

COUNTY OF NEVADA

(Attach pages if needed)

APPEAL TO BOARD OF SUPERVISORS

(Per Article 5 of Chapter II of the Land Use and Development Code)

Any applicant or interested party may file an appeal with the Board of Supervisors requesting review of any final action taken by Various County Agencies. Such appeal shall be filed with the Clerk of the Board of Supervisors within **ten (10) calendar days** from the date of the decision, except for recommendations on general plan amendments which by State law are subject to a **five (5) calendar day** appeal period. Filing shall include all information requested herein and shall be accompanied by the appropriate filing fee. The statements (required below) must contain sufficient explanation of the reasons for and matters being appealed in order to facilitate the Board of Supervisors initial determination as to the propriety and merit of the appeal. Any appeal which fails to provide an adequate statement may be summarily denied. The filing of such an appeal within the above stated time limit shall stay the effective date of the action until the Board of Supervisors has acted upon the appeal.

I. APPEAL: I/We, the undersigned, hereby appeal the decision/recommendation of the

Planning Department
Agency Name

PLN17-035, LLA17-0024 Baker/Fraga Lot Line Adjustment January 19, 2018
Agency File No. Date of Decision

PLANNING AGENCY DECISIONS:

- Airport Zoning
L-III Airport Zoning; Truckee-Tahoe Airport, 2.12 Appeals; Nevada County Air Park, 3.10
- Environmental Impact Report
L-XIII California Environmental Quality Act; County CEQA Guidelines and Procedures, 1.20 Appeals of the Adequacy of the EIR
- Floodplain Management Regulations (Floodplain Administrator)
L-XII Floodplain Management Regulations; 1.4 Administration
- Historic Preservation Combining District
L-II Zoning Regulations; Zoning Districts; 2.7.2 HP Combining District
- Inoperable Vehicles
L-II Zoning Regulations; Administration and Enforcement, 5.20 Abatement and Removal of Inoperable Vehicles
- Land Use Applications
L-II Zoning Regulations; 5.12 Administration and Enforcement
- Negative Declaration
L-XIII California Environmental Quality Act; County CEQA Guidelines and Procedures, 1.12 Negative Declaration

XX Rules of Interpretation
L-II Zoning Regulations; 1.4 Rules of Interpretation Regarding:

PUBLIC WORKS DECISIONS:

_____ Roadway Encroachment Permit
G-IV General Regulations; 4.A Regulating Roadway Encroachments;
15.1 Appeals

FIRE AGENCY DECISIONS:

_____ Fee Assessments (Fire Protection District)
L-IX Mitigation and Development Fees; Fire Protection Development
Fees; 2.6 Appeal from Fee Assessment

_____ Fire Safety Regulations; General Requirements (Fire Safety Reg. Hearing Body)
L-XVI Fire Safety Regulations; General Requirements; 2.7 Appeals

_____ Fire Safety Standards (County Fire Marshal or Fire Chief)
L-V Buildings; 5.8 Fire Agency Appeals

ENVIRONMENTAL HEALTH DECISIONS:

_____ Sewage Disposal (Sewage Disposal Technical Advisory Group)
L-VI Sewage Disposal; 1.18 Appeals

_____ Water Supply and Resources (Health Officer)
L-X Water Supply and Resources; 5.1 Appeal Procedures

List All Agency Action(s) Taken That Are Being Appealed: The Planning Department
improperly added "conditions of approval" to the subject lot line adjustment and apparently
to all similar lot line adjustments alledging building permit violations and requiring that the
property owners show proof of permits or file for after the fact building permits.
We are asking that Condition of Approval 3 of the lot line adjustment approval be removed.

II. STATEMENT OF THE REASONS FOR THE APPEAL:

State law specifically limits the ability to add "conditions of approval" to a lot line adjustment.
Condition 3 of the subject lot line adjustment approval was applied in violation of State law.
See attached discussion.

III. STATEMENT OF THE SPECIFIC PROVISIONS WHICH ARE BEING APPEALED:

Delete condition of approval number 3 requiring that an outbuilding be relocated and that a building permit be obtained for another building, with the finding that the County has no authority under State law to impose these conditions.

IV. STATEMENT OF THE CHANGES OR ACTION REQUESTED OF THE BOARD OF SUPERVISORS:

Delete Condition of Approval No. 3 as requested above. Also direct the Planning Department to refrain from applying other inappropriate conditions of approval to other current and future lot line adjustment applications.

V. SUMMATION OF THE ARGUMENTS TO BE RAISED BY THE APPELLANT(S):

- 1. That alleging building permit violations and conditioning a lot line adjustment regarding potential code violations is prohibited by State Law.
2. That the building conditions are not supported by the County's ordinance standards for approval for a lot line adjustment.
3. That the condition of approval is inconsistent with the County's policy on code enforcement which requires a citizen's written complaint with evidence to initiate an investigation.

(See attached for additional information)

VI. IDENTIFICATION OF THE APPELLANT(S):

(Name) (Mailing Address) (Telephone)

Andrew R. Cassano, Nevada City Engineering, Inc. 505 [redacted] on behalf of Susan Rideout, Claudia Anne Baker, Patricia Frega and all pending and future Nevada County Lot Line Adjustment Applicants

VII. NOTICE: (Multiple appellants should select one representative for purposes of notice.

All notices to appellant(s) should be mailed to: (Please Print)

Andrew R. Cassano, Nevada City Engineering, Inc., [REDACTED]

email: [REDACTED]

(Name/Representative)

(Mailing Address)

(Telephone)

Appellant.

Andrew R. Cassano
(Sign)

Dated: 1-29-18

ANDREW R. CASSANO
(Print)

FOR OFFICE USE ONLY

\$1,457.80
Filing Fee

1/29/18
Date Filed

[Signature]
Received By

Appeal form to be returned to: Nevada County Board of Supervisors Office, Eric Rood
Administrative Center, 950 Maidu Avenue, Nevada City, CA 95959-8617. (530) 265-1480



**COUNTY OF NEVADA
COMMUNITY DEVELOPMENT AGENCY**

950 MAIDU AVENUE, SUITE 170, NEVADA CITY, CA 95959-8617
(530) 265-1222 FAX (530) 265-9854 <http://www.mynevadacounty.com>

Planning Department Environmental Health Building Department Sanitation Department Dept. of Public Works Agricultural Commissioner

AGREEMENT TO PAY FORM
LAND USE APPEAL

Nevada County Community Development Agency (NCCDA) Appeal fees are based on Board of Supervisor approved fee schedules. Hourly fees and fees for services by departments not included in the original appeal fees are billed to the applicant based on the Board approved fee schedule in effect at the time services were performed and once the final appeal decision has been rendered by the Board. This *Agreement To Pay Form* must be signed and original signatures submitted to the Clerk of the Board along with the completed forms and the initial payment of fees. Copy of current fee schedule is attached to the appeal packet.

I/We understand that the NCCDA may bill for services not included in the original appeal fee, and I/We agree to pay such billing within thirty (30) days of the mailing of such billing. All fees must be paid prior to the granting of any permits, approvals, or any land use entitlement for which services are required. The collection of fees, however, will have no effect upon the decision of the appeal by the Board of Supervisors.

Appellant Information:

Invoices and/or notices to be mailed to:

Project: PLN17-035, LLA17-0024	Name: Andrew R. Cassano
Baker/Fraga Lot Line Adjustment	Address: Nevada City Engineering, Inc.
and All Current and Future	[REDACTED]
Lot Line Adjustment Applicants	Telephone: [REDACTED]

NCCDA Staff is authorized to consult with necessary governmental agencies concerning this project. They are also authorized to consult with the following individuals concerning this appeal:

I certify under proof of perjury that I am the party authorized to enter into this fee agreement. I have read the conditions concerning Nevada County Community Development Agency Fees and I understand that in the event that the billing party I have indicated does not pay required fees, I will be responsible for payment. I further agree to advise the department in writing should I no longer be associated with the above referenced project/property, rendering this agreement invalid as of the change of the date that the letter is received by the Nevada County Community Development Agency.

Andrew R. Cassano Dated: 1-29-10 CDL# R006195B
Signature
ANDREW R. CASSANO Tel # [REDACTED]
Printed Name

NEVADA CITY ENGINEERING, INC.

Engineering • Surveying • Planning

January 29, 2018

Board of Supervisors
COUNTY OF NEVADA
950 Maidu Avenue
Nevada City, CA 95959

REGARDING: Supplemental information for Land Use Appeal on PLN17-035 and LLA17-024 Baker/Fraga Lot Line Adjustment, and similar applications and applicants

Honorable Board Members:

Introduction:

This information is being submitted as supplemental information supporting our above referenced appeal. Our firm is undertaking the expense of this appeal, not only for the benefit of our immediate clients referenced above, but also in order to correct County lot line adjustment procedures for all similar applicants.

What We Are Requesting:

We are requesting these actions by the Board of Supervisors:

1. Eliminate condition 3 of the above referenced lot line adjustment approval letter which states:

There are no records of building permits for the structures identified as a barn and a shed on APN 38-500-01. Additionally, the shed is located in the access and utility easement. Prior to recordation, the following shall be required:

- a. Shed- Move the structure out of the easement and relocate it to another location on the property, or remove the structure, or provide verification that the structure legally existed prior to the easement being created. Please be aware that if the shed is relocated, a building permit shall be obtained, or verification is required to show that the shed meets permit exemption requirements.

- b. Barn- An as-built permit shall be obtained, or verification shall be provided to show that the barn meets permit exemption requirements, or proof that the barn was constructed prior to 1962 and has not been altered.
2. Direct staff to eliminate similar code enforcement type conditions from all other pending and future lot line adjustment applications.
3. Make these findings to support this decision:
 - a. That applying such conditions is not permitted under the Subdivision Map Act Section 66412(d) which states: "A local agency or advisory agency shall limit its review and approval to a determination of whether or not the parcels [not buildings] resulting from the lot line adjustment will conform to the local general plan, any applicable specific plan, any applicable coastal plan, and zoning and building ordinances."
 - b. That applying such conditions is not permitted under said Subdivision Map Act, which further states: "An advisory agency or local agency shall not impose conditions or exactions on its approval of a lot line adjustment except to conform to the local general plan, any applicable specific plan, any applicable coastal plan, and zoning and building ordinances, to require the prepayment of real property taxes prior to the approval of the lot line adjustment, or to facilitate the relocation of existing utilities, infrastructure, or easements."
 - c. This type of approval condition unfairly subjects lot line adjustment applicants to code enforcement investigation without the receipt of any formal complaint or evidence to support the investigation, as is being required for other code violation investigations.
 - d. The nature of this condition unfairly assumes that lot line adjustment applicants are guilty of code violations and puts them into the position of trying to produce proof of their innocence.
 - e. Applying this type of condition unfairly discourages applicants from using lot line adjustments as a tool to correct building setbacks, contain essential features, improve lot design, and/or make minor sales to adjoining land owners.
 - f. Applying this type of condition is contrary to the interpretation of surrounding jurisdictions, including Grass Valley, Placer County, Yuba County, and Sierra County.

Background:

The State Legislature, in the Subdivision Map Act, recognized that boundary line adjustments between four or fewer adjoining lots is a pretty simple idea. Typically, the process helps neighbors looking for a more logical line, or perhaps a large land owner sells some land to an adjoiner. The State basically exempted lot line adjustments from

general subdivision rules and all of the direction to local jurisdictions is contained this one paragraph in the Subdivision Map Act under exemptions (emphasis added):

Section 66412(d) of the Subdivision Map Act under "Exemptions:"

(d) A lot line adjustment between four or fewer existing adjoining parcels, where the land taken from one parcel is added to an adjoining parcel, and where a greater number of parcels than originally existed is not thereby created, if the lot line adjustment is approved by the local agency, or advisory agency. **A local agency or advisory agency shall limit its review** and approval to a determination of whether or not the parcels resulting from the lot line adjustment will conform to the local general plan, any applicable specific plan, any applicable coastal plan, and zoning and building ordinances. **An advisory agency or local agency shall not impose conditions or exactions on its approval of a lot line adjustment** except to conform to the local general plan, any applicable specific plan, any applicable coastal plan, and zoning and building ordinances, to require the prepayment of real property taxes prior to the approval of the lot line adjustment, or to facilitate the relocation of existing utilities, infrastructure, or easements. No tentative map, parcel map, or final map shall be required as a condition to the approval of a lot line adjustment. The lot line adjustment shall be reflected in a deed, which shall be recorded. No record of survey shall be required for a lot line adjustment unless required by Section 8762 of the Business and Professions Code. A local agency shall approve or disapprove a lot line adjustment pursuant to the Permit Streamlining Act (Chapter 4.5 (commencing with Section 65920) of Division 1).

State law, of course, dictates the limits of the County's authority. This appeal contends that the County is overstepping its lot line adjustment authority by getting into enforcement issues as discussed further below.

Working with Planning Staff:

All of us here consider your planning staff to be quite excellent and we think that Brian Foss is doing a great job, but the Department got this one wrong. Before filing this appeal, we worked with the staff in an effort to drop this condition of approval.

Mr. Foss cites a County ordinance L-V 2.2 Section 114(D) as authority to verify building codes and require corrective action with lot line adjustments. It lists a wide array of discretionary projects as triggers for building code compliance conditions and appears to also be in violation of State law, above.

Nevada County Standards for Approving a Lot Line Adjustment:

Nevada County's Land Use and Development Code Section L-II 4.1.3(E) contains the "standards of approval," meaning that once these standards are met the County must approve the lot line adjustment. There is no mention of "proving all the buildings were legally built." These standards are summarized as follows:

- A boundary line adjustment can't conflict with prior conditions of approval for lot size or density
- A boundary line adjustment cannot result in additional land division potential.
- A boundary line adjustment's resultant parcels have to meet basic general plan and environmental health standards.
- Adjusted parcels need to meet the minimum lot size, with some defined exceptions.

Other Jurisdictions Do Not Apply Conditions of Approval:

In an effort to confirm my interpretation of the law from years of practice in multiple jurisdictions, I interviewed others, with these results:

Placer County (Ben Bardakjian, PLS, Associate Surveyor) December 7th email:

"I know that Unincorporated Placer County does not provide conditions of approval for boundary line adjustments. Subdivision Map Act 66412(d), 3rd sentence."

Kevin Nelson, local engineer/surveyor, December 4th email:

"I would concur with you [Andy] that these additional conditions do not conform with the Map Act or its intention for LLAs. I cannot find anything in the County Building Ordinance that would allow these additional conditions. . ." [referring to fire clearing and building permit review of structures].

Ron Dundas, local land surveyor, December 5th email:

"I too concur, that the County is probably overstepping their statutory authority on demanding exactions via the BLA process."

City of Grass Valley (Lance Lowe AICP, Senior Planner) December 7th email:

"As you know, in accordance with Section 66412(d) of the Subdivision Map Act, a City or County shall not impose conditions on a Lot Line Adjustment, except to conform to the local general plan, any applicable specific plan, and any zoning or building ordinance. Accordingly, the City of Grass Valley would not normally impose conditions except as mentioned. Our standard conditions of approval simply relate to submitting for approval the correct document for recording."

Yuba County (Jeff Olsen, Assistant Surveyor) December 7th email:

“Nothing outside of 66412(d). . .’ shall not impose conditions or exaction on its approval of a lot line adjustment except to conform to... General Plan, Specific Plan, Zoning, Building and taxes...’ seems pretty clear.”

Sierra County (Brandon Pangman, Assistant Direction County Planning Department) December 7th email:

“It is not at all uncommon that a LLA application or map is missing crucial details; or affecting an easement; or cutting off legal access to a parcel; or the existing development on the affected lots would result in some form of non-conformance with the underlying zoning or building codes...so we do, in such cases, add conditions of approval that these situations must be corrected before the LLA can be recorded.

“But we cannot, as I understand it, impose conditions or exaction beyond these basic ‘clean-ups’ which we could do otherwise if it were a tentative/final map situation. We are also limited under Cal Fire’s ‘4290’ regulations (14-CCR-1270.02(c)(1))from imposing fire protection improvements, such as driveway improvements and fire suppression water supplies.

“Lastly...there is a categorical exemption (Class 5) for ‘minor lot line adjustments’ I personally have never seen or heard of a LLA being subject to CEQA and imposing mitigation measures.”

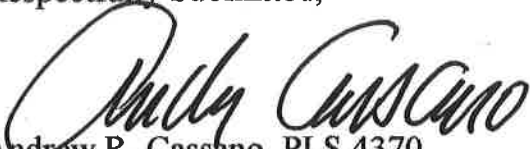
County Code Enforcement Policy:

I confirmed with the Nevada County Code Enforcement Division that they are not currently taking code enforcement actions against property owners, except where a complaint form has been filed. Yet the conditions that the County has been applying seem to be based on the suspicion that a code violation exists and that the applicant is guilty until proven innocent.

Summary:

Based on the information that we've provided, I request that the Board of Supervisors uphold this appeal based on the law and a basic sense of fairness to your citizenry. Please contact me for additional information.

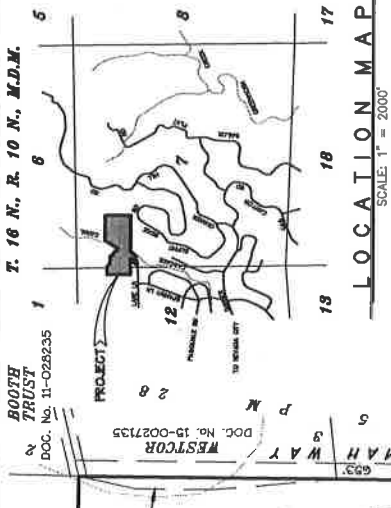
Respectfully Submitted,



Andrew R. Cassano, PLS 4370
Professional Land Surveyor
Town and Regional Planner

Cc: Claudia Baker
Susan Rideout
Patricia Fraga
Kevin Nelson, PE
Ronald Dundas, PLS
Nevada County Contractors Association Board of Directors
Nevada County Association of Realtors, Legislative Committee

Enc.
/arc



NOTES

- PROPERTY PROFILE EXISTING

EXISTING PARCEL #	APN	ZONING	EXISTING AREA	LOT POTENTIAL
1	38-500-01	AG-30	19.62 AC.	1
2	38-500-02	AG-30	19.62 AC.	1
TOTALS			0.67 AC.	2

PROPERTY PROFILE PROPOSED

PROPOSED PARCEL #	APN	PROPOSED AREA	LOT POTENTIAL
1	38-500-01 + PTN. 38-500-02	19.62 AC.	1
2	PTN. 38-500-02 + 38-120-06	1.67 AC.	1
TOTALS		20.29 AC.	2

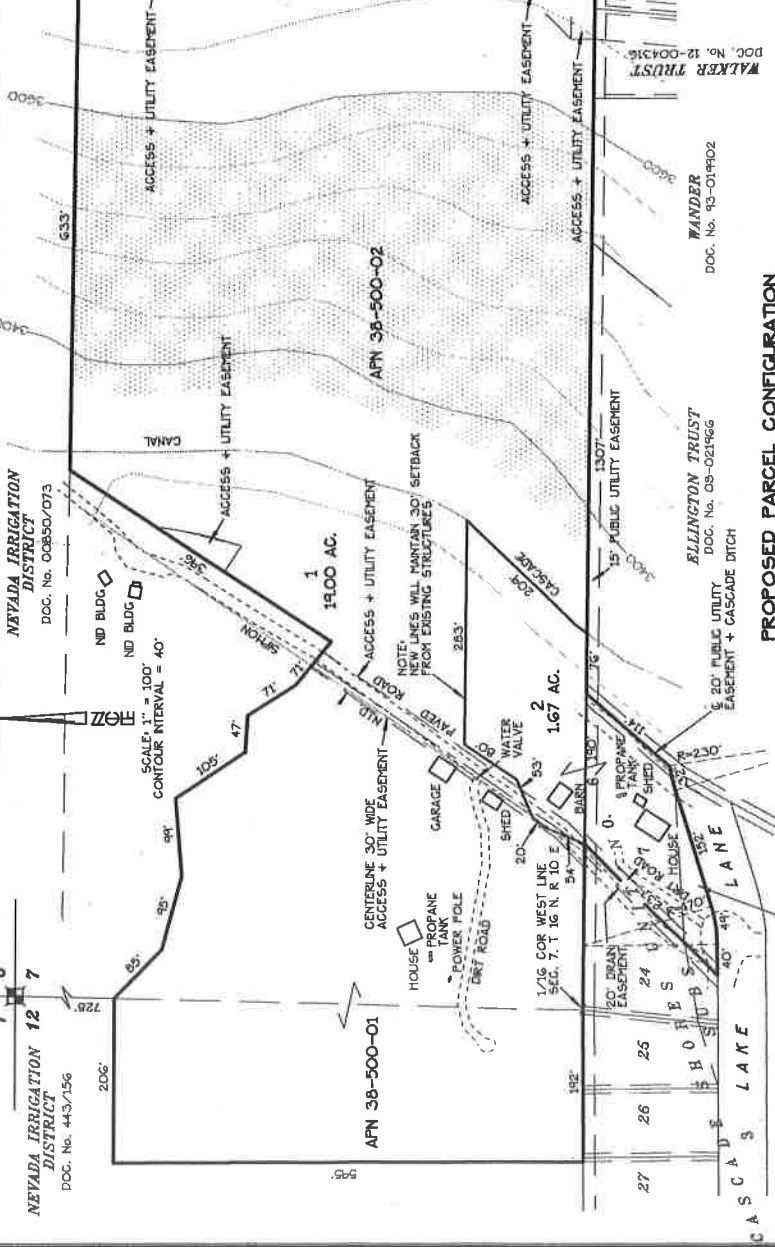
3. PROPERTY PROFILE:
 APN: S-
 20.67 AC.
 ZONING: E-1, AG-30
 USE: ESI

4. COMPLIANCE SERVICE INFORMATION:
 SCHOOL DISTRICTS: NEVADA JOINT UNION HIGH SCHOOL DISTRICT, NEVADA COUNTY SCHOOL DISTRICT, NEVADA COUNTY CONSOLIDATED FIRE PROTECTION DISTRICT
 FIRE PROTECTION: AT-T
 TELEPHONE: PACIFIC GAS AND ELECTRIC, INDIVIDUAL SEPTIC SYSTEMS, NEVADA IRRIGATION DISTRICT
 POWER: SEWAGE DISPOSAL
 WATER: WATERS

5. CONTOURS SHOWN HEREON WERE EXTRAPOLATED FROM THE "NORTH BLOOMFIELD" U.S.G.S. 7.5 MINUTE QUADRANGLE. THE CONTOUR INTERVAL IS 40 FEET.

PROPOSED LOT LINE ADJUSTMENT FOR FRAGA TRUST + CLAUDIA A. BAKER

BEING LOT 23 OF CASCADE SHORES UNIT NO. 6 BOOK 3 SUBDIVISIONS PAGE 7 AND PORTION OF LOT 1 SECTION 7, T. 16 N., R. 9 E., M.D.M. WITHIN THE UNINCORPORATED TERRITORY OF NEVADA COUNTY CALIFORNIA
 SCALE: 1" = 100'
 NOVEMBER, 2017
NEVADA CITY ENGINEERING, INC.
 505 COYOTE STREET • P.O. BOX 1437 • NEVADA CITY • CALIFORNIA



OWNER/APPLICANT:
 PATRICIA A. FRAGA TRUST
 CLAUDIA ANN BAKER
 2250 BIRCHWOOD PARKWAY
 CLAYTON, CA 94517
 (530) 265-9676
 (530) 478-1036

PREPARED BY:
 ANDREW R. CASSANO, L.S. 4370
 NEVADA CITY ENGINEERING, INC.
 505 COYOTE STREET - SUITE B
 NEVADA CITY, CA 95954
 (530) 265-9676

LEGEND:
 APPROXIMATE SLOPES GREATER THAN 30%



EXISTING PARCEL CONFIGURATION

PROPOSED PARCEL CONFIGURATION

PROPOSED LOT LINE ADJUSTMENT

LEGEND:
 APPROXIMATE SLOPES GREATER THAN 30%

EXISTING PARCEL CONFIGURATION

PROPOSED PARCEL CONFIGURATION

PROPOSED LOT LINE ADJUSTMENT



**COUNTY OF NEVADA
COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT**

950 MAIDU AVENUE, SUITE 170 NEVADA CITY, CA 95959-8617
(530) 265-1222 FAX (530) 265-9851 <http://new.nevadacounty.com>

Sean Powers
Community Development Agency Director

Brian Foss
Planning Director

**NOTICE OF CONDITIONAL APPROVAL
BOUNDARY LINE ADJUSTMENT**

January 19, 2018

Andrew Cassano
Nevada City Engineering
505 Coyote Street, Suite B
Nevada City, CA 95959

File No. PLN17-0135; LLA17-0024
APN(s): 38-120-06 & 38-500-01/02

Re: Baker/Fraga Lot Line Adjustment

Dear Mr. Cassano,

The application for a Boundary Line Adjustment that you submitted on December 19, 2017, on behalf of Claudia Baker and Susan Rideout for property at 15144 Lake Lane in Nevada City (APNs 38-500-01/02), and Patricia Fraga for property at 15200 Lake Lane (APN 38-120-06), is hereby approved subject to the conditions listed below. The adjustment will transfer 1.0 acre of General Agricultural (AG-30) zoned property containing a barn from the Baker/Rideout parcel (APN 38-500-01/02) to the Fraga parcel (APN 38-120-06) with Single-Family (R1-X) zoning. The eastern property line of the transferred acre is aligned along the Cascade Canal and the new property lines will allow for the barn to be in compliance with the property line setbacks. APN 38-500-01/02 will decrease from 19.62 to 18.62 acres, and APN 38-120-06 will increase from 0.67 to 1.67 acres.

Prior to boundary line adjustment recordation, the following conditions shall be completed:

1. This boundary line adjustment is not effective until recorded in the Office of the County Recorder. Upon recordation of the boundary line adjustment all pre-existing lot lines are deemed erased by the newly recorded adjustment. Documents used to record the boundary line adjustment shall be submitted to the County Surveyor for review and recordation and shall include the transfer deeds that reflect the new property descriptions, executed by all affected owners of record. **Any existing deeds of trust shall be revised to reflect the new property descriptions and shall be approved by the beneficiaries of said deeds of trust.** Boundary line adjustments shall be reflected in recorded documents in one of the two following ways:
 - a. The boundary description for the recorded documents that are used to legally convey the property for this boundary line adjustment shall be signed and sealed by a land surveyor or civil engineer licensed to practice land surveying in California and be in compliance with Subdivision Map Act, Section 66412(d). The boundary description shall include the following wording, unless the entire resulting parcel is described:

“NOTE: The herein described land area has not been approved as a separate building site, and is created as an approved boundary line adjustment for the express purpose of being combined with and used in conjunction with adjoining lands.”

- b. If a record of survey is not prepared for the boundary line adjustment, the document used to convey the property shall be accompanied by a sketch map depicting the adjusted boundaries. The sketch map shall be signed and sealed by a licensed land surveyor or civil engineer and shall include: 1) a statement that a Record of Survey is not required in conformance with Section 8762 of the Business and Professions Code; 2) the County File Number, LLA17-0024; and 3) the following statement:

Approved by Nevada County: _____

Date

By: _____

Title: _____

Nevada County Department of Public Works

2. The following information shall appear on the sketch map or Record of Survey map that is recorded for this adjustment:
- (a) Approval of this boundary line adjustment does not constitute approval nor guarantee sewage disposal or water availability on these parcels.
 - (b) All pre-existing lot lines shall be considered erased or merged by this boundary line adjustment.
3. There are no records of building permits for the structures identified as a barn and a shed on APN 38-500-01. Additionally, the shed is located in the access and utility easement. Prior to recordation, the following shall be required:
- (a) Shed- Move the structure out of the easement and relocate it to another location on the property, or remove the structure, or provide verification that the structure legally existed prior to the easement being created. Please be aware that if the shed is relocated, a building permit shall be obtained, or verification is required to show that the shed meets permit exemption requirements.
 - (b) Barn- An as-built permit shall be obtained, or verification shall be provided to show that the barn meets permit exemption requirements, or proof that the barn was constructed prior to 1962 and has not been altered.
6. A Tax Clearance Certificate from the Nevada County Tax Collector shall be provided to the Nevada County Department of Public Works prior to recording the boundary line adjustment.

7. Documents used to complete the lot line shall ensure that:
 - a. The grantor's name(s) are the same as they currently hold title to the parcel; and
 - b. The grantee's name(s) and vesting are the same as for the parcel with which the boundary line adjustment portion will be combined.
8. Within 15 days, and prior to recordation of the tentative boundary line adjustment, the applicant shall sign and file with the Planning Department the attached Defense and Indemnity Agreement, in the form approved by County Counsel (attached).
9. Verification that all Fire Codes and Standards have been fully satisfied shall be required from the Nevada County Fire Marshal's Office (530-265-1714) prior to final approval for recording. The existing structures located on both parcels shall comply with the following:
 - a. Vegetation clearance around structures shall meet the minimum requirements of Public Resources Code Section 4291. Structures shall have a maintained Defensible Space/Fuel Reduction Zone by removing, limbing, and/or thinning trees, brush, flammable vegetation or combustible growth no less than 100 feet from structures or to the property line, whichever is closer to prevent the transmission of fire. This is not a requirement to clear all vegetation from the property. Such thinning or removal of vegetation does not apply to individual isolated trees, ornamental shrubbery or ground cover plants unless such vegetation forms a means of rapidly transmitting fire from ground vegetation to canopy trees.
 - b. Replacement vegetation should be ornamental shrubbery of the fire safe varieties. Additional clearing may be required by the Fire Marshal if extra hazardous conditions exist. All flammable vegetation and fuels caused by site development shall be legally disposed or removed.

In approving the boundary line adjustment, the following findings are made pursuant to the Standards of Approval set forth in Section L-II 4.1.3.E of the Nevada County Land Use and Development Code:

- A. The proposed adjustment would not result in conflicts with the AG-30 General Agricultural site development standards in Table L-II 2.3.E, or with the R1-X Single-Family site development standards in Table 2.2.1.C of the Nevada County Land Use and Development Code. The northern parcel (APNs 38-500-01/02) is a nonconforming parcel that does not currently have road frontage. The parcel is accessed by an easement, and provides driveway access to Nevada Irrigation District (NID) for an adjacent parcel. Although the boundary line adjustment does not change the nonconforming status, the adjustment does not create additional conflicts or impact road frontage for either parcel.
- B. The proposed adjustment would not result in any additional parcels, additional density or the potential for further division of these parcels beyond what currently exists; and

- C. The proposed adjustment would not adversely affect the future development potential of these parcels. The Nevada County Environmental Health Department has reviewed the proposed boundary line adjustment and has not identified any conflicts that may result from the proposed adjustment.
- D. The proposed boundary line adjustment involves two parcels, with the northern parcel (APNs 38-500-01/02) nonconforming with the minimum 30-acre parcel size of the current zoning, and with the southern parcel (APN 38-120-06) nonconforming with the minimum parcel size standards established by General Plan Policy 3.19. Adjustments to nonconforming parcels are allowed pursuant to Section L-II 4.1.3.E.4.c of the Zoning Ordinance; however, if the adjustment proposes further reduction to the parcel size, the resulting parcels must conform to all required site development standards, including the minimum parcel sizes established by Policy 3.19. This adjustment proposes to decrease the northern parcel from 19.62 acres to 18.62 acres in size, and increase the southern parcel from 0.67 to 1.67 acres. The adjustment would result in the northern parcel still conforming with the minimum parcel size standards established by Policy 3.19, and would increase the size of the southern parcel to bring it into conformance with Policy 3.19.

Approval of this boundary line adjustment does not include any determination of whether all or any of the resulting parcels can be further developed. This approval does not confirm or deny the legality of any existing structures or improvements located on the resulting parcels. The adjustment has been determined to be consistent with Section L-II 4.1.3 of the Nevada County Land Use and Development Code. **The decision of the Planning Agency is final. However, if you are dissatisfied with any action of the Planning Agency, you may appeal to the Board of Supervisors within a 10-day period from the date of this decision (deadline: January 29, 2018, at 5:00 pm). Pursuant to Section L-II 4.1.3.G of the Nevada County Land Use and Development Code, this boundary line adjustment must be recorded within 36 months (January 29, 2021), unless an extension is requested and granted by the Planning Agency.**

If you have any questions, please call me at 

Very truly yours,

BRIAN FOSS
Planning Director

By: 
Sadie Caldas, Assistant Planner

Enclosed: Defense and Indemnification Agreement

Cc: Claudia Baker and Susan Rideout, Property Owner
Patricia Fraga, Property Owner
Thomas Maioli, Assessor's Office
Lorraine Lundy, County Surveyor