

# Att. D. PC Staff Report

Time Set 10.

## Planning Commission

**Meeting Date:** 06/13/2024

### Information

#### SUBJECT

**ZF #2023-031:** Consider a request for approval of a tentative parcel map and a variance to allow for the creation of a substandard-sized Agricultural Intensive (A-N) zoned parcel and determine that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines. The project is located at 52181-89 Clarksburg Road and 52431 Netherlands Ave., approximately 0.4-mile west of the town of Clarksburg (APNs: 043-220-013 and 043-220-015). (Applicant: Steve K. Pylman/Owner: B.A. Krull LP#1) (Planner: Charlie Tschudin)

#### SUMMARY

<b>FILE # 2023-031: Pylman Variance and Tentative Parcel Map</b>	
<b>APPLICANT:</b> Steve K. Pylman PK Vineyard PO Box 45 Clarksburg, CA 95612	<b>OWNER:</b> B.A. Krull LP#1 52183 Clarksburg Road Clarksburg, CA 95612
<b>LOCATION:</b> 52181-89 Clarksburg Rd/52182-86 NE, Clarksburg, CA 95612 (APN: 043-220-013 and -015)	<b>SOILS:</b> Sc, Mk, Tf, So (Class III)  <b>FMMP:</b> Prime Farmland
<b>GENERAL PLAN:</b> Agriculture (AG)	<b>WILLIAMSON ACT:</b> Yes - Contract No. 71312
<b>ZONING:</b> Agricultural Intensive (A-N)	<b>FLOOD ZONE:</b> A
<b>SUPERVISORIAL DISTRICT:</b> 1 (Supervisor Villegas)	<b>FIRE SEVERITY ZONE:</b> Non-wildland/non-urban
<b>PUBLIC HEARING NOTICE:</b> 5/31/2024 (neighbor notices sent) and 6/02/2024 (published in Davis Enterprise)	
<b>ENVIRONMENTAL DETERMINATION:</b> Common Sense Exemption - Exempt from environmental review under the California Environmental Quality Act pursuant to Section 15061(b)(3)	

#### RECOMMENDED ACTION

That the Planning Commission:

1. Receive a staff presentation, hold a public hearing, and accept public comments;
2. Determine the project is exempt from the California Environmental Quality Act pursuant to Section 15061(b)(3) of the CEQA Guidelines (Attachment C);
3. Adopt the Findings (Attachment D) in support of approval of the project; and
4. Approve the request for a Variance and Tentative Parcel Map #5246 subject to the Conditions of Approval (Attachment E).

#### REASONS FOR RECOMMENDED ACTIONS/BACKGROUND

The project is a request for a variance and tentative parcel map to divide an existing 73.11-acre parcel into two parcels of 58.183 acres (proposed 'Parcel 1') and 14.926 acres (proposed 'Parcel 2') in the agricultural area southwest of the town of Clarksburg. The property is bisected by Netherlands Ave and identified by two Assessor's Parcel Numbers (APNs 043-220-013 and -015), which were assigned to the single legal parcel when Netherlands Ave was constructed. The proposed parcel map is a request to recognize two legal parcels matching the boundaries of the two APNs (refer to TPM #5426 in Attachment B).

The property is zoned Agricultural Intensive (A-N) and designated as Agriculture (AG) in the 2030 Countywide General Plan. The minimum parcel size for newly created A-N zoned parcels is 40 acres if planted in permanent crops, such as grapes. Because the requested 'Parcel 2' would be 14.926 acres and thus minimum acreage requirements would not be met, the applicant is seeking a variance. The proposed 'Parcel 1' is planted in 52 acres of chenin blanc grapevines and the proposed 'Parcel 2' contains a 7-acre vineyard of merlot.

The applicant's family has lived in Clarksburg and owned the property since the early 1900s. The proposed 'Parcel 1' contains five residences, agricultural support structures, and serves as the original family homestead. 'Parcel 1' is located on the north side of Netherlands Ave and 'Parcel 2' is located on the south side. In 2008, under the belief that the two APNs were separate legal lots, the applicant applied for a building permit to construct a new residence on the proposed 'Parcel 2'. Technically, the building permit should have been denied because the new residence would have exceeded the number of residences allowed on the parcel; nevertheless, the building permit was issued on the belief that the southern APN represented a separate legal parcel. Construction finished on the new residence in 2010.

The property is in the FEMA-designated Flood Zone A. Pursuant to flood insurance provisions, the applicant must insure all the structures located on the legal parcel receiving coverage. As such, the applicant must insure the five residences and agricultural structures on 'Parcel 1' and the more recently constructed home on 'Parcel 2'. By dividing the single parcel into two legal lots that mirror the existing Assessor's parcel boundaries, the applicant will be able to separate the residence on 'Parcel 2' from the original homestead and drastically reduce the financial burden associated with flood insurance.

## **ANALYSIS**

Applicant's request to divide the parcel into two legal lots that mirror the physical division of the APNs is a result of several distinct circumstances, including: construction of Netherlands Ave through the original parcel; project area's location in a flood zone; and, County-issuance of the building permit for the residence on proposed 'Parcel 2' in 2008.

The project request was reviewed for consistency with the spirit and intent of the 2030 Countywide General Plan, the Clarksburg Area Community Plan, and the County Zoning Code. The Countywide General Plan emphasizes the preservation of agriculture through policies that require maintaining large enough parcel sizes such that agriculture is viable and sustainable on each parcel, and that prohibit new residential subdivisions in agricultural areas. Therefore, consideration of a proposal to divide agricultural land depends on the agricultural purpose, which, among other things, does not result in the creation of lots that become nonviable for farming. The 2015 Clarksburg Area Community Plan furthers those policies in the Countywide General Plan aimed at preserving agriculture with additional measures that recognize the most notable challenges that specifically affect Clarksburg, including compliance with Federal Emergency Management Agency (FEMA) standards for development within a 100-year floodplain. The Clarksburg Area Community Plan also notes that wine grapes are unquestionably the area's leading crop.

The County's Zoning Code further recognizes the burden of FEMA's development restrictions on landowners through the creation of the Clarksburg Agricultural District (CAD) Overlay Zone in Section

8-2.401. The CAD overlay zone is intended to enhance and promote the distinctive agricultural and recreational character of the Clarksburg area, by streamlining regulations and providing greater flexibility that allows farms the ability to produce and market agricultural products, as well as provide agricultural tourism services.

The project request is unique in that the approval will not result in any on-the-ground or physical changes but will allow the applicant to drastically reduce the cost of flood insurance and remain a contributing member of the Clarksburg wine grape growing community. In this particular case, the property was 'divided' by Netherlands Ave when it was built in the early 1900's and the property has since functioned and been treated as two separate parcels, even though it remained one legal parcel. Issuance of a building permit by County staff in 2008 underscores this scenario. Because of this distinctive division with each APN containing existing residential development, the project request cannot be reviewed through the typical agricultural division lens that considers, among other things, the potential for increasing home site development in an agricultural area. Approval of the tentative parcel map and variance would alleviate a significant financial burden associated with insuring the home and provide for more economic flexibility to enhance agricultural operations, but would not necessarily result in increased residential density.

At the time of building permit issuance, County staff did not realize the two APNs had been assigned to one legal lot. The applicant also did not realize this until construction was complete in 2010 when he sought to convert the construction loan into a traditional mortgage, which requires proof of flood insurance. Given the home's location within Flood Zone A, 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 the new home subject to the mortgage, but all structures, including five homes, located on the northern part of the property, which do not have mortgages. This 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 parcel map approval.

Approval of the tentative parcel map would result in the creation of a substandard sized agricultural parcel, but the project request is supported by other policies in the Agriculture and Economic Development Element of the General Plan that seek to preserve agriculture as the fundamental identity of Yolo County. Policy AG-6.2 speaks directly to the project request: *Advance the economic and cultural vitality of heritage or legacy communities in the Delta, such as Clarksburg.* Approval of the request would allow the applicant to remain in the area and continue farming wine grapes. Policy AG-1.3 prohibits the division of agricultural land for non-agricultural uses, but approval of the parcel map would allow for the two distinct wine grape varieties to have separate vineyard contracts managed independently of one another. This, in turn, would allow for better revenue accountability, which would improve the economic viability of each agricultural operation. Other policies in the Land Use and Community Character Element recognize the unique land use constraints and interests of the Delta area and seek to promote the economic and social sustainability of the community of Clarksburg, and the viability of the larger Clarksburg Agricultural District.

As mentioned above, approval of the tentative parcel map and variance would not result in any physical change to or use of the applicant's property. In the case of this request, creation of a substandard sized agricultural parcel would not otherwise interfere with County policies aimed at maintaining agriculture as the core of Yolo County's identity, but would support the residents that live and work within the flood zone in the Delta by allowing a generational farmer an opportunity to greatly reduce the cost burden of flood insurance and continue farming on the family property.

Staff believe this to be a unique instance where the construction of Netherlands Road and the property's location in a flood zone ultimately resulted in a heavy financial burden due to the applicant and County operating under the assumption that the two APNs were separate legal lots. Staff recommend approval of the variance and tentative parcel map to divide the existing 73.11-acre parcel into two parcels of 58.183-acres (proposed 'Parcel 1') and 14.926-acres (proposed 'Parcel 2') so that

the applicant can cease insuring the structures on proposed 'Parcel 1', including five homes that no longer have mortgages, and drastically reduce the property's flood insurance to continue contributing to the wine grape growing industry in Clarksburg. Support for the tentative parcel map and variance can be referenced in the Findings document located in Attachment D.

### **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) REVIEW**

A project that qualifies for neither a statutory nor categorical exemption may nonetheless be found exempt under what is called the 'common sense' exemption, which applies where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. The project proposal does not include any development and the physical environment will not change in any manner associated with approval of the project requests. The variance and tentative parcel map request to recognize the two Assessor's Parcel boundaries as the legal boundaries for the two resultant parcels meets the criteria for a common sense exemption pursuant to Section 15061(b)(3) of the CEQA Guidelines. A Notice of Exemption is included in Attachment C.

### **SUMMARY OF PUBLIC CORRESPONDENCE**

A Request for Comments was distributed to reviewing agencies on November 30, 2023. Comments received from reviewing agencies were incorporated into the Conditions of Approval (Attachment E).

A public hearing notice was mailed to property owners within 1,000 feet on May 31, 2024, and published in the Davis Enterprise on June 2, 2024.

The project request was discussed at the Clarksburg Citizens Advisory Committee meeting on February 1, 2023. During the meeting, the Committee and members of the public discussed the burden of flood insurance on property owners in the Delta, the importance of residents of the community being able to afford to remain residents and family farmers in Clarksburg, and how the cost burden of flood insurance could be better spent on agricultural and vineyard operations. The Clarksburg Citizens Advisory Committee voted unanimously to recommend that the Planning Commission approve the variance and Tentative Parcel Map #5426.

### **COLLABORATIONS**

Staff consulted with the Agricultural Commissioner's Office, Building Division, Public Works Division, Environmental Health Division, various agencies and interested parties, including the Delta Protection Commission, and has received input from the Office of County Counsel. The Agricultural Commissioner and the Delta Protection Commission did not have any questions or comments on the request, and no comments or questions were received from the public.

### **APPEALS**

Any person who is dissatisfied with the decisions of this Planning Commission may appeal to the Board of Supervisors by filing a notice of appeal with the Clerk of the Board within fifteen (15) days from the date of the action. A Planning Commission Appeal Form and appeal fee immediately payable to "County of Yolo" must be submitted at the time of filing. The Board of Supervisors may sustain, modify or overrule this decision. The Planning Commission Appeal Form can be accessed at the following link: <https://www.yolocounty.org/government/board-of-supervisors/clerk-of-the-board/planning-commission-appeal>

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### **Attachments**

- Att. A. Project Location and Aerial
- Att. B. TPM #5426
- Att. C. Notice of Exemption
- Att. D. Findings
- Att. E. Conditions of Approval

## Att. F. Applicant Justification

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### Form Review

**Inbox**

Stephanie Cormier  
Eric May  
Stephanie Cormier  
Form Started By: Charlie Tschudin  
Final Approval Date: 06/03/2024

**Reviewed By**

Stephanie Cormier  
Eric May  
Stephanie Cormier

**Date**

05/30/2024 05:08 PM  
05/31/2024 04:04 PM  
06/03/2024 09:17 AM  
Started On: 05/20/2024 10:14 AM