



Office of County Counsel
MEMORANDUM

Date: April 15, 2005
To: Board of Supervisors
From: Alan L. Seltzer, Chief Assistant County Counsel
RE: BISCHOF/ODELL LOT LINE ADJUSTMENT
CASE NO: 02LLA-00000-00015
Departmental Agenda Item #7

On April 1, 2005, the parties participated in a facilitation meeting in the above-referenced appeal. Applicants Kathy Odell and Charles Bischof appeared with their attorney, Richard Monk. Appellant Kerry Alligood appeared with his attorney Derek Westen. Michelle Wilson, from P&D, also participated.

Mr. Westen commenced the meeting with a statement of appellant's concerns, some of which implicate historic issues between the parties. The applicant lives below the subject property, which is located at the county-city boundary. First, existing Parcel 2 encompasses 24.48 acres and is developed with a single family modular home. Under the lot line adjustment, Parcel 2 would be realigned to measure 3.4 acres and would continue to contain that existing modular home. The appellant stated he believed that the modular home on the existing parcel would be replaced with a traditional single-family residence. The fact that the residence on Parcel 2 had not been replaced was an issue for appellant and was a significant subject of discussion.

Mr. Westen acknowledged that the Zoning Ordinance allows adjustment and development of legal lots that do not meet the minimum lot size of a zone district. He argued, however, that this lot line adjustment was contrary to the purpose, intent and goals of the Zoning Ordinance, which provides for one single-family residence on 40 acres consistent with the minimum lot size requirements of the AG-I-40 zone district. He contended that constraints on the two existing lots, totaling approximately 30 acres, allowed for a 647 square foot home on existing Parcel 1, which is 3.4 acres and currently vacant. He argued that the reconfiguration of parcels proposed by the lot line adjustment would allow Parcel 1 to be expanded so that a larger, highly prominent

and visible home could be built on the ridge line. He further contended that denial of a 1979 parcel map involving this property supported his position.

Mr. Monk responded for the applicants. He stated that the lot line adjustment was consistent with and satisfied the requirements of the County Code. The project involves 2 legal lots, both residentially developable in the first instance. He explained that the lot line adjustment restricts development to an envelope and scale much smaller than is allowed currently on existing Parcel 2. For example, in addition to a single-family residence, a guest home, farm labor housing and greenhouse development is allowed on that parcel. He stated that conditions on the lot line adjustment identifying a single building envelope on revised Parcel 1 limited development in a manner that was more compatible with the area than what might theoretically be built out under existing conditions pursuant to the Zoning Ordinance.

The discussion between the parties focused on potential development of existing versus the reconfigured parcels, the visual impacts that might result from that development, and whether a level of trust existed so that additional conditions on development of the adjusted parcels could resolve this dispute. In that regard, the parties discussed the development potential of existing Parcel 2 (24.48 acres), and that it is sufficiently large to allow a main house within the development envelope of proposed Parcel 1 and a guest house below that site where the existing modular home currently exists. The applicants pointed out that residences that could be built under the lot line adjustment would exist in the same locations. Focusing on the appellant's visual impact concerns and his desire to have the modular home removed and replaced with a traditional single family dwelling, the applicants stated that they intended to remove the modular home and build a traditional single family dwelling in its place. The parties then discussed the possibility that the lot line adjustment might be conditioned to require removal of the existing modular home before occupancy of any single family residence constructed on proposed Parcel 1. In addition to a condition related to the timing of the removal of the modular home, the parties discussed also whether voluntary height restrictions might resolve this dispute.

The meeting concluded without any resolution. The attorneys for the parties, however, indicated that they might discuss this matter further outside the facilitation process.