjoyed by many landowners and in the vicinity – namely, the privilege of more reasonable flood insurance rates due to a separation between the home site and the larger agricultural operation and the ability to personally own your home while the larger family owns the farm. More specifically, since the property is located in the Delta, adjacent to the Elk Slough and within Flood Zone A, the Applicant is required to have flood insurance if there is a mortgage on any structure. As mentioned, the insurance is required to insure all structures located on the insured parcel. As such, due to the mortgage on the 2010 home, and the fact that APN -13 and -15 happen to be one legal parcel, the Applicant is required to carry insurance coverage not only on his home but for every structure located on APN -15. By having home sites located south of Netherlands Avenue on separate legal parcels from the larger

¹³ See Yolo County GIS Viewer. This list is not exhaustive and merely emphasizes the commonality of smaller parcels in the A-N zone located within Clarksburg. See the following APNs:

APN 043-160-034 (3.29 acres), APN 043-160-035 (4.53 acres), APN 043-160-036 (4.93 acres), APN 043-160-037 (3.89 acres), APN 043-170-001 (9.13 acres), APN 043-230-010 (15.10 acres), APN 043-230-012 (0.92 acres), APN 043-230-013 (0.66 acres), APN 043-230-014 (8.15 acres), APN 043-230-015 (0.19 acres), APN 043-230-016 (0.31 acres), APN 043-230-032 (9.53 acres), APN 043-230-033 (5.44 acres), APN 043-250-009 (16.42 acres), APN 043-250-010 (15.68 acres), APN 043-250-020 (6.47 acres), APN 043-250-021 (12.48 acres), APN 043-250-022 (12.61 acres), APN 043-250-024 (6.59 acres), APN 043-250-025 (12.13 acres), APN 043-250-026 (12.29 acres).

agricultural operations north and west of the roadway, other properties and agricultural operations in the vicinity and under the identical zone classification are being afforded a privilege – reduced flood insurance rates – that the applicant is being deprived.

Additionally, other properties and agricultural operations in the vicinity and under the identical zone classification are able to have their home sites and the family's agricultural operation under two distinct ownership interests. This results a distinct privilege for the farm operator and an incentive for the family member that dedicates their life to managing the family farm. The strict application of the zoning is depriving the Applicant of the ability to own his own home while managing the family farming operation, a privilege enjoyed by all other similarly situated properties south of Netherlands Avenue.

C. That the Variance shall not be granted for a parcel of property which authorizes a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property, excluding uses allowed by conditional Use Permit.

This variance request does not involve any proposed change in uses or activities on the property. Rather, the uses on the property will remain the same which include: an approximately 7-acre vineyard planted in merlot and one residential home on APN -13, and an approximately 52-acre vineyard planted in chenin blanc, the original family home, as well as several additional residential and agricultural structures utilized in the vineyard operation on APN -15. Agricultural and agricultural homesite uses are permitted in the A-N zone.

D. That the granting of such variance will be in harmony with the general purpose and intent of this chapter and will be in conformity with the Master Plan.

There is no applicable Master Plan for the subject property. The granting of this variance will maintain harmony with the Agricultural Intensive (A-N) zone. To begin, the purpose of the zone is to promote intensive agricultural uses, while preventing the encroachment of nonagricultural uses.¹⁴ As noted above, this variance does not seek to change or alter any uses on the subject property, and the existing agricultural (vineyard) uses will remain the same. Rather, the variance will allow a longtime agricultural family to maintain these agricultural operations on their property, while improving the feasibility of the vineyard and providing a sustainable structure by which to ensure continued multi-generational farming in the Clarksburg community. The family's presence in the Delta since the mid-

¹⁴ See Yolo County Code, Section 8-2.302(a).

1800s and a demonstrated commitment to continuing the family-owned and operated farming operation is clear indication that there will be no encroachment of non-agricultural uses. Rather, the uses and activities on the property will remain the same and be encouraged to continue for generations to come.

Conclusion

In its simplest terms, the grant of a variance and approval of this lot split will merely bring into alignment the legal and assessed property boundaries, thereby alleviating any future confusion associated with two APNs assigned to one legal lot. This legal division of assessed parcels will support the Clarksburg wine industry by significantly improving the economic viability of a multi-generational family-run vineyard operation by allowing the Applicant to greatly reducing flood insurance premiums. Additionally, the approval will achieve equitable legal status between APN -13 and the properties located to both is east and west which are in the same zoning designation. Notably, the split will also remedy an unfortunate and costly outcome associated with erroneously issued building permits, and which will support and encourage continued family ownership and management of the vineyard operation. Finally, and of considerable importance, approval is appropriate since all required legal findings for the grant of a variance can be met. For the foregoing reasons, we ask that the County grant a variance for APN -13 and approve the requested lot split.